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## MYTHS OF PROPERTY RIGHTS

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*Land titling has been promoted as the key to broad-based sustainable growth in many developing countries. Proponents claim titling automatically leads to increased security of ownership, greater credit, investment and productivity, protection from fraud, and other benefits. Titles can make people quit planting coca in the jungles of Peru or prevent a civil war. However, empirical studies do not sustain these conclusions. The impact of land titling depends on many local factors such as custom, geography, resources, law, and history. A closer examination of empirical studies reveals a complex and nuanced reality with conditional or contingent impacts on economic growth. Indeed, property formalization without regard to these factors may be detrimental to historically disadvantaged groups. To be sure, titling is a highly important ingredient to a more general strategy for development. New technologies are dramatically lowering survey costs, making titling more affordable. But the true impact of titling should not be overstated, nor should other factors be ignored. Such an overemphasis would give policymakers unrealistic expectations about the way in which titling does impact on broadly based economic growth.*

### I. INTRODUCTION

Are property rights and titling the keys to resolving the issues of poverty and underdevelopment in the Third World? Mark Schneider, Agency for International Development (AID) Assistant Administrator for Latin America has argued unequivocally:

One only has to look at the tragedy of events in Chiapas to illustrate the gravity of failing to address land security for the poor. There are also few issues as potentially destructive to our hopes for consolidating democracy and achieving sustainable development than the denial of

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access to land and property rights for the poor . . . . Formalizing land ownership gives a sense of purpose, a stake in society and a seat in the community council. It also is the key to unlocking the door to rural credit, to new technology and to the infrastructure for rural development . . . [AID] is pledged . . . to promote land security for the poor . . . .<sup>1</sup>

With much of development literature focused on land reform, land policy, and titling, one might reasonably conclude that a causal relationship has been established between property rights, titling, and economic development.<sup>2</sup>

1. Mark Schneider, Agency for International Development [AID] Assistant Administrator for Latin America, Address at "Property for the Poor: The Path to Development" Conference, Washington, DC (Apr. 12, 1994). The reference to Chiapas refers to a peasant uprising in southern Mexico which began on January 1, 1994. One of the main issues in that uprising was land rights and inequitable land distribution in the State of Chiapas.

2. Hernando de Soto stated:

Today, only about 25 of the 185 nations of the world have made the jump to a developed market economy.

I predict that in the next 150 years the countries joining these 25 will be those that spend their energies ensuring that property rights are widespread and protected by law, rather than those that continue to focus on macroeconomic policy.

. . . .

. . . Without formal property, a modern market economy cannot exist. . . .

Until property formalization is put at the top of the developing world's agenda, the long-run prospects for economic reform will remain poor.

Hernando de Soto, *Third World Ought to Hear Dogs Bark*, Sacramento Bee, Jan. 2, 1994, at F01 [hereinafter *Third World*]. See also Hernando de Soto, *The Missing Ingredient*, Economist, Sept. 11, 1993, at 8 [hereinafter *The Missing Ingredient*]. Hernando de Soto also claimed that the invisible hand of Adam Smith was no longer invisible, because it is called property rights, and used the word "magic" to describe the effects of property law regularization. Hernando de Soto Address at "Property for the Poor: The Path to Development" Conference, Washington, DC (Apr. 12, 1994) [hereinafter de Soto Address].

The views of de Soto have been officially backed by Presidents Reagan and Bush. In 1987, AID Administrator Alan Woods listed promotion of de Soto's work as one of his three most important goals. With AID's help, de Soto has traveled the world promoting his approach. Tina Rosenberg, *So-So De Soto: A Peruvian Phony*, The New Republic, Oct. 7, 1991, at 21. The de Soto-AID link was carried into the 1990s. In 1990, the Institute of Liberty and Democracy [hereinafter ILD] had a \$10 million four-year contract with AID which covered research and sent de Soto to conferences. *Battling the Third World's Vestiges*, 22 The Nat'l J. 2130 (1990). See also Comments by AID Administrator Ronald W. Roskins in Agency for International Development, Congressional Presentation Fiscal Year 1993, 27 (1992) (noting the work of the Institute for Liberty and Democracy as one of three "truly impressive" examples of

However, a closer examination of empirical literature exposes the generalizations, misconceptions, and myths associated with property rights and land titling. While titling of property can have positive effects, the real world reveals a complex and nuanced reality with conditional or contingent impacts on economic growth. That is to say titling may have positive economic benefits contingent upon other conditions also being met.

Land is often held informally, that is, without title.<sup>3</sup> Why do people lack title? There are a number of reasons. Some may lack title because it may cost more to register the land than the land is worth. Others may lack title because registration requires repeated and expensive travel to a capital city. Still others are squatters and do not occupy the land legally. And others do not understand the registration process itself.<sup>4</sup> The international development and academic community has vigorously debated over what exactly happens, however, when property is registered under title.

Based in part on a belief in the positive effects of property registration programs, AID has promoted land titling and registration. It has supported titling efforts through the "Instituto Libertad y Progreso" (ILP) in El Salvador,<sup>5</sup> institutional support to the Lands and Survey Department in Guyana,<sup>6</sup> the Small

AID-supported activities); and Comments by James H. Michel, Assistant Administrator for Latin America, & Bernard W. Aronson, Assistant Secretary of State for Inter-American Affairs, U.S. State Department, in *Toward a Peaceful Revolution: Institute for Liberty and Democracy* 1, 6 (1991). George A. Truitt et al. note that "[The AID Peru] Mission considers that this project is a model of support for the new democratic transformations in the Third World." George A. Truitt et al., AID Evaluation Summary 5 (June 3, 1992) (internal AID report, on file with author). This support appeared to be reaffirmed by the Clinton Administration. See Schneider, *supra* note 1; Timothy Wirth, Counselor, U.S. State Department, & Brian Atwood, AID Administrator, Addresses at "Property for the Poor: The Path to Development" Conference, Washington, DC (Apr. 12, 1994). *Contra*, Council on Hemispheric Affairs and the Inter-Hemispheric Education Resource Center, National Endowment for Democracy: A Foreign Policy Branch Gone Awry 53, 60 (1990).

3. For example, one study in Jamaica noted that 40% of the country's land parcels were outside the formal registry process. See David Stanfield, Land and Capital Markets in Jamaica 3 (1991) (Land Tenure Center Report: All "Land Tenure Center Reports" and "Land Tenure Center Papers," along with other documents as indicated herein, are available from the Land Tenure Center Library, University of Wisconsin-Madison, 1357 University Avenue, Madison, WI 53715; Phone (608) 262-5098; Fax: (608) 262-2141 [hereinafter referred to as the "Land Tenure Center Library"].

4. See, e.g., Richard Barrows & Michael Roth, Land Tenure and Investment in African Agriculture 19 (1989) (Land Tenure Center Report).

5. AID Cooperative Agreement with the Institute for Liberty and Democracy n Lima, Peru, Jan. 10, 1992 (on file with author).

6. Steven E. Hendrix, 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 14 (1993) (Land Tenure Center Report).

Farmer Titling Project in Honduras,<sup>7</sup> the Agrarian Settlement and Productivity Project in Costa Rica,<sup>8</sup> the Agricultural Land Markets Project in Jamaica,<sup>9</sup> the Central Selva Resource Management Project in Peru,<sup>10</sup> and the Land Titling Project in Ecuador,<sup>11</sup> among other projects.<sup>12</sup> The World Bank has similar titling, registry, or land rationalization efforts in Venezuela,<sup>13</sup> Ecuador,

7. David Stanfield, Edgar Nesman, Mitchell Seligson & Alexander Coles, *The Honduras Land Titling and Registration Experience* (1990) (Land Tenure Center Report); *See also* David Stanfield, Ricardo Zeledón, Santiago Moquete, Alexander Coles, Mario Fandiño, Lily Caballero & Randy Stringer, *Land Titling in Honduras: A Midpoint Evaluation of the Small Farmer Titling Project in Honduras* (1986) (Land Tenure Center Report).

8. John Strasma, Alexander Coles & Virginia Lambert, *Land Market Profile: Costa Rica 27-29* (1989) (Land Tenure Center Report).

9. Stanfield, *supra* note 3; Norman Singer, Grenville Barnes, J. David Stanfield & Harry Armstrong, *Land Policy in Jamaica: The Modernization of Land Market Institutions* (1991) (Land Tenure Center Report).

10. Agency for International Development [hereinafter AID], *Country Development Strategy Statement: FY 1989: Peru 41-45* (1988) (available from the Agency for International Development, AID/CDIE, Washington, DC 20037).

11. Development Associates Inc. [hereinafter DAI], *Ecuador Land Titling Project Evaluation* (1990) (Report prepared for the Agency for International Development, available at the Agency for International Development, AID/CDIE, Washington, DC 20037).

12. It is difficult to evaluate the success of these projects in terms of "before and after" studies. Such studies would require time series data—surveys made before the start of projects as well as after the completion of the projects so that data could be compared. This was not the standard practice. For example, in St. Lucia, a one-time survey of the land was made prior to titling the entire country. Thus, there is little data to confirm or deny that titling affects investment, credit, use of technology, and so on. However, data was available in Honduras, as presented in Stanfield, Nesman, Seligson & Coles, *supra* note 7.

13. *See generally* Ministerio de Agricultura y Cría, Oficina Nacional de Catastro, *Proyecto de Actualización y Ejecución del Catastro Rural* (1992) (available from the Land Tenure Center Library); World Bank, *Venezuela Land Markets, Land Reform, and Rural Land Ownership* 28-38 (1993).

Guatemala,<sup>14</sup> El Salvador,<sup>15</sup> Nicaragua,<sup>16</sup> Paraguay,<sup>17</sup> and Bolivia.<sup>18</sup> The Inter-American Development Bank has promoted titling of land in Venezuela,<sup>19</sup> Trinidad and Tobago,<sup>20</sup> and Guyana.<sup>21</sup>

This Article attempts to sort out what we know and what we don't know about land formalization. It summarizes some of the most important myths or generalizations found in the literature and offers some explanations for conflicting hypotheses.

## II. THE MYTHS

### A. Myth #1: When It Comes To Land, Property Rights Are Embodied In Formalized Titles As Evidence Of Ownership.<sup>22</sup>

Titles are one method to secure property ownership and to provide a feeling of ownership security.<sup>23</sup> There are alternative methods to prove ownership,

14. Gustavo Cruz L., *Propuesta de lineamientos metodológicos para la automatización del registro de la propiedad* (1994) (Report submitted to and available from the World Bank).

15. Conference on Registry Modernization, San Salvador, El Salvador (May 16, 1994) sponsored by the Housing Ministry of the Government of El Salvador and the World Bank.

16. J. David Stanfield, *An Analysis of the Current Situation Regarding Land Tenure in Nicaragua 26-27* (1994) (Land Tenure Center Report).

17. The Paraguay Natural Resources Management Project includes support for indigenous communities including land acquisition and regularization of titles. The executing agency is the Ministry of Agriculture.

18. Grenville Barnes, *Technical and Institutional Issues Related to Land Tenure, Titling and the Cadastre in Bolivia* (1992) (Report submitted to the World Bank, available at the Land Tenure Center Library).

19. Inter-American Development Bank, *Agriculture Sector Investment Program: Loan Proposal 12-13* (1992) (available from the Inter-American Development Bank).

20. David Stanfield & Norman Singer, *Land Rationalization and Development Programme* (1992) (Land Tenure Center Report).

21. Steven E. Hendrix & Leon Rockcliffe, *The Deeds Registry in Guyana and its Legal and Institutional Framework: Views Toward Promoting Transaction Efficiency 2* (1994) (Land Tenure Center Report).

22. Hernando de Soto writes: "When it comes to land, property rights are embodied in formalized titles." *The Missing Ingredient*, *supra* note 2, at 8. Many seem to believe that land without title is "illegal." *See, e.g.*, Mark Schneider, *supra* note 1 (emphasizing helping the poor cross "from de facto land holdings to legal property ownership"). In fact, de Soto seems to use "formalized property" and "legal property" interchangeably. *See de Soto Address*, *supra* note 2.

23. De Soto has stated that in countries with Roman law systems, registration is even more important than in Anglo-Saxon law jurisdictions. He claims Justinian's

however. Landholders often have at least some degree of documentation to support their claim to the land. Proof of ownership or property rights can include a will, a sales contract, prescription, and even mere possession.<sup>24</sup> Indeed, even in the United States, land is often acquired not only by deed transfer, but also by descent, condemnation, and adverse possession.<sup>25</sup> Thus, even persons without a registered deed may have *some* security or proof of ownership in their real property.<sup>26</sup>

On the other hand, the person who has "title" to property does not necessarily hold all ownership rights in that property. Ownership is often composed of a "bundle of rights" or, in other words, many specific rights to do certain things with the land.<sup>27</sup> In most of Latin America, agrarian reform beneficiaries may have title to their land, but often cannot sell, mortgage, lease, or otherwise transfer their "title" without some sort of government authorization.<sup>28</sup> In this context, formalized title clearly does not give complete ownership rights.

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interpretation of Roman Law and Property Registration was carried forward to Latin America. This Roman Law, according to de Soto, recognized the rights of individual holders of property under a formal system. de Soto Address, *supra* note 2. Interestingly, however, it should be noted that a public property registry was quite unknown in Roman law and was not part of any interpretation by Justinian. The Romans had no distinction between ownership and possession, and had no property registry. Barry Nicholas, An Introduction to Roman Law 104-5 (1992). Thus, de Soto's tracing of formal versus informal property back even to Roman history seems misplaced. Interestingly, however, if de Soto did want to trace property registration into biblical history, Genesis' story of Abraham's purchase of his Hebron burial case is historically accurate in its description of legal formality of the era, which required a writing. Archaeologists have found that the ancient Syrians used to store their legal documents near city gates as a way to give publicity to transactions. See, e.g., John Romer, Testament: The Bible and History 25 (1988).

24. Gershon Feder and Raymond Noronha note:

The term "security" is often misunderstood in the literature. When it refers to the ability to use land for a certain period and for a defined purpose without disturbance, security of possession is usually ensured under indigenous systems. It is clear that in most Sub-Saharan African societies, land under cultivation by an allottee cannot be taken away.

Gershon Feder & Raymond Noronha, *Land Rights Systems and Agricultural Development in Sub-Saharan Africa*, 2 The World Bank Res. Observer 143, 158-59 (1987).

Still, "ownership" and "property rights" in this context would not necessarily include the right to sell property.

25. Raymond J. Werner & Robert Kratovil, Real Estate Law 58 (10th ed. 1993).

26. Customary practice often provides the landholder with the feeling of security, despite the lack of a title. See Alexander Coles, Land Transactions and the Land Titling Project in Honduras 12-13 (1989) (Land Tenure Center Report).

27. John Bruce, A Review of Tenure Terminology 2 (1993) (Land Tenure Center Report). This holds true for both common law and civil code jurisdictions.

28. See, e.g., Steven E. Hendrix, Innovaciones a la legislación agraria en América Latina: Los casos de Perú, Honduras, México y Nicaragua 23-24 (1994).

In some cases, property registration may not ever be the "best" method to obtain property security:

(a) It may not be cost effective. In rural Peru, for example, some areas are titled to the municipality rather than to individuals.<sup>29</sup> Within the municipalities, local custom insures property security.

As an alternative approach to titling land to the municipality, some have suggested "parallel registries" as a means to title land individually while still having lower registration costs and less bureaucracy than the standard registration system. Parallel registries are lists of property recorded outside the normal registry process. They often do not require many of the legal formalities, such as surveying or valuation, which increase the expenses of standard registries. Hence, the strongest argument for a parallel registry is its low cost. Yet these registries, by definition, are a redundancy of effort, since they "parallel" an already existing registry.<sup>30</sup> Furthermore, parallel registries may lack official recognition and may not be of use in gaining access to credit since mortgages must be recorded in the standard registry. In addition, where the parallel registry conflicts with the standard registry, the latter is likely to prevail. Thus, the parallel registry gives a lower level of tenure security than standard registries and often does not provide the basic benefits of registration.<sup>31</sup> The arguments for a parallel registry are often

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29. Group registration can greatly diminish the number of registration units and thus the survey and registration costs. Possession rights or leases to individuals can then be managed in a simple fashion, even perhaps by oral agreement, within customary systems, or by drafting simple rules within a group. Alternatively, sketching boundaries on an aerial photo can also be used. See Gerhard Larsson, Land Registration and Cadastral Systems 125 (1991).

30. The *Instituto Nacional de Transformación Agraria* in Guatemala maintains a registry of properties parallel to the "Registro General de la Propiedad." Unfortunately, neither registry is now efficient or cost-effective. Steven E. Hendrix, D. David Moyer & Ronald S. Strohlic, La Reforma del Registro de la Propiedad en Guatemala: Informe de Situación con Recomendaciones 22 (1992) (LAC TECH Report, available at the Land Tenure Center Library).

31. The ILD has created a parallel registry in Peru. See Ernst & Young, Institute for Liberty and Democracy: Assessment Report for the First Year of the Cooperative Agreement With the U.S. Agency for International Development 15 (1990). This is an example of where the implementation strategy itself may mitigate the anticipated benefits of property registration. First, the ILD has titled land only in non-agricultural zones where there are fewer disputes. Yet it is precisely where property is insecure that titles have their greatest impact. Second, the ILD has relied on existing maps and building plans for data without field verification: the ILD inputs this data into its computerized system. Yet the level of confidence in that data is low. One expert compared this methodology with wallpapering over an earthquake-damaged structure: it appears sound but remains structurally flawed. Interview with John R. McKenna, Cadastral Expert, The World Bank, Washington, DC (April 11, 1994). A similar methodology was tried by the *Instituto Libertad y Progreso* [hereinafter ILP] in El Salvador, which used the Peruvian designed "REGIS-P" software with related computer equipment. See, e.g., ILP Presenta un método avanzado para catastro, La

really arguments for reform of the standard registry and would more appropriately be channeled to that end.

(b) It may not be the most respected by the local inhabitants or it may be contrary to their custom. Under indigenous systems in Africa, for example, traditional land ownership rules are often viewed as quite sufficient to provide security of ownership in most cases.<sup>32</sup> In fact, formalized titling may provide too much security, allowing an owner to maintain a claim on land even when he does not utilize it.<sup>33</sup>

(c) It may lead to property insecurity for the current owner. Titled property can be taken away for a land reform, unpaid debts, and unpaid taxes. Titled property can also be easily sold off in case of squandering of assets. If titled land serves as collateral, then foreclosure and land loss is a real possibility. Threat of land loss is, of course, supposed to mitigate nonpayment problems associated with credit contracts. But in a stochastic agricultural environment which lacks insurance markets, the farmer faces a genuine probability of loss of titled and mortgaged parcels due to factors entirely beyond the farmer's control.<sup>34</sup>

(d) It may be irrelevant. In Nicaragua during the early 1990s, even titled landowners lacked security of ownership because of political indecision.<sup>35</sup> Objectively, insecurity may arise not only from the absence of a legal document defining a right, but also from the existence of multiple documents describing the same rights over a piece of land for different people or entities at the same time. Subjectively, a rising probability of land rights loss even for "titled" individuals brings insecurity. These conditions arise when society's rules of tenure change or when the power of one group to defend its rights wanes and the power of a

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Prensa, Dec. 9, 1993, at 18. However, about 95% of the original computer program has been abandoned or replaced, and the resulting system is a much more conventional registry. The ILP registry is not parallel and functions as a sub-unit of the traditional registry. Gerhard Larsson argues that conversion of data from older registries can only be accomplished without considerable field work when the bulk of the referred land units have already been defined on maps. Larsson, *supra* note 29, at 105. Not using field data means that the poor must accept a judicial process that gives them less security and fewer rights than their more affluent neighbors, who can buy into the standard, more exact registry system. A more equitable approach would be to reform the existing registry system to allow all access to the protection of the law on an equitable basis.

32. Frank Place, *The Role of Land and Tree Tenure on the Adoption of Agroforestry Technologies: A Summary and Synthesis 2-4* (1994) (Land Tenure Center Report).

33. T. Verhelst, *Customary Land Tenure as a Constraint on Agricultural Development: A Re-Evaluation*, 2 *Cultures et Développement* 627, 638-39 (1970), cited in John W. Bruce, *Land Tenure Issues in Project Design and Strategies for Agricultural Development in Sub-Saharan Africa* 30 (1985) (Land Tenure Center Report).

34. Michael Carter, *Book Review*, 32 *J. Dev. Econ.* 216, 217 (1990) (reviewing Gershon Feder, Tongroj Onchan, Youngyuth Chalamwong & Chira Hongladarom, *Land Policies and Farm Productivity in Thailand* (1988)).

35. Steven E. Hendrix, *La Crisis Política y Derecho Inmobiliario en Nicaragua*, 29 *Comp. Jur. Rev.* 25 (1992). See also J. David Stanfield & Steven E. Hendrix, *Ownership Insecurity in Nicaragua*, 22 *Cap. U. L. Rev.* 1 (1994).

competing group increases.<sup>36</sup> In Nicaragua, with decreased political power among the Sandinistas during the 1990s, property holders who benefited from agrarian reform feel this insecurity and fear losing land titled to them. As of June 1994, the Nicaraguan Government was reviewing 7,185 rural properties and 5,207 urban properties for possible return to former owners.<sup>37</sup>

While formal titling may be the best vehicle to secure ownership in other cases, these examples illustrate the need for situation-specific examination of the propriety and design of any property securitization plan. Furthermore, the expenses of titling must be weighed in each given locality against the *increased* level of security titles provide over existing documents which also evidence ownership rights and interests.

#### B. Myth #2: Titles Provide Indisputable Proof Of Ownership As Well As Protection From Uncertainty And Fraud.<sup>38</sup>

Property records are no guarantee against uncertainty or fraud.<sup>39</sup> One has only to look at the United States for an example of the shortcomings of a property recording system. There are some defects of title under the U.S. system that even a perfect abstract or certificate of title will not disclose because hidden defects or risks simply cannot be discovered by examining public records.<sup>40</sup> Because the U.S. system is so extremely complex,<sup>41</sup> buyers of land—or their lenders—demand insurance against the possibility that they receive something other than that which they assume they are buying.<sup>42</sup> Thus, the inefficient

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36. Stanfield & Hendrix, *supra* note 35, at 1.

37. Stanfield, *supra* note 16, at 6.

38. Hernando de Soto states registered titles afford the "holders indisputable proof of ownership, and protection from uncertainty and fraud." *Third World*, *supra* note 2, at F01. See also *The Missing Ingredient*, *supra* note 2, at 8; and de Soto Address, *supra* note 2.

39. Suits for fraud or misrepresentation have been in the U.S. courts for years. See Werner & Kratovil, *supra* note 25, at 193.

40. *Id.* at 236. Such defects include: forgery, insanity and minority, and marital status incorrectly given.

41. To begin with, each state has its own constitution, laws, and court decisions governing property law. *Id.* at 1. Also, in the United States, there are various types of deeds (quitclaim deeds, warranty deeds, and deeds of bargain and sale) giving varying levels of security or ownership interest. *Id.* at 63. It is estimated that the United States will spend \$90 billion dollars during the years 1986-2000 on the collection and management of spatially related information. Peter F. Dale & John D. McLaughlin, *Land Information Management* 2 (1990).

42. De Soto does not appear to understand the levels of uncertainty created by the registry system in the United States. He writes: "In the United States, property rights are grounded in unambiguous titles and registration." Hernando de Soto, *The World: A Voice from Latin America*, N.Y. Times, Apr. 1, 1990, at § 4, p. 2.

system works only because individuals purchase safeguards against system failure.<sup>43</sup>

In deed registry "notice" jurisdictions, such as most of the United States, Peru, Bolivia, Guatemala, Venezuela and other countries, the government does not guarantee ownership of land simply because a document to it is registered.<sup>44</sup> Rather, the law provides that if a document is recorded, that inscription provides constructive notice of the transaction to everyone. If the document is not recorded, it is effective only between the contracting parties despite lack of registration.<sup>45</sup> Against a *bona fide* purchaser, it is worthless. Further, the government does not guarantee the truthfulness of the contents of the recorded document. Consequently, deed recording systems fall short of providing indisputable proof of ownership, much less protection from uncertainty<sup>46</sup> and fraud.

Any registry system is only as good as the maps it is based on. Many registry titling systems, including most of the standard, formal systems in Latin America, record the boundaries of land using north, south, east, and west coordinates.<sup>47</sup> If property boundaries are not exactly rectangular, or if they do not exactly face north-south and east-west, this system of description of land produces gaps and overlaps. This means land can be legally and formally titled twice or not at all, depending on the location of the property.<sup>48</sup> Thus, even the formal registry systems create uncertainty of tenure in many cases simply by the way they are designed, even in the absence of fraud or negligence. This makes field verification and mapping essential ingredients in any land titling program designed to reduce tenure insecurity.

43. In 1980 alone, \$1.26 billion dollars was spent on title insurance in the United States. Larsson, *supra* note 29, at 53.

44. See Werner & Kratovil, *supra* note 25, at 241. In England or under the Torrens system, the information contained in registries is guaranteed. In the unlikely event of fraud or error, anyone inadvertently injured by incorrect data in the registry can be compensated. Dale & McLaughlin, *supra* note 41, at 24. However, these systems require very expensive investments in surveying and mapping, and consequently have had difficulty being implemented in less developed countries. See, e.g., Hendrix, *supra* note 6, at 17.

45. Roger Bernhardt, *Real Property* 315 (1993). See also Werner & Kratovil, *supra* note 25, at 89.

46. Complex problems arise if the grantor has some impairment like old age, mental weakness, ignorance, or illness, making the grantor incapable of engaging in the transaction. In this case, a recorded transaction may be set aside through proper court proceedings. Werner & Kratovil, *supra* note 25, at 66.

47. J. David Stanfield, *Rural Land Market Implications of Titling and Registration Programs in the Latin America and Caribbean Region 5* (1991) (Land Tenure Center Report).

48. A similar phenomena occurs in the United States. Werner & Kratovil, *supra* note 25, at 258-59.

Adverse possession can also extinguish property ownership, even without transfer of documentary title. Through this mechanism, the paper title may remain with the original owner, but a new owner has legally become vested with the property rights in question.

In sum, given the design and structure of many deed notice systems, the methodology followed for property boundary description, and the functioning of adverse possession in the legal system, titles often cannot give indisputable proof of ownership. Furthermore, it is doubtful any system can be designed to prevent all types of fraud.

**C. Myth #3: When People Have Formalized Titles, They Feel That Their Property Is Under Their Own Legal Control. Therefore, They Have The Incentive To Invest Their Intelligence And Work On Its Improvement.**<sup>49</sup>

Some have alleged that families with titled property have higher incomes or invest more than those with untitled property.<sup>50</sup> But to conclude from this correlation that titling brings about the increase in income or investment is misleading. In many cases, persons with valuable and productive land are more likely and able to undertake the process of registering and titling their land. On the other hand, families on marginal land or engaged in subsistence agriculture are not likely to register their land. Stated in more succinct terms, productive land is generally titled because it is valuable, not valuable merely because it is titled.<sup>51</sup>

Evaluations of titling programs do not support the conclusion that titling necessarily provides incentives to increase production. In Ecuador, for example, data appear to show that acquisition of clear title has little impact on behavior: there was little or no difference between titled and untitled land with regard to (1)

49. *The Missing Ingredient*, *supra* note 2, at 8.

50. Hernando de Soto states "In Peru, investment in property tends to increase nine-fold when squatters obtain formalized title to their homes, and in Costa Rica, farmers who are formally titled have much higher incomes than those who do not." *Third World*, *supra* note 2, at F01. In Ecuador, one study found that titled landholders had a farm income 2.7 times greater than untitled property holders. U.S. Agency for International Development, *Ecuador Land Titling Project 9* (1985) (available from the Agency for International Development, AID/CDIE, Washington, DC 20037). See also Albert Alex Forsyth, *The ILD's Property Rights Program 2* (1990) (paper prepared for the Workshop on Regularizing the Informal Land Development Process, U.S.A.I.D., Washington, DC). Hernando de Soto claimed that agricultural income at least doubled due to titling under ILD projects, and the value of that property doubled in a single year (and 9 times over 10 years!) as a result of the titling. de Soto Address, *supra* note 2.

51. Eric B. Shearer, Susana Lastarria-Cornhiel & Dina Mesbah, *The Reform of Rural Land Markets in Latin America and the Caribbean: Research, Theory, and Policy Implications 43-45* (1991) (Land Tenure Center Paper Number 141).

use of agricultural inputs, (2) investment in infrastructure, (3) credit use, (4) investment of cash savings, and (5) crop yields. The data are more surprising because the titled land received more visits from an agricultural engineer than the untitled lands did.<sup>52</sup>

In Africa, data are insufficient to confirm that titling leads to higher productivity.<sup>53</sup> One study in Kenya actually found, surprisingly, that input levels are highest on farms without title. The study claimed that the total value of inputs on titled farms averages less than half of that on farms operated without title or under other arrangements. However, differences in input levels arise primarily from differences in labor application, which constitutes over half of the value of total inputs per farm acre. Untitled farms report nearly three times the family labor hours applied on titled farms for example, and nearly half again as much as that applied when there were other tenure arrangements.<sup>54</sup>

Interestingly, researchers found in Costa Rica that *exactly where tenure rights are ambiguous, farmers plant trees*. They do so as a means to prolong their possession of a parcel. As a result, landowners often react against this possibility by refusing to allow tenants to plant trees, regarding this as an attempt on the part of the tenant to tie down the land indefinitely.<sup>55</sup> Similar results were uncovered in Haiti.<sup>56</sup> This does not appear to be the case, however, in Zambia, Burundi, Uganda, or Malawi.<sup>57</sup>

In other cases, the absence of secure title to land may result in diminished incentive to invest in property. Similarly, in some cases persons without title may invest less "sweat equity"—time and effort—into their land.<sup>58</sup> Reports often conclude that the lack of secure title to land, especially for small-holders, is a major constraint on the development of agriculture in Latin America.<sup>59</sup> In Costa Rica, for example, a study showed that there can be a significant positive relationship between greater tenure security and the level of income per farm. In

52. *Id.* citing James S. Boster, Mitchell A. Seligson, Katherine Terrell, & Jose V. Zevallos, Land Tenure Security in Ecuador: A Preliminary Study of Cayambe and Pedro Moncayo (1989).

53. Feder & Noronha, *supra* note 24, at 160.

54. Michael R. Carter, Keith D. Wiebe & Benoit Blarel, Tenure Security for Whom? Differential Impacts of Land Policy in Kenya 11 (1991) (Land Tenure Center Report).

55. John W. Bruce & Louise Fortmann, Agroforestry: Tenure and Incentives 6 (1989) (Land Tenure Center Paper No. 135).

56. Peter C. Bloch, Virginia Lambert & Norman Singer, Land Tenure Issues in Rural Haiti: Review of the Evidence 67 (1988) (Land Tenure Center Research Paper 94).

57. Place, *supra* note 32, at 5-6.

58. In Costa Rica it was concluded that the presence of tenure security, particularly a full title to land, substantially accounted for higher farm performance. Grenville Barnes, A Comparative Evaluation Framework for Cadastre-Based Land Information Systems (CLIS) in Developing Countries 29 (1990) (Land Tenure Center Report).

59. Stanfield, Nesman, Seligson & Coles, *supra* note 7, at 34. The Sub-Saharan Africa case is examined in Feder & Noronha, *supra* note 24, at 157.

other words, as farms are titled, productivity may increase under some circumstances.<sup>60</sup>

Land-titling may also provide incentives to individual landowners to engage in environmentally and agriculturally sound practices.<sup>61</sup> People who have security in their land tenure may depend less on forest reserves and may be more willing to plant trees and other long-term crops on their private land.<sup>62</sup> Conversely, if landowners lose secure private title, they often lose their incentive to plant trees.<sup>63</sup> A study of short-term contract renters in the southern Honduran highlands reviewed farmers who had insecure tenure on very small plots. The study showed that these farmers exhibited the poorest of conservation practices. They tended to grow mostly annual crops, to farm the worst and steepest property, to burn crop residues, and to clear the land of all trees. In contrast, small-holders who owned their properties used more intensive agricultural techniques. They preserved trees, constructed rock-wall barriers to prevent erosion, and followed other soil conservation measures.<sup>64</sup>

Similarly, a study in Amazonia found that "the lack of secure title and the precarious de facto hold over land mean[t] that reinvestment in erosion control, fertilizer, and irrigation are . . . both costly and irrational."<sup>65</sup> According to another study, property titling may lead to enhanced rational irrigation schemes.<sup>66</sup>

60. Peter Dorner & Bonnie Saliba, Interventions in Land Markets to Benefit the Rural Poor 23 (1981) (Land Tenure Center Research Paper No. 74). See also Feder & Noronha, *supra* note 24, at 160.

61. See generally Bloch, Lambert & Singer, *supra* note 56; William C. Thiesenhusen, Land Tenure and the Environmental Debate (1989) (Land Tenure Center Report); and William C. Thiesenhusen, *Implications of the Rural Land Tenure System for the Environmental Debate: Three Scenarios*, 26 J. Dev. Areas 1 (1991) [hereinafter *Implications*]. Nevertheless, no tenure system, not even one providing registered freehold interests, is fail safe against destructive land use. For example, farmers may at some time need to maximize short-term production in order to survive, despite long-term resource costs. See John Bruce, Land Tenure Issues in Project Design and Strategies for Agricultural Development in Sub-Saharan Africa at ix (1985) (Land Tenure Center Report).

62. Bruce & Fortmann, *supra* note 55. For the African case regarding forestry, fuel wood, and resource conservation projects, see Bruce, *supra* note 61.

63. This conclusion was documented in Gerald Murray, Mountain Peasants of Honduras: Guidelines for the Reordering of Smallholding Adaptation to the Pine Forest (1981) (report available at the Land Tenure Center Library).

64. Noted by Thiesenhusen, *Implications*, *supra* note 61, at 13 (citing Susan C. Stonich, *Dynamics of Social Processes and Environmental Destruction: A Central American Case Study*, 15 Population & Dev. Rev. 284, 289 (1989)).

65. *Id.* (citing Marianne Schmink & Charles H. Wood, *The 'Political Ecology' of Amazonia*, in Peter Little & Michael Horowitz with A. Endre Nyerges, *Lands at Risk in the Third World: Local Level Perspectives* 41 (1987)).

66. Peter C. Bloch, Land Tenure Issues in River Basin Development in Sub-Saharan Africa 26 (1986) (Land Tenure Center Report).



Watershed management may also be improved, as one conference concluded in Haiti.<sup>67</sup>

Curiously, a study in Burundi found that tree-planting on long-term, securely-held property was not statistically different than on temporarily-held parcels. This refutes the hypothesis that purchased parcels are more likely to have been planted than borrowed lands. In that study researchers found that occupants who plant have almost always borrowed the land from parents for many years.<sup>68</sup> Also, other cases of tree-planting involved planting by owners of the land, while the land was under occupancy by a relative.<sup>69</sup> It appears the family relationship patterns may create strong incentives, stronger perhaps than the presence or lack of formal legal documents.

In conclusion, people with titles do not necessarily invest more in their land. Data from a variety of countries give us a mixed bag of inconclusive results. A more nuanced understanding of tenure security must take into account a variety of influences and factors at the local level.

#### D. Myth #4: Formalized Titles Open The Door To Credit.<sup>70</sup>

Mortgages on land require that property offered as collateral be registered. Thus, persons without title have no formal opportunity to borrow against the equity in their land.<sup>71</sup> Policymakers then assume that formalized titles are the key to open the door to credit. This is not entirely accurate for three reasons.

First, it is important to recognize that land is not the only source of credit. Other forms of collateral such as farm equipment, expected produce, accounts receivable, buildings, and movable property can substitute for formal title to property. Land, however, is often the preferred form of collateral. And if credit is made available without collateral, it is likely to be for a shorter term or at a higher interest rate to reflect the greater degree of risk involved. Still, depending on local circumstances, the easiest door to credit may be through one of these alternatives, rather than mortgage-based lending.

Studies in Costa Rica, Thailand, and St. Lucia confirm that titles have a positive impact in expanding the availability of cheaper and longer-term credit.<sup>72</sup>

67. Peter C. Bloch, Workshop on Land Tenure Issues in Watershed Management (Camp-Perrin, Haiti) (1988) (Land Tenure Center Report).

68. Place, *supra* note 32, at 2-4.

69. *Id.*

70. *The Missing Ingredient*, *supra* note 2, at 11.

71. Hernando de Soto states: "Without property rights, you cannot get credit from the banks . . ." Guido de Bruin, *Development: Problems and Promises in the 'Informal' Economy*, Inter Press Serv., Jan. 9, 1993, available in LEXIS, News Library, Arcnws File. Hernando de Soto made similar comments in his address at "Property for the Poor: The Path to Development" conference. de Soto Address, *supra* note 2.

72. Barnes, *supra* note 58, at 29.

However, only when lack of title is the single biggest remaining constraint to credit will provision of land titles lead to a greater use of credit; in cases where the market is also constrained by other factors such as risk, liquidity, or other influences, formal titling may not have much impact. In Honduras, for example, titling was not a factor in determining behavioral changes in investments in new coffee plantation and infrastructure, orientation of family labor toward farm production, yields, use of production technology, or total production.<sup>73</sup> In Peru, under the *Instituto Libertad y Democracia* (Institute for Liberty and Democracy, ILD) "Popular Mortgage" program that allowed new titleholders to mortgage their houses to get capital, the ILD processed only twenty mortgages before closing.<sup>74</sup> Thus, global generalizations about the impact of titling on credit can be quite misleading.

Second, asset-based lending may still be possible even without formal titles. In Nigeria, certificates of occupation can function as collateral against various types of loans, including bank mortgages and commercial agricultural credit.<sup>75</sup> Thus, under some conditions, it is possible to create asset-based lending even in environments that lack modern titling and registry system. The Nigerian example illustrates yet another way to open the door to credit without necessarily using a titling project.

Third, those with title to land do not necessarily receive increased access to credit as a result of their formalized tenure status. "The empirical evidence from Africa suggests that land registration has had very little effect on investment demand. Title appears to have increased lenders' security, but financial markets appear to be reallocating credit among titled borrowers, without substantially increasing aggregate credit supply."<sup>76</sup> Those "making policy for African agriculture should not be misled by the theoretically derived promise that registration will unleash a torrent of investment in agriculture."<sup>77</sup> In Cochabamba, Bolivia, empirical data reveal tenure security is not correlated strongly with credit use either.<sup>78</sup> Thus, even titling programs may not open the door to credit.

73. Stanfield, Nesman, Seligson & Coles, *supra* note 7, at 28-33.

74. Rosenberg, *supra* note 2, at 21.

75. Feder & Noronha, *supra* note 24, at 159.

76. Barrows & Roth, *supra* note 4, at 24.

77. *Id.* Barrows and Roth describe the African market. They maintain that in Kenya, Zimbabwe, and Uganda little evidence exists to support the hypothesis that registration has increased investment in agriculture. Further, there is no evidence in these African markets that the demand for capital increases if tenure is changed to freehold. *Id.* at 19. Barrows and Roth state, "Small farmers generally appear unwilling to risk their land for credit, and banking procedures impose high costs on smaller borrowers . . . Credit is biased toward larger, more influential farmers." *Id.*

78. James T. Riordan, Identifying the Key Variables: A Multivariate Analysis of the Cochabamba Rural Household Survey Data 10 (1994) (LAC TECH Project Report, available at the Land Tenure Center Library).

How do we reconcile these divergent data and results? It appears that in economies where factor markets—land, labor, and capital—are functioning relatively well, land titling may lead to increases in credit and investment.<sup>79</sup> Such is the case typically in commercially developed areas of Latin America. In economies where factor markets are less efficient, loosening a land market constraint may not automatically lead to increases in credit or investment because other factors prevent improvement. This second scenario appears to be the case in much of Africa.<sup>80</sup>

In sum, there is no necessary, automatic increase in credit that results from titling.<sup>81</sup> Whether titling will lead to increased credit depends on local market conditions.

**E. Myth #5: "Formal title gives the poor of the Amazon Basin legal alternatives to selling coca leaves to drug traffickers."<sup>82</sup>**

Experts debate endlessly how to eradicate the drug problem, and U.S. and Latin American governments have taken steps against cultivation, refining, trafficking, selling, buying, consuming, and money laundering. In the fight against cultivation, policymakers advance several solutions, including legalization, repression, government-sponsored coca purchases, and titling.<sup>83</sup> Peruvian President Alberto Fujimori has stated:

What keeps the farmer from switching to other legitimate crops? The lack of clear title to the land discourages the investment of effort and time in the production of crops of greater value. The lack of title means you can't use the land to get the credit you may need to switch to the new crop . . . .

. . . Farmers who lack title to their land naturally avoid sowing crops which require more investment and more time to reap the rewards.

79. This appears to be the case in Thailand, for example. See Tongroj Onchan, *Informal Rural Finance in Thailand*, in Dale W. Adams & Delbert A. Fitchett, *Informal Finance in Low-Income Countries* 103, 112 (1992).

80. Barrows & Roth, *supra* note 4.

81. This conclusion appears to cohere with the criticism of de Soto in a book review of *The Other Path. An Informal Way to Grow*, *Economist*, Feb. 18, 1989, at 95 (reviewing Hernando de Soto, *The Other Path*).

82. *Third World*, *supra* note 2, at F01. See also *The Missing Ingredient*, *supra* note 2, at 11.

83. Steven E. Hendrix, *Interplay among Land Law and Policy, the Environment, the War on Drugs, Narcoterrorism, and Democratization: Perspectives on Peru's Upper Huallaga Valley* 16-24 (1993) (Land Tenure Center Paper 150).

So those farmers are making a rational—if horrible—decision when they grow coca.<sup>84</sup>

The Ministry of Agriculture has found that the market for land in Peru's Upper Huallaga Valley is very active. Sometimes, land just registered has been found to be once again abandoned.<sup>85</sup> Thus, land is constantly changing hands. Continuous effort keeping land registries accurate in this dynamic climate is required. This has been done.<sup>86</sup>

To adapt the system to their needs, local *campesinos* have used the "certificate of ownership" as a quasi-title. The certificate can be transferred or sold in an inexpensive legal process that takes less than a week and can be completed in the local community, with use of the existing, formal process.<sup>87</sup> Thus, it appears that the procedural delays associated with land titling are not nearly as important to the landholder, as opposed to urban property holders that may prefer title formally registered in the public registry.<sup>88</sup> Complying with all formalities may actually slow down a market which has adapted well.

The *Instituto Libertad y Democracia* advocates titling as a powerful weapon to restrict coca production<sup>89</sup> and espouses property rights as the key to economic enfranchisement of the poor.<sup>90</sup> To achieve secure property rights, the ILD has created a *hipoteca popular* (a popular mortgage instrument) which includes (1) property and possession registration, (2) right of possession and use, and (3)

84. Alberto Fujimori, National Press Club Luncheon Speaker Alberto Fujimori, President of Peru, National Press Club, Washington DC (Sept. 18, 1991) (transcript available in LEXIS, News Library, Script File).

85. *Id.*

86. Interview with José Corbera, former Director of the Agrarian Reform from 1978 to 1981, in Lima, Peru (June 26, 1991).

87. Interview with Ing. Manuel Cristobal Nuñez, Program Director for Cadastres and Titling, Department of Agriculture, Office of Titling, UHV, and Ing. Carlos Mendoza Mejía, also of the Peruvian Department of Agriculture, Office of Titling, UHV in Lima, Peru (June 28, 1991). The process involves writing a *minuto* [minute] of the transaction with the public notary, creating a "public" document which evidences the change in ownership. *Id.*

88. An exception to this is found where a landholder wishes to sell only a portion of his land. The notary will not approve the deal unless the resulting lots are each greater than 10 ha, the minimum legal requirement to prevent *minifundios*. *Id.*

89. Hernando de Soto, *Peru's Ex-Drug Czar on Cocaine: The Supply Side*, Wall St. J., Feb. 14, 1992, at A11 [hereinafter *Peru's Ex-Drug Czar*]. See also Steven E. Hendrix, *supra* note 83. Hernando de Soto himself has never been to the Upper Huallaga Valley, but sees titling for this area as a panacea. Rosenberg, *supra* note 2, at 21. De Soto notes: "Investment will only take place if the farmer is confident of ownership to the future returns from investment." *Peru: Property Rights Key to Coca Eradication in Peru*, Reuter Textline, Mar. 8, 1990, available in LEXIS, News Library, Arcnws File.

90. Instituto Libertad y Democracia, Update, Apr. 1990, at 6.

credit insurance.<sup>91</sup> Former U.S. Ambassador James H. Michel, then head of the Latin America Bureau of the Agency for International Development, said, "The ILD's greatest contribution has been and continues to be thinking about and finding practical ways to give effect to the role of the individual, to the entrepreneurial energy within the informal sector of the economy and to citizen participation in rulemaking and economic development."<sup>92</sup> In general, the ILD's ideas have been very well received.<sup>93</sup>

Hernando de Soto Polar, president of the ILD, wishes to expand the institute's rural titling program to the Upper Huallaga Valley of Peru (UHV) to stop coca production.<sup>94</sup> He advocates three principles: (1) we should differentiate between common growers of coca and the narcotraffickers,<sup>95</sup> (2) the Peruvian people will support efforts to stop the funding of terrorism with drug money and the corruption of the Peruvian state,<sup>96</sup> and (3) the coca-growing regions need institutional reforms including secure property rights.<sup>97</sup> More specifically, the ILD and President Fujimori have recommended the following for the UHV:

1. *Create secure property rights* by giving farmers title to their land through the ILD-developed Rural Property Registry which can be easily extended to the coca growing areas. Fact: Only ten percent of rural Peru is currently titled.
2. *Deregulate the markets for other crops* so that Peruvian farmers can produce and sell alternative crops, competitively. Fact: It takes

91. *Id.* See also Instituto Libertad y Democracia, Update, July 1990.

92. Comments by Hernando de Soto in Instituto Libertad y Democracia, Toward a Peaceful Revolution: Report on the First Annual Program Review Conference 1 (1991).

93. See, e.g., David Asman, *A Break in the Dark Clouds that Hover over Peru*, Wall St. J., Feb. 15, 1991, at A13.

94. *Peru's Ex-Drug Czar*, *supra* note 89, at A11.

95. de Soto, *supra* note 92. See also Roberto MacLean, Ambassador of Peru, Washington, DC, *Peru: A Better Future*, Newsweek, Mar. 2, 1992, at 19 (affirming the distinction between growers and refiners of coca).

96. de Soto, *supra* note 92, at 5.

97. *Id.* at 5-6. Bernard Aronson, Assistant Secretary for Inter-American Affairs, U.S. Department of State, commenting on the official State Department view of the ILD approach to counternarcotics, stated:

If you can make \$10,000 per hectare growing coca leaf in the Upper Huallaga Valley of Peru, you are not going to grow macadamia nuts or cut flowers. However, if you make it economical to go into an alternative crop, but bureaucratic obstacles prevent you from competing, it is a Pyrrhic victory. I think Mr. de Soto's approach is very positive. We're working very closely with him and with the Fujimori government. The kind of comprehensive approach he envisions is exactly what we believe in.

*Id.* at 8-9.

forty-five days to go through the thirty-six administrative steps at seven agencies to export an alternative crop.

3. *Establish democratic institutions* to foster citizen participation in and feedback to the rulemaking process, thus allowing the law to reflect, rather than restrict, the will of the people.<sup>98</sup>

The UHV has been plagued by both rampant coca production and infiltration by the most notorious terrorist group in Peru, *Sendero Luminoso* (Shining Path). Titling land, the ILD notes, will decrease the popularity of *Sendero Luminoso*. The ILD points out that in prior Peruvian titling projects the new landholders became conservative in their political views after becoming property owners; insurgents lost local support. "*Sendero* is fragile," the ILD asserts.<sup>99</sup> The ILD cites its own titling project in urban Lima where ILD credits its own titling initiative as responsible for the drop in support for the *Movimiento Revolucionario Tupac Amaru* (Tupac Amaru Revolutionary Movement, MRTA). Yet, the prospects for immediate implementation of an ILD plan in the UHV are bleak since the ILD will not begin any program in the UHV until the region is clear of *Sendero Luminoso*.<sup>100</sup>

Even if the ILD went into the UHV with its titling efforts, however, it is doubtful they would have any effect on *Sendero Luminoso*. Unlike Lima, the poor population of the UHV is already a conservative, property-holding people. Landowners have between ten and thirty hectares apiece, making them an affluent and conservative group by national standards. As a result, they do not particularly support *Sendero Luminoso* in the first place; unlike Lima where some segments of the poor supported MRTA, *Sendero* is in the UHV not out of popular support, but to tax coca production to finance its operations in other areas of Peru where it does have a large base of support.<sup>101</sup> In the ILD urban-titling case, "titles" were given to previously landless persons who supported the urban guerrilla group MRTA, most popular among the poor. In the UHV, the target group members already have land with formal titles or certificates. In short, titling in the UHV will probably have no effect on *Sendero Luminoso*.

The ILD notes that as *campesinos* get titles, they will have access to credit. And credit will enable them to finance crop substitutions.<sup>102</sup> This view ignores four important facts about the UHV: (1) The Agrarian Reform Bank does not

98. Instituto Libertad y Democracia, ILD In Brief, Nov. 1990, at 1. President Fujimori has adopted these ideas.

99. Mariano Cornejo, Interview with Albert Forsyth and Mariano Cornejo B., the Instituto Libertad y Democracia, and William Binns, Special Projects Officer, Agency for International Development, in Lima, Peru (June 27, 1991) (referring to the ILD project in Huacán).

100. *Id.*

101. Interview with William A. Binns, Special Projects Officer, Agency for International Development, in Lima, Peru (June 26, 1991).

102. Cornejo, *supra* note 99.