**"Assessing the Role of Multilateral and Bilateral Organizations in Central American Registry Reform: Lessons from the Past and Prospects for the Future"**

**by Steven E. Hendrix**

**The author is the Justice Program Coordinator for USAID/Guatemala. Opinions expressed are those only of the author and do not necessarily reflect the opinion of the U.S. Agency for International Development.**

Definition or Assessment of the Role of a Donor:

Role of Registry Reform vis-a-vis internal donor bureacracy:

Technology is a funny thing. In 1987, I graduated from law school and went to work for the Federal Government. I worked at the Export-Import Bank of the U.S. in the General Counsel's Office. I remember the Bank in those days had one fax machine. That one machine served the entire General Counsel's Office. It also served the Board of Directors, Latin America, Asia, Pacific and other Divisonal offices. It served the entire staff of the Bank. To actually use the machine, I had to get the signed permission of the General Counsel. Then my fax had to go to a single individual in charge of communications for the Bank. Times are changing.

Now if you are talking about registry reform in the international donor community, this too is radically changing in perception. Just five or ten years ago, mentioning "registry reform" usually got you referred to some Agriculture office of either the World Bank, IDB, USAID or other donor. Or perhaps, if you were talking about urban property, you might get an urban development office, or if park land, an environment office. The subject was compartmentalized. Further, it was usually relegated to an office that was under severe budgetary pressure and could not sustain its current programs, let alone rise to the challenge of a new economic phenomena brought on by changes in technology and the demand for informatic infrastructure in a new competitive and integrated age.

Donor treatment of land records management paralleled the treatment by host countries. In Nicaragua, for example, the Instituto de Reforma Agraria carried out titling exercises, in Guatemala, it has been the Instituto Nacional de Transformación Agraria. Agrarian reform institutes and agriculture ministries across Latin America and the Caribbean were tasked with these kinds of programs. In the 1980s and early 1990s, most of these institutions were functionally and financially bankrupt. No one really wanted to invest in them.

The academic community too seemed to under-estimate how technology was changing the world. Pick up some of the cost-benefit analises that came out of universities or even the donor community in the early 1990s. The big question was whether land titling led to increased investment, or increased agricultural production, or decreased poverty. They misunderstood what was happening with registry reform and misunderstood technology. There was also little understanding of the cross-cutting linkages between geographic information infrastructure and the other objectives in development, meaning that benefits were always underestimated. There was little appreciation for the tremendous changes in cost structure in data collection and maintenance -- meaning that the cost side was over-estimated. Land registries were a bit like that fax machine at the Export-Import Bank.

In the U.S., the Re-Inventing Government Initiative began a change of thought. That effort mandated streamlining geographic data collection and maintenance, while improving data quality and compatibility, while reducing cost. Within the foreign policy context, the U.S. has supported work toward "establishment of more equitable and more secure land tenure arrangements." But how can foreign policy achieve that goal within the broader mandate, regional advances, and ever-advancing communications and technology? Why should the U.S. or any multilateral donor support the creation of land management systems or registries?

Land regularization is a necessary ingrediant of a broader strategy for sustainable development. Here we need to define what donors usually understand by "registry reform." Usually, they don't just mean fixing up the registry office. It usually includes some sort of titling program, which in turn includes cadastral surveys, issuance or transfer of a title document, and its inscription in a registry system. "Land tenure regularization" might be the more scientific way to say it, as opposed to "registry reform."

The indirect benefits of land regularization are tremendous both for the host country and for the U.S. Private foreign investment will become more welcome as countries open up their registry practices to scrutiny. U.S. foreign investment, presently at risk in places like Nicaragua, Guatemala, or Honduras, due to poor land administration practices, will be more secure. Standardization of methodology will also go a long way to promote the massive regional investment contemplated by regional economic integration. In the global market, those that do not modernize will be left behind as uncompetitive. Countries once producing in the industrial age (or even still under feudalistic economies) must now turn and prepare themselves for the information age. Thus, in the end, the bottom line and the business community may be the ultimate driver of modernization.

An additional beneficiary of land records modernization will be the environmental movement. As Vice President Al Gore has noted market economics is not always environmentally-friendly. Indeed, sustainable land use often turns on who has ownership to what resources, and on what basis. These are fundamentally tenure questions. Having accurate land information systems provides the informatic infrastructure necessary to make sustainable land and forest policy possible.

Francis Charles, Commissioner of Lands and Surveys for Trinidad, notes that most economies in developing world are being transformed into market-driven entities. As part of this effort, mapping and titling agencies must reorganize, be more client-driven, absorb budget cuts, and produce more revenue.

For these reasons, land administration experts across the region will increasingly find themselves in the vanguard of the regional trade integration process. No longer relegated to ministries of collateral importance, cadastral and registry staff must now prepare themselves to contribute to high profile high impact activities of great national importance. The high profile role of land administration will go hand-in-hand with consideration of technological and management advances that have been piloted in North America (Canada, Mexico and the U.S.) and the developed world. These technologies and management practices are transferrable to Central America and are in fact already arriving.

Getting on the Donor's Agenda.

In general terms, the multilateral and bilateral donors seek common objectives: decreased poverty, improved environmental management, advances in democracy, improvements in health and education. Registry reform and information management fit these objectives. In much of Central America, only the more economically-sophisticated can manipulate the byzantine registry and cadastral systems. Information is often power and the current system offers key economic information only to the few. When this is combined with market liberalization, we might expect economic growth to be even more exclusionary if the registry issue is not confronted.

Guyanese attorney Leon Rockcliffe asserts "The registry is the basis of social stability, beyond mere economic stability. (Without addressing registry reform) the country is flirting with anarchy. People with economic power can run through the system when things are in disarray." What Rockcliffe said of Guyana can be applied to Central America. While even the more sophisticated have difficulty manipulating the registry system due to the lack of administrative and technological efficiency, the poor are often entirely excluded.

Inefficiencies and lack of comprehensiveness and transparency in registries and cadastres mean that the poor usually do not have access to what is for them perhaps one of the most important institutions of the justice system. *The poor are effectively denied the benefits of citizenship in democratic society*. Similarly, they escape any responsibility of citizenship, i.e. property taxation. In other words, responsibility of citizenship means payment of taxes. The tax revenue will allow for a more democratic process and funding for sustainable development. If we are really concerned about democracy, and making it financially sustainable, a strategy for land records management must be included.

In a dramatic sense, registries can play a role in conflict resolution. Border disputes are a frequent cause of war -- witness Ecuador and Peru, Honduras and El Salvador, Bolivia and Chile, Eritrea and Ethiopia -- or at least tension in relationships -- witness Guyana and Venezuela, or Guatemala and Belice. At the community level too, land regularization is key to avoiding bloodshed, as was seen last year in Sololá, Guatemala, when one community rose up against another, using shovels, resulting in many deaths, all that could have been avoided had there been clear tenure relationships and boundaries. Clarity in land regularization can go directly to reducing internal and external conflict, obviously something of interest in any development agenda.

As governments and donors increasingly see these inter-connected issues and objectives, registry and cadastral reform will take increased importance. Perhaps no where is this more clear than in Guatemala, where the December 1996 Peace Accords call for radical changes in the Deeds Registry. Donors are lining up, especially the World Bank and European Union, but also USAID and GTZ, to contribute to the program, which will probably exceed US$100 million before it is complete.

Role of Registry Reform vis-a-vis Donor-Host Country Relations:

The Central American registries often have a series of problems in areas in which the donors provide a particular kind of expertise:

� Registrars lack of information or expertise in project design. They are unaware about other experiences -- what has worked elsewhere and what has failed. Donors have comparative experience and are experts at conservative design methodologies, which should include a user needs assessment, system requirement analysis, system design, implementation plan, definition of system scope, pilot testing, demonstrations and bench mark performance monitoring and evaluation.

� Extremely poor cost-benefit analysis, as in the original government registry modernization proposals from Guatemala and El Salvador. Donors have a great deal of experience in methodologies that can capture this important data and provide analysis to document success and identify areas needing further attention.

� Slow, expensive processes that ignore new technologies available to reduce transaction costs, as in some efforts in Guatemala, Nicaragua, Honduras and elsewhere. With comparative experience, donors can play an important role in sharing "best practices" lessons from neighboring countries.

� Land administration systems are generally highly centralized, as in Guatemala, Costa Rica and Panama. Donors can provide expertise to take advantage of new technologies which in turn can decentralize access. It used to be conventional wisdom that registries had to decentralize to provide greater access. (Guatemala's Constitution even requires it, even though this has been ignored for a decade). With today's technology, physical decentralization is no longer essential. New technologies can decentralize *access*, without the need to decentralize actual physical plant. Donors can help with that process.

� No conceptualization of value-added projects, despite having very important and highly valuable information. Value-added products have the potential to contribute vast profits to government far beyond its investment in the registry. Lack of thought to these products means lost income for regional cash-strapped governments. This is true in Guatemala, Nicaragua, Honduras and other jurisdictions. Donors can assist in broadening this perspective. Examples of value-added products might be use of the geographic information to assist in a targeted crime prevention campaign, private sector inventory management, telephone maintenance systems or performance monitoring of health care.

� Little participation by the private sector, as in Nicaragua, Guatemala and elsewhere. Private sector capital and know-how can be tapped by donors through creative project design.

� Lack of government capital for investing in the system without recourse to lending programs. Systems can be designed to be self-financing in the longer term, and indeed generate massive amounts of money for local and central governments. Donors can help with such designs.

� Perceived insecurity of ownership (examples: Nicaragua, Guatemala, El Salvador) or at least confusion of ownership (examples: Panamá, Belice). Again, donor finance of mapping activities can assist.

� Demands by Indigenous Groups and Small Farmers for titles: the public sector is not responding to the demand in an efficient, responsible, timely manner, as in Guatemala, Honduras, Panama, and Nicaragua.

� Competitiveness: as the developed world moves from the industrial to the information age, the third world will fall further behind. Left to their own, countries that do not get moving with information management strategies will continue to be non-competitive and will never "graduate" from foreign assistance style economies. Donors can provide the helping hand to ensure this transition.

**How do Donors Advance the Agenda?**

Beyond technical assistance and financing, what can donors do to help?

Most importantly, donors can say "no." If something doesn't make sense from a technical vantage, donors do no favor to governments by offering unneeded or inappropriate products. For lending institutions, it may also open up questions of lender liability for projects that don't make sense.

On the other hand, when governments don't want reform, donors can cajole them, and push for change. Policy dialogue is a major part of what donors can do to advance development.

Donors can provide help in the definition of needs. Here, donors have a unique comparative experience that enables them to help countries avoid the mistakes of other countries.

Finally, in pulling together projects, there are several things donors should avoid doing. They should never push project loans on countries without first exploring self-financing mechanisms. In particular for lending institutions, loans should be demand- driven. While there may be more internal reward for booking a large loan package, donors have to realize that sometimes, "more is less," that sometimes a smaller package will better meet the needs of the host country than a larger loan or project. Further, donors need to accept incremental change and not always look for the miracle overnight solution, just as host countries need to be realistic in expectations.

**Comparative Advantages of Grants vs. Loans:**

The World Bank, the Inter-American Development Bank, and other international financial institutions have comparative advantages and disadvantages when contrasted with international donor institutions such as GTZ or USAID. The Banks can typically come up with much larger sums of money, allowing for a more expansive and impactful project. Since the financial institutions offer loans, governments have a great opportunity to define the loan package elements that best suit the country. Governments have more leverage to specify the approach and prioritize results, within some parameters. Donations on the other hand, have the great advantage of being just that -- donations. They are easier for host governments to approve (normally, no Congressional or Finance Ministry act is required). Technical assistance from donations is usually more swift, and can be adjusted quickly. On the down-side, donations often come with the strategic interests of the donor behind them. It is often not easy to shift a donation from one area to another. Also, the donations rarely come in the dollar amounts that can come from the lending packages. A typical USAID donor assistance package may be in the hundreds of thousands of dollars, to perhaps several million, while a World Bank or IDB project can be in the tens of millions of dollars.

The two approaches, loans and donations, can be used effectively together. In El Salvador, for example, USAID technical assistance was able to get a start on some titling and land registry efforts. There were lessons learned in that effort, both positive and negative. This gave the country a chance to advance while a new World Bank effort was being prepared. That Bank program is now in full march. Similarly, USAID provided assistance and diagnostics in Nicaragua which led to a joint UNDP-IDB effort at normalizing urban property records. In Guatemala, GTZ and USAID have been advancing land registration and titlting efforts for many years, piloting and testing various approaches. The World Bank is now in a position to capitalize on that experience and expand it for greater property registration access and efficiency for a broad population.

Taking full advantage of both loans and donations requires several elements, however. First, the donor institutions have to talk to each other and share information and approaches. Second, it is in the government's interest to broker any such arrangement between donors, combining it with the government's own resources and priorities. No one has as high of interest in the success of a project as the host government should. The government should "own" the process, and therefore should supervise the coordinated effort of the various donors to achieve the common objective.

**Lessons for the Future:**

As general principles, donors in Central America should seek to promote four goals:

1 � Transaction transparency: the rule of law requires that property transactions be carried out in a transparent system free from corruption. The market requires transparency to get the prices right.

2 � Private Sector Participation: in the provision of traditionally public sector survey services in terms of mapping and survey, and private sector financing, perhaps akin to the innovative registry privatization carried out in Ontario, Canada. There is nothing more basic to the development process than participation. Donors should refrain from re-creating bloated central government institutions. Similarly, donors should be wary of creating opportunities for corruption by giving large sums to poorly supervised public institutions. Instead, donors can look to creative financing of the private sector to execute important strategy elements such as organizational consulting; training; capacity building; storage of maps, photos and data; and data conversion.

3 � Decentralization: to empower local government and provide local access to public information. This should mean giving local government a right to keep a percentage of funds generated locally as property tax or user fees. Registry access should also be decentralized as a democratization of access to public service.

4 � Reduced Transaction Costs through the use of new technologies: To allow the poor to participate in the registry process. Further, greater efficiency in government, with leaner, smaller budgets, while demanding greater service, means the Registry must rethink its approach to information management.

Governments in Central America should seek:

Relationships between donors and host governments are two way streets. Host governments have to know how their part can best be played to gain maximum benefit from donor activities. Here are a few tips on how Central American governments might better take advantage of donor assistance:

A. Participate in the design process. The only way a government can judge whether a loan or a donation is appropriate is by participating in the design effort. Governments should not just accept a donor's project design uncritically.

B. Don't wait on the donors. Governments can make advances and pilot test reform programs. There is no leadership like actually doing it. If you can prove a reform effort is working at the pilot level, this may be an attractive investment for an expanded program financed by a donor.

C. Know what you are buying. Make sure that whatever you purchase can be sustained locally, with local labor, when the project ends. Don't buy something that is beyond the technical competency of local nationals. On the contrary, you should try to have nationals implement as much of the reform as possible to develop an indigenous capacity for reform.

D. Take full advantage of windows of opportunity. With the Peace Accords in El Salvador and Guatemala, elections in Nicaragua, and the invasion in Panama, in each case donor money followed. Governments should seize these opportunities and run with them, before the donor fashions change. In Central America today, the Hurricane Mitch has created a new opportunity to present the case for reform to donors. Don't miss these kinds of opportunities.

E. With regard to lending programs, borrow only for what is prudently "bank-able." While there may be offers for large sums of money, accepting a loan that cannot be absorbed or managed properly does the country and the lending institution little good. Historically, the most "bankable" investments were those leaving behind some sort of property or infrastructure. Historically, technical services have been much less "bankable." As the world moves from the industrial age to the information age, this concept is changing. Today, a modern registry and cadastre can be seen as essential elements of a basic informatic infrastructure needed to attract investment, much the way roads were looked at a few years ago. So the concept of "bankability," what is appropriate for a loan, is changing. Still, it is perfectly acceptable for a Central American government to say no to a loan if it is not "bankable" (or even if the government is unsure or not convinced).

Mexico under Carlos Salinas announced it would title all the ejidos of Mexico before he left office. The international community all but laughed. The mammoth undertaking could take decades, given that since the revolution, Mexico had only ever titled less than 100 ejidos. The Banks became involved in preparing loan packages. For a variety of reasons, the Mexicans were never quite on board. Eventually, Mexico all but pulled the plug and went forward with its own plan. When Ernesto Zedillo came to office, the country was half titled. Zedillo projects the job will be finished before he leaves office. The effort is largely self-financed using labor and technology available in Mexico, without recourse to massive international loans.

F. Recognize that slow change is sometimes good. Countries have to deal with limits on absorbative capacity and institutional re-alignment. Self-financing mechanisms may be one alternative. Further, institutions like property should be slow to change in the sense that property rights are the bedrock of the economic system.

G. Don't let donors learn at your expense. Donors have a legitimate interest in doing feasibility studies, monitoring projects, and carrying out their responsibilities to their own financial sources. However, sometimes, donors finance comparative studies. While there is nothing intrinsically wrong with this (in fact, it contributes to the well-being of all countries generally), the Central American countries should be careful that such studies are not included as part of loans that they will have to re-pay.

**ANNEX: PARTIAL LIST OF PROJECTS COUNTRY BY COUNTRY**

Belize: USAID/Belize support for the Land Information System; IDB Land Administration Program; Land tax and land rent modernization proposals on the table.

Guatemala: USAID, GTZ, World Bank, and IDB land administration programs; Land tax proposals (IUSI); Continued expansion of the Instituto Geográfico Nacional's role in creation of a multi-purpose LIS, which today excludes the property registry.

Costa Rica: Continued reform and modernization of the property registry; New land tax.

El Salvador: USAID and World Bank support for the initiative on land registration and titling, as a major component of the Peace Accords. IDB GIS initiative for the environment.

Nicaragua: Urban land registration and normalization, with funding from UNDP and IDB; Municipal tax cadastre program with UNDP; World Bank rural land registration program (about US$25 million); Rural land taxation proposals in government; Activities by USAID/Nicaragua (like Tecnoserve, Cultural Survival and The Nature Conservancy) to inscribe land for advocacy purposes (ex-contras, environment or indigenous groups).

Panama: IDB program of land registration, and a potential, complementary World Bank program; University of Florida support for NGO's working with indigenous groups on land registration; Policy consideration for a newly effective land tax program.

Honduras: World Bank project design in for cadastral modernization.

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