

Caribbean Land Policy Network



LAND IN THE CARIBBEAN

ISSUES OF POLICY, ADMINISTRATION
AND MANAGEMENT IN THE ENGLISH-
SPEAKING CARIBBEAN

Edited by
Dr. Allan N. Williams

**LAND IN THE CARIBBEAN
PROCEEDINGS OF A WORKSHOP ON LAND POLICY,
ADMINISTRATION AND MANAGEMENT
IN THE ENGLISH-SPEAKING CARIBBEAN**

Edited by Allan Williams

Email: landnetcaribbean@tstt.net.tt

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All views, interpretations, recommendations, and conclusions expressed in this book are those of the authors and not necessarily those of the supporting or co-operating institutions.

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Terra Institute
1406 Hwy. 18-151/E
Mt. Horeb, Wisconsin 53572
Fax: (608) 437-8801
Email: TerraInstituteUSA@att.net

For further information about the Caribbean Land Policy Network, check the web site: www.terrainstitute.org

or contact

Caribbean Land Policy Network Steering Committee:

Chairperson: Andrew Bishop, Commissioner of Land, Guyana

(592) 227-2582 (ph)

(592) 226-4052 (fx)

arbishop@networksgy.com

Secretary: Allan N. Williams

(868) 624-2142 (ph)

landnetcaribbean@tstt.net.tt

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**LAND IN THE CARIBBEAN
PROCEEDINGS OF A WORKSHOP ON LAND
POLICY, ADMINISTRATION AND
MANAGEMENT
in the English-speaking Caribbean
March 19-21, 2003
Port of Spain, Trinidad & Tobago**

The Learning Workshop on Land Policy, Administration and Management in the English-speaking Caribbean involved 50 Professionals from the Public Sector in 13 CARICOM States¹ and an additional 28 persons representing the private sector, civil society, regional universities and regional and international institutions. The purpose of the gathering was to consider in depth the institutional (legislative), social and environmental challenges facing the Caribbean in the administration and management of its land resources.

The Workshop was sponsored by the following institutions:



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¹ The CARICOM member states represented included Antigua & Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts/Nevis, St. Lucia, St. Vincent & The Grenadines, Suriname and Trinidad & Tobago.

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Acknowledgements

This book is the outcome of presentations made at the Workshop on Land Policy, Administration and Management in the English-speaking Caribbean held in Port of Spain, Trinidad & Tobago, March 19-21, 2003. The Workshop was attended by senior professionals from all the English-speaking territories and Suriname. As a follow-up to the Workshop, a Steering Committee of eight (8) representatives from the region was established to activate a Caribbean Land Network.

All of us, who have benefited from this event, are grateful to the Government of the Republic of Trinidad & Tobago, the Inter-American Development Bank, the United States Agency for International Development and the Department for International Development (UK), for funding the Workshop and to USAID for funding this manuscript. We would also like to commend the staff of the Land Tenure Center, University of Wisconsin-Madison, the Project Co-ordination Unit of the Ministry of Agriculture, Land and Marine Resources and the Terra Institute Ltd., for their invaluable contributions to the success of the event.

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Finally we would like to acknowledge the inspiration provided by the many persons who attended the workshop, made presentations and continued the exchange of information and ideas after the event. This reflects our commitment here in the Caribbean to seek sustainable solutions to the land issues of the day.

Mr. Andrew Bishop
Chairman, Network Steering Committee
Commissioner of Lands & Surveys
Georgetown, Guyana
June 11, 2003

INTRODUCTION

A Caribbean Land Network: Presentation made to the Committee on Trade and Economic Development (COTED), CARICOM

Andrew Bishop

1. BACKGROUND

Most debates about land policies in the Caribbean are driven by three overlapping and sometimes conflicting objectives:

- The creation of a more vibrant land market, with the aim of increasing productivity and investment, through secure, documented and transparent title to land.
- The elimination of poverty, through equitable access to land and other natural resources and the provision of security of tenure to poor households, allowing them to transform their land assets into sustainable livelihoods.
- The conservation of the natural environment and improvement of the built environment, through land use planning and environmental regulations.

The challenge for the Caribbean is to find the legal, institutional and policy measures to balance these three overlapping objectives. In the post-colonial State-led agrarian reform era of the 1960s and 1970s efforts were made to increase medium- and small-scale private holdings of agricultural land, mainly through State acquisition of large estates and the re-distribution of land to the peasant sector. These programmes have now largely been abandoned. In their wake an enormous amount of activity is occurring around tenure regularisation, land titling and property registry modernisation. Parallel efforts are under way to establish environmental zoning, promote eco-tourism, manage urban expansion, protect coastal zones and control deforestation. These efforts have often meshed poorly with the trend towards marketisation of individual rights.

State ownership of land remains important in the Caribbean, as well as a variety of mechanisms for encouraging the private use of the land through leases and other arrangements. As land managers become more subject to private land market pressures and opportunities, but also increasingly responsible for planning, implementing, regulating and evaluating societal values in land, the institutions of land administration must also change. The institutional transformation of land management has been significant, through programs of

privatisation, individualisation and (in some cases) internationalisation of land tenure. This evolution of land management calls for the redefinition of the land administration functions of public agencies to respond to the new needs of private and public managers of land. The region needs the creation of new or reconfigured institutions to effectively administer the private and public interests in land in a market economy context.

The small-island status of most of the Caribbean states poses particular problems for Land Administration and Management. Land/marine interactions are of crucial importance to the environment and economy of most Caribbean states and decisions about land management on-shore can have serious implications for coastal zones. Tourism development and issues of access to beaches and other coastal resources has become a central issue in many islands and has the potential to create social disruption and conflict. The opening of property markets to foreign investors has led to significant increases of property prices in certain localities, forcing local investors out of the property market. At the same time, the large-scale out-migration of Caribbean citizens to the United States, Canada and the United Kingdom results in frequent cases of absenteeism amongst land owners and creates particular complications with respect to widely encountered “family land” phenomena. Even in the larger continental territories, the small and closely related nature of society raises questions about the ability of professions to regulate themselves and maintain the transparency of state-society relationships.

The challenges for land management and administration are thus rapidly growing. Awareness of these challenges in the context of market-led economies has made land management and land administration a much broader and complex locus of endeavour than ever before, where legal institutions, political agendas, economic development planning, environmental management techniques and information technology intersect, often uneasily.

The shared colonial history, and the similarity in society, economy and culture amongst the Caribbean nations, means that many of the land policy issues facing specific nations are also relevant elsewhere in the region. With funding support from international agencies, many of the Caribbean nations are implementing similar land administration programmes. Despite this, there are few opportunities for policy makers, programme managers and stakeholders to share experiences and lessons learnt.

2. CARIBBEAN LAND WORKSHOP

It is against this background that the Learning Workshop on Caribbean land policy, land administration and management was held, bringing together land administrators from across the English-speaking Caribbean.

The general objectives of the Workshop were:

- To share practical experiences between the various stakeholders of the countries in the region to assist the development of more effective land policies and investment programs;
- To develop a Caribbean perspective on land administration and management, in order to ensure that the policies of international agencies reflect the realities of the region;
- To discuss ways in which broadly agreed principles of land policy can be translated into feasible national policies and programs that respond to the specific problems confronting the countries and the region.

The Workshop was largely successful in identifying key issues for land policy to enhance programmes in land policy and administration in the Caribbean. By sharing experiences and lessons learnt, the various stakeholders were better able to re-focus on Caribbean land policies, and look at strengthening land management and land administration institutions, to achieve the broad goals of economic development, social equity and environmentally sustainable development.

Out of the Workshop it was agreed that a Caribbean Land Network (CLN) be established. A Steering Committee has been set up to oversee its formation. The Steering Committee comprises leading land professionals from Barbados, Belize, Bahamas, Guyana, Trinidad and Tobago, Suriname, Jamaica, and a representative of the Eastern Caribbean states.

3. CRITICAL ISSUES IDENTIFIED

- 1) Unofficial land tenure systems are as significant as the legal land tenure systems.
- 2) Land administration systems lag behind the rapid development of land markets.
- 3) Land information systems are needed to provide a comprehensive assessment of the situation.
- 4) Land Policy should be built on the public perception of social equity in access to land.
- 5) Environment and sustainable land uses are critical Caribbean issues.

The Committee agreed to pursue the following initiatives in establishing the CLN:

1. The Development and launching of the *LandNet Caribbean Portal*:
 - a) Agreement with LandNet Americas to host a Caribbean Portal;
 - b) Proposal for development and maintenance of the Caribbean Portal;
 - c) Format for supporting capacity building initiatives;
 - d) Format for promoting civil society involvement in land issues;
 - e) Updates on the progress and achievement of existing land programmes.
2. Formal approaches to be made to *International Agencies* in the Caribbean to support local and regional initiatives

3. Creation of a regional database of skilled *Professionals* in land-related issues:
 - a) Listing of Professionals;
 - b) Definition of professional criteria and performance standards.
4. Identification of support mechanisms for the implementation of appropriate *Land Policy* in member states.
5. Promoting a supportive *Research Agenda*:
 - a) Proposal to finance the development of comparative efficiency indicators in land administration and management;
 - b) Proposal to finance studies on the impact of tourism on land issues in the Caribbean region.

4. ACTIONS REQUESTED OF COTED

1. *Note* the competing goals of land policy; efficient and dynamic land markets, social equity and environmental sustainability, in the administration and management of land in the Caribbean.
2. *Recognise* the formation of a Caribbean Land Network Steering Committee with the intention of organising a network of regional professionals in the land arena.
3. *Reiterate* that supportive and enforceable land policies are critical to sustainable land development.
4. *Endorse* the establishment of a Regional Exploratory Committee to formulate a programme of support to member states to:
 - a) Conduct at the country level a comprehensive review of the status of land policy, land administration and management;
 - b) Formulate a regional protocol on land, which would support social and economic integration into the CARICOM single market and economy;
 - c) On the basis of the protocol, co-ordinate opportunities for the training of officials, community leaders and practitioners in participatory land policy formulation, and in best practices in land administration and management;
 - d) In co-operation with the private sector, civil society and the Caribbean Land Network, build a service centre of technical support to member states in modernising their Departments/Divisions dealing with land registration, land use policy, development control and land information systems.

OPENING ADDRESS

Land Policy and Administration in Trinidad & Tobago

Honourable Mr. John Rahael

1. INTRODUCTION

It gives me great pleasure to open this important regional workshop, on behalf of the Government of the Republic of Trinidad & Tobago, and to welcome all our visitors to this beautiful twin island state. As your host, I sincerely hope that your stay here will be both professionally rewarding and personally enjoyable.

The issues, which we shall discuss here, are of fundamental importance to our region. Unless we address these issues, our aspirations for economic and social development are going to remain vague dreams. In many of our countries we have very limited land resources — this underlines the need to find effective policy instruments to ensure that the limited land resources we possess are used productively. Access to land and other natural resources remains an extremely important mechanism for people to overcome poverty and to generate livelihoods for their households.

2. ACCESS TO LAND

Access to land is also of key importance for social reasons. Secure property rights enable people to feel part and parcel of a wider community, and to have a strong stake in the development of that community — this has important implications, not just for community level development, but also for national governance. People need to feel secure in their homes and on their land-holdings, if they are to be active and committed citizens.

One of the things that unites the countries represented at this workshop is a similar history of European colonial conquest, and subsequently the forced migration of slaves from Africa followed by indentured labourers from India and elsewhere — this provided labour to large plantations, owned and operated by the colonial masters. This similar history has had implications for our land ownership system, which persist to this day. At independence, most countries in the region had a very skewed land ownership pattern. During this time large areas were owned by a few individuals, and the majority of the population were forced on to small, often marginal, parcels of land. Often people occupying these parcels had no documented official rights to the land, such as ownership

deeds or certificate of title, or were forced to pay rents to landlords. There was no guarantee of security of tenure. During the Independence era most Governments in the region implemented various land reform policies and programmes to try to address this imbalance.

In Trinidad & Tobago, for example, the Government introduced restrictions on private landlords in order to give both agricultural and residential tenants, security of tenure. We also followed programmes to distribute remaining areas of State lands, primarily in the Wallerfield and Carlsen Fields areas, but also across Trinidad & Tobago. Finally we nationalised some significant areas of large agricultural estates, primarily in the sugar sector, in order to continue to run the estates, and provide secure jobs for the employees.

Thirty years on, and with the benefit of hindsight, we realise that most of these policies and programmes have unfortunately failed to transform the land ownership system we inherited. Here we still have a situation where almost 50% of households do not have documented title to the land on which their home is built. As Minister of Agriculture, Land and Marine Resources I receive a steady stream of letters, phone calls and personal visits from people anxious to access land, and requesting my assistance. Meanwhile, across the country there are many large agricultural estates, in both State and private hands, lying abandoned or under-utilised.

The grand and noble experiment of State-ownership of the sugar estates, through Caroni (1975) Ltd., has failed to deliver the results originally anticipated — these large land-holdings have simply not been contributing to the economic development of our country. As many of you will know, we are now in the midst of a programme to bring reform to the sugar sector — and in the process to bring about genuine land reform. One of the major objectives of the Caroni restructuring plan is to take these valuable and potentially productive agricultural lands out of the hands of a failing State company; and to place them into the hands of the workers voluntarily separated from the company, and to encourage them to become independent farmers, entrepreneurs and business people.

The process of reforming the State-owned sugar company is part and parcel of a wider reform programme, upon which the current Government has embarked. This is to ensure that there is widespread and secure access to land for all of our citizens. We need to learn from our past mistakes and acknowledge that during the Independence era, land reform policies were not very productive. These policies involved heavy State intervention in the land market, which failed to meet their objectives of increasing access to land and removing rural and urban poverty.

We remain convinced that the best way of ensuring access to land, and ensuring that it is put to the best use, is to guarantee a well functioning and effective market in land. This does not mean that there are not specific programmes needed in order to ensure that the poorest members of society are able to access land; but these programmes need to be well targeted, transitional and implemented in such a way as not to distort the overall land market. The

Government's primary role must be to ensure that the basic legal and institutional framework is in place for the land market to function effectively.

In our view this framework should include five major elements:

- Firstly, the State must provide a clear and transparent legal framework for ownership and occupation of land;
- Secondly, the State must establish and ensure the smooth functioning of dispute resolution mechanisms — such as law courts or tribunals;
- Thirdly, the State must facilitate and guarantee the transfer of property rights, through effective land registries;
- Fourthly, the State should control and regulate land use in the public interest, especially taking into account environmental concerns;
- Fifthly, the State must manage publicly owned lands effectively.

2.1 Land Reforms in Trinidad & Tobago

I wish to briefly outline some of the activities that the Government of Trinidad & Tobago is currently implementing in this area, as I believe that some of these activities may either be of interest to other participants in the workshop or activities that some of you have initiated in the past, and we may be able to learn from your experience and knowledge.

Most of these activities have taken place, through the Inter-American Development Bank funded Investment Sector Reform Programme and the Agriculture Sector Reform Programme. I would like to take this opportunity to publicly thank the IDB for their continued support and advice to us over the years.

The most significant reform that has taken place in the land administration system of Trinidad & Tobago is the creation of a new legal framework for land ownership through the passage of three Acts of Parliament, namely:

- The Land Adjudication Act,
- The Registration of Title to Land Act, and
- The Land Tribunal Act.

Under the Land Adjudication Act the legal interests in every single parcel of land in Trinidad & Tobago will be determined through a systematic nation-wide adjudication programme. Specific geographical areas will be designated “adjudication areas” in turn, and every person claiming a legal interest in any lands in that area will be entitled to establish their legal rights. This process will continue until each parcel of land in the country has been adjudicated.

I am aware that similar adjudication programmes have been implemented in St. Lucia, and elsewhere in the region, in the past — and that a similar project is under way in Jamaica at the moment. It would be good if we could learn from your experiences in implementing these programmes to help us implement our programme as efficiently and effectively as possible.

In Trinidad & Tobago, the interests adjudicated through this process are going to be registered in a new land registry created by the Registration of Title to Land Act. This new registry will replace both the “Old Law” Deeds Registry system and the Real Property Ordinance registry — the two existing land registry systems. It is hoped that this new, more effective registry system will significantly improve efficiency, transparency and security of tenure for all citizens. In the new registry system, legal interests in every parcel of land will be recorded in the registry. This is guaranteed to be correct by the State, thereby significantly increasing investor confidence, and creating a more vibrant land market. Under this new system legal interest in a parcel can be determined by consulting a single folio entry in the registry, on that particular parcel.

The final piece of the new legislative framework is the Land Tribunal Act, which creates a new court for land matters, in particular for any appeals against the adjudication process carried out under the Land Adjudication Act. The Act also has provisions to allow the Tribunal to determine appeals under other land-related legislation. The Land Tribunal Act will create a new tribunal to hear all land-related matters — which we know often takes an inordinate time to be addressed.

This new legal framework has been in place for a couple of years already, but unfortunately until recently, little had been done about implementing the new legislation. In January of this year, Cabinet agreed that implementing these three laws to transform the land administration system was a priority and my Ministry is now taking the lead on pushing forward implementation — and I should tell my friends from the IDB that we will once again be looking for your support.

2.2 Modernisation of the Land Registry

One of the priorities that must be addressed, before we can begin the systematic national land adjudication process is to complete the modernisation of the Land Registry. A lot of excellent work has already been done in the Land Registry in recent years. With the assistance of consultants from the New South Wales Land Registry, the past thirty years of records in the deeds section of the registry have been scanned by a local data processing company (about 700,000 records in total), and an index of these scanned images has been completed.

The completion of the index has also significantly reduced the time taken, to conduct a title search to determine the legal interest in any given parcel of land. There are, however, still some issues to be ironed out in the new system, and the Land Registry needs to be given adequate financial and technical resources to address these issues.

In addition to continuing the modernisation of the Land Registry there is some important work that we must get done in the area of cadastral records management. The new Land Registry that was envisaged in the new legal framework is a parcel-based system. We therefore urgently need to improve

the geo-spatial data we have available on parcel boundaries — this is the cadastral data maintained by the Lands and Surveys Division.

We are currently in the final stages of tendering for a major project to create a system of parcel index maps, and to assign Unique Parcel Reference Numbers — or UPRNs — to all parcels, which have been surveyed at some time in the past. The existing paper-based index sheets will be computerised, and UPRNs will be entered into a database of all of the cadastral surveys and — this is the crucial point — into the index of deeds in the land registry, whenever there is a survey plan found attached to the deed. Obviously this project is not going to mean that every parcel of land existing on the ground, or every deed in the registry, is going to have a UPRN — that will only happen once the nation-wide adjudication is complete — but it is a significant step in the right direction, and it will make the adjudication process much more feasible.

The adjudication process is also going to involve some significant new mapping work. At current prices and using current technology, conducting a full cadastral survey of each parcel of land in the country, prior to its inclusion in the new proposed Land Registry, would not be economically feasible. What is required, therefore, is a reasonably accurate parcel identification map, which will indicate the approximate size and shape of the parcel and its relationship relative to other parcels.

Advances in mapping technology — in particular the development of Global Positioning System (GPS) technology — makes this mapping exercise a less expensive and daunting task than it might appear at first. In order to fully benefit from GPS technology, however, there are some specific improvements to the country's geodetic infrastructure that will have to be made. We also have a project in the tendering phase to do this work. Again, I know that these improvements are similar to those made in many other countries in the region in recent years, including in Belize and Guyana, and it would be good for us to learn from your experiences.

2.3 State Land Management

In addition to these activities to improve the legal, institutional and information framework for the land administration system, we have also been addressing the reform of State land management. As many of you will know, the State directly owns over 50% of the land area of Trinidad & Tobago. Much of this land area is under Forest Reserves or other conservation areas, but we also lease out significant areas to private farmers, homeowners and businessmen. In the past this land-holding has been extremely badly managed, resulting in many parcels where the occupier does not have a valid lease. On State agricultural lands we know that only about 10% of the 17,000 parcels have valid standard agricultural leases.

Out of the approximately 20,000 leases granted in all sectors by the State in the past, only 6,500 are still valid. The rental levels on these valid leases are

often very low — over 50% of the valid leases have rental levels of under TT\$20 per annum, and 37% have annual rentals of \$1. It obviously costs the State much more than TT\$1 to administer the collection of this rent. The revenue owing to the Government for the rental of these 6,500 leases is a paltry TT\$1.5 million a year. By contrast it costs us about TT\$3 million per year to staff and run the Office of the Commissioner of State Lands — the statutory office with responsibility for State land management. In other words, the Government loses money on leasing out State lands — a clearly ridiculous situation.

In order to address this situation we have been implementing both short-term and long-term measures to improve State land management. These reforms to the State land management system are a direct result of the work conducted by the Land Tenure Center, University of Wisconsin, under the Land Use Policy and Administration Project of the Agriculture Sector Reform Programme. I note that the Land Tenure Center is amongst the joint organisers of this important workshop and it is good to know that we are continuing our very fruitful relationship with that excellent institution.

With respect to short-term activities to improve State land management, we have placed emphasis on the development of information technology and related systems. We already have a very successful and comprehensive State Agricultural Land Information System (SALIS) in place; this has up-to-date information on all parcels of State agricultural land. We have also recently built a customised Lease Management System, including records on all State land leases, grants, licences, mortgages and acquisitions (over 30,000 records).

We are now developing a new information system, which will bring together data from the State Agricultural Land Information System, the Lease Management System and the Deeds Registry into one computerised database. This will be available to all of the key managers in the Government with some responsibilities for State land. It is anticipated that this system will allow staff in the District Revenue Offices to directly enter data on payments. This system will allow the Ministry to exert greater management control over its State lands portfolio, and will allow the Ministry to pass accurate information to the public.

These short-term improvements need to be seen in the context of long-term efforts to create the right legal and institutional environment for the management of State lands. Cabinet has recently approved the development of legislation to create a new State Land Management Authority and to replace the existing outdated Act. This new Authority will have jurisdiction over all State lands. It will have the responsibility of directly managing leases, agreements and acquisitions and for ensuring that other agencies manage State lands according to accepted Government policy. I know that other countries in the region have developed various institutional arrangements to assist in the management of State lands. Again, it would be good for us to discuss these various options in order to learn from each

other, and to develop effective State land management policies and programmes.

3. CONCLUSION

We must bear in mind that the ultimate objective for all of these reforms must be to ensure the sustainable development of our region. Our land administration systems must support the objectives of economic growth and poverty alleviation, if we are to fulfill the dream of development. We must always look to the future, and ensure that our current activities are sustainable, and that economic growth does not destroy the environment upon which our children and grandchildren will have to rely. Ensuring that planning and environmental regulations are effectively implemented is of fundamental importance to all countries of the region, and we must make sure that we have the right policies and institutions to achieve this objective. I know that the theme of achieving a balance between growth, social equity and environmental sustainability underpins this workshop.

I trust that your deliberations and discussions will be active, interesting and ultimately fruitful. We must learn from each other in our quest to find solutions to these thorny issues. We must also look beyond the Caribbean — in this context it is good to know that we have the support of not just the Inter-American Development Bank but also the United States Agency for International Development and the United Kingdom Department for International Development. I am aware that USAID has been involved in many land privatisation and land title programmes in the former Soviet Union and Eastern Europe. I also know that DFID has been closely involved in land tenure issues in Africa. I suspect that there may be some lessons, which we in the Caribbean could learn from your experiences, in these other areas as well. I would like to thank all three of the international agencies sponsoring this event for their support, both financial and technical, and trust that coming out of this workshop will be a continued commitment to support these important initiatives in the Caribbean.

I trust that your discussions and deliberations over the next three days will be productive and rewarding, and that we will be able to build a strong and vibrant network of professionals working on these issues to ensure that relationships and linkages developed here are carried forward into the future.

March 19, 2003

SETTING THE FRAMEWORK

Economic Impact of Land Policy in the English-speaking Caribbean

Peter Bloch

1. INTRODUCTION

This paper attempts to outline the economic origins and impacts of land management and land administration problems in the English-speaking countries of the Caribbean. The first part of the paper contains my version of the “standard model” of land policy, often labeled the “Washington Consensus”, which guides the efforts of many international donors, most centrally the World Bank but also in many ways the assistance programs of the regional development banks and bilaterals such as USAID. To simplify a bit, that model demonstrates that policies aimed at increasing security of tenure, formalising property rights in legislation with institutional guarantees and management and promoting the development of land markets should lead to higher economic growth, reduction of poverty and improved environmental conservation. For the past few years, a number of scholars and international civil servants have been amassing evidence pertaining to these postulates, and the results are assembled in a draft Policy Research Report produced by the World Bank, entitled: *Land Policy for Pro-Poor Development*, issued in December 2002. While the draft is not for citation, I will take the liberty of expressing its principal ideas¹.

The second part of this paper introduces some elements of the Caribbean realities, in an effort to understand whether they make any of the predictions of the “standard model” more or less likely. A third section discusses the possible impact of land policy given the Caribbean realities, and a fourth and final section presents conclusions and recommendations for the adaptation of the “standard model” to the Caribbean.

¹ A useful literature review of land and real estate reform impacts is found in Galal and Razzaz, 2001. That paper argues for a comprehensive reform strategy rather than a patchwork of reforms that are not self-reinforcing. A recent paper by Claessens and Laeven, 2002, shows using macro-statistics that firms in countries with more secure property rights in general allocate resources better and consequently grow faster.

2. THE “STANDARD MODEL”

The goal of land policy is to promote sustainable and equitable economic growth by enabling land to play its role optimally as a factor of production of goods and services [slide 3]². The land-related outcomes that are associated with the goal are³:

- Efficiency, via increased tenure security, investment and dynamic land markets;
- Equity, via access to resources by disadvantaged groups; and
- Sustainability, via efforts at land protection.

Productive investment in agricultural land via fertility improvements, irrigation, drainage, terracing and so on, should increase output. Better land use via intensification on land which is capable of being productive, and conservation on land which is not, will enhance sustainability. In the urban context, the formalisation of informal rights to land and housing should increase the willingness of the occupants to make investments in these assets. To the extent that “informality” of rights to land is more prevalent amongst poor or otherwise disadvantaged groups, the benefits of “formalisation” of rights should be relatively more beneficial for these groups. The standard model recognises, however, that direct action must be undertaken to redistribute assets if land policy is to provide long-term improvement in the lot of the disadvantaged — women, ethnic minorities, young people, and other who are poor.

How does one achieve these outcomes? Through improved functioning of land markets [slide 4]. The principal indicators of effective land markets are:

- Increased volume of land transactions,
- Increased value of land,
- Reduced transactions costs, and
- Improved access to credit.

Land transactions should transfer land to people who are likely to use it better. Increased land values should be a signal to owners that they should use it more productively. Reduced costs (in both money and time) will facilitate transactions. Improved access to credit will facilitate investment⁴. How does one encourage these processes? The standard model argues that the principal contributor to the process is improving security of tenure: more secure property rights for owners and users of land [slide 5].

² Slide numbers refer to an accompanying PowerPoint presentation. The slides are included as figures in the present report (see p. 25ff.). Slides 1 and 2 are introductory to the presentation.

³ See Williams et al., 2003.

⁴ In his *The Mystery of Capital* (2000), H. de Soto argues that poor people without title are unable to raise capital even though they possess assets such as land and buildings; he terms this situation “dead capital”.

Land policy must therefore address the issue of security head-on. There are a broad variety of tools available to improve security and stimulate the land market, some of which are [slide 6]:

- Cadastral surveys,
- Land titling,
- Land registration,
- Land law development,
- Land funds,
- Land purchase/sale programs,
- Credit guarantee schemes,
- Land taxation,
- Land use planning,
- Land consolidation, and
- Land market regulation.

All of these programs can influence the degree of security, both objective and subjective⁵, that land owners and users have in reference to property which they possess. Some of them can also have direct impacts on the way land markets work: for example, credit schemes directly influence the ability of land owners to borrow funds against collateral, and land purchase/sale schemes directly affect the volume of transactions [slide 7].

This, in essence, is the “standard model”. Interventions such as the eleven shown here should promote efficiency, equity and sustainability simultaneously. As this workshop’s Framework Paper⁶ points out, the three-dimensional nature of the goal creates the likelihood of trade-offs amongst efficiency, equity and sustainability criteria. The present paper does not address the trade-offs per se, but rather questions whether optimality is attainable on any of the criteria, much less on all of them at once.

Before turning to a more realistic assessment of land policy’s ability to achieve its goal, I should mention a “feedback effect” which strengthens the predictions of the “standard model” [slide 8]. Some of the actions people take in response to increased security of tenure may feed back to increase security even further. For example, investing in land, by building a house or a fence or planting trees, will be *prima facie* evidence that the investor has the right to do so; if there is no challenge, the investment will reinforce both subjective and objective tenure security.

⁵ By objective security I mean documentary evidence of the possession of property rights and legislation validating that evidence. By subjective security I mean the feelings of land owners and users that they know what their rights are, and feel confident that their rights are protected.

⁶ J.D. Stanfield, K. Barthel and A. N. Williams (2003).

3. COMPLICATIONS

There are three sets of factors in the real world that may temper the optimism of the “standard model”, and lead to disappointing performance on one or more of the three dimensions of the goal⁷ [slide 9]. There are factors that influence:

- effectiveness in guaranteeing security and certainty of property rights,
- the operation of land markets, and
- the sustainable productivity of land.

We will address these sequentially, first in general terms and then with respect to specific aspects of Caribbean reality [slide 10].

4. GUARANTEEING SECURITY AND CERTAINTY OF PROPERTY RIGHTS

- Appropriateness of design and implementation,
- Local political environment,
- Local cultural environment,
- Appropriateness and enforcement of legal system.

4.1 Appropriateness

It is common in developing and transition countries that the interventions recommended by international donors and experts for the adjudication of rights and the description of boundaries tend to be based on their experiences in other countries. In most countries of the Caribbean these two aspects of projects attempting to improve security of tenure are governed by detailed legislation and norms of professional practice by lawyers and surveyors. These tend to render land titling and registration expensive and time-consuming. Given inevitable funding limitations, donors and countries must negotiate the methods to be used in any particular project in order to reduce costs and to relax the existing requirements of law about how adjudication and boundary descriptions should be conducted. A common problem is the exclusion from these “technical” discussions of the cultural meanings of land and the informal ways that people hold rights to land. Inappropriate procedures often emerge in projects which take time to identify and correct, or lead to errors in execution.

⁷ It should be noted that the draft Policy Research Report mentions the Caribbean only in one footnote and two references, as part of the phrase “Latin America and the Caribbean”. Family land is not mentioned, nor is undivided land except in reference to Europe.

Politics: If there is no national consensus on the appropriate division of the bundle of property rights amongst individuals of different gender, age, ethnicity, etc., families, legal persons and governments, then there is likely to be constant political debate about a program to adjudicate rights, which will reduce land owners' perceptions of tenure security. This is certainly relevant to several Caribbean countries, especially those where politics is conflated with ethnicity. In addition, countries differ in their approaches to resolving problems of land policy, land administration and management. Some countries exhibit tangible government commitment to resolving problems and obtaining results, such as Peru, Ecuador and Bolivia. Other countries seem to lack this commitment and take longer to develop and implement programs. In some countries bureaucratic infighting and passive resistance often lead to paralysis and an inability to take any action.

4.2 Culture

Property rights are not universal concepts, but rather steeped in culture and history⁸. One of the principal challenges to the standard model is that it is unable to deal very well with socio-cultural practices that deviate from individualised private property with clearly defined rights and responsibilities. In the Caribbean, the most pervasive form of “non-standard” tenure is generally termed “family land”, an undivided parcel, titled and registered or not, which is held in common by all or many descendants of an ancestor whose claim to the parcel is backed by some kind of acceptable evidence. Previous land titling programs, such as that carried out in St. Lucia in the 1980s, began with the notion of introducing “trusts for sale” for such properties, as well as the legalisation of subdivisions where they had occurred to produce individual, private ownership of the land. However, the project ended up issuing titles to “the heirs of X” for most family land parcels, thereby avoiding the issue of how to convert the bulk of family land ownership situations into more “marketable” forms of tenure⁹. The cultural resistance to individualisation should not be surprising. It is clear that family land serves socio-cultural functions as well as economic ones: it is a source of social security in case of need, a symbol of family integrity, a protection against the risk of forced sale and a reinforcement of the desire for ambiguity vis-à-vis official structures.¹⁰

⁸ It should be noted that property rights, as Marchak (1998) points out, “are social inventions, and society can abrogate them”.

⁹ “Due to a lack of funds and mounting cultural resistance, the Government could not go forward with the tenure-individualization program (TIP) to carve 450 individual smallholdings out of existing family -lands” (Vargas, 2002, p. 14). I believe that the lack of funds was a second-order constraint; money would have become available if the “cultural resistance” were not there.

¹⁰ See most chapters in Besson and Momsen, 1987. To see that the phenomenon is not limited to the English-speaking Caribbean, see Bloch et al., 1988.

4.3 Legal System

The standard model depends on a transparent, accessible legal system that protects property rights. All too often the courts and legal profession are weak, poorly financed and thereby subject to manipulation by individuals or groups with financial or political power. Also, legislatures are frequently dominated by the land-owning elites. One of the best-known international examples of both of these problems is the Philippines, where land purchase/sale efforts under the Comprehensive Agrarian Reform Program since the 1980s have been stymied by elite land owners' ability to: (1) receive individual exemptions from the State's acquisition of their estates because they were rezoned as nonagricultural even though crops continued to be grown on them; and (2) block compulsory acquisition of their property by contesting the Programme's valuation and then inducing arbitrators to award them impossibly high compensation¹¹.

5. FACTORS THAT INFLUENCE LAND MARKET OPERATION

- Overall economic and political environment,
- Physical characteristics of land,
- Availability and cost of market information,
- Operation of other rural factor markets and output markets.
- The macro-economy can play a significant role in determining the viability of land markets. The principal reason is the "Dutch Disease" discussed below. This phenomenon, caused by an overvalued exchange rate, has a negative effect on land productivity that will result in lower prices of agricultural land. This in turn is likely to stimulate its conversion from agricultural into residential and other uses. Also, just as lack of consensus on property rights may reduce tenure security, politics may interfere with land markets. If a change in government is likely to lead to a substantial change in land policy, it may distort the volume and value of transactions in anticipation.
- *Land characteristics*: The mountainous terrain that characterises most Caribbean countries contributes to small, erode-able land parcels that may have more symbolic than economic value. The vulnerability of many

¹¹ In May 2002, the President of the Land Bank of the Philippines was arrested for refusing to pay the equivalent of US\$1.5 million to buy some 53 hectares of rice lands at US\$28,000 per ha, the amount awarded by the adjudication board judges. The Department of Agrarian Reform's valuers had appraised the land at about US\$1,100 per ha, or 25 times lower. Two regional DAR officials are being probed for having colluded with the landowner, a former Court of Appeals Justice.

islands to hurricanes also is likely to depress the marketability of land, even prime agricultural land. In addition, the fact that most countries in the region are “sea-locked”, i.e. physically separated from other countries by water, makes transport costs a serious consideration for local production possibilities.

- Information is crucial to the operation of all markets. Because most of the region’s countries are small, they cannot capture the economies of scale that land market information exhibits. Also, what market information exists is more likely to be available for land suitable for tourism and second residences of foreigners.
- Economists increasingly focus on the inter-relationships amongst markets for factors of production, especially in rural areas. In the Caribbean, the labour market is often peculiar, due to the seasonal demand for labour by tourism and a long tradition of emigration from the islands, both temporary and permanent. These two types of influences can potentially reduce land values for labour-intensive activities such as agriculture, and can increase them dramatically in tourist areas, thereby driving out the traditional users of the land.

6. FACTORS THAT INFLUENCE SUSTAINABLE PRODUCTIVITY OF LAND

- Overall economic and political environment,
- Family income level and changes,
- Availability of labour,
- Availability of credit.

6.1 Macroeconomics

The economic predominance of foreign-exchange earning activities such as tourism and petroleum has the effect of raising the value of the currency, thereby discouraging the production of goods and services for the local market. This phenomenon, called the “Dutch Disease”¹² [slide 8], makes imports relatively cheap and local costs relatively high. Agriculture is generally the sector that is most affected, so that agricultural land, even if it is inherently productive physically, will be incapable of generating

¹² The name comes from the experience of the Netherlands in the 1960s and 1970s. Production and export of offshore natural gas led to a rise in the value of the Guilder with severe consequences for other sectors, including agriculture. It has since been found to influence economies as diverse as Nigeria and Papua New Guinea. For evidence that it works in the Caribbean, see, e.g. Atkins, 2000. For contrary evidence, see Heemskerk, 2001.

sufficient revenues to cover the high costs of production. This exacerbates the lack of competitiveness created by low-priced, subsidised food imports from the United States and Europe. In addition, “Dutch Disease” contributes to the high US dollar costs of production of the region’s traditional exports, including sugar and bananas, and it may also increase the cost of residential construction for low-income people, to the extent that the sector relies on local building materials.

6.2 Incomes

Alternative sources of income in the nontraditional export sectors, including tourism, raise family incomes to levels that make agriculture an unattractive economic activity. They also tend to grow more rapidly than agricultural incomes, so the disincentive to continue farming would increase over time. Thus there is a tendency for inequality of incomes to rise. There may be psychological effects as well, as society is increasingly polarised between those who are able to earn money in the export sectors and those who are not.

6.3 Labour

Migration to towns and abroad is demographically concentrated amongst younger, better-educated people. This means that the people remaining in rural areas have below-average productivity. They are also less likely to respond to opportunities for innovation either in production technologies or in nontraditional crops.

6.4 Credit

The “standard model” relies heavily on hope that improving tenure security though land titling should increase land owners’ access to mortgage credit. But it is clear that in many cases, including some in the Caribbean¹³, this does not happen easily. Small farmers and poor households are rarely considered to be good credit risks, and it is possible that only larger, richer farmers and wealthier households will benefit from titling programs as far as access to credit is concerned.

7. IMPACT OF LAND POLICIES ON THE ECONOMY

The net result of all of the above complications is that the link between land policy and economic outcomes is less clear in reality than it is in theory. The proponents of the “standard model” tend to ascribe any shortfall in performance to “market failures” and “policy failures”, i.e. to blame the weak relationship between land titling/registration programs and economic performance on the poor performance of other markets (such as the credit market) or other

¹³ See, for example, Williams et al., 1993.

government policies (such as high costs of land transactions). They therefore tend to attempt to introduce conditionalities into assistance programs that would change the offending policies. By doing so, they are admitting the evident fact that land tenure security-enhancing programs are insufficient by themselves. Yet the World Bank continues to believe that land administration assistance should be provided independently, in stand-alone projects, rather than as components of broader programs of agricultural or urban development or general administrative reform.

The list of complications, however, shows that many of the factors that mitigate the effects of increased tenure security are inherent in the structural, economic and cultural nature of many Caribbean countries. They cannot be assumed away, nor can they in many cases be adequately addressed by policy changes that are feasible either politically or economically.

Thus I feel that it is unlikely that the Caribbean countries will see the type of response to land titling that farmers in Northeast Thailand exhibited: land titling induced higher investment, and land with a title had significantly higher market values and higher productivity. Output was 14–25% higher on titled land than on untitled land of equal quality (Feder, 1988).

This outcome was the inspiration for the new generation of donor-financed land projects, not only in the Caribbean, but also in Latin America, Asia and the former Soviet Bloc. People would like to believe that land tenure security is the magic bullet that will improve efficiency, equity and sustainability of the economy simultaneously. My concern is that expectations of large economic benefits will be dashed by circumstance, and that the backlash will discredit the core notion, which I share, that security of land tenure is a desirable land policy goal with benefits that transcend economics [slide 13].

The tangible economic benefits may be less than the “standard model” predicts, but intangible benefits should accrue, including:

- People acquiring title to land will gain an powerful indicator of social inclusion;
- Governments will gain credibility as their ability to manage and administer their countries’ land increases;
- Because of greater transparency in land administration, governments will more easily be held accountable by their citizens;
- Opportunities for confusion, fraud and corruption in land transactions will be reduced.

These benefits are clearly desirable social outcomes that may lead indirectly to a stronger base for sustainable, equitable economic growth.

That said, there is some evidence from several Caribbean countries that improved land titling and registration would have a positive economic effect:

- In Trinidad and Tobago, agricultural land tenure regularisation was predicted in 1993 to generate benefits in terms of improved land use (tree

crops), increased access to credit¹⁴ and additional investment (semi-permanent structures such as animal pens) that greatly exceeded the costs. My calculations suggest that the internal rate of return would have been on the order of 30% (Williams and Stanfield, 1993)¹⁵.

- In a later study in Trinidad and Tobago, Rajack (1999)¹⁶ looked specifically at tenure security and its impacts in urban settings. The study reached several conclusions: 1) legal documentation of property rights is not necessary for the enjoyment of perception-based tenure security, since perception derives from other factors; 2) both perception-based tenure security and regularisation (identification of holdings and infrastructure improvement) are positively associated with dwelling improvement and maintenance. However, because so many other factors affect improvement/repair behaviour, regularised settlers do not necessarily improve or repair their dwellings to a greater extent than unregularised settlers.
- In a mid-1980's study in Saint Lucia, while there was no evidence that improved tenure security created by the Land Registration and Titling Project increased access to mortgage finance, there was good evidence that non-family land parcels were more likely to be used as collateral. In addition, owner-cultivated parcels tended to be more intensively used than either rented parcels or family land parcels, although the differences were not strong (Lemel 1988).

8. IMPLICATIONS FOR CARIBBEAN LAND POLICY

This paper is not intended to be pessimistic about the possible contributions of market-oriented land policy to the socio-economic progress of Caribbean countries. Rather, it attempts to clarify and highlight the challenges that it faces, challenges that its proponents either assume away or minimise. I hope I have shown, however, that the challenges are real, and that they should be addressed. I believe that there are several principles upon which land policy should rest [slide 14]:

- The *context* in which land policy is to be implemented matters a great deal: each country, each situation is different. This means that there is a great deal of preparatory work to be done — research, compensatory programs of

¹⁴ But see Williams et al., above, for contrary evidence from the same publication.

¹⁵ The cited article presents undiscounted estimates of benefits and a lump sum of the costs; I extended the return period to 20 years and prorated the total project costs over the 9 years of LRDP implementation.

¹⁶ This paper is based on R. M. Rajack, "Tenurial Security, Property Freedoms, Dwelling Improvements and Squatter Regularisation – A Case Study of Trinidad", unpublished Ph.D. thesis, University of Cambridge, England (1997).

various kinds, etc. — in order to anticipate the challenges and devise strategies to reduce their negative impacts.

- This also means that land policy and the programs to implement it cannot operate in a vacuum, but must be developed in *co-ordination* with other sectoral and thematic initiatives. It is increasingly recognised, for example, that the best system of registration of rights to real property is comprehensive rather than limited to a single sector such as agriculture. Similarly, a land policy that banks upon increasing investment in land will not work well if there are not simultaneous efforts to broaden access to credit.
- Sustainable implementation is more likely if there is broad *participation* at all stages, from establishing the goals to determining the means of implementation.
- *Transparency* is imperative. In other words, there should be an easily accessible information system about property ownership, transactions, valuation, taxation and use that would encourage the formalisation of property transactions and discourage bureaucratic tendencies, informal transactions costs and favouritism in valuation (and hence in taxation). These latter factors, as is well known, have strong negative effects on land markets and on government-people relations.
- Parallel with these efforts to make investments in land tenure administration more effective, resources should also be directed to *monitoring* the actual results obtained from these investments. This monitoring requires that there be a reasonable consensus about what success means in land tenure administration, and that there be clever methods used to detect successful and unsuccessful outcomes.

The sustainable implementation of market-oriented land policy is, therefore, more difficult than the proponents of the “standard model” acknowledge. The real world is complicated, and the hypothesised linear relationship between policies and outcomes in fact has many curves and intersections. Ignoring reality may facilitate the establishment of a land administration and management system, but it will doom the system to increasing irrelevance.

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SLIDES:

Slide 1

Slide 3

The Goals of Land Policy

- 1. Efficiency**
Dynamic property markets
Tenure security
- 2. Equity**
Access to resources for
disadvantaged groups
- 3. Sustainability**
Land Protection

Slide 2

Slide 4

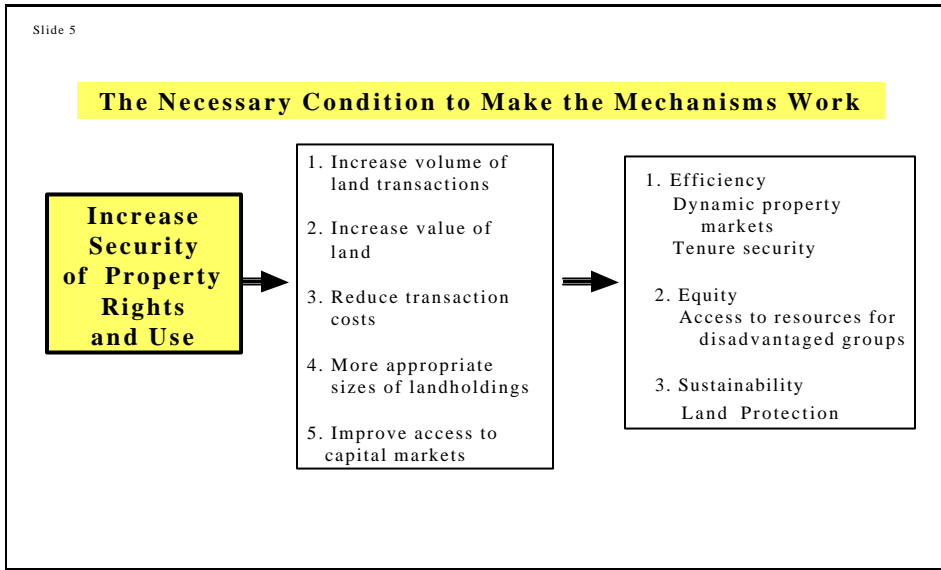
The Market Mechanisms that Lead to Goal Attainment

1. Increase volume of land transactions
2. Increase value of land
3. Reduce transaction costs
4. More appropriate sizes of landholdings
5. Improve access to capital markets

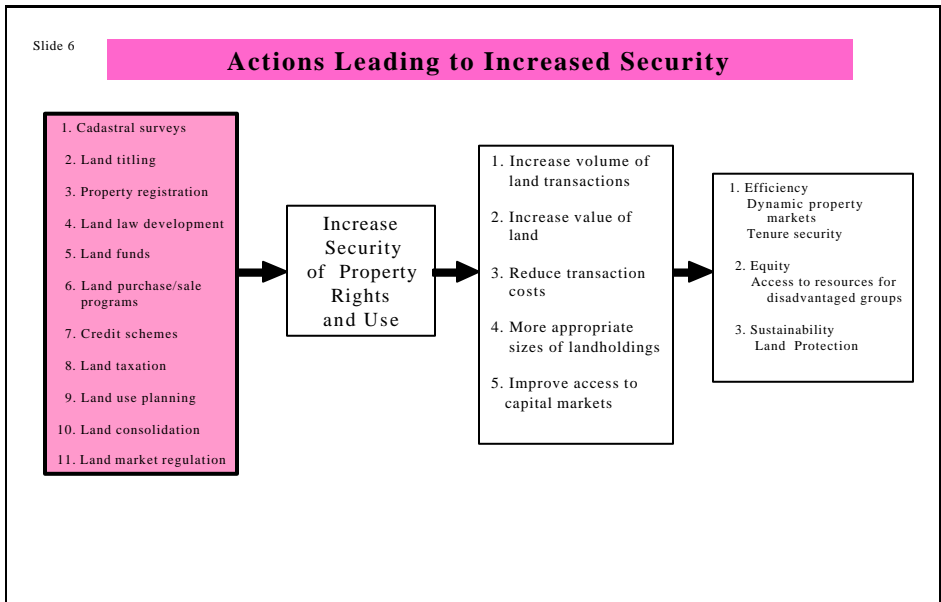
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- 1. Efficiency**
Dynamic property markets
Tenure security
- 2. Equity**
Access to resources for
disadvantaged groups
- 3. Sustainability**
Land Protection

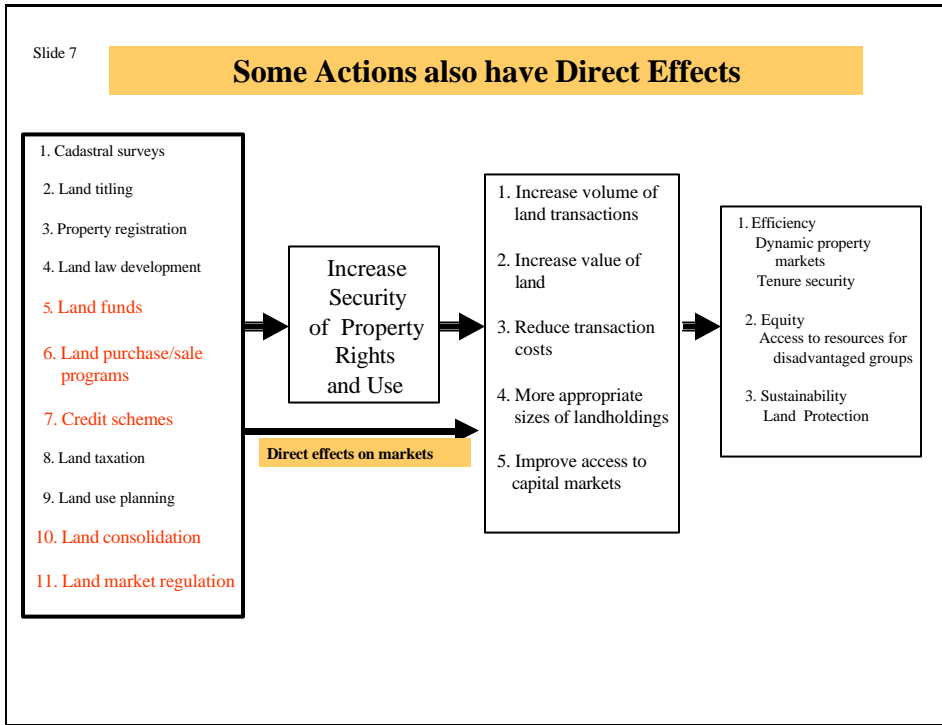
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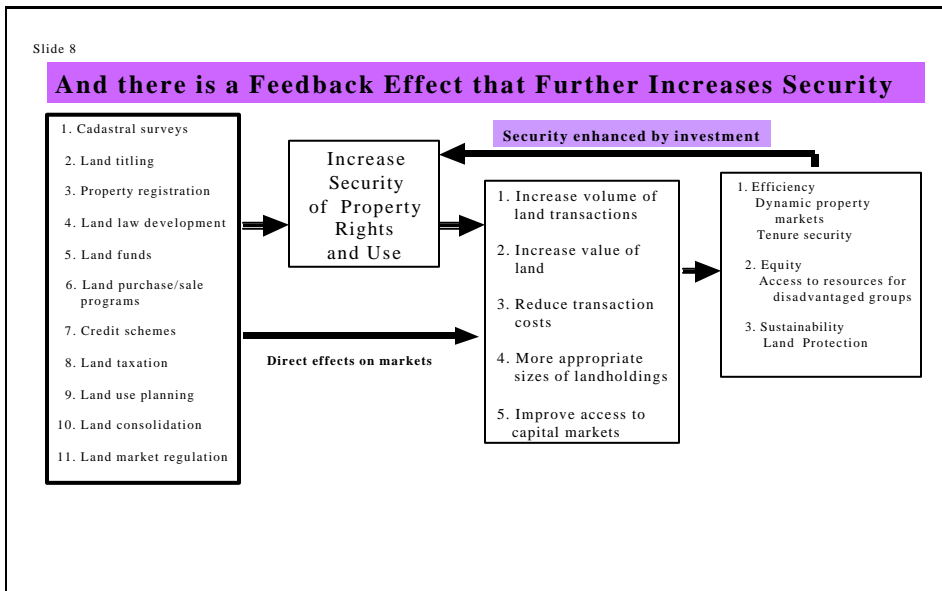
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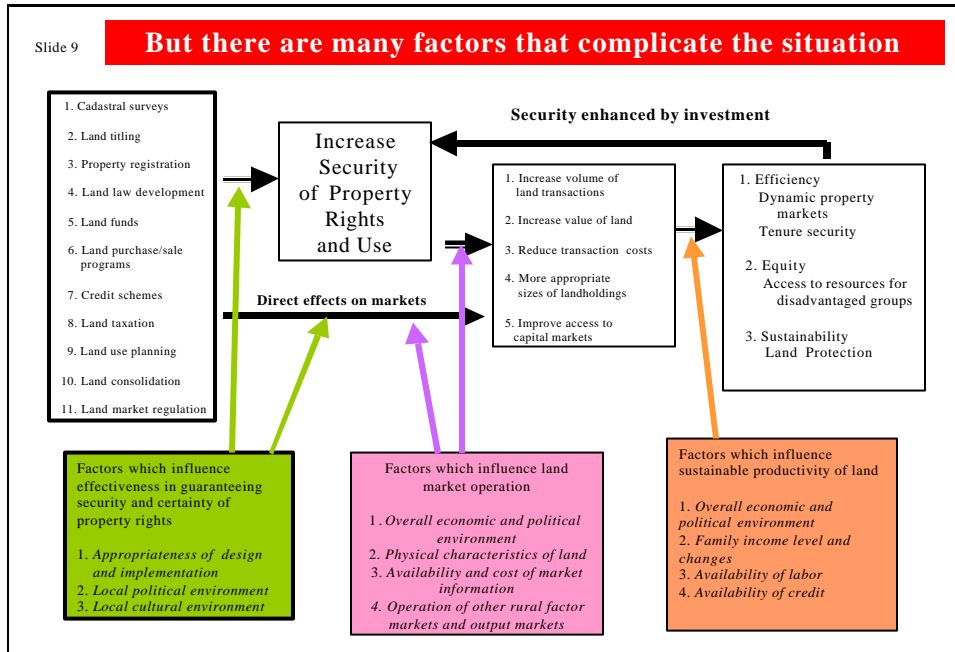
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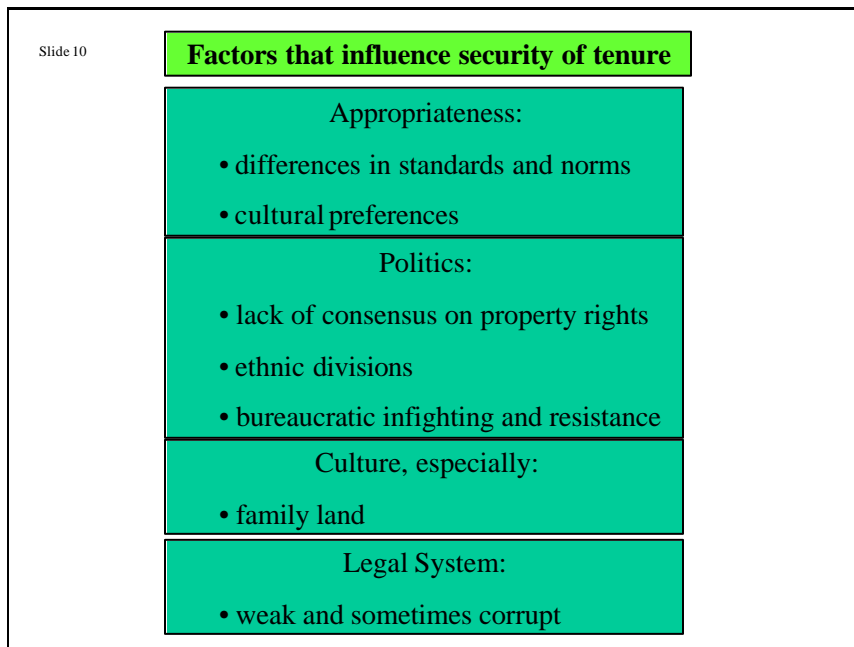
Slide 6



Slide 7



Slide 8



Slide 9

Slide 11

Factors that influence land markets

Economics and Politics:

- “Dutch Disease”
- Electioneering

Market information:

- Uneven availability and cost

Land characteristics:

- Small and mountainous
- “Sea-locked”

Other rural factor markets, especially:

- Labor
- Credit

Slide 10

Slide 14

Implications for Caribbean Land Policy

Land policy may be necessary, but it is not sufficient :

- ⊗ Each country is different; context matters
- ⊗ Land policy & projects must not operate in a vacuum -- integrate with other policies
- ⊗ People must participate in system design, not just reach consensus on design principles
- ⊗ Transparency is imperative to discourage “improper” activities which impede land markets
- ⊗ Monitoring of results is essential to ensure effectiveness

Slide 11

Slide 13

What impact might land policies have on the economy?

Economic impact probably less pronounced than in “success stories,” but still likely to be positive, if scant available evidence is representative.

- Other benefits of appropriate land policies:
 - ❖ Social inclusion of those gaining title
 - ❖ Increased government credibility and accountability
 - ❖ Greater transparency of land administration
 - ❖ Fewer opportunities for confusion and corruption

Slide 12

Slide 14

Implications for Caribbean Land Policy

Land policy may be necessary, but it is not sufficient :

- ❖ Each country is different; context matters
- ❖ Land policy & projects must not operate in a vacuum -- integrate with other policies
- ❖ People must participate in system design, not just reach consensus on design principles
- ❖ Transparency is imperative to discourage “improper” activities which impede land markets
- ❖ Monitoring of results is essential to ensure effectiveness

FEATURE ADDRESS

History, Culture and Land in the English-speaking Caribbean¹

Jean Besson

1. INTRODUCTION

It is an honour to be invited to contribute the Keynote Paper on “History, Culture and Land in the English-speaking Caribbean” for this timely Workshop on “Land Policy, Administration and Management for the English-speaking Caribbean”, at the dawn of the twenty-first century. As the Workshop organisers have highlighted, “the importance of land policies as a basis for securing property rights and access to land, as well as establishing the basis for the functioning of land and other factor markets in Caribbean countries is well recognised”.² Moreover, “land continues to be a key household asset and transparent low-cost ways of documenting land ownership are essential to ensure land access, increase productivity and investment, and promote sound governance at local level”.³

Within these contexts, my brief is to explore “the wider historical, social and cultural trends underlying current debates about land policy, management and administration in the Caribbean”, so as “to bring to the surface some of the social and cultural attitudes that frame debates about land policy and practice, yet which usually remain unspoken”.⁴ In this way this Paper aims to contribute to the Workshop’s general objectives, which include the development of “a Caribbean perspective on land administration and management, in order to ensure that the policies of international agencies reflect the realities of the region”.⁵

¹ From MARTHA BRAE'S TWO HISTORIES: EUROPEAN EXPANSION AND CARIBBEAN CULTURE-BUILDING IN JAMAICA by Jean Besson. Copyright (c) 2002 by the University of North Carolina Press. Used by permission of the publisher.

² I quote from the “General Concept” of the Workshop’s Terms of Reference (TOR) for this Keynote Paper, p. 1.

³ TOR, “General Concept”, p. 1.

⁴ TOR for this Keynote Paper, p. 2.

⁵ TOR, “General Concept”, p. 1.

To develop this Keynote theme, I have been asked to briefly review “the process of colonial acquisition of indigenous territories, the reception of European land law and the development of official land tenure regimes, designed to restrict land-ownership, prevent the growth of a peasantry⁶ and ensure the continued generation of wealth for elite groups, in both the pre- and post-Emancipation era”⁷. I have been requested to then “trace the evolution of alternative — unofficial — land tenure regimes, embedded in kinship, community and ethnic identity, which arose in opposition to the legal system of land ownership”⁸. This Paper should also “trace shifts in land policy in the era of decolonisation and the attempts which were made to transform the legal tenure system, as part of the process of nation-building, in order to mediate between these two competing tenure regimes”⁹. In addition, a focus is requested “on the implications of this history [for] the present day dynamic interplay and tensions between the two contrasting perspectives, including their articulation with family and gender issues, environmental concerns, ethnic conflict, and policy debates”¹⁰, and on “the debates concerning the role of the land market in overall economic development in the light of these two contrasting perspectives”¹¹. This Paper “should be regional in scope”, “a broad historical and cultural survey”, and “interwoven with specific empirical illustrations drawn from a range of the territories of the region”¹².

I therefore begin, in the next section of this Paper, with a brief examination of “the process of colonial acquisition of indigenous territories”¹³. Such an outline must initially situate the English-speaking Caribbean in the wider context of the

⁶ In this Paper, as elsewhere, I draw on and develop Sidney W. Mintz’s perspectives on Caribbean peasantries. Sidney Mintz identified the persisting neglect of such small-scale landholders, who “represent a *mode of response* to the plantation system and its connotations, and a *mode of resistance* to imposed styles of life” (1989:132-33). Mintz defined “peasantry” in general as “a class (or classes) of rural landowners producing a large part of the products they consume, but also selling to (and buying from) wider markets, and dependent in various ways upon wider political and economic spheres of control” (ibid:132). He later qualified the criterion of land ownership by noting that peasants are “small-scale cultivators who own or *have access to land*” (ibid:141, my emphasis). He further argued that “Caribbean peasantries are, in this view, *reconstituted* peasantries, having begun other than as peasants — in slavery, as deserters or runaways, as plantation labourers, or whatever — and becoming peasants in some kind of resistant response to an externally imposed regimen” (ibid:132).

⁷ TOR, Keynote Paper, p. 2

⁸ TOR, p. 2. See also Besson 1979, 1984a, 1984b, 1987a, 1987b, 1992a, 1995b, 1995d, 1999, 2000, 2001, 2002b, in which these ideas are put forward and developed.

⁹ TOR, p. 2. Cf. Besson (1974-2002b).

¹⁰ TOR, p. 2. See also Besson (1984a-2002b) on these themes.

¹¹ TOR, p. 2. Cf. Besson (1974-2002b).

¹² TOR, p. 2.

¹³ TOR, p. 2

Caribbean *oikoumenê* or Caribbean region as historically and socio-culturally defined (Mintz 1971, 1989, 1996a).

2. THE COLONIAL ACQUISITION OF INDIGENOUS TERRITORIES

The Caribbean *oikoumenê* or societal region is a great historic world area, unified by its common history as the oldest colonial sphere with the most extreme experience of colonisation and the “most remarkable drama of culture-building in the modern world” (Mintz 1996a, 1980:15). This historic creation was partly forged through the acquisition of indigenous territories by Europe, following the overseas expansion of the Portuguese nation-state in the early and mid-fifteenth century (Greenfield 2000) and the arrival of Columbus on the island of Guanahani (renamed San Salvador) in the Bahamas in 1492.

This European expansion was reinforced by legal domination of indigenous land. Following the landfall of Columbus, who represented the Spanish monarchy, a colonial legal treaty of 1494 partitioned the Americas between Portugal and Spain (Williams 1964:3)¹⁴. For about one hundred years Spain ruled the Antilles and surrounding coastlands of the Caribbean Sea unchallenged from Santo Domingo on the island of Hispaniola, the first New World colony.

From around 1600 the British, the French and the Dutch (and later the Danish and Swedish) began to challenge Spanish control of Caribbean indigenous territories. First, the Dutch settled Essequibo, now part of Guyana. Then in 1624 an Englishman, Thomas Warner, financed by a London merchant Ralph Merrifield, arrived in St. Christopher/St. Kitt’s. In 1625 Merrifield, with the patronage of the Earl of Carlisle, obtained land grants from the King of England to settle St. Kitt’s, Nevis, Montserrat and Barbados (Hart 1998:5). In 1627 the English King granted Carlisle “the islands of St. Kitts, Nevis, Grenada, St. Vincent, St. Lucia, Barbados, Martinique, Dominica, Marie Galante, Guadeloupe, Antigua, Montserrat and several others, some of which did not exist” (ibid.). Following English settlement of Barbados in 1627, “financed by the Courteen brothers, Anglo-Dutch merchants” (ibid:6), Warner settled Nevis in 1628. The Courteen brothers, with their noble patron the Earl of Montgomery and Pembroke, also obtained a royal grant to Trinidad. However, Trinidad (sighted by Columbus in 1498 and settled by Spain in 1592)¹⁵ would remain under Spanish rule until the British conquest of 1797, despite French settlement in the late eighteenth century (Brereton 1981; Besson 1989). In 1629 New

¹⁴ This treaty, the Treaty of Tordesillas, followed (and modified) a series of papal bulls issued in 1493 “which established a line of demarcation between the colonial possessions of the two states” (Williams 1964:3).

¹⁵ With the founding of San Josef de Oruna (St. Joseph).

Providence (now Nassau) in the Bahamas was colonised, though the settlement was destroyed by the Spanish in 1641 (Hart 1998:6).

In addition to Essequibo, the Netherlands acquired Berbice (now in Guyana) in 1626; Curaçao, Aruba, Bonaire and St. Eustatius in 1634; and Saba in 1640. These Dutch colonies were recognised by Spain in 1648. In 1635 the French took Martinique and Guadeloupe, and subsequently colonised St. Barthelemy, St. Martin, Grenada, St. Lucia, the Saintes and Marie Galante (Hart 1998:7). In 1655 the English captured Jamaica and by 1670 Spain recognised England's colonies. In 1697 France took western Hispaniola, which became wealthy Saint Domingue.

Many Caribbean colonies changed hands (some several times) amongst the various colonial powers, in the competition to acquire indigenous territories in this "Cockpit of Europe", and some territories were divided (Williams 1964; Hart 1998). However, by the time of the Treaty of Paris in 1815 Britain (unified in 1707) was the dominant naval power and had consolidated the British West Indies. These territories included Jamaica, the Leeward Islands (Anguilla, Antigua, Barbuda, Montserrat, Nevis, St. Kitts), the Windward Islands (at that time Dominica, St. Lucia, St. Vincent, Grenada, Tobago), Barbados, Trinidad, the Bahamas and British Honduras (now Belize). They also included British Guiana (now Guyana), with the ceding of Essequibo, Demerara and Berbice by the Dutch in 1814, though the Netherlands retained Dutch Guiana (now English-speaking Suriname)¹⁶.

With the Monroe Doctrine of 1823, the United States constrained further European penetration of the Americas (Hart 1998:13-14). Spain would lose its last Caribbean colonies of Cuba and Puerto Rico to the United States in 1898, following the Spanish-American War. In 1917 the Danish West Indian islands of St. Thomas, St. Croix and St. John, colonised by Denmark between 1717 and 1733 (Olwig 1985:13-14), became the American Virgin Islands and joined the English-speaking Caribbean. Providencia, although a dependency of Spanish-speaking Colombia, was settled in the early nineteenth century by Jamaican planters and their slaves and is also a part of the Anglophone Caribbean (Wilson 1995).

Through the aggressive colonial acquisition of indigenous territories the native populations of the Caribbean region were virtually eradicated. The Taino Arawaks of the Bahamas and Greater Antilles were swiftly wiped out, within about fifty years, and the Kalinago Caribs of the Lesser Antilles were all but gone within two centuries. Today only a few pockets of indigenous peoples remain, as on the Carib reservations of Dominica and St. Vincent (Honychurch 1995; Gullick 1985) and the network of Caribs around the town of Arima in Trinidad¹⁷, all of whom maintain strong Carib ethnicities rooted where possible

¹⁶ For a discussion of Dutch Guiana/Suriname from an anthropological/linguistic perspective, see Mintz and Price (1992).

¹⁷ In 1992, I was able to discuss such issues with Caribs in Arima, who have a strong sense of the impact of colonial conquest on their former territory.

in indigenous territory¹⁸. However, the acquisition of these colonies was for profit and new peoples were imported, through African slavery and European and Asian indenture, to develop plantations in the context of colonial legal domination of Caribbean land.

3. EUROPEAN LAND LAW AND THE DEVELOPMENT OF OFFICIAL LAND TENURE REGIMES

The colonial acquisition of indigenous territories in the Caribbean region was accompanied by the imposition of plantations, European land law and official land tenure regimes — wiping out native subsistence economies and engrossing Caribbean land. The European plantation system was pioneered during the twelfth century in the eastern Mediterranean islands and introduced, in the fifteenth century, to the offshore Atlantic islands of the Canaries and Madeira with the beginnings of overseas colonisation. As the expansion of Europe's nation-states intensified after 1492, the plantation system was transferred to the Americas, from north-east Brazil to the southern United States and throughout the islands of the Caribbean Sea. This trans-Atlantic colonial agricultural expansion was generated by the emergence of a capitalist world-system, based on Europe's distinctive view of commodity production in the so-called "satellites" or "periphery" of the European "metropolis" or "core" (Besson 2002b:37).

The plantation system burgeoned especially in the Antilles with the introduction of sugar-cane to the New World by the Spanish in the Caribbean (from Spain's Canary Islands) in 1493. Differences in Hispanic and non-Hispanic (British, French, Dutch and Scandinavian) colonial control shaped Caribbean plantations. The establishment of plantations escalated from around 1640-1670 in the English and French territories of the Lesser Antilles, especially in Barbados, worked by enslaved Caribs and Africans and indentured labourers from Europe. In the 1660s, as the African slave trade intensified, English Barbados was the leading West Indian sugar-producer and was probably the world's most productive economy in the second half of the seventeenth century. Barbados remained unrivalled as a British West Indian sugar colony into the first part of the eighteenth century. During this period the Leeward Islands group was the second most lucrative sugar-producer in the English Americas. However, by the 1750s Jamaica had swept ahead as the leading British West Indian sugar-producing colony and, after the collapse of the slave-plantation system in French Saint Domingue in the 1790s, Jamaica became the world's leading sugar-producer. In Trinidad, following the British Conquest of the

¹⁸ The Caribs of Dominica and St. Vincent are, however, confined to marginal reservations and the Arima Caribs became dependent on the Catholic church for access to land.

island from Spain in 1797, sugar plantations dominated the economy by 1810; and this island, with British Guiana, became the expanding southern frontier of the British West Indies. During that time, the Dutch likewise developed Caribbean sugar-plantation colonies based on African slave labour, especially in Suriname. Meanwhile, the Danish developed the slave-plantation system in St. Croix and St. John (Besson 2002b:37-38, 46-47).

The Caribbean plantation system was independent of slavery. However, imported slave labour from Africa dominated the early Caribbean plantations, as elsewhere in Plantation America. The emergence of racial chattel slavery in the context of European expansion intensified after 1650, with the dominance of the English in the Atlantic and the Dutch in Asia. Factors contributing to these developments included the early emergence of the nuclear family and non-feudal land tenure, in England and the Netherlands, which led to the growth of capitalist agricultural productivity and international trade in the first half of the seventeenth century and facilitated transoceanic migration. The paradox of slavery and freedom was most pronounced amongst the English, who dominated the trans-Atlantic slave trade with the expansion of their plantation system from 1650-1700 — initially in Barbados (Besson 2002b:39, 40-41).

Estimates of the trans-Atlantic slave trade vary. A conservative consensus is that 11.4 million slaves left Africa and 10 million disembarked in the Americas (Eltis et al. 1999:5). New World plantation slavery was intense in the Caribbean and Brazil and especially in the Caribbean region, which received nearly half of the enslaved Africans arriving in the Americas. The British West Indies received over one fifth of the slaves transported to Plantation-America (Besson 2002b:42, 46).

The consolidation of the European slave-plantation system in the British West Indies was reinforced by the imposition of European land law and official land tenure regimes. English colonial rule included the legal creation of precincts and parishes, as well as land grants from the Crown in a further carving up of territory. The plantation system was based on legal freehold and primogeniture which, in the inheritance of plantations and other property, including slaves, gave precedence to the male line — especially the eldest legitimate son (Besson 1984a, 1992a, 2002b:41, 47, 51). Michael Craton (1987) and Barry Higman (1998) have documented in detail the evolution of such English land law in the Bahamas and Jamaica. Based on such land laws and policies throughout the British West Indies, the elite planter classes were born.

The transplantation of such English land law to the British West Indies not only served as an instrument of domination and control but also defined the identity of the colonists as “English” and, after 1707, as “British”. This metropolitan/colonial legal system, which emphasised the absolute right of British men to property and liberty, including representative law — and reinforced by racist dogmas portraying Negroes as a separate species — was used to rationalise enslavement of Africans and trading of chattel slaves (Besson 2002b:51).

4. THE CREATION OF CARIBBEAN UNOFFICIAL LAND TENURE SYSTEMS

The unofficial land tenure systems that co-exist with legal land tenure regimes in the English-speaking Caribbean today originated primarily in slave cultures and the cultures of slavery (Besson 1995b; Palmié 1995). Throughout the period of colonial plantation slavery in African-America, enslaved Africans and Creoles resisted and opposed European land law and official land tenure regimes through rebellion, marronage and proto-peasantisation — which sought to re-establish autonomy, kinship and community by consolidating customary rights to land (Besson 1992a:187, 2002b:85). Such slave response was highly developed in the Caribbean region including the British West Indies.

Slave rebellion particularly occurred in the non-Hispanic Caribbean, where the early development of slave plantations was most intense. This was especially so in the British West Indian colonies, which were the vanguard of European overseas agricultural capitalism and, with the exception of the Saint-Domingue revolution, “the greatest slave revolts in the Western Hemisphere ... took place in [British] Guiana and Jamaica” (Genovese 1981:33; cf. Besson 1992a:187, 2002b:85).

Marronage (escaping slavery and establishing autonomous maroon communities, sometimes in association with slave revolts) typified the entire span of New World slavery and was widespread throughout African-America (Price 1996). Maroon societies lived under constant threat of warfare from plantation-military regimes, and were therefore established (through squatting) in almost inaccessible areas such as mountains, forests and ravines, where such topography enabled guerilla warfare and the establishment of customary rights to land. Some maroon communities were wiped out in war, while others won freedom and legal land rights through treaties with colonial governments forced to sue for peace.

The most pronounced and longest lasting maroon communities today are in the English-speaking Caribbean territories of Jamaica and Suriname, where strong maroon ethnic identities persist. Here (and elsewhere), although customary land rights were transformed to legal freehold by the treaties, unofficial land-tenure systems have continued to evolve as significant bases of maroon ethnicities. For example, in Accompong Town in the Cockpit Country Mountains in St. Elizabeth, Jamaica — the only surviving community of the Leeward Maroon polity and the oldest corporate maroon society in the Americas (where I undertook fieldwork from 1979 to 2002) — legal-freehold treaty land has been transformed into sacred space by oral traditions, rituals and ancestral burial grounds. This sacred landscape is further reinforced by family lines, traced from the “First-Time Maroons” through both women and men, with rights of use to house-yards, provision-grounds and family cemeteries within the wider framework of the commons (Besson 1995c, 1997, 2000, 2001, 2002b:85-86). This land tenure system (with its related ethnic tensions and boundary and tax

disputes with the post-colonial state) has parallels with that of the Jamaican Windward Maroons, and similarities and differences with the customary matrilineal land-holding of the maroons of French Guiana and Suriname.

The widespread “proto-peasant” adaptation was a subtle mode of oppositional slave response, based on customary land rights, and this unofficial tenure system overturned Euro-Caribbean plantation primogeniture through Afro-Creole culture-building. Here a peasant life-style was established by enslaved persons within the plantation system (Mintz 1989; Besson 1992a:188-191, 2002b:28-32, 86-90). Proto-peasantries especially typified the non-Hispanic colonies (particularly the British West Indies and French Saint-Domingue), from the eighteenth century to the abolition of slavery. With the burgeoning of the intensified plantation system, the planters faced the problem of feeding their slaves, especially with increasing warfare amongst colonial powers and the rising costs of importing food. Therefore, wherever topography allowed, planters allocated land unsuited to sugar-monoculture as provision-grounds for the slaves to grow their own subsistence, in addition to the yards for kitchen gardens in the plantation villages. The slaves, however, developed the provision-ground system well beyond the planters’ rationale, and produced surpluses for sale in public market-places.

This proto-peasant adaptation was most striking in Jamaica (which was the first Caribbean colony to introduce the system), with its hilly plantation backlands and separate estate “mountains” and flourishing Sunday markets. In 1774, the meridian of Jamaican slavery, proto-peasant slaves controlled 20% of the island’s currency from their marketing activities and were the colony’s main suppliers of food and crafts. Proto-peasantries also emerged in other British West Indian colonies with mountainous or marginal land such as the Windward Islands (Dominica, St. Lucia, St. Vincent, Grenada and Tobago), British Guiana, the Bahamas and Barbuda. There were also “petty” proto-peasants (slaves who cultivated tiny kitchen-gardens and did some huckstering) in Barbados and some of the Leewards (Antigua, Montserrat and Nevis). A highly developed proto-peasant adaptation was established in French Saint-Domingue, neighbouring British Jamaica. There were also proto-peasant adaptations in French Martinique, Dutch Guiana and St. Eustatius, and Danish St. John (Besson 1995d, 2002b:86-87).

Within proto-peasant adaptations, customary rights to house-yards and provision-grounds, and the interrelationship of kinship and land, became important bases for the reconstruction of identity and the creation of Afro-Creole/Meso-Creole ethnicities (cf. Besson, in press). British West Indian Jamaica, where the proto-peasant adaptation was most pronounced, provides clear evidence of such customary rights to land as a basis of autonomy and community amongst the enslaved. There emerged on the Jamaican slave plantations a “nonunilineal” or “cognatic” descent system (family lines traced from each female and male slave, through both women and men), which transmitted customary land rights to “grounds” and yards with family cemeteries. This family land-holding system paralleled in part the African concept of land-holding kin groups, but departed in the New World context

from African unilineal descent (traced through one gender only). This Creole cognatic descent system maximised forbidden kinship lines and scarce land rights amongst the chattel slaves, who were not only legally kinless and landless but also property themselves — like the masters' livestock and land. This Caribbean cultural creation would burgeon in the unofficial family land institution amongst emancipated slaves and their descendants (Besson 1992b, 1995d, 2002b:28-30, 87-88).

Evidence from other Caribbean territories (for example, the British Windwards and Leewards, the French West Indies, Dutch Guiana and Danish St. John) shows that throughout the Caribbean region both male and female slaves appropriated plantation land and created alternative unofficial cognatic land-holding systems that were perpetuated by their descendants. In the British West Indies, unusually isolated proto-peasant adaptations, bordering on marronage, emerged in the Bahamas and Barbuda at the margins of plantation slave society. These cases provide a striking illustration of the interrelationship of kinship, community and customary land rights and their role in slave opposition and resistance. For here, well-developed alternative land tenures, based on actual or fictive kinship and on squatting and commonage, provided the foundations of virtually autonomous communities. These customary tenures were also the basis of the slaves' opposition to formal work and to their owners' attempts to move them to more profitable plantation areas in the region (Besson 1992a, 1995d, 2002b:88).

5. COLONIAL AND UNOFFICIAL LAND TENURE SYSTEMS AFTER EMANCIPATION

When Emancipation occurred in the British West Indies, the capitalist class conflict between planters and their former slaves continued, as did the tensions between colonial land tenure regimes and unofficial land tenure systems. Indeed, Michael Craton (1985:128) has argued that the Emancipation Act of 1833 (implemented in 1834) was “a colossal hegemonic trick”. Colonial planter policies, attitudes and legislation were designed to restrict land ownership and prevent the growth of a peasantry, in order to keep the emancipated slaves as a dependent labour force for the plantations and thereby ensure the continued generation of wealth for elite groups. These strategies, however, backfired to some extent and many ex-slaves left the plantations to establish post-slavery peasant communities beyond the estates, though this occurred in contexts of both opportunity and continuing constraint¹⁹. In these contexts they drew on official and unofficial land tenure systems — including the creation of family land from purchased land (Besson 1984a, 1984b, 1992a, 1995d, 2002b:81-98).

¹⁹ For new analysis of the flight-from-the-estates debate (e.g. Hall 1978), see Besson 1992a, 2002b.

In Jamaica, the largest island and most populous colony of the British West Indies, the potential availability of land for a post-slavery peasantry was severely constrained by planter policies and practices, and by legislation of the planter-based Jamaica Assembly to keep the ex-slaves tied to the plantations. The initial strategy was a period of Apprenticeship, as elsewhere in the British West Indies²⁰. The Apprenticeship system, which was intended to last until 1840, had the overt aim of “preparing” the former slaves for freedom (Holt 1992:56). But with their strong tradition of slave opposition and resistance, the Jamaican slaves had long been carving out their own autonomy and were ripe for a departure from the plantations. Apprenticeship was essentially designed to contain this expected exodus and to ensure sufficient labour for the estates (Besson 2002b:91).

After the early ending of Apprenticeship in 1838, the planters anticipated a labour problem²¹. In the aftermath of full freedom, attempts to counteract the expected withdrawal of labour included the Ejectment and Trespass Acts, passed by the Jamaica Assembly. These Acts, which imposed high rents on estate houses and provision-grounds sanctioned by ejection and imprisonment, were designed to create dependency on the low wages paid by the estates. The legislation was reinforced by a virtual veto on selling land to former slaves. Ejection was sometimes followed up by the sale of estate mountain lands (but not to ex-slaves), as a further strategy to create a landless proletariat (Besson 2002b:91-92).

Planter policy of obstructing land markets for the peasantry to some extent backfired, however, triggering as well as constraining a flight from the estates, because to establish some bargaining power regarding wages, many ex-slaves began buying land for house-spots where possible. This outcome had not been anticipated by the planters, who failed to take adequate account of either the tradition of slave opposition and resistance or the continuing alliance between the nonconformist missionaries and the former slaves (Turner 1982; Besson 2002b; Hall 2002). Although the policies and practices of most planters continued to block peasant development, the missionaries (especially the Baptists) acted as covert intermediaries on the land market between planters and ex-slaves, establishing church-founded village communities. In addition, “from the impetus provided by church sponsorship, other free villages grew without the deliberate patronage of the missionary churches” (Mintz 1989:161). As well as these nucleated villages, dispersed settlements were established by ex-slaves who managed to acquire land through purchase, rental or squatting, for some planters did sell land to former slaves, sometimes hoping to win an advantage in the labour market; other planters even made grants of land to their ex-slaves. While land scarcity was exacerbated by the absence of Crown lands for sale,

²⁰ Except for Antigua, where freed slaves had little option but to remain on or near the estates.

²¹ Resulting from both the withdrawal of women, young children and old people from estate labour and the withdrawal of labour due to the continued cultivation of, and sale of produce from, the provision-grounds on the backlands and mountains of the estates.

there was also some squatting on Crown lands. In addition, some mountainous backlands forfeited to the Crown by colonists through failure to pay Quit Rents could be purchased or rented, though such forfeiture was discontinued after 1838 (Besson 2002b:92-93).

Meanwhile, after Emancipation, some estate-based peasantries remained through choice; others stayed because planter policies and practices and State legislation, including the machinations of the Crown Colony Government after the Morant Bay Rebellion of 1865 (Satchell 1990, 1992, 1999), inhibited as well as triggered the flight from the estates (Besson 2002b:93). Under Crown Colony Government the State's "land lease policy was not conducive to peasant development" (Satchell 1999:60) and the island's plantation economy was re-established by the 1880s through the banana industry; while sugar estates persisted uninterrupted in the western parishes and in the south-central parish of Clarendon. The plantation system therefore continued to inhibit peasantisation. In these contexts free villages, with their core of family lands, continued to provide a foothold for the peasantry. The gendered cognatic descent system at the heart of family land enabled ex-slaves and their descendants who migrated overseas to return to their home communities (Besson 2002b:106-107).

Like Jamaica, British Guiana (now Guyana), the largest British Caribbean territory, manifested the themes of post-slavery village settlements including unofficial land tenures originating in slave culture and reflected the constraining impact of state/planter legislation on the flight from the estates²². In these contexts, free villagers established "children's property" that enabled all descendants of the land purchaser to have inalienable land rights, often in a joint estate (Besson 1995d, 2002b:94).

Trinidad reflected an attenuated parallel of the Guyanese case. In Trinidad, after Emancipation, there was a substantial exodus of former slaves from the estates and a drive to establish villages²³. The relative availability of land was, however, constrained by the general reluctance of planters to sell land to ex-slaves, high land prices and State policy obstructing the sale of Crown lands to former slaves²⁴. Within these contexts an unofficial system of equal inheritance

²² In British Guiana a long history of slave rebellion, proto-peasantisation and marronage combined with the accumulation of peasant capital and relative availability of land to trigger and sustain a major movement from the estates into free-village communities. These free villages were often created on the narrow empoldered coastal plain, through land purchase; others were based more on the maroon tradition through squatting on Crown land (Besson 2002b:94). By the 1860s, however, legislation to control the sale of land — "clearly intended to decapitate the peasant movement" — stemmed the tide of these villages (Mintz 1979:235).

²³ This was due to a desire on the part of the ex-slaves "to make freedom meaningful, to achieve a measure of economic and social independence of the planter ... accentuated by the tenancy system, the withdrawal of allowances in 1842, the reduction in wages after 1846, and countless other irritants" (Breerton 1981:80).

to land amongst descendants evolved in peasant communities (Rodman 1971:16; Besson 1989, 2002b:94).

Along with Jamaica, Guyana and Trinidad, the British Windward Islands (at that time Dominica, St. Lucia, St. Vincent, Grenada and Tobago) provided greater opportunity for post-emancipation peasant settlement and reflected further variations on the themes of opportunity and constraint. The Windwards had a tradition of slave opposition and resistance, including gendered proto-peasant adaptations and marronage. Despite factors inhibiting the ex-slaves' access to land markets after Emancipation, especially oppressive planter policies, peasant communities were established through legal and unofficial tenures including family land (Besson 2002b:94-95)²⁵.

Barbados, most of the Leewards, and British Honduras (now Belize) more fully repressed peasantisation. In the smaller or more gently sloping islands of Barbados, Antigua, St. Kitts, Montserrat and Nevis, all of which contained dense populations, plantation agriculture was extremely dominant. After Emancipation, notable migration traditions developed in these colonies, but some ex-slave communities were established on marginal land in Barbados, Antigua and St. Kitts (Greenfield 1960; Hall 1971); where land was purchased, family land developed and enabled migrants to return (Besson 1995d, 2002b:95-96). On the other hand, in the immediate aftermath of Emancipation,

²⁴ For a discussion of the complexities of colonial state and planter policies regarding Crown lands in Trinidad after Emancipation, and debates surrounding these policies, see Wood (1968:91-97). For example, there was some relaxation of policies with the arrival of Lord Harris as Governor (ibid:93). "As an experiment" Harris sold "1-acre lots of Crown land at Arima and Arouca", which "were the first planned townships after Emancipation" consolidated around 1846 (ibid:94; see also Besson 1989:18, 33-39, 155 n12, 158 n26). In 1846-47, Harris's policy was that "squatters already on the Crown lands should be treated leniently" in order to retain a labour force (Wood 1968:95).

²⁵ There had been proto-peasantries in Tobago, St. Lucia, Grenada and St. Vincent in addition to some maroon communities — for example in St. Vincent and St. Lucia. Small plots of land allocated to male and female slaves had been worked by family groups, with customary transmission (Marshall 1991). During Apprenticeship, the continued occupancy of house and ground became contentious, with the apprentices claiming possession of houses, yards and provision-grounds. But as planter policies became more oppressive, former slaves, where possible, left the estates, founded post-Emancipation settlements, and established legal and unofficial tenures including family land, though some ex-slaves remained tied as tenants to the estates (Besson 2002b:94-95). Dominica, the largest and most mountainous of the British Windwards, showed both similarities to, and differences from, the other Windward Islands. A proto-peasantry had co-existed with maroon communities (Trouillot 1988:28, 68-75). emancipated slaves did not face obstructive legislation, but the fact that coastal estates occupied most of the arable land initially curtailed flight from the plantations (ibid:81). In addition, planters ensured that the ex-slaves remained tied to the estates through task work, *métayage* (sharecropping), and rental (Chace 1984). In the later post-emancipation period, however, a peasantry became established through small purchases of land and family land was re-created (Trouillot 1988:95-96; Besson 2002b:95).

peasantisation in Montserrat and Nevis was almost entirely stifled by land monopoly, and estate-based peasantries consolidated (Besson 2002b:96)²⁶.

The cases of Montserrat and Nevis were paralleled, in some respects, by British Honduras (Besson 2002b:96). There, despite the potential availability of land, labour legislation and land monopoly by the mahogany planters prevented the development of a post-emancipation peasantry (Bolland 1981:600-11). But amongst the Garifuna or Black Caribs, descendants of Caribs and maroons deported by the British from St. Vincent in 1797 due to a colonial struggle for land, a gendered cognatic system (similar to Vincentian family land) developed in the context of post-slavery land monopoly and Black Carib ethnicity (Solien 1959; Gullick 1985:18).

In contrast to the extreme control of ex-slaves in Montserrat, Nevis and Belize, there was benign neglect, or more room for manoeuvre, in the Bahamas and Barbuda — though constraints operated even in these contexts (Besson 2002b:96-97). After emancipation in the Bahamas, when legislation designed to restrict ex-slaves' access to land proved impractical to enforce, proto-peasantries evolved into free communities. However, emancipated slaves were not entirely free from coercion, as “credit and truck” systems were introduced to keep them “in a position of ‘practical slavery’” (Johnson 1991:84). In this context Bahamian customary tenures, merging aspects of “generational property” and commonage, provided some autonomy (Craton 1987; Besson 1987b, 1992a, 2002b).

From 1680 to 1870 Barbuda had not been a plantation island but a private fief of the Codrington family, which owned Antiguan sugar plantations and lived in England. But Barbuda was not entirely isolated from the plantation system, and Barbudan slaves “died when removed by force to Codrington estates in Antigua” (Berleant-Schiller 1987:123). Nevertheless, Barbuda's emancipated slaves did not have to find land but only retain it. House-yards were transmitted either to all descendants or on the basis of household participation; bush land was used as commonage, except for fruit trees (and the immediately surrounding land) which could be passed on to an individual's descendants. However, throughout the post-emancipation period and after Crown Colony Government was established in 1899, there were successive external attempts to impose commercial agriculture on the island. Barbudans successfully opposed these attempts through their unofficial land tenure system (Berleant-Schiller 1977, 1978, 1987; Besson 1987b, 1992a, 2002b:96-97).

²⁶ A relatively independent peasantry did become established in Montserrat in the 1850-70 period and the unofficial tenures of “family land” and “generation land” evolved (Philpott 1973). In Nevis, proto-peasant customary tenure consolidated among estate-based peasants and later continued in colonial land settlements (Momsen 1987). In the late nineteenth century, some family land was created in a few small villages (Olwig 1993, 1997b).

These tensions between post-slavery planters and ex-slaves, and their contrasting land tenure systems, had parallels in the Danish, French and Dutch Caribbean (Besson 1995d, 2002b:90-91, 97-98). These conflicts were further complicated, especially in the southern Caribbean colonies of Trinidad and British and Dutch Guiana, by the importation of Asian indentured plantation labour — particularly from India but also from China (and Java) between 1838 and 1918 (Besson 1989; Hart 1998:50-53; Look Lai 1993; Mintz 1996b)²⁷. For example, Millette (1999:61) notes that “Indian immigration more than other schemes of worker migration into Trinidad after emancipation assisted the planters in overturning the ascendancy [sic] of the labouring population which had existed in the years immediately after emancipation”; though, as Hart (1998:53) observes, “the Indian indentured labourers were shamelessly exploited in conditions little better than had been experienced by the slaves”. Such colonial strategies elaborated Caribbean ethnicities and conflicts in relation to land²⁸.

6. SHIFTS IN COLONIAL LAND POLICY AND DECOLONISATION

From the end of the nineteenth century into the era of decolonisation (from around the 1930s to the 1980s), there were shifts in colonial/post-colonial State land policy, as land settlement schemes became a focus for land administration and management in the English-speaking Caribbean (Momsen 1987; Stolberg and Wilmot 1992; Besson 1995e), though colonial nonconformist missionaries had introduced free village land settlements after Emancipation, for example, in

²⁷ Look Lai (1993:19) states that of the 536,310 immigrants to the British West Indian plantations between 1834 and 1918, “83.5 percent came from Asia alone, 80 percent (429,623) from India and 3.5 percent (17,904) from China. British Guiana alone absorbed 56 percent (300,967) of the total migration, 55.6 percent (238,909) of the Indians, and 76 percent (13,533) of the Chinese. Trinidad absorbed 29.4 percent (157,668) of the total migration, 33.5 percent (143,939) of the Indians, and 15 percent (2,645) of the Chinese”.

²⁸ Some scholars have drawn a related contrast between intensive economic land use by Indo-Caribbeans (e.g. for rice farms in Guyana) and under-cultivation by Afro-Caribbeans resulting from symbolic views of land (Freilich 1960; R T. Smith 1964; Hanley 1987). However, similarities among Afro-Caribbean and Indo-Caribbean access and attitudes to land also emerged; for example, in my research in Trinidad in 1992, I encountered East Indian oral traditions that place a high symbolic (as well as economic) meaning on land and that also tell of colonial breaches of indenture contracts that were supposed to either return their ancestors to India or provide land grants (cf. Hart 1998:53), neither of which occurred (compare Hanley 1987:184-188; Mohammed 2003).

Jamaica and Antigua (Paget 1964; Henshall [Momsen] 1976; Besson 1984b, 1995f, 2002b).

Colonial State land settlement policy was introduced from 1897-1916, beginning with the 1897 Royal Commission that addressed the extreme planter opposition to peasantisation in the Windward Island of St. Vincent (Momsen 1987:49-53). With the decline of sugar-plantation agriculture in the colony in the early 1890s and the Commission's recommendation of government land settlement for small-scale agriculture, in 1898 St. Vincent "was given an Imperial grant of £15,000 and the land settlement scheme was launched under the provisions of the Land Settlement Ordinance of 1899" (ibid:50). However, the settlements in St. Vincent (which were based on legal freehold) were not entirely successful, due to administrative, managerial and environmental factors²⁹. Nevertheless, "similar land settlement schemes were set up in the Grenadines" — in Carriacou in 1901 and Union Island in 1910 — and the Commission's recommendations were also acted on in Trinidad and Jamaica (ibid:52-53).

During the First World War there was renewed sugar-plantation prosperity. This was, however, short-lived and was followed by the Sugar Commission of 1929-30 and the Moyne Commission of 1938-39, both of which reactivated the colonial solution of land settlement for small-scale agriculture (1929-1960), for example, in Jamaica, Trinidad, the Windwards and later in the Leewards (Momsen 1987:53-54). The Moyne Commission addressed unemployment and labour unrest in the British West Indies (a century after Emancipation) in terms of morality and welfare (Clarke 1966; Smith 1966), and "saw land settlement as a solution to the unemployment problems of the period" (Momsen 1987:53).

W. Arthur Lewis (later Sir Arthur) amongst others, however, critiqued the Moyne Commission, advocating development instead of welfare³⁰. He argued that "continued dependence on agricultural exports would ensure poverty in the West Indies and that therefore alternative, nonagricultural industries must be developed" (Holt 1992:393). This intellectual position had a significant impact on official policy and the development thinking of emerging Caribbean nation-

²⁹ For example, "expansion of settlement continued to be related to the purchasing power of the peasantry", and "purchasers had to reside on their land for 16 years while paying for their holding in regular instalments and to carry out all the instructions of the Officers of the Imperial Agricultural Department of the West Indies on pain of forfeiture of their land" (Momsen 1987:50, 52). In addition, "many of the plots which were sold were laid out on steeply sloping land with easily eroded, volcanic ash soils or on land otherwise considered unsuitable for agriculture" (ibid:52).

³⁰ Sir Arthur Lewis, a St. Lucian economist (who had worked in the Department of Agriculture in St. Lucia before taking his degree in London), was a Fabian-socialist lecturer at the London School of Economics and a leading member of the League of Coloured Peoples in Britain in the 1930s — critiquing the Moyne Commission through the League. He became Nobel Laureate and Principal of the University College of the West Indies in Jamaica.

states in the 1950s and 1960s. Lewis advanced a dual economy model of traditional/backward and advanced/modern sectors, with small-scale agriculture being included as “backward”. He proposed that surplus agricultural labour should be shifted into the nonagricultural sector, thereby creating cheap labour for outside investment capitalists to generate industrial growth (Binns 2002:76). This strategy was first introduced in Puerto Rico and it has been argued that this “Puerto Rican model” created the modern Caribbean state (G. K. Lewis 1985: 233-34).

However, Sir Arthur’s ideas were criticised by “Caribbean radical-liberal economists and more specifically Marxist economists” on four grounds: rather than local capitalist expansion, foreign multinationals drained profits; rising wages undercut cheap industrial labour; industries became capital-intensive; and unemployment rose as a result of the denuding of agriculture (G. K. Lewis 1985:234). The dual economy thesis was also critiqued for confusing economic growth with development, and for “failing to appreciate the positive role of small-scale agriculture in the development process” (Binns 2002:76).

Notwithstanding Sir Arthur’s influence, with the achievement of political independence in the British West Indies from the 1960s land reform became a focus of agricultural development, for example, in Jamaica, Dominica, Grenada, St. Vincent, St. Lucia, Trinidad, Montserrat and Nevis. This included new forms of land settlement such as co-operative state farms as in Jamaica, Grenada and St. Vincent. Within such contexts the debate on leasehold and freehold land-settlement tenure continued (Momsen 1987:54-57, 59-61; Augustin 1992; Stolberg 1992)³¹.

³¹ For a detailed discussion of this debate, see Janet Momsen (1987:59-61). For example, as Momsen notes (ibid:59), “There has been considerable discussion in the Caribbean as to the relative merits of freehold and leasehold tenure on land settlements and this argument is still alive today particularly in relation to the settlements in Montserrat and Nevis, and the new Model Farm project in St. Lucia. It has often been suggested that the West Indian small farmer insists on freehold land settlements, and the Royal Commissions of 1897 and 1929 both proposed peasant proprietorship, but Lewis (1951) felt there was little evidence to support this view. The contemporary situation indicates that although full legal title to land is not essential, land occupation must offer the peasantry the security and independence generally associated with freehold land”. Momsen goes on to outline and assess land management of land settlements in a range of territories. She also adds (p. 61) that “Beckford (1972) argued that under freehold tenure the distribution of landholdings would inevitably become unequal and he favoured government ownership of existing estate lands and their distribution to farmers under long-term arrangements. However Zuvekas (1978) suggests that farmers generally do not regard even 20-year leases as providing sufficient security for making long term investments”. But in Nevis and St. Kitts, annual rental of settlement land was preferred by both the government and the peasantry (Momsen 1987:61; Finkel 1964). For Jamaica, Stolberg (1992) argues that the freehold settlements of the 1930s-40s, which were on marginal land, reinforced the plantation economy; while Augustin (1992) argues that the post-colonial government’s 1972-80 Project Land Lease, which redistributed state-owned land to the peasantry through leasehold, maintained plantation dominance (see also Besson 1995e). Dax Diver (personal communication, 2003)

However, George Beckford (1972) highlighted the persisting poverty of the West Indian peasantry due to escalating land monopoly resulting from the transformation of the plantation system by corporate capitalism, reinforced by the extraction and tourist industries. Likewise, Woodville Marshall (1968) underlined the “saturation” of English-speaking Caribbean peasantries, whom he argued might even be contracting. In similar vein, Stolberg and Wilmot (1992) showed that the Jamaican peasantry remained severely constrained despite political independence in 1962 and land settlement schemes on marginal land throughout much of the twentieth century (cf. Besson 1995e). In these contexts free villages, with their core of family lands, have continued to provide a foothold for the peasantry into the twenty-first century; while the gendered cognatic descent system at the heart of family land has maximised these scarce land rights and enabled both male and female migrants to return (Besson 1984b, 2002b).

A complex of interrelated features defines such “family land” (also known as “generation property”, “children’s property” and “succession ground”) as a cultural or social-structural system in peasant communities throughout the English-speaking Caribbean. Family land is an unofficial transformation of official freehold tenure, which contrasts in several ways with colonially derived legal freehold. Contrasting features include the size of land-holdings, the nature of land rights, the modes of validating and acquiring land rights, intestacy rules, house tenure and land use³².

Legal freeholds, introduced by the colonial planter class and still dominant in the market economies of persisting Caribbean colonies and new nation-states, tend to be large-scale land-holdings (but may also include small plots of purchased land) and are private property, alienable, marketable in the capitalist economy, validated by legal documents and acquired through purchase, deed of gift or testate inheritance. Intestacy was traditionally defined on the basis of Eurocentric “legitimacy”, male precedence, primogeniture and legal marriage. Houses on legal freeholds are considered part of the real estate, and land use is governed by the capitalist values of maximising profits and production in the world economy.

Unofficial family land contrasts in all respects. Generally small in size and often only a few square chains, family land is regarded as the inalienable corporate estate of the purchaser’s descending family line. Rights to family land are essentially validated through oral tradition and, while initially acquired through purchase, are primarily transmitted through intestacy. The definition of intestate heirs differs markedly from traditional legal systems: it is based on unrestricted

observes that “in contemporary policy discussions” there is a “perceived tendency for international development agencies to favour freehold and national governments to favour (State) leasehold”.

³² My analysis of family land draws on my previous publications; e.g. Besson 1979; 1984a; 1984b; 1987b; 1988; 1992a; 1995b; 1995d; 1997; 2002b:140, 196-202, 291-305.

cognatic descent, whereby all children and their descendants are considered heirs regardless of their gender, birth order, “legitimacy” or residence; and marriage is not regarded as a basis for inheritance. Houses, as distinguished from family land, are considered moveable property that may be individually or jointly owned. Land use is not governed by the values of capitalist monoculture but reflects Creole economic and symbolic values: family land is the spatial dimension of the family line, mirroring its identity and continuity; it provides freehold usufructuary rights, house-sites, a spot for a kitchen garden, fruit trees from which to pick and a place to visit or return to — especially in time of need. In some territories, family land also provides kin group burial grounds. Burial on family land, generally followed by “tombing” or vaulting, places an individual within the wider context of the ancestors of the family line and fuses this enduring line with the immortal land. It also consolidates the status of the deceased as a freeholder.

7. FAMILY LAND/COMMON LAND MANAGEMENT AND NATION-BUILDING

Throughout Caribbean history, small-scale landholders have often been regarded as inhibiting development. Criticisms have included “uneconomic” fragmented farms, “chaotic” cultivation, “wasteful” small-scale marketing and “under-productive” unofficial land tenure systems. Such customary tenures, especially family land and common land with their kin group and community burial grounds, have been condemned for obstructing land markets or lowering the market value of the land. For example, David Lowenthal (1972:104) observed that “local authorities condemn ‘family land’ tenure as uneconomic, wasteful, a prime cause of soil exhaustion and erosion, an obstacle to agricultural modernization”. Mintz (1989:146-47) likewise noted that “only rarely and briefly have European powers or even local governments viewed the peasantry as more than an ‘obstacle’ to development; and the reasons for this negativism, well as the negativism itself, still persist”. In the 1990s, a recommendation was made to abolish family land tenure in Jamaica (Espeut 1992). In 2002, Dax Driver reported condemnation by environmentalists, foresters, planners and international development experts of “squatters” in Trinidad’s Northern Range — arguing that “the simple category of ‘squatters’ reveals neither the complexity of people’s social relationships with land, nor the varied land-use practices associated with them” (Driver 2002:91; see also Besson 1989 on Lopinot)³³. A comparable discourse currently surrounds the

³³ My editorial “Introduction” (Besson 1989) to the oral history of William W. Besson (my father-in-law, born in 1901), the Trinidad Scholar of 1919, and chapter 1 of the narrative on his African-Chinese family background in D’Abadie and Tunapuna include discussions of William Besson’s Afro-Creole maternal family line who were peasant farmers from Arouca with family land and cocoa lands in the Lopinot Valley in the Northern Range (which I visited in 1992). Together, the Introduction and narrative tell

Jamaican squatter-peasants of Zion, a settlement that has evolved on part of a former slave plantation as a satellite of the nearby Trelawny free village of Martha Brae (Besson 2002b). Indeed, such a discourse has long typified official attitudes to Caribbean squatter-peasants — from the post-conquest squatter adaptation in the Greater Antilles and the First-Time Maroons of Jamaica to the contemporary development debate surrounding the Barbudan commons (Mintz 1989:147-48; Berleant-Schiller 1987; Besson 1995c, 1997, 2002b).

However, Caribbean peasant landholders have been the backbone of the region's cultivation and culture from soon after the Conquest, through slavery, indenture and decolonisation, and into the new millennium (Mintz 1989; Besson 2002b)³⁴. Their fragmented farms, in enslavement and freedom, have provided the basis for a creative adaptation of house-yards and provision-grounds on marginal land in the face of persisting land monopoly (Brierley 1987; Hanley 1987; Mintz 1989). Likewise, their multi-cropped food-forests reflect “ecological artistry” modeled on natural forests rather than “random chaos” (Hills 1988). In addition, the surpluses from peasant production have fed colonial and post-colonial societies and provided cash crops for global markets. Such peasant distribution is now burgeoning into transnational higglering systems (Besson 2002b; Freeman 1997).

Moreover, the unofficial land-tenures of family land and common land are not anachronistic survivals from colonial or ancestral cultures as many theorists contend³⁵. Instead, they reflect dynamic Caribbean culture-building — maximising formerly forbidden kinship lines and scarce land rights, and providing a basis for food-forests and participation in tourism. They are also cultural sites of identity for Caribbean peoples overseas (Besson and Momsen 1987; Besson 1984a, 1995d, 2002a; Olwig 1997a, 1997b, 1999).

Such unofficial tenures, incorporating both genders, are widely found throughout the Caribbean today, especially in the non-Hispanic variant³⁶ including the English-speaking territories. As I have shown elsewhere, such tenures have been created in Jamaica; the Leeward Islands of Antigua, Nevis and now-erupting Montserrat; the Windward Islands of Dominica, St. Lucia, St. Vincent, Grenada and Bequia in the St. Vincent Grenadines; the British Virgin Islands; the American Virgin Island of St. John; Barbados; Providencia; Tobago and Trinidad. In Barbuda, the Bahamas, on the coastlands of Guyana and

of the restrictive colonial-government land policies constraining the cocoa peasantry in Lopinot (see pp. 16-18, 33-34, 156-57 n19-21, 166-67 n4; see also Besson 1992b).

³⁴ For example, Mintz's (1989:131-250) delineation of Caribbean “reconstituted peasantries” includes post-conquest squatters, early yeomen, proto-peasantries, maroons and free villagers.

³⁵ See Besson (1984a, 1987b, 1992a, 1997, 2002b) for critical assessments of arguments that family land and common land are passive retentions from colonial (English, French and Roman-Dutch) or ancestral (African) cultures.

³⁶ For analysis of the contrast on this point between non-Hispanic and Hispanic variants due to their different plantation-peasant histories, see Besson (1992a, 1995d, 2002b).

Suriname, amongst the Jamaican Maroons and the Black Caribs of Belize and on the Carib reservations of Dominica and St. Vincent, family-land tenure interweaves with common land (Besson 1995b, 1997, 2001, 2002b). In all these cases, land rights are transmitted to all descendants of the original landholder regardless of “legitimacy”, birth order, residence and gender, reversing the colonial ethos of plantation primogeniture — though in the expansive interiors of Suriname and French Guiana maroons have re-created unofficial matrilineal land tenure systems³⁷.

Throughout the English-speaking Caribbean the management of family land is vested in kin groups and family land trustees, who may be of either gender and frequently are women (Besson 1993, 2002b). Such land management is based on paradoxical but perceptive attitudes to land as both a limited economic good in the context of capitalist land monopoly and an unlimited symbolic resource within the kin group. The unlimited quality of family land is perceived as relating to its permanence and immortality, rather than to its productive capacity or size. It is this immortal quality of the land that symbolises the perpetuity of the enduring descent line. The short-term dimension of family land as a scarce economic good amongst living kin is therefore sub-ordinated to its long-term symbolic role of “serving generations”. In Caribbean peasant economies, which include multiple small-scale official and unofficial tenures for residence and farming (“bought land”, “free land”, cash tenancy, “capturing” land or squatting and even “landless farms”³⁸), family land is given a residual economic role as an insurance policy: a place to go “in time of need”. The custom of keeping family land undivided underscores this role, both ensuring and symbolising that the land is the jointly held estate of a land-holding family line.

Family land management therefore facilitates non-residence and migration: the co-heirs form an unrestricted, dispersed descent corporation holding inalienable rights to their family estate, rather than a localised restricted group residing on their land. Residents on family land are therefore regarded as care-takers for the property of the kin group (which includes the ancestors, the living and unborn generations), rather than exclusive land owners. The inalienable rights of dispersed kin are recognised by both residents and absentees, and are often symbolised by gifts of food or picking from the fruit trees on the land. From time to time these rights are activated by absentees “in need” returning to take up residence on family land.

Such family land management generates at least five variants of land use, some of which may overlap and all of which may be regarded as “under-productive” from a Eurocentric capitalist perspective. The first (the most “uneconomic” with respect to land markets) are those plots of family land where yard-burial persists, engrossed by graves, tombs and vaults of family lines. A second variant includes those plots lying empty due to migration. Third, there are yards

³⁷ For a discussion of the re-creation of matrilineal landholding in these New World contexts, see Besson (1995b, 2002b).

³⁸ For example, rearing livestock on roadsides or without permission on plantations.

cluttered with houses of resident kin, which leave little room for cultivation. A fourth variant comprises those cases where cultivation by residents is subject to the inalienable rights of absentees, especially when symbolised by their practice of picking from the fruit trees. Finally, there are cases where the likelihood of migrants returning is remote and residents practice intensive cultivation. However, such production is for household use and sale in peasant markets and is based on multi-cropping — land use practices rooted in the proto-peasant past that are regarded as “under-productive” from the viewpoint of capitalist plantation monoculture.

However, for each of these variants, the “under-productive” land use is a function of a wider complex of Caribbean values governing family land as a long-term symbolic resource as well as a short-term economic good. The so-called uneconomical patterns of land use associated with family land can therefore be reassessed as adaptive strategies to the constraints of persisting land monopoly, because the long-term role of family land can only be fully understood against the background of Caribbean agrarian relations. Likewise the perception of family land as unlimited within the unrestricted descent group in the long term does not ignore the land scarcity at the peasant-capitalist interface; on the contrary, it is a creative response to this situation and a basis for sustainable development.

In addition, the circulatory migration enabled by family land management is generating an architectural transformation that is further developing Caribbean communities; namely, a change from the construction of wooden cottages (which were often moveable) to the building of concrete houses with migrant savings and remittances. In the 1990s-2003, this trend escalated due to the maturing of the pensions of Caribbean people who migrated overseas (especially to England) in the 1950s and 1960s, combined with devaluation of Caribbean currencies, resulting in a favourable rate of exchange in the contexts of return and circulatory migration and remittances. In some cases, large newly built concrete houses are serving as family-land “hotels”, accommodating visiting migrant kin. At the start of the twenty-first century, family land also retains its symbolic as well as economic role amongst Caribbean migrants overseas. This symbolic significance is reflected not only in return and circulatory migration to family lands in rural villages, but also in the custom of Caribbean migrants treasuring a small box or bag of soil from family land, symbolising inalienable roots.

The management of unofficial common lands (wider than family lands of single family lines), which sustain Caribbean communities (which are often based on overlapping kin groups), has parallels with family land management (Besson 1997; Maurer 1997a, 1997b; Olwig 1997a). Such common land does not reflect Garrett Hardin’s (1968) “tragedy of the commons” as a limited economic good that is “wasteful, unproductive, and non-sustainable” (Maurer 1997a:114). For example, the Barbudan commons have long provided a basis for identity amongst the members of the island’s single village of Codrington, as well as for swidden cultivation and feral-livestock raising (Berleant-Schiller 1977, 1978, 1987; Besson 1995d). Likewise, writing of the Bahamas Out Islands, renamed

the Family Islands in 1972, Craton (1987:108) predicted that “the ownership of land in common, its transmission through the kin from generation to generation, and the allocation of its use to families according to need — may well continue to prevail over a borrowed and expedient legalism that stems from the European Middle Ages and the subsequent era of bourgeois capitalism”. In Jamaica, the common treaty land of the Leeward Maroons sustains house-yard and provision-ground food forests, cash cropping and livestock raising, and provides forest medicines and timber (Barker and Spence 1988; Besson 1997). The Leeward commons, which maroons state were left by Colonel Cudjoe “for the born and unborn”, are also sacred space and a cultural site in the global networks of modern migrant maroons who return to visit and participate in the annual Myal ritual (Besson 1995c, 1997, 1998, 1999, 2000, 2001).

In the Leeward Island of Nevis, where share-cropped estates were bought for government land settlements through rental, the peasantry has transformed the officially imposed solution of land settlement into an unofficial system combining the principles of common land and family land — despite the virtual absence of either long leases or legal freehold (Momsen 1987:57-66; Besson 1992a:207-208, 1995d:87-88). As Momsen (1987:63, 65) notes, many farmers “could trace their family’s presence on a particular estate back through the period of sharecropping to slave days”, and “even without land ownership settlers have often attempted to ensure that their heirs, resident or absentee, [were] allowed to take over occupancy of the settlement plot”. The Nevisian peasantry therefore “recreated its traditional attitudes to land within the formal structure of the land settlement” (ibid:65). Some migrants were also retaining their settlement land. The symbolic role of such settlement land in providing a basis for kinship, community, security and autonomy, and its frequent use as a form of common land for grazing livestock, parallels the role of unofficial tenures rooted in the proto-peasant past elsewhere in the English-speaking Caribbean (Momsen 1987; Besson 1979, 1992a, 1995d).

Caribbean customary tenures have also transformed State law in the wider context of a dynamic interplay between official land-tenure regimes and unofficial land tenure systems embedded in kinship lines, communities and ethnic identities (Besson 1992a, 1995a, 1999, 2000, 2002b)³⁹. This dynamic interplay includes the imposition of State law on customary tenures (as in land retrieval, registration and taxation, and burial legislation); “crab antics” or the use of legal systems in family-land disputes (cf. Wilson 1995); selective reinforcement (such as the transmission of family land through making a will); and indirect legal reinforcement of customary tenures (as in picking from family-land fruit trees being legal evidence of land occupancy).

³⁹ The analysis of the dynamic interplay between official land tenure regimes and unofficial land tenure systems is partly indebted to my late father, Ken McFarlane, the longest-serving Attorney at Law in northern Jamaica (1935-86). All responsibility for this analysis is, however, mine.

Most significantly, Caribbean unofficial tenures, based on cognatic descent traced through both women and men, have overturned Eurocentric and androcentric (male-biased) plantation primogeniture and led to the abolition of so-called “illegitimacy”: as in the Status of Children Act in Jamaica (1976), the Family Law Act of Barbados (1981), and also in Antigua-Barbuda. In the American Virgin Island of St. John, family land has likewise now been recognised by the American legal system (Olwig 1997a:138).

The post-independence era has seen the introduction of legal restrictions on landlord-tenant relations and on foreign ownership of Caribbean land (Driver, personal communication 2003). The significant nationalisation of private land, as with some sugar plantations in Trinidad and Jamaica, has likewise played a part in the official creation of nation-states. Within such contexts unofficial tenures have also provided models for nation-building, as with “susu land” in Trinidad and Tobago (Besson 1995g:283 n9). In the case of the Jamaican squatter settlement of Zion, squatter-peasants (including Rastafarians), in dialogue with the State, are appropriating, transforming and developing a government-owned estate where their ancestors were enslaved in the Caribbean plantation heartlands at the very core of “Babylon” (Besson 2000, 2002b). Likewise, the Leeward Maroon commons are becoming a symbol of Jamaican nationhood as national government representatives attend Accompong Town’s annual Myal rituals (Besson 1997).

In such ways small-scale landholders with their unofficial land tenures continue to build Caribbean culture and law and contribute to nation-building (Besson 1999), as did their ancestors in the post-conquest and post-emancipation past. In the current drive to expand land markets in the Caribbean region, and in dialogues between Caribbean governments and international donors and development experts, a secure place therefore needs to be found in land policy, administration and management for these customary tenures and their complex social relationships rooted in Caribbean history, culture and land.

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Framework Paper for Land Policy, Administration and Management in the English-speaking Caribbean

J. David Stanfield, Kevin Barthel & Allan N. Williams.

“Land is the source of all material wealth. From it we get everything that we use or value, whether it be food, clothing, fuel, shelter, metal, or precious stones. The availability of land is the key to human existence, and its distribution and use are of vital importance. Land records, therefore, are of great concern to all governments” (Belisle, 1988, on land in Belize).

1. BACKGROUND¹

In most of the Caribbean, in the 1960s and 1970s the post-colonial State led some sort of land reform to increase the number of medium- and small-scale private holdings of agricultural land through State acquisition of large estates and the re-distribution of land to the peasant sector. These programs have largely been abandoned.

In recent years, as a result of continued market, societal and political pressure on land resources, an enormous amount of activity is occurring around tenure regularisation of irregular holdings — urban and rural — and property registry modernisation². These efforts aim at making property markets more influential in the assignment of property to people. The policy argument is that those who have the resources and inclination to make property productive should be able to get access to property by engaging in market transactions.

At the same time, pressures to establish environmental zoning, promote eco-tourism, manage urban expansion, protect coastal zones, control deforestation and provide affordable access to land and housing have put other pressures on governmental agencies to intervene in land markets. The resulting programs

¹ An earlier version of the first sections of this paper was prepared for the *Workshop on Land Policy, Administration and Management*. This version attempts to incorporate the ideas discussed at that Workshop. We are grateful for the support provided to the Workshop by the Inter-American Development Bank (IDB), the U.S. Agency for International Development (USAID), the Department for International Development (DFID) and the Ministry of Agriculture, Land and Marine Resources, Government of Trinidad and Tobago.

² See de Janvry et al., 1998.

have meshed poorly with the trend towards marketisation of individual land rights³.

1.1 Some Useful Definitions

Land administration and land management are terms that describe the formal systems that define and regulate the relationship between people and land. These systems evolve as this relationship changes. The historical processes of population growth, urbanisation, globalisation, changing State-society relations and the attempt to create environmentally sustainable development are now the main drivers of change in people's relationships with the land.

We define the term *land management* as decision making by land owners about the use and enjoyment of land. Land management, including the management of State-owned land, spans the direct use of land by private individuals, corporations and State agencies, the leasing of land by the owners to private holders and also the supervision of those leases. Public land management functions also include the acquisition of private land for public purposes.

The term *land administration* means the processes for collecting, recording and disseminating information about the ownership, use and value of land⁴. "Land administration" includes the deeds or land registration systems (information about land ownership), land use patterns, soil and water taxonomies, topographical mapping (information about land use) and appraisal and taxation of land (value of land).

The term *land* refers to a piece of the surface of the earth, and any permanent structures attached to it. Equivalent concepts include "immovable property", "real property" and "real estate". Graaskamp defines the latter term as "artificially delineated space with a fourth dimension of time referenced to a fixed point on the face of the earth"⁵.

1.2 Caribbean Challenges

The institutional transformation of land management through the privatisation and marketisation of land rights and the globalisation of property markets represents a major re-structuring of property rights and the institutions (such as the property registration systems) which protect these rights. The institutions created in the post-independence period for re-structuring the colonial land holdings are not well adapted to balancing the competing demands for the marketisation of land, protection of the environment and provision of access to land by the disadvantaged.

³ See Forster, 2000.

⁴ UNECLA, 1996, p. 6. See also the instructive book *Land Administration*, recently authored by John McLaughlin and Peter Dale.

⁵ Jarchow, 1991, p. 42.

The small island status of most of the Caribbean states poses particular problems for the marketisation of land and for balancing the competing policy goals. Land and fresh water resources are very limited. The ways that people use coastal zones are of crucial importance to the environment and economy of most Caribbean states. Decisions about land management on-shore can have serious implications for coastal zones. Tourism development and issues of access to beaches and other coastal resources have become central issues in many islands and have the potential to create social disruption, conflict and the dilution of traditional customs and ways of life. In addition, the opening of property markets to foreign investors has led to significant appreciation of property prices in certain localities, forcing local property owners out of the property market and a loss of traditional land uses. At the same time, the large-scale out-migration of Caribbean citizens to the United States, Canada and the United Kingdom results in frequent cases of absenteeism amongst land owners and creates particular complications with respect to widely encountered “family land” phenomena. Even in the larger continental territories, the small and closely related nature of the land-society relationship complicates the issues of land management and administration.

The challenges for Caribbean land managers and administrators are thus rapidly growing. Awareness of these challenges in the context of market-led economies has made land management and land administration a much broader and complex locus of endeavour than ever before, where legal frameworks, political agendas, economic development planning, environmental management techniques and information technology intersect, often uneasily. The challenge is to re-orient and upgrade the capacities of land management and land administration institutions in the Caribbean to effectively and simultaneously balance the “triangle” of broad policy goals of economic development, social equity and environmental protection and sustainable use.

In the region, these challenges are being addressed in a variety of projects which aim at improving land tenure security and trade-ability of land through the privatisation and individualisation of rights to land, the modernisation of land registries and cadastral offices and regularisation of informal land titles⁶.

⁶ Existing programs on these themes partially funded by the IDB in the Caribbean include Bahamas, Belize, Guyana, Jamaica, Trinidad and Tobago, Suriname, Dominican Republic and Haiti; DFID is funding land projects in Guyana and Trinidad and Tobago; CIDA is involved in Jamaica; and Denmark is working with Belize, Holland with Suriname and Trinidad and Tobago, and Japan with Trinidad and Tobago and the Bahamas. USAID has land projects in Jamaica while the World Bank is supporting projects involving land administration and management issues in Jamaica and other countries.

2. THE “TRIANGLE” OF COMPETING LAND POLICY GOALS

In the current era there are three overlapping and potentially competing policy goals influencing the definition of processes and the practice of land administration and management which reflect this historical evolution in the Caribbean⁷:

- Improve the economic efficiency and productivity in the use of scarce land resources by developing more dynamic land markets and enhancing security of tenure;
- Increase the access of disadvantaged groups to land and housing;
- Provide for the availability of land and water resources to future generations through the sustainable uses of these resources.

These policy goals emerge as part of the political process and frequently are suppressed by that process as one goal emerges as predominant. An example is the establishment of the colonial estate at the expense of indigenous peoples, at a time when policy formulation focussed on the first goal to the detriment of the second, with no thought of the third. Typically, such a situation of the predominance of one goal over another does not seem to last long, and the other goals eventually emerge from policy debates and political movements.

These debates and movements get expressed in the structures of governance, including national and local government agencies, community organisations, NGOs and other instruments for the definition and implementation of policies. In turn those governance structures rely on information about the ownership, use and value of land for policy implementation. Structures of governance also develop and rely on rules for the administration and management of land expressed in laws and regulations. The foundations of land policies are the structures of governance, land information and legal infrastructure.

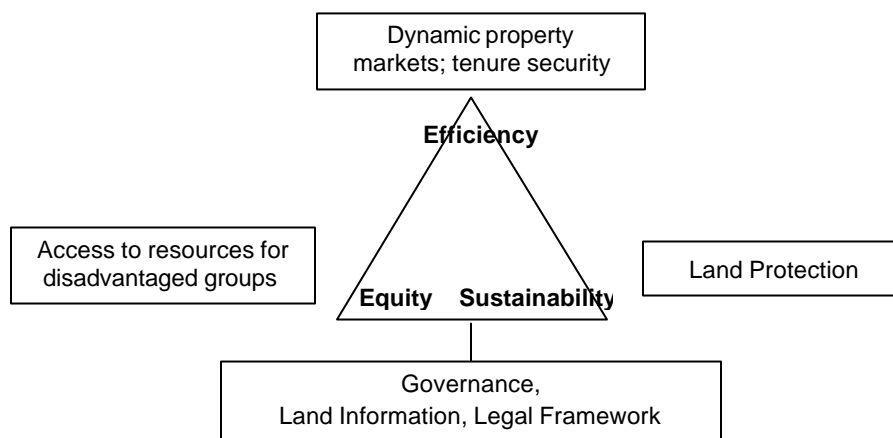
Figure 1 depicts the “triangle of land policy imperatives”, and the foundation on which these imperatives are expressed.

Maximising one policy goal may conflict with the maximisation of another. For example, maximising security of ownership under the “market” goal will often clash with efforts to regulate owner use of the land for environmental protection reasons or may contradict efforts to provide access to land assets for the disadvantaged. Maximising the protection of the environment may impinge on the abilities of private owners to generate economic benefits from the land that they own.

These contradictions, however, do not relieve policy makers from the responsibility of somehow moving forward on each dimension. The challenge is how to make policy that will achieve each goal, and will be relevant at least long enough to reach an acceptable and measurable degree of efficient use of the land which is equitable and sustainable.

⁷ On the historical evolution of land administration, see Ting, 1999.

FIGURE 1. TRIANGLE OF PROPERTY RIGHTS IMPERATIVES



The trio of competing policy goals in land administration under today’s rapidly changing conditions creates compelling new challenges for land administration systems and land managers to mediate amongst the diverse interests in land. As the Bathhurst Declaration puts it, “These issues are forcing the re-engineering of land administration systems to ensure that they support sustainable development and efficient land markets. Land administration frameworks will be forced to respond rapidly to these unprecedented changes”⁸. If there is not an adequate response, land administration and management institutions may become a constraint on the achievement of sustainable development goals.

3. ECONOMIC EFFICIENCY

Dynamic property markets: tenure security and investments, productivity

The first of the policy goals is intended to contribute to improved efficiency of resource use by making the exercise of land rights more marketable. These efforts support the goal of economic efficiency of land use because private owners presumably will act in their self interest to maximise their incomes from their investments in the land. These efforts also supposedly stimulate the increased owner investment in their land, since they can expect to recover in the future their investments in the land which they make today.

To support the stimulation of land markets, the governments of Caribbean countries are embracing legal, institutional and technical reforms that seek to make their land administration and management systems more market

⁸ See The Bathhurst Declaration, 1999.

responsive and efficient. The ultimate purpose of these reforms is to provide the basis for satisfying the needs of the population in a sustainable way. The question is whether this focus on land market promotion can be made compatible with programs addressing social equity and environmental protection. It can happen that limiting reforms to making land more marketable eclipses the desire to facilitate disadvantaged peoples' access to land both for food and income generation, and for low-income housing. The market approach can also overwhelm the desire to protect environmentally sensitive and reserved areas and to assure the sustainable use of land and water resources by private and public owners of the land.

The market approach to development typically focusses on the problem of land tenure insecurity. The inclination of landholders to invest time and money in their land is related to the security of property rights. Two aspects of tenure security are involved in this hypothesis: expectations for short-term gain from investments of time and money in the land, and expectations for longer-term gain from the future sale of the land.

Bentham (1864) observed that “property is nothing but an expectation of deriving certain advantages from a thing we are said to possess”. Ely (1914) noted that “by property we mean an exclusive right to control an economic good”. Following in this tradition, Raup (1967) observed: “before you can risk your labour and your seed for a harvest that may be months away, you must have assurance that you will be able to reap where you have sown”. This notion of security of expectations is central to the private property system.

Raup refers to the empirical expectation of “sowers” to harvest a crop and sell it for covering the expenses of sowing and reaping. Dorner (1964) generalises this concept by observing that the security of property rights means that landholders with security of possession can expect to receive the economic benefits of their labours from the property they claim. Such a notion includes the longer-term expectation that investments in a property's infrastructure will be recovered from improved production, as well as from a future sale where such investments will contribute to higher sales income.

The expectation of recovering investments, then, from securely held land comes a) from a short-term belief that investments in production will produce profits captured by the landholder, and b) from a longer-term belief that investments will be recovered at least in part from the possible alienation of the asset. This latter expectation also applies to people who may not contemplate the sale of the asset, but are thinking of passing the property to their children and other heirs.

In countries with dynamic land markets, there are large numbers of transactions — sales, leases, mortgages, gifts — every year. For market-oriented development strategies, such dynamic markets are crucial to the long-term growth and development of a country. When people frequently engage in market transactions, the buyers of rights should make investments in these

assets, and the holders of land can expect to profit from investments both from production as well as through land sales (should that option be chosen)⁹.

As discussed below, several “tenure security and market constraint” issues are being addressed in the Caribbean.

3.1 Generational (Family) Lands

As discussed in the St. Lucian case, generational or family lands pose a particularly difficult problem for the dynamic functioning of land markets and particularly for projects which aim at tenure regularisation and registration of property rights. Family land has been described as follows: “customary tenure principles applicable to such lands [where] rights are inherited jointly by all the children, the rights are not forfeited by absence, and the family land should not be sold or permanently divided”.¹⁰ Registration of these lands under Land Registry systems is difficult because identifying individual ownership is often not possible.

While family land is not easily accommodated into existing land registration systems and is said to reduce the economic benefit from the land resource as well as stifle land markets, it is nonetheless a recognised customary form of land tenure which provides specific benefits to both urban and rural families. One possible answer is to register these lands as some sort of family land trust or as tenants in common. However, in many instances the legal framework for establishing family trusts does not exist. Perhaps more difficult than the legal issue is the willingness of the “family”, especially when as extended as they tend to become, to address and clarify this issue.

3.2 Common Lands

The evolution of a collapsed plantation system frequently resulted in the claims of community residents to the land formerly held and managed by plantation owners. The Colonial administration responded to such claims in a variety of ways, including supporting the use of force to re-instate the plantation owners, their heirs or purchasers of the freehold. However, in many instances the de facto situation resulted in the need to provide the community claimants with legally recognised rights to the land. The Commonage Act of 1896 in the Bahamas was meant to provide more beneficial and regulated use of lands identified as commonage, i.e., land granted to more than 20 people and not partitioned. But such a tenure form was not limited to the land left by collapsed plantations. In 1938 the Harbour Island and Spanish Wells Commonages were recognised in the Bahamas, officially granting land to the people who had helped in fighting the Spanish. Other land parcels which from their situation of being held in

⁹ See Bloch, 2003.

¹⁰ See Center for Property Studies, Consultant Report for the IDB, 1998.

common by a large number of people might be regarded as commonage, but have not been officially designated.

Such lands are still held in common by the heirs of the original community residents, without written designation of which portion of the commonage parcel is held and used by which of the tenants in common. The commoners, however, have rights to the land which has been in possession of members of their families.

Commonage creates a restraint on the alienability of the land and in effect makes the land restraint ineffective for commerce and development. With commonage none of the owners can sell their rights or use the property as security for a loan, because purchasers and lenders will require evidence of title in the person trying to sell or mortgage, and this title does not exist and cannot be produced. This is true even where the property has been improved¹¹.

The Barbudan commons have long provided a basis for identity amongst the members of the island's single village of Codrington, as well as for swidden cultivation and feral-livestock raising¹².

In Jamaica, the common treaty land of the Leeward Maroons sustains house-yard and provision-ground food forests, cash cropping and livestock raising, and provides forest medicines and timber¹³. The Leeward commons, which Maroons say were left by Colonel Cudjoe "for the born and unborn", are also sacred space and a cultural site in the global networks of modern migrant Maroons who return to visit and participate in the annual Myal ritual¹⁴.

In the Leeward Island of Nevis, where share-cropped estates were bought for government land settlements through rental, the peasantry has transformed the officially imposed solution of land settlement into an unofficial system combining the principles of common land and family land — despite the virtual absence of either long leases or legal freehold¹⁵. As Momsen notes, many farmers "could trace their family's presence on a particular estate back through the period of sharecropping to slave days", and "even without land ownership settlers have often attempted to ensure that their heirs, resident or absentee, [were] allowed to take over occupancy of the settlement plot". The Nevisian peasantry therefore "recreated its traditional attitudes to land within the formal structure of the land settlement" (ibid: 65). Some migrants were also retaining their settlement land. The symbolic role of such settlement land (in providing a basis for

¹¹ From Rabley and Turnquest, 2003.

¹² See Besson, 1995.

¹³ See Besson, 1997.

¹⁴ See Besson, 2001.

¹⁵ See Momsen, 1987.

kinship, community, security and autonomy) and its frequent use as a form of common land for grazing livestock, parallels the role of unofficial tenures rooted in the proto-peasant past elsewhere in the English-speaking Caribbean (Besson 1995d).

3.3 Informal Occupation of Private and Public Land (Squatting)

Where land is restricted either by physical limitations, by control from the government or by a limited number of owners, scarcity and inaccessibility lead people to move onto both private and public lands. In many cases the occurrence of informal occupation is more severe on public land as there is a general absence of vigilance and limited political will to reverse invasions. While such “squatting” may satisfy an immediate need for the individuals facing economic hardships, it causes insecurity of tenure for both the land owner and the squatter. In turn, this insecurity results in land market inefficiencies, poor government land administration and management and lack of access by the squatter to the benefits associated with full land-ownership or as a recognised tenant.

While some countries have prepared written policies to identify and describe the squatting issue, few have taken the essential next step to develop operational strategies to both recognise and regularise squatter rights, or to provide resources to outright prevent squatting or remove it through relocation or eviction where it may result in negative economic, social or environmental impacts. In many cases it seems a compromise position is warranted, e.g., on private land, through direct monetary compensation to owners for relinquishing their rights, or through freely negotiated land rental or sale agreements between the owner and squatter. In many countries previous efforts to “facilitate title” between land owners and informal tenants remain, albeit relatively unused, in land tenure law. To some degree these sale/rent agreements could also be subsidised by government. However, these “market-assisted” efforts should be carefully analysed and tailored to adjust to specific tenure and land market circumstances in order to avoid undesired and unexpected economic, social and environmental impacts. On public land, the problem is a bit more straightforward especially if the policy of the government is to regularise tenure. In many cases, if the possessor can show beneficial occupancy over time (which is defined differently in various countries and for different types or uses of land), as well as positive recognition by the community, the land should be delivered to the “squatter” through an official leasehold agreement.

3.4 Insecurity of Leasehold Tenure

Analysis of the Guyanese case — which focusses on the problems of leasing of State-owned agricultural land — suggests it is also applicable to conditions in Jamaica, Belize, Trinidad and Tobago and other countries

with significant State land leasing combined with ineffective land administration and management institutions:

Both leasehold and freehold tenure arrangements are rendered insecure by the failings of the respective registers and by a history of administrative delays in issuing leases. Informal arrangements and violations of lease terms are common place and leave many in a legally precarious position. All land users who do not possess a valid title experience the risk and uncertainty of not having secured land rights to some degree. Those who are most vulnerable are the groups with weakest tenure rights or with constraints to accessing the formal land administration system. Some farmers operate under provisional leases with annual renewals. Others have failed to convert a lease into their own name upon the death of the leaseholder. Other farmers never obtain leases despite years of occupation¹⁶.

Without a valid lease, or with a lease inherited from a long dead relative, farmers may not be inclined to make investments in the land's sustainable productivity using their own labour and capital resources, and cannot gain access to credit for investments from credit institutions. Moreover, such land holders are vulnerable to eviction.

3.5 Evidence

The quantitative evidence for a causal link between tenure security and investments in land assets is not very plentiful in the Caribbean, but some studies have been done¹⁷:

- In Trinidad and Tobago, agricultural land tenure regularisation was predicted in 1993 to generate benefits in terms of improved land use (tree crops), increased access to credit and additional investment (semi-permanent structures such as animal pens) that greatly exceeded the costs. Calculations suggest that the internal rate of return would have been on the order of 30%¹⁸.
- In a later study in Trinidad and Tobago¹⁹, Rajack looked specifically at tenure security and its impacts in urban settings. The study reached several conclusions. Firstly, legal documentation of property rights is not necessary for the enjoyment of perception-based tenure security, since perception derives from other factors. Secondly, both perception-based tenure security and regularisation (identification of holdings and infrastructure improvement) are positively associated with dwelling

¹⁶ Bishop, 2003, p. 12.

¹⁷ From Bloch, 2003, op. cit.

¹⁸ Williams and Stanfield, 1993. The cited article presents undiscounted estimates of benefits and a lump sum of the costs. Subsequent analysis extended the return period to 20 years and prorated the total project costs over the 9 years of LRDP implementation.

¹⁹ See Rajack, 1999. This paper is based on R. M. Rajack, "Tenurial Security, Property Freedoms, Dwelling Improvements and Squatter Regularisation: A Case Study of Trinidad", Unpublished Ph.D. thesis, University of Cambridge, England, 1997.

improvement and maintenance. However, because so many other factors affect improvement/repair behaviour, regularised settlers do not necessarily improve or repair their dwellings to a greater extent than unregularised settlers.

- A study in Saint Lucia suggests that while there was no evidence that improved tenure security created by the Land Registration and Titling Project increased access to mortgage finance, there was good evidence that non-family land parcels were more likely to be used as collateral. In addition, owner-cultivated parcels tended to be more intensively used than either rented parcels or family land parcels, although the differences were not especially great²⁰.

3.6 Actions: Country Cases

A common response to the above identified constraints to land markets, tenure security and investments are land titling and registration programs. A central objective of such programs is that they will improve the security of tenure of the landholders as well as raise their expectations of recovering investments in the future either through economic use of the land or through the future sale of the land to recover investments, or both. These programs are supposed to achieve this goal by more clearly delineating property rights (including ownership and leasehold rights), where there is some reason to doubt who holds the rights of use and alienation of land. This action is commonly referred to as “titling” or “adjudication of rights” and the registration of these clarified rights in the real property register. Programs of tenure security also may aim to provide a State administrative apparatus — the real property register (in some countries combined with some sort of “cadastre”) — to guarantee and support private property claims. Through increased tenure security, the holders of land will have greater basis for expecting future gain from present investments, thereby stimulating them to make those investments and thereby contribute to the economic development of the country.

In most countries, titling and registration programs are insufficient to deal with tenure issues, and so efforts are made to remove the institutional, legal and cultural origins of the tenure constraints. Institutional “re-engineering” is often attempted, as expressed in the consolidation and unification of administrative functions into single agencies and in the development of the geographic information infrastructure.

The following cases were presented at the Workshop and illustrate the issues identified and the actions which are being undertaken to resolve them.

²⁰ See Lemel, 1998.

3.6.1 Guyana²¹

The Guyana case identified the following main problems encountered with land markets:

- 1) Holders of leases and freeholds without documentation. Overall, approximately one third of all land does not have any lease or title. The proportion of public land that is un-regularised is much higher than that of private land and stands at an estimated 47%.
- 2) Lease terms insufficient to enable leaseholders to get access to credit;
- 3) Inadequate information by the holders of land about markets; and
- 4) The domination of the informal market transactions resulting in ever greater frequency of holdings without legal documentation of rights.

The Land Tenure Regularisation project was implemented to improve the documentation of rights, to introduce the 50-year lease, to convert some leases into freehold tenures and to reduce transactions costs, thereby encouraging people to maintain their tenure documents in formal, legal forms.

A major institutional reform was the creation in 2001 of the Guyana Lands and Surveys Commission. This semi-autonomous agency unites the registration of rights with descriptions of properties and has wide powers for the regularisation of tenure, the management of State lands for the regularisation and management of leases of those lands, the development of land policy and the planning of land use.

3.6.2 Jamaica²²

It was estimated that approximately 45% of parcels of approximately 1 million land parcels are not on the Register Book of Titles in Jamaica. This situation has resulted in difficulties in identifying and examining documentation as to ownership, and great gaps in the Register. In the absence of a comprehensive cadastral map and with outdated records, the Office of Titles is confronted with the serious issue of dual registration and keeping abreast of various types of fraud.

Major land market issues are:

Family lands

The tenure situation becomes more complex as each generation dies without making arrangements for the transfer of property and the number of beneficiaries multiplies. This increase in the number of beneficiaries results in what is known as “Family Lands”. What this term means is that there are several persons, some living abroad, who are entitled to make a legal claim to the land. In some

²¹ The Guyana case was prepared by Bishop, 2003.

²² The Jamaica case was prepared by daCosta, 2003.

instances the numbers are so great that no identifiable group can be deemed to be the owner. Such situations result in unsupervised fragmentation of lands as individuals claim “house spots” and farming lots often with the approval of the matriarch or patriarch who is seen as the person “in charge” of the property. The advent of the National Housing Trust has resulted in contributors attempting to secure documentation for these and other properties in order to access the cheapest source of housing financing available in the island. Many persons’ efforts are thwarted, as in several instances the documentation related to the properties is with relatives overseas. Some of these relatives wield economic power gained by supporting aged relatives and paying various funeral expenses. They are reluctant to part with documents as they see themselves as the fee simple owners and are unwilling to have any activity carried out on the land without their blessings.

Updating of tax roll

The fact that in many instances individuals’ claims to properties are tenuous has affected the revenue departments’ abilities to collect property taxes. Fifty percent of persons interviewed who are in possession of land were not on the Tax Roll. Many of these persons express the view that without their names being on the Tax Roll they feel no obligation to pay. Such views may find greater support in light of the recent increases in property taxes. Persons with insecure tenure also feel that it is risky to undertake long-term development of lands and consequently many erect houses and plant crops that are not of a long-term nature.

High costs of bringing land onto the Registry

The minimum costs related to surveying a parcel of land is US\$300/J\$15,000, Transfer Tax on Death amounts to 15% of improved value, while *inter vivos* transfers attract Stamp Duties and Transfer Taxes of 13%. The minimum total cost associated with bringing the smallest parcel of land under the Registration of Titles Act (where there is no complexity) is approximately US\$900/J\$45,000.00. The related costs multiply when such activities relate to an estate where sub-division is necessary.

Squatting

Many persons are seeking to occupy properties near towns and cities. Because of unaffordability/unavailability issues, the problem of squatting has become monumental and chronic. Some areas which were reserved as open spaces and others which are environmentally fragile are now being illegally utilised by persons hard pressed to find places to live. Many of these people lack the income to afford formal housing solutions. In many instances these persons occupy plots that are either not viable for development, or are contending with legal owners for possession.

Several activities have been undertaken to address these issues:

The National Land Policy

The National Land Policy of Jamaica was tabled in Parliament in July 1996. The objectives of the policy are to ensure the sustainable, productive and equitable development, conservation, use and management of the country's natural and man-made resources and promote comprehensive and integrated development in urban and rural areas. The Policy aims to relate and co-ordinate socio-economic development plans and programmes (including poverty eradication) while challenging and seeking to remove inefficient, onerous and outdated legal, administrative, management and other barriers. The Policy specifies the development and implementation of a rational set of strategies, programmes and projects to facilitate stable and sustainable development.

The National Land Policy was a product of love and labour done free of charge over a period of several years, involving several hundred Jamaicans for the well being of Jamaicans. Inputs were made by the public and private sector organisations and individuals as well as professionals, NGOs, community, educational, religious and special interest groups. It was the subject of discussion in many parts of the island through public forums. The draft policy was also commented on by members of bilateral and multilateral financial institutions and knowledgeable experts from across the world.

Geographic data management

Substantial investments are being made in the development and growth of geographic data management, with the following program objectives:

- To create a National Spatial Data infrastructure to facilitate the effective and efficient management of land resources and to ensure informed and correct decision making on land related matters;
- To create national standards for geographic data collection, storage and exchange.
- To establish a National Spatial Data Management Centre;
- To develop human resources to manage and operate the National GIS centre and other GIS facilities;
- To create digital geographic information databases;
- To develop user mechanisms and tools to facilitate access to land and geo-spatial information.

Pilot Tenure Regularisation Project

In 2001, the Government signed an agreement with the IDB to undertake a Land Administration and Management Programme. The major portion of the loan is to undertake a pilot program to prepare a cadastral map for 30,000 parcels of land in the parish of

St. Catherine and to undertake tenure clarification and regularisation of these parcels.

The National Land Agency

The National Land Agency is an executive agency created from the combination of the former Office of Titles, Survey Department, Land Valuation and Estates Department. Amongst the Agency's objectives is an efficient approach to streamlining the administration and management of land, in particular government-owned lands. The Agency is undertaking programs to:

- establish an efficient and transparent land divestment and land titling system;
- create modern cadastral and other maps for Jamaica;
- develop modern information systems to support the sustainable development of Jamaica's resources.

The merger has enabled the Government to provide more efficient services such as:

- business process improvements to reduce the time it takes to secure a title;
- computerisation of data and on-line access to clients, such as lawyers investors, real estate dealers and developers;
- single window access to all the services provided by the Agency, and
- the establishment of an Internet-based service to enable all government agencies, local government and private sector organisations to access land information.

The National Environment and Planning Agency

The National Environment and Planning Agency was created through the merger of the former Town Planning Department, the Land Development and Utilisation Commission and the Natural Resources Conservation Authority.

The establishment of this Executive Agency sought to ensure the protection and efficient use of limited human and physical resources, a more integrated approach including public participation in planning for sustainable development, resolution of overlaps in formulation and enforcement of environmental and planning policies and legislation to ensure effective overall management of land. This more effective institutional framework is designed to help resolve conflicts between environmental and development interests when considering appropriateness of development proposals. One objective is to significantly reduce the time period to review and process applications for environmental, sub-division and development approval.

The core functions of the National Environment and Planning Agency are:

- Policy and programme development;

- Sustainable development planning;
- Environmental and natural resource database maintenance and mapping;
- Monitoring compliance and enforcement;
- Habitat protection, bio-diversity conservation, parks and protected areas;
- Coastal zone, watershed and pollution management operations;
- Application approvals;
- Environmental education and public information services.

Various Ministries and Departments of Government are examining a number of recommendations as listed below, to resolve the issues highlighted:

- The enacting of legislation simplifying the land registration and land transfer processes while reducing the related cost;
- The enacting of new legislations to deal with family lands and the fragmentation of land;
- An organised and sustained land allocation process;
- Continued development of rural communities and road networks to reduce the strain on urban housing;
- A documented process as to the use and development of idle lands; and
- A comprehensive educational program with respect to issues related to land.

3.6.3 *Bahamas*²³

Current land management in the Bahamas gets its underpinnings — in terms of both legislation and process — from 1920's English Law. Land is optionally recorded at the Registrar General's office in a deeds registry and there is no Title Registry. Surveys of properties are not required (apart from Crown Grants), the Real Property Division records are incomplete and the Physical Planning Department struggles to provide planning.

Land tenure is dominated by the issues of commonage and generational lands which are further complicated by the existence of parallel title where multiple owners have strong legal claim to the same property. The use of the Quiet ing Titles Act, which was introduced to resolve title disputes, has created an environment where misuse of the Act is prevalent. It is estimated that 25% of all land is in dispute and the main reason is the lack of clear documentation.

The administration of important records needed for clear and secure documentation of property ownership is separated amongst multiple agencies including the Ministry of Agriculture, the Ministry of Public Works, the Registrar General, the Department of Lands and Surveys,

²³ See Rabley and Turnquest, 2003.

the Department of Physical Planning, the Real Property Tax Department and the Treasury Department. Data are largely paper based and records are incomplete and weakly managed in most cases. Attempts have been made at each of the agencies to better organise existing records as well as improve day forward processes such as the issuance of new Crown Grants, but serious gaps exist complicating further transactions. The recording of all information related to land is not mandatory, nor is it based on a common property identifier, and as a result it is very difficult to link the multiple record sets that describe the same real property unit.

In all cases each of the departments charged with land administration has the same core functional problems, which are:

- Outdated manual processes that reflect methods and requirements from pre-independence days;
- Outdated legislation that has not kept up-to-date with modern methods of land administration;
- Inefficient collection of fees that do not reflect the current cost of processing or the value of transactions;
- Fees generated for land transactions are assigned to the general fund and not the individual departments;
- Many of the land recording processes are optional and not mandatory;
- Financial disincentives to record land, i.e. high transfer taxes;
- Lack of co-ordination and integration amongst the different agencies managing land resulting in a lack of information available for each department to complete its task effectively;
- Lack of funding for staffing, training, core data set development and maintenance and equipment modernisation.

Over time this situation of incomplete, sometimes erroneous and “stove-piped” storage of land information has created an environment where serious inefficiencies have been introduced and where the real property market is operating at a fraction of its potential. As a result government is under-served by the information it collects, is not able to provide an adequate recording of land interests and information related to land and therefore is not able to effectively plan for future growth and development.

Realising the increased threat and pressure from unguided development and growth and the government’s inability to effectively steward land resources, the Government of the Bahamas embarked in 1998 on a National GIS Project (BNGIS). This project, which was administered by the Inter-American Development Bank and funded through Japanese grants, brought together more than 13 government agencies to work collectively on the project to try and illustrate through two pilot studies (one an urban information system and the other an environmental study) how integrated land management using GIS and spatial data

could benefit the Bahamas. The Government realised the BNGIS project would be the first step towards modernising land administration in the Bahamas.

The BNGIS project is considered one of the most comprehensive of its kind in the hemisphere as it included the following core components:

- Comprehensive review of land in the Bahamas;
- Provision of hardware and software required to establish a full centre as well as a training facility;
- Training for more than 100 government officials in a variety of land and GIS related issues;
- Draft National Spatial Data Infrastructure (NSDI) document;
- Numerous technical documents on modernising different departments and improving workflow;
- Detailed development of two pilot studies — one urban (Pinewood Gardens in New Providence), the other environmental (San Salvador).

While the project itself was successful, its work has not been carried forward nor sustained since its completion in February 2001. Much of the reason for this can be attributed to the same core factors that have created the current land administration environment, namely, a lack of government priority and resources given for training, data collection and modernisation of the land administration institutions and their processes.

In order to realise effective land administration, the current administration needs to address the following:

- Reform and modernise into a rational, single integrated structure the departments currently dealing with land²⁴,
- Modernise legislation related to land;
- Move from a deeds named-based registry to a title registry;
- Reform land use policy and develop a comprehensive national land use plan and policy;
- Provide for equitable Property Taxation and Accurate Valuation;
- Create a National Spatial Data Infrastructure and multipurpose cadastre that will underpin the title registry, land use and property taxation.

The results of these activities will lay the foundation for economic planning in that the relationship of land parcels, the use to which the land is put and the proprietary interests residing in that land provide a means of achieving a sound fiscal base to meet social and community needs. Furthermore, they will establish an effective decision-making framework in relation to decisions that concern the natural environment and the impact of development on that environment.

²⁴ Except for Planning, Permitting and Sub-Division Control

3.6.4 Barbados²⁵

The Tenancies Freehold Purchase Act of 1980 had a radical and irreversible effect on land-holding in Barbados. From a situation with 30 elite families owning 80% of the island around the turn of the 20th century and with the ex-slaves landless and dispossessed, the end of the century saw 75% of dwellings being owner-occupied. Official Census figures show that at the end of 2000, 56% of people acknowledged their being owners of their land. It is possible that another 22% were indeed owners of their land but did not respond to the census takers when interviewed. In any case, it is clear that by 2000 at least 56% of lands were owned privately.

Another result of this dramatic reduction of both the chattel house and the early uncertainty of land tenure is that many former tenants have been able to upgrade from impermanent chattel houses and outdoor or pit latrines to elaborate concrete structures with indoor plumbing facilities.

A remarkable transformation has taken place, particularly during the last twenty years. Sugar has lost its crown, and has been supplanted by a bustling tourist industry. Barbadians by and large have erected large, very comfortable and numerous dwelling houses where sugar and agricultural crops once stood, the number of golf courses has expanded, the social services infrastructure and road network have improved beyond recognition and Barbados has become a regional hub for trade and international financial services.

Despite the country's achievements, the question of the shortage of affordable land has still not been dealt with in a thorough way. In an interesting twist of irony, the virtual near-extinction of the traditional tenancy on sugar estates has seen the rapid rise of the new Barbados tenant, who acquires land from a landlord who himself was landless a generation before. Large numbers of these domestic tenancies have arisen in circumstances where rents are uncontrolled. Of 83,026 occupied dwelling units, 18,286 (just over 21%) were leased in the year 2000, whether formally or informally. Since there is a perceived scarcity of lands available for development, new ways must be found of guaranteeing reasonable security of tenure for the new Barbados tenant while still allowing the new landlord to realise the benefits of his investment.

One option which has a long history in Barbados is rent control, although landlords are generally opposed to this program and its effectiveness is limited. Land owners responded to early efforts at rent control by shifting away from investing in housing development towards other types of development. The number of rental units as

²⁵ See Maynard, 2003.

dwelling houses also declined sharply. Faced with a statutory cap on rents, landlords allowed their premises to deteriorate. The relationship between the passage of the new legislation and the drop in such economic activity was obvious, and not surprisingly the level of activity rose once Government granted tax incentives to encourage the building of more rental units and the repair of existing ones.

Another option was the approval of legislation which prohibited landlords in certain situations from ejecting tenants except for specified infractions. The law thus created a type of statutory tenancy. With the widespread number of new tenancies emerging in Barbados today, the issue here, too, would be the extent of the public interest in legislating island-wide statutory tenancies. This issue will also raise the further question of the constitutionality of such legislation, particularly the right not to be deprived of property without compensation as enshrined in Section 16 of the Barbados Constitution.

Another option is to encourage market transactions by making them cheaper and more secure. Thus in 1988, the Land Registration Act and the Land (Adjudication of Rights and Interests) Act came into force and with them a new system of dealing with land in Barbados. The object of these two symbiotic pieces of legislation was to cheapen, simplify and expedite dealings with rights and interests in land in Barbados in a new global economy.

It was well accepted at the time that the old process of unregistered conveyancing was cumbersome, expensive and time-consuming in facilitating transfers of rights and interests in land. The old law imposed a high degree of care and skill on a purchaser, who was expected to make full and detailed investigations of his vendor's title to be satisfied that he was getting a satisfactory title. These inquiries had to be repeated time and again on every transfer, often at short intervals. Needless to say, this process wasted effort, time and money. So, for example, a purchaser may have to make minute examinations into family settlements, joint ownership and other complex matters with the result that dealings with unregistered interests in land had become an obstacle to the ready marketability of land.

It was in this context that the decision was made to embark on the system of registered conveyancing based on the Australian Torrens model but still incorporating many English features. The complexity of rights and interests in land makes it impossible to transfer registered interests in land as easily as stocks or shares but in essence the principle is the same. The principal aim of the registered system is that a single title, guaranteed by the State, replace the repetitive, unproductive process involved in unregistered conveyancing. Generally there will no longer be the need to conduct long searches that are wasteful of much effort. Instead the official Land Register maintained by the Registrar of

Titles provides an authoritative statement of the title as it stands at any given time.

Transactions involving registered land should normally take place in a fraction of the time when compared with the traditional process. They also relate to savings in costs. For example, legal fees payable in Barbados on a transfer of registered land are one third cheaper than before. In mortgages, the fees are two thirds less. There have also been noticeable differences in the time it takes to complete transactions in the new system when compared with the older version.

To date, approximately 10,000 out of an unofficially estimated 120,000 titles have been registered.

3.6.5 *St. Lucia*²⁶

One of the earlier attempts at identifying and correcting land tenure issues constraining land markets occurred in St. Lucia. This case illustrates some of the issues also encountered in other countries of the region, specifically, the dual structure of agriculture — plantations and small-scale farms, and family land, particularly in the small farm sector. The case also illustrates the importance of organised consultations with the general population about land tenure issues, as well as the subsequent derivation of a project, successfully implemented, to deal with the issues identified in the consultative process.

Consultations

The Government of St. Lucia formed a Land Reform Commission in 1979 following a series of studies which had identified the land tenure structure of the country as a primary constraint on the development of a more productive and equitable agricultural system. The studies reported by Laville, Momsen, Mathurin and Maliczek²⁷ in the 1960s and 1970s pointed to the dual problem of a plantation-dominated agriculture in a few estates and the relatively large number of small farmers — many relegated to poorer quality land and forced into an overuse of fragile lands.

The second feature identified as a land tenure problem in St. Lucia was the prevalence, particularly in the small farm sector, of the undivided family holdings, wherein a number of heirs held shares in the land but without there being a physical partition of the property or a clear identification of individual owners of the land. This form of holding, known as family land, has been limited largely to the small farm sector and added to the problems farmers had to confront. The management of these holdings was difficult in that the farmers trying to cultivate the land were often unsure of

²⁶ See Vargas and Stanfield, 2003.

²⁷ See Laville, 1978; Momsen, 1972; Mathurin, 1967; and Meliczek, 1975.

when or how their co-owners might intervene in the production process and particularly in the harvest of crops on family lands. Investment decisions were held to be inhibited as were the daily management decisions of the cultivating owners.

Another difficulty of the family land tenure form was the problem of dealing in the land. Since the cultivator of the land was simply a member of the larger group with ownership claims to the land, it was difficult for the cultivator of the land to pledge it as security for loans or to sell or otherwise alienate the family land parcels.

Nonetheless, the family land form of holding exhibited certain positive features. This type of holding often benefited the family members who decided to continue cultivating the land because if the land had been partitioned amongst all heirs, the fragmentation would have been severe and the amount of land available to the cultivating family member would have been substantially less. In many cases, the number of heirs exceeds 10 and often 20 individuals, so that if each had been granted a physical portion of the land, the area usable by each one would have been very small and the difficulty of consolidation of individually owned parcels compounded. Beyond this, the family nature of the interests in land also gave the land certain affective features for some family members, particularly those who had left the land but wanted the security of knowing that they could return in emergencies or upon retirement.

The Land Reform Commission took testimony throughout the island concerning these issues, and identified a third problem with the land, namely, the archaic and costly system of deeds registration. That system had evolved over the years and represented a significant cost which was particularly onerous for the smaller property owners and renters, who desired to protect their interests in land through recourse to the formal property system based in law and enforced through the courts. The system of deeds registration in St. Lucia had resulted in a relatively inefficient system of defining and protecting rights to land. The records that were registered were incomplete in that many deeds were vague as to the location of the land and as to exactly who held what rights to that land. There was little assurance that the deeds and mortgages that were registered were consistent with previously registered transactions relating to a specific parcel of land. Finally, the cancelling of obsolete transactions and the weeding out of documents that had been superseded by subsequent transactions was very difficult, and this caused the Deeds Registry to become unnecessarily congested and practically unmanageable.

Project definition

The discussions concerning what to do about these problems of land tenure in St. Lucia became focussed, through the hearings of the Land Reform Commission, on the suggestion made a number of times previously (especially in the 1975 FAO-sponsored study by Maliczek) for carrying out a land registration program. Such a program was conceived to accomplish a number of objectives, namely: 1) the provision of the basic information which the government might need to locate and evaluate the performance of the large plantations; 2) the improvement of security of land ownership and the regularisation of confused, vague or ambiguous rights in land through a systematic adjudication of claims in land; and 3) the introduction of a land parcel-based system of registration of rights in land to establish a cheaper and more accurate mechanism for dealing in land and protecting the appropriate rights in land.

4. EQUITY

Improve access to resources by disadvantaged groups

A second policy imperative is to address issues of access to land by marginalised or disadvantaged groups (the poor, women in some regions, ethnic groups). The goal of greater social equity recognises the crucial role played by improving the equitable access to land in efforts to improve economic and social status through land reforms, programs of affordable housing, special credit for such asset acquisition and other such programs. Such programs aim at improving the effective ownership of land by the disadvantaged and thereby improve levels of living and the capacities of these sectors to participate more fully in the economy and in political processes.

4.1 Access through Market Transactions, State Programs and Informal Occupations

Land markets are an access mechanism. People can get access to land by buying or leasing. Market transactions in land have a long history stretching back to the colonial period, including periods when the land-owning elites attempted to restrict market transactions to their own class. Emergence from slavery occurred by emancipation as well as through small-scale land purchases (see Besson, 2003²⁸).

Undoubtedly people get access to land via market transactions. Yet there are many in Caribbean society who do not — and cannot — acquire land through the formal markets. Partly in response to this situation and partly

²⁸ See Besson, 2003.

due to the State's acquisition of plantation land following independence, a common form of land access is through leasing of land from the State. Such leasing is not restricted to programs providing land access only to the disadvantaged, but also to companies and individuals who want access to large areas of land. The reasons for policies which prefer leasing of State land to private users rather than sale are well rooted historically in Guyana, Jamaica, Suriname, Belize and many of the smaller jurisdictions.

Access to land via market transactions or through leasing has not always worked well. In many countries the costs of transactions — private market ones as well as State leases — are often high in money terms and in time needed, let alone the political influence that is often required for leasing/renting/concessions.

Facing such constraints, people acquire land informally. Unregistered sales of privately owned land, unrecorded transfers of leases to State land and the informal settlement of land (“squatting”) are the symptoms of land administration systems not working (usually Registries/Cadastrés) and of land management systems for the leasing of State land being opaque and costly. The possession of land becomes muddled, complicated, non-transparent, individualised — and in turn corrupted. People who cannot access land through formal market channels or through the acquisition of State land, often opt for informal acquisition or go without land. The question here is how do countries — and in turn individuals as part of a country — develop themselves economically and socially, and especially under market-oriented policies, if the system is not accessible to them and they remain informal or landless?

In general the countries of the English-speaking Caribbean share a legacy of land ownership and use embedded in plantation agriculture. This history has typically resulted in a cumbersome and costly legal framework for land policy and the current land administration system. Despite recent tinkering in some jurisdictions, this general legal framework (as well as the land administration and management system developed to implement it, which remains geared more towards infrequent land transactions and limited access to land by the disadvantaged sectors) is characterised today by the continued control of real property ownership and land use by the State and by those with means to access land via the access to capital which permits the acquisition of land. This skewed structure of power to access land has resulted neither in the allocation of land resources to the highest and best use nor to the full and equitable societal access to land or the institutions of land administration. As a consequence, legal, institutional and financial barriers remain to the achievement of economic, environmental and societal goals. Informal occupation of land becomes the only way for many in society to protect their own survival.

“The formal mechanisms for the exchange or lease of land are widely perceived as being too costly, unfair or lengthy as to be either practical or affordable. Whilst the sale of freehold land is legal but is expensive and slow.

Sub-division is possible only on freehold land, but again this is expensive and slow and it is not permitted to change the use of leasehold land.

“This general inflexibility of the formal procedures for the sale, rental and sub-division of land has reduced access to land for members of the public through the main formal mechanisms. The informal market has responded to this by providing ways of accessing land more quickly and cheaply at the expense of security”²⁹.

4.2 Access to Land Often Limited by Market Transactions

The very dynamism of land markets may create access problems. Attractiveness for tourism and recreational land use produces great interest, particularly amongst foreign investors, to buy land in several Caribbean countries. These countries’ main feature is their limited land base, particularly land along the beaches. The acquisition of land for tourism and recreation almost always produces the erection of fences and walls along the boundaries of the properties, and the exclusion of people who may have traditionally used the beaches for public recreation and/or for fishing.

4.3 Cases

Country experiences at improving access to land in the Caribbean are instructive. We present here four cases: Belize, Suriname, Trinidad and Tobago, and Barbados.

4.3.1 Belize³⁰

Throughout the 19th and the first half of the 20th centuries, the Belize State transitioned from playing a passive role as formulator of land policy to one of instigator of change in land policy. Government efforts stressed the encouragement of foreign investors by offering land at low prices. At the same time, little attention was paid to the local citizens of the country who remained landless and could only gain access to a piece of land through the *rentier* system (in the North, or through squatting in the Central Areas and land reserves in the South). Over 75% of the productive land still remained in the hands of a few rich private owners who by and large controlled the executive and the legislative councils of the Crown Colony. Suffice to note that the uneven distribution of private land ownership has continued to impact on the private land market activity to-date. Some scholars have described the situation in the north as similar to the hacienda or latifundia system. In 1971, the skewed nature of land distribution was evident by the fact that 3% of the largest land owners nation-wide held 95% of land compared to 91% of the smaller land owners who held 1% of land. This formed the rationale for a major effort at redistribution in

²⁹ See Bishop, 2003, p. 15.

³⁰ See Iyo, et al., 2003.

the 1970s and onwards, mainly through the application of the Land Acquisition (Public Purposes) Act (LAPPA) as a facilitating instrument.

Starting with the Land Reform Programme of the 1968-1977 period and further marked by the entitlement to “a piece of land for every citizen”, through to the current commitments to access, each successive government made the issue of land redistribution the stated cornerstone of its development strategy. So far, however, the extent to which these commitments were addressed has been sporadic and mostly demand-driven, and governments have not been able to effectively translate the pre-election pledges into a cohesive policy framework, even while responding to the pressure to deliver.

Many of the attempts at improving equity have been through the redistribution of land acquired for public purpose from individual owners of large estates and sub-divided for sale or lease to multiple landholders. There have also been equity concerns raised with respect to gender. In this regard, the most significant advance has been the recent amendment to the laws, at instance of the Ministry of Human Development, so that women who have been involved in common-law unions for a continuous period of at least five years have rights to claims on property of their common-law spouses. The efficacy of this amendment on land distribution will depend on the extent of public relations and dissemination effected in the near future.

While the Government of Belize has continued to pursue an aggressive policy of land acquisition of private lands, either due to forfeiture or in lieu of taxes, for public use and general distribution, the rise of the secondary land market (which is still evolving) cannot be ignored. A comparison of the prices for land bought from the public sector vis-à-vis lands sold by private sector agents and individuals is the clearest indicator of the demand for land and the distortions in the State’s programs for providing first-time buyers or low-income groups access to land. An average lot is sold on the private sector (secondary) market for anywhere five (5) to seven (7) times the value of an equivalent-sized lot sold by the Government of Belize. The result of this discrepancy is a continued demand for land from the national estate, even in instances where clients are not first-time buyers or low-income earners.

At present, dissemination of information using up-to-date records of ownership, use and value of land is yet to be fully developed. The understaffing situation at the Lands and Surveys Department added to a slow process of transfer of technology and expertise posed serious challenges to prior efforts to modernise the system. The initiatives under the Land Management Programme, combined with the concurrent developments in information technology and efforts at institutional strengthening, are expected to lend to the expansion and transformation of the Lands and Surveys Department. When completed, these initiatives will transform not only the land information system, but

more importantly, the whole gamut of land and property access in Belize.

4.3.2 Suriname³¹

Access to land for the general population has been done traditionally through leasing of State-owned land. However, an examination of the land allocation process for providing land to people in the Buursink Diagnosis of Land Management Issues report indicates that the land allocation process is time consuming for the individual applicant. A random selection of 21 requests indicates that an average time of 55.5 months elapsed from the moment the request was made until the registration of the property. The Buursink report indicates that the waiting times appear to indicate serious workflow or procedural problems, apparently due to the large backlogs and bottlenecks at almost every step of the process.

The table below gives an indication of the number of applications for domain land and the number of leases that were issued.

TABLE 1. STATE LAND ALLOCATION APPLICATIONS AND COMPLETED LEASES, 1999-2001

Year	Number of Applications	Number of Leases Issued
1999	9,163	3,807
2000	8,855	4,043
2001	5,323	1,332
Total	23,341	9,182

The Buursink report notes further that the table does not show how many applications are rejected, but suggests that each year the number of pending applications is growing, contributing to the mounting backlog and a noticeable fall in the quantity of leases issued in 2001. The Buursink report lists several reasons for this backlog. Here are some of the main issues listed:

- The search for determining if land is actually domain land and free of any other application or other encumbrances is tedious and involves a manual check of the record books and parcel maps;
- It takes time to secure advice from the District Commissioner, Land Inspection and Ministries other than Natural Resources;
- The Department of Ground Inspection does not have the required staff or transportation to work efficiently;
- No time limits are set for the various steps in the State land application process;

³¹ See Struiken and Healy, 2003.

- Absence of approved regional development plans or the localised structure or destination plans needed to efficiently evaluate requests;
- The backlog of pending applications appears to be growing.

It is clear that the institutions responsible for processing land applications need to be internally strengthened. Options for new institutional structures should be considered and explored, and an effort should be made to eliminate or reduce the applications backlog.

If the Government of Suriname wants to improve the allocation of land and the access to land using a dynamic lands market and desires to stimulate economic productivity by enlisting land as a catalyst in this process, more consideration should be given to the re-introduction of freehold title regimes not encumbered by unnecessary administrative restrictions for issuing leasehold tenures inherited from a colonial past.

4.3.3 *Trinidad and Tobago*³²

Historically, there has been limited accessibility to land for the poor. The Colonial policy of systematic denial of access to affordable land by the formerly enslaved established the basis of present-day problems of lack of access by the majority of the population and squatting as well as inappropriate land use and environmental practices by the poor. These problems thus have more than a 150-year history and were caused by intentional action by the State rather than inadvertent outcomes of policy, market or institutional failure. These problems were furthered by programs of land access for indentured East Indian labourers who received or purchased mostly marginal and barren lands from either the State or the market.

The debates continue about whether East Indians got significant access to land in lieu of passage back to India, and whether Afro-Trinidadians were denied access especially in rural areas. What is clear is that there continues to be tensions between these two groups over the distribution and use of land in Trinidad and Tobago. Politicians have addressed the issue but not in a manner to resolve its negative impacts. These problems are relatively unique to the southern Caribbean countries of Guyana and Trinidad (not Tobago) and require different understandings and solutions than in the rest of the English-speaking Caribbean.

One of the issues that has not been well developed in the southern Caribbean is the inter-relationship between ethnicity, land and post-independence politics. In an early work, Wood (1968) considered that this was an important relationship and contrasted Guyana with Trinidad. While he noted the presence of the issue in Trinidad, he suggested that it was not as critical as in Guyana where the racial and

³² See Mohammed, 2003.

political lines are more clearly drawn. His insight, however, would have to be reviewed in light of present-day politics in Trinidad and Tobago.

There are two aspects of the relationship that need to be explored further. The first has to do with the underlying fear that the two ethnic groups have of the “other” getting greater access to land resources via the State or the market. This is because access to land by either group is perceived to restrict access by the other. There is some evidence that politicians use this as a mechanism to mobilise their constituencies at election time. Such political activities and ethnic perspectives permeate the rational development and implementation of broad land distribution and welfare programs.

The other aspect of the ethnic issue is that people of different cultural backgrounds approach the ownership, use and alienation of land in different ways. Besson and Momsen (1987) amongst other authors have studied how Afro-Caribbean people view ownership of land. These values have affected common ownership and stewardship of “family land” traditions that are not in harmony with the single ownership that is normally part of the land market rationalisation and land registration processes. East Indian attitudes to land in the Caribbean, though not so well studied, seem to support individual ownership tenure forms.

Both cultural groups appear to support access to and use of lands differently. It is a useful question to ask whether land registration processes and land use regulations in small societies can be adapted away from European and North American influences to accommodate heterogeneity.

Finally on this issue, there is the possibility that there are deep underlying factors that mitigate against clear, rational policies and programs in land titling, distribution and use. Unless ethnic and cultural issues are brought into the agenda in the southern Caribbean in dealing with land, it may be difficult to understand why apparently technically sound programs run into implementation problems.

4.3.4 Barbados

During the plantation era when land ownership was not in question and sugar receipts were the mainstay of the economy, disputes relating to beachfront lands would not have arisen or, certainly, not to any strident degree. Today, however, the rise in a well-educated, land-owning population, the dominance of a tourism-oriented economy, together with the unfettered sale-ability of scarce land, especially coastal lands, have made it imperative for a small jurisdiction like Barbados to tackle head-on the issue of the ownership of beach lands.

Coastal lands are now rarely available for sale and where available, they are usually at very high prices. Over the last two decades there has been a tremendous demand for and development of these valuable beachfront lands.

One consequence of such development, particularly unauthorised development, has been the conflict of views amongst some land owners adjoining the beaches and members of the public. The crux of this debate is straightforward. The public claims the right to unhindered access to and use of the beaches while land owners claim the right to delimit the boundaries of “their” property. In some cases, it has been argued that private development has encroached upon ancient easements of way created by prescription, for example, by the illegal erection of signs and structures, blocking of views and accesses.

Barbados’ declared policy in this matter is that all citizens and visitors alike have or must have access to all beaches including where possible, windows to the sea. Access would be provided, where necessary, by compulsory acquisition.

In his Special Report referred to earlier, the Ombudsman quoted with agreement a 1980 report which stated:

“It is vital for the success of future tourist development that members of the Barbadian public should not feel that they are being prevented from enjoying the beauty of their coastline with its fine beaches and excellent sea bathing, by the construction of rows of high-rise hotels and apartment blocks dominating considerable stretches of the coast...”

It bears remarking, however, that even before and particularly since 1980, Barbados’ economic health has been boosted by commercial tourism-oriented physical development in relation to the said coastal lands. But should a line be drawn? If so, where? Barbados, a small open economy heavily dependent on foreign exchange, is being forced to make tough choices between public sentiment reflecting Barbadians’ strong attachment to their land and the country’s ability to survive and compete internationally through giving up ownership of beaches and access to them to the new tourism/recreation landlords.

5. SUSTAINABILITY OF RESOURCE USE

Protection of land and water resources

A third land policy imperative is to protect land and water resources for the use of future generations by prohibiting certain destructive uses of the land by private and public owners, and by protecting environmentally sensitive areas (wetlands, water sources for settlements, national parks). This policy goal is usually expressed as environmental protection and sustainable use of land resources.

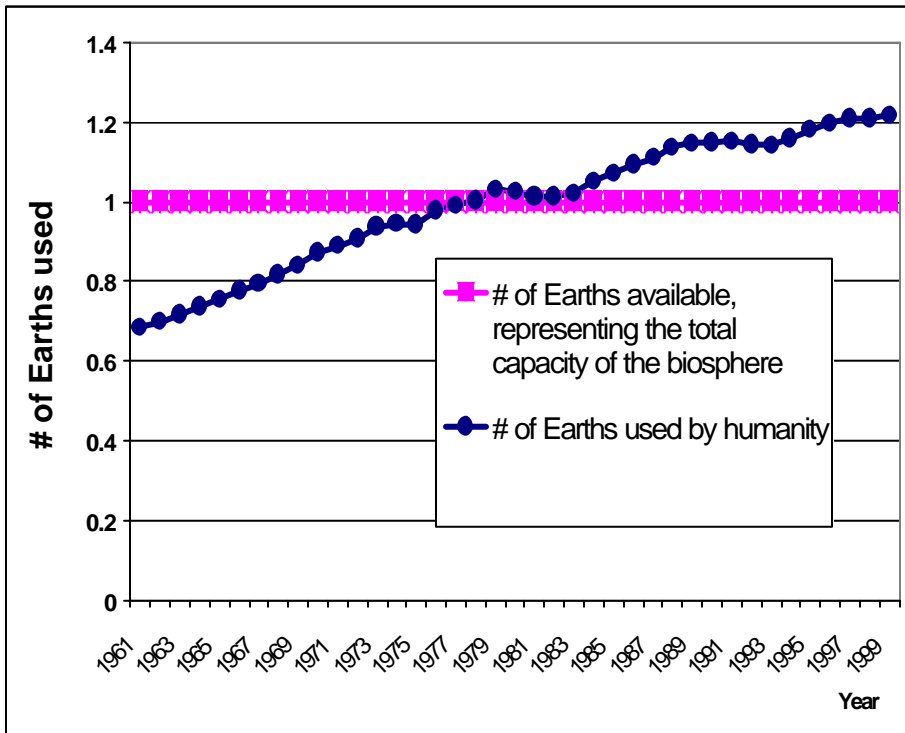
5.1 Global Concerns

The concern over our planet’s capacity to maintain the demands of its human inhabitants has given rise to ecological accounting. Figure 2 shows

that since the year 1980, humans have been using more of the planet's resources than can be re-generated, and by the year 1999 the excess is about 20%.

Following this approach is a measurement of the amount of the world's biological productivity³³ that a country uses in a given year — its "ecological footprint". The deficit in 1999 was about 0.4 global hectares for the planet as a whole. Table 2 shows selected footprints on a per capita basis ranging from a deficit of 4.4 global hectares for the USA to a surplus of 5.4 global hectares for Canada. These figures mean that Canada has large amounts of land and water resources in reference to its actual consumption patterns, while the United States clearly consumes more than it has, relying on the rest of the world and on the depletion of natural resources for feeding its deficits.

FIGURE 2. NUMBER OF EARTHS AVAILABLE AND USED SINCE 1961³⁴



³³ "...productive land and water area required to produce resources consumed, and to assimilate the waste generated using prevailing technology" (ibid, p. 2).

³⁴ Wackernagel, et al., 2002.

The second column of Table 2 shows what would happen if all of the planet used its resources as does the countries listed. For the planet as a whole, we need 1.2 planets to satisfy our demands in a sustainable way, which means that we are depleting our resources. If all countries used resources as does the USA, we would need 5.1 planets. If everyone used resources as does Trinidad and Tobago, we would need nearly 2 planets to satisfy the demand. Jamaica's way of using resources is less likely to destroy the planet we live on, only requiring 1.1 planets. Cuba's resource management produces consumption in excess of its biological capacity, but if expanded to the entire planet, Cuba's approach would require only .8 planet. For most countries, Mother Nature will have the last word, and that word will likely be "NO!" unless the squandering of our planet's resources in most countries is dramatically reversed.

TABLE 2. COMPARISON OF ECOLOGICAL FOOTPRINT WITH AVAILABLE RESOURCES FOR SELECTED COUNTRIES

	Deficit or Surplus?	No. of "Earths"
World	Deficit of 0.4 global hectares	1.2
Canada	Positive 5.4 global hectares	4.6
Russia	Positive 0.4 global hectares	2.4
USA	Deficit of 4.4 global hectares	5.1
Trinidad and Tobago	Deficit of 2.5 global hectares	1.7
Jamaica	Deficit of 1.5 global hectares	1.1
Cuba	Deficit of 0.4 global hectares	0.8

Source: Mathias Wackernagel, Chad Monfreda, and Diana Deumling, "Ecological Footprint of Nations", *Redefining Progress*, Sustainable Issue Brief (Oakland, Calif., November 2002). www.RedefiningProgress.org.

These ecological accounts are beginning to alert governments, corporations, NGOs and the general public to the need to find creative ways to live on this planet, with the alternatives being quite stark.

This analysis shows that since approximately the year 1980, humans are using about 21% more of the planet's resources than can be re-generated.

For the Caribbean the unsustainable use of the planet's land, water and air resources may mean that the gradual warming of the planet will raise the sea levels and eliminate much if not all of the productive and inhabited land areas of many countries.

This planetary concern is reflected in the growing debates within countries of the region about ecological issues, if only since the dangers are so obvious in countries with such limited land and water resources.

5.2 Environmental Issues in the Caribbean: Some cases

At the March 2003 Workshop, several cases were presented concerning the debates about environmental issues.

5.2.1 St. Kitts

St. Kitts is a small island of just 69 square miles, with a population of 41,000 people. The small land base sets limits on the amount of land that can be allocated for different uses. Traditionally sugar production has dominated the economy, but in recent years tourism-related investments have been booming, while sugar production is in decline.

The main environmental constraints include:

Water

- Water used in St. Kitts comes directly from rainwater.
- A high percentage of this rainwater reaches the sea within a short time of falling (due to steep topography).
- About 20% of rainfall becomes groundwater flow or a groundwater recharge of about 30 million gallons per day.
- There are 6 surface supplies and 20 wells in use.
- There is a total storage capacity of 6,687,800 gallons.
- Consumption of water in tourism-related development is increasing with little likelihood of increasing the supply of water.

Waste Management

- The amount of waste produced in St. Kitts is increasing, and new methods of disposal are needed to replace old ones. Private dumping and dumps are now illegal, and hog feeding is no longer a practical solution to waste management.
- Sanitary land fills are designed to reduce environmental pollution (especially groundwater pollution), but such when land fills are full the cost of maintenance is significant and they may threaten ground water if not properly constructed and maintained.

Tourism-related Issues

Tourism generates a significant amount of income for the St. Kitts/Nevis economy. The average annual tourism expenditure during the 5-year period (1995-1999) amounted to EC\$188 million. Of this expenditure, 77% was generated through hotel and guest houses. This clearly establishes the relationship between establishment of these units and the growth of the tourism sector.

The policy to encourage the growth in tourism infrastructure involves the granting of concessions and the provision of land. The total value of concessions related to consumption tax, import duties and custom service charges amounted to about 5% of GDP (EC\$42.1 million) in 1999. Hotel expansion has involved the construction of the 900-room Marriott Royal St. Kitts Resort and Casino at Frigate Bay, the 18-hole

Frigate Bay Golf Course and prospects for one or two more golf courses in St. Kitts³⁵.

The construction sector is responding to the increasing demand for tourism and retirement building. The increases in construction from EC\$71m in 1999 to EC\$104m in 2000 suggest that the land market is very vibrant in St. Kitts/Nevis.

Land sales and land values have been influenced by the construction of hotels, golf courses and retirement homes.

The land market in St. Kitts/Nevis is generating solutions that are challenging the “carrying capacity” of the location. The electricity requirements for the newly constructed US\$200 million 900-room Marriott Royal St. Kitts Resort and Casino Hotel far exceeded the generating capacity on St. Kitts. They were eventually allowed to construct their own generating facility. The demands of the golf courses on the water resources are beginning to add up to a sizeable volume.

Taken together, the construction sector, tourist expenditures, and tourism concessions in the year 2000 comprised over 40% of the country’s GDP. The challenge is for St. Kitts/Nevis to ensure the sustainability of its resource base while encouraging such investments in land. For instance, an area of approximately 235 hectares of sugar lands is to be declared a national park in order to protect it from any possible land market conversion to a golf course. This is because of the significance of its underground water resource to the capital city.

The tourism/retirement/recreation “sector” has serious potential costs:

- High water consumption,
- Chemical pollution,
- Groundwater contamination,
- Damage to landscape and wildlife habitat,
- Conversion of agricultural land permanently to non-agricultural uses,
- Cultural heritage damaged,
- Pressure for golf course development around urban areas, and
- High infrastructure cost.

Tensions between economic development and environmental sustainability include the following factors.

- Increased economic uncertainty about agri-production will result in the transfer of land to more economically valuable uses.
- As governments in the region seek to cope with the realities of globalisation, land as an economic asset will be the focus of diversification.

³⁵ Description of the Government’s vigorous programme for facilitating and upgrading hotel accommodation as expressed in the 2002 Budget Address.

- Increasingly, the political survival of governments in the region will be dictated by land management policies and the relationship with development.
- Economic development strategies have to be informed by environmental management practices, which should seek to add value.
- For diversification to prove healthy, due emphasis must be placed on environmental sustainability.
- Habitat destruction is an economic deal gone sour.
- Urbanisation of the countryside produces an artificial landscape that is incongruous to rural development.

5.2.2 *Montserrat*³⁶

With the onset of the volcanic crisis in 1995, emerging land-related issues require clear policy guidelines for their resolution and control. The finite nature of the land resources on Montserrat warrants proper management for this to be achieved, and to maintain a sustainable pattern of growth and development. Although Montserrat is a small island, the natural resource development potential of the island rests on its high ecological and scenic value, groundwater resources, and certain geologic resources (deposits of rock, gravel quarry sand). Of potential value are the prospects for nature-based tourism and residential tourism activities.

The island is, however, a very sensitive and fragile ecosystem and signs of environmental stress are evident in certain areas. The more significant natural resource management problems include:

- Loss of forest cover from volcanic activity and from indiscriminate agricultural practices and the implications for soil and water conservation and the maintenance of wildlife habitats, landscape amenity value and recreation-tourism potential;
- Soil depletion and erosion associated with the clearing of vegetation on steep slopes and other poor land use and land management practices, such as uncontrolled grazing of loose livestock;
- Until recently, an unregulated extraction of beach sand for construction purposes, resulting in severe problems of coastal erosion and reduction of the recreation capability of beaches;
- The holding of land for speculative purposes;
- The high cost of land and scarcity of development finance;
- The absence of clear land use policies to provide the level of certainty and confidence needed by developers to make investment decisions.

³⁶ Derived from Greenaway, 2003.

Soil types and slope conditions have resulted in farmers utilising unsuitable land for cultivation and grazing. This problem has been exacerbated as a result of the volcanic crisis, where almost two thirds of the island has been made inaccessible. Associated with such land use practices, however, are problems of soil erosion, landslides, reduction of the quality and quantity of groundwater resources and a decline in landscape amenity value.

On the other hand, there are also cases of inappropriate and inefficient use of high-quality agricultural lands. Prior to the volcanic crisis (1995), approximately 25% of the land found to be suitable for agricultural purposes was already lost to built development. This represented a loss of a prime resource and resultant decline in the agricultural development potential of the country.

Inefficient use of land and simply leaving land idle also exist in the urban context, and affect the timely supply and development of prime land for housing, industry and community facilities. These problems are associated with such development constraints as the holding of land for speculative purposes, the high cost of land, the scarcity of development finance and the absence of clear land use policies to provide the level of certainty and confidence needed by developers to make investment decisions.

The Government of Montserrat has sought to promote efficient utilisation of the remaining land resources of the country through 1) the formulation and implementation of appropriate land use policies to guide the development process, and 2) the harmonisation of laws to facilitate the co-ordination of sustainable development activities.

5.2.3 *St. Vincent and the Grenadines*³⁷

St. Vincent & The Grenadines (SVG) consists of 32 islands and cays of which only eight (8) are inhabited. Its population of 115,900 (2000) is the second largest amongst the Organisation of Eastern Caribbean States (OECS), while its economy (EC\$617 million in 2000) is the fourth largest in the sub-region. Agriculture is the mainstay of the economy, amounting to 12% of the total GDP. However, in its attempt to diversify the economy, the Government is focussing on promoting Tourism and Offshore Financial Services.

The total area of St. Vincent and the Grenadines is about 96,000 acres, 47% of which are in forests and 32% in agriculture. The total number of parcels of agricultural land is 8,258. About 73% of these agricultural lands are under “owner or owner-like” possession. Rental land accounts for about 23% of agricultural land under use. These rental arrangements vary from cash rentals to Government and others to sharing of crops.

³⁷ See Williams, 2003.

St. Vincent & The Grenadines is faced with the challenge of moving from a society organised around large parcels of land owned by Government and a few private estates to a more diversified and viable economy with wider access to property ownership. Although a more vibrant land market can facilitate such a transition, intervention by the State is still required to address the social issues relating to land ownership and access.

The difficulty in accessing land can be gauged from the large proportion of “informal” rental arrangements and the incidence of squatting. One estimated puts the number of squatters at 16,000³⁸. Competition for access to land through the continuous increase in land values is evident in the land market.

Squatting on publicly owned land is considered pervasive in St. Vincent & The Grenadines. This presents a number of problems. The forest reserve is threatened by illegal occupation, and watershed management becomes dysfunctional. Policy efforts to prevent the clearing of forests and to encourage reforestation on lands deemed unsuitable for agriculture are continuously thwarted by social forces that drive illegal occupation. While individual departments of Government may see the problem as one of removal of such persons and termination of such occupation, there are larger questions of land access and intensifying agriculture on lands that are deemed suitable for cultivation.

Watershed management is also considered a serious problem. There is a legal framework for natural resource management in the only Act regarding forest reserves, the Kings Hill Enclosure Act, Cap. 239 of 1990. There have been attempts to improve the management of the forests. The draft National Forest Resource Conservation Plan (February 1994) done by the Ministry of Agriculture was one that amongst other things had planned to establish the Mesopotamia Forest Reserve. Because of poor monitoring, however, this area has been mostly cleared for agriculture, except for the highest and steepest ridges.

5.2.4 Tobago

The major uses of land in Tobago include land for agriculture, conservation and watershed protection (forests and wetlands), built development and recreation.

There are several factors which affect the sustainable use of the land in Tobago:

³⁸ Land Consultancy Report for St. Vincent & The Grenadines, by Nicole O. M. Sylvester, February 2002, p. 13.

1) Inappropriate use of land

- Based on the most recent land capability survey the most productive land in Tobago is now under built development — exemplified by the Dwight Yorke Stadium and the adjacent Bacolet housing development.
- Subsistence agriculture is often practised on lands (marginal lands) which may be suited for other purposes.
- In the south-west of the island where the land lends itself to mechanisation and where the potential for large-scale agricultural activity is greatest, tourism-related infrastructure development is given priority.
- Access of the population to beaches traditionally open to public use has been restricted, producing conflicts and loss of life.

2) Ill-advised and outdated cultural practices

- Over tilling of the soil.
- Use of fires to clear land for cultivation.

3) Inappropriate solid and liquid waste disposal

- Backyard dumps are common, where any and everything is dumped and burned. Over time these practices can lead to high levels of accumulated chemicals rendering such areas useless.

4) Land ownership pattern

- A number of persons occupying lands in Tobago have no vested interest in the long-term sustainability of these lands in the circumstances where they are merely occupiers and not land owners.
- Some persons occupy lands that were “leased” to ancestors by estate owners and over generations have occupied these lands without possessing formal title.
- Lands with clear title of ownership have been “given” to family members who continue to occupy but have not completed the formal process of administration to have clear title to this land.
- Fragmentation as individuals utilise family lands to construct homes, engage in animal husbandry, cultivate a vegetable plot, etc.

One can conclude that the shift from agriculture to housing, tourism and recreational based land uses are stressing the capacities of the ecosystem and the social fabric to respond. It is likely that environmental practices and regulations will increasingly continue to influence land use possibilities in the future. This trend is exaggerated on small islands where the land resource is limited and intensively utilised.

6. THE FOUNDATION OF THE “TRIANGLE”

Moving towards some sort of balance amongst the three policy objectives requires a strong foundation comprised of progressive, capable and flexible *governance* institutions, a supporting *legal framework* and accessible, accurate and timely land *information*.

6.1 Governance

The functions of land administration and land management operate within an institutional structure of some sort, governmental and formal, or community-based and informal. In the Caribbean, the evolution of countries from dependencies of colonial powers to a status of independence, and the continuous challenges of governing in a rapidly changing world economy, have produced institutional responses of varying effectiveness.

6.1.1 Administrative Fragmentation

In several countries of the region, the public agencies for exercising land administration and management functions have become fragmented across many ministries. Moreover, there are often unsatisfactory mechanisms for the involvement of communities in the formulation of land policies and their practical application.

For example, in Trinidad and Tobago, much of the land remains under State ownership. Prior to independence, a similar situation existed. The Crown Lands Ordinance of 1918 provided that the administration and disposal of Crown Lands should be exclusively vested in and exercised by the Governor as Intendant of Crown Lands, who appointed a Sub-Intendant of Crown Lands. The apparent effectiveness of State land management under the colonial system was in part due to the ability of the Sub-Intendant to delegate authority to local wardens for ensuring that land was properly managed. The State Lands Act of 1980 abolished this system and replaced the Sub-Intendant post with a Commissioner of State Lands post which to date has never been filled, but whose functions have been combined with that of the Director of Surveys. The position of warden was abolished.

Effective mechanisms for decentralised State land management under the Commissioner of State Lands was not devised to replace the Sub-Intendant/Wardens system.

Instead, what has evolved has been the creation of numerous governmental and quasi-governmental entities with special mandates for State land management. Some of these entities have been vested with the authority to manage State lands instead of the Commissioner, such as the Chaguaramas Development Authority. Others have been assigned some of the State land management functions of the Commissioner but not all of them, such as the Land Administration Division of the Ministry of Agriculture, Land and Marine Resources,

which identifies the lessees but relies on the Commissioner to prepare and execute the leases, and to take legal action when a lessee is in breach.

To further complicate effective land administration and management in many countries, the administration of land records related to the ownership and management of land tends to be the responsibility of two (or more) government agencies. Typically, private land ownership records fall under the Ministry of Legal Affairs or Finance, with public land records being the responsibility of a Commissioner of State Lands Office, generally in the Ministries of Agriculture, Natural Resources or Housing. This separation of responsibility for land records administration requires the maintenance of two or more registries of land information, neither of which typically has the resources to operate properly. The existence of various registries severely constrains the land market as land owners, providers of credit and investors need not only make a property rights investigation, but also determine in which registry the land records, or conflicting claims, may reside. This becomes a time-consuming and costly process with the costs being passed on to the client, or worse, restricting credit availability as transactions costs per loan become uneconomical and not profitable for the lenders, or too risky to approve investments.

Mohamed³⁹ describes this fragmentation of governance as pertaining to land administration and State land management. Rabley⁴⁰ also describes this debilitating fragmentation of governance. In recognising the difficulties of fragmented governance, Jamaica has combined some land administration functions (title registration, cadastral surveys, and land valuation) under a single agency.

Another option is the de-concentration of service delivery by government agencies, bringing the services closer to the communities but retaining central control. An example of this approach is the opening of document collection offices by the Registrar General, in Tobago and San Fernando (in southern Trinidad).

Contrasting with the decentralisation and de-concentration efforts is the “consolidation” of some land governance functions, which is being tried by some countries in the region. The National Land Agency which brings into one agency the formerly separate Survey Department, Titles Office and Land Valuation in Jamaica, the Guyana Lands and Survey Commission and the State Land Management Agency being contemplated in Trinidad and Tobago are examples of “centralisation” of land administration (Jamaica), the centralisation of State land management (Trinidad and Tobago), and the centralisation of both land

³⁹ See Asad Mohamed, 2003.

⁴⁰ See Rabley, 1999.

administration and management in Guyana. Countries are clearly experimenting with the consolidation of land administration and management functions and responsibilities previously scattered across ministries and agencies.

Registry reform, uniting the administration of land records in a single institution, including the mapping of parcel boundaries, is being considered in several countries and implemented in some. The inertia of existing interests in maintaining their familiar systems of administering important land and property records has proven difficult to overcome.

6.1.2 Financing

A continuing constraint on the exercise of good land governance is the frequent lack of motivation of staff, owing to bureaucratic rigidities and poor salaries in comparison with the private sector. Experiments with partial self-financing for some public service agencies are being tried, such as the Guyana Lands and Surveys Commission (GLSC).

In some cases direct registration fees are legally mandated, low and out of step with current market pricing. What is most damaging to the registry agency and in the end the registration process is that registration fees and revenues are typically transferred directly to the central treasury, leaving the land registry agencies to fight for budget shares from other non-revenue generating operations. Typically, the budget allocation from central treasury provides for salaries and on occasion supplies, but does not provide for the upgrading of services or proper security of documentation.

Even with relatively low fees, registry offices typically generate a significant cash flow for the government purse. For example, in Guyana, where by all professional and anecdotal accounts the Deeds Registry is not functioning at all well, the fees and revenues collected in 1993 amounted to the equivalent of over US\$1,000,000, while the annual budget allocation to the Deeds Registry amounted to just over US\$46,000. There is no questioning this financial message. And the Guyanese registry agency is not alone in its plight. Case studies currently under way from around the Caribbean are intended to collect budget data specifically to demonstrate this problem. Without political support which translates to budgetary support for the registries, registry managers must continue to rely on un-trained staff and limited materials to provide limited and slow service to the public, or they must seek limited and highly competitive project-based financing which is typically non-sustainable. Obviously without more cognisance of the significance of real property systems, and the importance of the land registries as the backbone of these systems, land registry offices will continue to be under-staffed, poorly managed, unable to meet the needs of a modern society and unable to support the implementation of land

policies seeking to achieve and balance economic, social and environmental goals.

6.1.3 Transfer Tax or Land Taxation

Taxation of land holdings is attractive since wealth embedded in land is visible and can be identified and taxed. There are costs, however, in getting land taxation to work, both politically (since the land holders often fight against it) and administratively (since a bureaucracy is required to value land and collect the taxes). A frequently used option is to charge a tax on the land at the time that it changes ownership, and build the cost of the tax into the selling price. As an option to or in the absence of a fiscally productive real property tax system, many jurisdictions attempt to capture revenues from transfer taxes at the time of sale, transfer or mortgage. While the absence of a significant property tax itself results in land market distortions such as speculation and under-utilisation of land, the use of a transfer tax provides a direct disincentive to register title and, in turn, has direct impact on the maintenance of the land registration system. In many countries, where properly registered title is not the norm or ingrained in the culture, buyers and sellers take an informal route to property transfer simply to avoid the transfer tax.

In other countries, where properly registered title is seen as desirable, buyers and sellers often collude to falsify the stated sales price and in turn reduce the transfer tax due. Typically in these cases, the registration process is stopped for months or even years as the land registration staff requests an official government assessment of the property — which, of course has its own budget and human resource limitations and imposed political priorities. Certainly, we cannot fault the land registry staff from doing its job. But the message here is to avoid institutionalising disincentives to property owners who sometimes as a result either evade or attempt to subvert the registration process. The risk is that each unregistered land transaction reduces the reliability of the registration system and in the end erodes the ability of government to implement land policies focussing on the “triangle” of policy goals, and in particular impedes the efficient functioning of the land market.

6.1.4 Ineffective Land Use Planning and Development Control

Another governance issue is the exercise of land use planning, development and control. Countries have created agencies to develop codes of appropriate building construction and development standards and practices, and to ensure that all persons and agencies concerned adhere to both the requirements of a plan and the codes of standards and practices. This approach often pits the population against the planning authority and produces ineffective implementation of land use plans.

An option which is being tried in Tobago, a small jurisdiction, is the preparation of land use development plans through consultations with the population, thus reaching a measure of consensus before implementation.

The Government of Montserrat⁴¹ has sought to promote efficient utilisation of the land and water resources of the country through the formulation and implementation of appropriate land use policies to guide the development process. To this end, the Development Control Authority (DCA) was replaced with the Planning and Development Authority (PDA), with a broader based membership incorporating major stakeholders in the development process. The emphasis and focus has also changed from strictly development control to the Authority's playing a more pro-active role in the development process through a structured development promotion program. On behalf of the PDA, the Physical Planning Unit promotes the adopted land use policies and key development projects amongst major land owners, developers, public sector agencies, financial institutions and the general public. The Unit also assists the various participants in the development process in the conceptualisation of projects. The Unit also carries out an ongoing review of the development control process (regulations, policies, standards, application procedures, etc.) with a view to streamlining the process in keeping with current circumstances, and in order to reduce delays and costs in the process of land development.

Perhaps none of the attempts at re-structuring of State land governance agencies alone will work. Another approach begins with a critique that government-led development without the active support of civil society, and civil-society movements without the institutional and enabling support of government have both failed. What is required is the investment in "democratising" of land governance, the incorporation of the needs and priorities of the disadvantaged into the re-structuring process through consultations and the active participation of communities in this re-structuring.

"The active participation by communities in the planning and implementation of development policies and programmes is an essential prerequisite to sustainable human development. These lessons point to the need for more effective alliances linking governments to their civil-society organisations, coupled with the moral and financial persuasion of the international community".⁴²

⁴¹ See Greenaway, 2003.

⁴² The Popular Coalition, "A Common Platform on Access to Land", World Summit on Sustainable Development, Johannesburg, South Africa, July 2002.

6.2 Legal Framework

Like the institutional framework for land governance, the legal framework is often like a dusty library, with laws and regulations passed in response to problems long ago in the colonial period littering the legal landscape as their relevance has receded. In some cases, the importation of legal codes also implies the importation of concepts which do not include the subtleties of land tenure arrangements in the Caribbean, such as family or generational land.

Added to the legal constraints is the number of different land and resource related laws in the region. The number of laws per 1,000 population is undoubtedly higher in the Caribbean than in continental countries. With so many small jurisdictions, each with its own parliament generating laws without reference to standard legal formulations, the lack of legal harmony is confusing to outside investors and locals alike and opens the door to opaque regulatory practices.

The cost of applying laws to specific situations is also frequently high. The sporadic nature of land conflicts or problematic situations, such as the need to bring a land parcel onto a Torrens-style registry, and the lack of reference to regional best legal practices has allowed countries to produce legal procedures which are high on security but exorbitantly high on cost. Such costs greatly complicate efforts to deal systematically with problems like the “informality” of title, and the acquisition of private land for affordable housing purposes.

With historical roots in grants from the Crown dating back to colonial times and more recently at the time of independence, and culturally in order to maintain control over the use and concentration of land, two distinct real property regimes are perpetuated: publicly owned and managed property, and private freehold property. In fact, in most countries the majority of land, in terms of percentage of total area, remains under the control of the government. The existence and, more importantly, the difficulties in maintaining the operations of these dual regimes have profound impacts on land markets. The impact is especially noticeable when the rents on leasehold property are artificially frozen at antiquated “peppercorn” rates by a combination of out-dated legislation and political manipulation.

The debate over whether leasehold or freehold is a more desirable tenure form continues with plausible evidence on both sides. In many countries the compromise has been the retention of leasehold tenure, but providing a more “robust leasehold title”. This concept can be defined as clear and secure longer-term (more than an “individual lifetime”) tenure right provided through a freely transferable and marketable “title instrument” whose annual rent or transfer price is determined at market-based prices. In the desire of various governments to provide this “robust leasehold title”, in most cases they have rejected outright market-based auction of public land, the delivery of freehold rights and the first registration of title. Most governments have instead elected to retain leasehold tenure, but liberalise

leasehold policies, make allocation processes more transparent and strengthen lease management systems. In turn, the conditions of the lease have changed — longer terms, easier transferability and mortgageability, land use conditions limited or abolished — in order for the lease instrument to “approximate” freehold. However, the effects of this approximation of freehold by the new definition of leasehold title on land markets and economic development and social equity has yet to be determined.

A compelling problem, somewhat unique to the Caribbean countries and of interest due to its negative impact on secure tenure, reliable registries and the functioning of land markets, is the existence of multiple real property rights registration systems in many countries. In several instances governments have become involved in the process of a transition from a Deed Recording to a Land Title Registration system, but have not completed the transition. In Jamaica and Trinidad and Tobago this process began in the late 1800s and is still not completed. During this extended “transition”, these dual systems add to an already complicated mix of tenure statuses and instruments that exist. In recent years there have been proposals to reform the 1890’s reform of the registration system, potentially producing a third parallel property rights registration system to further complicate matters.

The lack of coherent development strategies and land policies is a general problem in the region. Without a well accepted, understood and strategically formulated land policy, implementation becomes sporadic and subject to manipulation for vested interests. Legislation produced affecting land administration and management can become chaotic and contradictory (a problem identified in Trinidad and Tobago pertaining to State land management).

The need for uniformity and harmony in land policy and land legislation within and amongst the various jurisdictions is of paramount importance to the public, who must feel confident that the expressions of policy are crystallised in law, and transformed into administrative decisions which appear to be uniform, equitable and transparent. To do so may require the creation of mechanisms to regulate and address the very disharmonies in policy which are evident and which are institutionally obvious amongst the governance bodies. The apparent legal framework problem of conflicting provisions and inadequate formulations may be more due to a lack of consensus and disarray in policy formulation, and inconsistencies in the expressions of ad hoc policies as codified in statutes, rather than being an inherent legislative issue⁴³.

6.3 Land Information

Land information has been defined as the particular characteristic concerning land that is described and/or displayed. Land records are the

⁴³ See the analysis of Ramkisoorn, 2000.

medium in which land information is stored. Finally, land information systems (LIS) are the means by which land information and records are organised and managed in an orderly fashion⁴⁴. Accordingly, the concept of an LIS is broad and affects many of land governance mandates and operations. Land Information Systems are more broadly defined than Geographic Information Systems (GIS) and involve more than simply the introduction of information technologies to information administration⁴⁵.

As land governance agencies developed to fulfil their mandates, they each devised land information systems which were historically paper based. These LIS developed as instruments of land governance. As time passed, these paper records deteriorated and the resources available for the maintenance of the LIS became limited.

Information Technologies (IT) have swept into this scene, offering efficiencies in information management and more security in archiving that information. The data storage and management capacities of these technologies have shown that in the older, paper-based LIS, there is needless duplication of data, needless replication of work across agencies and costly document storage and retrieval techniques. Not only are the older LIS inefficient, they squander scarce human and technical resources. At the same time, the single most often cited constraint cited by agencies is an overall lack of resources for operations. This environment also creates frustration and hopelessness which adversely affect productivity.

The introduction of IT into the operations of land governance agencies has proceeded quickly in some countries, particularly in the agencies of “land administration” (property registries, cadastres, valuation and taxation). Since such agencies inherently deal with information about land ownership, use and value, technologies which revolutionise the ways that they store and manipulate this information are very attractive.

The engineering of IT into land governance agencies at times is premature, however. The first and most important step may well be to re-engineer the land governance institutions themselves, as noted above, rationalise them, remove redundancy and provide an executive agency-type environment. Without this re-structuring, IT focussed projects may produce results which

⁴⁴ See Holland, et al., 1991.

⁴⁵ “LIS is a suite of technologies, data, and applications that share the commonality of a spatial relationship. By definition, LIS is an enterprise set of technologies that are driven by work and data flows related to land information management that occur within an organisation. GIS, along with automated mapping and facilities management, permit and development tracking, traditional management information systems, electronic imaging, global position systems, and records management, are all viewed as subset technologies of an enterprise-wide LIS”. From “Findings and Recommendations for the Establishment of a National Land and Geographic Information System (LIS/GIS) for the Government of Trinidad & Tobago”, GeoAnalytics, Madison, Wisconsin, October 1998.

do not take hold or are unsustainable. If such projects do succeed, this success may be temporary, until the forceful personality responsible for the success leaves the scene, and would not be sustainable.

7. CONCLUSION

We have described three land policy imperatives which are sometimes mutually contradictory. We have described some of the specific land administration and management issues which have arisen in the Caribbean region. We have focussed on land governance, legislation and information as providing a foundation on which to stand to juggle the three land policy imperatives and deal with the land administration and management issues facing the region.

The hope for the region lies in its people, their intelligence and industry for improving how land issues are resolved. The agenda for action includes the following.

- 1) The knowledge and experience of people working in different countries on land administration and management issues has to be made available regionally, through regional experience exchanges and capacity building.
- 2) Land and property policies and legislation must be harmonised by sharing concepts and formulations regionally.
- 3) Governance must be made more “democratic” by involving stakeholders of all sorts in the search for solutions to the issues faced.
- 4) Regional and international agencies committed to assisting in the resolution of land issues should draw on regional expertise thereby contributing to its strengthening and to the harmonisation of national institutions.

In recent years, international development agencies and national governments have placed a renewed emphasis on addressing land management and administration issues. At the Second Summit of the Americas held in Chile in 1998, the heads of governments declared property rights registration as a key to poverty alleviation. It was agreed that property registry reform influences the goals of the summit: justice, human rights, gender equality, education and economic integration.

Development banks have large and growing loan portfolios for projects aimed at meeting the three land policy goals outlined above. A case in point is that since 1995, the Inter-American Development Bank has spent approximately US\$4.7 million on the analysis of land tenure and the legal, institutional and technical aspects of real property rights systems throughout the Latin America and Caribbean region. This expenditure has led to the design and ongoing implementation of roughly US\$750 million in projects to support the security of land tenure, the streamlining and modernisation of land administration systems and the improvement of land management. Currently, there are three new land

projects in preparation for approval in 2003/2004. Potentially, the total government and IDB financing for these projects is approximately \$205 million.

Including the efforts of the main donors and financiers in the region — USAID, the World Bank, the Department for International Development (DFID) and the Caribbean Development Bank (CDB) — the total amount of land-related efforts in the Latin American and Caribbean region in the past ten years certainly approximates US\$1 billion.

While the majority of this funding is undoubtedly earmarked to the larger countries of South America, the share earmarked to the countries of the Caribbean is substantial. “Land” projects in the study and preparation phase total about \$1.7 million, while projects in execution total \$33.7 million.

Such capital does not flow without demand, and it is clear that the governments of the region are reacting to the demonstrated demands and needs of the society to change the systems that define and regulate the continually changing relationship between people and land, with programs focussing on such topics as:

- clear and formalised land rights;
- robust and more marketable land tenure instruments;
- practical and enforceable regulations on land use land rights;
- modern, affordable and accessible public land administration services;
- affordable access by the disadvantaged to land for housing and food production;
- reasonable and achievable building regulations for low-income housing;
- protection of fragile environments.

The list goes on. Surely with this level of funding earmarked to land as opposed to other pressing economic, environmental and social needs, it is now incumbent upon the politicians, the land administrators and the land managers of the region to react to the challenges of their countries’ development with intelligence. They face questions about how to ensure an effective combination and implementation of the “triangle” of land policy goals in order to achieve the institutional, legal and technical framework required for a more responsive administration and management of scarce land and water resources throughout the region.

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COUNTRY CASE STUDIES

BAHAMAS: Land Policy, Administration and Management in The Bahamas

Peter Rabley and Tex Turnquest

EXECUTIVE SUMMARY

This paper examines the current situation in the Bahamas as it relates to land. In particular, it looks at Government's current land administration processes. Finally, particular focus is paid to the Bahamas National Geographic Information Systems (GIS) Project that took place from 1998 to 2001, the results and finding of this comprehensive study and the land issues it was able to bring to light in a practical and relevant manner.

Current land management in the Bahamas gets its underpinnings — in terms of both legislation and process — from 1920's English Law. Land is optionally recorded at the Registrar General's Office in a deeds registry and there is no title registry. Surveys of properties are not required (apart from Crown grants), the Real Property Division records are incomplete and the Physical Planning Department struggles to provide planning.

Land tenure is dominated by the issues of commonage and generational lands, which are further complicated by the existence of parallel title where multiple owners have strong legal claim to the same property. The use of the Quieting Titles Act, which was introduced to resolve title disputes, has created an environment where misuse of the Act is prevalent. It is estimated that 25% of all land is in dispute and the main reason is the lack of clear documentation.

The administration of important records needed for clear and secure documentation of property ownership is separated amongst multiple agencies including the Ministry of Agriculture, the Ministry of Public Works, the Registrar General, the Department of Lands and Surveys, the Department of Physical Planning, the Real Property Tax Department and the Treasury Department. Data are largely paper-based and records are incomplete and weakly managed in most cases. Attempts have been made at each of the agencies to better organise existing records as well as improve processes such as the issuance of new Crown grants, but serious gaps exist complicating further transactions. The recording of all information related to land is not mandatory nor is it based on a common property identifier and as a result it is very difficult to link the multiple record sets that describe the same real property unit.

In all cases the departments charged with land administration have the same core functional problems; these are:

- Outdated manual processes that reflect methods and requirements from pre-independence days;
- Outdated legislation that has not kept up-to-date with modern methods of land administration;
- Inefficient collection of fees that do not reflect current cost of processing nor the value of the transaction;
- Fees that are generated for land transactions are assigned to the general fund and not the individual departments;
- Many of the land recording processes are optional and not mandatory;
- Financial disincentives to record land, i.e. high transfer taxes;
- Lack of co-ordination and integration amongst the different agencies managing land resulting in a lack of information available for each department to complete its task effectively;
- Lack of funding for staffing, training, core data set development and maintenance, and equipment modernisation.

Over time this situation of incomplete, sometimes erroneous and “stovepiped” storage of land information has created an environment where serious inefficiencies have been introduced and where the real property market is operating at a fraction of its potential. As a result Government is under-served by the information it collects, is not able to provide an adequate recording of land interests and information related to land and therefore is not able to effectively plan for future growth and development.

The current population in the Bahamas is estimated at 316,298¹ persons with 70% residing on New Providence, an island 21 miles east to west and 7 miles north to south with a resulting population density of 2,635 persons per square mile². Population growth is projected at 1.8%, meaning the population of the Bahamas will double in approximately 40 years. A high standard of living (per capita GDP in 1999 was US\$15,300) has increased the immigration pressure from Haiti and other Caribbean nations, adding to the burden on the land in the Bahamas. Most of the GDP in the Bahamas is derived from tourism, which relies largely on the outstanding physical natural beauty of the Islands. Increased pressure from development and population growth requires improvement of the efficiency and equity of the administration of land, particularly as existing processes in the Government are challenged by current demands. Consequently, improvements are essential.

The Government of the Bahamas, realising the increased threat and pressure from unguided development and growth and the Government’s inability to effectively steward land resources, embarked in 1998 on the Bahamas National GIS Project (BNGIS). This project, administered by the Inter-American

¹ Department of Statistics.

² Average for the Bahamas is 56 persons per square mile.

Development Bank and funded through a Japanese grant, brought together more than 13 Government agencies to work together through the project to try and illustrate through two pilot studies, one an urban information system and the other an environmental study, how integrated land management using GIS and spatial data could benefit the Bahamas. The Government realised the BNGIS project would be the first step towards modernising land administration in the Bahamas.

The BNGIS project is considered one of the most comprehensive of its kind in the hemisphere as it included the following core components:

- Comprehensive review of land in the Bahamas;
- Provision of hardware and software required to establish a full centre as well as a training facility;
- Training for more than 100 Government officials in a variety of land and GIS-related issues;
- Draft National Spatial Data Infrastructure (NSDI) document;
- Numerous technical documents on modernising different departments and improving workflow;
- Detailed development of two pilot studies — one urban (Pinewood Gardens in New Providence), the other environmental (San Salvador).

While the project itself was successful, its work has not been carried forward or sustained since its completion in February of 2001. Much of the reason for this can be attributed to the same core factors that have created the current land administration environment — namely a lack of Government priority and resources given for training, data collection and modernisation of the land administration institutions and their processes.

In order to realise effective land administration we recommend that the current administration needs to address the following:

- Reform and modernise the departments currently dealing with land³ into a rational, single integrated structure;
- Modernise legislation related to land;
- Move from a deeds named-based registry to a title registry;
- Reform land use policy and develop a comprehensive national land use plan and policy;
- Provide for equitable property taxation and accurate valuation; and
- Create a National Spatial Data Infrastructure and multipurpose cadastre that will underpin the title registry, land use and property taxation.

The results of these activities will lay the foundation for economic planning in that the relationship of land parcels, the use to which the land is put and the proprietary interests residing in that land provide a means of achieving a sound fiscal base to meet social and community needs. Additionally, they will establish an effective decision-making framework in relation to decisions that

³ Except for Planning, Permitting and Sub-Division Control.

concern the natural environment and the impact of development on that environment.

FIGURE 1. MAP OF THE BAHAMAS



1. INTRODUCTION

The Bahamas comprises an archipelago of about 700 islands and islets and nearly 2,400 cays and rocks, extending for about 800 kilometres (497 miles) from a point south-east of Palm Beach, Florida, to a point off the eastern tip of Cuba in the south-western edge of the Atlantic Ocean (see Figure 1). Twenty-two of the main islands are inhabited, with 70% of the population found on New Providence (83 square miles) and approximately 16% on Grand Bahama (530 square miles).

TABLE 1. BASIC GEOGRAPHIC DATA OF THE BAHAMAS

Geographic co-ordinates	24°15° N, 76°00 W
Area Total	13,940 sq. km
<i>Land</i>	10,070 sq. km
<i>Water</i>	3,870 sq. km
Coastline	3,542 km
Terrain	Long, flat coral formations with some low rounded hills. Highest point is Mount Alverina, on Cat Island at 63 meters.
Population	316,298 (July 2003 estimate ⁴)

Source: CIA World Factbook 2002.

The Commonwealth of the Bahamas is a constitutional parliamentary democracy which obtained internal self-government in 1964 and full independence from Britain in 1973. The Chief of State is Queen Elizabeth II as represented by Dame Ivy Dumont since January 2002. The legal system is based on English common law. The Bahamas has a bicameral Parliament consisting of the Senate (16-member body) and the House of Assembly (40 seats; direct popular vote), all serving for five-year terms.

The Bahamas has a high level of social, economic, health service and educational development, particularly when measured against other developing nations and within Latin America and the Caribbean (LAC) in particular. Per capita gross domestic product (GDP) was projected at \$15,774 in 2000⁵ growing at 3.5% per year⁶ as compared with the LAC average of US\$3,600.

The economy of the Bahamas is based on tourism, financial services and shipping registration. Tourism generates approximately 50% of the total GDP and directly or indirectly employs approximately 50,000 workers, the equivalent of about half the total work force. Most tourists (80%) are from the United States of which half are cruise-ship passengers or day-trippers. The disaster of September 11, 2001, had a significant impact on tourism in the Bahamas in the last four months of 2001⁷, a condition that the country is only now beginning to see signs of recovery. Economic activity is principally restricted to the two main islands of New Providence and Grand Bahama.

The banking and financial sector accounts for roughly 15% of GDP and employs approximately 5,000 people, most of whom are Bahamian. This sector

⁴ Source: Department of Statistics.

⁵ Source: IDB 2001-2002 Country Paper.

⁶ Source: IDB 2001-2002 Country Paper.

⁷ Source: The Central Bank of the Bahamas Annual Report, 2001.

deals mostly with the management of assets of wealthy individuals and generates little in terms of Bahamian dollar earnings, covering expenses only. As a result of the Financial Action Task Force and OECS criticising the Bahamian financial industry, the country in 2000 enacted a series of reform bills aimed at strengthening reporting and management of this sector⁸.

Agriculture is much less important than tourism, contributing only 2.9% of total GDP. A third of farmers are women, the average age is 59 and half of all farm labourers are Haitian. Emphasis is on citrus production, taking advantage of the lack of frost and competing with the Florida citrus growers.

Foreign direct investment (FDI) was significant throughout the 1990s, but particularly heavy after 1997 and especially into the tourist sector, namely construction and upgrades of hotels. FDI in land was also stimulated by the International Persons Landholding Act in 1993. This act allows non-Bahamians and the companies they may control to own property. It also allows non-Bahamian owners to apply for a residence card that once approved allows close family members right of residence as well. Significant numbers of properties both within New Providence and in the Family Islands⁹ have been sold to foreign investors, and the Government is currently hard-pressed to provide a comprehensive register of these transactions and properties. As non-Bahamians who own property in the Bahamas must pay real property tax, this has a potentially significant impact on Government revenues.

Like many other Caribbean¹⁰ small-island nations, the Bahamas is greatly affected by external factors, in particular from the United States where a heavy reliance on a single market and industry exists. Recent events have shown just how dependent the Bahamas is on the US. Additionally, because of the small population size and the physical dispersion of the Bahama Islands, it is hard to gain any economies of scale. This is reflected in the reduced role of local government and the difficulty in providing trained and skilled personnel at all levels of government. It is therefore unlikely that with current Government resources a complete re-structuring of public institutions and processes dealing with land is possible and thus external funding sources should be identified.

The Government of the Bahamas (GOBH) is aware of a number of specific impediments which stand in the way of effective land administration and land resource management at a time when development pressures are increasing. These include:

⁸ Banks and Trust Companies Act, Central Bank of the Bahamas Act, Criminal Justice (International Co-operation) Act, Financial and Corporate Service Providers Act, Financial and Corporate Service Act, Financial Intelligence Unit Act, Financial Transactions Reporting Act, International Business Companies Act and Proceeds of Crime Unit Act.

⁹ Family Islands refer to all Islands not described by New Providence, the capital.

¹⁰ Although technically speaking not a part of the geographic Caribbean, the Bahamas is part of CariCom and the broader economic definition of the Caribbean.

- Generational land,
- Commonage,
- Lack of a consistent and standard property addressing system,
- Poor record keeping and tracking of Government land assets,
- High proportion of land disputes,
- Inefficient pricing for Government services and charges related to land,
- Inability of agencies to retain proportion of service fees,
- Holding of land for speculative purposes,
- Lack of surveys for many land parcels,
- Lack of update mechanisms for property boundary definition and change due to optional requirements for surveys and recording of land instruments,
- Lack of a coherent and integrated strategic land-use planning and development mechanism,
- Limited comprehension of land administration concepts within Government,
- Lack of legally mandated environmental impact assessment procedure for development projects,
- Lack of scale in the development approval process — all applications regardless of size are generally subjected to the same review procedures,
- Monitoring requirements (e.g. for agriculturally leased land) are unrealistic,
- Lack of operational agency co-ordination and limited resources,
- Inadequate emphasis on relevant training, and
- Lack of fully developed local government management.

These impediments have manifest themselves in real terms lately and in a manner that has made the Government realise that action is required. For example, the ongoing expansion of roads in New Providence has required that Government acquire land under eminent domain and compensate individuals for this acquisition. However, given the poor condition of deeds and the difficulty in establishing ownership and clear title, the process has been significantly delayed. In addition the Government is in real danger of fighting court actions for the coming years as it deals with competing and perhaps fraudulent claims. Another example can be found where the Government, attempting to enact a central proviso of their manifesto — to increase the threshold under which real property is taxed for Bahamian owners in New Providence from US\$100,000 to US\$250,000 — now finds that it does not have the records or resources to make this change reality. In effect the Government does not know exactly how many properties there are in the Bahamas or where they are (the numbers provided in this report are at best proxies and were arrived at using other sources of information). The particular problem of re-assessing a minimum property value for taxation can only be accommodated in the given time frame using GIS tools and techniques and up-to-date spatial data, but the underlying spatial data are inadequate for this task. These impediments all combine to limit the ability of the Government to satisfy the expectations of Bahamian society. The inability to ensure a dynamic and secure land market will in the medium term seriously limit investment growth and opportunity.

2. THE BNGIS PROJECT

On 6th June 1996 the Minister of Finance and Planning requested the IDB's assistance in the preparation of an operational plan intended to finance a national Geographic Information System. In discussions leading to this request, the Government stressed the need for modernisation and computerisation of public administration in general with particular focus on the areas of land use planning and development, environmental protection and public safety. Between June and December 1996 the project team used financing from the United Kingdom Trust Fund and the Japanese Trust Fund for Consultancy Services (JCF) to conceptualise the project and prepare detailed costs and activities. In December 1996, the Government requested a formal presentation on GIS applications and a description of the proposed project. This presentation to Government officials and Cabinet members took place between 7th and 9th July 1997. Following this presentation, negotiations were concluded between the GOBH and the IDB on the implementation of The Bahamas National Geographic Information Systems Project (BNGIS). The project was approved by the Bank's Board of Executive Directors on 28 October 1997 and the project commenced in July 1998, mobilising the project team.

The BNGIS Project had five primary goals:

- Develop a national geographic data policy,
- Instal a technical infrastructure to manage geo-data resources of national significance within the BNGIS Centre.
- Provide extensive management, technical and practical training of personnel in spatial information skills.
- Execute pilot projects in urban management (Pinewood Gardens) and environmental sectors (San Salvador), and
- Execute a pre-feasibility study on land use policy and administration in The Bahamas

A total of 116 persons from the Government were trained in a wide variety of topics including introduction to GIS, spatial analysis using GIS, management training and a trainer training program. A total of twenty-five high-end PC workstations and two servers were delivered and installed at the Centre and the various agencies involved in the project. Other equipment included digitisers, plotters, printers, scanners, CD writers, digital cameras, digital LCD panel etc. The project procured or provided more than \$100,000 worth of GIS software and utility tools. Several reports were provided including the Land Use and Administration Policy document, the Geo Data Policy study (included with this report), a User Needs Assessment, and twenty four customised technical reports covering in detail the majority of data issues faced by each of the agencies as they moved forward with spatial data integration.

As the demonstrations prior to and including the final project seminar showed conclusively and was further strengthened by the responses from all in Government, the GIS — and in particular integrated spatial data — is needed by many if not all Government agencies. As the presentations showed, the

integration of data sets from ten different agencies based around a common parcel layer provided almost unlimited potential for Government. At the same time however, so too did the need to address issues such as data stewardship, data pricing, data privacy and data access.



FIGURE 2. PINWOOD GARDENS SUB-DIVISION, NEW PROVIDENCE: EXAMPLE OF INTEGRATED SPATIAL DATA FOR LAND MANAGEMENT

Figure 2 is taken from the pilot created for Pinewood Gardens. Using a survey plan for the sub-division as the basis for the property parcels and using the newly generated digital ortho-photography¹¹ for the island of New Providence, a core spatial data framework was created. Once the parcels were in place different staff members were assigned to research and provide information from a variety of sources related to specific parcels. At first the project had hoped to complete all of Pinewood Gardens' total of 3,822 parcels within three months, but it quickly became apparent that a single block of 15 parcels was all that would be completed within the time frame. Different staff members were

¹¹ The Department of Lands and Surveys had commissioned the flying of New Providence in 1999 and with the help of the BNGIS was able to process these data into colour 12.5 cm ortho-photographic data. These data were a key layer in the development of the project and its applications.

assigned to collect data from different departments or agencies. The major data sets that were gathered included:

- Registrar General's Department: gather the deeds for each parcel in the sub-division, scan them and associate them with the correct parcel,
- Water and Sewer Corporation, Batelco (Bahamas Telephone Corporation), and BEC (Bahamas Electrical Corporation): integrate billing records with the respective parcels,
- Department of Statistics: integrate census-level data at the block level,
- Real Property Tax to assign real property tax records for each parcel,
- Department of Physical Planning: permit database construction,
- Ministry of Public Works: integrate building permits with each parcel, and
- Ministry of Public Works: define road names and building addresses.

In particular the most difficult data set to research and integrate were the deeds from the Registrar General's Department. Where data were available it was hard to always link them to the correct parcel as no Real Property Tax numbers were present on the deed or there was no survey reference provided. An interesting issue regarding Pinewood Gardens is that the sub-division is itself at odds with a much earlier development for which some lots were developed. However, the original development never went forward and a subsequent overlapping development was allowed. Several areas of severe overlap exist and most of the lots in these portions of the sub-division lie idle or have been quieted under the Quiet Titles Act.

Once the data were in place it was then possible to cross-relate based on the parcel information regarding census information, billing information from the public utilities, assessed value and ownership and deed information. The utilities alone suggest that the savings from duplicative and redundant work could run into the millions of dollars per year if such a system existed at the national level. Indeed as Batelco is realising, privatisation requires a detailed inventory of the location and condition of assets as well as good account management.

While the BNGIS Project was itself a useful program, its sustainability and its ability to move the Government forward towards modernised land administration must be called into question. Despite considerable work spent dealing with the issue of sustainability, the BNGIS Centre sits largely dormant. To some extent the changeover in Government as well as the election process leading up to the new Government's taking office created a vacuum within which the Centre was temporarily "lost". However, the new Government has realised the importance of continuing the initial efforts of the project and is now putting the issue of land and the Centre back on centre stage. It is usual therefore to revisit the recommendations that were made by the project related to sustainability of the Centre. These were:

- The BNGIS Centre be firmly established within the Government hierarchy as a stand-alone agency with a full budget and complement of skilled staff, and

- The BNGIS Centre be established as a full department within the portfolio of the Office of the Prime Minister.

In this way as an independent entity the Centre can service the needs of the public sector.

3. LAND INDICATORS

There is no available information on the total number of properties in the Bahamas. It is known however, as a result of the GIS project that there are approximately 51,954 property parcels in New Providence that can be spatially accounted for. According to the Department of Statistics there are a total of 78,624 building units in the Bahamas of which 46,954 or approximately 60% are in New Providence. Additionally we know that there are 100,217 known dwelling units of which 63,872 or 64% are in New Providence. If we use building units as a proxy for properties nation-wide we can predict that there are approximately 86,590 parcels in the Bahamas based on a total of 51,954 in New Providence. Of the remaining 34,636 parcels in the Family Islands, only Grand Bahama has property parcels mapped with any degree of completeness and accuracy. Many of these 34,636 parcels represent foreign investment in land for which significant property tax revenues should be realised but are not.

TABLE 2. CENSUS BUILDING AND HOUSING STOCK, 2000

Island	# of Building Units	# of Dwelling Units	# Occupied Dwelling Units	# Vacant Units
All Bahamas	78,624	100,217	88,107	12,110
New Providence	46,954	63,872	59,807	4,065
Grand Bahama	10,731	16,919	14,016	2,903
Abaco	5,027	5,337	3,980	1,357
Andros	3,246	2,736	2,190	546
Eleuthera	3,985	3,451	2,440	1,011
Exuma and Cays	1,897	1,797	1,157	640
Long Island	1,579	1,317	975	342
Other Islands	5,205	4,788	3,542	1,246

Source: Department of Statistics 2002.

At the Registrar General's Office, which maintains the deeds registry, the following statistics were gathered.

TABLE 3. LAND DOCUMENT TRANSACTIONS PER YEAR, 1993-2002, REGISTRAR GENERAL'S DEPARTMENT

DOCUMENT TRANSACTIONS	YEAR	1999 (partial year)							
		2002	1998	1997	1996	1995	1994	1993	
Types									
Mortgages		3,356	1,350	4,205	3,935	4,145	4,444	4,916	853
Conveyances		5,927	1,792	5,597	5,066	5,034	4,864	6,308	1,001
Satisfaction of mortgages		1,666	559	1,696	1,727	1,708	1,997	2,131	380
Debentures		72	34	97	100	107	130	132	20
Deeds of assent		149	103	267	292	226	293	330	74
Conveyance by assent		69	25	70	66	96	79	145	30
Land transactions totals 1996-2002		127,881							

Note that the data in Table 3 are incomplete for 1999 (through May 1999 only) and were not available for 2000 and 2001 in time for this paper. It is estimated that about 15% of all real estate transactions involve title objections and these are considered to be legitimate objections. Such disputes are resolved by the Court, and comprise approximately 20 to 25% of the total caseload of the Supreme Court. The court calendars are backlogged and it can take two years to bring a real estate dispute to trial.

The Department of Lands and Surveys is responsible for managing Crown grants and lands in the Bahamas. It is therefore responsible for estate management and prepares and manages grants, leases and licences.

TABLE 4. NUMBER OF CROWN GRANTS

Islands	Number of Crown Grants
New Providence	1,891
Abaco and Grand Bahama	1,052
Exuma and Ragged Island	719
Long Island, Ragged Island and Rum Cay	990
Cat Island	1,327
Andros, Berry Islands, Bimini	1,816
Eleuthera	2,129
Crooked Island, Watlings Island, Rum Cay	1,109
Inagua	889

Table 4 shows an estimate of the numbers of Crown grants that have been issued by Islands. It should be noted that had a thorough computerisation project not been undertaken by the current Director of Lands and Surveys, this information would not be available. While data are available now in general form, many of these grants are not identified spatially within an overall parcel fabric. Luckily all of the modern surveys (since 1975) have geo-referenced information associated with them. However all earlier surveys are not geo-referenced and are very difficult now to locate on a map.

TABLE 5. PRIVATE SURVEYS SUBMITTED FOR RECORDING

Year	Plans Submitted	Plans Recorded	Fees
1990	390	368	\$9,538.75
1991	326	315	\$7,302.50
1992	311	305	\$7,232.00
1993	362	327	\$8,181.00
1994	175	175	\$3,736.75
1995	105	105	\$2,635.50
1996	83	79	\$2,037.00
1997	118	111	\$3,159.50
1998	113	108	\$1,992.75

TABLE 6. LEASES OF CROWN TENANCIES

Island	No. of Leases	Annual Rent Due (B\$)	Rent Arrears (B\$)
Abaco	134	\$22,175.67	\$19,736.80
Acklins	86	\$2,111.72	\$879.15
Andros	172	\$13,202.41	\$12.88
Berry Island	5	\$35,307.41	\$22,000.00
Bimini	78	\$63,761.62	\$92,750.80
Cat Island	168	\$8,534.76	\$5,608.36
Cay Sal	NA	NA	NA
Crooked Island	1	\$100.00	NA
Eleuthera	92	\$26,771.49	\$56,217.98
Exuma	37	\$9,179.66	\$5,835.85
Grand Bahama	12	\$1,680.99	\$0.00
Inagua	35	\$67.23	NA
Long Island	118	\$4,027.55	\$3,168.32
Mayaguana	50	\$188.25	\$90.00
New Providence	211	\$2,663,133.05	\$2,107,578.45
Ragged Island	21	\$1,086.20	\$500.00
Rum Cay	1	NA	NA
San Salvador	12	\$951.66	\$675.45

Table 5 illustrates the problem of not requiring that surveys be prepared or recorded as part of a property transaction. Mostly they represent requests by educated consumers who want additional protection under the law and therefore will pay for a survey to be prepared and verified and then recorded. By doing so the party in question will have additional legal protection under the law should a dispute arise. The total numbers shown however, are insignificant and the monies generated by the recording of surveys are relatively nominal.

Table 6 shows the total number of leases (as of 1999) that were in place by each Island and the total rent due.

Table 7 details the amount of Crown land in the Bahamas and its current disposition as of June 1999.

TABLE 7. CROWN LAND

Island	Total (acs)	Granted	Leased	Dry Land	Wet Land
Abaco Great	238,800	49,000	6,400	153,640	29,760
Abaco Little	14,600	1,703	10,500	1,797	600
Moores Island	4,065	1,720		2,000	345
Abaco Cays & Marls	157,965	11,594	1,495	5,995	138,881
Acklins	168,318	131,880	1,821	29,617	500
Andros	1,472,000	56,456	5,461	902,340	507,743
Berry Islands	9,331	8,343	48	800	140
Biminis	4,500	4,000	145	340	15
Cat Island & Cays	96,043	76,976	1,482	8,585	9,000
Cay Sal & Lobos	1,490	55		1,435	
Conception Island	2,000		2,000		
Crooked Island	10,836	6,300	1,821	1,712	1,003
Eleuthera & Cays	128,000	49,112	1,311	6,390	71,187
Exuma Cays	30,271	9,573	2,508	15,360	2,830
Grand Bahama & Cays	339,200	206,655	318	104,027	28,200
Exuma Great	39,100	42,078	82	1700	616
Exuma Little	7,000				
Inagua Great	361,200	73,266	183,696	37,480	89,600
Inagua Little	22,600				
Long Cay	5,846	4,481	1	796	568
Long Island	147,200	116,579	1,370	6,469	2,782
Mayaguana	70,400	607	125	61,668	8,000
New Providence & Cays	51,200	43,100	4,665	765	3,770
Paradise Island	800				
Ragged Island & Cays	9,272	1,940		4,630	2,702
Rum Cay	19,200	15,200	1	900	3,099
San Salvador & Cays	38,400	27,720	25	1,655	9,000
Plana Cays					
San Salvador Little					
Samana Cay					
Totals	3,449,637	938,338	225,275	1,350,101	910,341

4. KEY CONSTRAINTS ON LAND ADMINISTRATION IN THE BAHAMAS

In this section we detail the main constraints on land administration in the Bahamas. They can be summarised as:

- a lack of a National Spatial Data Infrastructure (NSDI) and a related cadastre;
- lack of a modern, coherent institutional framework; and
- land disputes.

4.1 National Spatial Data Infrastructure

The role of spatial information in land administration is crucial. Out-of-date, incomplete and inaccurate information comes either from poor data, or poor data processing or both. Poor information leads to poor decisions and greater risk in the management of the environment. In addition there are other components that are necessary to make that information relevant and useable. The US National Spatial Data Infrastructure (NSDI) identifies these as being the institutional framework, technical standards, fundamental data sets and the clearinghouse concept.

However, the essential ingredient in the NSDI is the existence of fundamental spatial data sets which can be considered as:

- Geodetic/Survey Network,
- Cadastral Framework,
- Transportation System,
- Administrative Overlay,
- Gazetteer, and
- Census Data.

In the Bahamas much of these data are out of date, incomplete or not available. In addition, when data sets are created the procedures of maintenance and integration are not in place and thus they quickly become outdated.

The Bahamas is fortunate in that it has a flat, homogeneous physical environment that in total does not quite add up to the total land area of the State of Connecticut. Consequently data sets can be compiled relatively quickly and with advancing technology at reasonable cost. It is therefore possible to create the planimetric information base for the Bahamas for approximately \$3,000,000. This information base then becomes the basis from which a modern land administration environment can begin.

4.2 Institutional Framework

New technologies, updated data and integrated methodologies for spatial planning and management are all well and good — in the short term. However, without a review and re-structuring of policy and institutions these new tools and techniques will become expensive short-term solutions.

The BNGIS project is a prime example of this. At the end of the project there were significant data available, excellent hardware and software resources, several highly skilled personnel and many with good introductions to spatial tools and methodologies. Two years later the physical resources (hardware, software, data and building) are still in place but the Centre has only one staff person and is not currently able to produce meaningful assistance to the Government.

An effective institutional framework is therefore a pre-requisite for sound land administration. To provide new technologies the temptation is always to look to the agencies historically responsible for the provision of services such as urban planning, land registration, valuation, survey and mapping, utility delivery and natural resource assessment. But this approach assumes that the existing structures are still relevant, while in many cases they are not. Where agencies have evolved in isolation with purposes designed for other eras, it is now necessary to recreate an integrated and focussed institution from disparate parts.

From a revised and rationalised institutional structure must come appropriate resources in terms of both personnel and budget. Priority has to be given to allowing fees for services to be upgraded more in line with market value and to allow institutions to keep portions of fee revenues for their internal use. Similar changes to the staffing levels must occur — staff should be able to be paid close to market wages, or otherwise trained and skilled personnel will simply move to the private sector¹².

We are therefore recommending that the Government look to the example of the National Land Agency in Jamaica as a way to restructure land administration agencies in the Bahamas.

4.3 Land Disputes

There are two serious forms of land dispute in the Bahamas; these are “Generational Title” and “Commonage”. Any move to a title-based (e.g. Torrens modified) system would require that these issues be adjudicated or accounted for in full.

4.3.1 Generational Title

“Generational Title” is not an estate in land, but rather the remnant of inattention to legal processes and requirements. When a land owner dies vested in fee, the title immediately and automatically devolves upon the devisees if the decedent died testate (having made a last will and testament) or the heirs-at-law if the decedent died intestate (without a will).

However, in order to determine who is now vested with the title, the estate of the record owner must be probated to officially determine who

¹² Again the BNGIS project is a good example where the three most highly trained staff personnel left for work in utilities or moved to the United States.

the owners are. Generational title arises where families have failed to probate estates for generation after generation. It can affect large tracts of land (200 or 300 acres is not uncommon) where a remote ancestor is still the record owner of the large tract. Because his/her estate has never been probated and the estates of intervening generations have never been probated, title is now held by the descendants as tenants-in-common of undivided interests in the whole, but the actual persons holding title have never been determined.

The islands of Eleuthera, Cat, Long, Crooked and Rum Cay have a high percentage of land affected by generational title. This came about in these islands due to a lack of commerce and a lack of value of land, which created inertia and thus little or no incentives within the family for dealing with the estates of past generations. However, with increasing foreign direct investment in land — particularly in Eleuthera and Long Island this situation has changed drastically — the land has considerable value and the number of claimants is increasing. This problem is further compounded by the fact that many legitimate claimants live outside of the Bahamas.

4.3.2 *Commonage*

A similar problem to generational title exists with rights in commonage, which have been codified by Chapter 142 of the *Statutes of The Bahamas*. There are only three or four actual commonages in Bahamas. Commonage creates a restraint on the alienability of the land and in effect makes the land ineffective for commerce and development. With commonage none of the owners can sell their rights or use the property as security for a loan, since purchasers and lenders will require evidence of title in the person trying to sell or mortgage, which does not exist and cannot be produced. This is true even where the property has been improved.

5. ADMINISTRATION OF LAND IN THE BAHAMAS

The current administration in the Bahamas has identified land as a core issue to be dealt with. It understands that it needs to provide a long-term, integrated solution to the complex challenge of land management. The main goals of this improved land administration in the Bahamas are:

- to improve the management of the cadastre (land base),
- to improve the registration of title to provide real security of tenure and ownership,
- to optimise the use of land while protecting the natural environment and the social and cultural needs of the population,
- to optimise the inherent value of land information through improved information management practices and access, and

- to provide the Government, the public and other parties with a high quality, single source service.

However, the current state of public institutions that deal with land does not allow for these goals to be met. This next section provides a summary of the main agencies that deal with land in the Bahamas — the Department of Lands and Surveys, the Department of Physical Planning, the Registrar General’s Department, the Real Property Tax Department and the Treasury Department — and the issues and challenges they currently face. It is necessary given the focus and length of this paper that certain agencies have been left out, and for the sake of expediency not all of the issues related to each area are covered exhaustively. The goal of this section is to provide an overview of the main issues in each agency.

5.1 Lands and Surveys

The Director of Lands and Surveys reports to the Office of the Prime Minister and is responsible for the management of Crown land. The Department of Lands and Surveys (DLS) is split into four sections:

- Estate Management,
- Forestry,
- Research, and
- Survey and Mapping.

The management of Crown lands involves the following:

- Management of disposable Crown lands;
- Inspection of Crown lands and analysis of applications/proposals;
- Recommendations on how proposals should be addressed, advice on the type of grants, sales or leases to be granted (leasing of agricultural lands was transferred to the Ministry of Agriculture in 1995);
- Collection of rents on Crown land tenancies;
- Management of forests, including protection and supervision;
- Valuation of lands for other governmental ministries and corporations for both disposal and acquisition;
- Surveying of Crown lands and its sub-division; and
- Topographic, aerial and hydrographic surveying and mapping, maintenance of the geodetic net and examination and recording of survey plans.

The Land Surveyors Act of 1975 and the Land Surveyors Regulations of 1975 set out the responsibilities of the Surveyor General and define the standards for surveys. A weakness of the Act is that there is no clause which requires the mandatory recording of survey plans with the Surveyor General. Additionally, descriptions on deeds can be either a survey or a legal description and the latter is often hard to decipher and place into a common spatial framework.

Administration of Crown lands is burdened due to inadequate budgetary and human resources, a lack of a complete inventory and map of

Government land holdings, bureaucratic leasing procedures, and procedures designed largely for large land-holders and a low level of property transactions.

The Geodetic network was completed in the 1970s. The network has not been maintained since then and is falling into disrepair and urgently requires upgrading. The BNGIS project assisted DLS in migrating from an older modified NAD 27 datum to a modern GRS 80 horizontal datum and the Carib 97 vertical datum (for New Providence only). This process of migration was quickly and cost effectively done within the context of producing ortho-photography for New Providence. As a result of this shift high-grade differential GPS can be used to map features on New Providence with a high degree of accuracy and have it related to the ortho-photo layer as well as shifted planimetric map layers. It has also removed the need to maintain the physical infrastructure of the Geodetic network in New Providence (which had largely been destroyed) making it easier to perform highly accurate geo-referenced surveys.

However, since a consistent horizontal datum did not exist throughout the Bahamas (each island has its own unique representation of the NDA 27 datum and vertical datum's are based on old tide readings), a similar adjustment process as performed in New Providence has to be completed for each of the Islands.

The last national primary mapping program was completed in 1972, and there has subsequently been little or no revision carried out. The lack of an up-to-date national mapping base affects almost every Government agency — from the Department of Statistics, to BEC, to Planning.

The DLS has made good strides in beginning the modernisation of the estate management area through the computerisation of processes and records and is about to embark upon a rationalisation of the original surveys and grants before time and use render them unusable. While this work has made a good start, the director is under no illusions about the workload ahead.

5.2 Registrar General's Department (RGD)

Chapter 174 (and subsequent amendments) of the *Statute Law of the Bahamas* defines the responsibilities and functions of the Registrar General, whilst Chapter 175 (and subsequent amendments) regulates the registration of records. Chapter 174 empowers the Minister to appoint a Registrar of Deeds and such Assistant Registrar(s), examiners of deeds and clerks as may be necessary.

The Registrar General is required by the Act to maintain a comprehensive set of registers of rights in land and such registers as the Attorney General prescribes. The recording of deeds in the registry is not mandatory, nor is it mandatory for those deeds recorded to contain a survey — a legal description is sufficient. Only those properties that have been approved as

part of a sub-division development will contain reasonable surveys that could be used to create a parcel cadastral layer. Large portions of New Providence such as Fox Hill will have to have boundaries fixed as part of any surveying and adjudication process.

The Deeds Office records are stored alphabetically in files ordered sequentially within each year. The registers include land grants, land transfers, mortgages, leases, servitudes, cessions and miscellaneous agreements. The present system of the storage of title and related documents does not provide for a simple search mechanism. The entire record set (as in DLS as well) is vulnerable to fire or similar disaster and measures need to be taken to ensure that duplicate copies are maintained in a secure location off site.

The process of registering records is straightforward, but takes an average of 3 to 4 months from the date the documents are presented at the Registry. Since 1994 the index register has been computerised.

As with DLS the cost of processing, preparing or recording documents is far too low and reflects prices set by Acts dating from the 1960s and earlier. These fees do not cover the Department's overhead or actual costs of lodging and recording the documents.

The process of registration is one of a deeds-type registry and has several weaknesses; these are:

- No mandatory requirement for registration of deeds and document, and
- Deeds and documents are stored in alphabetical order by date, so title searches require searching by name of party through each subsequent transaction.

Title searches are therefore required for each transaction in order to assure that the seller is the true possessor of those rights. Given the complexity of the records and the increasingly convoluted state of the records, it is imperative that lawyers be used for property transactions and this increases the burden on the public.

The debate for such change in The Bahamas has been continuing since 1969 with the presentation of three draft bills for Land Surveying, Adjudication and Title Registration. The Land Surveyors Bill was enacted in 1975, but the others were not entered into the statutes. The Land Adjudication Bill provided for a process of systematic adjudication of land titles for the purpose of compiling the registers to be maintained under the Land Registration Bill.

Information systems regarding rights in real estate are generally of two types: a system of registration of transactions, and registration of the title itself.

A system of registering (recording) the transactions provides that the documents relating to real estate are recorded in chronological order, found by the use of indices set up either by name or by parcel. No assessment is

made by the Government at the time of recording as to the validity or sufficiency of the documents recorded. Determining the status of title at any given time requires examining all of the documents over the history of transactions for a parcel in order to form an opinion on the state of the title.

This system of recording was adequate for determining ownership and other rights in real estate in the initial stages, but as the number of transactions for a particular parcel of real estate increases over time the determination of ownership and valid encumbrances becomes a complicated task which requires the services of specialist lawyers and title experts, requires time-consuming record searching and results in an expense to those interested in title information. In the US this system is supported by private title insurance which is paid for by the buyers (usually) to protect the interest of the mortgagors and themselves against an inadequate title search.

A true title registration system, supported by appropriate legislation, provides a legal framework which calls for a certificate of title created and maintained by the Government and guaranteeing the ownership and encumbrances information contained on the certificate of title for a specific parcel of real property. The certificate of title establishes with certainty the ownership of a parcel of land, free from all claims and encumbrances, except those noted as memorials on the certificate of title. Examination of the certificate of title is all that is necessary to determine the status of ownership of the property, leases, mortgages, etc. On transfer of ownership a new certificate of title is created and no terminated encumbrances are carried forward to the new certificate of title, but all those which continue in existence are. The status of ownership of a parcel can be determined from the certificate of title at any time.

5.3 Real Property Tax

An assessment of the Real Property Tax Department shows that it suffers from many of the same problems as other departments dealing with land, namely it is:

- Under-staffed — particularly for assessments,
- Under-funded — equipment is outdated as is base map information,
- Processes are designed for manual methods and for environments that pre-date independence,
- Lack of co-ordination and integration with other departments for needed land information causes duplication and redundancy, and
- Staff can barely keep up with responding to ad hoc requests that come in from the Government and the public.

The main act governing real property taxation in the Bahamas is the Real Property Tax Act (1969). It is re-codified in the *Statute Law of the Bahamas*, Revised Edition 1987, Chapter 339, and the Real Property Tax has been amended several times. The Real Property Tax Act lays out a reasonable framework.

The real estate market in the Bahamas is vibrant, especially in New Providence and in resort and high-end property developments in the Family Islands that continue despite the impact of September 11, 2001. According to data published in the 1999 Statistical Abstract, the volume in 1997 (the latest year for which data were available) was \$325 million, up from \$227 million in 1989.

Neither the Valuation Section nor the Department of Lands and Surveys systematically monitors property prices. However, some core data sets indicate a broad range of prices. High-value oceanfront properties on the north-west and north-east coasts of New Providence and Paradise Island routinely sell for more than US\$1 million with per foot prices ranging from \$400 to \$1,200 per square foot. Condominiums are priced in the range of \$200 to \$300 per square-foot. Typical single-family dwellings in central Nassau may sell for under \$100,000. Prices quoted for private-island resort development range between \$48,000 per acre (\$1.10 per square foot) to \$120,000 per acre (\$2.75 per square foot).

Records related to real property are fragmented and the situation at RPT is no exception, despite the fact that this department has the most comprehensive set of maps showing approximate property boundary outlines, particularly for New Providence. These maps were digitised into the GIS system as part of the BNGIS project. The RPT staff has to gather copies of new deeds as they are recorded in order to ascertain changes in boundaries or legal descriptions. Using 1972 1:1200 scale maps, changes are updated manually to existing paper maps.

A complete and up-to-date set of cadastral maps forms the foundation of an effective real property tax system. These maps are needed to ensure that all land has been accounted for, that no assessable land has been omitted and that no land areas have been taxed twice. The Valuation Section has a set of 1968-vintage photogrammetric cadastral maps (known as “grid maps”) covering New Providence. The Family Islands have never been systematically mapped. There is a cadastral numbering system. The numbers are known as grid numbers (after the grid maps). They also are referred to as unique property reference numbers (UPRNs). The components of the number include a two-digit map index number, a four-digit map sheet number, a three-digit block number and a two-digit parcel number. The sheet number combines elements of UTM co-ordinates (eastings and northings). Grid numbers are in the following format: 01 6971 259 05. In design, the grid numbering system is adequate. This number currently forms the best common identifier of land information in the Bahamas and was the key element in putting together the Pinewood Gardens pilot project.

Only land parcels that have entered the assessment system via the filing of a declaration are mapped; this means that a map sheet may contain unmapped areas. Property tax records are kept to maintain history and billing but have no link to the parcel maps, resulting in an inability to use modern Computer

Aided Mass Appraisal (CAMA) techniques. As part of the Pinewood Gardens pilot demonstration, tax index records were linked with the appropriate parcels and the ability of the GIS to model such variables as proximity of schools, roads, water access etc. as part of the assessment process was clearly illustrated. The pilot also showed how up-to-date ortho-imagery could be used as a way in which to rapidly conduct updates of real property by identifying roof areas, presence of other buildings in the lot, swimming pools, driveways etc. — all factors that could be measured on screen instead of having to send staff out to the field.

Another missing data set is the absence of an addressing system in the Bahamas. To find a property, one has to either know where it is or stop and ask until one finds someone who does. Houses are sometimes built on the wrong plot with little or no ramifications. Valuation officers cannot easily find properties to assess them, and tax bills are not sent to about 42% of tax accounts because of problems with the addresses of taxpayers (although this affects only about 9% of taxes due).

The real property tax in the Bahamas is loosely administered. For example, in order to be taxed, property must first be assessed, yet thousands of potentially taxable properties are not on the assessment list. According to the 2000 Census of Housing there were nearly 79,000 buildings containing dwelling units (of which 46,954 were in New Providence) but the total number of assessments (including unimproved land) in the 1999 draft assessment list was only 60,000. Also, new buildings become taxable when an occupancy permit is issued yet the backlog of occupancy permits is estimated to total more than 2,000.

Additionally there is an overly burdensome transfer tax. The stamp tax (the Stamp Act of 1925, as subsequently amended) — which is levied when a deed or other transfer document is recorded — creates a considerable cost to that transaction. The basis of the tax is the consideration of the property. However, since the recording of the deed is not mandatory these high rates create a considerable disincentive to not record property transfers as the stamp tax is not levied until a deed (or other conveyance document) is presented to the Registrar General for recording. Crown grants and leases are exempt from stamp tax.

TABLE 8: STAMP TAX RATES

From	To	Stamp Tax
\$0	\$20,000	2%
\$20,000.01	\$50,000	4%
\$50,000.01	\$100,000	6%
\$100,000.01	\$250,000	8%
Over \$250,000		10%

The 1999 draft assessment list shows that collection could be improved. Current payables (new taxes due in 1999) total \$33.6 million, while past

due taxes and penalties total \$156.5 million. Actual collections in 1995 (the latest year for which statistics are available) were \$24.6 million.

Not only are the current systems not able to keep up with the existing real property base but they are additionally burdened by exemptions which are numerous and complicated in nature. The Real Property Tax Act and other acts provide for many exemptions and property tax relief. Many Bahamians and enterprises enjoy substantial, if not total, exemptions. The Act contains a number of conventional exemptions as well. For example, properties owned by the Government, by foreign states, and by religious, educational and charitable organisations are exempt as is property owned by the Bahamas National Trust.

In addition to exempting *all* property owned by Bahamians in the Family Islands, undeveloped land owned by Bahamians on New Providence is exempt. In effect, the exemption of undeveloped land encourages inefficient use of land and speculation. It also encourages persons to not apply for permits for improvements on the land — something that the use of orthophotos again could help to short-circuit. The Bahamian property tax system provides substantial property tax relief for Bahamian homeowner in addition to the general relief provided by taxing the first \$250,000 of the owner-occupied properties at a zero rate.

In addition to exemptions specified in the Real Property Tax Act, a property may be exempt under other acts. Most property of Government corporations, such as Batelco, is exempt under such legislation. There also are incentive exemptions. The most notable of these is the Hotels Encouragement Act, which encourages the construction and renovation of hotels by relieving hotel properties of taxes and duties, including the real property tax.

5.4 Planning

In the Bahamas today there is an absence of any strategic land use planning for sustainable development of the land and marine resources. This results in:

- Conflicts in the use of land,
- Conflict between the various land development agencies, and
- Poor service delivery of utilities and infrastructure.

The most serious conflict comes from the rapid urban expansion (particularly in New Providence and to a lesser degree in Grand Bahama) driven by private real estate development, Government-supported low-income housing schemes and illegal squatters (primarily on Crown land) and the need for other uses.

Compounding these problems is that the lack of a comprehensive and legally mandated environment plan or land-use plan or guidelines on how to develop land, particularly in environmentally sensitive areas.

In general the agencies tasked with planning in the Bahamas all suffer from:

- Limited resources (staff and budget);
- Lack of access to a complete and up-to-date information base;
- Lack of access to suitable monitoring tools, e.g. high-resolution aerial photography on a regular basis;
- Absence of a comprehensive planning approach and a clear “Integrated National Land Use Policy”;
- Duplication in functions between sector agencies;
- Fragmented administrative responsibilities; and
- Lack of legal mechanism and political commitment to enforce breaches of existing rules or policies.

The main agencies responsible for planning and physical development are the Department of Physical Planning and the Bahamas Environmental Science and Technology Commission (BEST).

5.4.1 Department of Physical Planning

The Department of Physical Planning (DPP) has been responsible for land use planning in New Providence since the introduction of the Town Planning Act in 1961 and in the Family Islands after the Act was extended to cover the Family Islands in 1964.

The DPP is also responsible for:

- Formulating plans for the control and regulation of long-range spatial and physical development;
- Controlling and regulating development sub-divisions;
- Assisting the various Town Planning Committees (as established under the Town Planning Act);
- Controlling and regulating the size, type and number of signs, preventing their proliferation and unsightly visual effects on the landscape; and
- Statutory zoning as required under the Town Planning Act.

As with other departments, DPP suffers from a lack of staffing, resources and data, resulting in DPP’s acting more as a processing centre attempting to deal with incoming permits and environmental impact assessments (EIA’s) from BEST. Even where time and resources are made available to focus on strategic planning, the information base is inadequate; the last inventory of land resources was completed in 1977 based on 1968 and 1972 black-and-white aerial photography.

5.4.2 Bahamas Environment, Science and Technology Commission (BEST)

Formed in 1994, the major role of the commission is the co-ordination of a National Conservation and Sustainable Development Strategy and environmental impact assessment associated with development activities.

In an attempt to address issues related to land use conflict and development, a National Land Use Committee was established under BEST. The committee has since disbanded, as the technical scope of the work was unsustainable given the lack of information and of a legally mandated planning framework to move decisions forward.

BEST also suffers from a lack of information required to perform its tasks. The BNGIS project was able to assist BEST in providing GIS data and analysis to assist in EIA's but only for the island of New Providence and only through the use of the 1999 colour ortho-photographs.

Several other Government departments have mandated roles in land use policy and control. These are:

- The Department of Agriculture (DOA), which manages agricultural land policy through the Agriculture and Fisheries Act (1964); and, the protection of wild animals, plants and birds through the enforcement of the Plants Protection Act (1916), the Wild Birds Protection Act (1952) and the Wild Animals Protection Act (1968).
- The Department of Environmental Health (DEH), established under the Environmental Health Services Act, 1987. The department is charged with the responsibility of promoting and protecting the public health and providing for and ensuring the conservation and maintenance of the environment. In particular, DEH is tasked with:
 - the prevention and control of pollution of any waters;
 - measures for monitoring and ensuring the safety of water supplies and prevention of the supply and use of unsafe water for human consumption;
 - regulation and control of the environmental health aspects of seaports, harbors, marinas and airports; and
 - prevention and control of contamination of land and for control of use of land for deposit of contaminants.
- Under the Public Works Act of 1963 the Ministry of Public Works is responsible for building control, public and private roads and sub-divisions. However, these sections are more concerned with engineering and compliance than planning.
- The Water and Sewerage Corporation Act (1976) defines the responsibilities of the Water and Sewerage Corporation (WSC) and makes it responsible for providing potable drinking water as well managing sewerage. As a result it is tasked with managing the water fields and aquifers in the Bahamas to ensure that they are not contaminated with industrial, manufacturing or household waste and discharge.
- The Department of Fisheries (DOF) under the Agriculture and Fisheries Act (1964) is charged with the implementation of Fisheries Development Policy and enforcement of the Fisheries Resources (Jurisdiction and Conservation) Act (1997), which makes provisions in relation to the conservation and management

of fisheries resources. The Act also extends powers for the establishment of an Exclusive Economic Zone, and its limits, based on the International Treaty of the Laws of the Sea Protocol agreement on exclusive fishery zones. The DOF is currently dealing with the following high-profile issues:

- Rapid coastal zone development, including docking harbors, marinas, hotels, sand dredging;
- Destabilisation of shorelines caused by reef blasting and large numbers of cruise ships;
- coastal erosion and coral destruction caused by storm surges and hurricanes;
- Over-exploitation of the fish resources,
 - Oil spills and pollution, and
 - Illegal poaching.
- The Bahamas National Trust (BNT or the Trust) is a unique organisation established by an Act of Parliament in 1959. It is a collaboration of the private, scientific and Government sectors, dedicated to the conservation of the natural and historic resources of The Bahamas and is the sole producer of a national strategic plan aimed at protecting the country's land and marine resources.

There is considerable overlap between these agencies, and often due to a lack of enforcement capabilities little gets done although everyone is aware of the problems at hand. In order to begin to move forward with comprehensive planning it is important that the Government clarify the roles of the agencies, define their specific responsibilities and indicate how they will be co-ordinated.

We recommend introducing an Integrated Land Use and Coastal Zone (land and marine) Planning and Management (ILCZPM) methodology. This approach will allow for policy orientation and development of management strategies to address the issue of resource use conflicts and control the impact of human intervention on the environment. In addition, the ILCZPM model would provide an institutional and legal framework, focus on environmental planning and management and co-ordinate various sector agencies to work towards a common objective.

Sectoral planning and management is still important. However, it would be carried out under the general framework of ILCZPM in which the roles and responsibilities of each agency would be clearly defined. It also provides for a two-way linkage between planning at different levels (National, Regional, and Local) and has a high level of public participation. The framework for ILCZPM is structured on a tiered system — the number of which can be modified — with different roles and responsibilities at each level. At each level there is a need for:

- a land use and coastal zone strategy,
- policies that indicate planning priorities,

- projects and programs that address the priorities, and
- operational action plans and budgets.

6. RECOMMENDATIONS

In order to realise effective land administration we recommend that the current administration address the following:

- **Governance Reform and Institutional Strengthening:** Introduce a comprehensive Government land-use policy to enable a more strategic approach to land use planning and physical development. We recommend an Integrated Land Use and Coastal Zone (land and marine) Planning and Management (ILCZPM) methodology.
- Modernise public administration agencies dealing with land into a single executive agency¹³, to include Real Property Tax, Department of Lands and Surveys, Department of Agriculture (leases), and the Registrar General's Office (land functions only).
- Initiate a land adjudication process to settle commonage and generational land issues.
- Create a National Spatial Data Infrastructure that will develop a consistent comprehensive Government approach to land information.
- Update legislation to allow mandatory preparation and recording of surveys and the adoption of a common parcel identification number.
- **Efficient Cadastre:** Establish the framework for an efficient multipurpose cadastre capable of recording, maintaining and dealing in all interests in land. This would include the migration from a deeds registry to a parcel-based deeds registry and eventually a title registry.
- **Equitable Property Taxation and Accurate Valuation:** Rationalise real property tax policy, legislation and administration focussing on improved identification, accurate valuation and efficient collection, while ensuring that the real property tax system harmonises with national goals, such as ensuring that property tax burdens on citizens are moderate.

The results of these activities will lay the foundation for land administration in that the relationship of land parcels, the use to which the land is put and the proprietary interests residing in that land would provide a means of achieving a sound fiscal base to meet social and community needs. Additionally, they will establish an effective decision-making framework in relation to decisions that concern the natural environment and the impact of development on that environment.

¹³ As per the National Land Agency of Jamaica.

BELIZE: Land Policy, Administration and Management in Belize

Joe Iyo, Patricia Mendoza, Jose Cardona, Armin Cansino & Ray Davis

1. INTRODUCTION

Land management in Belize was marked in the colonial period by a high concentration of land-holding amongst a particular group of persons, to the exclusion of other members of the settlement. Over the years, the management has evolved through the changing role of the State to accommodate shifts in productive activity and resettlement/expansion and the increased involvement of the private sector. The evolution in management over the years has been facilitated by changes in the legal framework as well as the transformation, where the management of public lands is concerned, of the Lands and Survey Department.

The Lands and Surveys Department is located within the Ministry of Natural Resources along with sister departments responsible for the management and protection of the forest (Forest Department) and the Environment (Department of the Environment) as well as the management of non-renewable resources (Department of Geology and Petroleum). Whilst the Ministry has the mandate for the overall direction and co-ordination of natural resource policy, the Lands and Survey Department has the responsibility for management of the national estate, the facilitation and recording private estate transactions, surveying standards, land use planning, valuation and taxation of rural lands and the collection of data and dissemination of land/natural resource information.

Although land management and distribution functions date back to the beginning of the Department in 1862, the land use planning and data collection and land information capacities were established in 1992. As explored below, these initiatives may have been propelled by the commitments within Agenda 21, but the involvement of the Department in the land administration and planning dialogue has remained constrained over the period since the Rio Summit, and consequently the Land Administration functions have improved only incrementally. The recent initiatives — Land Administration Project and Land Management Programme — are intended to provide a catalyst for the Department to become pro-active and assertive in its administration functions, and thus facilitate an increasingly dynamic land market whilst ensuring that environmental protection and equity are preserved.

2. BELIZE COUNTRY PROFILE

2.1 Major Indicators

Belize became an independent country in 1981, after a protracted struggle against British rule. Belize is a sovereign state governed on the principles of parliamentary democracy, using the Westminster model. The Prime Minister and Cabinet constitute the executive branch of Government. The Cabinet consists of Ministers who are appointed, mainly from amongst elected representatives, by the Governor General on the advice of the Prime Minister. The legislature is comprised of a 29-member House of Representatives and a Senate consisting of 12 members and a president.

Belize is located on the eastern (Caribbean) seaboard of the Yucatan Peninsula of Central America, bordered by Mexico in the north and by Guatemala in the south and west. The 8,868 square miles (22,963 square kilometres) of land varies from the plains of the north to the hills of the south and the numerous offshore coral islands. The coastline is largely mangrove swamps and is protected by the second largest barrier reef in the world after Australia.

Belize has a population of 256,800 (2001 estimates) divided by 51.4% rural and 49.6% urban. The population density, which has been on a steady rise, is 11.2 per square kilometre. The country's unemployment rate measured 9.3 in 2001 — an employed population of 86,800 in a total population of 256,800. Belize's Gross Domestic Product (GDP) at current market prices stood at US\$805.0 mn or BZ\$1.6 bn.

2.2 Major Land Use Patterns

Belize today is characterised by a variety of land-holdings with ownership (tenure) vested through both private freehold and leasehold titles in both urban and rural areas. In addition, National Estate lands available for leases or currently in lease application process total 8% of all rural lands available¹. It has been estimated that at any given time, about 1% of available (national) land parcels in Belize are in the process of leasehold and that occupants claiming tenure through approved leases for which no Certificate of Leasehold title has been issued account for about 50% of land titles under adjudication².

In 2001, it was reported that estimated ownership of land amounting to between 90,000 and 100,000 parcels was yet to be determined. Recent work undertaken, however, has yielded indicators that this may have been a significant under-estimation. It was further reported that most farmers in

¹ Barnes Limited 2001, p. 3.

² Land Administration Project adjudication statistics, November 2000. Cited in *ibid*.

Orange Walk, Corozal, Belize and Cayo Districts have land-holdings of 5-50 acres (2-20 hectares). Nevertheless, a greater total area of land in these Districts is still being held by those farming more than 50 acres (20 ha). With few exceptions, land on estates of more than 1,000 acres (400 ha) is currently under-utilised.

POPULATION, EMPLOYMENT AND INCOME					
Population and Employment	1994	1998	1999	2000	2001
Population (thousands)	211.0	238.0	243.0	249.8	256.8
Percentage population in rural areas	49.3%	49.6%	51.4%	51.4%	51.4%
Population density per sq. km.	9.2	10.4	10.6	10.9	11.2
Employed labour force (thousands)	62.4	73.3	77.8	83.7	86.8
Unemployment rate (%)	9.0%	14.3%	12.8%	11.1%	9.3%
Population in absolute poverty	13.4%				
Life expectancy at birth (years)	72				
Literacy rate	13.4%				
Income					
GDP at current market prices (US\$mn)	552.0	629.6	688.0	773.0	805.0
Per capita GDP (US\$)	2,616	2,645	2,831	3,094	3,135
Real GDP growth (%)	1.4	1.8	6.5	10.8	4.6
Share of primary activities in GDP					
Agriculture	20.3%	19.6%	19.8%	18.2%	16.8%
Forestry and logging	14.7%	14.2%	13.9%	12.9%	11.3%
Fishing	2.5%	1.6%	1.9%	0.6%	1.1%
Mining	2.5%	3.2%	3.4%	4.0%	3.7%
Share of secondary activities in GDP	0.6%	0.6%	0.6%	0.7%	0.7%
Manufacturing	24.6%	22.7%	22.4%	23.2%	23.7%
Electricity & water	14.1%	13.5%	12.7%	13.3%	13.4%
Construction	3.7%	3.4%	3.3%	3.3%	3.2%
Share of services activities in GDP	6.8%	5.8%	6.4%	6.6%	7.1%
Trade, restaurants & hotels	55.2%	57.8%	57.8%	58.7%	59.5%
Transport & communications	17.4%	18.9%	20.4%	22.1%	21.4%
Finance & insurance	10.3%	10.4%	10.4%	9.9%	10.5%
Real estate & business services	6.5%	6.9%	6.5%	7.0%	7.1%
Public administration	5.7%	6.6%	6.2%	5.9%	6.1%
Community & other services	13.3%	12.7%	12.2%	11.8%	12.3%
Less imputed bank charges	6.1%	6.5%	6.0%	5.5%	5.6%
	-4.1%	-4.2%	-3.9%	-3.5%	-3.5%

Source: Central Statistical Office; Central Bank of Belize Annual Report.

It needs stressing too that the current land-recording systems do not offer easy ways to examine land records. In many instances, individuals have to visit the Archives in Belmopan to determine land ownership dating far back in time. There are also difficulties in determining the breakdown of land

ownership between males and females, on one hand, and joint ownership on the other. Nevertheless, the individual (non-discriminatory) right to own a piece of land in Belize is well established in statute law³ even though the Land Acquisition Act does allow a level of arbitrary action on the part of the Government.

To a large extent, the environmental impacts of current levels of development on land use in Belize are relatively minimal. Nevertheless, it needs stressing that the economic growth of Belize depends on the sustainability of its resource base, especially with respect to eco-tourism, agriculture and marine production. The pressure on these resources as the population continues to grow (in 1995, the population growth rate in the rural areas was calculated at 3.4% as opposed to 1.5% in the urban areas) is becoming a source of concern to policy-makers and environmental NGOs.

LAND USE AND FOREST COVER (1994)

Land Use

Total land area (sq. km.)	22,960
Total national territory including coastal waters (sq. km.)	46,620
Land area used for agricultural purposes (sq. km.)	6,880
Urban population as percentage of total population	51%

Forest Cover

Area under forest use (sq. km)	
Broad leaf forest	14,190
Open broad leaf forest	120.31
Pine forest	576.25
Open pine forest	73.07
Thicket and other degenerated broad leaf forest	848.38
Herbaceous and scrub, secondary after clearing	188.59
Bamboo and riparian vegetation	115.27
Coastal strand vegetation	24.83
Mangrove, medium and tall	78.20
Mangrove, dwarf	234.60
Saline swamp, vegetation with palmetto and mangrove	344.87
Marsh	419.63

A combination of the increase in the farming population that employs *milpa* farming technique near forest reserves, the loss (erosion) of top soils due to shortened fallow periods and the repeated cycles of burning have begun to

³ Property rights are protected by Section 17(1) of the Constitution. However, for the public interest land may be acquired (or resumed) by the Government pursuant to the provisions of the Land Acquisition (Public Purposes) Act. This Act, which has its counterparts throughout the Commonwealth, allows for the Government to compulsorily acquire land for public interests provided that compensation, at market value, is paid to the land-owner.

draw the attention of the Government of Belize and NGOs. A land use study undertaken by the Overseas Development Administration revealed that contrary to popular belief, good agricultural land is becoming increasingly limited in Belize. Other studies have asserted that:

- There is an increase in the annual rate of deforestation (calculated at +/- 0.2%) due to agricultural development.
- There is an increase in logging of primary timber species especially mahogany and cedar.
- There is a growing trend in the contamination of aquatic and marine environment by agro-chemicals (polluted run-off) from banana farms.
- The eutrophication of waterways by the discharge of effluent from food processing plants is harming marine ecology⁴.

3. THE IMPACT OF THE ADMINISTRATIVE STATUS ON LAND USE AND TENURE IN BELIZE — 1700s TO 1920s

3.1 Trends and Patterns in Land Tenure, 1700s-1871

State policy, race, class and ethnicity have, at different historical periods, dictated land ownership and distribution since the establishment of the settlement. Unlike the case in many Caribbean island states dominated by plantation industries, land use in pre-colonial and colonial Belize was largely subject to the fortunes of the extractive forest industry. Furthermore, State policy regarding land was largely influenced by the fact that the Belize Settlement operated without colonial status from the 17th century until the second half of the 19th century. Up until towards the middle of the 1700s, there were hardly any laws governing land tenure in the territory. Since the number of British settlers (called Baymen) in the territory was small and land was thus abundant proportionate to the population, there was no need to regulate land. Thus the mode of land acquisition operated was by simply staking claim to a logwood “work”⁵. After a particular work had been exhausted, the settler simply moved to the next.

By 1765, the Location Laws were introduced in pre-colonial Belize. These laws gave a settler the right to claim not more than one “work” on an unoccupied piece of land. By 1783, the area conceded to the British by the Spanish authorities for settlement was divided up and shared amongst 30 settlers. For much of the period before the formal phase of colonial Belize

⁴ Refer to ODA (1980), King et al. (n.d), and Rai and Hyde (1995), for detailed discussions on impact assessments.

⁵ This was achieved mainly by claiming a portion of the land originating at the river bank and extending approximately one mile in-land.

(1871), the struggle between the appointed superintendents and the settlers over access and control of land remained fratricidal. The Baymen used the fragile hold by the British over the whole territory of Belize to consolidate their hold over much of the fertile lands. As Belize became an *entrepot*, in many instances large land-owners (*forestocrats*) doubled as merchants controlling both import and export businesses and as trans-shippers of commodities for much of Central America.

In 1817, the Crown colony made its first effort to regulate the acquisition of land in Belize. The then-Superintendent, Arthur, proclaimed all unclaimed lands to be Crown land, thereby forcing all settlers to register land claims within six months or lose them. The result of this policy was that by the time Arthur left, two aspects of land tenure became clear: the Sibun River had become the dividing line between private lands and Crown lands, and the claims to land were exercised via either the location⁶ (North) or the Crown grant (South) system. Furthermore, the privately held land north of the Sibun comprised small- and large-scale holdings. After 1880, for instance, Belize Estate Company alone owned 1.0 million acres of the private land in the country (including all lands in the Orange Walk District and in the northern Cayo and Belize Districts), while about 30 large land-owners owned the other half⁷. The lands south of the Sibun River, largely held by the Crown, were estimated to be 2.0 million acres.

In 1854, a new constitution streamlined a legal and administrative framework to guide land and property rights in Belize. While the 1854 Land Titles Act legalised all previous lands held with or without titles before that date, it did not inaugurate universal right to land-ownership. For example, the Garifuna were informed in 1857 that they would have to pay an annual fee for lands they were occupying but would lose them if they moved. On the heels of the 1859 Treaty between Great Britain and Guatemala, the British Honduras Land Titles Act was passed in 1861. This Act created a mechanism for settlement of land disputes and registration. In 1867, the British declared that no Maya could reside on any land without previous arrangement to pay rent to the Crown or the owner of such lands. In 1868 however, the Maya Indians were allowed access to Crown land for use without titles (which would have made such lands disposable).

In the description of the borders and commitment for demarcation by respective commissioners, the 1859 Treaty⁸ allowed for the relaxation of restrictions with respect to land use in Belize and thus promoted the

⁶ The location system (location ticket) allowed for use of land with a location ticket stipulating certain conditions. There were no time frames indicated, so that the access amounted to a tenancy at will of the Crown. Access could be denied at any time on the grounds of non-fulfilment of conditions. On the other hand, the Crown grant translated to absolute ownership.

⁷ Bolland and Shoman 1977, p. 103.

⁸ Belize Refutes Guatemala's Claim.

expansion from logwood into mahogany production. The resulting shift from logwood to mahogany production influenced both the geography and the sociology of the land tenure system. Firstly, the inadequacy of logwood “works” became apparent because mahogany, unlike logwood, was not restricted along the rivers, creeks and lagoons but tended to grow sparse and scattered, covering a wider land area. Secondly, the amount of labour required for mahogany changed the requirement for access to land. Whereas during the logwood era, a single “Bayman” could gain access to a “work”, during the mahogany period, a settler had to have at least four able-bodied male slaves to entitle him to a mahogany “work”. Above all, the transformation from small-scale land-holdings to large-scale land-holdings was determined (by-and-large) by the mode of production. The mode of production in turn determined the relations of production. The African slave became both a means and a mode of production and the relationship between the slave and the master was determined by the labour and services s/he supplied for the profit of the slave master.

3.2 Trends and Patterns of Land Tenure (1871 – 1920s)

The State’s influence on patterns of land-ownership after the establishment of Crown colony status was constrained by previous arrangements. In particular, land policy in Belize before 1871 was characterised by private ownership of all lands. Land ownership was the preserve of the top socio-economic class comprising the white population and some few “coloureds”. The rest of the population remained landless or at best could gain access to such lands under strictures defined by the tenure requirements of the land owners or the possibility of squatting. Furthermore, the stark distinction between land tenure arrangements and land management practices north and south of the Sibun — the effect of the introduction of the early location practice and the later declaration of Crown lands and claims registration — carried over to the post-1871 era.

By 1871, through a process of land acquisition from financially strapped land owners, most of the privately held land north of the Sibun River fell into the hands of foreign companies and rich individuals. Furthermore, the Crown Lands Ordinance of 1872 consolidated Garifuna land reserves but did not allow them to hold land under freehold title (Bolland and Shoman 1977, p. 133). Denial of the majority of Belizean citizens access to land was further facilitated by the Truck and Advance systems (system that entrenched debt peonage)⁹.

⁹ The Truck system is the process whereby workers are forced to accept half of their wages in supplies from the employer’s “commissary” at inflated prices. The Advance system was a form of debt peonage designed to trap the worker after emancipation in Belize. The employer paid in advance to the worker upon employment. Since this was done at Christmas time in Belize Town, the money advanced to the worker was expended even before he went to work in the camp.

3.2.1 The Crown Lands Act (CLA)

The Crown Lands Ordinance of 1872 streamlined the process of acquisition of usufructuary rights to national land, the acquisition of property rights to national lands and the establishment of Indian and Carib Reserves together with rules for their operation. The Ordinance also streamlined the process of delineating forest and agricultural reserves. Above all, the Ordinance successfully deprived both the Maya and the Garifuna of the right to own land and provided for them only to occupy certain lands as defined by the Crown.

The CLA also established a separate regime for disposing of Crown lands. This was achieved through the issuance of “Location tickets”, leases and grants by the Governor-in-Council. Of the three types, the location ticket was the most insecure tenure, as it amounted to no more than a tenancy at will. The conditions attached to the occupancy had to be fulfilled before the “settler” was allowed to purchase the land.

Apart from facilitating the issuance of lots in towns, villages and farm plots in rural areas, the CLA also provided for the creation of Indian and Carib reserves. Furthermore, it contained provisions for the issuance of “free grants” (land granted without payment of a purchase price). Under the free grants scheme, titles (Governor’s Fiat Grant) could be issued to immigrants, developers and war veterans.

4. TRENDS AND PATTERNS OF LAND TENURE (1920s – 1970s)

A major change in land policy occurred between 1920 and 1968. This was influenced in the first instance by the displacement of labour through the mechanisation of forestry operations. Further influencing factors included the granting of land reserves for the Maya in the Toledo District and the leasing of large tracts of sub-divided national lands for the Maya-Mestizo population residing in the sugar-growing areas of the northern districts.

In addition to the distribution of national lands noted above, reform of privately owned lands was attempted through the introduction of the Law of Property Act (LPA) and General Registry Act (GRA). Following the English LPA of 1925, the LPA introduced in Belize in 1954 allowed for two types of legal estates in land: the leasehold (term of years), and the freehold (fee simple estate). The LPA set out the substantive law relating to land while the GRA dealt mostly with the procedural aspect of registering of titles (Torrens system type) and the recording of Deeds of Conveyance.

4.1 The Land Administration Committee

The rise of the sugar-cane industry in the northern districts of Corozal and Orange Walk and the Commonwealth Sugar Agreement of 1959 (which

offered Belize Sugar quotas that the existing production could not meet) also caused the Government to initiate some changes in land policy. Consequently, the 1960s witnessed the formation of a Land Administration Committee. Formed in 1961, the Committee was charged to “examine the whole problem of the ownership, occupation and utilisation of land”¹⁰. The Land Administration Committee initiated several land reforms (including the establishment of the Lands Department in 1968) through legislations including:

- The Land Reform (Security of Tenure) Ordinance of 1962;
- The Land Tax (Rural Land Utilisation) Ordinance of 1966;
- The Land Tax (Amendment) Ordinance of 1971;
- The Aliens Landholding Ordinance of 1973.

As it turned out, both the composition of the Land Administration Committee (comprising public servants and a major land-owner) and the proposed reforms recommended by the Committee were merely window-dressing aimed at maintaining the *status quo ante*. The Committee recommended, *inter alia*, that, “no consideration ... be given to any proposals for expropriation of unused land at less than its market value”¹¹. In binding Government to payment at market value, this recommendation did little to encourage the expropriation of unused land, as was its purported intent. Furthermore, the Committee failed to indicate a pricing policy for the transfer of land to the “intended” market — those requiring agricultural parcels — despite the fact that majority of the local citizens were earning wages below the market value.

The Committee however, made one significant recommendation — it recommended “that the Landlord and Tenants Ordinance be amended so as to give greater protection to tenant farmers, and that a new Crown Lands Ordinance be enacted to give effect to Government’s policy”¹². The Committee also recommended an upward review of land tax arguing that the existing rates were “too low to have an appreciable effect on land use...”¹³.

Based on the recommendations of the Land Administration Committee, one can argue that the colonial government was simply trying to secure land-holdings for its patrons — the major land owners — because it was well aware that the nationalists would embark on land redistribution (that may negatively affect this class of investors) once it took over the reins of power.

¹⁰ Quoted in Barnett 1991, p. 91.

¹¹ Quoted in *ibid.*, pp. 93-94.

¹² *Ibid.*, p. 94.

¹³ *Ibid.*, p. 95.

4.2 The Issue of Race and Ethnicity prior to Self-Government

The demography of Belize is an important feature in its land distribution and land-use history and patterns. We do not know precisely how the Maya distributed land amongst their members prior to colonisation, but we do have sufficient evidence to demonstrate that communal ownership was the norm. The concept of individual land-ownership was introduced in Belize soon after the British settlers were able to subjugate the Maya. The British settlers, in order to control and exploit all land resources in the settlement, introduced African slave labour in the early 18th century. A further interesting feature is the pattern of settlement encouraged and/or facilitated throughout the 19th and early 20th centuries. The Garinagu migrated from Honduras to settle in southern Belize in the early 19th century. The Maya-Mestizo from Mexico migrated and settled in the north and north-west in the middle of the 19th century. The Southern ex-confederate Americans were encouraged to migrate and settle in southern Belize in the second half of the 19th century. East Indian and Chinese indentured servants soon followed and were settled in southern and northern Belize respectively in the second half of the 19th century. Towards the end of the 19th century, different Maya groups migrated from Guatemala to settle in western and southern Belize. In the 20th century, other groups came to settle in different parts of the country. These include: Middle Easterners (probably in the 1920s), Chinese (probably around the 1950s), Mennonites (1950s and early 1960s), Hindu Indians (early 1970s) and those referred to as Central American immigrants (in the late 1970s and 1980s). The immigration of these groups of people in different time periods altered, to a certain extent, the nature and character of land use in the settlement-turned-colony in 1862.

Data on ethnicity and land use/tenure system in Belize before the modern era are problematic as Census data fail to draw distinctive lines on race and ethnic categories. It is known that in anticipation of emancipation, the free coloured population was keen, by the early 1800s, on distinguishing itself from ex-slaves. Free coloureds were rewarded with the grant of rights and privileges on par with their white counterparts in 1831. The divisions within and amongst all the people of colour in the settlement compounded the problem of access to land. There were divisions between free blacks (both African born and Creole — Belizean born) and those referred to as coloured (descendants of African women and white men) and between ex-slaves and white settlers¹⁴. Notwithstanding the revision of status, few Creoles are noted as having access to land-holdings¹⁵. Perhaps the principal factor in this regard was the inauguration of land fees (one pound sterling per acre of

¹⁴ In 1839, the population of Belize comprised 163 whites, 809 coloureds, and 1,974 blacks. The 1861 Census enumerated 42 racial categories. Another thing to note is the fact that up until this time, there were no Maya Indians recorded as living in the Stann Creek District.

¹⁵ All figures discussed relating land use and sizes are derived from Barnett 1991.

land) in 1838 after emancipation which no doubt served to ensure that former slaves did not have access to land. There is no record of land sale or purchase through 1868.

Additional information on ethnicity and land-holdings can be discerned through ethnographic data. Such data show that the Maya were mainly farmers, with 50% producing on plots of land between 1 and 5 acres in size compared to 35% that were estimated to be producing on plots of 5 to 10 acres. Furthermore, 92% of the Garifuna had land-holdings under 1 acre and none held lands exceeding 100 acres in size. In addition 50% of those classified as white held lands averaging over 100 acres of land in size, with 28% with holdings between 10 and 100 acres and none with land-holdings below 1 acre in size (When)¹⁶.

4.3 Productive Activity

Land use in Belize since the beginning of the settlement by the British in the early 17th century has been historically linked to the means of production. The acquisition and accumulation of land have accounted for the nature and character of its distribution and ownership. Before 1862 agriculture was only ancillary to forestry. Those involved in agricultural production in a consistent manner were mainly the old, the infirm and the women. The rest of the population worked their small “plantations” during the off-mahogany season only. The total acreage under cultivation during this period is not known, a point that underscores the secondary nature of agriculture in this period. However, soon after 1871 (the start of Crown colonial period), the promotion of agriculture by the State and the declining fortunes of forestry changed the situation as over 60,000 acres of land was put under cultivation by 1889 (the main crops included corn, sugar-cane and banana)¹⁷. By 1911, 15% of Belize’s population of 40,458 was engaged in agriculture and 50% of that number described as “agricultural labourers” and the rest described as “planters”, “small cultivators” and “milperos”¹⁸.

The interruption of food imports during and after World War I clearly signalled a change in colonial land policy. The colonial government developed a strategy to bring idle land into productive use by offering prospective agriculturalists unlimited access to such lands and population resettlement schemes. In addition, the colonial government also began establishing plantation agricultural production in the Stann Creek Valley and the Toledo District. Agricultural land was held under the following tenure categories: Location Ticket, Private Freehold, Leasehold, Purchase, Free Grant, Poll Rental, Communal Tenure, Squatting and Crown Land. The latter comprised all lands inherited from Britain or acquired from

¹⁶ Barnett, *ibid.*

¹⁷ Notes on the History of Agriculture, SP 464, Belize Archives, Belmopan.

¹⁸ Barnett 1991, p. 177.

private owners or forfeited in lieu of taxes¹⁹. The former Crown Lands Act allowed the Commissioner of Lands and Surveys to issue annual Tenancy Permits of Occupancy in land reserves (other than Indian and Carib Reserves). These permits allowed the holder to cultivate lands upon payment of the specified "Occupancy Fee". The regime allowed for land to be used with permission on an annual basis but discouraged the establishment of permanent structures or permanent crops.

By 1931, the population involved in agriculture declined to 12%. No explanation has been given for this decline. However, available data for 1943 suggest that as much as 51,000 acres of land was under cultivation, and half of that amount was classified as pastureland. Disaggregated data on land use in 1946 show that of all the land-holdings accounted for at that time, 57% was less than 5 acres, 85% less than 10 acres, and 98% less than 50 acres. While "the median size of all holdings (recorded) were 4.3 acres, only 3 were 500 acres or more"²⁰. In contrast, by 1961 the data indicate the trend had definitely shifted in favour of large-sized plots for particular groups that the colonial masters favoured. In that year, 40% of agricultural holdings averaged 5 acres or less compared to 62% that averaged 10 acres or less. By 1974, land-holdings less than 5 acres averaged 33.5% compared to between 5 and 10 acres that averaged 14.9%. At the same time, land-holdings of 50 to 100 acres rose to 7.4%. This trend peaked in 1984 when land-holdings of more than 50 acres accounted for 17% of the total land-holdings compared to 32.1% that averaged less than 5 acres²¹.

5. LAND MANAGEMENT AND ADMINISTRATION IN POST-INDEPENDENCE BELIZE

5.1 The Further Evolution of the Legal Framework

In response to the shortcomings of the common law conveyance and the Torrens system in Belize, the Registered Land Act (RLA) was introduced in 1977. The Registered Land Act had the effect of simplifying both law and procedure relating to land. The efficacy of this particular regulation was

¹⁹ Whilst Location Tickets were conditional holding amounting to no more than tenancy at will of the Crown, Leases were (are) issued subject to conditions regarding development which, once met, allows the lessee to apply to purchase and subsequently obtain a Fiat Grant. This was obtainable either subsequent to a purchase of Crown Land or as a "Free Grant", which meant that that the fee simple (absolute ownership) was passed to the Grantee without the payment of a purchase price. Examples of Fee Grants included those issued to War Veterans for their war services.

²⁰ Ibid., p. 182.

²¹ All figures for the period 1974 to 1985 are derived from the series of agricultural census conducted in Belize.

further enhanced by the introduction of the Strata Titles Act in 1990 and the Land Adjudication Act in 1992. The Land Adjudication Act assists in the clarification of land rights in the case of competing claims and is necessary for an efficient and effective land registration system. The Strata Titles Act provides for the registration and issuance of titles over “flying Sub-divisions” such as high rises and condominiums.

By the period immediately following independence, some types of land tenure systems (including the location tickets and agricultural reserves) had been discontinued, and leases and outright purchases of national land predominated. At the same time, the volume of private land sales had increased significantly. This increased activity inspired the decision in 1981 to introduce the Land Utilisation Act (LUA). The primary purpose of the Act was to ensure the best use of land and to reduce or prevent fragmentation and under-utilisation²².

The responsibilities under the Act were carried by the vetting of subdivisions and provision of recommendations for approval of planned subdivisions to the Minister responsible for lands. Through its various amendments, the efficacy of the Act rests on considerations of physical features and environmental and mitigation factors as enshrined in the membership of the Land Utilisation and Sub-division Authority provided for therein and charged with scrutinising plans submitted and making recommendations to the Minister with respect to approval.

The management of national lands (Government-owned lands excluding forest reserves and national parks) was transformed through the passage of the National Lands Act (NLA) in 1992, which repealed and replaced the Crown Lands Act (CLA). The NLA established the land advisory committee to provide the Minister responsible for land advice on general policy issues relating to lands, and made provisions for a new regime in which recommendations for the disposal of national land may be made by local lands committees. There is no provision in the NLA for location tickets, free grants or reserves (except that those reserves created under the CLA were preserved by virtue of the fact that rules made under the CLA were saved). Both the CLA and the NLA have been instrumental in making land more accessible to the general populace. National lands are sold at rates that are well below the market value and so made land more affordable to the general public. With the repeal of the Alien Landholding Act in March 2001, the National Lands Act was amended to require an “alien” to first obtain a licence from the Minister responsible for lands before he/she can hold an interest in national lands for acreages in excess of an aggregate of 10 acres in rural areas and ¼ acre in urban areas.

²² J.V. Hyde.

5.2 *The Evolution of Institutional Arrangements for Land Administration*

In order to cope with the more rapid changes that were taking place at the time, the Lands (established 1968) and Surveys (established 1862) Departments were fused in 1977 into one Department. Later that same year, the National Estate Unit and the Land Registry were established. The former was designed to manage lands referred to as the National Estate. The National Estate by 1982 had amounted to 3.3 million acres and fell into the following categories:

- Land available for alienation;
- Land not ordinarily alienable included forest reserves, archaeological reserves, national parks and land for public utilities;
- Unalienable land including public commons, cemeteries, thoroughfares — roadways and waterways, internal waters and territorial seas²³.

The Land Registry, on the other hand, was introduced in order to simplify the new system of land registration according to the substantive land law. In particular, the Registry maintains records of transactions based on the identification of unique parcels of land, so that all information on ownership and transactions for a particular parcel, including mutations, are located in a single register.

In April of 1991, the post(s) of District Lands and Surveys Officer(s) were established. The aim was to enhance the co-ordination of activities between the Districts' sub-offices and Headquarters on one hand, and to provide improved services in the Districts as well as to the general public on the other hand. At the same time, in November of 1991, the Valuation Department of the Ministry of Local Government was transferred to the Department of Lands and Surveys. The latter Department thus became responsible for the preparation of tax rolls for both urban and rural areas.

In June 1992, the Land Information Centre (LIC) was established to serve as the databank for land information in Belize and to provide policy and decision makers in Government and other agencies with standardised up-to-date information. The LIC had/has three sections:

- The Geographic Information System (GIS), which handles information on land resources, land use/cover and environment as an aid to planning, management and monitoring activities.
- The Land Information System (LIS), which is still under construction, when completed will handle land records and cadastral data. This will in effect computerise many of the activities of the Lands and Surveys Department. Suffice to mention that, at present, there is no single directory or index of all properties in Belize.
- The Conservation and Environmental Data System (CEDS) is still in its infancy but when completed will formalise and co-ordinate

²³ Barnett 1991, p. 125.

environmental data gathering in Belize. The CEDS will form a network of data gathering groups and ensure open data exchange between them.

In 1993, the Physical Planning Section was established to facilitate the following: urban and rural planning, land sub-division, licencing (piers, land reclamation and creation, alien land-holding) and land-use zoning. The role of the Section has also witnessed some changes, one of which is the new responsibility for the production of a comprehensive national land-use plan.

In 1999, the Land Titles Unit, formerly a part of the General Registry (Attorney General's Ministry) became part of the Land Registry. As a result, the Lands and Surveys Department virtually became a one-stop shop for dealing with all land-related transactions.

5.3 The Current Institutional Framework for Land Management and Administration

It should be noted that the period before and immediately after independence witnessed several attempts to influence or change the pattern of land-ownership through the passage of laws to regulate land acquisition and speculation by foreigners. What took place in this era has been a combination of further distribution of national lands including those private lands acquired by the National Estate and a shift away from large-scale land-holdings towards small-scale land-holdings. Another notable feature in land tenure after independence was the rise of plantation agriculture, which in turn gave rise to mixed land-holdings. Small-farmer land-holdings ran hand-in-hand with big-company land-holdings. The period also witnessed a decline in land purchase and acquisition by Government and a steady increase in leasehold. Despite these attempts, by 1986, 85% of private land owners accounted for 4% of freehold lands compared to 3% of land owners accounting for 90% of the freehold land²⁴. In fact, in the following years, Government's land acquisition scheme declined to a negligible number and by 1987, it was only able to acquire 537 acres of land²⁵.

Amidst the ongoing measures taken towards decentralisation, the Lands and Surveys Department continues to play a pivotal role in the national management and administration landscape. Since the inception of the Department and through its evolution prior to 1992, its main thrust had been land management. The execution of this role, moreover, was decentralised only to the extent that there were district offices for the delivery of the services related to national land and particularly limited to the receipt of applications for leases or purchase of national lands.

The structure of the Department today has been redefined to emphasise the increased emphasis on planning and information processing, management

²⁴ Barnett 1991, p. 122.

²⁵ Ibid.

and dissemination. In fact, the introduction of the Land Information and the Physical Planning activities in 1993 represented the start of a move to complement the land management activities with land administration services. As its role expanded, the Physical Planning Section's responsibilities of informing both public and private decision-makers on the best use of land became accentuated. The Land Information Centre, on the other hand, was intended to disseminate information critical to decision making, including public policy formulation. The Centre was premised on decentralisation, and an instrument for data and information sharing was designed and implemented to accommodate this. However, for reasons that are yet to be fully determined, the application of GIS solutions has not been fully maximised within the Ministry nor have the capacities grown at a sufficiently rapid pace to meet public demand since 1993.

It is notable that the redefinition of the Department's structure, pursued through interactive strategic planning processes, has been articulated along with the Department's recently formulated Mission, which is:

“The Lands and Surveys Department is committed to efficiently manage the processes of determining, recording and disseminating information about ownership, value, measurement, and highest and best use of land for the socio-economic benefit and sustainable development of Belize”.

The most important aspect of this mission, defined in 2001, is that it points squarely in the direction of improving land administration as opposed to the Department's traditional role of managing national lands and recording transactions in private lands.

5.3.1 Valuation and Taxation

While discussion of the establishment of the land information and physical planning capacities always incorporated debate on the modalities for decentralisation, there has been effective decentralisation in the areas of taxation and valuation. The valuation and taxation activities as currently applied are primarily aimed at revenue generation, but of late there is recognition of the need to better utilise taxation as a tool to support land-use planning. There is a multi-faceted relationship between land tenure and valuation of land. Furthermore, there are two sets of land taxation authorities, namely the national (through the Lands and Surveys Department) and the municipal or local (city and town councils) authorities. This is a manifestation of the effective decentralisation of valuation and taxation.

At present the Lands and Surveys Department administers taxation at the national level through the Land Tax Act, which applies to all lands outside the boundaries of towns and cities. Taxes levied on these lands are based on the unimproved value system. The local authorities on the other hand administer the Towns Property Tax Act, applied to all lands

within the boundaries of the towns and cities²⁶. The tax system for local authorities, with the exception of the Belmopan City Council, is a rating system based on the annual values of properties. The property tax for lands within Belmopan is based on the unimproved value system.

The rate of tax for all rural lands is 1% of the unimproved value. This rate is stipulated in the Land Tax Act. Revision of the valuation rolls is done on a triennial basis and the Act makes provision for owner participation. Prior to revision all land owners are so informed by notices in the Gazette and the local newspapers, and land owners are required to file and return to the Chief Valuer. The information supplied by the land owner, together with other comparable data, is used to determine values.

Other valuation methods are employed when estimating values for other purposes. The Valuation Section is required to advise on values for compensation, sale, estate duty and other purposes. Values established for the sale of leased lands are not based on market values but rather by prices determined by policy that usually requires the approval of the Minister responsible for lands.

6. TOWARDS OPTIMISING THE TRIO OF LAND POLICY IMPERATIVES

6.1 Access and Distribution

While the system prior to the 1930s did not favour the outright distribution of land, improved access to land for housing and production was attempted through the Reservation system. By the 1930s, the term “Reserves” had come to denote:

- Lands reserved for specific ethnic groups,
- Agricultural Reserves,
- Forest Reserves.

Special reservations were created for the Maya and Carib (Garinagu) populations in the Toledo and Stann Creek Districts. After the process of reservation of lands for use by the Maya was completed, some 70,300 acres in the Toledo District had been declared²⁷. However, it appears that not many Maya Indians were predisposed to the idea of the so-called Indian Reserves as many refused to relocate to them²⁸. Nevertheless, between 1935

²⁶ The Towns Property Tax Act came into force in 1960 and very few amendments have been made to it throughout the years. The Land Tax Act, on the other hand, came into force in January of 1983.

²⁷ Belisle 1988.

²⁸ Refer to Carla Barnett 1991, pp. 105-106.

and 1954, a total of 217,000 acres of land had been declared “Indian Reserves” while 99,000 acres declared Agricultural Reserves and 600,000 acres designated Forest Reserves. A report of a land survey carried out by a team of Imperial College of Tropical Agriculture, Trinidad, during 1952 to 1954 revealed that 2,420,000 acres of the country’s 5,674,800 acres of land was privately held and that the remainder was national land²⁹.

Another major characteristic of land tenure in this period was the increasing sale of land for speculation, with North Americans dominating the market (a situation that persists to date). As a result, the price of land witnessed a dramatic upward movement. This had the two-fold effect of encouraging the increasing sale of family land amongst Creole Belizeans (a condition that persists to date), and imposing a market barrier to a large segment of the population. Another aspect of land policy in the 1960s and 1970s was the vacillation between the promotion of agriculture and forestry. The emerging land-use policy during this period was inextricably tied to the nature and character of agricultural production: small-scale food crop (“plantations” as they are called in Belize) agriculture vis-à-vis large-scale commercial cash crop (banana, sugar and citrus) agriculture.

In addition to this particular issue of access, the existing land tenure system had failed to meet the sugar requirements of the country as it approached independence from Britain. One solution to the problem lay in a progressive policy of land acquisition by Government from private land owners and redistribution amongst small-scale cane farmers. At the centre of this change were the issue of labour supply and the question of whether or not an expanding agriculture would be able to compete with forestry. The first answer to this question, as it turned out, lay in the fortunes of the forest industry, which took a turn for the worse. Agriculture therefore became the main determinant of land use policy in Belize. The second answer came by way of Tate and Lyle’s divestment as a major player in the sugar-cane cultivation in the 1960s and 1970s, which began with the sale of land-holdings to small-scale cane farmers and soon followed with a program of sale of controlling shares in the sugar-cane industry. The full impact of these measures on land tenure, particularly in the northern districts, is yet to be determined.

In 1971, the skewed nature of land distribution was evident by the fact that 3% of land owners nation-wide held 95% of land compared to 91% of land owners who held 1% of land. This formed the rationale for a major effort at redistribution in the 1970s and onwards, mainly through the application of the Land Acquisition (Public Purposes) Act (LAPPA) as a facilitating instrument³⁰. The application of the LAPPA in this regard was further

²⁹ Ibid., pp. 105-106.

³⁰ This Act (first introduced in 1947) allows for the acquisition of privately owned land for stated public purposes. The determination of what constitutes public purposes is left to Ministerial discretion, subject to judicial review. It is to be noted, however, that there

propelled by the fact that other legislations such as the Land Reform (Security of Tenure) Ordinance of 1962, the Land Tax (Rural Land Utilisation) Ordinance of 1966, the Land Tax (Amendment) Ordinance of 1971 and the Aliens Landholding Ordinance of 1973 all failed to encourage the use of idle rural land, increase revenue or effect a transfer of land-ownership from foreigners to local citizens. Reflecting on the period, J. V. Hyde notes,

After the Land Reform Security of Tenure Act was passed, we soon realised that it was hopeless against the tide of investors that were coming. The Act required a lot of work. The Land Reform Security of Tenure Act, was not as helpful as we had hoped it would (be). The reason for that is that it relied on the tenant himself to protect himself, and most of those people were not educated enough to invoke the provision. There was no Public Relation Activity to inform them what the act was and how they could use it. So we started to use the Compulsory Acquisition Act (LAPPA). The Act carried with it a big stick....

This novel application of the Land Acquisition Act, as described by Hyde, allowed for the articulation and pursuit of “the Land Reform Programme” over the period 1968-1977. Hyde evaluates this programme as being “absolutely complete”, since it led to a significant number of persons throughout every district securing tenure to lands they were utilising. As Hyde describes the events, the land reform programme became the lynchpin of the Peoples United Party’s political strategy in the rural areas and thus effectively countered the United Democratic Party’s urban focus. It was not until 1979 that a key strategist within the United Democratic Party recognised the issue and promoted a programme later adopted (in the 1985-1989 term) to “Give Every Belizean a Piece of Land”. This was to mark the beginning of a significant upwards pressure in the demand for land by the populace³¹.

These events suggest that the Land Acquisition Act had arguably the greatest impact on making lands available and accessible to a large number of Belizeans. Through the process of acquisition for public purposes — which continues up to this date, though at a far less intense pace — land has been repossessed by the State and redistributed in many areas of Belize. In the past, for instance, Ambergris Caye was owned first solely by one person and then by a handful. With Government acquisitions from individuals such as Roger Reid, Blake et al., Witte and Witte, and Pinkerton Estate, land has been made available for ordinary Belizeans on the island. There are other notable examples of redistribution in most urban areas of Belize where Government had to buy large tracts of land from individuals and/or estates. Amongst the most notable are the Schofield Estate (which included all of

are several recognised and well-accepted categories of what are deemed to be public purposes, including settlement schemes, resettlement of farmers and housing schemes.

³¹ Oral interview with J. V. (Jim) Hyde, Transcript with the MNREI.

Corozal Town in northern Belize), Dr. George Estate and Louisiana Farms (which included all of Orange Walk Town in northern Belize).

Notwithstanding minor revisions along the way, the LAPPa did not undergo major revisions until 1992. This followed a constitutional challenge mounted by the San Jose Farmers Co-operative³². In the September 1991 ruling on the case, the Belize Court of Appeal held that the LAPPa had to be modified to bring it in conformity with the Belize Constitution. Since then issues regarding land acquisition have been raised mainly with respect to payment as opposed to constitutionality.

Inasmuch as efforts were made to address the issue of access, the need for further initiatives in this regard may be indicative in the incidences of squatting, which has become a major problem for both the Government of Belize and some landlords. The issue is not in the number of people and size of land involved but in the locations in which such incidences are occurring. Land claims through squatting are based on the length of occupation of such parcels of land and in some cases on the informal arrangements made between the two parties, or lack of arrangements made between the squatters and the absentee landlords of such lands in question. For the most part, large settlements of former refugees from Central America have grown up in various parts of Belize (predominantly in the rural areas) or along highways without the benefit of formal records. Suffice to mention that, in some cases (for example Las Flores in Belmopan) however, lots have been issued to refugees at the insistence of the United Nations Refugees Commission. It must be mentioned here also that the practice of squatting was the manner of access left to citizens and residents of Central Belize, and that, amongst other areas in the country, this need resulted in cases of villages “settled” on private land which are being addressed even to date.

6.2 Equity Issues in the Distribution of Land

Many of the attempts at improving equity have been through the redistribution of land (acquired for public purpose) from individual owners to multiple land-holders, as detailed above. There have also been equity concerns raised with respect to gender. In this regard, the most significant advance has been the recent amendment to the laws³³, at the behest of the Ministry of Human Development, so that women who have been involved in common-law unions for a continuous period of at least five years have rights to a claim on property of their common-law spouses. The impact of this amendment on land distribution will depend on the extent of public relations and dissemination effected in the near future.

³² *San Jose Farmers Co-operative Society Ltd vs. Attorney General* 3 BZLR 1.

³³ Refer to Supreme Court Adjudicature Act.

Another equity issue, poverty, is somewhat provided for by the indigence provision in the Land Tax Act³⁴. However, the perennial issue of ensuring access for the least advantaged, particularly as land market development intensifies, is yet to be fully resolved. Where the concept of Family Land is concerned, this exists in principle only as there is no specific legislation that deals with Family Land issues. According to Ministry officials, “a person or a family sees the land as family land but it is in the name of only one person. When the person dies then you have a struggle between family members including ‘sweethearts’ ... usually he who ends up getting a grant of administration ends up with the land in question”³⁵.

6.3 *The Changing Role of the State*

During the Crown colonial period (1871-1964), the State had become the mediator of land distribution in Belize, influencing land policies including access and equity in terms of distribution. At the same time, the State functioned as a facilitator and a competitor with private land owners for two reasons. First was the financial reward from land sales, and second was the political power accruing from land-ownership. In fact, the State over this period increased its land-holdings from 320,000 to 2.2 million acres.

Another factor affecting the distribution of land in Belize during the Crown colonial era was the transition from forestry to plantation agriculture. The slavery era witnessed minor changes in land ownership — forestry, whether logwood or mahogany, only served to consolidate land-ownership in the hands of white slave masters. However, the introduction of banana, citrus and sugar plantations during the Crown colonial era changed the land tenure system. The exit of the former slave owners introduced the phenomenon of absentee landlordism in Belize. In order to attract major investment in plantation agriculture, the Crown Colony mediated by providing incentives such as cheaper fees and low land tax to foreign investors and speculators. The racist nature of land policy in the second half of the 19th century was most evident in the fee structure charged by the colonial government. Whereas locals were being denied access to land through various policies including high fees and taxes, the same government was offering white prospective investors lower fees for choice lands. In fact, it is noteworthy

³⁴ The indigence provisions enshrined in Section 30 of the “Land Tax Act”, Chapter 58 of the *Laws of Belize 2000*, reads as follows:

(1) Whenever it is brought to the notice of the Commissioner of Lands and Surveys that any owner of land is in indigent circumstances and unable to pay the tax or part thereof, the Commissioner of Lands and Surveys shall submit to the Minister a statement of the case in which he shall give the name of the owner of the land, the amount due from him for tax, a description of the land and any evidence of the poverty of the owner or his inability to pay the whole or part of the tax.

³⁵ Oral interview with key Ministry officials including the CEO, the Commissioner, and Deputy Commissioners (Land Use Planning) of Lands and Surveys and the Legal Counsel.

that towards the end of the 19th century the Crown Colony gave a grant to the United Fruit Company to construct a railway line between Commerce Bight and Middlesex besides the sale of 7,538 acres of Stann Creek Valley land to the company at one dollar per acre (20% of the market value)}.

Thus, the State transitioned from playing a passive role as formulator of land policy to one of instigator of change in land policy. Notwithstanding Government efforts towards the encouragement of foreign investors, little attention was paid to the local citizens of the country who remained landless and could only gain access to a piece of land through the *rentier* system (in the north) or through squatting in the central areas and land reserves in the south. Over 75% of the productive land still remained in the hands of a few rich private owners who by and large controlled the executive and the legislative councils of the Crown Colony. Suffice to note that the uneven distribution of private land ownership has continued to affect the private land market activity today.

The picture that emerges is a land policy that sought to consolidate white (the largest land owners) control over all private land-holdings in Belize. Those classified as coloured followed with smaller land-holdings and the rest of the population remained landless for much of that period, with the Maya-Mestizo renting private lands in the north for their sugar production. Some scholars have described the situation in the north as similar to the hacienda or latifundia system³⁶.

Starting with the Land Reform Programme of the 1968-1977 period and further marked by the entitlement to “a piece of land for every citizen”, through to the current commitments to access, each successive government (after the self-government and through the post-independence eras to-date) made the issue of land redistribution the stated cornerstone of their development strategy. So far, however, the extent to which these commitments were addressed has been sporadic and mostly demand-driven, and governments have not been able to effectively translate the pre-election pledges into a cohesive policy framework, even while responding to the pressure to deliver.

6.4 Land Market Development

Government’s efforts at redistribution and the tool utilised — the Land Acquisition Act — has had a significant effect on the state of the land market, and in the estimation of many practitioners, has affected the dynamism. Yet the intervention, as discussed above, has been critical to the issue of equity. A comparison of the rates of prices for land bought from the public sector vis-à-vis lands sold by private sector agents and individuals is the clearest indicator. Evidence shows that an average lot is sold on the

³⁶ Latifundia were large estates in which access to small portions of land was given to peasant farmers in exchange for a portion of output. Haciendas are economic units where all factors of production are organised to carry out a production activity.

private sector (secondary) market for anywhere five (5) to seven (7) times the value of an equivalent sized lot sold by the Government of Belize. The result of this discrepancy is a continued demand for land from the National Estate, even in instances where clients are not first-time buyers or low-income earners. The effect of the Government intervention, a historical perspective on the redistribution efforts and an acknowledgement of the need for access to the disadvantaged all point to the need for a comprehensive pricing policy.

In addition to the dampening effect of the lack of a comprehensive pricing policy on the dynamism of the land market, there is evidence of a parallel market, where the secondary sale of land operates very much at an international level. Due to the reticence of the real estate agents, the extent of trade and aggregate value of this market has been difficult to ascertain. However, recent entrance of reputable companies such as Century 21 and REMAX suggests that this market continues to grow. Furthermore, this growth has outpaced the regulatory regime, particularly as it relates to investor protection.

In terms of the level of development, the land market in Belize had been largely characterised by the sale of unimproved land up until the 1970s. This trend was significantly affected by the fact that just prior to Belize's independence in 1981, a private investor began a string of land reclamation, canalisation and property development in Belize City and Greater Belize City (sub-urban areas surrounding Belize City). It was the first instance of planned sub-division by private developers with investment in physical infrastructure preceding the sale of parcels. Other investors followed after independence and by the end of the 1980s, the boom in private land markets became a new phenomenon³⁷.

Where the public sector was concerned, the practice of planned subdivisions has traditionally been undertaken in response to disasters, and so are best understood as resettlement programmes³⁸. During the last administrative term of office (1998-2003) however, Government embarked on a deliberate policy of investing in planned sub-divisions, complete with streets and drains, houses and utility infrastructure, prior to first issue. At the same time there were similar initiatives undertaken by the private sector. The result of these combined initiatives has been the establishment at least one (and sometimes several) housing scheme(s) in at least four of the six administrative districts.

³⁷ For a detailed discussion on the pioneering efforts of Javier Garcia and emergence of private land markets in Belize, refer to Iyo (1998).

³⁸ Planned subdivisions or resettlements initiated by the Government of Belize included Corozal Town (after Hurricane Janet in 1955), Belmopan (City) and the villages of Hattieville, Mullins River (New), and Silk Grass (after Hurricane Hattie of 1961).

6.5 International Environmental Initiatives and National Land Policy Development

The increase in the number of planned sub-divisions country-wide points to another important issue in land policy, namely the nexus of land market development and environmental protection. As is the case with many other countries, 1992 was a watershed year for Belize. It was during that year that the Department of the Environment was established, facilitated by the introduction of the Environmental Protection Act. Furthermore, Belize participated fully in the United Nations Conference on Environment and Development (UNCED) held that year. From the perspective of land administration and management, a significant outcome of the Rio Summit, as UNCED became widely known, was the incorporation of a section on Conservation and Management of Resources for Development within Agenda 21. The importance of land management and administration to the matter of conservation and resource management is underscored by the fact that this section started at Chapter 9 and the chapter entitled “Integrated Approach to the Planning and Management of Land Resources” was placed at 10. The major objective cited in Chapter 10 was “to facilitate allocation of land to the uses that provide the greatest sustainable benefits and to promote the transition to a sustainable and integrated management of land resources” with the following specific targets identified:

- To review and develop policies to support the best possible use of land and the sustainable management of land resources, by not later than 1996;
- To improve and strengthen planning, management and evaluation systems for land and land resources, by not later than 2000;
- To strengthen institutions and co-ordinating mechanisms for land and land resources, by not later than 1998;
- To create mechanisms to facilitate the active involvement and participation of all concerned, particularly communities and people at the local level, in decision-making on land use and management, by not later than 1996.

Notwithstanding these global commitments, the activities of the Lands and Surveys Department over the next few years were less focussed on sustainable development and the implementation of Agenda 21 than its counterparts, the Forest Department and the Department of the Environment. Perhaps one contributing factor to this was the fact that at the outset, i.e. the Rio Summit itself, there were, in addition to the Rio Declaration and Agenda 21, the completion and signing of two conventions — *the Convention on Biological Diversity (CBD)* and *the Convention on the International Trade in Endangered Species (CITES)*. These allowed for easier articulation of projects and thus for significant support and opportunities for training and technology transfer in the forest and conservation areas. In addition, since the Rio Summit and up until 1998, Belize’s new Department of the Environment was located within the Ministry of Tourism. It must have been relatively difficult to operate in full

cognisance of Chapter 10 of the sustainable development agenda, without the support of a specific convention and without a more direct working relationship with the national caretakers of the Rio outcomes, the Department of the Environment. Furthermore, as with many other countries, there seemed to have been, up until recently, a general tendency to assume that the UNCED objectives were relevant more to the Department of the Environment than to any other Department or Ministry in the Social and Natural Resource Management arena.

6.5.1 Post-UNCED: The Heightened Role of Conservation NGOs

The watershed nature of the 1992 events was reinforced by the heightened activity and involvement in natural resource management at the national level by local and international NGOs. This was marked by several significant milestones, including the transfer of a large tract of lands to one local NGO for conservation purposes. This land was the result of a singular act of a sale of half a million acres of land by the Belize Estate and Produce Company (BEC) to a group of investors including Misher and Howell, and Minute Maid, a subsidiary of Coca Cola Corporation in 1985. The transfer from this consortium to the local NGO was the final result of strident opposition to the corporations' plans to engage in large-scale citrus production in Belize.

In addition to this milestone event, there were various projects executed which involved NGOs either as direct beneficiaries and implementing agencies, or as partners with the Government of Belize as implementing agencies. Foremost amongst these were the Natural Resources Management and Protection Project (NARMAP) and the Forest Planning and Management Project (FPMP). These projects started in 1993 and ended in 1996 (NARMAP) and 1998 (FPMP). The NARMAP was a broad-based natural resource management project financed by the USAID and involving the World Wildlife Fund (WWF) and Winrock International as in-country executing agency. The FPMP on the other hand was financed by the United Kingdom Overseas Development Agency, and was aimed at supporting improvement in the planning and management of national forests.

While the impact on the counterparting line Ministries involved was varied, and sometimes altogether muted³⁹, the NARMAP by the end of the project life had served as a rallying point for local NGOs and also as a catalyst for a number of significant initiatives. These included the establishment of key sectors/programmes within the counter-parting line Ministries (Tourism and Environment, Natural Resources and Agriculture), as well as the bio-diversity/conservation institutions such as the Protected Areas Conservation Trust (PACT) established in 1996 and the Coastal Zone Management Authority and Institute established in 1998.

³⁹ Nolan et al. 1996.

Two more significant factors to be noted during the post-UNCED period in Belize, and coinciding with the high level of activities of the NARMAP and the FPMP projects, were: (1) the proliferation of local non-governmental organisations, and (2) the quantum of environmental conventions signed by Belize (totalling about twenty-one). While the Department with the responsibility for land management and administration appeared to be peripheral to these events, the change in the national landscape that resulted continues to have a direct impact on the services demanded. In particular, the Department is called to task often by environmental NGOs, which have a clear mandate and mission aimed at conservation in the name of sustainable development.

6.5.2 *Bio-diversity Management and Protected Areas*

Because of the Convention on Biological Diversity, as well as the heightened activities following UNCED, of bio-diversity-oriented NGOs within Belize, the period immediately after the Summit saw a significant increase in the quantum⁴⁰ of forested areas designated as protected areas. Protected areas are officially designated areas set aside by Government for the preservation and protection of highly important natural and cultural features for the regulation of the scientific, educational and recreational purposes. Protected-area status includes designations as Forest Reserves, National Parks, Wildlife Sanctuaries, Nature Reserves, Archaeological Reserves, Marine Reserves, Private Reserves and Natural Monuments. Protected areas currently comprise a total of 45.5%⁴¹ of the land of Belize and are backed by the following legislations: the Forests Act, the Fisheries Act, the National Parks System Act, the Private Forests Act, and the Ancient Monument and Antiquities Act.

Whereas some of these acts do not directly have an impact on land distribution and access, they have been beneficial in ensuring that a large percentage of land resources in Belize is in some form of protected status. This lends significantly to Government's attempt to protect and manage flora, fauna and critical watersheds, and in many cases oversight has been executed with the support of the environmental NGOs. However, there have been some occasions where Government has had to de-reserve portions of the Forest Reserves to make land available to the general populace.

⁴⁰ On the increased number of the Declared Protected Areas of Belize after 1992, refer to "Protected Areas Conservation Trust", Annual Report, 2001 -2002, pp. 24-25.

⁴¹ Protected Areas Conservation Trust (PACT), Annual Report for 2001-2002.

7. TARGETED INTERVENTIONS IN SUPPORT OF LAND ADMINISTRATION

The evolution of the Lands and Surveys Department, along with the existence of the Land Titles Unit (originally at the General Registry) and the intermittent development of the various land-related laws under which the authorities operate, all translate to a multiplicity of methods for the facilitation and recording of land transactions — sales and gifts, mortgages and other charges.

There are currently four titling systems in operation: Fiats, Common Law Conveyance, Certificate of title (Torrens), and Land Registration. The National Lands Act governs the first, whilst the General Registry Act and Law of Property Act govern the second and third. The Registered Land Act (RLA) governs the land registration system. Lands registered under the RLA are guaranteed by the State and parcels are uniquely identified. With the recent move of the Land Titles Unit and the initiation of the Land Management Programme activities (to be discussed below), this co-existence of multiple regimes is currently being aggressively addressed. The ultimate aim of the Department includes bringing the entire country under a unified land registration system in order to eliminate the existing multiple one.

Through the latter initiative, the RLA regime, being the most reliable registration system in Belize, is presently replacing the older Common Law Conveyance and Certificates of Title. While the RLA is not having a direct impact on the distribution of land and/or access to land, it is also facilitating faster and more reliable land transactions. This is because common law conveyance requires a research into the root of a title tracing backwards for at least 30 years, whereas, in the case of registered land (since the register is always current, reflecting ownership and encumbrances), searches are quicker and easier⁴².

7.1 The Land Administration Project

In 1997, the Land Administration Project (LAP) was initiated with the primary purpose of automating the land administration processes and records of various divisions of the Lands and Surveys Department, as well as piloting the survey, adjudication and declaration of some 10 areas throughout three districts in Belize⁴³. The project resulted in the installation of a Land Administration System, an integration of five sub-systems — Land Revenue, Cashier, Registry, National Estate and Valuation. These sub-systems capture the processing of applications for land leases and land

⁴² Refer to Barnes' Report (2001, p. 25), in which the consultant states that even though the Land Registration Act provides for an efficient, effective system of ownership recording, the system is currently suffering from financial crisis, which has resulted in inadequate working environment, insecure records storage area, limited number of trained staff, minimal use of automation and backlog of unprocessed work.

⁴³ Land Administration Project Final Report, 2001; LAP Progress Report 7, July 2000.

purchase (National Estate), payment of land taxes and leases and of non-land related services and fees such as mining fees and royalties (Cashier); changes in land ownership effected through transfers of private property located in undeclared areas and valuation of lands in all areas outside of cities and towns (Valuation); and recording of ownership, charges, transfers, cautions and any other relevant transaction in lands within declared areas (Registry). The system was designed to work as a wide-area network utilising dial-up connections from the six districts to the central database in Belmopan.

In addition to the computerised system, the project yielded significant achievement in adjudicating, surveying of property for demarcation, defining and declaring areas under the Registered Land Act. The preparation also included completion of Auto-Cad map files, compilation maps and Registry index maps. By the end of the project in 2001, some 3,697 parcels of land in the Orange Walk, Cayo and Stann Creek Districts had been registered under the RLA as included in eight (8) newly declared areas. The project outputs form the foundation for further development both within the Department's routine business process as well as through the follow-up Land Management Programme initiated in 2002.

7.2 The Land Management Programme

The preparatory work for the Land Management Programme began in 1999/2000, with negotiations executed in 2001 and start-up in March of 2002. The programme was declared eligible for disbursement in July of 2002. The programme has been financed by a loan of US\$7.0 mn from the IDB with Government of Belize counterpart input of \$1.86 mn. The objectives of the programme are to:

- *Expand land adjudication and registration activities country-wide to become a systematic land tenure clarification programme accompanied by consolidation into a single Land Registry.*
This component includes land tenure clarification and property rights registration of an estimated 15,000 rural parcels (50% of rural parcels to be registered) in three districts and additional surveying and cadastral mapping of 5,000 parcels. The districts will be selected on an annual basis according to eligibility criteria of (i) demonstrating a streamlined approach to surveying of 21,300 urban parcels in four urban areas including Belize City and (ii) supporting a two-tier public awareness and monitoring campaign tailored to Belize's multi-cultural context.
- *Improve the efficiency and sustainability of land administration services provided by the public sector.*
This component includes the objectives of (i) Consolidation of 3,000 land registration records into a single Land Registry, (ii) improving land valuation and taxation processes, (iii) developing a national parcel-based land information system and (iv) strengthening of Ministry of

Natural Resources, Environment and Industry units providing land administration services.

- *Build capacity for land use planning at the local, regional and national levels.*

This component is intended to improve public sector capacity to plan for, review and monitor land use changes, including development proposals, through (i) development of a decentralised national land-use planning framework, and (ii) preparation of local land use plans and delineation of village boundaries.

- *Support national land policy reform.*

This component is aimed at (i) supporting the National Land Advisory Committee and (ii) achieving the complementary institutional strengthening of MNREI to implement the reforms and monitor their impact.

The specific targets indicative of success of the Land Management Programme and aiming to ensure that the intended transformations in the business process and thus in efficiency and transparency are achieved have been set at:

- clarification and registration of definitive rights to land for 15,000 rural and 500 urban parcels in three districts;
- surveying and declaration of registration areas encompassing an additional 5,000 rural and 20,800 urban parcels;
- consolidation of 3,000 title documents into the Land Registry;
- expansion of land administration services to the public at the six district offices;
- efficiency gains of 35% and 30% respectively in actual land revenues and transactions volumes;
- improved access to land information records and other products for use by local government, the private sector and others;
- approval of at least three (3) local land use plans and delineation of at least 80 village boundaries;
- dissemination of the findings of the National Land Advisory Committee.

A critical aspect of the execution of the Land Management Programme, as with any other project, is the joint understanding of the objectives and the joint pursuit of the changes required by both the project monitoring unit and the mainstream Ministries as executing agencies. There are critical elements in the design of the Land Management Programme and in the manner of execution currently being pursued that are intended to yield the desired results in this regard. In the first instance, the programme is overseen by a Programme Co-ordinating Committee that includes members from the Lands and Surveys Department as well as each of the following Departments within the Ministry that share a responsibility for Natural Resource Management: Forest, Environment and Geology and Petroleum.

In addition, the committee includes the Chief Executive Officer (or his/her representative) of the Ministries of Agriculture and of Rural Development.

In terms of the manner of execution, the Lands and Surveys Department, as the front-line executing agency, participates actively in execution on a daily basis. Review committees for tenders include department staff, and counterpart financing includes the special assignment of department staff located both within the Project Unit and the Department and dedicated to ensuring that the project tasks are completed within schedule and standards. The intent of this aspect of the programme execution is to ensure institutional strengthening and thus the sustainability of programme outputs. The programme targets will significantly increase the quantum of registered lands, the level of automated business processes and the extent of incorporation of geographic information and mapping software applications.

8. ISSUES IN MODERNISING LAND ADMINISTRATION

8.1 Land Information, Land Use and Physical Planning

As the demand for land and the pace of land market development increases, and as the modalities applied to land management by both the public and the private sector transforms, the issue of information management and dissemination, and of planning and policy formulation, become more pronounced.

The support of the Land Management Programme with respect to institutional strengthening and support of land use planning is intended to further propel the improvements required in the national structure for physical planning and development. Two of the programme outputs — the areas declared for registration and the transformed records for lands therein and the improved automated system for the management of land transactions and records — are critical inputs for the other programme activities, particularly the application of the full range of Geographic Information System tools to inform policy.

The Land Management Programme is also expected to contribute to critical parameters for physical planning. A critical component is being implemented already — the formulation of a framework for a National Land Use Plan. Furthermore, whilst the Land Advisory Council had already been appointed prior to implementation of the programme, the component allowing for the support of the NLAC activities has already resulted in an improvement in the operation of the NLAC.

8.2 Policy Co-ordination and Institutional Strengthening

The Department with the primary responsibility for land management and administration is placed within the Ministry of Natural Resources. Moreover, the composition of the Ministry at present is such that other Ministry departments — Environment, Forestry and Geology and Petroleum — carry out other critical natural resource management portfolios. In order to come to terms with the evolved landscape and the increased demands for reliable support in land use planning, in the dissemination of land information, and in the provision of sound policy advice both within the Ministry and central Government as well as within the wider national territory, the Ministry of Natural Resources has given increased attention over the past four years to the issue of policy co-ordination and institutional strengthening.

Institutional strengthening and strategic planning processes have highlighted the challenge of co-ordinating Departments with distinct roles in land and other natural resource management, and have helped to highlight the solutions to the challenge of increasing demands on the institutional services by the general populace. In response to the issues identified in this regard, special attention is being paid currently to the provision of support to all departments in the area of legal services, information technology, public relations, human resource management and financial administration. These measures at the centre are critical to the effective execution of the portfolio objectives for Lands and Surveys and other Departments.

9. CONCLUSIONS AND RECOMMENDATIONS

Land management in Belize is characterised by a parallel structure. On one hand is the continued role of the State as regulator, manager and distributor of National Estate. On the other hand is the measure of freedom which land owners enjoy, whether as individual or corporate bodies. The use of lands acquired (*ex gratis*) from the State and sale of same, by both individuals and corporate bodies, at market prices is the foundation of the property market in Belize. While the Government of Belize has continued to pursue an aggressive policy of land acquisition of private lands (either due to forfeiture or in lieu of taxes) for public use and general distribution, the rise of the secondary land market (which is still evolving) can no longer be ignored⁴⁴.

Land administration (still evolving) in Belize on the other hand, involves the processes of collecting and recording information on land transactions. Belize has a long history of recording ownership records, dating as far back as 1931, when the General Registry Act was put in place, and its amendments in 1977

⁴⁴ For a better treatment on the nature and character of the secondary land market in Belize, refer to Iyo (1998).

under the Land Registration Act. The LRA provides for the declaration of compulsory registration areas identified on large-scale Registry Index Maps (RIMs). The LRA is essentially a property registration statute with properties displayed and identified according to an official RIM. There are currently 43,000 parcels registered under LRA⁴⁵.

General Registry ownership records on the other hand, consist of the Torrens-type certificates of titling including both first registration certificates and certificates issued under transfer from an existing title. These can be accessed on an individual basis using a manual search based on owners' names. Besides, such information is also used for updating the database as well as determining issues of valuation and taxation. By 2001, the system had an estimated total of 50,000 parcels still active in the General Registry records including 20,000 urban parcels and an estimated 30,000 rural parcels outside of designated areas⁴⁶. The observation in Belisle — that “land is the source of all material wealth. From it we get everything that we use or value, whether it be food, clothing, fuel, shelter, metal, or precious stones. The availability of land is the key to human existence, and its distribution and use are of vital importance. Land records, therefore, are of great concern to all governments”⁴⁷ — can no longer be taken for granted.

At present, dissemination of information about records of ownership, use and value of land is yet to be fully developed. The under-staffing situation at the Lands and Surveys Department added with a slow process of transfer of technology and expertise posed serious challenges to prior efforts to modernise the system⁴⁸. The initiatives under the Land Management Programme, combined with the concurrent developments in information technology and efforts at institutional strengthening, are expected to lend to the expansion and transformation of the Lands and Surveys Department. When completed, these initiatives will transform not only the land information system, but also more importantly, the whole gamut of land and property market in Belize⁴⁹.

Tenure security and investments in the secondary land market (which is operating both in the formal and in the informal sectors of the national economy) are still beset with some levels of risks, since there is no pricing policy in place, and since such transactions are being carried on outside of the Ministry's purview. Suffice to note that the attention of land administrators is only drawn at the stage of transfer and registration. Despite these weaknesses, the secondary land market in Belize is very dynamic and the use of the information super-highway has made it the more attractive and lucrative for

⁴⁵ Barnes Ltd., 2001, p. 5.

⁴⁶ Ibid.

⁴⁷ Belisle 1988, p. 137.

⁴⁸ Refer to Barnes Ltd., on some of these problems; also refer to transcripts of oral interviews with Ministry officials, Jim Hyde and Grant.

⁴⁹ Based on conversations with key Ministry officials.

both speculators and genuine investors within and outside the country. Above all, the Government's official policy of land acquisition and distribution of same, amongst its citizens at below-market value, has made the Belizean property market all the more attractive. Hence, whereas the concerns regarding access and equity are being pro-actively addressed by the Government of Belize, the unintended consequence of this policy is the growth of the secondary property market without adequate enabling legislations. Thus the sale of land by individuals to foreigners who can afford the price for speculative purposes has in recent years generated debate and resentment amongst born-Belizeans.

Regarding the sustainability of resource use, Belize is unrivalled in the region when it comes to the protection of land and water resources for the use of future generations. Currently, over 45% of the land area in Belize is in some form of protection, either as a Forest Reserve, National Park, Nature Reserve, Wildlife Sanctuary, National Monument, Archaeological Reserve or Marine Reserve. The complementary role of the growing number of internally and externally funded environmental NGOs is a clear testimony to the vibrancy of this very important sector of national development. As discussed in the main body of this text, there is a pressing need for the Lands and Surveys Department to engage more actively in this area, and to address this need through policy re-orientation and regulations. The recent definition of the Department's mission and vision speak in part to this.

Thus it is that the triangle of property rights imperative for Belize is characterised by significant efforts to achieve positive equity and sustainability in terms of access to land resources by all Belizeans and the protection of land and water resources for future generations. The challenge, where the trio of imperatives is concerned, is with respect to dynamic property markets and security of tenure. The current programme of adjudication and registration, expansion of the Registry and an electronic data management system for land information and the strengthening of institutional capacity and land use planning (the LMP) is intended to address this weakness. The success in terms of institutional strengthening and planning will be key to ensuring the delicate balance in the trio, particularly where the issue of access, especially to the least advantaged, is concerned.

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GUYANA: Land Policy, Administration and Management.

Andrew R. Bishop

INTRODUCTION

1.1 Geography

Guyana is situated on the north-east coast of South America in the Caribbean and is bordered by Venezuela to the west, Surinam to the east and Brazil to the south. With more than 400 km of Atlantic Ocean coastline, the territory extends from 1° to 9° Latitude and 57° to 61° Longitude.

1.2 Population

Guyana is a mainly rural and sparsely populated country. It has a total population of 770,000 (2001 Guyana Bureau of Statistics), on 215,000 sq. km of land. Of the total population, 90% live on the narrow coastal strip and 20% live in the capital, Georgetown. The people of Guyana come from diverse social and cultural backgrounds, with the population being comprised of three main ethnic groups: Indo-Guyanese (51%), Afro-Guyanese (42%) and Amerindians (6%).

1.3 Land

Its area of 215,000 square kilometres can broadly be divided into three physiographic regions: the coastal plain in the north, the (rain) forest spanning the central and southern regions and savannahs in the south-west. The coastal plain is by far the most fertile, productive and populous of these regions.

1.4 Natural Resources and Economy

Agriculture is the single most important sector of the Guyanese economy. With rice and sugar as major export crops, agriculture is the major source of employment in Guyana and accounts for 28% of Gross Domestic Product (GDP). The mining sector accounts for some 15% of GDP, with gold and bauxite accounting for 40% of export earnings. Despite its considerable natural resources Guyana remains a poor Caribbean country, with a per-capita income of US\$690.

2. PROFILE OF GUYANA LAND RESOURCES AND MAJOR LAND USE PATTERNS

Guyana has frequently been touted as the bread basket of the English-speaking Caribbean. This is mainly due to vast land area (approximately 216,000 km²), suitable climatic conditions, abundance of natural water resources, adequate topographic and pedographic characteristics, and the opportunity for the development of large-scale agricultural production systems.

(Guyana National Development Strategy 1996)

2.1 Introduction

Guyana is a large country with only a small population. Only a fraction of its land is populated and/or put to productive use, with the vast majority of the interior being uninhabited and uncultivated. Approximately 77% of Guyana's land is comprised of forests, with a further 15% being savannah lands. While Guyana's coastal plain accounts for just 8% of the national territory, it is also the most developed, agriculturally productive and populous area, and so it is this region this report will focus.

2.2 Land Use

Fed by the nutrient rich rivers flowing from the interior, agricultural land on the coastal plain is in the main fertile and relatively good in supply. However, much of the coastal plain lies below sea level and its development (indeed existence) has only been made possible by the construction of a sea wall and a system of dams and canals. These dams are positioned up to 10 miles from the sea and are designed to trap and hold back the water draining from the south. The complex system of canals irrigates and drains the entire coastal plain. This network of canals and drains, along with Guyana's numerous rivers and creeks, has determined the pattern of land development, which is orthogonal in relation to the coast.

Agricultural land on the coastal plain is dominated by two crops, rice and sugar, in which Guyana has a comparative (if not yet fully realised) advantage. Cultivation of these crops is currently undertaken at two scales of operation. On the one hand there is estate agriculture, most notably the large sugar estates managed by the parastatal GUYSUCO, and the larger rice-producing units. On the other hand are the small-holder producers, a majority of whom cultivate less than 20 acres. There are relatively few medium-scale operations.

2.2.1 Rice

The production of rice expanded rapidly during the 1990s in response to the Economic Reform Programme. The cultivated acreage of rice land roughly doubled between 1991 and 1997 and today occupies approximately 190,000 acres (Source: SES). Excluding the sugar estates run by the parastatal GUYSUCO, rice land accounts for just less

than 90% of the land under cultivation on the coastal plain. Rice is entirely grown by private farmers and is the principal crop for a large majority (68%) of the estimated 11,000 farm households (Source: SES). The value of most agricultural land is directly linked to the profitability of rice production. Although there are some large rice farms, the majority are small, being approximately 15 acres or less.

2.2.2 Sugar and Other Crops

Sugar in Guyana is produced mainly by GUYSUCO, although some private farmers supply the Corporation with cane under contract. As was the case with rice, the production of sugar grew substantially during the early 1990s, by some 54% between 1991 and 1994. Today sugar accounts for an estimated 115,000 acres of cultivated land (Source: SES). Agricultural land not cultivated by sugar or rice crops is used for producing other crops such as vegetables, coconuts and citrus fruits, or for the grazing of livestock. Cash crops and provisions occupy a much smaller percentage of the coastal plain, but are an important area of crop diversification especially given the recent downturn in the markets for rice and sugar.

Agriculture on the coastal plain is highly mechanised with tractors and combines used by many. There is however a considerable area of uncultivated land held by farmers on the coastal plain frequently used for grazing. In total, this land, most of which is unlikely to be cultivable in its present state, is estimated to amount to around half a million acres.

2.2.3 Urban and Commercial Land

In the residential sector land is divided between a small proportion of the population who own large properties and a majority who own small housing plots. Similarly, in the commercial sector there is a clear divide between those enterprises with international backing that own large plots of land and much smaller informal enterprises that occupy considerably smaller plots.

Both urban and commercial development along the coast has followed the ribbon development pattern along the main road artery that runs parallel to the coastline from Charity in the north-west to Corriverton in the south-east. The majority of Guyana's population therefore lives in close proximity to this road. Others have settled along some of the main riverbanks close to the coastal plain.

Aside from those commercial activities such as mining and forestry that exploit Guyana's natural resources in the interior, the majority of commercial land is also to be found close to the highways or at ports.

2.2.4 Farm Size

Excluding farms over 100 acres in size, the average farm size on the coastal plain is 17 acres. The average size of rice farms is just over 19 acres, while the average size of non-rice farms is less than 6 acres.

In consequence, around 90% of the cultivated area is under rice. Non-rice farmers constitute almost a third of all farmers but cultivate only 11% of the land. Similar disparities exist between rice farmers. Average holdings for rice farmers are 60% greater for those on Government land (25 acres) compared with those on private land (16 acres). Furthermore, over half the rice land on the coastal plain is farmed by less than 25% of the farmers whereas over half of the farmers who farm up to 15 acres cultivate less than 20% of the land.

2.2.5 Fragmentation

An important feature of farm holdings in Guyana is their fragmented nature. From a survey of 771 farming households on the coastal plain conducted in 1998, it is clear that approximately 60% of rice farmers and a third of non-rice farmers have more than one plot and 18% of rice farmers have more than four plots. Furthermore, around 40% have plots in different locations, while 11% — the majority of whom are rice farmers — cultivate both private and public land.

2.3 Land Tenure

The land tenure system defines who has access to land and its resources, and under what conditions.

There are three broad categories of land in Guyana:

- Public land (including both State and Government lands),
- Private land,
- Amerindian land

2.3.1 Land Tenure on Public Land

The proportion of public land on the coastal plain, excluding GUYSUOCO land, accounts for approximately 70% (100,000 acres) of the cultivated area of the coastal plain. Holdings are generally larger on public leasehold land than on privately held land. At least 60% of cultivated land falls in the leasehold sector. However, just less than 60% of farmers have private, freehold land.

Public land comprises several different forms of land tenure, which include leasehold land, proprietor estates, land schemes, land cooperatives/communal land, sub-let land, squatter land and unused or abandoned land. The standard 50-year lease is the main instrument for land tenure on public land.

As of 1998, as much as 70% of public land on the coastal plain was unregistered, though this is now being significantly reduced through a

programme of land tenure regularisation (LTR) (see Section 5). Field data from LTR generally support the original estimates obtained from a detailed analysis of public land records that less than 20% of occupants of public land possess a full valid lease.

Fieldwork has also confirmed that outside the formal system a complex set of informal tenure arrangements is in use. These arrangements can be classified into two groups: those that have some links with the formal system (e.g. an application for a lease), and those that work totally outside the system such as squatting. Within the informal sector two main transactions are completed — sub-letting and sale/transfer of public land. The existence of formal title documents does not usually play a role in these transactions.

Proprietor estates have long histories of land use and occupation by tenants and may have changed hands from one private owner to another or from a private owner to the State. Where land is held privately, proprietors typically wish to rid themselves of the tenants, and so insecurity tends to be high.

There are between 4,000 to 6,000 members of 120 Co-operative Societies in Guyana. Co-ops occupy tens of thousands of acres of public land which are generally held under expired or provisional leases. Many are barely functioning as co-ops, and co-op members are interested in dissolving the co-op and obtaining individual leases.

2.3.2 *Land Tenure Patterns on the Coastal Plain*

Land on the coastal plain was originally allocated to settlers in rectangular plots, roughly at right angles to the coastline. Plots could be several hundred yards wide by several miles deep. The initial depth of one to two miles inland from the sea was granted freehold and is known as the “first depth” or “transported land”. The area behind the first depth was then allocated by licence or on 99-year lease on request and subject to the satisfactory development of the first depth; this is known as the “second depth” land.

The remaining land up to dams and canals controlling the conservancies had until the advent of the 50-year lease in 1998 been allocated on 20-25 year leases. With few exceptions, the overall pattern of land tenure, proceeding inland from the coast is therefore as follows:

- initially private transported land on either side of the main road,
- licence/long lease State land, second depth,
- short lease land and land schemes in land, third depth.

A crucial feature of the tenure situation on public land is the extent to which land is unregularised, with many owners, tenants and lessees not possessing a formal title or lease. *Overall, approximately one third of all land does not have any lease or title. The proportion of public land*

that is unregularised is much higher than that of private land and stands at an estimated 47%.

2.4 Land Transactions

2.4.1 Purchases of Land

Only 3% of farmers purchased land in the last five years. The proportion of farmers making purchases varies considerably with the type of land. Of those with mixed ownership 9% made a purchase compared with only 2% for those with private or State land outside the land schemes. A large proportion of transactions involves persons from overseas or by farmers currently renting their land.

2.4.2 Applications for Land

Overall around 20% of farmers are currently in the process of making an application for leasehold land. The proportion for farmers in land schemes is much higher at 40%. In contrast only 6% of those with private land are making an application. Just under a half of applicants have an application outstanding, while 10% have four or more applications outstanding. As of 1998, some 38% of applications date from before 1980 and 30% date from the previous three years. Two thirds of applications are for new lease or title. Of the remaining third, 30% of applications are for transfers between family members and 5% are for renewals.

2.4.3 Land Disputes

Overall, the incidence of disputes is low, with fewer than 8% of farmers reported being involved in a dispute in the last five years. The proportion of farmers with State land reporting disputes (8-12 %) was higher than the equivalent proportion of farmers on private land. The implication is that the high level of unregularised tenure increases the likelihood of disputes occurring.

With respect to tenure, there is little variation apart from the fact that squatters inevitably are much more likely to be involved in disputes. Additionally, small farmers are less likely to be involved in disputes than larger ones. The most common cause of disputes is boundary problems (26%) with the majority of these disputes being on/over Government land. The use of vacant land and inheritance (15%) are key causes of disputes as are problems with leases, disputes over ownership and problems with landlords which occur in over 10% of cases. Some 80% of disputes are with other family members, neighbours or other farmers.

TABLE 1. OWNERSHIP PUBLIC / PRIVATE

	Public	Private	Total
# Parcels	46,054	25,131	71,185
Acres	1,682,675	481,153	2,163,828

Source: GLSC, Public Land Inventory (2002).

Note: For private land, only Region 2, 3, 4, 5 & 6 data are represented.

TABLE 2. PUBLIC LAND TITLES

Leases Approved 2002	Leases Recorded 2002	Total Leases on Database	Total Parcels	Regularisation Ratio
3,089	940	12,353	46,054	28.6%

Source: Guyana Lands and Surveys Commission (GLSC) database.

TABLE 3. GENERAL DATA PROFILE, 1996–2000

	1996	2000
POPULATION		
Population, total (mid year) (000)	770.1	772.2
Population growth (annual %)	.05	.05
Population density (people per square km)	3.58	3.59
Urban population (% of total)	36.0	38.2
Rural population density (per sq. km of arable land)	111.6	105.0
Household (000)	154	(1991)
ECONOMY		
GNI atlas method (current US\$ million)	510.9	552.6
GNI per capita, Atlas method (current US\$)	750	750
GDP (current US\$)	590.1	596.9
GDP growth (annual %)	7.9	0.8
Inflation	4.5	5.9
Agriculture, value added (% of GDP)	38.9	31.1
Industry value added (% of GDP)	33.8	29.0
Services, etc., value added (% of GDP)	27.3	39.9
Foreign direct investment (US\$ million)	93.0	67.1
Aid per capita (current US\$)	169.5	47.8
HEALTH		
Fertility rate, total (births per women)	2.4	2.3
Infant mortality rate (per 1,000 live births)	56	57
EDUCATION		
School enrolment, primary (% of net)	94.7	96.6
School enrolment, secondary (% of net)	52.0	53.0
ENVIRONMENT		
Surface area (sq. km) (000)	215	215
Forest area (sq. km) (000)	169.0	168.8
Annual deforestation (% of change)	0.1	0.3
Freshwater resources per capita (cubic meters) (000)	281.6	281.6
Improved water source, urban (%urban pop. with access)	90	92

Sources: Ministry of Finance; Bureau of Statistics; Bank of Guyana.

TABLE 4. GDP BY SECTOR (G\$M)

Year	Agriculture	Forestry	Fishing	Mining	Services	Engineering & Construction	Manufacturing
1991	9,811	327	2,765	5,252	9,956	1,170	4,341
2000	24,130	2,232	7,240	17,235	43,101	5,335	8,813

Source: Bureau of Statistics and Bank of Guyana.

TABLE 5. DISTRIBUTION OF CROPS BY REGION OF THE COASTAL PLAIN (%)

REGION	C R O P							
	Rice	Sugar	Vegetables	Ground Provision	Coconut	Citrus	Pine-apples	Others
Essequibo	98.5	0.0	0.1	0.8	0.6	0.0	0.0	0.0
West Demerara	65.6	13.1	4.8	7.4	0.6	6.1	1.4	0.9
East Coast Demerara	55.9	0.0	17.3	6.0	11.3	4.8	0.6	4.1
West Berbice	97.2	0.0	1.7	0.4	0.4	0.0	0.0	0.3
Corentyne	88.0	0.6	3.8	1.8	1.6	3.6	0.0	0.5
TOTAL	87.1	1.9	3.8	2.2	1.6	2.6	0.2	0.6

Source: GLASP SES results. Results have been weighted to be fully representative.

TABLE 6. LAND TYPE BY REGION OF THE COASTAL PLAIN

REGION	LAND TYPE			
	Private	Public	Land Scheme	ALL
Essequibo	45.5	21.8	32.7	100.0
West Demerara	68.5	15.9	15.6	100.0
East Coast	48.6	15.5	36.0	100.0
West Berbice	43.2	25.7	31.0	100.0
Corentyne	23.8	45.8	30.4	100.0
TOTAL	38.2	32.5	29.3	100.0

TABLE 7. CROP BY LAND TYPE (ACRES)

CROP	Private	Public	Land Scheme	ALL
Rice	4,002	3,919	3,784	11,705
Other	1,021	350	61	1,433
ALL	5,023	4,269	3,845	13,138
Percentages by Land Type				
Rice	79.7	91.8	98.4	89.1
Other	20.3	8.2	1.6	10.9

3. SOCIO-ECONOMIC BASELINE CONDITIONS

3.1 Introduction

This section documents those social and economic conditions that pertain to land tenure in Guyana. The land tenure system influences the conditions of access to land and its resources. The issues surrounding land tenure in Guyana include tenure security, access to information, land rights, access to land and access to credit.

3.2 Security of Tenure

Security of tenure is the most important output of any land administration system. Clear laws and simple, effective and transparent administrations are the crucial components in supporting the system. Guyana has inherited land legislation from Roman Dutch Law, English Common Law and Colonial Statute, and elements of all three continue to apply. The current situation on the ground is therefore complex.

Both leasehold and freehold tenure arrangements are rendered insecure by the failings of the respective registers and by a history of administrative delays in issuing leases. Informal arrangements and violations of lease terms are commonplace and leave many in a legally precarious position. All land users who do not possess a valid title experience the risk and uncertainty of not having secured land rights to some degree. Those who are most vulnerable are the groups with weakest tenure rights or with constraints to accessing the formal land administration system. Some farmers operate under provisional leases with annual renewals. Others have failed to convert a lease into their own name upon the death of the leaseholder. Other farmers never obtain leases despite years of occupation. Without a valid lease, or with a lease inherited from a long dead relative, farmers cannot gain access to credit and are vulnerable to eviction.

Perhaps the most vulnerable persons in terms of tenure security are squatters. Squatting cuts across all tenure sectors. Determining who is a squatter in Guyana is not straightforward, as many “squatters” claim to owe their status to defects in the system which render them with land rights for prolonged periods. Other groups with insecure tenure rights are those who are sub-letting land without any legal provision and those on short-term leases.

Despite the many problems listed above tenure security is still recognised by Guyanese farmers as an important livelihood asset. Having rights that are properly listed on the land register, with confirmed boundaries and a valid title remain a high priority for most farmers, providing improved access to credit and ownership of a transferable/inheritable asset. This fact is important since any attempt to formalise the current informal arrangements will require their full participation. This subject is covered in more detail in Section 5.

3.3 Access to Information

Access to reliable information on land and administrative procedures is of key importance if full participation of land users in the formal system is to be sustained. Land users require a range of information on which to base rational decisions such as whether to buy, sell, rent or mortgage land and whether or not to apply for leasehold land.

The poor condition of the Guyanese land administration over the last 20 years and the limited communication networks with which to publicise information have limited the scope for an effective public relations campaign on all of these issues.

Records were often out-of-date, incomplete or difficult to retrieve and frequently failed to reflect the reality of the situation on the ground. The database of land information was therefore inadequate as a result of unreliable and limited availability of land data. Against this background it was difficult for Government to formulate policy and provide consistently reliable information to the public. This now resulted in a general erosion of confidence in the system.

There is a clear need for all details of land allocations and leasing arrangements to be in the public domain and regularly updated. Clear policy guidelines on tenure situations, qualification criteria and procedural issues should be available to public and administrators alike for the system to work effectively.

3.4 Access to Credit

Access to credit is often cited as one of the aspects of improved security of tenure that is most likely to have a positive impact on agricultural production. This operates principally through use of property as collateral. Table 8 shows the use of credit according to the differing classes of land tenure from a sample (taken in 1998) of 771 farming households on the coastal plain.

TABLE 8. USE OF CREDIT AND LAND TENURE

Class of Tenure	% Using Seasonal Credit	Mean G\$000 per Acre	% Using Medium-Term Credit	Mean G\$000 per Acre
Squatted	9.3	7.50	23.9	34.80
Private freehold	28.5	7.60	10.8	41.10
Private sub-let	16.2	12.20	18.1	116.10
Public leasehold	38.4	7.80	12.0	55.70
Public sub-let	22.5	9.60	17.6	41.30
Freehold + leasehold	36.5	4.90	19.4	37.70
Freehold + sub-let	15.0	10.10	16.1	30.10
Leasehold + sub-let	38.0	7.60	22.3	28.20
Overall	29.6	7.70	15.0	47.00

At present land is rarely pledged as collateral for credit and levels of credit usage are low, with only 30% of farmers using seasonal credit and 15% medium-term credit. Only 7% of farmers reported pledged land title as collateral for the loans they held. Personal assets of the borrower figured as the most common form of collateral. Over a third of seasonal loans were granted without collateral.

The most frequently cited advantage of freehold land tenure systems is that farmers can pledge their land as collateral and raise credit finance and so are not discouraged from investing for the long term. However, contrary to what might have been expected, it is clear that farmers on public leasehold land are more likely to use credit than farmers with private freehold land. It seems that land is not considered an effective form of security for borrowing with either private or public lands, but that the latter, perhaps through closer contact with Government services, are better able to establish credit in other ways.

The fact that farmers on public land have substantially larger holdings is also almost certainly a factor. Operations over 10 acres are almost twice as likely to use seasonal credit as those under 10 acres, though the amount borrowed per acre falls as farm size increases. Non-rice farmers appear to require less credit because of the stronger economies of their crops and more stable cash flow. Female-headed households are only slightly less likely to use seasonal credit than male-headed households. Only 12% of farmers in the survey stated that they had at some time been refused credit. The large majority of refusals came from banks, and the main reasons were lack of collateral or indebtedness. It could be reasoned that it is not the class of tenure that is a barrier to credit, but rather the efficacy of the land administration system.

3.5 Access to Land

Informal transactions in the land market in Guyana are substantial. In the formal system, the sale/sub-lease/sub-division of leasehold land are all restricted under the terms of the lease. In practice, however, there is an active informal market in the sub-letting of both leasehold and freehold land. As much as 40% of leasehold land is estimated to be sub-let informally.

Although outright sales of land in the informal market are less frequent, they do occur. Furthermore, the “formal” market has, to a degree, undergone a process of “de-formalisation”, whereby land originally allocated, transferred and documented formally and legally has over time undergone successive rounds of informal, undocumented transfers or subdivisions. Therefore, to speak of two *separate* markets, one formal and the other informal, distorts reality by oversimplifying it.

The formal mechanisms for the exchange or lease of land are widely perceived as being either too costly and unfair or too lengthy as to be either practical or affordable. Consequently, though the sale of freehold land is legal, it is expensive and slow. Sub-division is possible only on freehold land, but again this is expensive and slow and it is not permitted to change the use of leasehold land.

This general inflexibility of the formal procedures for the sale, rental and sub-division of land has reduced access to land for members of the public through the main formal mechanisms. The informal market has responded to this by providing ways of accessing land more quickly and cheaply, though at the expense of security.

Although Guyana is rich in land and has a comparatively small population, access to productive agricultural land is limited on the coastal belt. In many cases, access is limited by a lack of necessary infrastructure (especially drainage and irrigation) rather than a shortage of land itself. The problem of the limited access to land on the coastal plain is made more acute because of the different demands for land (urban, rural and commercial). Many small-scale farmers have insufficient land to support their family units based on the quantity/quality of land they have access to. In response, they have diversified and meet their needs through secondary non-farm incomes. Urbanisation along the coastal strip and the growth of Georgetown have further increased pressure on land in this region.

Access to land is also limited by the number of persons willing to sell or let their land in the various regions of Guyana. Following the high rice and sugar prices of the early 1990s there has been a reluctance to sell land. However, in recent years the international markets in these crops have become depressed, and so has the land market in general.

The proper functioning of a freehold market in land depends on there being a comprehensive registry of property rights as well as transparent and effective planning procedures, legal provisions governing sale and rental and professional survey and valuation services. There is a great deal of work to be done in Guyana to ensure that these provisions are met. Administrative delays and Guyana's failure to maintain both the freehold and leasehold registers can be identified as key barriers to the free transfer of and access to agricultural land in either sector.

3.6 Rents and Rates

Land is a factor of production. As such, its price reflects the demand for it, which is itself derived from the demand for the goods which it is used to produce. Much of the Guyanese coastal plain is highly adapted to rice and sugar production, but less well suited to other crops. This situation has meant that the value of the land is to a large extent determined by the value of rice land, which in turn is tied to the price of rice and the fluctuations in the international and domestic markets for these crops.

A study completed in 1998 (Public Land Administration and Regularisation of Tenure, PLART) identified four broad bands of market rent. The lowest category, G\$5,000 per acre per year or less, is paid for land planted to ground provisions and rice land with poor drainage, access or other problems. Between G\$6,000 and G\$10,000 is paid for good-quality public land. In areas with high densities of tractor and combines, competition for land raises rents into the third range, between G\$10,000 and G\$20,000, whilst private land around Georgetown used to grow vegetables may cost over G\$20,000. The same study also showed that market rents for rice land are closely linked to the price of rice and many rents are still quoted in terms of bags of paddy per crop rather than dollars per acre per year.

With the decline in rice price in the last few years, rents have dropped considerably from these values. However, despite the wide range of rents paid, it would seem that in most cases they do correctly reflect the market value of the land. Rents are largely determined by quality of the capital infrastructure, drainage and irrigation and access for machinery, rather than by the underlying quality of the land itself or any scarcity of arable land. It is because the condition and quality of the drainage and irrigation and other infrastructure are very variable that there is such a wide range of rents.

4. LAND AND TENURE POLICY INITIATIVES

4.1 Introduction

Security of property rights in land enables citizens to gain sustainable livelihoods and allows them to become more independent of the State. Civil society is strengthened and the individual is guaranteed the benefits of his or her investment in developing and improving the land. The unrestricted right to transfer ownership to spouses, children and other heirs is an important freedom and the foundation for stable family life.

In Guyana, fundamental rights to secure title in property and to transfer property freely have been restricted in a number of ways:

- A substantial proportion of the land that is in productive use is held on leasehold from the State, under conditions that limit transfer and, in some cases, restrict the owner's choice of economic activity;
- Large areas are occupied without any formally recognised title;
- In the freehold sector, leasing is subject to rent control and tenant security provisions;
- Legislation governing the registration and adjudication of disputes on freehold land is cumbersome and ineffective;
- Administrative delays in issuing leases and in transferring title compromise security of tenure and weaken marketability;
- Both freehold and leasehold registries are inefficient and very out-of-date.

Against this background and the widespread abandonment of the formal system by the public, the Government has identified the need for an effective market-based land tenure policy to support economic and social development.

4.2 Land Tenure Policy Principles

In seeking to develop land tenure policy, the Government adopted a series of guiding principles meant to recognise what people were doing informally and where appropriate, to legitimise informal practices. When practices are inappropriate, incentives were to be used to modify informal arrangements.

Tenure policy is based on a number of key guiding principles:

- *Land tenure policy should be based on an understanding of what people are currently doing, and why they are doing it.* Simply making illegal an activity such as sub-leasing would not prevent it from occurring if people consider it to be in their best interests. Policy therefore reforms.
- *The land tenure system should have a sustainable development function and a social welfare function.* The policy should identify classifications of people who should be allocated land to further economic development (e.g. mechanised farmers). The policy should also identify groups of people who should be allocated land for social welfare reasons (e.g. small farmers with insufficient acreage, young people who wish to farm, other landless people, etc.). The sustainable economic development function should address tourism, mining, forestry, etc.
- The policy should adopt *the principle that those who are allocated land should receive enough land to support their needs.* In the case of agricultural land, farmers should be allocated sufficient land to support their farming activities. The decisions of “*who gets land*” and “*how much land should be given*” are inter-related and the policy should specify the categories of land parcels that should be allocated to corresponding categories of beneficiaries.
- To be sustainable, the land tenure policy should adopt *the principle that the system to allocate land should be designed to meet future, as well as current, needs.* Strategies to improve the delivery of land must take into account future demands. For example, in the case of agricultural land, children of farmers may require access to land since division of a minimum-sized family farm upon inheritance will result in farming units that are too small to be economically viable. The delivery system should also be continually reviewed and modified to take into account the effect of new technologies (e.g., affordability of mechanisation), market factors, etc.
- Land tenure policy should adopt *the principle that the system to allocate land should address problems of land shortage in a comprehensive, integrated manner.* Examples requiring such an approach include:
 - *Public leasehold land and freehold land.* In many cases, small farmers using freehold land cannot farm economically if they crop

rice because parcels are too small (e.g., 2 acres). However, it is important to realise that the size of land parcels is a function of the ability and resources of the farmer to develop the land. Therefore, small-holdings with intensive high-value crops combined with small stock may be an option that needs encouragement. Problems may also be experienced because of extreme fragmentation resulting in very long but narrow parcels. Solutions to relieve the problems of freehold land (such as consolidation of small parcels into economically viable farms) may be possible only if they are integrated with the supply of public land (through the reallocation of leasehold land upon expiration and/or the opening up of new agricultural land for leasehold or freehold).

- *Agricultural land and urban land.* A policy addressing the coastal agricultural belt should also address the problems of urban housing. The process of urbanisation occurs throughout the world as people move from rural areas to the cities. As urban centres grow, agricultural land is often converted informally into urban use. In and around Georgetown, much urban squatting takes place on GUYSUCO land. It may be possible to preserve selected agricultural land near cities if alternative sites can be made available to new migrants arriving in cities.
- *Public land and other economic activities.* A national policy should address the supply of land for eco-tourism, mining and forestry.
- The land tenure policy should adopt *the principle that the system to allocate land should operate in a pro-active manner.* If land is to be used effectively, land allocation should not take place primarily in response to individual applications. A comprehensive land policy cannot be implemented in a sporadic fashion. Instead, land appropriate for small and mechanised farming should be identified and allocated in a systematic fashion. In the case of urban development, land should be identified and made available to migrants before they resort to squatting.

Summarising: A land tenure policy can be effective only if there is a clear understanding of who the policy is intended to benefit. Beneficiaries must be clearly identified from the start. The land tenure policy should adopt *the principle that land rights should be allocated to those who can use the land for economic development and those who need land to alleviate poverty.* Land tenure policy should have a social welfare function if poverty is to be reduced. It should also give emphasis to an economic development function if more rapid growth is to be achieved.

4.3 Government-Approved Policy

Recognising the issues associated with land tenure and reform, Government in 1998 adopted a Land Tenure Policy. This policy *inter alia* specifically provided for a relaxation of the existing leasehold restrictions and eventual

conversion from leasehold to freehold for all parcels up to 15 acres in size beneficially occupied for at least 25 years.

4.3.1 Freehold Conversion Programme

Benefits of freehold conversion include:

- Security of tenure: Farmers perceive freehold as a more secure, more valid and more valuable form of tenure. Insecurity of tenure limits the investments farmers make on their land and makes them less comfortable with the investments they do make. Uncertainty engendered by this situation inevitably dampens investment and the overall development of agriculture. Conversion to freehold tenure is designed to remove the uncertainties and improve the security of access to this resource.
- Inheritance advantages: Uncertainty also exists about the inheritance of leases. Under leasehold, there are restrictions on subdivision, and often one heir inherits the land. Freehold conversion avoids this problem, with owners free to divide and pass on land as they see fit.
- There are long delays and high costs in obtaining a valid lease and in obtaining permission to mortgage. This problem could also be resolved through systematic conversion to freehold.
- Higher value of freehold than leasehold: The market value of land study found that freehold land commands a price premium, averaging 33-100% more than leasehold land.

The Guyana Lands and Surveys Commission (GLSC) has moved to implement the freehold conversion policy. With IDB funding, three pilot areas were targeted for implementation of this policy. These areas represented over 2,000 parcels. A more extensive programme funded by DFID has extended this work and is ongoing. Section 5 details the programme/activities that are being undertaken.

4.3.2 Leasehold Reform

Government's Land Tenure Policy also provided for a new standard agricultural lease. This lease offers similar security and flexibility as is possible under freehold. The new lease now being issued has the following features:

- Lease term raised from 25 to 50 years to enable the leaseholder to satisfy lending institutions' security requirements and recover the full value of investment in the property;
- The right of family members and other heirs to inherit the lease;
- The right to transfer by sale;
- The right to mortgage;
- The right to sub-let;
- The right to renew for an additional term of 50 years provided lease conditions have not been violated.

Two other points may be noted:

- Provision is made for joint tenure for spouses.
- Beneficial occupation is a lease condition.

Reference is made to the pertinent environmental and other regulations in order to ensure compliance with the Environmental Protection Act.

5. LAND TENURE REGULARISATION (LTR)

5.1 Introduction

Investment in formal land institutions has not kept pace with the changing demand for land over the last 10-20 years

In the public sector, lease applications were taking many years to process, and consequently many people did not apply at all, or occupied the land and then applied for it. Even those who did apply usually started using the land without waiting for the lease to come through. Heirs seeking to transfer land they had inherited into their own name and those seeking to transfer a lease they had sold were required to follow the same procedures as those applying for a new lease and they faced the same delays. For that reason, a majority of these more simple transfers were not registered either.

All these factors led to a process of “de-formalisation”. Land that was originally allocated, transferred and documented on formal leases or freehold transport has, over time, undergone successive rounds of informal, undocumented transfer, sub-division and change of use. Formal rights are explicitly acknowledged by the State and are protected by legal means, while informal rights lack official recognition and are not secure.

In an effort to reverse the process of de-formalisation, the Government has been investing in revising legislation and reforming the institutions of land administration since 1997. Current programmes in the GLSC and the Deeds and Lands Registries are expressions of this. These developments cannot succeed, however, when a large proportion of public land is in use but effectively unregistered. For this reason a field programme of land tenure regularisation (LTR) has been implemented with the intention to update the tenure status of the land so that it reflects the current situation.

LTR is a one-off investment to be completed over a 4-5 year period. Once completed, it is incumbent on the land administration to ensure that systems are in place to simplify transactions to ensure that the system remains predominantly formal, and maintain records to a high standard — based, where possible, on parcel registration.

This section describes the progress made in Guyana with regard to LTR over the last 5 years, the lessons learned and projections for the future.

5.2 What is LTR?

Land Tenure Regularisation (LTR) is an administrative procedure undertaken for the purpose of recognising and securing existing rights that people and organisations (other than the State) have with respect to public lands (including both State and Government lands). It is designed to clarify the rights of existing occupants of public land and, where necessary, to convert those rights into legally recognised rights that will allow persons to buy and sell their right and use their title for mortgaging and credit purposes.

The primary objective of the regularisation process is to promote a just, speedy and inexpensive adjudication and disposition of claims — in short, to re-formalise the informal.

As a prerequisite to effective implementation of land tenure policy and rectification of the public land register, the principal outcomes of LTR will include:

- a reduction in tenure insecurity through clearly and definitively established occupancy rights with a transparent mechanism for resolving disputes;
- improved land administration institutions that effectively execute land policies and achieve institutional sustainability;
- improved rent collection and increased revenues from land;
- the development of an open and flexible land market;
- improved productivity and the capability of farmers to respond to market incentives and to national policy incentives;
- increased opportunities for farmers to access formal credit sources;
- more sustainable use of land resources;
- an increase in support to private sector investment (especially long-term investment);
- improved compliance with environmental measures.

The principal outcome will be the provision of title, either leasehold or freehold, to the primary stakeholders — the occupants of public land.

If effectively implemented, LTR and administrative reform will help to restore public confidence in the administration of public land.

5.3 Guiding Principles

The design of the LTR programme in Guyana is based on a set of fundamental concepts or guiding principles aimed at achieving the overall goals of fairness and transparency, with simple procedures understood by all. These procedures are based on the following considerations:

- *Establishing rights to land*
Many individuals or organisations in occupation of public land have established rights to the land that need to be recognised and confirmed. However, some occupants do not have proper documentation of their

rights or have no documentation at all. Furthermore, occupants do not have a simple and transparent mechanism available to them through which they can have their rights recognised and recorded, or a means by which they can borrow against those rights, or transfer them easily or cheaply.

- *A transparent mechanism for resolving disputes*
The most difficult issue in LTR is competing claims for specific parcels of land. These must be resolved in a manner that is satisfactory to and binding on both sides. If this can only be done through recourse to the law courts, the LTR process will be appreciably delayed. Therefore, the existence of a fair and transparent mechanism for settling these claims out of court, such as alternative dispute settlement methods (e.g. arbitration) is paramount.
- *Public and open process*
Public information should be based on two types of activity: firstly the distribution of written information and personal consultation; and secondly through open public meetings. The more information and participation provided to the public, the fairer and more sustainable the process will become.

The dissemination of information must be based on the following:

- *Objectivity*: The information will include all the opportunities and rights provided by law to each occupant.
- *Effectiveness*: The information will be disseminated in such a way that everyone has equal access to all information and fully understands it.
- *Just administration*: The LTR process must not usurp any person's interest in or right over public land and no occupant of public land should be treated in a discriminatory manner
- *A Model programme*: An important objective of LTR is to create a programme that is capable of replication/extension to all public lands. LTR must therefore be a routine process, involving an identical series of actions nation-wide to be modified only in response to local circumstances.

Hence, the LTR process must be based on the following principles.

- *Security*: The right, once recognised and formalised, must be beyond challenge.
- *Simplicity*: This is essential not only for the effective operation of the system but also for its initial acceptance. Simple forms must be used and the procedures must be plain and straightforward.
- *Speed and accuracy*: These are obvious operational necessities in any system if it is to be effective and sustainable. Too often the complaint that LTR takes too long is justified, and this brings the system into disrepute.
- *Low cost*: This is relative and can only be assessed in terms of the possible alternatives. It must be recognised that LTR, particularly in

areas where unrecorded rights in land are already established, is bound to require substantial expenditure.

- *Suitability to circumstances*: This is necessary if LTR is to be easily, efficiently and effectively implemented.
- *Completeness*: The final output of LTR will be a definitive and complete registry of all agricultural public lands, inclusive of unallocated lands, lands to be let, and lands to be sold to the occupants.

5.4 The Main Components of LTR

There are two main components of LTR — administrative procedures and registration procedures — and each has a number of sub-components.

5.4.1 Administrative Procedures

All of these will be carried out under the control of the GLSC, either by its staff, by consultants or by contractors. The following office procedures will precede the field procedures:

- selection of a LTR area;
- compilation of existing maps, plans and records for that area.

Field procedures include the following:

- public information;
- publication of notice of the LTR programme;
- recording of claims;
- occupation surveys;
- compilation of the claims register.

Office procedures follow completion of the field procedures:

- extraction for publication of a list of existing claims;
- alternative dispute settlement of contested claims;
- finalisation of the list of those to be awarded title;
- preparation of index maps;
- rectification of the GLSC's registers of public lands and issue of new leases.

5.4.2 Registration Procedures

In the case of conversion to freehold (absolute) title, the activities at this stage of LTR take place outside GLSC. These include the: filing of an application for the registration of public land in the name of the State by the Commissioner of Lands and Surveys (CLS); advertisement of the application by the Registrar; registration of the State's title and the subsequent transfer of title or issue of a registered lease to the occupant. The ease with which these can be completed will depend on the number of contested claims that have not been resolved at the administrative stage and must be decided by the courts before the Registrar can act in the affected cases.

5.5 Approach to LTR

In order to realise the guiding principles, Government's approach to LTR has followed a number of inter-related sequential steps:

5.5.1 Baseline Work

- Preparation of LTR guidelines and development of procedures for field recording;
- Rehabilitation of the lease registry, including checking of records, reconciliation of leases with land parcels, re-housing and reclassification of the archive;
- Survey of forms of tenure (formal and informal) and land market issues to assess the current informal market and to identify the likely problems that might emerge during LTR;
- Public land inventory of the coastal plain to assess current occupancy status of public land.

5.5.2 Implementation

- Advertising LTR areas and holding of public meetings;
- Classification, processing and reconciliation of claims;
- Final registration and title issuance;
- Implementation of field programme.

The items above require substantial changes in land administration procedures to allow for batch processing and more timely issuance of leases through conventional application procedures.

5.5.3 Preparation of LTR Guidelines

Formal LTR guidelines were established as a first step. The manual fulfilled two key requirements:

- Stressing the general guiding principles (see Section 5.3) to be followed in the various processes of Land Tenure Regularisation;
- Formalising and standardising procedures to facilitate effective implementation of LTR, in both summary and detailed formats.

The production of the LTR manual was the main starting point for the LTR work. It served as a public service contract to ensure that all procedures were adhered to. Alongside existing systems, a number of innovations were introduced, notably the use of the arbitration system (for resolving disputes to avoid expensive and time-consuming litigation in court) and the use of lower cost survey methods for parcel recording.

5.5.4 Rehabilitation of the Leasehold Registry

Improvements in the Leasehold Registry, part of the Land Administration Division, were always considered a prime area for improvement within the general framework for the institutional development of the Commission.

Computers and basic databases were introduced under the LSD in 1997. This involved analysing all existing leasehold records and construction of as complete a record as possible. Digital plans/maps for most of the Government development schemes were also prepared. Where possible a parcel-based storage system has been introduced.

Work commenced on the physical rehabilitation of the Leasehold Registry in February 2000. Additional investments were made in computers and staff training combined with improved file and paper storage facilities. By the end of 2000 the database contained over 17,000 lease records and over 30,000 land parcels.

To further improve performance, staffing changes were made in mid-year 2002 and the Registry was re-configured into a Management Information Unit so as to concentrate mainly on the information and storage of information for the Commission.

5.5.5 Forms of Tenure Surveys

Given the prevalence of the informal arrangements on public land and the fact that the majority of public land remained unregistered, it was determined that it would be necessary to complete an appraisal of the current tenure arrangements, both formal and informal. This was done through forms of a tenure survey that classified the main forms of tenure groups present in both the formal and the informal land sector. The purpose was to ensure that a) all tenure groups are taken into account in the LTR programme, and that b) adequate monitoring of the programme would be undertaken to ensure this is done equitably

This work served to inform policy and the preparation of LTR guidelines and the requirements for monitoring and evaluation. There were three main objectives:

- Establishing the main forms of tenure arrangements, both informal and formal, in order to provide a baseline for preparation of regularisation guidelines and for the design of surveys of occupancy;
- Gaining an insight into the livelihood implications of land regularisation/tenure reforms for rural households;
- Development of a monitoring and evaluation framework for measuring the impacts of regularisation.

This work was completed prior to commencement of LTR fieldwork. The information that was acquired served to inform the preparation of the guidelines.

5.5.6 Public Land Inventory of the Coastal Plain Regions

A public land inventory was undertaken in 2002 in conjunction with the forms of tenure surveys. The objective was to provide an overview of the portfolio of public land on the coastal plain. This was designed to consolidate all existing parcel information in the Government

development schemes and to provide simple maps showing the location of all occupied public land outside the schemes.

The output of this work included a set of land use, tenure and occupation status statistics and maps accurately quantifying the area of public land currently held by the GLSC. These maps also served to prioritise LTR areas, formulate land use policies and provide data for monitoring purposes. Summaries of statistics and indicators for formulation of a long-term LTR strategy have also been prepared. These cover Regions 2, 3, 4, 5 and 6 (shown in the country profile statistics in Section 2).

Additional work will include completing similar maps for the remainder of the country.

5.5.7 Advertising LTR Areas and Holding of Public Meetings

Though no national public information campaign has been undertaken, local area campaigns have been carried out for selected LTR areas through advertising in local press, television, leaflets and brochures and through convening public meetings. These have included information on the reasons for LTR, the benefits to the occupants and an outline of the procedures that will be followed by the field teams.

At public meetings, many led by the Commissioner or a senior GLSC official, all land occupants are informed of the need to present their claims for land (with supporting documentary evidence) to the field officers (who either are based in a local temporary office or make house-to-house enquiries). Despite some early scepticism, to date public participation and co-operation in the overall process has been high. In view of the response obtained in these meetings and during subsequent work, there is little doubt that the public welcomes improvements to the service and the security LTR can bring. This very positive response from the public can be expected to continue so long as the level of service is sustained and leases/titles delivered in a timely manner.

5.5.8 Classification, Processing and Reconciliation of Claims

For LTR, area claims have to be reconciled with records of conventional lease applications and freehold conversions. This has clearly put an added burden on the administration. To counter this, an LTR Unit was established within the administration to facilitate the sorting of claims and the preparation of schedules for final issuance of leases. The Unit's records mainly consist of claim files, lists of claimants and plans.

Following a period that allows for objections, the LTR Unit formally classifies claims into contested and uncontested claims.

- In the former case, objectors and counter-claimants will be counselled as to the nature of the dispute. The processing of

contested claims will be suspended until the matter is decided by the Adjudication Officer or a court of law. Disputants who are prepared to settle their matters out of court will be assisted under the LTR Programme to settle these by means of Alternative Dispute Settlement to avoid the costs and delays associated with litigation. Alternative Dispute Settlement (ADS) is a formal process for facilitating the out-of-court settlement of disputes that the parties have been unable to resolve between themselves. The mechanism adopted for ADS is arbitration, where disputes are referred to an independent third party for adjudication. An award made by an arbitrator appointed under the Arbitration Act is final and binding on the parties and any persons claiming through them. Under the LTR Programme, the option of ADS will be made available to claimants in the form of arbitration services provided by the Adjudication Officer.

- Uncontested claims are processed routinely as and when they are adequately documented. Contested claims will be processed when a settlement or judgement has been arrived at in the matter.

Of the 10,500 claims so far, taken less than 5% are in dispute. This ratio does not however, reflect the true level since most of the claims taken have been in old established areas where boundaries are largely fixed. There are likely to be more disputes over boundaries and overall ownership outside of these areas and along the rivers and land transport arteries.

5.5.9 Final Registration and Title Issuance

Once the recommendations have been approved by the Commissioner, the issuance of new 50-year leases and/or conversion to freehold remains a simple matter.

The boundaries of the leased land parcel must be described and surveyed in accordance with the Land Surveyors Act before a full lease can be issued. Where a cadastral survey plan is not available, a Permission to Occupy will be issued pending survey. The permission can be converted to a full lease at any time after a cadastral survey has been undertaken and a recorded plan has been prepared and submitted to the CLS. The holder of a "Permission" must employ a private licenced surveyor for this purpose.

After the leases have been drawn up and signed by the CLS and the lessee, the necessary entries will be made onto the lease register at GLSC, and any existing leases cancelled and/or surrendered.

As regards freehold conversion, once the administrative procedures have been completed and all the required information is available, the CLS can file an application for any parcel of land to be registered as the property of the State with the Registrar of Lands under the Land Registry Act. The Registrar cannot register the land as the property of

the State without first publishing notice of the application in the *Gazette* and newspapers and allowing three months to elapse for the receipt of objections.

To date, these procedures have been completed on demand on a one-to-one basis. Receipt of LTR claims in large volume now requires that procedures be put in place to allow for batch processing of hundreds, possibly thousands at a time.

5.5.10 Implementation of LTR Field Programme

Inventory work plus existing records indicate that the Commission needs to incorporate up to 40,000 land parcels totalling over 1.4 million acres nation-wide onto the public Land Register.

Implementation of LTR commenced in June 2000 under the Lands and Surveys Department with a pilot freehold conversion programme for three Government Development Schemes in Regions 3, 4 and 6. This was followed by further pilot work in Region 3 (West Demerara) in early 2001 following publication of the LTR Guidelines.

Following the formation of the Commission in June 2001 this programme was expanded with additional areas from Region 6 (East Berbice) and Region 2 (Essequibo coast) being incorporated. A further programme of work for 2003-4 covering the entire coastal area of the country was approved by the Board in 2002.

To date an overall total of 10,000 claims have been taken, covering 130,000 acres. Inclusion of freehold pilot conversion work gives totals of 12,500 claims on 155,000 acres. Records checks suggest that on average, 10% of this land has valid leases with less than 5% contested or disputed.

Claims have now been received on approximately 67% of the targeted coastal land area stated in the work programme. More effort is now being put into resolving the final procedural and administrative bottlenecks to lease issuance.

5.6 Lessons Learned

The experience of LTR in Guyana suggests that it is feasible to re-formalise the public land market and develop more efficient titling procedures. Claims have been registered without having to wait for slower processes of adjudication and demarcation and the systematic registration of public land. The resulting influx of records will continue to affect the administrative process that will determine who should be issued with a lease and who should be offered conversion to freehold. The overall process has also served to inform policy to facilitate improvements in the administration of the land.

Despite these achievements a number of outstanding issues remain to be resolved if the system is to be sustained and the public is not to revert to the informal system. These can be summarised under four headings:

- Policy issues and dissemination of information;
- Land administration capacity;
- Costs;
- Surveys.

5.6.1 Policy Issues

During the course of LTR fieldwork specific policy issues have arisen relating to the informal market and the application of principles and rules with regard to the granting of title. These fall under three main headings.

- *Addressing the needs of tenure groups in regularisation*

Different tenure groups have characteristics that require a standard set of actions by the GLSC. Groups with weak or complex rights to their land that have been acquired informally are at risk of being marginalised if their rights are not fully understood or documented, including:

- Leaseholders,
- Permission/provisional leaseholders,
- Applicants in possession of land,
- Occupants with no application,
- Co-operative members,
- Sub-tenants: proprietor estates and short-term sub-tenants,
- Squatters and informal cultivators,
- Gender and joint titling

It is also clear that there are demographic groups unable to complete the necessary paperwork to obtain land. A programme will be required to assist individuals experiencing difficulties with the process.

- *Qualification for lease issuance and freehold conversion*

Qualifications for lease issuance and freehold conversion are frequently subject to interpretation. Data from the forms of tenure work and LTR fieldwork suggest three main areas:

- Length of occupancy criteria,
- Maximum acreage criteria for freehold conversion,
- Guyanese residency criteria.

- *Procedural issues for implementing regularisation*

During implementation of regularisation fieldwork particular issues/questions emerge for each tenure group concerning specific procedures to be followed regarding the taking and processing of a claim. These are frequently raised at public meetings. The most commonly raised issues include:

- Fees and charges,
- Rents,
- Schedules of interest and minimum information standards.

All of the policy issues listed bear directly on the administration and require tighter systems and procedures if they are to be properly implemented.

5.6.2 Land Administration Capacity

Implementation of an LTR programme directly affects existing land administration. The sudden influx of records and the requirement to supplant new occupation information to replace the old places a considerable burden on the administration. The most important point here is that the administration has to be prepared to address the full implications of LTR.

Between 1990 and 2000, the Lands and Surveys Department produced an average 500-600 leases per year. In only one of those years did the total issuance exceed 1,000. To date LTR has brought in over 10,000 claims. The challenge facing land administration is to increase its output ten-fold and to ensure that systems are in place to sustain the formal system to a satisfactory level. Several areas are currently receiving attention:

- Increasing the number of skilled middle-management staff,
- Streamlining transactions procedures,
- Systems in place to provide for batch processing,
- Systems for more accurate recording of information and efficient retrieval of records,
- Improved monitoring of administration performance and output, and
- More information/advice sheets for public distribution.

5.6.3 LTR Time and Resources

With the hindsight of nearly two years of investment in LTR and public land inventory, it is possible to draw conclusions from actual costs incurred measured against the overall benefits and size of the task.

At the field level it is clear that receiving claims is a relatively low-cost task at G\$1,000 (US\$5.2) per claim. Costs of processing and registering run at G\$5,500 (US\$28.9) per claim. Legal conveyancing and administrative costs are G\$5,000 and G\$3,000 respectively.

Survey costs are more difficult to estimate and depend on the type of area and the level of survey so far completed. A figure of G\$2,500/acre is assumed. Further comment is made on survey in Section 5.6.4.

Experience with LTR so far has indicated that it is feasible to complete 1,000 claims (one claim per parcel) per month. A preliminary analysis of the time and resource requirements to complete the target 40,000

parcels suggests it will take 40 months for completion of the overall target. Allowing for some variation it seems reasonable to set a target of 8,000 claims per year over a five-year programme. Once that is complete, the volume of claims will drop to the GLSC's normal load of 2-3,000 applications per year.

The process of bringing all occupied land to leasehold or freehold title involves the following tasks (shown with an estimated cost to complete per parcel). The estimates are based on experience to date under the LTR programme:

Regularisation	Cost per Parcel
Fieldwork to register occupancy and establish claims	G\$1,000
Administrative procedures to register claims (and issue leases)	5,500
Survey	
Say 5 ac/parcel @ G\$2,500/ac (rate for rice land, relatively easy to survey)	12,500
Conversion to freehold	
Legal Conveyance	5,000
Administration	3,000

Subject to that, estimates of the total costs over the five-year LTR period are as follows:

Regularisation Costs	G\$ 000,000	Cost/year over 5 years (G\$)
Fieldwork (40,000 x G\$1,000)	40	8
Admin (40,000 x G\$5,500)	220	44
Sub-total	260	52
Survey (28,000 x G\$12,500) (70% of parcels)	350	70
Conversion		
Legal (10,000 x G\$5,000)	50	10
Admin (10,000 x G\$3,000)	30	6
Sub-total	80	16
Total	690	138

5.6.4 Survey

For some years, survey has been a significant constraint for land administration in Guyana, resulting in backlogs in converting provisional leases into full leases.

It is estimated that the Guyanese survey profession has the capacity to carry out 1,000 cadastral surveys a year. Although the introduction of Global Positioning System (GPS) technologies would increase that capacity by perhaps 25%, survey costs and the time required remain major constraints on the progress of land tenure regularisation. Even if the profession doubles the number of surveys done annually, the programme will take many years to complete — well beyond the 10-year period set by Government for the completion of regularisation. Considering that in all other respects there is no reason why the programme cannot be completed in four to five years, the survey is clearly the binding constraint. This bottleneck can be loosened in a number of ways:

- The occupants of all unsurveyed parcels might be issued with permissions to occupy pending a slower programme of survey and transfer to full leasehold or freehold sometime after 2010.
- The regulations under the State Land Act might be amended to allow full leases to be issued without full cadastral survey, but subject to the parcel being registered on a properly completed cadastral index map.
- Additional survey capacity might be contracted from overseas.

The first would not meet the land tenure policy objectives in full. It would offer efficient and transparent land management but would limit the improvements in tenure security and transferability offered to the land-holder. The second would meet the policy objective while leaving the land-holder free to opt to have a survey done at his/her own cost should s/he wish to convert to freehold. The third option is likely to be expensive, raising the survey cost (already substantial) even higher.

Survey expenses constitute more than 50% of the total estimated cost of Land Tenure Regularisation. However, the law requires that full cadastral survey be completed before a lease can be issued on a parcel. The same applies to freehold. As policy currently stands, therefore, the volume of survey work estimated above must be completed.

5.7 The Way Forward for LTR

Easy access to land and the development of a thriving land market is an essential element in any developing economy. The current challenge facing land administration in Guyana is the need to implement policies through establishing and sustaining simple, cost-effective and transparent procedures that both provide access to land and allow for simple cost-effective title and title transfer for all tenure groups.

Investment has been made in preparing LTR Guidelines and establishing stakeholder approval and participation for the field registration component of LTR. Using these guidelines, fieldwork is proceeding satisfactorily. Models for receiving and analysing claims have proved to be effective,

easily understood and quick to implement. To date a total of 12,500 parcels have been registered, on over 150,000 acres in Regions 2, 3, 4 and 6.

It is estimated that there are some 40,000 parcels of land that must be brought onto the register. Clearly both the survey and administrative requirements will be substantial. Work is in hand to strengthen the GLSC's capacity to deal with these tasks and address the survey constraint. Ways to streamline procedures are also under consideration.

Even with significantly greater capacity and faster procedures, it is expected that it will take up to five years to complete the task of full Land Tenure Regularisation (up to and including the issue of title). The focus for the first half of 2003 is to develop administrative capacity of the Commission to substantially improve service delivery through increased output.

5.8 Surveying Initiatives

5.8.1 The Role of Surveying

Tenure regularisation requires not just updating and clarifying the nature and ownership of existing land rights but also the location and extent of land over which these rights subsist. Parcels of land containing uniform land rights are defined in law by the process of demarcating and agreeing boundaries. These boundaries are then surveyed and depicted on a plan that is recorded in, and made publicly available by, the Guyana Lands and Surveys Commission (GLSC). The State Lands Act, the Deeds Registry Act, and the Land Registry Act require that all titled land must be surveyed, and the current practice is for all these surveys to conform to the Land Surveyors Act.

5.8.2 Surveying and LTR

Most, if not all, State land leases have been surveyed, usually at the time when a drainage and irrigation (D&I) development scheme was first laid out. Over time these tracts may have changed due to subdivisions, consolidations or other mutations. Also large tracts of land may have been leased to Neighbourhood Democratic Councils (NDCs) which in turn allot, but not sub-lease, parcels of land to individual farmers. Because LTR is working within existing laws, all parcel tract sub-division and individual allotments must be surveyed prior to the granting of new leasehold or freehold titles.

5.8.3 The Survey Issue

Data collected from regularisation areas in West Demerara suggest that approximately 17% of land within a formal D&I scheme with individual leasehold titles require regularisation surveys. Regularisation areas along the Corentyne Coast however, comprise about 50% of unsurveyed land because leases were typically issued to the NDC. Although final figures are not yet available for river and other land outside of D&I areas, it seems likely that more than 50% need to be

surveyed. Leases issued in these areas are typically provisional leases pending survey.

The mechanism of awarding a provisional lease arose from the constraints imposed by survey requirements. The lack of Government capacity and the need for a cadre of certified land surveyors to combat a growing backlog of work failed to address the problem which was compounded by the introduction of the Land Registry Act in 1959. This in turn led to the introduction of the Surveys (Special Provisions) Act in 1970 that proposed less rigorous survey requirements. The economy of low-altitude aerial photography and the existence of clearly recognisable boundary features in most D&I areas meant freehold titles could be awarded in a pilot scheme. But owing to both the nature of the terrain and inadequate pre-marking and consultation with the beneficiaries, this new approach did not find wider application.

More recently attempts have been made to exploit the capacity of the private sector to clear various backlogs (of provisional State land leases, preliminary awards of freehold land titles and other occupied unsurveyed public lands), but financial constraints have limited this approach. The cost, ranging from G\$2,500 an acre for systematic surveys of large blocks in open rice land to G\$8,000 an acre for individual surveys in less accessible river areas, has proved insuperable both to GLSC and its annual allocation of capital funds, and to the individual farmers who are encouraged to employ their own private surveyor. A recent socio-economic study has confirmed that the cost of surveys in respect of either employing a private surveyor or repaying GLSC over five years is financially prohibitive to the poor. Additional solutions therefore should be explored in respect to repayment terms and/or subsidy.

5.8.4 The Current Survey Initiative

Recognising that there is a need to address the appropriateness of present survey laws and practices in relation to the need to complete the regularisation programme within the envisioned timeframe, the capacity of the survey profession to do the work, the cost to the public and the financial sustainability of GLSC, the current survey initiative proposes a two-pronged approach:

- The utilisation of new technology, particularly GPS in conjunction with total stations and accessories to reduce the unit cost of surveys and accelerate the plan output, and
- Application of the Surveys (Special Provisions) Act addressing the earlier identified technical problems through GPS and educating both the survey profession and the public about the use of the “general boundaries” principle.

The use of special legislation will supplement and not replace the existing Land Surveyors Act and cadastral survey practice (fixed

boundaries). Also because the “general boundaries” principle requires the existence of physical boundary features such as dams and canals, it can only be applied to occupied and well-settled agricultural land. New development schemes will be pegged out much as before, but more cost-effectively using new survey technology.

5.8.5 Status, Problems and Lessons

The availability of 1:10,000 scale photo mosaics for most of the coastal areas of Guyana from which general boundaries are discernible is being effectively implemented with hand-held sub-metre differential GPS to complete and compile appropriately accurate parcel maps suitable for the award of State land leases. For the time being registered freehold land will continue to be surveyed according to the Land Surveyors Act (soon to be updated to incorporate the use of GPS and total stations and accessories and improved procedures).

Extending the application of general boundaries beyond the coverage of low-altitude aerial photography may require some revision of legislation. Further possible statutory support to the Special Boundaries Act may also be needed in the form of rules and regulations ensuring that past problems are not repeated.

Although the initiatives currently under way to address the survey issue are still at an early stage, the lessons learned suggest the need for stakeholder advocacy and education, in particular that GPS can be accurate and effective and that the general boundaries rule, when applied with conviction, will work well. A recent study of the pilot special surveys for land registration in the late 1970s suggests that the public will accept general boundaries and that disputes will be no more prevalent than under fixed boundary legislation.

As demonstrated by this pilot and other studies conducted in Guyana and elsewhere, the use of the general boundaries rule supported by new technology can provide a solution to the challenging question of how to provide appropriate and affordable land titles to all people including the poor.

6. THE LAND MARKET

6.1 Current State of the Land Market

Guyana’s land market scene today is a far cry from what it was a mere 3-4 years ago, when competition for rice land and residential lots was driving up land sale and rental values to unprecedented levels. The downturn began with a crisis in the rice industry and has deepened further since 2001, with world-wide recession and a recent spate of violent crime profoundly shaking public and investor confidence. With the adoption of highly

conservative, cautious lending policies and sharply reduced levels of mortgaging activity, banking sector support for land market activity has weakened.

Guyana's market in land is marked by a preponderance of informal land transactions, usually either only minimally documented or entirely undocumented. Formal mechanisms are perceived as being too costly, unfair or lengthy to be either practical or affordable. This is true of both leasehold and freehold land. Many occupants with legally assigned rights have gradually moved into illegal unauthorised transfers because of the failure of formal rules to accommodate changing circumstances and needs (e.g. structures in place against sub-letting in pre-1998 State land leases).

With lease applications having taken years to be processed in the past, many have either not applied, occupied then applied, or applied then occupied without waiting for the lease to come through to start using the land. High land prices have prompted many of the country's poorest residents to take matters into their own hands and occupy land to meet their essential housing, basic income and food needs. Though typically associated with low-income groups, squatting can also express opportunistic behaviour of better-off people who are in a position to take advantage of the non-enforcement of existing rules and regulations.

Much of what transpires informally amounts to a process of "de-formalisation", whereby land originally allocated, transferred and documented formally and legally has, over time, undergone successive rounds of informal, undocumented transfers or sub-divisions.

6.2 Rice Lands

Sale-price declines over the last 4-5 years have been in the order of 40-50%, a much greater drop than for rentals, which have generally fallen by only 10-20%. Competition for land has become more focussed on the most desirable and accessible areas. Outside of these areas differences have narrowed, producing a greater degree of inter-regional price convergence.

Narrowing profit margins in a climate of price uncertainty have left most small rice farmers lacking their own machinery with little option but to rent or sub-let their land. This is particularly true in areas where productivity per acre falls below or is just around 25 bags per acre and where the additional cost of pumping for drainage and/or irrigation has to be incurred. Uneven, delayed payments by millers and decreasing availability of credit to cover planting and other input costs have contributed to disjointed planting and harvesting schedules, which in turn have led to greater difficulties in irrigation, drainage and dam maintenance.

6.3 Cane Lands

Greater market stability in sugar and security afforded cane farmers through their contractual arrangements with GUYSUCO is reflected in the relative

stability of sale prices and rents. Like rice, sugar has been subject to deteriorating world market prices, pressuring GUYSUCO to lower production costs. Its current strategy involves virtually doubling sugar production, with expansion concentrated on Berbice, an area of higher productivity. Meanwhile there is uncertainty over the future of Demerara estates, where about 90% of the approximately 1000 private cane farmers are concentrated, which has cast a shadow over land market activity there.

6.4 Provisions/Cash Crop Lands

In contrast to the national/regional patterns characteristic of rice and cane land, market dynamics for provision/cash crops are highly localised and based on prevailing levels of economic vitality, competition for land and the quality of access and drainage. In economically vibrant areas (such as around Parika) land sale values have virtually doubled and rentals have increased by some 40-50% over the past three years or so. In contrast, other areas (such as around Craig) appear to be caught in a downward spiral with ultimate abandonment of the land looming. Overall the volume of land market activity there is low, sale prices have fallen by about a third to G\$35,000 per acre and rents have generally remained what they were 4-5 years ago (between G\$3,000 and G\$5,000).

6.5 Residential and Commercial land

Just as is the case regarding rice land, the competition for agricultural land suitable for housing development and for existing house lots is now much more narrowly focussed on a handful of areas such as the outskirts of major cities and areas adjacent to major river crossings. In these prime areas land values have remained relatively steady or even appreciated. Outside these residential “hot spots”, declines in value of 20-50% are reported, particularly in the vicinity of subsidised Government housing schemes or those just beyond prime areas.

Aside from the general economic slowdown, emigration and Government investment in housing schemes are two particular pressures on prices of residential land.

Despite the downturn, there remain areas where there is commercial interest in land, most notably for food processing, aquaculture, poultry farming, industrial estates and eco-tourism.

6.6 Land Tenure Regularisation and the Land Market

In order to reverse the de-formalisation of land tenure, that is, the development of a parallel informal market, Government has initiated a programme of Land Tenure Regularisation (LTR) on public land. Good progress has already been made. This is paralleled by squatter registration and low-income housing schemes managed by the Central Housing and Planning Authority (CHAPA).

These initiatives have been accompanied by improvements in the capacity for better land administration. The benefits of these improvements are:

- Reduced costs of transactions in land, including the cost of disputes over land.
- Easier access to credit and increased investment, leading to higher production and incomes.
- Greater availability of land for all forms of land development.
- Better protection of the public interest in land.
- A stronger tax base.
- Improved access to incomes from land and better distribution of those incomes.

The full potential of these benefits may take some time to realise. In particular, investment may be constrained by the economic downturn, and the problems over litigation are a particular barrier. In other areas, such as the protection of the public interest, taxation, and access to land, land administration is only one element of what is required. Nevertheless, rapid social and economic change means that the volume of land transactions will continue to increase and any improvement in the way these transactions are managed will be of immediate benefit.

6.6.1 Impact of LTR on Markets

Rice

The impacts of land tenure regularisation and formalisation are likely to be most pronounced in the rice sector due to its higher levels of land market activity, the considerable acreage under cultivation and the large numbers of people involved in rice farming.

Cane

Except for State leased land and some loss in equity value, no major changes are foreseen, not even in the private rentals paid. Quite a proportion of privately farmed cane land is under co-ops, which have generally been more successful in staying intact than counterparts involved in rice or provisions. The main variable determining their fate lies with GUYSUCO and how it ultimately decides to allocate its activities, both regionally and in terms of how much of the share of production it assigns to private growers.

Provisions

These tend to operate under the least formally secure forms of tenure. Regularisation may deliver some formal credit advantages but probably not in the medium-term credit arena, where there is the greatest need. Title should boost the sale value of the land, with many in co-ops now opting for individual leases. However, given uncertainties about boundaries etc., regularisation is likely to stir up conflicts and expose some to land grabs.

Housing

Regularisation now being undertaken by CHAPA could result in the greatest credit-access advantages for people, given banks' more favourable attitude towards combined collateral of land plus structures. This could stimulate home repair and construction activity. However, in areas of East Berbice/Corentyne where the bottom has fallen out of the property market and where there are so few interested buyers, this potential may not be realised. For many in such areas, title may simply be a stepping-stone for getting a visa.

Farm size

Small-scale farmers stand to lose ground under current economic circumstances and regularisation is unlikely to fully compensate for this. Small-scale farmers' land assets are losing value, and their income is being eroded by lower rents derivable from sub-letting out their lands and higher land rentals charged for State leases. A disproportionate number are likely to emerge from the regularisation process with provisional titles, denying them the potential credit-access advantages of title.

Medium-scale farmers are likely to benefit from lower private rents paid out for sub-letting which will more than compensate for the higher rents for State land leases. Formalisation may, however, mean a greater exposure to rates and tax charges. Indebtedness limits their ability to enlarge their land-holdings by buying land that is currently cheaper than a year or two ago.

Indebtedness also constrains the very largest farmers from being able to capitalise on this land-buying opportunity. Lower private rents are unlikely to be of any benefit to this set of farmers because virtually all land held is in the form of either freehold or large-acre State leases. The main loss they face is a sharp drop in the equity value of their land and other assets.

6.6.2 Impact of LTR on Access to Credit

Given the current tight lending climate, the benefits that title confers with respect to access to formal credit are likely to be modest for anyone except those with demonstrated repayment track-records, those possessing other assets or those in the sort of contractual arrangement (such as cane farmers have with GUYSUCO) that enhances the predictability of income streams. Scope for unsecured lending has also narrowed with the closure of GAI-Bank and privatisation and stricter fiduciary rules applied to others such as Guyana National Commercial Bank.

While banks welcome the new longer-term and less restrictive 50-year lease being issued by GLSC, they still have reservations, first because of foreclosure problems and more fundamentally because of the tripartite (bank-borrower-GLSC) nature of the leases themselves. This is

because the Government has a prior claim and authority to repossess and reassign the land in the event the borrower fails to pay rents due or breaches other terms of the lease.

6.7 Land Rent

Recent studies in Guyana have shown that rents are determined by the quality of the capital infrastructure, rather than by the underlying quality of the land itself or any scarcity of arable land. Because the condition and quality of the D&I and other infrastructure are very variable, there is a wide range of rents.

In these circumstances, changes in the level of Government rents would not be expected to affect either productivity or production, provided that they do not exceed the affordable market rent. They would merely transfer to Government the economic rent that currently goes to the leaseholder who is sub-letting a holding of public land.

Where Government rents do exceed the affordable market rent, then there is the possibility that higher rents will drive marginal producers out of business. The levels of Government rents discussed so far, between G\$1,000 and G\$3,000 per acre per year, seem unlikely to exceed the market level, except for those farmers whose operations are most marginal. Even G\$3,000 would only represent 6% of total variable costs per acre for rice production. At this level the impact is unlikely to be large, though this increase might have a serious effect on the incomes of poorer farmers.

6.8 Land Valuation

The purpose of land valuation is not to establish a “correct” price but rather to ensure a price that both the buyer and the seller can accept as being fair. To do this the appraiser may use any one of a number of conventional methods, of which the most common are comparison with prices for equivalent properties recently sold and estimation of the capital value of the annual income that the property is generating or is likely to generate. The latter is commonly estimated on what is known as the “years’ purchase”, such that a rice farm that generates a rent of G\$10,000 per acre would sell for G\$200,000 per acre on 20 years’ purchase. The valuer must determine from his knowledge of the market what is the appropriate “years’ purchase” at any one time. It may range between 10 and 50 years.

Whatever the method, valuation depends on there already being a market for land which can provide a yardstick against which property prices can be measured. Because currently the market for land is not fully developed, valuation is even more imprecise.

Lack of qualified valuation personnel is another obstacle to the development of a land market in Guyana. There are no tertiary-level courses on the subject in the country and the Government’s Valuation Office seems

to be the only body in the country established for this purpose. The Office is very short of qualified staff.

6.9 Finance and Investment in Land

A primary benefit of land title is expected to be that it encourages investment and allows finance to be raised against the security of the land. There is a small market for mortgage credit in Guyana. At present it is limited by the economic downturn. More generally, however, lenders see the weaknesses of land administration and, in particular, the courts as a major barrier. To take possession of a mortgage defaulter's collateral through litigation is both lengthy and expensive. As long as this is the case, banks will seek additional security.

6.10 Legislation, the Courts and Supporting Institutions

Effective land administration is only one of the institutions needed for a fully functioning market in land. Weaknesses in two other areas have been just as important in pushing land-holders towards informal arrangements. The first is the fact that legislation and regulations have not kept up with the changing needs of a developing market. Rental is an important example. As it stands and is currently interpreted, the law on rental is a strong disincentive to an active market in rented property and, as a consequence, to any investment in developing property for rent. The second factor is the expense and very slow processes of litigation in the Guyanese courts. Any active market inevitably brings a level of disagreement and dispute. An inability to resolve these disputes effectively, cheaply and rapidly is a major barrier to the market's operation.

Two other institutions have important supporting roles to play: a valuation profession to assist transparent dealing between willing buyers and willing sellers, and a survey profession to certify the dimensions and location of the property concerned. The Guyanese valuation profession is small and the volume of survey required to meet public as well as private needs is far greater than current capacity and resources available to pay for the work.

6.11 Conclusion

While significant strides have been made in improving the policy and institutional framework for a land market in Guyana, there remains a great deal to do before a sustained improvement to the system as a whole is guaranteed. Costs must be reduced, efficiency increased and — above all — public confidence in the processes and in the fairness of formal land administration must be re-established. The simplified procedures applied during LTR programmes have shown a number of ways in which this can be done.

7. INFORMATION SYSTEMS

The core function of the Land and Surveys Commission is to maintain up-to-date land information records, and provide information and products associated with survey and mapping. Under-investment over the years meant that the Lands and Surveys Department (LSD) was ill equipped to perform these functions effectively. Stored under adverse conditions, paper records relating to the issuing of leases, the collection of rents and managing land information and cadastral survey work were difficult to access.

In the four years leading up to the formation of the Commission, the Lands and Surveys Department made a number of investments in information systems to support these key functions. These included preliminary work on databases and the installation of a Global Information System (GIS).

Since the formation of the Commission, additional investments have been made in GIS software, Survey and AutoCAD packages and accounting systems. These have been supported by technical training initiatives across all of the Divisions in the Commission.

7.1 Database Use

7.1.1 The Paper Records

Initial development of the lease database commenced in 1997 to facilitate systematic analysis of the lease records and to allow rapid retrieval and analysis for policy formulation and planning. This work was undertaken on the understanding that the paper records — as they related to areas of State and Government land and lease rentals — were adequate and up-to-date, and that information for key data fields was easily accessible.

However, the organisation of the paper records proved more complex than anticipated and lacked essential information. This was compounded by the practical problems of extracting the dispersed records in the correct format for capture into the computer. Inherent problems with the records and errors and omissions meant that several screening phases were required to deal with problems. It is important to understand the nature of these problems since it is necessary to ensure paper systems are effectively synchronised with digital data. A summary of some of the key issues is presented as follows.

- There were significant problems linking the lease records (including provisional leases, allocations and licences of occupancy) to land parcels. In many cases lease records and registers were not accompanied by references to a map index, plan numbers, lot or parcel numbers. Titles could not be grouped by area and plan reference since stock sheet and plan references were not consistently recorded. This made it difficult and time-consuming to check locations of land parcels to which the leases refer, with

consequent slowing of transfers and application checks. The system was also open to error such as the issuance of two leases for the same parcel.

- Out of a total of over 17,000 records initially entered in the database, it emerged that the records contained over 10,000 invalid leases, with 7,000 currently valid. The remaining records were mostly licences of occupancy with some cancelled leases. It was difficult to determine from the paper records whether new titles had been issued to replace expired titles and/or whether these had been formally cancelled. For invalid leases, it could not easily be determined whether one or more of the following situations applied:
 - the lessee had applied for a renewal during which time he continued to occupy the land and pay rental on the old lease;
 - the lessee had not applied for renewal but continued to occupy the land and pay rent on the old lease;
 - the invalid lease had been cancelled and a new one issued with a new lease number or the same lease number on the same land parcel;
 - the expired lease had been replaced by a provisional lease until such time as a full lease may be granted.
- Billing of clients was based on these paper records, meaning that the compilation of debtor statements and balances was time-consuming, the information obtained was soon out-of-date and overall balances could not easily be reconciled with records held at regional offices.

7.2 Development of Information Systems

These problem areas are being addressed through three layers of information system development in three key divisions in the Commission, Land Information and Mapping, Land Administration and the Finance Division.

- Development of a Geographical Information System (GIS) providing digital land parcel data;
- Development of a Land Information System (LIS) to track titles against the GIS land parcels;
- Development of accounting and billing systems linked to the titles tracked by the database.

7.2.1 Development of a Geographical Information System (GIS)

The GIS was procured in 1997 to address the problem of linking lease records to land parcels so that leases can be checked and analysed by area and location. This also enabled identification of un-leased land for more productive use.

Digitising base data such as canal alignments, the coastline and the main administrative boundaries from the most detailed base material available (1:10,000 photo-mosaics) commenced in late 1997. Staff were trained as the work progressed and rapid progress was made.

Work commenced on the systematic capture of land parcels for all Government development schemes in early 1998 and continued throughout the year. Under the Lands and Surveys Department (LSD), cadastral data were not properly indexed and formal links between the lease records and cadastral sheets were not well maintained, so the work initially focussed on:

- capture of spatial datasets in digital format to ensure preservation of the record;
- preparation of a new cadastral index in digital format and formalised links with the lease database;
- ensuring the safety of the map records by providing proper storage and indexing facilities both in digital and hard-copy format.

This work has continued under the Commission. The following procedures are now established to reconcile the spatial and a-spatial (textual) datasets:

- Audit of available maps, plans and aerial photographs;
- Data capture of base information for infrastructure, coastline and administrative boundaries into digital format compiled from the largest available scale-maps and photo-mosaics by scanning or manual digitising;
- Data capture of best available stock sheets and plans;
- Data sort/query from the lease database to produce a list of leases for each area covered by the relevant stock sheet/plans;
- Reconciliation of the lease records to the lots/land parcels, confirmation of the status of leases as map data are compiled and progressive checking and correcting of lease database;
- Assignment of unique parcel identifiers to land parcels as they are digitised;
- Joining of corrected lease record information as attribute data to the digitised plans/maps;
- Final plotting of maps and presentation of query models for future planning and management, and field checking in the regions;
- Spot-checking based on the results of the analysis.

The results of these analyses have been used to prioritise and support LTR activities and provide the basis for survey planning.

Most of the work has focussed on the coastal Regions 2, 3, 4 and 6. Over 33,000 parcels have been digitised out of an estimated total land inventory of over 40,000 parcels for the entire country. Digitising work is now focussed on updating this parcel information and the index numbers with more up-to-date information from LTR fieldwork.

In addition to the key work on land parcel mapping, development of GIS standards is being co-ordinated through the Guyana Integrated Natural Resources Information System (GINRIS), ensuring that GIS work is consistent and can be shared with other agencies including:

- Environmental Protection Agency;
- Guyana Geology & Mines Commission;
- Guyana Forestry Commission;
- Guyana Natural Resources Agency;
- National Agricultural Research Institute.

As custodian of the map base of Guyana, the GLSC is the institutional home of GINRIS, which provides much of the spatial information for the activities of sister agencies.

7.2.2 Development of a Land Information System (LIS)

A multi-purpose integrated Land Information System (LIS) is under development to address the problem of tracking leases and occupancy where titles have expired. The LIS is improving the analysis of land and lease data. The core structure of the Land Information System data is split into three linked sets of data

- Land Parcel Information, including a “relate” number linking the GIS detailed information on parcel location, acreage and type to the actual lease details on the lease database;
- Person information, identifying title holder(s) names and contact details;
- Transaction information, details of the type of application, claim or title held.

The main problem over the past year has been bringing paper-records systems and procedures into line with the requirements of better recording and digital technology. At the same time the Commission is dealing with a significant backlog of land applications in parallel with developments in GIS/LIS. To overcome this the following approach is being used for ongoing verification and validation of the underlying data:

- Grouping data by location;
- Examining and correcting detailed location data;
- Standardising spellings, abbreviations and addresses;
- Identifying any missing relate numbers;
- Searching for and rationalising duplicate persons, parcels and applications records;
- Completing any missing lease or provisional lease information.

As staff are trained and become accustomed to the new systems, existing manual systems are streamlined and more areas are brought up-to-date through the process of LTR, these problem areas are expected to diminish.

In addition to the 33,000 parcels linked to the GIS, the LIS contains records for over 27,000 people, nearly 8,000 valid leases and over 4,000 provisional leases/permissions. This does not include the results of LTR work, which will add over 8,000 leases to the database in 2003.

7.2.3 Accounting and Billing System

Early attempts at establishing a stand-alone billing system ran into problems in keeping records up-to-date and reconciliation with manual systems in the regional offices.

Following formation of the Commission in 2001, a basic small-business computerised accounting system was used to establish the Commission chart of accounts, computerise payroll, assume financial control over regional offices and provide monthly management information on receipts and expenditure for each division and regional office. At that stage, billing focussed on identifying larger title-holders and collecting the most significant rent amounts and arrears through a series of one-off billing and collection exercises. This work provided Finance Division staff with a basic introduction to computerised accounting.

The Commission is now in the process of upgrading to a medium-sized accounting software, with an accounts receivable module that will be updated directly from the LIS. As infrastructure becomes available, the Commission is also putting in place data links to the major regional offices that will lead to one central lease and debtor record; it will be controlled from the head office but accessed and kept up-to-date from any regional office of the Commission.

Ultimately, the collection of revenue through the accounting and billing system will sustain the Commission and the Commission's systems. Results from 2002 are promising, with the collection of rents, arrears and other income exceeding the Commission's recurrent costs for that year. This is expected to continue in line with a five-year financial plan that anticipates financial self-sufficiency within three to five years.

7.3 Sustainability

The Guyana Lands and Surveys Commission has made significant progress in establishing the three initial layers of information systems that it requires for land management, administration and policy formulation:

- Geographical Information System (GIS) providing a land parcel basis;
- Land Information System (LIS) to track titles against the GIS land parcels;
- Accounting and billing systems linked to the titles tracked by the LIS.

The Commission is currently undertaking an evaluation of the infrastructure required to make selected information from these systems more widely available. Initially this is focussing on data links with the main regional offices for more effective and efficient sharing and updating of data. Once

these links are established the Commission will consider setting up an Internet-based information service.

The Commission has received outside assistance and technical support for many of these developments. Training programmes have been completed and many staff members who were not previously computer literate are now enjoying their new-found skills and new meaning to their work.

From a very low information base, a very great deal has been achieved in both storage and preservation of existing paper records and development of parallel digital records, particularly over the last two years. Challenges still remain. Sustainability of all of the systems depends on a number of key elements being in place:

- A well-planned and sustained, ongoing training programme combined with better understudy arrangements, cascade training methods and more flexible work methods;
- Adoption of the systems by all staff and an unreserved commitment to making the most efficient and effective use of available technology;
- A programme of recruitment of staff that emphasises computer literacy;
- A full-costed plan for the maintenance and upgrading of the network system;
- A full-costed plan for replacement of machines and upgrading of software.

Of these, staff training and the need to adopt more flexible inter-divisional approaches to work to allow for understudying and cascade training are the most important.

In addition to these underlying changes to the total records, LTR work is contributing to the updating and adding of a significant number of records to the database, and work is ongoing to the “cleaning” of existing and older records. Once this is complete, trained staff will be required to maintain and upgrade the digital records over time. This is achievable but will need to be supported by a strong training and recruitment strategy.

7.4 Background

Prior to the establishment of the GLSC in 2001, public land was administered by the Lands and Surveys Department (LSD) of the Ministry of Agriculture under the authority of the Lands Department Act. Under this Act, the LSD had five main statutory duties:

- To have charge of all State lands, with the exception of State forests;
- To have charge of all Government lands, with the exception of built-up lands under the charge of the Ministry of Works;
- To administer the Land Surveyors Act;
- To carry out all surveys of State lands;
- To keep records of all grants or leases of State and Government lands and provide public access to these records.

In practice, the function of the Department was to administer public leasehold land, which involved four main activities:

- To maintain registries of leases and process applications for new leases, transfers and renewals;
- To be the repository of all cadastral plans and to regulate the land surveying practice in Guyana;
- To enforce lease conditions;
- To collect public land rents.

Over the years prior to 1998, a number of conditions developed which led to institutional change.

- As a department of Government, the LSD was not responsible for financial accounts or for recruitment, promotion, or fixing conditions of employment. These were managed by the Ministry of Agriculture or by other branches of the public service. Even within its own areas of responsibility, the Department's ability to set its own strategic objectives and establish performance targets was limited by the fact that it could not alter charges or retain its own revenue and by this requirement had to work within Government budgetary restrictions.

Partly as a result of this, there was a general failure to set targets or to monitor performance in terms of output and financial efficiency. This was a serious deficiency as it prevented the organisation from defining the service it provided, from assessing whether this service was acceptable or not and as a consequence from designing and executing appropriate remedial action.

- The LSD's Lease Registry deteriorated over the years. Of a total of 17,600 registered lease records, some 10,000 were invalid, having expired or been revoked over the course of time.
- The LSD had a backlog of lease applications and provisional leases. Application procedures were cumbersome with no standard criteria established for allocating leases. Performance in handling applications was both bureaucratic and time-consuming. The inadequate filing systems meant that files were lost. In 1997, a sample of application files was analysed. Despite the fact that most cases were simple and despite the applicants' having a strong claim to the parcel of land, some from already holding or inheriting a previous lease, the shortest time in which a lease was issued was 26 months and the longest 65 months. This performance was clearly unacceptable. Such inordinately slow procedures were a serious disincentive in registering property interests.

It is clear that land administration systems and procedures in Guyana require a radical overhaul. If there is to be any chance of establishing a sustainable and modern land management framework, all stages of the process must be streamlined and, at the same time, operating costs will have to be substantially reduced. Since pay and conditions for the staff of the Department must be improved, this can only be achieved through even greater improvements in productivity and efficiency.

- The survey functions of the LSD were largely neglected. In 1998 there was a backlog of up to four years' work to carry out the surveys needed to convert provisional leases to full leases. There was also a sizeable backlog of Land Registration Areas declared by the Land Registration Board that still needed to be surveyed. It took the Department an extraordinarily long time to check privately submitted survey plans. The national geodetic survey monuments had not been properly checked or maintained for up to 20 years and little topographic and hydrographic survey had been undertaken for a number of years. Financial constraints, a chronic lack of survey staff and lack of transport meant that LSD staff were seriously constrained in carrying out field inspections.
- Budgetary restrictions led to a prolonged failure to keep up with building maintenance and other recurrent activities. The state of the building was a threat to the continued preservation of lease records and legal documents, and consequently one of the Department's primary statutory responsibilities is to keep records of all leases and grants and cadastral plans.
- Staff motivation was difficult where management had no control over terms and conditions of employment and where public service pay was uncompetitive with the private sector. Even within this limitation, however, the clearer definition of responsibilities and work targets would have improved performance.
- Perhaps the most serious policy-level constraint to the pre-Commission institutional arrangement was that the Lands Department Act was too restricted in its mandate. The country's land resources were coming under pressure and there was no entity in place to guide land policy development or undertake land use planning or land information systems development. These were not provided for in the Act.

It was in this context that the Guyana Lands and Surveys Commission was established.

7.5 Creation of GLSC

The GLSC Act was passed by the National Assembly in December 1999 and brought into effect on June 1, 2001. The Act provides for the Commission to be governed by a Board of Directors comprising a chairman and 12 members, including the Commissioner of Lands and Surveys. The Commissioner serves as the Chief Executive Officer.

The Commission has the following functions.

Policy

- to advise Government on policy concerning public lands;
- to develop appropriate policies, such as mapping, surveying, land information etc.;
- to engage in land use planning, including the collection, analysis and presentation of land information.

Management of Public Lands

- to administer public lands — issue of leases, registry and collection of rents;
- to administer the conversion of public lands to freehold as determined by policy;
- to identify unoccupied land areas of economic potential and prepare development plans;
- to make arrangements for land development schemes implemented by Government agency or the private sector as appropriate;
- to enforce the law relating to public lands and the conditions of leases.

Surveys and Land Information

- to carry out geodetic, topographic, hydrographic and cadastral surveys;
- to prepare maps, charts and survey plans;
- to register plans of all land surveys carried out in Guyana;
- to make land information available to the public on a commercial basis.

The Commission is structured into five Divisions, managed by the Office of the Commissioner. The Office of the Commissioner has the tasks of overall management, co-ordination, Board reporting, legal matters, public relations.

Human Resources and Administration Division

- Management of services such as building maintenance;
- Drafting employment and training policy and regulations and monitoring compliance;
- Advising on the conduct of negotiations with the Union;
- Recruitment;
- Preparation of Human Resource Plans;
- Provision of advice on staff management techniques, for example on performance appraisal;
- Establishment of means of assessing learning and development needs.

Finance Division

- Preparation of annual capital and recurrent budgets;
- Maintenance of accounts;
- Management of payroll;
- Establishment of a fully computerised accounting system;
- Establishment of an effective system of revenue collection and credit control;
- Procurement and tendering;
- Stores management.

Land Administration Division

- Receive land applications from regional offices, carry out preparation work where needed and forward them to the Board for consideration;
- Act on the decisions of the Board to issue leases or otherwise, and update records accordingly;
- Manage the work of regional offices, and provide support and advice to regional heads;
- Deal with applications for permission to mortgage leases;

- Establish criteria for different land rent categories and establish/review rent charges;
- Identify and survey areas for the productive development of the land;
- On the basis of advice from regional offices, the Finance Division and the legal unit take action to cancel leases where conditions have not been complied with.

Surveys Division

Surveys to be performed by the GLSC will be limited to expanding and maintaining geodetic surveys, cadastral surveys and topographic surveys. Work for other agencies, such as the Housing Authority, will be mostly contracted out, with the GLSC performing the role of monitoring and regulating survey activities. Key thrusts include:

- Introduction of modern survey technology and training all staff in its use;
- Establishment of a geodetic network in the country;
- Development of computer-assisted drafting applied to cadastral plans;
- Supporting and guiding the training of surveyors at the Technical Institute.

Land Information and Mapping Division

This Division is concerned with the creation and maintenance of a land information system to serve the needs of the Commission and its clients. Its key functions are:

- Development of a comprehensive database of public land parcels;
- Provision of digital products and services with emphasis on scanning and digitising the core map scales;
- Development of a map users catalogue;
- Improving the cartographic and air photo resources;
- Lending GIS support to land use initiatives.

7.6 Organisational Development in the GLSC

Upon the establishment of the new GLSC in 2001, all staff within the old LSD were given the opportunity to transfer to equivalent positions in the GLSC, with conditions no less favourable. In reality salaries were raised to be more comparable with other semi-autonomous organisations and to boost morale and productivity.

Other key strategies include:

- Contracting out most of the survey work and major services, such as maintenance and security;
- The lease registry to be rehabilitated and modernised, including the production of linked parcel and lease computer databases for the purpose of making instant record enquiries and noting applications' progress;

- GIS, computer mapping and other cartographic equipment to be acquired, to enhance the speed, efficiency, flexibility and accuracy of map production;
- Computer systems to be set up for recording human resource and accounting information;
- A computer-based billing system to be introduced, linked to the lease index database;
- Lease application procedures to be streamlined, including a reduction in the number of Land Selection Committees and in the stages required for lease renewal and transfer.

7.6.1 Key Organisational Development Achievements

Strategic Plan

The major initial milestone was the formulation and adoption of a Strategic Plan and Mission for the organisation. The mission of the GLSC is “to effectively and efficiently administer lands for the benefit of our customers and national development”.

The Strategic Plan spanned just three years initially, recognising that the organisation was new and was going to change rapidly. The plan benefited from extensive consultation and participation from all staff. The key performance drivers set out in the plan are:

- Customer satisfaction,
- Self-sufficiency,
- Attracting potential/future customers,
- Enhanced land market.

Strategic objectives have been formulated and for each, specific targets have been identified.

Five-Year Financial Plan

Since the GLSC has to become financially sustainable, a five-year Financial Plan was developed. Essentially the plan identifies a five-year path along which defined revenue generation activities and targets along with expenditure planning will take GLSC to a point of independence of the Central Government subvention at the end of five years. This plan is being implemented.

Human Resources Strategy

A human resources strategy has also been developed for the Strategic Plan period. This plan identifies strategic actions that are to be taken to establish a sound human resources capacity to deliver the Commission’s targets.

In a very short time, these and other changes — including substantial rehabilitation of the building furniture and equipment procurement — have been undertaken. The Commission is continuing to move forward change within the context of approved plans and strategies. Slowly, the

organisation is showing positive signs of achieving its long-term objectives.

7.7 Legislative Analysis and Reform

It has been recognised in recent years that legislation needs to be examined radically in order to deal with on-the-ground realities and to modernise the land sector.

The foregoing sections have highlighted the need for fundamental institutional change, which could only have been brought about by legislative change. But several other areas also point to the need for legislative change. One is the area of land rents. The law on rental can be a serious disincentive to a vibrant land market. In trying to establish a land market, policy has to ensure concomitant legal analysis and change.

An active land market brings with it land disputes. If disputes are slow and costly to resolve, then the market is impeded.

Several pieces of land legislation are old and have not kept up with current trends. The State Lands Act and the Land Surveys Act are two examples.

Under an IDB-funded Public Land and Regularisation of Tenure project (PLART) much legal analysis was undertaken in the late 1990s. The State Lands Act was overhauled and regulations re-written. A new standard agricultural lease was drafted and adopted. This lease provides for rights of mortgage, sub-leasing, inheritance, renewal and transfer. This is already being implemented.

The Land Surveys Act was similarly revised, and a new Land Surveys (Profession) Act was drafted. For the sake of completeness, it should be mentioned here that the Guyana Lands and Surveys Commission Act was drafted and enacted.

While Guyana can boast the enactment and implementation of some pieces of legislation, others have remained in draft form awaiting debate and passage in Parliament. Other national interest matters have eclipsed the urgency of this draft legislation.

Of note here is the innovative mechanism of alternative dispute settlement being implemented in the process of land tenure regularisation. This is under way and is proving effective in resolving disputes in a quick and cheap way.

The relation between the emerging land market and legal change is an area that requires further work. A comprehensive land market study has just been completed under UK Department for International Development (DFID) support. This is expected to lead to further legal analysis and reform.

8. ACCESS TO LAND AND SOCIAL EQUITY

8.1 Background

Many of the causes of poverty in Guyana can be traced to earlier decades when inappropriate policies led to years of economic decline. In recent years, poverty in Guyana has been aggravated by the decline of international markets in key exports such as sugar, rice and bauxite. Attempts to tackle it have been hindered by the considerable burden of public debt obligations.

According to a recent report by the British Government's DFID (Guyana Country Paper 2001), Guyana is, without question, a poor country and poverty is particularly pervasive amongst Amerindian communities, female-headed households and small-scale rice farmers. Furthermore, a socio-economic survey conducted by GLASP in 1998 found that poverty levels amongst farming households were generally lower than amongst the population as a whole. Land administration and management policies can play an important role in redressing this situation.

With abundant land resources, Guyana has an opportunity to tackle poverty through appropriate policies and programs for land allocation.

8.2 Government's National Development Strategy

The principal goals of the Government of Guyana, as outlined in the 1996 National Development Strategy, are:

- Rapid growth of average income;
- Poverty alleviation/reduction;
- Satisfaction of basic social and economic needs;
- Sustainability of a democratic and fully participatory society.

The Government has identified a number of sectoral objectives that are essential to achieve so as to meet its goal of reducing/alleviating poverty. These include:

- Increasing the revenue derived from agriculture by improving efficiency in resource use (thereby increasing productivity in farming and processing) and by tailoring production to the needs of the market, both domestic and international;
- Targeting the resource-poor for special attention to enhance their opportunities for betterment;
- Provide effective relief from the immediate deprivation suffered by poor households with respect to basic necessities such as nutrition, healthcare, schooling, housing and potable water so that they are freed from such intensive concern in these areas and are able to devote their energies more fully to activities that improve their lives economically and culturally;

- Integrate the poor more formally into the development process so that they can improve their situations in the future through their own efforts, reducing their dependence on special benefits.

The Government has also identified a number of supporting objectives:

- Expansion of opportunities for self-employment and employment in firms at a living wage;
- Enhancement of the capabilities of the working-age poor to respond to such opportunities;
- Improvement of the conditions of supply of basic social services to poor households, while maintaining them at affordable levels for that group;
- Provision of adequate income and nutritional supplements for poor households;
- Comprehensive empowerment of Amerindian populations, enabling them to better control their own destinies in economic and social terms as well as endowing them with greater opportunities for earning incomes and a better supply of basic services;
- Comprehensive programme to eliminate gender discrimination in the workplace and in other areas of life;
- Improvement in the access of the rural poor to land, working capital, agricultural technology and markets;
- Provision of special and comprehensive assistance (including training and counselling as well as economic assistance) to those families that have suffered from prolonged deprivation;
- Improvement in the conditions of assistance to the aged and mentally and physically handicapped, and identification of ways in which they too can participate in productive endeavours.

8.3 Poverty Reduction Strategy

Government's approved poverty reduction strategy complements the national development strategy and addresses poverty reduction specifically. Its objectives include job creation, development of human and physical capital, environmental protection and special programs to address regional pockets of poverty.

Economic policies under this strategy include monetary and fiscal macro-measures, investment and export promotion, development of small businesses, development of eco-tourism, modernisation of the sugar industry, mineral exploration and information technology development.

However, it is under the governance strategies that land finds context. Apart from public sector modernisation and decentralisation of public services, the improvement of land development, access to land and land allocation mechanisms are cited as keys to a strategy for reducing poverty. The Country Poverty Reduction Strategy Paper (PRSP) states:

The newly enacted Guyana Lands and Surveys Commission (GLSC) Act established a new semi-autonomous land agency with the authority to manage all public lands and develop land use plans, policies and information systems.

The same office will process all applications for agriculture, eco-tourism, and industrial and commercial development. A computerised land information database is being developed to create and maintain up-to-date lease and land use records, facilitate rent billing and collection, and facilitate the identification of available lands for development.

To accelerate land titling and land allocation and to minimise the perception of discrimination in land allocation, criteria and standards for evaluation and approval of land applications are being developed for immediate implementation. Legislation will be enforced against discriminatory practices, including gender and poverty bias in the allocation of land rights.

Pursuant to Government's decision to convert small parcels from leasehold to freehold, several land development schemes are being regularised, and eligible parcels are being converted to freehold status. In addition, for those parcels that do not qualify for freehold, a new standard agricultural lease has been developed and is being implemented to provide for 50 years duration, and rights of mortgage, renewal and inheritance.

The GLSC has been given the mandate to develop land use plans and policies. To this end, a public land inventory is being made. A Geographical Information System is being developed that will be used as a tool for land use planning. The LSC has acquired professional land use expertise that will guide the development of plans and policies.

8.4 GLSC and Poverty Reduction

It is clear that in a situation where land is relatively abundant and other forms of capital are scarce, land policy can play a key role in addressing poverty.

In line with the Government's National Development Strategy and with support from IDB and DFID, the GLSC has implemented a number of policy initiatives (outlined in Section 4). These policy initiatives are designed to create an enabling environment for poverty alleviation and reduction, enhance tenure security and access to land, reduce vulnerability, better encourage more sustainable use of resources, promote investment and stimulate private sector development through opening of new land for economic development.

- Establishment of the Lands and Surveys Commission as a parastatal organisation enables it to become self-financing and allows it to develop its own plans and programs which will allow faster processing of lease applications and better access to land for all land users
- GLSC's land tenure regularisation programme will provide secure title to all tenure groups.
- The conversion of leasehold land to freehold providing secure title will provide better access to credit for all tenure groups.
- The new lease instrument being awarded similarly provides security of tenure and certain rights to all land users, including the poor:

- Right to mortgage,
- Right to transfer,
- Right to sub-let,
- Right of renewal,
- Right of inheritance.

These policy/institutional initiatives are having a positive impact on vulnerable groups.

8.5 Vulnerable Groups in the Land Sector

- *Sub-lessees*
Sub-lessees are part of an informal illegal tenure situation, which is widespread throughout the coastal plain (particularly on rice land). Their tenure rights are legally weak, rendering them vulnerable.
- *Co-operative members*
Co-operative members are often faced with land tenure security problems. Many of the agricultural co-operatives on the coastal plain exist only in name and are now dysfunctional with “members” seeking individual land rights. These rights can only be established when the co-ops are officially disbanded, and this is often a lengthy procedure. The regularisation process will pick up from the point where co-ops are disbanded and members are free to make their individual land claims.
- *The landless and squatters*
The landless can include landless farm labourers and young farmers who are the heirs of farmers with holdings too small to sub-divide. Squatters are defined as those who are occupying land but have never been a part of a formal land tenure system. These groups both face the problem of finding a means to access the land tenure system and are likely to need assistance to do so.
- *Women farmers*
This group also faces land tenure-related livelihood constraints. Most women are not fully aware of what land tenure security involves. They have insufficient knowledge of the procedures for acquiring leases and there is a tendency for women to feel that land matters are the responsibility of men. Many women farmers make an important contribution to household income through their own agricultural enterprises and the LTR Programme could assist in recognising the importance of this role by ensuring that women farmers are given every opportunity to participate in the programme.

JAMAICA: Land Policy, Administration and Management: A Case Study

Jacqueline daCosta

1. COUNTRY PROFILE

1.1 Geography

Jamaica is the third largest island in size and the largest English-speaking island in the Caribbean with an area of 10,991 square kilometres. It has a diverse geography of volcanic -formed mountains, fertile plains, rain forests, swamps and a coastline that varies from rocky cliffs to white-sand beaches. Agriculture, including fisheries, forestry and pastures, occupies over half of the country's land area.

1.2 Demography

The current population is estimated at 2.6 million with some 55% living in urban areas. Kingston, the capital city, is the commercial centre and seat of Government, and has a population of about 716,000. The current growth rate of 0.6% in 2001 has been consistent with the National Population Policy target for a growth rate below 0.8% over the medium term and a projected population size of under 3.0 million by the year 2020. This growth rate has been consistently below 1.0% since 1997. The downward trend is desirable in light of national policy for achieving a stable population at zero growth. This decline in the growth rate is influenced mainly by continuing high levels of emigration rather than declines in fertility and it may have serious repercussions for national development.

1.3 Economy

Jamaica has historically had an open economy. It has faced periodically depressed and highly competitive markets for its principal exports and sources of foreign exchange (bauxite, alumina, agriculture, light manufactured goods and tourism). A rapid liberalisation policy in the 1990s further weakened the position of exporters. By 1995, the Government of Jamaica (GOJ) faced large fiscal deficits and significant public sector debt. Under the weight of non-performing loans and inflated real estate investments, the rapid proliferation of financial institutions in the wake of liberalisation, an inadequate regulatory framework, and poor and unacceptable management practices led to serious problems with the

country's financial system in 1996. Between 1990-2000, per capita GDP (at constant prices) declined at an annual rate of nearly 0.7%, while official unemployment remained over 15% and per capita real income fell annually from 1993. It is believed that remittances from Jamaicans living abroad, an expanding informal sector, and the underground economy of which the production and trade in illicit drugs are assumed to be a significant component have been largely responsible for keeping the country afloat.

Jamaica's production activities were reduced in certain areas during the years when the purchase of Government bonds provided greater returns than most productive investments. Economic growth has, however, been increasing with the Government providing an enabling environment to stimulate and encourage innovation in value-added products as well as providing assistance in marketing.

Real Gross Domestic Product (GDP) in 2001 increased 1.7% compared with 2000. The growth in real GDP was due mainly to the continued growth in transport, storage and communications, the recovery in agriculture and mining (including quarrying) output, and an increase in construction and installation activities. Manufacturing, distribution and financial services registered smaller, but positive contributions to growth. Miscellaneous services was the only major sector that recorded a decline in output.

1.4 Social Context

Jamaica is classified as a country of "medium human development", whose social indicators compare favourably with many Latin American countries. The capacity of the State to fund and deliver social services and their supporting infrastructure has been reduced due to financial and economic problems. Jamaica ranks 78th amongst 174 countries with a Human Development Index of 0.738 and a life expectancy that continues to increase.

Social cohesion and unity around common issues is one casualty of economic stagnation, as is political tribalism. Survival strategies such as stealing, sex-related activities and showing respect to community "Dons" are more and more individualist and socially destructive. Deep divisions within the Jamaican society underline these phenomena. The national motto "Out of Many One People" is still a worthy goal for a people that remain deeply divided into the "haves" and "have-nots", rural and urban, uptown and downtown, and the different shades between black and white.

1.5 Gender

According to standard indicators, gender differences do not contribute to inequalities in human development in Jamaica. Women in Jamaica won the right to vote and to contest election in 1944. For at least the past three decades, Jamaican females have exceeded males in primary and secondary enrolment, mean years of schooling and literacy, in part due to the decline in educational participation and achievement amongst males.

Women in rural settings have always borne both productive and reproductive responsibilities, but their labour is poorly paid and little counted. Jamaican women have less access to productive resources such as land and credit, than men do. In the professions, women are strongly represented in middle management, but are still rarely present in upper management. Women hold only 10% of senior positions in the country (most of these positions are in the public sector), despite the fact that they account for more than two thirds of the university graduates.

MAP OF WIDER CARIBBEAN REGION



2. MAJOR LAND ADMINISTRATION AND MANAGEMENT ISSUES

2.1 The National Land Policy

The National Land Policy of Jamaica was tabled in Parliament in July 1996. It recognised the finite nature of Jamaica's land resources and the need to correct decades of indiscriminate use and poor development practices. The Government co-ordinated the preparation of the policy by employing a broad-based participatory and consultative mechanism. Consideration was given both to the terrestrial areas, some 10,991 sq. km., and to territorial waters, approximately 25 times the size of Jamaica, as well as the atmospheric and sub-surface areas.

MAP OF JAMAICA SHOWING MAJOR PARISHES AND TOWNS



2.2 Goals and Objectives

The objectives of the policy are to ensure the sustainable productive and equitable development, conservation, use and management of the country's natural and man-made resources and promote comprehensive and integrated development in urban and rural areas. Measures to achieve these goals and objectives include equity and fairness in access and distribution of land, economic diversification, and the development of centres of growth as appropriate.

The policy aims to complement socio-economic development plans and programmes including poverty eradication, whilst challenging and seeking to remove inefficient, onerous and outdated legal, administrative, management and other barriers. The policy specifies the development and implementation of a rational set of strategies, programmes and projects so as to facilitate stable and sustainable development.

2.3 A Policy Fashioned by Jamaicans

The broad-based participatory process used to develop the National Land Policy over several years established the framework that enabled many Jamaicans to become more conscious of how best to protect and develop the country's resources.

The National Land Policy was a product of love and labour done free of charge involving several hundred Jamaicans for the well being of Jamaicans. Inputs were made by public and private sector organisations and individuals as well as professionals, non-governmental organisations (NGOs), community, educational, religious and special interest groups. It was the subject of discussion in many parts of the island through public forums. The draft policy was also commented on by members of bilateral and multilateral financial institutions and knowledgeable experts from across the world.

2.4 Land Issues

The policy recognised that failure to adopt appropriate rural and urban land policies along with prevailing land management practices was a primary cause of inequity, poverty and inadequate economic development. It also identified many of the critical land issues in the country and the causes of problems such as degradation of forests and watersheds, scattered and linear development, unplanned urban development, squatting, illegal development activities, occupation of hazard-prone and other unsuitable areas, increased living costs, environmental pollution and increased vulnerability affecting the nation, especially the disadvantaged and low-income earners.

The policy is comprehensive and includes chapters that detail the issues, policies, programmes and projects related to the following subject areas:

- Geographic Information Systems;
- Land Resources and Land Use;
- Land Titling, Tenure and Access;
- Acquisition, Pricing and Divestment of Government-owned Lands;
- Taxation;
- Incentives for Property Development;
- Environment, Conservation and Disaster Preparedness;
- Management of Lands with Specific Reference to Government-owned Lands;
- Legislation;
- Institutional Framework and Reform.

The following is a more comprehensive list of the issues. These were all dealt with in the National Land Policy, where accompanying strategies, programmes and projects to address them were outlined.

Land Administration and Management Issues

- Lack of sustainable/integrated development plans — national, regional, local are, where they exist, not realistic or even directional in what could be implemented, taking into consideration realistic time frames, financial and human resources
- Inadequate information on land and land matters and information not easily retrievable or accessible
- Rapid urbanisation and urban sprawl
- Scattered small human settlements and linear urban development
- Planning, infrastructure and utility standards that are not affordable to the majority of people and unwillingness to develop and legally use starter/minimum standards, with policies and programmes for incremental development
- Large-scale squatting and capturing of public and private sector land for all types of uses
- Illegal/non-conforming uses
- Limited access to affordable lands with secure tenure

Land Administration and Management Issues

- Inadequate or no plans to deal with territorial waters and exclusive economic zones
- Use of economic instruments, example, incentives and subsidies, without any analysis of environmental and social impacts of some developments
- Inadequate infrastructure — roads, sewerage and water. This is compounded by the economic dependency on tourism in several parts of Jamaica and in the Caribbean as well
- Illegal sub-division and sale of land
- No resolution of “family land” issues
- Inappropriate pricing and taxation of land
- Marginal lands being made available to farmers for agricultural purposes
- Lack of consistent and viable strategies and programmes for making lands available to the masses, resulting in unavailability of affordable lands and insecurity of tenure
- Pollution of surface and underground water as well as harbours, coastal and marine areas
- Inadequate national capability to plan and manage, given present *modus operandi*
- Chemical and thermal pollution — from oil, refining and spills, agricultural herbicides, insecticides, pesticides, industrial and domestic pollution
- Nutrient loading from sewage and fertilisers
- Sediment loading from soil erosion, sand dredging, construction etc
- Unavailability of lands and insecurity of tenure
- Occupation of hazard-prone areas, such as river banks, steep hillsides etc.
- Some 50-70% of housing solutions in Jamaica and the Caribbean are being undertaken by the informal sector with no approvals for planning, building or infrastructure
- Insufficient recreational facilities
- Inadequate development of beach facilities
- Illegal quarrying, including sand mining
- Poor or non-existent marine and coastal zone management
- Inadequate or non-existent waste (solid, liquid and toxic/hazardous) management programmes
- Poor environmental practices and protection for environmental sensitive areas
- Pollution of the environment from industrial and tourism development
- Reclamation and clearing of wetlands and mangroves for development and settlements
- Ill-planned tourism development, water and road projects
- Poor agricultural practices and limited extension services

Land Administration and Management Issues

- Solid waste — garbage especially plastic, and trash from hotels, beaches, boats
 - Introduction of exotic species
 - Watershed degradation and species/bio-diversity loss
 - Soil erosion
 - Under-utilisation and inefficient use of arable lands, abandonment of private lands — absentee owners
 - Illegal sand mining, shrimp production
 - Deforestation for fuel, posts, lumber and other uses with no real programs for reforestation or special plantations
 - Inadequate/archaic laws
 - Over-fishing and -hunting
 - Over-collection of endangered species and eggs, use of guns, bleach, dynamite, etc.
 - Limited role of private sector and professional organisation involvement in the policy formulation and management of environment and natural resources
 - Limited and poorly organised and managed monitoring and enforcement capacity within the public sector
 - Regulations required to administer laws, even when laws are in place, are not being finalised
 - Inadequate penalties and fines and complex procedures to deal with planning and environmental offences
 - Limited delegation of policy formulation and planning to local levels and limited provisions for locally initiated programmes
 - Inadequate sustainable development plans and programs
 - Lengthy and complex bureaucratic requirements affecting the few who for financial and other reasons are part of the formal economy
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The National Land Policy reinforces other inter-sectoral development policies such as the Social Partnership and the Industrial Policy. It is comprehensive and identifies sustainable strategies for the use of land resources in Jamaica's agenda for social and economic development. It also addresses the legal and institutional mechanisms and the need to modernise and adopt modern technology to facilitate efficient and effective implementation.

The following sections will examine in some detail the main challenges and issues related to land administration and management in the island, and look at the policies that have been framed and the programmes and projects that have been, or are being, implemented to address them.

3. INFORMATION TECHNOLOGY

3.1 Information Technology Challenges

Information and communication technology is changing the way business is being done and the way people communicate with each other. It continues to create opportunities by offering more choices and options and it allows for easier and increased access to information and services.

The Ministry of Land and Environment has been providing the governance and leadership needed to create and sustain modern land administration and management systems. These systems are being put in place to facilitate the efficient and effective use of the finite land and land-related resources for the advancement and well being of the Jamaican people.

The importance of geographic information as a crucial part of the nation's information infrastructure has been recognised and the Government has been making the necessary investments, albeit with limited resources, to implement a national geographic data management system.

In addition the Government of Jamaica through the Public Sector Reform Programme is spearheading the use of information and communication technology to manage in a more innovative, integrated, coherent and co-ordinated manner, measure efficiency, and improve the planning processes of Government.

3.2 Policy Goals and Objectives

The country's geographic data management policies and objectives were enunciated in the National Land Policy of 1996. These include the development and implementation of land information systems and practices for proper planning, development and management of land and ensuring that land and land-related data are readily available as a tool for a variety of other activities. This is being done through the development and implementation of a National Networked Geographic Information System (GIS) action plan and programme and includes the establishment of a National Spatial Data Management Centre. Government has decided that all land and land-related information created by Government and its agents are the corporate resource of the State.

The major policy objectives are as follows:

- To create a National Spatial Data infrastructure to facilitate the effective and efficient management of land resources and to ensure informed and correct decision making on land-related matters;
- To create national standards for geographic data collection, storage and exchange;
- To establish a National Spatial Data Management Centre;
- To develop human resources to manage and operate the National GIS Centre and other GIS facilities;

- To create digital geographic information databases;
- To develop user mechanisms and tools to facilitate access to land and geo-spatial information.

These policies and objectives were created to guide the development and growth of geographic data management in Jamaica.

Government's overall information technology objectives under the Public Sector Modernisation Vision document are:

Joined-up Government

To improve cost-effective and focused delivery of Government service to citizens.

Transparency and accountability

To achieve accountability at a higher level in the management of public resources.

Government as an enabler

To foster closer working relationships between itself and the business/productive sector, to improve productivity and access to services by citizens by making the transactions with Government simple, accessible and cost-effective.

3.3 The Land Information Council of Jamaica

Over 10 years ago a small group of visionaries decided that it was important to use modern technology to improve the way in which land information was used to support critical decisions in Government. This early vision, with Cabinet's approval in 1991, led to the creation of the Land Information Council of Jamaica (LICJ). Today the LICJ co-ordinates and executes the GIS policies, as stated in the National Land Policy technical programmes and projects, for the development of geographical information systems for Jamaica.

Throughout the years, the LICJ has fostered the understanding and acceptance of GIS as a tool for geo-spatial data management and decision making and has pioneered the growth of the geo-informatics industry in the island. The Council has been co-ordinating the development of digital data standards and geographic-information-system policies and strategies, the preparation of position papers, the creation of digital data sets, and delivery of GIS training to executives, managers, supervisors and technicians.

It is worthy to note that all the activities that have been executed by the Council have been accomplished through the commitment and voluntary participation of over 40 Government agencies, statutory bodies, professional organisations and the private sector. These organisations have all recognised the benefits to be gained from a national GIS infrastructure and have selflessly given of their time and effort to this national cause.

3.4 Information Technology Programmes

GIS, remote sensing, spatial database, global positioning systems, Internet/web technologies are being applied in areas such as land management, infrastructure and facilities management, environmental monitoring and management, urban planning and forecasting, mining and vehicle routing, amongst other land- and business-related uses in the Government and the private sector. The following details a number of GIS and related technology initiatives that are being undertaken to improve the administration and management of land.

3.4.1 National Spatial Data Infrastructure

The Government of Jamaica through the Land Information Council of Jamaica is working to establish a national spatial data infrastructure (NSDI). The NSDI may be defined as the technologies, policies, and people necessary to promote sharing of geo-spatial data throughout all levels of Government, the private and non-profit sectors and the academic community.

The major goals of the NSDI are to:

1. reduce duplication of effort among Ministries and agencies,
2. improve quality and reduce costs related to the creation and dissemination of spatial information,
3. make spatial data more accessible to the public,
4. increase the benefits of using available data, and
5. establish key partnerships with academia and the private sector to increase spatial data availability.

3.4.2 Establishment of a National GIS Centre

Within the next two years a centralised technical unit, “A National Spatial Data Management Centre”, will be established to provide co-ordination and technical support required to implement and maintain the national GIS network.

The network is being implemented to facilitate the sharing of geo-spatial information across Government agencies in Jamaica. This system will consist of five Data Marts accessing a Spatial Data Clearing House of the National Spatial Data Management Centre over a wide area network.

Data Marts

- Land Management;
- Planning and Environment;
- Development, Demography and Socio-economic;

- Utilities;
- Security.

Each Data Mart will consist of agencies involved in similar activities. For example, the Planning and Environment Data Mart will consist of the National Environmental and Planning Agency, the Ministry of Agriculture, the Kingston and St. Andrew Corporation, the Parish Councils, and the Water Resources Authority amongst others. Common-interest spatial data such as the cadastral index database and the topographic maps will be published and disseminated by the Centre/NLA. A national geo-spatial data publishing clearinghouse program will administer data dissemination and pricing policies established by the LICJ. These data will continue to be updated by the appropriate data source agencies within each Data Mart.

3.4.3 GPS Network

Over the past five years there have been significant advancements and improvements in technologies, such as global positioning systems and remote sensing, that support many functions of Government. The widespread use of global positioning systems for automatic vehicle location, land surveying and mapping as well as the availability of high resolution maps at affordable costs have allowed users access to a multiplicity of spatial data management applications and solutions, the significant benefits of which can be realised from their use and implementation.

The Ministry of Land and Environment has been preparing the groundwork required to create an environment conducive to the development and use of these technologies. International agencies and organisations have standardised and prepared their products in the World Geodetic System of 1984 (WGS84) reference frame. Jamaica's co-ordinate, geographic and mapping data are based on the Jamaican Datum of 1969 (JAD69). JAD69 co-ordinates are not compatible with WGS84 and this poses a challenge when one needs to access GPS and remote-sensing information sets and products created in WGS84. The decision was therefore taken to change to the WGS84 datum based on a phased plan of action.

Another important decision was to establish a modern national geodetic infrastructure comprising geodetic control points and other geodetic facilities compatible with GPS. A total of eight stations will be installed in strategic locations during 2003. These stations will provide GPS coverage for the entire island. They will supply real-time and post-processed survey quality positions at 1 and 2 centimetre accuracies to roving GPS users. The existence of this GPS infrastructure and the use of GPS equipment will significantly reduce the time and effort taken and expended to conduct location-based measurement activities such as land surveying and mapping. It will also allow for other business

opportunities such as vehicle location and navigation, fleet monitoring, and enhanced emergency response systems.

3.5 E-Government

3.5.1 NLA's eLandjamaica

A number of initiatives in support of e-government have been launched. In January 2003 the National Land Agency introduced eLandjamaica. It is an Internet-based service that provides selected title, valuation and digital map information to the agencies' customers that wish to subscribe, 24 hours a day, 7 days a week.

Services available to the customer are the following: basic property search; advanced property search; sales search; interactive map; and survey monument search.

Basic Property Search

This is a simple search to find the valuation and/or the volume and folio numbers for parcels. There is no cost for accessing this service.

Advanced Property Search

Customers are allowed to view and print information from the valuation and titles databases. Searches can be done using items such as property addresses, valuation numbers, deposited plan numbers, strata plan numbers and volume and folio numbers.

Interactive Map

This service allows users to locate districts and identify the general location of properties using GIS.

Survey Monument

This facility provides online search access to data on survey control points.

In the initial phase of operation customers will be able to access some 380,000 scanned Certificates of Titles and all the active caveats associated with them. Customers will also have access to 1,500 strata and 45,000 deposited plans, over 680,000 valuation roll reports and scanned copies of the valuation enclosure plans for Kingston, St. Andrew and St. James. These services can be accessed through the agencies web site at www.nla.gov.jm.

3.5.2 Geo-informatics Training and Public Education and Awareness

One of the major areas identified as critical to the development and sustainability of the national spatial data infrastructure is the implementation of ongoing training in GIS and related disciplines. Associated with this is also the need to create an environment that nurtures and retains dedicated and proficient staff. The LICJ manages a GIS training laboratory that offers short technical courses to assist in the development of GIS competencies within the public service and, to

a lesser extent, the private sector. The centre offers six courses: Introduction to ArcView and Extensions, Introduction to GIS, Data Automation, Data Analysis, GIS Database Design and Executive GIS, which range from 32 to 40 hours of intensive theory, application and hands-on sessions.

To maintain viability and sustainability of the training centre, collaborative training initiatives are ongoing with the University of Technology, Spatial Innovision Limited and other Government agencies.

With regard to GIS training, emphasis will be placed on the training and certification of trainers, the development of one new course, and the further expansion of facilities to provide canteen and library services. A significant training target is to obtain accreditation from the National Council on Technical Vocational Education and Training by 2003. The Council is also working with tertiary institutions in the region to have courses accredited and have credit points assigned to the courses. These points would be accepted towards degree and diploma GIS programmes.

3.5.3 Digital Geo-spatial Data Creation

Fundamental to the optimal use of geographic information systems is the availability of current, complete and accurate textual and graphic data. It is critical that common interest data such as topographic maps, parcel maps, socio-economic and land-use data are collected and structured in a database that can be readily available and accessible and which can be used for decision making.

The country's maps are severely out-of-date. The most recent maps are the 1:50,000 metric series that was done 20 years ago and are based on photographs taken in the late 1970s. The last comprehensive large-scale mapping of the capital city is over 40 years old and was based on 1950's photographs. Sectoral consultations conducted by the Ministry revealed that 7 priority data sets are missions critical to the national GIS infrastructure. These are base maps, parcels, administrative, environmental, utility networks and transportation data sets and related meta-databases.

The Government is spearheading initiatives to create a comprehensive digital base map and a digital parcel index map of the island. Both mapping initiatives are being executed on a co-operative basis. Various agencies and statutory bodies are contributing their resources — human, technical and monetary — to prepare these data sets.

3.5.4 Large-scale Digital Base Maps

On September 27, 2002, the Ministry of Land and Environment received from Space Imaging, USA, the following map products:

- IKONOS precision natural colour 1-metre digital ortho-photo map files for the entire island;
- Digital ortho-photo map files for Kingston and St. Andrew, Portmore, Spanish Town and Port Maria at 1:2,000;
- Multi-spectral, 4-metre digital images for the entire island;
- Digital surface models for the entire island.

This mapping exercise was made possible through a joint-up Government initiative co-ordinated by the Ministry of Land and Environment, where members of the Land Information Council of Jamaica, i.e. Government agencies and departments, contributed funds to purchase the maps from Space Imaging, USA, valued at over US\$1 million. The maps have been purchased under the multi-licensing agreement for IKONOS products for federal, state and local government of the USA, at 60% of the original cost.

Over 70 Government agencies will receive licences for a complete set of these digital ortho-photo map files. The acquisition of comprehensive all-island digital maps will provide all Government agencies and the private sector with current map data to support all their location-based planning and implementation activities at a fraction of the normal price.

The following table details how the maps will be used by a number of agencies.

AGENCY	APPLICATION/USE
Forestry Department	<ul style="list-style-type: none"> ▪ Base data layer in their GIS-based forest land-use databank ▪ To maintain their forest inventory ▪ Measurement of rate of deforestation and reforestation
Water Resources Authority	<ul style="list-style-type: none"> ▪ Watershed Analysis and Management ▪ Flood Plain Analysis
Local Government	<ul style="list-style-type: none"> ▪ Local and Regional Planning
National Land Agency	<ul style="list-style-type: none"> ▪ Creation of cadastral index and map ▪ Preparation of tax map update

3.5.5 Cadastral Maps

Cadastral index

Through a joint-up Government initiative the National Land Agency is co-ordinating the preparation of a digital cadastral index map for the island. The NLA in collaboration with the Forestry Department and the National Works Agency is currently creating the cadastral index for the parishes of Trelawny, St. Ann and Manchester. The World Bank under the Public Sector Modernisation Programme has provided funds to

outsource the preparation of the cadastral index for Kingston and St. Andrew and St. James. It is estimated that the cadastral index mapping exercise for the island will be completed in two years, at an approximate cost of JA\$51 million, provided that funds and staff are available.

Cadastral map

The cadastral index map for St. Catherine is being used by land surveyors under the Land Administration and Management Programme (LAMP) to assist in the surveying and tenure clarification and regularisation exercise. Once the targeted parcels under the LAMP have been surveyed, the cadastral index will be upgraded to a digital cadastral map which will have precise data on each parcel.

3.6 Constraints

A strong infusion of funds is required if the goals and objectives agreed to by Cabinet in 1996 are to be achieved. Creative means and ingenuity with some support from international lending institutions have been used to implement geographic data management policies to date. Other specific constraints to achieving policy objectives include inadequate staffing and the scarcity of experienced geo-informatics personnel. In addition, growing public expectations are now exceeding the implementation capacity of the Ministry, the LICJ and the Government agencies involved.

4. OWNERSHIP, ACCESS AND SECURITY OF TENURE

4.1 Ownership, Access and Security of Tenure Issues

One of the major problems facing Jamaica, and most developing countries, is the inaccessibility and un-affordability of land to a large portion of the population, particularly low-income households. The unavailability of legally accessible and affordable land has contributed to the chronic problems of squatting and other illegal development on both Government and private lands, sometimes under severely precarious and environmentally unfriendly conditions.

4.2 Land Tenure in Jamaica

4.2.1 Land and Emancipation

Emancipation Day signalled legal freedom for all those enslaved within the British Empire. Equally important, it signalled the beginning of the struggle for access to land on the plains, its use and ownership in Jamaica and other countries in the Caribbean. In an agricultural economy, freedom would have had little economic meaning without

access to productive lands. The English settlers after their arrival in 1655 had been granted large parcels of between 2,000 to 3,000 acres of the best lands. At the time of Emancipation, they were still in control of these large and favourable estates.

During slavery, in addition to working on the plantations, the slaves also grew the ground provisions that fed the whole population including the planters. Ground provisions were grown on hillside lands which were thought unsuitable for estate cultivation. History records that during slavery, the people worked these provision grounds as families, and passed the land down from generation to generation as family lands. They carried their produce from their lands every Saturday night to markets. Market day during slavery was held on a Sunday.

It was expected that these hillside lands, which had been “inherited” by the people for generations would, following the principles of English common law, become the property of the people at Emancipation. Indeed, the British colonial governor at the time, the Earl of Sligo, made a ruling to precisely that effect. However, the local planters protested and the Colonial Office in Jamaica overturned this ruling of their own governor, recalling him to Britain and replacing him with a new governor, Sir Lionel Smith. Thus, on the eve of Emancipation, the people lost access to the land which had been in their family land for generations.

The Colonial Office went further, for, in addition to the hillside land, there were large quantities of Crown land and abandoned (ruinate) land which could still have been bought or used by the people. In January 1836, in order to maintain a labour supply for planters in Jamaica, the Colonial Office advised that facilities for obtaining land by the people when emancipated be diminished and that the price of such lands be fixed so as to place them out of the reach of persons without capital. Ownership of land by the people became next to impossible, except through the granting of land by employers.

It was in an effort to counter this that the Baptists, under the leadership of William Knibb, Phillipo and others, launched the effort to purchase land for the establishment of free villages for the people. The formation of independent villages by Christian missions, especially the Baptist Church, was a historic event in the life of Jamaicans at Emancipation. Since that time, population growth as well as inequitable economic and other practices have resulted in thousands of Jamaicans becoming dispossessed, unable to afford or to have secure access to land.

4.2.2 Freehold Interest

All land tenure in Jamaica can be classified as either freehold or leasehold.

The origin of freehold land in Jamaica dates from 1655, when England issued Royal Letters of Patent, which were in effect grants covering

mainly the low lands. These grants were accompanied by Common Law Titles granted by the English Crown and registered in the Island Record Office in Spanish Town. Eventually, stimulated by a thriving sugar economy, these grants extended into the interior and covered virtually the whole island. The only control exercised by the Crown was the requirement that “Quit Rents” be paid regularly. When these rents fell in arrears the land reverted to the Crown, becoming the basis of Jamaica’s State land. The land that did not revert to the Crown formed the basis of Jamaica’s large, private land-holdings.

The small private land-holding system did not develop until the early 19th century following the abolition of the slave trade in 1807 and emancipation in 1838. Small-holdings were acquired by grants from land owners and donations of land bought by the churches and distributed to parishioners, squatters and others through land settlement programmes organised by the government.

4.2.3 Leasehold Interest

Leaseholds are interests held by individuals, companies and other legal entities under Government or private leases for a variety of uses such as agriculture, housing, industrial, commercial and recreational. Lease terms and arrangements vary depending on a variety of factors. A lease is normally granted for a specific number of years and will usually be subject to certain specific terms and conditions. The factors considered in determining the conditions under which a lease is granted may include the potential/proposed/approved use, the value of the property, the location, the cost of the proposed development and the investor’s best amortisation period, etc. The Government of Jamaica does not normally lease lands for periods in excess of 49 years.

4.2.4 Captured/Squatted

Lands occupied by squatters are called “captured lands”. The origin of some freehold land in Jamaica can be traced to squatting. According to the Jamaican Statute of Limitations, possessory rights can be secured on private land after 12 years of peaceful, undisturbed possession. Possessory rights can also be acquired in respect to Government-owned land, but only after 60 years.

4.2.5 State Land

State lands are lands owned by the Government of Jamaica. The area of these lands is estimated to be as much as 200,000 hectares of Jamaica’s 1,099,100 hectares.

4.3 Categories of Land Titles

The ownership of the freehold interest in land is proved in Jamaica through two types of titles: common law titles, called conveyances, and registered titles.

4.3.1 Common Law Titles

The Island Records Office at Spanish Town, where common law titles are recorded, was the sole title registry until 1889, when the Registration of Titles Act was promulgated.

The Act did not consider the common law title, per se, as conclusive evidence of title and required that persons applying to have land brought under the Act prove a root of title for 30 years.

4.3.2 Registered Titles

Titles issued under the provisions of the Registration of Titles Act, called registered titles, are conclusive evidence of ownership guaranteed by Government. The Registration of Titles Act is fashioned after the Australian Torrens system of land registration, but does not make registration mandatory, unless a cadastral plan has been completed by the Director of Surveys and the Minister so declares. Once the land has been brought under the operations of the Act however, all subsequent transfers of the land must be made under the Registration of Titles Act; otherwise the legal estate in the land does not pass.

4.4 Government Land Settlements and Housing Schemes

Land settlement programmes in Jamaica involve the sub-division of Government lands for settlement by farmers on a freehold basis. The first planned land settlement programme began in 1895, with objectives and features which are similar to present programmes. These include the improvement of living conditions of individuals and families by making lands available at affordable cost, encouraging the creation of owner-operated farms, bringing idle lands into production and reducing the misuse of public lands by squatters. The beneficiaries of these programmes, mainly small farmers, were allowed to pay for the properties over an extended period of time, usually 25 years. The Government assumed the responsibility of obtaining for the owner a title to the property, once the land had been paid for.

Following the formation of the Land Settlement Commission in 1935, the number of settlements grew rapidly and this led to the creation of the Land Administration Division of the Ministry of Agriculture in 1938, later called the Lands Department, and now the Estates Division of the National Land Agency.

Land settlements and housing programmes have traditionally been part of the Jamaican government's social agenda. The aims have been to make land and housing accessible and affordable and to provide security of tenure to lower socio-economic groups. The price of the land allocated to beneficiaries under these various programmes has normally been discounted/subsidised and in many instances bears no relation to the actual value of the land or infrastructure development undertaken. The high cost of

infrastructure, roads, drainage, sewage disposal system, water supply etc. and the corresponding budgetary constraints have prevented the required infrastructure for these settlements from being developed and/or properly maintained. Most of the infrastructure developed, especially for agricultural parcels, does not meet the standards normally required by the relevant authorities to enable the conveyance of registered titles. Thousands of settlers however, have been sold or given permission to occupy lots/houses in these land settlement and housing schemes over several years, some for as many as 40 years, but they have not been able to receive registered titles to their holdings. At times this has resulted in lack of security with respect to tenure, low productivity, inability to access credit, abandonment and illegal sale/mortgage of whole or part of the holdings in several instances. It is estimated that there are as many as 50,000 parcels of land in housing schemes and land settlements for which titles have not been issued.

4.5 Programmes

4.5.1 Titling Activities

In 1989, the GOJ with an Inter-American Development Bank (IDB) loan undertook the Jamaica Land Titling Project. The primary objective of the project was to assist the Government of Jamaica in its efforts to establish a land management system that would order and secure tenancy in rural farming areas. Between 1989 and 1996, a total of 13,000 titles were delivered through the programme to beneficiaries on Government land settlements. This was the first serious effort by Government to issue titles to beneficiaries of land settlement programmes. During this programme one fifth of the sites examined could not be titled because of a range of problems in identifying proper owners etc.

More recently, in order to facilitate the issuing of titles to persons benefiting from the land settlement and housing programmes, the Government has taken a policy decision to issue titles to those beneficiaries with infrastructure “as is” and to develop over-time a project to improve on a priority basis the infrastructure needed.

4.5.2 Divestment Policy

Government recognises that it is the largest owner of real estate and is committed in the National Land Policy to ensuring a transparent land acquisition and divestment policy. Analysis of its land inventory indicated that the Government owns approximately 45,000 parcels, held by over 20 entities. Many of these parcels are under-utilised and not properly managed.

The policy recognised the critical nature of the land tenure patterns of Jamaica and related social and economic implications and stated Government’s decision to accelerate its land divestment programme. The policy for lands divestment is intended to alleviate the problems

associated with landlessness while motivating the nation to realise higher levels of productivity. This is consistent with Government's privatisation policy. A major focus of the programme is to provide land for low-income earners, squatter settlement upgrading and regularisation and for Government employees. In addition to the lands it already owns, Government will, when necessary, acquire lands for future development of infrastructure, provision of social facilities, urban upgrading, housing, commercial and industrial activities as well as for environmental and historical preservation.

4.5.3 Divestment Policy Guidelines

In 1996 the Cabinet approved a set of recommendations that enunciated the guidelines, procedures and mechanisms for the divestment of Government-owned lands in a fair and transparent manner. The recommendations were developed, using a participatory approach, with a critical examination of documents pertaining to valuation, pricing and divestment of Government-owned lands by a number of senior representatives of Government, NGOs and the private sector. A Land Divestment Manual, incorporating the various policies, procedures etc. was approved and other documents relating to divestment are being prepared to be made available to all relevant Government organisations as a guide and to the public for information.

4.5.4 Divestment Programmes

Three major programmes have been put in place for the divestment and distribution of land. These include:

- Emancipation lands,
- The establishment of Community Economic Centres,
- Operation PRIDE.

4.5.5 Emancipation Lands

The Emancipation Lands Programme was developed to identify, plan and divest 100 hectares of land in each parish (where feasible). The lands are being made available to low-income, landless families at minimum prices or reasonable long-term leases to undertake a variety of production activities, mainly agricultural. Tenure is either freehold or leasehold and is being allotted either to groups or individuals. The Ministry of Agriculture is responsible for the planning and divestment of the agricultural properties and the Ministry of Land and Environment is dealing with other properties in conjunction with other relevant agencies.

4.5.6 Community Economic Centres

Many members of the informal sector have been undertaking, as estimated, over 40% of commercial, light industrial and other economic activities in squatted and often unsuitable areas. A significant portion of

the country's small-scale economic activities are carried out by such persons and Government has acknowledged that it needs to assist in "formalising" where feasible this segment of society. One way is to provide lands and opportunities for them to build their own facilities and to undertake economic activities in a legally acceptable and safe manner. Government agencies have identified a number of sites for the Community Economic Centres and will continue to develop and implement the programme in partnership with communities.

4.5.7 Operation PRIDE

In 1995 Government announced that it would begin a major land distribution programme for human settlement development, called Operation PRIDE. This was necessary because a large percentage of the population cannot access affordable land for housing, agricultural, commercial, light industrial and other uses. The Programme for Resettlement and Integrated Development Enterprise (PRIDE) was intended to increase access to land and security of tenure for the landless, the less fortunate in the society and for Government employees.

Over the last couple of years, Government began implementing the programme on a phased basis, but on the advice of certain professionals involved in the programme, changes were made in the proposed methods of implementation, making it into a sites-and-service programme. Having tried these methods in a number of areas, it was determined that it is not feasible or in the best interest of the majority of the landless, poor and other beneficiaries to pursue present practices, as the resulting costs of the solutions are too prohibitive. Many who were intended to benefit were not doing so. It was intended that by using its lands, Government would be the catalyst for this type of programme and that the private sector, religious and other groups would be encouraged to participate in the programme as providers of land and assist with the implementation. Unfortunately, this has not taken place.

The Government has therefore decided that the original policy and programme strategy that was developed for Operation PRIDE with assistance from various sectors should be revisited and pursued. The communities and groups of persons to benefit from the programme will become more involved in the planning and will manage the development of their communities, with professional guidance. These persons have been using their initiatives and resources to help themselves to secure shelter and provide economic opportunities. The Government, through Operation PRIDE, will now act as a facilitator and a catalyst for the purpose of providing lands and technical expertise etc. to these beneficiaries, who are chosen through a transparent process. The beneficiaries working with Government and other groups will ensure that legal and environmentally safe communities are developed.

Manuals designed and developed to assist low-income communities, including those under Operation PRIDE, to incrementally develop affordable and environmentally sound shelter solutions, are available for use to facilitate the process.

Government's aim is to continue to implement the non-partisan programme in a properly planned and timely manner. It is hoped that through this initiative, the Government will stimulate the private sector, NGOs, churches and others to get involved in this national programme which addresses many of the social ills that affect the society. The programme is viewed by Government as an integral part of its social agenda, as it will result in thousands of persons gaining legal access to lands for a variety of uses. Over 20,000 families have already benefited from the programme. It will allow thousands of Government workers the opportunity to eventually own a home. It will help to create viable and genuinely integrated communities, ensure sustainable and environmentally safe development, create employment opportunities, reduce violence and crime, encourage social harmony and family unity and instil in the beneficiaries the values and attitudes which the society needs for survival and prosperity.

4.6 Pricing and Allocation

Affordability has always been one of the major deterrents to the ownership of land by the disadvantaged. Government, in deciding to make lands available to low-income families, has instructed that equal consideration be given to women, especially female heads of households, and that special allocations be made to young people who are seeking to engage in agriculture and other productive activities.

Government's policy stipulates that lands to be divested will be priced at market value. However, in order to ensure that its social objectives with respect to land ownership are achieved, Government has approved a number of discounts and subsidies for lands which are intended to benefit the lower socio-economic groups.

It was recognised that even with subsidies, the indigent, the mentally and physically challenged and the elderly will need special concessions in order to afford safe and suitable places to live. This Government is committed to making available to such persons, within settlements such as those developed under Operation PRIDE, lands at "peppercorn" rental, and organising through its indigent housing programme, with the assistance of charitable institutions, NGOs etc., the construction of safe and inexpensive houses. Community groups will be educated to make such persons a welcome part of the communities in which they live.

4.7 Squatting

The matter of squatting is of serious concern as it prohibits the orderly and progressive development of land. It also causes the development process to

be more expensive due to increased infrastructural provisions. In addition there are social and environmental implications associated with squatting that cannot be overlooked. It contributes to the increase in crime and violence, environmental problems and degradation of the land. Investigations reveal that some squatters are not really poor but, having recognised the importance and value of the land, abuse the current system and become squatter landlords. In such cases, several of these squatters own a house or houses and land elsewhere, but believe that illegal action will be regularised. They therefore invade properties in order to stake their “claims” on private and public properties. This problem has now reached the stage where drastic action is needed to stop the scourge.

This phenomenon of squatting has been experienced in Jamaica over a long period of time, but the problem has intensified over the past two decades. Accessibility and affordability of land have been recognised as critical factors affecting the availability of land for low-income households. The nature of squatting has also changed from the trespassing or encroaching of a few persons on Government land to an estimated several thousand persons illegally occupying private as well as public lands. Many parcels of lands owned by Government and a number of its agencies have been captured.

PRIDE is identified by Government as the best means of providing workable solutions to reduce the incidence of squatting in Jamaica. Where feasible, additional numbers of squatter communities will continue to be regularised, with upgrading of infrastructure and housing being carried out by legal beneficiaries in accordance with approved plans under a proper system of registration. Lands are to be provided to relocate persons who are squatting in areas that cannot be regularised. Additional lands will be allocated to other low-income earners to reduce the incidence of squatting. Squatting is not supported, and the Government will continue to relocate where possible and demolish squatter settlements, especially those in areas zoned as road reservations, environmentally sensitive and/or protected areas, and areas identified for national projects and programmes.

4.8 Indigent Housing

Government has recognised that there are many persons who cannot access funds to purchase a home. It has over the years provided houses for the indigent, sometimes on lands that these persons can access, and in other circumstances on Government-owned lands.

Phase II of the Indigent Housing Project, which commenced during 2001, cost J\$100 million. It continued a partnership between central and local government, NGOs and Community Base Organisations (CBOs) for the upgrading and provision of housing solutions for the poor. The new approach, adopted for the administration of the current phase, resulted in implementation being shared amongst partners: J\$60 million was channelled through Members of Parliament, J\$26.7 million through Parish Councils and \$13.3 million via NGOs. A total of 440 individuals and 110

couples across the island received housing assistance under the NGO/CBO component, while Parish Councils assisted with the repairs to approximately 4,000 units and the construction of 105 new ones.

5. CADASTRAL MAPPING, CLARIFICATION AND TENURE REGULARISATION

5.1 Cadastral, Mapping, Clarification and Tenure Regularisation Issues

A major problem affecting land owners has been that a large number of property owners have no registered titles for their land. This situation has negatively affected the ability of homeowners, farmers and business persons to secure mortgages and related financing to improve and develop the properties, especially businesses etc. It also influences the levels of property taxes collected for reinvestment into communities.

There are some 680,000 parcels of lands listed on the property valuation roll in Jamaica. It is the opinion of many professionals dealing with land that if all the illegal sub-divisions were taken into consideration, there could be over 1,000,000 parcels of the lands. The cadastral index currently being prepared covers a small portion of the island and the cadastral map covers an even smaller percentage of the island.

It is estimated that approximately 45% of parcels are not on the Register Book of Titles. This has its own difficulties, resulting primarily in limited documentation as to ownership. This also results in great gaps in the Register. In the absence of a comprehensive cadastral map and with outdated records, the Office of Titles is confronted with the serious issue of dual registration and keeping abreast of various types of fraud.

In 2001, the Government signed an agreement with the IDB to undertake a Land Administration and Management Programme. The major portion of the loan is to undertake a pilot programme to prepare a cadastral map for 30,000 parcels of land in the parish of St. Catherine and to undertake tenure clarification and regularisation of these parcels.

5.2 Incentives and Financial Considerations

To facilitate implementation of the tenure clarification regularisation and cadastral mapping programme, the Government has agreed to provide incentives for voluntary title registration within the project area for up to two years after the project ends in a particular defined area. These incentives will take the form of waivers of taxes and stamp duties for property registration regularisation, waiver of sub-division approval fees and waiver of Natural Resources and Conservation Authority permit fees where necessary. The project provides legal services through a number of

lawyers on its staff for a fraction of the normal cost. These services include probating wills and procuring letters of administration, updating and adding names to titles amongst other things.

The project team has negotiated special rates for advertisement pertaining to titles with the daily newspapers. A reduced rate has also been negotiated with referees for work to be done by them in the project areas.

Approximately 18,000 parcels are expected to receive registered titles during implementation of the programme. The cost for title registration and surveying under the programme is an average of J\$20,000 (US\$400) per parcel, a fraction of the normal cost. The funds obtained from this activity are to be placed into a revolving fund that will be used to continue the cadastral mapping and tenure regularisation programme across the island.

The execution of the component also involves a public education and awareness campaign, as well as institutional strengthening and the application of modern cadastral surveying technologies.

5.3 Programme Activities

5.3.1 Public Education and Awareness Campaign

Critical to the success and sustainability of the programme is informing and educating land owners of the importance and benefits of titling. This is ongoing through a variety of means, such as public meetings, use of the mass media and consultations in the target areas by field teams.

- Public meetings are held in the targeted areas to inform land owners about the project and the benefits to be derived. The meetings are usually well attended and the responses to participate in the programme are positive.
- An eight-page supplement on LAMP with emphasis on land registration was published in the Sunday *Gleaner* of October 28, 2001. This was well received as evidenced by the number of telephone calls to the LAMP Office by land owners. These and other information leaflets and brochures are being distributed in several metropolitan areas where Jamaicans reside.
- Three videos for use in the campaign locally and overseas were produced, along with a number of jingles, and are aired in strategic time slots on radio and television.

5.3.2 Institutional Strengthening

The project management unit and the titles division of the National Land Agency were provided with technical staff, legal and paralegal officers and land surveyors to strengthen the agency's capability to manage the additional cases for tenure clarification and regularisation. A legal officer has also been placed in Spanish Town Resident Magistrate's Court. This officer is directly responsible for processing

letters of administration and probates for beneficiaries under the programme. In addition a field office has been established to make it as convenient as possible for the land owners to interact with the field investigation team and participate in the programme.

These measures have been taken to ensure that the requisite skills and capacities are in place and can be developed in the agencies responsible for carrying out the national mandate for tenure clarification and regularisation without the infusion of loan funds and consultant support.

5.3.3 Expansion of the Programme

Plans are under way to make this programme a national one. This national cadastral mapping and tenure regularisation programme will be implemented through joint ventures with members of the private sector and professional groups over a ten-year period. This programme will utilise the technical and management expertise of these groups, in addition to using modern and appropriate land surveying and mapping technologies. A major objective to having a parcel-based map for Jamaica is for it to be used for Government's Geographic Information Systems activities. Another major objective is to ensure that as many properties as possible can obtain registered titles.

5.3.4 Cadastral Mapping: Using Modern Techniques

A cadastral index using information from the land valuation maps for several parts of the island is being prepared and will be used by surveyors to assist in the cadastral surveying and mapping activities. Once the targeted areas have been surveyed this cadastral index will be upgraded to a digital cadastral map with more precise data on each parcel.

These cadastral maps are being prepared using a combination of traditional and modern equipment and techniques. Global Position System base stations, GPS rovers and optical total stations are being employed in the mapping exercise.

A digital cadastral index and map with its database will facilitate immediate improvements in the computing, comparison, checking and plan preparation. This will positively impact on the preparation of titles and also support land divestment and land valuation activities.

5.4 General Programme Issues

A number of additional issues have been highlighted during the implementation of the first phase of this programme. Amongst them are problems pertaining to squatting and capturing of land, illegal development, matters relating to a traditional form of land-ownership termed "family lands" and the need to simplify and in some instances eliminate various aspects of the processes applicable to land registration, transfer and other land-related activities.

From an analysis of files prepared for over 800 persons interviewed regarding land tenure, over 40% of these persons have made efforts to clarify and regularise their status in many instances by surveying their parcels and making applications for grants of probate and letters of administration. Many had also contracted the services of attorneys who had initiated the processes, but in numerous instances found their efforts derailed by high costs and excessive bureaucracy, inclusive of the need for sub-division approval and the securing of grants of probate and letters of administration in remote estates. Recent amendments to the Supreme Court rules have greatly simplified the probate and administration process but with increased costs.

An interesting fact that has been revealed from field activities is that the problem of titling is not confined to bringing properties on to the Register, but in many instance keeping the Register updated. Many properties, which are on the Register, have reflected no dealing for over 100 years. There are instances where individuals occupying various parcels for which in some cases they had secured registered titles have now realised that their properties are part of a larger tract of registered lands which in most instance was brought on to the Register in the early 20th century in the names of persons long dead. In their minds, these parcels were unrelated.

5.4.1 Family Lands

The tenure situation becomes more complex as each generation dies without making arrangements for the transfer of property and the number of beneficiaries multiplies. This increase in the number of beneficiaries results in what is known as “family lands”. What this term means is that there are several persons, some living abroad, who are entitled to make a legal claim to the land. In some instances the numbers are so great that no identifiable group can be deemed to be the owner.

Such situations result in unsupervised fragmentation of lands as individuals claim “house spots” and farming lots often with the approval of the matriarch or patriarch who is seen as the person “in charge” of the property. The advent of the National Housing Trust has resulted in contributors attempting to secure documentation for these and other properties in order to access the cheapest source of housing financing available in the island. Many persons’ efforts are thwarted, as in several instances the documentation related to the properties is with relatives overseas. Some of these relatives wield economic power, gained by supporting aged relatives and paying various funeral expenses. They are reluctant to part with documents as they see themselves as the fee-simple owners and are unwilling to have any activity carried out on the land without their blessings.

5.4.2 Updating of Tax Roll

The fact that in many instances individuals' claims to properties are tenuous has affected the Revenue Department's abilities to collect property taxes. Fifty percent of persons interviewed who are in possession of land were not on the tax roll. Many of these persons express the view that without their names being on the tax roll, they feel no obligation to pay. Such views may find greater support in light of the recent increases in property taxes. Persons with insecure tenure also feel that it is risky to undertake long-term development of lands and so many erect houses and plant crops that are not of a long-term nature.

5.4.3 Related Costs

The minimum cost related to surveying a parcel of land is US\$300/J\$15,000, transfer tax on death amounts to 15% of improved value, while *inter vivo* transfers attract stamp duties and transfer taxes of 13%. The minimum total cost associated with bringing the smallest parcel of land under the Registration of Titles Act (where there is no complexity) is approximately US\$900/J\$45,000.00. When such activities relate to an estate where sub-division is necessary, the related costs multiply.

5.4.4 Squatting

Many persons are seeking to occupy properties near towns and cities. Because of the unaffordability/unavailability issues, the problem of squatting has become monumental and chronic. Some areas which were reserved as open spaces and others which are environmentally fragile are now being illegally utilised by persons hard-pressed to find places to live. Many lack the income to afford formal housing solutions. In many instances these persons occupy plots that are not viable for development, or are contending with legal owners for possession.

Various ministries and departments of Government are examining a number of recommendations, as listed below.

- The enacting of legislation simplifying the land registration and land transfer processes while reducing the related cost.
- The enacting of new legislations to deal with family lands and the fragmentation of land.
- An organised and sustained land allocation process.
- Continued development of rural communities and road networks to reduce the strain on urban housing.
- A documented process as to the use and development of idle lands.
- A comprehensive educational programme with respect to issues related to land.

6. SUSTAINABLE DEVELOPMENT PLANNING

6.1 Sustainable Development Planning Issues

Government recognises that the absence of up-to-date sustainable development plans for the country and most urban areas in Jamaica is negatively affecting the ability of central and local government and their agencies to make timely and informed decisions on development activities including development applications and to guide potential investors wishing to undertake development.

The Town and Country Planning Authority by legislation is responsible for the preparation of the development plans supported institutionally by the National Environment and Planning Agency (NEPA), the KSAC and the Parish Councils as local planning authorities. There are however, problems of limited financial, human and technical resources to review and update existing plans and prepare new plans within the NEPA. This institutional weakness is hindering the objectives of the National Land Policy to ensure the sustainable, productive and equitable development, use and management of the country's natural resources, including land. Government therefore has been devising new and innovative ways to enable planning to be undertaken.

6.2 Land Use Planning

During the preparation of the National Land Policy, a number of policies and strategies pertaining to land use planning were developed. These policies and strategies were aimed at encouraging comprehensive and integrated development plans for defined areas using a participatory approach. Not much work has been done in those areas. Instead much emphasis has been placed on the planning and implementation of a number of sector plans which deal with infrastructure, utilities, social amenities, agriculture, shelter, tourism, manufacturing and other uses of land. Reviewing these has brought further recognition of the need for a common strategy to undertake sustainable development planning by everyone for a number of locations.

6.3 A Participatory Model

It has again been decided that a participatory approach to planning must be put in place since it is the most effective method by which sustainable development planning can be undertaken with limited resources. At the same time this would ensure commitment to implementation by the various agencies. This is not to say that participatory planning in Jamaica is a new phenomenon. In fact, as early as 1992 this process was initiated with the preparation of the Greater Montego Bay Development Plan. The national participatory process and framework is now being formalised by the Ministry of Land and Environment with other relevant Government

agencies, the private sector, local government agencies, parish development committees, NGOs, CBOs and professional groups.

This process would enable the mobilisation of central Government resources, technical expertise, private sector knowledge and experience, financial and “in kind” assistance, community participation and local knowledge, and local planning authorities input, to allow a faster and more cost-effective method of preparing plans. At the local level, Parish Councils, Parish Development Committees and other community stakeholders are expected to spearhead planning. This is already taking place in a number of parishes where local sustainable planning is being undertaken, e.g. in the parishes of Portland and Manchester.

This participatory planning process and framework are being documented to be sent to the Cabinet for approval. Consideration is being given for its institutionalisation through planning legislation.

The refining of the participatory planning process and framework is being facilitated through the GOJ/World Bank Public Sector Modernisation Programme and the Land Use Planning and Development Component of the IDB/GOJ-funded Land Administration and Management Programme (LAMP). Through this programme plans are being prepared for the towns of Santa Cruz and Spanish Town.

6.4 Planning Activities

The refining of the participatory process now being established and institutionalised for sustainable development planning in Jamaica will accelerate the capacity to finalise a number of plans which are either being completed or being prepared using this process. The areas being planned include the following:

- Sustainable Development Plan for the parishes of Kingston and St. Andrew being partly funded with a grant from the Cities Alliance Programme;
- Spanish Town and Santa Cruz Urban Plans are being done under the GOJ/IDB Land Administration and Management Programme;
- The Portmore Sustainable Development Plan being done with local resources;
- Manchester Parish Development Plan being carried out with assistance from Canadian International Development Agency (CIDA);
- Negril Development Plan done through a local and national initiative;
- Greater Montego Re-Development Plan being done by a broad base local group. The plan is now being finalised with help from NEPA;
- Portland and St. Mary Parish Plans being finalised by the Urban Development Corporation.

6.5 Urbanisation

Rapid urbanisation of some areas has resulted in major problems such as squatting, unemployment, crime and violence, inadequate housing and social services, inadequate infrastructure, traffic congestion and urban decay.

A number of programmes have been or are being implemented to deal with some of these issues. Amongst these are tax incentives programmes for blighted and depressed areas, solid waste management programmes, development of open spaces and recreational areas, road improvements and a major inner city and urban renewal programme.

6.5.1 Inner City Renewal Programme (ICRP)

The Inner City Renewal Programme (ICRP) was started in March 2001 to stimulate employment and economic activity and to arrest the physical and social decline of the inner city and other communities of the Kingston Metropolitan Area. The programme also seeks to empower the residents in the target communities by fostering personal and community involvement and development.

The ICRP is a comprehensive five-year plan being implemented on a phased basis to address the full range of issues affecting inner city conditions. The issues are addressed in three basic categories:

- the physical environment — including the infrastructure (i.e. roads, drains, sanitation, utilities etc.);
- commercial, industrial and historic buildings, housing and related amenities; solid waste management and gully clearing amongst other things;
- the people — including social and community development, i.e. community empowerment, welfare provisions and miscellaneous services;
- human resource development, health, education, training, etc.; and
- enforcement and capacity building of law and order through the clarification and dissemination of legal requirements and standards and by consistent policing.

The first phase involves renewal of the central business and market districts and includes improvement of designated vending areas, the contentious and long-standing problem of the relocation of vendors, redevelopment of certain streets and the introduction of a municipal police corps. Derelict and dangerous buildings have been demolished and market streets are to be cleaned; roadways repaired; drains, gullies and dumpsites cleaned. Despite setbacks in implementation, Phase 1 with renewed interest by the private sector shows signs of fulfilling its role as a catalyst for the overall programme. It is expected that the measures implemented will not only stimulate economic activity in the target areas, but throughout the island. Private sector organisations have

been actively planning and determining the types of investments they can make in the area.

Phase 2 is being implemented simultaneously with Phase 1. This is for the renewal of 48 communities. Implementation is sequenced to be manageable and affordable. Six communities were chosen, with a pilot community being used to determine the kind of resources that would be needed to achieve a measure of success and also to be used as a demonstration area for the overall programme. The achievements so far in the pilot community have had positive impact, directly and indirectly, on close to 4,000 residents.

Work undertaken includes rehabilitation to roads and surface drains, gully cleaning and the removal of debris, upgrading of sewer and sanitation, refurbishing of a basic school and construction of a day-care centre, renovation of the community centre and the fishing village, and creation of community economic enterprises.

Simultaneous with the pilot area, planning and preparation for the other communities, consultations, needs assessment and capacity building are well advanced.

Meetings with all the key players are held regularly to assess the progress of the programme and to identify specific areas of follow-up. It must be noted that one of the key strengths of the whole programme is the strong sense of ownership and support by civil society. The content of the programme was formulated based on surveys, consultations and broad-based consensus and co-operation with NGOs, private sector and other stakeholders within the communities. The programme is also actively supported by a wide range of Government and private sector agencies such as the Jamaica Social Investment Fund (JSIF), the Urban Development Corporation, Social Development Commission (SDC), Kingston Restoration Company (KRC) and the National Council on Drug Abuse (NCDA). This is an important characteristic of the programme and players are becoming convinced of their contribution to the success of the programme. Many gains appear to be sustainable, and real capacity building and institutional strengthening are taking place.

7. MANAGEMENT OF LANDS

7.1 Management of Land Issues

Jamaica's aim is to manage its lands in a sustainable manner. This is yet to be achieved. Approximately 80% of the island is classified as hill or mountainous; only 13% is classed as either category 1 or 2. There are many categories of land, for which special policies and programmes are being developed. These include:

Agriculture Lands	Forest Lands
Commercial and Industrial	Residential
Mining and Quarrying	Transport
Recreational and Resort	Watersheds
Parks and Protected Areas	

This section deals with only some of the areas listed above. Many of these areas are being dealt with through legislation and a variety of policy documents, projects and programmes. Overall management is made more difficult because the necessary databases and development plans specifying zoned areas etc. are presently not in place.

Data on the state of resources is collected biennially by NEPA and the Statistical Institute of Jamaica (STATIN) and a State of the Environment Report produced. The last one was produced in 2001. Data feed into the decision-making process for new programmes and projects and revisions of existing ones. The Jamaica National Environmental Action Plan (JaNEAP) is another tool for focussing national activities (Government, private sector and civil society organisations) towards environmental management, showing where there are gaps and areas for future attention.

7.2 Watershed Management

7.2.1 Watersheds Issues and Challenges

Jamaica is divided into 26 Watershed Management Units. Each has areas that are considered to be degraded and in need of urgent remedial work to restore them to an acceptable state and to improve the availability and quality of water.

Problems associated with watersheds include the following:

- Landslides and slope failures are very common in the non-limestone watersheds due to the presence of steep slopes, thin or erosive soils. This situation is further compounded in all the watersheds by heavy and high-intensity rains in the upper watershed areas, soil erosion and susceptibility to earthquakes. These natural conditions of instability are aggravated by the inappropriate use of slopes, especially poor farming practices.
- The large-scale removal of trees for mining, quarrying, urbanisation, housing programmes and squatter settlements, and the illegal removal of forest cover for lumber, charcoal production and yam sticks have greatly contributed to the level of deforestation, calculated by the Forestry Department as 0.1%. Forest fires have also contributed to deforestation especially during extended periods of drought.

- The demand for and pressures on land and water resources have become greater due to increased population and industrial needs. This growing demand for water has not been adequately matched by an increasing societal awareness and understanding of the important linkages between land uses in upper watershed areas and water production.
- Public behaviour and attitudes towards environmental issues (such as illegal logging) can be described as indifferent.
- Large information gaps hinder effective decision-making.
- There is need for more trained and motivated staff in agencies.
- There are conflicting mandates of Government ministries and agencies.

Policy measures developed to address the issues and challenges include the Watershed Policy (in draft), the Forest Policy, and the Policy for the National System of Protected Areas. They all feature conservation and sustainable use of resources, co-operative management agreements, community participation and integrated and collaborative management of resources amongst other strategies.

Plans and programmes to improve watershed management and promote good environmental practices overall include the National Integrated Watershed Management Programmatic Framework as well as the National Forest Management and Conservation Plan. These two comprehensive documents provide mechanisms for dealing with most of the challenges and are now being implemented. The National Integrated Watershed Management Council has been established by Cabinet to help develop and oversee a co-ordinated set of programmes and projects to deal with the issues. A number of local committees have been established to deal with issues at the local level. There is collaboration with the Forestry Department that is dealing with the improvements to Forest Reserves on their lands and encouraging conservation with private sector owners.

The Forest Act and regulations and the Watershed Management Act, now being revised, provide a framework that supports the policies and further strengthens the efforts to manage and rehabilitate watershed and forestry areas.

Projects and programmes ongoing in this area include: EFJ/GOJ Spinal Forest Project; USAID/GOJ Ridge to Reef Project; GOJ Orchard Tree Crop Project; rural agricultural extension services — including training for use of contouring, mixed cropping, integrated pest management and organic farming; and incentive programmes to encourage the involvement of private sector land owners.

7.3 Parks and Protected Areas

A number of parks have been or are being developed as recreational areas for the public. The National Solid Waste Company is assisting with this activity, as are the National Housing Trust, the Environmental Foundation of Jamaica (EFJ) etc. The EFJ is seeking to find ways to fund and implement a spinal forest programme for the country. The Nature Conservancy is involved in a number of initiatives and is working in the Cockpit Country. The National Environmental and Planning Agency has declared a number of protected areas and marine parks. Non-governmental organisations are managing some of these protected areas and parks. Management capability and reducing sources and amounts of funds for NGOs pose a problem with this approach.

A major issue to be resolved is the fact that large sections of the island which are privately owned should be protected areas or forest reserves or be used for commercial forests. Many of these areas are in need of proper management. Government is therefore considering and has begun to use various means, whether by suasion, “buy-in” and/or the provision of incentives to enable private owners to manage these areas properly, to develop commercial forests and to implement sustainable reforestation practices.

7.4 Coastal Zone Management, Issues and Challenges

Jamaica as well as many other Caribbean states have their main urban settlements and tourist developments situated in coastal zones. The management of coastal areas is therefore of crucial significance to Caribbean territories. The following are some of the issues pertaining to coastal zones:

- Coastal Zone Management is a necessity, in view of competing interests and complex influences.
- Development in coastal areas takes place without due regard to the effects of the increased pressures created.
- Pollution, beach erosion and illegal sand mining pose a threat to beaches, the tourism industry and the enjoyment of local as well as near-shore fisheries.
- The area of wetlands is decreasing.
- Degradation of coral reefs threatens the fishing and tourism industries.
- Jamaican waters have been declared the most over-fished in the CARICOM area.

The formation of the Council on Oceans and Coastal Zone Management and the development of a National Policy on Oceans and Coastal Zone Management for Jamaica (2002) are major initiatives regarding integrated coastal zone management. The Action Plan on CZM, attached to the policy, is now being implemented, and it is expected that improved co-ordination and collaboration will take place amongst the sectors impacting the coastal environment.

Plans and projects include the Jamaica Coral Reef Action Plan, USAID/GOJ Coastal Water Quality Improvement Project, Kingston Harbour Rehabilitation Programme and its sub-activities/projects.

Consideration is being given to modifying some existing pieces and creating a new overarching legislation dealing with coastal zone management. A beach policy has been prepared and is being discussed for finalisation. The tourism industry is important to Jamaica as in other Caribbean territories and this creates a great demand on infrastructure and the need to manage the beaches and coastal zones areas.

7.5 Land Mining

For many years a number of persons in Jamaica have been involved in the mining of minerals from the land as a commercial venture. Mining can be differentiated between minerals and quarry materials. The Mining Act governs all minerals such as bauxite, gold and marble, defined under the Crown, while quarry materials are the property of the land owner.

Mining areas are generally located in the rural and semi-rural areas where other forms of employment other than agriculture are not easily available. The wages paid to mining/quarry workers are usually higher than in the few other forms of readily available employment, particularly for low-skilled labour. Mine operators therefore find it very easy to obtain help in their operations, whether legal or illegal.

Government's legal framework concerning mining and quarrying has been mainly captured in the Mining Act and the Mineral Vesting Act. These Acts provide for the activities to be carried out in an orderly manner and only when authorised by a mining lease or a quarry licence granted by the Minister. This allows for proper land-use planning, the protection of life and property, sanctions against illicit mining and quarrying, whilst at the same time enabling the development and utilisation of mineral resources for personal and national benefits.

7.5.1 Illegal Quarrying Practices

Notwithstanding the laws and regulations that are put in place, there are still a number of factors that influence the occurrence of illegal quarrying/mining. Some are socio-economic factors while others are attributable to weak or altogether absent support offered by the justice system against offenders. Over the years the responsible Ministry and the Mines and Geology Division have implemented measures to combat illegal quarrying/mining, and so the problem is being somewhat abated. These measures include the establishment of monitoring committees to monitor and regulate licensed quarry operators and also to investigate and expose alleged illegal ones. Other measures include promotion of manufactured sand as a substitute to the mined sand and information to make the public aware of the dangers and penalties associated with illegal and improper quarrying/mining.

7.5.2 Management of Mineral-Bearing Lands

The Ministry of Land and Environment, the Mines and Geology Division, the Jamaica Bauxite Institute and other appropriate agencies are in the process of implementing a co-ordinated programme to ensure the efficient protection of the country's mineral wealth. This is important since large areas of mineral-bearing lands and mineral resources are being sterilised particularly by housing settlements.

It is also important to examine the extent to which good agricultural lands are being utilised by the mining/quarrying sector. It poses a challenge to the authorities to establish a balance between those two sectors because lands that are mined, even when reclaimed, often cannot support the type of agriculture sustained in its original state. Therefore it is incumbent on the authorities to set up proper zoning of these activities.

7.5.3 Land Rehabilitation and Subsequent Use

One of the philosophies of the mining and quarrying sector is the restoration of excavated land and subsequent land use. In this regard lands which have been mined or quarried are to be rehabilitated for other uses. The bauxite companies have been obligated under the 1947 Mining Act to restore mined out lands.

The restoration of quarries is a more recent requirement as quarrying was thought to be levelling hills, thus providing more productive lands, as is the case in various parts of Jamaica where the floors of the old quarries are used to construct houses and other buildings.

It is worthy of note that when agricultural land is mined out, even if some amount of reclamation is done, it is not able to support the economic levels of agriculture that it did in its original state, over a short period of time. To improve the state of the reclaimed land, the planting of pasture grasses or other shallow rooted crops is usually recommended for a period of not less than 10 years. This normally improves the fertility of the soil by stimulating the humus level at a faster pace while feeding on the thin layer of top soil that is used in the reclamation process.

Experience has shown that if the conditions of the licence are not met and even after a series of warnings the operator continues to be non-compliant, then the Commissioner must exercise his rights to close the quarry. When this has been done the land is most likely left in a state where no economic activity can take place. Bonds posted by legal mining and quarry operators can be used for reclamation purposes.

7.6 Disaster Mitigation and Preparedness

7.6.1 Disaster Mitigation and Preparedness Issues

Land is a limited natural resource in small economies and island states in particular. In Jamaica, as in many other small island states, there have been significant increases in population over the past decades, especially in urban areas. This had led to an increase in the population at risk from the occurrence of natural hazards.

In addition, many lands that were traditionally regarded as marginal or unsafe have been brought into use either by inadequate planning or by informal settlements. The use of these lands may perhaps be inevitable given the need for land by lower socio-economic groups and the constraints of governments in small island states to make land available to large sections of society at affordable prices.

In addition to having almost two thirds of the Jamaican population living in coastal towns and cities, there are also issues pertaining to inadequate urban infrastructure. Low-lying residential areas in close proximity to the coasts are particularly vulnerable to damage from hurricanes, storm surges and other natural hazards.

Disaster victims are not the only ones who pay the consequences of living in disaster-prone areas. Disasters also divert funds from other important programmes resulting in derailment of planned Government activities, and in most cases economic setbacks.

This therefore predicates prudent management, which can only be accomplished with the help of proper land-use planning and the development and implementation of mitigation policies.

7.6.2 Mitigation

Against this background, mitigation has to be seen as mandatory. The reduction in the long-term risk to people and property determines that natural hazard mitigation policy be formulated.

Jamaica is currently in the mid-stages of the formulation of such a policy. A discussion paper entitled "Discussion Paper — Toward A National Hazard Mitigation Policy" has been developed by the Office of Disaster Preparedness and Emergency Management and is scheduled for completion by end of 2003, with support from the Caribbean Development Bank (CDB).

A national seminar is planned for late April, at which time a review of the current document will be undertaken with the intention of making provisions for added inputs.

The outlook is for the promotion of the use of hazard maps and to seek to integrate their use in the development planning process through the Parish Councils and the NEPA.

There is however greater need for the incorporation of more scientific information to drive the mitigation process, as well as the inclusion of more technological tools such as Geographic Information Systems to assist in vulnerability analyses.

Cultural understandings such as “Acts of God” demonstrate the need for greater public education and awareness and as such community-level disaster management programmes will form a major part of the mitigation policy activities.

7.7 Management of Land Programmes

Government owns approximately 22% of all land in Jamaica and therefore has the responsibility for its efficient management and divestment. In order to properly execute its mandate, a number of programmes have been implemented.

7.7.1 Digital Land Inventory of State Land and Buildings

In 2000, the Government began implementing a Government land inventory programme. The data sets required for the creation of the database for the management of land and buildings have been identified and the database structure defined. Officers from Parish Councils and agencies such as the Urban Development Corporation have begun the data collection exercise for lands that they own and control.

7.7.2 Managing Urban Areas

This is to be improved through the establishment of municipalities, the first of which is being organised for the dormitory town of Portmore in St. Catherine. Through the inner city programme a number of areas are identified for improvement with the involvement of the stakeholders in and around the community. Sustainable development plans are also being undertaken for a number of urban areas.

8. INSTITUTIONAL FRAMEWORK AND REFORM

8.1 Institutional Framework and Reform

In 2000, the Government created the Ministry of Land and Environment, demonstrating its commitment to ensure the effective management and administration of land and the sustainable planning, conservation and development of the island’s natural resources. It signalled Government’s recognition of the need to facilitate long-term objectives for achieving economic, social and physical development and to ensure a better quality of life for present and future generations. Two executive agencies have also been formed under the Ministry to carry out the activities to achieve the objective. Assistance to make the changes necessary was provided through

the GOJ/World Bank-funded Public Sector Modernisation Programme. Some of the major objectives in making the changes were: training, employing qualified and experienced staff, setting up modernised and technologically equipped offices, change in culture and approach to dealing with issues and customer friendly attitudes.

8.2 The National Land Agency

The National Land Agency comprises the former Office of Titles, Survey Department and Land Valuation and Estates Department. They are responsible for the implementation of several of the goals and objectives of the 1996 National Land Policy.

Amongst the Agency's objectives is an efficient approach to streamlining the administration and management of land, in particular Government-owned lands. The Agency is undertaking programmes to:

- establish an efficient and transparent land divestment and land titling system;
- create modern cadastral and other maps for Jamaica;
- develop modern information systems to support the sustainable development of Jamaica's resources.

The merger has enabled the Government to provide more efficient services such as:

- *Business process improvements* to reduce the time it takes to secure a title;
- *Computerisation of data and on-line access* to clients, such as lawyers investors, real estate dealers and developers;
- *Single window access* to all the services provided by the Agency.
- *The establishment of an Internet-based service* to enable all Government agencies, local government and private sector organisations access land information.

8.3 The National Environment and Planning Agency

The National Environment and Planning Agency was created through the merger of the former Town Planning Department, the Land Development and Utilisation Commission and the Natural Resources Conservation Authority.

The establishment of this executive agency sought to ensure: the protection and efficient use of limited human and physical resources; a more integrated approach including public participation to planning for sustainable development; resolution of overlaps in formulation and enforcement of environmental and planning policies and legislation to ensure effective overall management of land. This more effective institutional framework is designed to help resolve conflicts between environmental and development interests when considering appropriateness of development proposals. One objective is to significantly reduce the time

period to review and process applications for environmental, sub-division and development approval.

The core functions of the National Environment and Planning Agency are:

- Policy and programme development;
- Sustainable development planning,
- Environmental and natural resource database maintenance and mapping;
- Monitoring compliance and enforcement;
- Habitat protection, bio-diversity conservation, parks and protected areas;
- Coastal zone, watershed and pollution management operations;
- Application approvals;
- Environmental education and public information services.

The Ministry of Land and Environment, NEPA and other stakeholders are in the process of developing a National Planning Process and Framework and a National Environment and Planning Strategy. The framework and strategy will guide the planning and environmental activities and facilitate the preparation of recommendations to Cabinet for the better management of existing human and other resources.

8.4 Local Government Reform

8.4.1 Local Government Policy

Government's policy on local government is based on the conviction that despite the shortcomings of the existing system, a strong and vibrant system of local government is essential to creating a society in which all citizens enjoy real opportunities to fully and directly participate in and contribute to the planning, management and development of their local communities, and by extension, of the nation. Such involvement is not only desirable, it is also an excellent means of safeguarding and deepening the democratic process whilst promoting equal rights and social justice. It is also proving to be a framework for utilising the creativity, initiative and talents of the total Jamaican people and channelling these towards the solution of local problems as well as those of the nation as a whole.

Consequently, it was discussed and felt that the answer to dissatisfaction with past performance of local government cannot be to dismantle or downgrade the institution, but to identify the causes for such non-performance and devise appropriate solutions to those problems.

Additionally, the Government perceives both local government and community development as being complementary processes through which it can achieve its focal objective of empowering citizens to enjoy greater self-management over their own affairs and take initiatives towards, and responsibility for, determining and solving their own

problems. A major focus of Government's policy is therefore to deepen the integration between these two processes.

The specific objectives of the reform programme are:

- To restore functions and responsibilities which were removed from local government, and rehabilitate the councils.
- To establish new arrangements for the financing of local government which will allocate adequate and independent sources of revenue, and will give local authorities effective control over these sources of revenue.
- To up-grade the institutional capability of local authorities to ensure that they are able to perform their functions in an efficient and cost-effective manner, and are enabled to take on the new challenge of providing leadership and co-ordination in the process of community development and empowerment.
- To effect a comprehensive revision of all out-dated legislation which presently constitutes a major constraint to the effective performance of the councils.
- To up-grade the quality and cost-efficiency of all local government services and regulatory functions.
- To shift the focus of local authorities to one of providing leadership and a co-ordination framework to the collective efforts of the people of their respective parishes towards local development.
- To examine the present distribution of service responsibilities between central and local government, community organisations, NGOs and the private sector, and to identify better or more cost-effective arrangements for the delivery of these services.

The Local Government Reform Process was launched in 1994. The present Government of Jamaica firmly believes that there is no substitute for the direct involvement of the public and their comments in the decision-making process. A strong and vibrant system of decentralised administration is essential to the achievement of good governance. The Government seeks to create modern local authorities with the capacity, vision and resource base necessary to deliver the range of services for which they are responsible, as well as appropriate mechanisms for accountability and transparency.

8.4.2 Revision of Legal Framework

Against this background, the Government of Jamaica's programme of decentralisation and reform recognised the necessity for, amongst other things,

- new legislation to provide a legal framework to facilitate change,
- the broadening of responsibilities and functions of local authorities,
- the provision for a sound financial base for the authorities to fulfil their new mandates,

- mechanisms of inclusion to broaden the participation of stakeholders, and
- streamlined mechanisms for transparency and accountability.

8.4.3 Legislation

Legislation has been enacted to provide a sound basis for the reforms in keeping with the decentralisation/efficiency thrust. New legislation gives local authorities more autonomy in governance and control over local rates, fees and user charges, and also in respect to making by-laws/regulations on matters over which they have jurisdiction. Legislation has also been enacted to designate specified types of taxes as dedicated local government revenues, and the scope and capacity of local authorities to manage their own finances have been significantly enhanced.

A total of 66 laws have been identified and grouped into four broad categories. Twenty-one laws are currently under review for amendment. Amendments are being drafted for three laws: Parochial Rates and Finance (Amendment) Bill, Keeping of Animals (Amendment) Bill and Pound (Amendment) Bill. Drafting instructions have also been issued by Cabinet for the Property Tax (Amendment) Bill. A further seven Acts are in the policy-development stage.

In the final analysis, it is the modernisation of the legal framework that will guarantee the sustainability of these reforms. The new legal framework must therefore recognise and facilitate the following priority activities in this phase of Local Government Reform:

- Specific mechanisms for *participatory democracy* such as Parish and Community Development Committees;
- Inclusion of private sector and civil society on all *committees* of local authorities;
- Establishment of *City and Town Councils*;
- *Direct election* of mayors and chairpersons of local authorities;
- Measures for *accountability and transparency*;
- Measures to improve compliance in payment of *property taxes*.

8.5 Training

Integral to the strengthening and capacity building for land administration and management, physical planning, implementation and management capabilities throughout the Caribbean is the development of technical and managerial expertise in these disciplines. The governments of the region and international funding institutions (the IDB and the World Bank) are devoting large amounts of resources to reform land-management systems, undertake cadastral mapping and tenure regularisation activities, strengthen institutional capacities of management agencies and establish or improve geographic information systems. There are, however, problems with sustainability. Many Government agencies cannot compete and lose their

skilled staff to the private sector, or along with the private sector suffer from the brain drain to the developed world.

Jamaican institutions have been undertaking various aspects of training for students in planning and land administration and management.

8.5.1 *The University of Technology, Jamaica*

The University of Technology (UTech), Jamaica, was established in 1958, originally under the name the Jamaica Institute of Technology. In 1959, the name was changed to the College of Arts Science and Technology (CAST). Granted university status in September 1995, UTech is at the pinnacle of technical education in the English-speaking Caribbean, providing managers and skilled professionals for Jamaica and the region in a wide diversity of disciplines.

In the University of Technology, the Faculty of the Built Environment offers training for persons who wish to work in the areas of land development, administration and management. The School of Building and Land Management (formerly Building Department) is one of two schools in the Faculty of the Built Environment. The School of Building and Land Management (SBLM) provides education and training in construction engineering and land management in the fields of Construction, Land Surveying, Land Economy and Valuation Surveying, Physical Planning and Quantity Surveying.

At present the school has over 400 students undertaking full-time, part-time or modular training programmes. Many of the programmes involve participation with the associated professional bodies and government ministries. The School therefore attempts to produce a wide range of manpower skills to meet regional needs.

The following tables show the programmes offered by the school and their duration.

DEGREES

Degrees	Duration
Construction Engineering and Management	Three (3) Year Summer Modular, Post-Diploma
Urban and Regional Planning	Development - One (1) Year Full-time/Two (2) Years Part-time, Post-Diploma
Surveying and Geographic Information Sciences	Four (4) Years
Construction Engineering	Four (4) Years
Quantity Surveying	Four (4) Years
Land Economy and Valuation Surveying	Four (4) Years

DIPLOMAS

Diplomas	Duration
Construction Management	Three (3) Years Full-time
Land Economy and Valuation	Three (3) Years Full-time/Four Years
Surveying	(4) Part-time Day Release
Land Surveying	Three (3) Years Full-time
Physical Planning Technology	Three (3) Years Full-time
Structural Engineering	Three (3) Years Full-time
Quantity Surveying	Three (3) Years Full-time

CERTIFICATES

Certificates	Duration
Construction Technician	Three (3) Years Part-time Day Release
Land Surveying Technician	Two (2) Years Full-time

SPECIAL PROGRAMMES

- Real Estate Dealers Course, Six (6) Months Part-time
 - Real Estate Salesman Course, Four (4) Weeks Full-time
-

It should be noted that the school offers full-time, part-time, evening and day release programmes for a number of its courses which cater to the need of the working individual who wishes to pursue further studies.

8.5.2 The University of the West Indies, Mona

The University of the West Indies, Mona, is a dynamic, international institution serving the countries of the Commonwealth Caribbean. The University began at Mona, Jamaica, West Indies, in 1948 as a College of the University of London. It achieved full university status in 1962. The UWI is the region's premier educational institution. Its faculties offer a wide range of undergraduate, masters and doctoral programmes. There is a strong emphasis on Caribbean issues making the UWI the ideal educational institution for local and international students with an interest in Caribbean society.

Total enrolment: Approximately 11,000. 50% of undergraduates are under age 25; 68% of postgraduates are over age 30; 2% of all students are over age 50.

The Environmental Management Unit (EMU) was established in September 1998 in the Faculty of Pure and Applied Sciences, Department of Geology and Geology. It was formed to address environmental management needs nationally and regionally.

The unit offers a Master of Science degree in Integrated Urban and Rural Environmental Management. The programme has been sponsored by the European Union. In 2001, fifty-seven students had completed the programme. They have contributed to environmental research in many themes throughout the region in areas such as Watershed Management, Parks and Protected Areas and Environmental Health. Many graduates are now contributing to the sustainable development process in public and private sector bodies, secondary and tertiary institutions, international agencies and non-governmental organisations throughout

8.5.3 Regional Training Initiatives

The need to develop and ensure the availability of education and training in Land Administration and Management and related disciplines has received much attention from government agencies, training institutions and professional associations in the region.

In November 1998, a Caribbean Workshop on Training and Education for Resource Management and Property Studies was held in Portland, Jamaica. Participants from major tertiary training and government institutions throughout the Caribbean and the Centre for Property Studies, University of New Brunswick, attended. They examined training, education and professional development needs, constraints faced by learners, the use of learning technologies and modes, identification of curricula for various learner groups, identification of educational institutions best suited to participate in course development and execution, and outlined possible solutions. Also discussed were entry levels, the availability of qualified trainers in different countries, transferability of credits, accreditation and certification. A plan of action was developed to move forward.

A further meeting of a smaller group was held in February 1999 in Port of Spain, Trinidad, co-ordinated by the UWI, St. Augustine, and the ministry responsible for physical planning and settlements with support from the Centre for Property Studies. A number of priority areas, which have been identified in Jamaica, were confirmed at the Trinidad meeting. The areas identified for increased emphasis on training were:

- Land administration and management,
- Geographic information systems and global positioning systems,
- Planning technology.

Follow-up meetings have not been held but the UWI, St. Augustine, has carried the process forward by undertaking the necessary work to establish a programme for Land Administration and Management.

Funding is needed to assist with this effort and to develop the specific areas of activities identified at the meetings.

9. CONCLUSION AND RECOMMENDATIONS

9.1 Conclusion and Recommendations

Every administration, from the time of Jamaica's independence in 1962, has in one way or another attempted to address problems related to land administration and management. The result has been a variety of programmes including: land settlements, land lease schemes, integrated rural development programmes with settlement components, pioneer farms for landless youths, emancipation lands, Operation PRIDE, land titling, land administration and management programmes and others. These measures have and are being met with varying degrees of success in dealing with many of the problems identified.

The Government of Jamaica remains committed to achieving sustainable development and the proper administration and management of the country's natural and man-made resources. This is exemplified in that it is one of the few countries in the world to have developed a comprehensive National Land Policy and to have begun to implement projects and programmes to address the issues as identified.

Though the country has had a number of successes, there are many issues still to be addressed, programmes to be strengthened and work to continue.

Some Areas Requiring Further Work

- Revision of the National Land Policy and a review of the implementation that has taken place to date
 - Establishment of a National Process and Framework for Sustainable Development Planning. The continued preparation of sustainable development plans for the country at a local, regional and national level
 - Finalise a programme of action for the administration and management of all lands and in particular Government-owned lands
 - Creation of a comprehensive database for the management of Government lands and buildings
 - Finalisation of guidelines and standards for development
 - Legislative reform
 - Education and training in land administration and management
 - Creation of national and regional spatial data infrastructures
-

Significant improvements are evident in the modernisation of the institutions that administer and manage land and in the greater efficiencies

in the delivery of services to the public. These are in the areas of providing land information through the new “eLandjamaica” Internet services, the reduced turn-around time to process development plans, environmental permits and licences, sub-division plans and the registration of interests in land.

Various countries in the region expend funds on similar areas, with little or no attempts to learn from each other or to deal with areas of common interest in a co-ordinated manner. In addition several governments are in the process of initiation or implementation of projects and programmes dealing with land policy, administration and management. There are numerous areas where co-ordinated regional activities can result in tremendous savings to the countries concerned if they worked together more closely.

Caribbean countries with limited resources should seek to ensure that initiatives undertaken yield benefits to as many sectors as possible. Land management and GIS programmes should be developed and implemented in a co-ordinated manner across sectors and islands in order to attain not only national, but also regional benefits and savings.

9.2 Regional Recommendations

- In this regard it is being proposed that a regional policy and a model framework plan be prepared which detail the methodologies and guidelines required for successful land administration and management at the national level. The policy and plan will serve as guides to be adopted/adapted and used by all countries in the region.
- Establish a regional GIS network to promote the co-ordination of GIS development and technology transfer within the region to ensure savings of major proportions through co-operative efforts.
- Prepare guidelines and terms of references for the preparation of national land policies by different countries. These can be adopted/adapted to such specific circumstances as required. Use networks such as the ECLAC’s planners network to share experiences etc.
- Develop modular, cross-institutional training programmes comprised of an agreed set of courses for land administration and management, GIS/GPS and for planning technicians.
- Develop model legislation for a number of areas of interest to the region.
- Develop regional minimum starter standards for infrastructure development with a policy of incremental development by beneficiaries.
- Establish an information network/clearing house of land administration and management and environmental related projects, topics and issues in the region for the exchange, management and updating of information.

APPENDIX 1: KEY SOCIAL INDICATORS

Total Population:	2,599,334	(2001 Census)
Number of Households:	723,343	(2001)
% Growth of Population:	0.6%	(2001)
GDP/capita:	J\$128,271	(2001)
GDP by major sector:	Agriculture, Forestry & Fishing	- 22,883.3 (Million)
	Mining & Quarrying	- 14,820.1 “
	Manufacturing	- 46,554.0 “
	Electricity & Water	- 14,124.7 “
	Construction and Instalation	- 34,762.6 “
	Distributive Trade	- 71,590.2 “
	Transport, Storage & Communication	- 37,808.8 “
	Financing & Insurance Services	- 21,563.4 “
	Real Estate & Business Services	- 21,563.4 “
	Producers of Government Services	- 40,295.8 “
	Miscellaneous Services	- 23,862.5 “
	Household & Private Non-Profit Institutions	- 2,100.2 “
	Less Imputed Bank Service Charge	- 17,249.1 “
	Total GDP at Current Prices	- 334,698.7 “
	Plus Value Added Tax (GCT)	- 23,337.3 “
	Total GDP at Purchasers' Price	- 358,036.0 “

APPENDIX 2: KEY LAND INDICATORS

Land Tenure Information

Total Number of Land Parcels: 676,584 (approximate figure)

Total Acreage: 1,099,100 hectares

Number of Parcels:	Private	Public
	633,130 (93%)	43,454 (7%)

Number of parcels:	Urban	Rural
	257,102 (38%)	419,482 (62%)

Land Transaction Information

Major Land Transactions	1998	1999	2000	2001
Application to bring land under the Registration of Titles Act	960	695	767	969
Transfers	11,957	10,687	11,995	12,760
Mortgages	13,727	11,721	12,005	13,732

Number of Legal Transaction in the past 5 years: 408,460
(293,460 from the Land Titles Division and 115,000 from the Land Valuation Division)

Number of Titles: 525,293 (up-to-date)

Number of Leases: 100 (estimate for the past 5 years)

APPENDIX 3: ADJUDICATION

Within the juridical cadastre, there are four main operations, each of which provides land information.

- *Adjudication* is the official determination of rights in land. It is the process whereby the existing rights in a particular parcel of land are finally and authoritatively ascertained. It is a prerequisite to registration of title and to land consolidation and redistribution. There is a cardinal principle in land adjudication that the process does not alter existing rights or create new ones. It merely establishes what rights exist, by whom they are exercised and to what limitations, if any, they are subject. The process may proceed sporadically or systematically. By sporadic it is meant “here and there”, “now and then”, namely whenever or wherever there is demand or other reason for determining the precise ownership of an individual parcel. Under this approach, parcels are brought onto the register in a piecemeal, haphazard and unpredictable manner. The systematic approach, on the other hand, implies a methodical and orderly sequence in which all parcels are brought on the register area by area.
- The adjudication exercise entails a two-stage process — adjudication of boundaries and adjudication of ownership. The adjudication of boundaries, which has to be completed before the adjudication of ownership, can be defined as the process whereby the limits of the land parcels are determined and agreed upon by all interested parties.
- The results of adjudication should be displayed in some public places and land owners permitted a limited period of time to appeal against the decisions if they have grounds for doing so. Once this is settled, the results can be documented and the application to register the land prepared.
- *Demarcation* is the marking of the boundaries of land parcels on the ground.
- *Survey* means the taking of measurements and the setting of survey marks for the purpose of defining any boundary of land, but does not include:
 - the bushing of lines between established survey marks;
 - or a preliminary lay-out preparatory to a survey.
- *Registration* is the process by which land is brought under the operations of the Registration of Titles Act.

APPENDIX 4: LIST OF ACRONYMS

CAST	College of Arts, Science and Technology, Jamaica
CDB	Caribbean Development Bank
CZM	Coastal Zone Management
ECLAC	Economic Commission for Latin America and the Caribbean
EFJ	Environmental Foundation of Jamaica
GCT	General Consumption Tax
GDP	Gross Domestic Product
GIS	Geographic Information System
GOJ	Government of Jamaica
GPS	Global Positioning System
ICRP	Inner City Renewal Programme
IDB	Inter-American Development Bank
JAD69	Jamaica Datum of 1969
JaNEAP	Jamaica National Environmental Action Plan
JSIF	Jamaica Social Investment Fund
KRC	Kingston Restoration Company
LAMP	Land Administration and Management Programme
LICJ	Land Administration Council of Jamaica
NCDA	National Council of Drug Abuse
NEPA	National Empowerment and Planning Agency
NGO	Non-Governmental Organisation
NLA	National Land Agency
NSDI	National Spatial Data Infrastructure
PRIDE	Programme for Resettlement and Integrated Development Enterprise
SDC	Social Development Commission
SBLM	School of Building and Land Management
STATIN	Statistical Institute of Jamaica
WGS84	World Geodetic System of 1984
USAID	United States Agency for International Development
UTech	University of Technology, Jamaica
UWI	University of the West Indies

ST. LUCIA: St. Lucia Country Study of Land Administration and Management Issues

Alberto Vargas & David Stanfield.

1. INTRODUCTION AND SUMMARY

The purpose of this paper is to provide a summary of the available literature and sources on the Internet related to land market interventions and its impacts in St. Lucia.

The preparation of the paper follows the conceptual and methodological framework for the preparation of country briefs on land entitlement programmes, as defined by the Land Tenure Center (2002)¹. The methodology consisted of a search, review and synthesis of relevant materials from donor agencies, Government documents, the University of Wisconsin library and the Internet. The paper includes references to the interest on land tenure for poverty alleviation of some donors, in particular the Department For International Development (DFID) of the United Kingdom Government, and the U.S. Agency for International Development. Appendix 1 presents a profile of St. Lucia with selected indicators. Appendix 2 presents a list of relevant Web Sites. Appendix 3 presents a sample of e-mails related to the theme “land” in a discussion group. Appendix 4 presents a commentary on the available information to responses to the questions posed for the country briefs done by the LTC.

The following section presents a brief profile of St. Lucia and its agricultural sector. The third section focusses on evidence, which may help to answer questions regarding overall changes in land entitlements and impacts in the agricultural sector. The fourth section presents the policy and institutional factors and implementation techniques of the interventions in land markets and property rights in St. Lucia in the last twenty years. The results of a baseline study conducted by the Land Tenure Center (LTC, 1988) are included as an initial assessment of the impacts of such interventions. The last section presents some conclusions and recommendations for the assessment team.

¹ The following document was used to define the scope of the Country Brief: J. David Stanfield and Peter C. Bloch, “A Conceptual and Methodological Framework for an Assessment of USAID’s Investments in Land Markets and Property Rights”, Manuscript, Land Tenure Center and Development Alternatives, Inc., April 22, 2002.

2. PROFILE OF ST. LUCIA AND ITS AGRICULTURAL SECTOR AND AGRARIAN STRUCTURE

St. Lucia is a country of approximately 158,178 people with an area of 152,319 acres (616 square kilometers). Of this area approximately 5% is arable (7,494 acres) and 23% is devoted to permanent crops (34,957 acres)². A GIS constructed for Saint Lucia in the late 1980s showed that only 13% of the land devoted to farming occurs on good quality land and that the land being farmed at that time was sufficient to support only 40% of the rural population (Rojas et al., 1988).

Agriculture, livestock, forestry and fisheries contributed 7.66% to the GDP in 2000³. The contribution from this sector to the economy has been decreasing over the last 20 years (14.37% in 1985; 14.53% in 1990; 9.554% in 1995). Banana is the principal crop and contributed 3.56% to the GDP in 2000. The contribution of bananas has also been declining (8.36% in 1985; 10.28% in 1990; 5.4% in 1995), although there was a brief period of increase in 1990. Agriculture is responsible for around 64% of the total domestic exports and bananas account for over 90% of agricultural exports in 1996 (Gov. of St. Lucia, 1996).

Tourism (hotels and restaurants), by contrast, has shown an increase in the contribution to GDP (from 7.81% in 1985, to 9.61% in 1990, to 11.69% in 1995 and finally to 14.06% in 2000). Appendix 1 presents other indicators for St. Lucia.

2.1 Poverty

There is limited information on poverty indicators for St. Lucia. DFID⁴ cites that the poorest 20% of the population have 5% of the income share. The life expectancy at birth is 71 years (69 years for males and 74 years for females). The infant mortality in 2000 was 13 per 1,000 live births and the mortality of children under 5 years of age was 19 per 1,000; the latter figure was 24 per 1,000 in 1990. Of the total population, 85% had access to safe water in the 1990-97 period⁵.

2.2 Brief History of St. Lucia

St. Lucia has been an independent country since 1979. The island had been under British rule from 1814. The French had controlled the island since 1660 and left remnants of culture, language and legislation. Since the 1960s

² World Factbook, 2002 (<http://www.cia.gov/cia/publications/factbook/geos/st.html>).

³ Government of St. Lucia, Statistics Department (<http://www.stats.gov.lc/main5.htm>). See Appendix 1 for data used in this trend analysis.

⁴ DFID, Statistics on International Development, 2002.

⁵ Earth Trends 2001, World Resources Institute.

bananas have been the main product, substituting for sugar. Sugar cane was the main product during the colonial era. The preferential market to the United Kingdom (UK) facilitated the development of the banana industry during the 1960s and 1970s. However, there has been concern since the mid-1980s on the over-dependence of St. Lucia's economy on a single crop. In the 1990s, with the establishment of a single European market and the discontinuing of the protection on the UK market, the St. Lucian banana industry has been under severe challenge.

2.3 Background Studies in Land Tenure

The issue of land tenure in St. Lucia has been under discussion since the 1970s.

One characteristic of the land tenure system in St. Lucia, shared with other Caribbean states, is the presence of the "family-land" system, which evolved from the accommodation of the former slaves within a plantation economy. Under this system, land assigned or bought by former slaves was transferred to the heirs. The fact that St. Lucia kept a legal system based on the Civil Code (legacy of the French ruling) facilitated the endurance of family land in St. Lucia. This legal system was not based on primogeniture and land could be passed to all children and held in common by a lineage family. In cases of intestacy, only legitimate children and subsequently, others only in accordance with amended legislation could inherit land. This system served as a security buffer for subsistence as the economy moved to a plantation base (Dujon, 1995; Bruce, 1983).

Another aspect of land tenure in St. Lucia has been the skewed distribution of land. Adrian (1996) reported that small farmers controlled only 1% of farmland area (less than 5 acres; about 10,000 farmers), while 32% of the areas was controlled by middle farmers and 67% by large farmers. OAS (1991), citing figures from the Latin American Bureau of the United Kingdom, reported that 75% of the approximately 7,000 farmers who cultivate bananas owned 10 acres of land or less in the mid-1980s. According to this source, 92.7% of all farmers controlled only 24% of the land (1973/74 agricultural census). In contrast, 0.17% of the farmers, most of whom were absentee owners, controlled 50% of all cultivable land.

In 1979 the Government of St. Lucia established a Land Reform Commission to study the issue of land tenure and provide recommendations regarding policy options. The Commission drew from several analyses conducted in the 1970s and public hearings (Mathurin, 1967; Momsen, 1971; Meliczek, 1975). The Land Reform Commission of 1979-1980 contributed significantly to increasing public awareness of the complexity of land reform issues. The commission's public hearings in Castries, Dennery, Vieux Fort, Micoud and Soufriere; the documents the commission presented; and media coverage of the commission's work all helped to create a popular demand for new land tenure reforms.

The studies and hearings of the 1970s and 1980s resulted in three main conclusions:

1) A plantation-dominated agriculture

St. Lucia's dependency on the export of bananas has contributed to the continuity of the plantation agricultural structure. The plantation system has produced a land tenure structure where the majority of holders are on small parcels of poor quality and fragile land, while plantations under-utilise their highly productive lands. By 1963 there were 10,000 registered members of the Windward Island Banana Association, the majority of whom operated on less than 5 acres of land⁶.

2) The family land form of tenure is problematic and functional

Much of St. Lucia's land is held as "family land" wherein an often-indeterminate number of heirs hold shares in the land, but without a physical partition of the property. Family land emerged in St. Lucia following the end of slavery in the 1800s within the legal context of French Civil law. Transactions are difficult to arrange for such land, since there may be many "owners" who are difficult to identify and contact. Investments by any one member of the family may be difficult to justify, since other family members can benefit without compensation to the investor. On the other hand, family land may perform an important economic safety net function.

3) An archaic and costly system of deeds registration

By 1978 the system of deeds registration had become a relatively inefficient system of defining and protecting rights to land. The records, which were registered, were incomplete in that many deeds were vague as to the location of the land and exactly who held what rights to that land.

As a response to the diagnosis from the 1970s several interventions took place during the following decade (1980s), notably a USAID Agricultural Structural Adjustment Project, which included a component of a Land Registration and Titling Project (USAID, 1983).

More recently DFID (2002) has put forward the importance of land, land rights and land reform in developing countries, and considers how land policies can contribute to poverty reduction. It has been argued that secure access to land provides the basis for investment in better livelihoods and improved living conditions. Furthermore, sound land policy and secure tenure are also important in promoting environmental improvements and sustainable resource management (DFID, 2002, iv.)

Some of the interventions in the 1980s are discussed in Section 4, and they deal mostly with overcoming the perceived constraints of tenure insecurity for the more fluid functioning of land markets. But before that discussion, the following section presents an overview of current information related to

⁶http://www.slumaffe.org/Agriculture/Extension_Services/Green_Gold/green_gold.html

land markets and the agricultural sector in St. Lucia. What have been the impacts of such interventions? What is the situation of land markets in 2002?

3. EVIDENCE OF LAND MARKETS IN ST. LUCIA

The first step in the review of the literature aimed at identifying recent studies on the situation of land markets in St. Lucia.

3.1 1996 Agricultural Census

The Ministry of Agriculture, Lands, Fisheries and Forestry of St. Lucia maintains a Web Site, which includes the final report of the 1996 Census of Agriculture⁷. This Census provides some information regarding land tenure changes which may be useful in assessing land market impacts.

Table 1 shows the total number of agricultural holdings recorded since 1961. The number of agricultural holdings increased by 15.7% from 1986 to 1996, from 11,551 to 13,336 respectively.

TABLE 1. NUMBER OF HOLDINGS

Year	Total Number of Holdings
1961	13,008
1973/74	10,938
1986	11,551
1996	13,336

Source: Table 1 of 1996 St. Lucia Agricultural Census – Main Censal Results.

However, the total land area devoted to agriculture showed a decline of 11.5% as compared to the 1986 Census (Table 2). The agricultural area was reduced by 6,693 acres from 1986 to 1996.

The increase in the number of holdings and the decline in agricultural area resulted in changes in the structure of holdings. There seems to be a better distribution of agricultural land in 1996 in comparison with times past, although the distribution pattern is still somewhat skewed.

⁷ http://www.slumaffe.org/Corporate_Planning/Statistics/Agriculture_Census/agriculture_census.html

TABLE 2. TOTAL AREA IN HOLDINGS

Year	Total Area in Holdings (acres)
1961	87,375.0
1973/74	72,001.0
1986	58,016.5
1996	51,323.1

Source: Table 3 of 1996 St. Lucia Agricultural Census — Main Censal Results.

Table 3 shows the distribution of holdings *by size*, and Table 4 shows the distribution of holdings of different size *by acreage* for the 1973/74, 1986 and 1996 censuses.

TABLE 3. DISTRIBUTION OF HOLDINGS BY SIZE

Size Group (in acres)	1973/74		1986		1996	
	No. of Holdings	%	No. of Holdings	%	No. of Holdings	%
TOTAL	10,938	100	11,551	100	13,366	100
Landless	502	4.6	850	7.4	1,630	12.2
Up to 5	8,558	78.2	8,770	75.9	9,166	68.6
5 to 9.9	1,082	9.9	1,191	10.3	1,713	12.8
10 to 24.9	475	4.3	560	4.9	700	5.2
25 to 49.9	199	1.8	98	.9	92	.7
50 to 99.9	58	.5	35	.3	27	.2
100 to 199.9	19	.2	17	.2	15	.1
200 to 499.9	26	.2	17	.2	16	.1
500 and over	19	.2	13	.1	7	.1

Source: Table 5 of 1996 St. Lucia Agricultural Census – Main Censal Results.

TABLE 4. DISTRIBUTION OF HOLDINGS OF DIFFERENT SIZE BY ACREAGE

Size Group (in acres)	1973/4		1986		1996	
	Total Area (acres)	%	Total Area (acres)	%	Total Area (acres)	%
TOTAL	72,001	100	58,016.5	100	51,323.1	100
Up to 5	10,204	14.2	12,350.0	21.3	13,521.1	26.4
5 to 9.9	7,068	9.8	7,802.4	13.4	10,898.7	21.2
10 to 24.9	6,396	8.9	7,763.1	13.4	9,375.3	18.3
25 to 49.9	6,299	8.8	3,218.6	5.6	3,072.2	6.0
50 to 99.9	4,282	6.0	2,338.0	4.0	1,625.9	3.2
100 to 199.9	2,690	3.7	2,233.5	3.9	2,076.0	4.0
200 to 499.9	8,160	11.3	4,881.0	8.4	5,250.3	10.2
500 and over	26,902	37.4	17,430.0	30.0	5,503.6	10.7

Source: Table 6 of 1996 Agricultural Census – Main Censal Results.

What does this mean for land distribution? Table 3 shows that there was an increase in the number of holdings under 25 acres and a decrease in the number of holdings larger than 25 acres from 1986 to 1996. Thus agricultural holdings became more concentrated in small-holdings. Similarly, Table 4 shows by 1996 an increase of area in holdings under 25 acres (5,879.6 acres more than in 1986), and a decrease in total area in medium and large holdings (12,573.1 acres less than in 1986 for holdings with more than 25 acres of total area).

Both changes in the number of holdings and agricultural area caused a smooth trend towards a better distribution of land. In fact, while in 1974, 88% of the smaller holdings with land held 24% of the land and 0.2% of the larger holdings operated just over 37% of the land, in 1986, 86% of the smaller holdings with land held almost 35% of the land (a better distribution than in 1974) and 0.1% of the larger ones held 30% of the land. For the 1996 agricultural census those figures changed to: 81% of the smaller holdings with land operate almost 48% of the land, while less than 0.1% of the larger holdings hold just under 11% of the total land.

The 1996 agricultural census reported the Gini Index for land concentration. The evolution of this indicator reflected a trend towards a better distribution of land: 1973/74, 0.90; 1986, 0.87; 1996, 0.80.

Table 5 shows the land tenure system in Saint Lucia from the 1986 and 1996 agricultural census. The 1996 census show that family land continues to be the predominant form of land tenure (more that 45%). There was an increase in the number of parcels owned, from 3,611 parcels in 1986 to 4,701 parcels in 1996. The number of squatter parcels (both in Government and private land) decreased from 10.8% in 1986 to 6.6% in 1996.

TABLE 5. LAND TENURE IN ST. LUCIA, 1986-1996

Land Tenure	1986		1996	
	# of Parcels	%	# of Parcels	%
TOTAL	13,530	100.0	15,468	100.0
Owned	3,611	26.7	4,701	30.4
Family Land	6,132	45.3	7,094	45.9
Rented/Private	1,717	12.7	1,558	10.1
Rented/Government	383	2.8	682	4.3
Squatting/Government	790	5.8	614	4.0
Squatting/Private	680	5.0	399	2.6
Other	217	1.6	420	2.7

Source: Table 8 of 1996 St. Lucia Agricultural Census — Main Censal Results.

The 1996 agricultural census also reported trends in land concentration. “While in 1974 the average number of parcels per holding was 1.12, this

figure changed to 1.31 in 1986 and to 1.32 in the 1996 census. At the same time the mean area of holdings with land dropped from 6.9 acres in 1974 to 5.4 in 1986 and 4.4 in 1996”.

3.3 *The St. Lucia National Development Corporation (NDC)*⁸

The St. Lucia National Development Corporation (NDC) maintains a Web Site that includes a section on land sales in four areas: Southern Shores, Beanfield, View Fort Industrial Fills, and Black Bay Sea View. Yet this seems to be limited to land available for industrial parks.

3.4 *Land Tenure and Pro-Poor Tourism in St. Lucia*

In the last two years a new project funded by the Economic and Social Research Unit (ESCOR) of the UK Department for International Development (DFID) has put forward the importance of developing tourism strategies directed to alleviate poverty⁹. This initiative has concluded that land tenure is a key issue and that “communities with secure land tenure are in the strongest position to manage tourism on their land and gain the lion’s share of benefits” (Ashley et al., 2001, 32.) The implementation of this initiative by the Government of St. Lucia, under the name of Heritage Tourism Programme, claims some success in involving the local population and attracting tourists to inland initiatives.

This Programme is in its initial phases and it has been so far an advocacy effort calling the attention to the potential of the service sector to alleviate poverty. It is unclear if efforts such as this one will have an impact on land markets. However, the case study prepared for St. Lucia recognises that “enterprise development by the poor will often be around communal assets, and for this *a supportive policy framework that provides for collaborative management and for devolution of rights of use and exclusion is required*” (Renard, 2001). One of the conclusions of the study is that “local tourism is an essential component of this strategy, and it aims to build, rather than undermine, the sense of ownership without which the development of tourism would fail” (ibid.).

In its first two years the Tourism Heritage Programme in Saint Lucia has:

- conducted a participatory planning exercise in the Village of Laborie;
- developed a marketing brand to use in ten sites or tours around the country;

⁸ <http://www.stluciandc.com/>

⁹ The “practical strategies for pro-poor tourism” is a collaborative research project of the International Centre for Responsible Tourism (ICRT), the International Institute for the Environment and Development (IIED) and the Overseas Development Institute (ODI), together with in-country case study collaborators.

- explored the development of Anse la Raye, one of St. Lucia's poorest villages, as a Heritage Tourism site;
- established a Heritage Tourism site in Fond Latisab at a small family farm in a rural community on the north of the island (Renard, 2001).

Amongst the requirements to realise the potential of pro-poor tourism to alleviate poverty analysts have recognised the need to enhancing and secure access to common property assets (Renard, 2001). According to the authors of the case study for St. Lucia, "it is clear that the only opportunity offered to many poor people to benefit from tourism is through the communal use of publicly owned assets such as trails, waterfalls, public parks and historic sites". This process may help to clarify the rights of family farms with touristic potential. There is a recognised need for the formulation of an appropriate policy framework for collaborative management arrangements, and for vesting some of the rights, notably the rights of use and exclusion, to community organisations and groups (ibid.).

3.5 Other Recent Studies Regarding Land Markets

Dujon (1995) conducted field work in 1992 in the areas of Micoud and Choiseul and concluded that "...currently there is no active open land market and even with the establishment of the new Land Registry where all parcels and owners are clearly identified, there is unlikely to be one in the near future" (p. 57).

In her study Dujon concluded that "...the survey of the 87 holdings was formulated to elicit comparative information for freehold and family land holdings about management practices, crops grown, levels of investment, disposal of produce and land transfer practices. Originally the holdings sampled were divided into four different tenure categories: private, family land, a combination of the two and holdings converted from family land to 'absolute' title (freehold) as a result of the LRTP. In keeping with the findings of the baseline study done by the Land Tenure Center, University of Wisconsin-Madison, it was difficult to identify farmers in the last category, since the number of conversions that took place was insignificant. In fact only one farmer was identified in that category..." (p. 66).

3.6 Perception of Land Markets amongst the General Public in St. Lucia

The literature review for this paper included an exploration of the public perceptions regarding land markets as reflected in opinions expressed in an e-mail discussion group. One Web Site¹⁰ maintains an open dialogue and discussions about St. Lucian topics (Lucian Town Hall). A search for the key word "land" in June 2002 rendered 62 postings related to this theme.

¹⁰ <http://www.sluonestop.com/townhall/index.html>

The discussion on the selling of land in St. Lucia for tourism purposes reveals the perception that the dynamism of the land market is concentrated in this sector. There seems to be some resentment amongst St. Lucians that foreigners are acquiring land at high prices, pushing local residents off their land. Appendix 3 presents an example of such a dialogue regarding selling land in St. Lucia, not for agricultural purposes, but for tourist development at inflated prices. Programmes such as the Heritage Tourism may help to spread the benefits to the poor.

For example, a posting commenting on a planned tourism development in Micoud stated that this strategy would leave St. Lucians with low-paying jobs, garbage disposal problems, scarcity of water and foreign control. The posting ended by stating, “Now is the time to say, enough is enough. St. Lucians deserve better jobs and a better stake in the resources of the island: it’s our HOME and NATIVE LAND”. This posting generated responses that commented on the prices of land and foreign control.

The next section explores the second and third questions regarding policy and institutional factors and implementation techniques of land entitlement interventions. The section reviews briefly the goals and assumptions of the interventions.

4. INTERVENTIONS ON PROPERTY RIGHTS AND LAND MARKETS

After the diagnostic work conducted in the 1970s several interventions in land registration and titling were carried out:

- The Organization of American States conducted a pilot project in land records and titling in the Mourne Panache, in the Mabouya Valley area, in 1982-3 (OAS, 1986, 1991).
- Starting in 1983 modifications were made to the legal and policy framework by passing four acts: Land Registration Act (LRA), Land Adjudication Act (LAA), Land Surveyor’s Act, and the Agricultural Small Tenancies Act.
- In 1984 USAID and the Government of St. Lucia entered an agreement for a four-year Land Registration and Titling Project (LRTP) as part of an Agricultural Structural Adjustment Project (USAID, 1983).

It is important to note that mainly as a result of the work and public consultations of the Land Reform Commission during 1979 and 1980, the issue of land tenure had gained widespread acceptance amongst several sectors in St. Lucia. Thus the interventions on property rights and land markets were well received in principle, if not in the methods.

The following sections describe such interventions in general terms.

4.1 Organization of American States Pilot Project

In 1982, the Land Reform Unit of the Ministry of Agriculture of St. Lucia, assisted by the Department of Regional Development and Environment of the Organization of the American States (OAS) began the Mourné Panache Land Registration and Farmer Resettlement Project. This project sought to respond to the issues related to land tenure identified for St. Lucia by the 1979-80 Land Reform Commission.

This project operated in an area of approximately 1,500 acres in the Mabouya Valley, where there were about 246 private holdings, almost 60% of which were under 5 acres. The project design originally included a farmer resettlement component but the implementation was restricted to: 1) surveying of parcels, 2) establishing legitimate claim (in uncontested cases), and 3) recording all relevant information in the area. In this pilot project, 98 parcels were demarcated covering 350 acres. The project came to an end in 1983.

According to OAS, this project was an important precedent to the Land Registration and Titling Project (LRTP) that USAID and the Government of St. Lucia started afterwards. The OAS pilot project provided training and experience to the teams that later participated in the LRTP (OAS, 1986, 1991.)

4.2 National Policy and Legal Framework

The United Nations Development Program provided financial assistance in the drafting of legislation for a new land registry, procedures for surveyors and conditions for land adjudication.

Four laws provided the legal structure necessary for implementation of the national Land Registration and Titling Program (LRTP) and the creation of a modern land registry¹¹.

The first law, the Land Registration Act, replaced the legal code of the ineffective deeds-registration system with new legislation allowing for the establishment of a modern system of land records and land rights. The Land Adjudication Act provided legislation to establish a systematic survey of parcels and a process of title adjudication. The Land Surveyor's Act provided for the licensing of surveyors, the conduct of surveys and the preservation of survey marks. The fourth law, the Agricultural Small Tenancies Act, clarified the rights and obligations of both landlords and tenants of small agricultural leaseholds.

The Land Registration Act (No. 12 of 1984) replaced the laws governing the ineffective deeds-registration system. Under the old legislation, the simple fact of registration did not ensure the validity of a deed. The registrar was under no obligation to scrutinise documents beyond seeing to it that

¹¹ This section draws from the OAS report on the Mabouya Project (OAS, 1991).

they were in the form prescribed by law. The principle of “caveat emptor” applied. Reasonable assurance that a proposed seller had good title to convey could only be obtained through a laborious and exceedingly costly title search by a legal practitioner.

The registration system outlined in the new Act remedied these problems. Under the new system the State now examines each title to be registered and, having determined its validity, registers the land and guarantees the title. The title is then unassailable except on grounds of fraud. Once the system is in place, the accuracy of the register is maintained by a requirement that all transactions in land must be registered in order to be valid. The certainty of title is thus perpetuated and not permitted to deteriorate with the passage of time.

In addition, the Act provides for a “trust for sale” mechanism to facilitate the transfer of family land by assuring any purchaser that he or she is indeed acquiring clear title. The trust for sale is a concept referred to in the Civil Code’s Section on “Trustees”. Under a trust for sale, the power to sell the parcel or subject it to a mortgage is vested in a family trustee or a limited number of trustees, who are shown as such on the register. The trustees are empowered to deal with the land and may convey good title. They remain accountable to the other co-owners for their share in the proceeds of the sale, but a purchaser’s title is not affected by the fact that some of the co-owners were not consulted or did not agree to the sale. Since the enactment of the Land Registration Act (LRA), many properties have been conveyed by Trustees for Sale.

The Land Adjudication Act (No. 11 of 1984) provided for a systematic survey of parcels and the adjudication of titles, which is now a precondition to registration of titles and their guarantee by the State. Because of the legal effect of registration, adjudication is a quasi-judicial proceeding. An area is declared an “adjudication section”, and a team headed by an Adjudication Officer identifies all the parcels of land in the section and surveys their boundaries. Notice is given for all those with interests in those parcels to bring forward their claims. Both ownership and other interests in land, such as leases and mortgages, are noted. Disputes are resolved by the Adjudication Officer, whose decisions may be appealed to a three-man tribunal and then to the court of Appeals. When the adjudication process has been completed for the section, the first Land Register and Land Registry Index Map are prepared from the adjudication record, and the new land-registration system can begin to function in that section.

The Land Surveyor’s Act (No. 13 of 1984, with Amendments Nos. Land 8 of 1986) replaced the Surveyors and Boundaries Settlement Ordinance and the Colony Survey Ordinance. The new law provides, in a manner consistent with the Land Registration and Land Adjudication Acts, for the licensing of land surveyors, the conduct of surveys and the preservation of survey marks.

Together these three acts created a new legal infrastructure for improving the functioning of the land market. Because registration confers a guarantee of title, a purchaser can now confidently rely on the information shown on the register, and a lender may do the same in accepting a registered parcel as security.

The new system reduces land disputes and facilitates the resolution of those that still do arise.

Finally the systematic mapping of all parcels and the computerisation of registry records provides the Government with an automatically up-dated database on land for a variety of planning purposes.

The benefits of this registration system are based on several previous experiences similar to that done in St. Lucia. Similar systems have been introduced in several islands of the Eastern Caribbean and are in operation in many countries with a civil-law tradition (the registration system conforms even more comfortably with the civil law of property than with the English law within which it was developed). While the costs to Government of establishing the system are considerable, maintenance costs are relatively modest and can largely be met from fees.

The Agricultural Small Tenancies Act filled an important gap in the substantive law of St. Lucia. Modeled on legislation currently in effect in several countries of the Eastern Caribbean, this law provides a legal framework for leases of small agricultural holdings, which have often been handled on a relatively informal basis and have thus been the object of considerable uncertainty for both landlords and tenants. The Act regulates the creation and termination of such tenancies, their assignment and sub-letting, compensation for improvements upon termination and a variety of additional matters. The Small Tenancies Act does not regulate rents, and is intended primarily to provide both parties with that security of expectations which is conducive to good resource husbandry.

4.3 The USAID Land Registration and Titling Project (LRTP)

The overall goal of the St. Lucia Agricultural Structural Adjustment Project (ASAP) was to expand employment and to increase incomes for rural farm families (USAID, 1988). The ASAP was agreed upon in March 1983 between the Government of St. Lucia and the United States Agency for International Development. Equitable and rational land use was another purpose of the project. A grant of US\$9.5 million dispersed over the next three years covered the major costs of the Project. The ASAP originally included a banana-replanting programme, a market-promotion scheme and land registration and titling programme (LRTP). However, the Government only implemented the LRTP.

In 1983 the Government of St. Lucia recognised the need for agricultural diversification to reduce the country's dependency on banana exports. This dependency was considered to be a serious barrier to the country's long-

term economic stability. The Government's proposal to USAID was based on the argument that the removal of four key constraints (outlined below) would allow international demand to stimulate a market-driven economy towards increased and more diversified agricultural production. The constraints were identified as:

- 1) Lack of secure land title for a majority of the farmers, which restricted the functioning of both the land market and the incentives for long-term investments in land and agriculture;
- 2) Inadequacies in the agricultural marketing system, which failed to generate sufficient, reliable and effective demand at the farm level to stimulate greater production of cash crops (particularly high-value tree crops that require a long-term investment);
- 3) Limitations of the plant propagation system supporting the diversification effort, which limited farmers' ability to respond to market demand for tree-crop products;
- 4) Decline in banana income, which reduced the availability of resources for investment at the farm and national levels.

To relieve these constraints, the Government proposed structural reforms in three areas:

- 1) Land registration and tenure individualisation: provide all current landholders with clear title and inaugurate an experimental programme to provide holders of family land with the opportunity to consolidate ownership;
- 2) Market promotion: strengthen the private-sector marketing system while supporting the expansion of high-value crops with strong market potential;
- 3) Short-term support for agricultural production: increase banana production through a replanting programme, critically needed to halt the decline in banana shipments and to strengthen the agricultural-income base in the short term.

By the beginning of the project, in part due to the work done by the Land Reform Commission 1979-80, public opinion supported the need for registration and titling. Large sections of the population, beyond partisan lines, began to take part in discussions about land use, the availability of good lands for agricultural and rural development and the importance of zoning for specific industrial, residential and recreational purposes.

Following a favourable response from USAID, the St. Lucia Government signed a contract in 1984 with United Aerial Mapping, Inc. (UAM), a consulting firm from the United States, to implement the LRTP.

The land registration and tenure individualisation projects were designed to produce four results:

- 1) A survey of all lands outside the National Forest Reserve and the metropolitan area of Castries, boundary demarcation of existing holdings, identification of land owners and a recording of these data;
- 2) A new land registry system based on this survey;
- 3) A land tenure code embodied in the new legislation to regulate and record private land transactions;
- 4) A tenure individualisation programme in the St. Lucia Development Bank to finance the conversion of family lands to individual ownership.

Due to a lack of funds and mounting cultural resistance, the Government could not go forward with the tenure-individualisation programme (TIP) to carve 450 individual smallholdings out of existing family lands. The budget for the programme included an initial capital investment of US\$100,000, with additional financing of US\$400,000 to be generated by the banana-replanting programme, and US\$970,000 in Government debentures. The Development Bank planned to offer 10-year mortgages at commercial interest rates of 11 to 13% for 80% of the holdings valued up to US\$20,000. The mortgages would allow an heir of family land to buy out the other heirs' shares. The farmer's share in the family land being purchased would count towards the 20% down payment, and family shareholders would receive the value of their shares in cash and debentures. However, without the banana-replanting programme, expected reflows were not available.

Moreover, given the known extent of family land-holdings in the society, the target of 450 holdings is not a substantial number. Successfully implemented, the programme would only have been a symbolic gesture. Even if some family members were willing to sell, poorer farmers would not have been able to buy their shares at the land prices being considered — up to US\$20,000, approximately EC\$52,000 — or to meet loan repayments of about EC\$7,000 a year.

Therefore the Government found it necessary to reduce the scope of the Agricultural Structural Adjustment Project to include only the LRTP. The LRTP activities consisted of land registration, preliminary establishment of a modernised land registry and adjudication of parcels throughout the country (except in the Forest Reserve). Activities continued through July 1987. Project savings eventually made possible the expansion of the LRTP to include the Castries area as well (USAID, 1988).

There were cultural obstacles to such a programme. Many family members maintained their right to ownership for the sense of independence and long-term security it provided. This could not be measured in the monetary values set forth in the programme's original guidelines.

Legally identifying land owners does not, by itself, eliminate existing inequalities in the land owning structure, nor does a reorganised registry, in

itself, guarantee the end of ownership disputes over family lands. However, as one component of an integrated development policy, the LRTP rendered a substantial service to the society of St. Lucia: reducing the possibility of fraudulent transactions, providing the improved information base and organisational mechanism essential to efficient administration of land-tenure questions, introducing modern techniques, and training local personnel in the use of these techniques.

To appraise the experience gained through the LRTP, and in response to a growing interest amongst other Eastern Caribbean states, the Government of St. Lucia, OAS, and USAID jointly sponsored the Symposium on Land Registration, Tenure Reform and Land Information Systems in October 1986. At this time, United Aerial Mapping had completed one year and nine months of its three-year contract, and had demarcated, surveyed and recorded the information for 17,491 parcels, amounting to 86,350 acres. Almost 50 participants attended the three-day symposium, representing a wide range of skills and expertise from the Eastern Caribbean, United States, United Kingdom and international assistance agencies.

The Symposium sponsors cited the following long-term benefits to be expected from national land registration:

- 1) An alleviation of problems in the conveyance of real property;
- 2) A reduction of lands having multiple owners;
- 3) A substantial increase in agricultural production (after small holders receive clear title and obtain access to credit);
- 4) A rise in land values due to increased investments;
- 5) The use of the cadastral database to systematically update the valuation of real property and to rationalise land and property taxation;
- 6) The expansion of the cadastral database into a land information system to benefit development planning and implementation.

During the Symposium, participants discussed the St. Lucia LRTP “against the background of different needs and experiences in other states and also in the context of selected regional and international experience in land registration and international experience in land registration and titling”.

4.4 Indigenous/Customary Tenures and Relationships to State Law and Policy

Bruce (1983) described the family land tenure system in St. Lucia. According to his analysis family land emerged on St. Lucia following the end of slavery in the 1800s within the context of French Civil law. His conclusions are: 1) that the workings of family land tenure are poorly understood; 2) that family land is a Caribbean-wide phenomenon based on labour and economic factors and not a local legal oddity resulting from the Civil Code’s provisions on succession; 3) that family land may perform an important economic safety net function.

This persistence of family land in St. Lucia even after a comprehensive land registration project was implemented was studied by Dujon (1995). Dujon concluded that family land “constitutes a major form of land management in St. Lucia because it is integrated into economic strategies that buffer farmers against unstable markets”. Dujon also concluded that *“the assumed deficiencies in tenure security and low investment levels associated specifically with communal land are unsubstantiated and therefore policy to eliminate this tenure form based on these assumptions is misguided”*.

This conclusion is consistent with the conclusion of DFID that titling programmes in developing countries can “disadvantage poor people who lose the security provided by customary tenure whilst being unable to complete the bureaucratic process of registration”. Furthermore, DFID recognises that in some cases full freehold title may be justified, but in others, rights may be better strengthened within existing systems, especially if this avoids the expense and exposure of the poor that full titling can entail (DFID, 2002, 9).

5. ASSESSMENT OF DONOR ASSISTANCE IN PROPERTY RIGHTS AND LAND MARKET DEVELOPMENT

5.1 Land Tenure Center Baseline Study, 1988

The Land Tenure Center conducted a baseline study of the St. Lucia LRTP in 1987 (LTC, 1988).

The baseline study was designed by selecting a statistical sample of 189 parcels in four regions: Babonneau, Micoud, Choiseul and Millet. Field interviews were conducted with holders of these sample parcels and data from the registry and LRTP records were tabulated.

According to the baseline study, the LRTP resulted in various forms of ownership, displayed in Table 6, for the 189 parcels in the field sample (LTC, 1988; Stanfield, 1989).

TABLE 6. FORMS OF OWNERSHIP OF THE SAMPLED PARCELS

Form of Ownership	Number	Percent
Individual ownership	70	37.0
Heirs of a deceased person	49	25.9
Ownership in common	61	32.3
Joint ownership	2	1.1
Unclear or multiple	7	3.7
Total	189	100.0

The adjudication of ownership by the LRTP required an assessment of who had the rights of ownership to each parcel of land. Just over 37% of the sampled parcels were adjudicated to individuals, and another 32.3% were adjudicated to owners in common who, in most cases, were husband and wife, although in some cases of probated wills the property in common was awarded to two or more people. Just over 25% of the parcels were adjudicated to “the heirs of...” in individual shares, that is, as family land.

This adjudication category, “the heirs of...”, clearly indicates that the parcel was and continues to be family land. However, it is likely that other parcels are also in this category. Recognising that there are complexities in making these determinations, for purposes of estimation we also identified as family land parcels those adjudicated as “proprietors in common”, if the number of co-owners was more than two. If there were only two co-owners, it is likely that they are husband and wife, although it is possible that some of these situations could be classified as family land. In most cases of “proprietors in common” where the number of co-owners is three or more, it appears reasonable to consider such parcels as family land.

Table 7 shows the relative distribution of land which emerged from the LRTP for each of the four areas sampled, using these definitions.

TABLE 7. INCIDENCE OF FAMILY LAND FOLLOWING THE LRTP (# AND %)

Type of Ownership	AREA SURVEYED									
	Babonneau		Micoud		Choiseul		Millet		Total	
Individual	41	57.7%	9	22%	9	20.9%	11	37.9%	70	38%
In common (husband and wife)	14	19.7%	18	43.9%	10	23.3%	11	37.9%	53	28.8%
Family land	16	22.5%	14	34.1%	24	55.8%	7	24.1%	61	33.2%
Totals	71		41		43		29		184	

Regarding the cost of the LRTP, studies showed that according to the stated project goals of mapping and registering 27,000 parcels covering 52,000 hectares at a total cost of US\$7.5 million, the cost could be expressed as US\$278 per parcel and US\$144 per hectare. Actual costs in the first two years of the projects were estimated at US\$214 per parcel and US\$108 per hectare (Barnes, 1988, cited in LTC, 1988). This puts the estimated cost per parcel close to US\$250, which is very high.

The baseline study presented 5 main conclusions and 16 recommendations. The main conclusions of the baseline study are as follows.

- **Creation of the Land Registry**

The LRTP demarcated and recorded a total of 33,287 parcels, 5,944 of which were in the urban area of Castries. The Land Registry for the entire country was created, containing the registry map of all parcels, the parcel

register as well as the parcel files containing the field data concerning the claims made to the LRTP and the decisions made as to the interests in each parcel.

A Registrar of Land was appointed, and staff and office space were provided to the Land Registry. The parcel files, the register and the maps are in the Registry and easily accessible to Registry staff. Notaries are using the Registry on a daily basis, as is the general public.

The process of recording rights to land by the LRTP went more smoothly than had been anticipated, with a total of only 914 hearings before the Adjudication Officers; such hearings arose when there was a dispute that could not be resolved in the field as to ownership or boundary of one or more parcels. The LRTP finished its work in December 1987.

- **Remaining Family-Land Phenomenon**

The creation of a functioning Land Registry for over 33,000 parcels within approximately three years is impressive. This achievement is moderated, however, by the difficulties the LRTP had in resolving the alleged problems of family land. Approximately one third of the parcels in the country are still in this status. Few family-land parcels were partitioned and the ownership individualised through the LRTP. Thus this aspect of the hypothesised problem of ownership insecurity, which provided much of the original justification for the project, remains to be resolved.

At least three factors contributed to this lack of LRTP success in dealing with the family-land issue.

The legal framework of the LRTP was probably inadequate at the initiation of the project. The Civil Code's rules for handling family-owned parcels were different from those incorporated into the LRA and LAA, leading to confusions between the common-law concepts of proprietorship-in-common and adjudications in favour of the heirs of a deceased person, and the Civil Code concepts of community property and rights of survivorship.

Furthermore, the proposed mechanism of trust-for-sale for resolving the lack of negotiability of family-land parcels, defined in the LAA and LRA, proved inadequate, both in terms of the difficulty of applying the notion in specific circumstances as well as in terms of the resistance to the concept by families and attorneys on the grounds of its unfairness.

These problems with the formulation of the LAA and LRA for the first two years of the project were multiplied by the amendment of the two acts in early 1987. The amendment removed the clause in the LRA which had stated that the new act took precedence over any preceding and potentially conflicting rule of law. This action by Parliament to remove the priority of the LRA opened the door to questions as to which body of law was to be applied in the operation of the new Land Registry, the LRA or the Civil Code. More recently, the courts have ruled on the finality of the

adjudication record and this has provided the basis for widespread acceptance of the “new” Land Registration process.

Finally, the experience of the LRTP and the reluctance of the St. Lucian people to modify the family-land form of tenure bring into question the adequacy of the initial strategy to individualise family-land parcels. The advantages of this tenure form and the difficulties encountered in sorting out all interests in an equitable but individualistic way appear to outweigh the problems which this tenure form generates. It seems advisable that institutional means be found to deal with the problems of family land holdings when they arise rather than struggle to eliminate or fatally weaken the arrangement.

- **Titles**

The LRTP did affect ownership insecurity by providing absolute and provisional titles to those holders of land who did not possess adequate legal documentation of their ownership prior to the LRTP. However, this titling involved the awarding of provisional titles in some cases, which opened the door to acquiring absolute title only in the future but did not resolve the underlying difficulties behind the lack of legal title originally.

Thus the LRTP improved the ownership security of about 20% of the claimants to land, leaving about 27% with provisional title and with many of the same insecurities of ownership which existed previously, and about 57% with absolute titles which reflected largely secure documentation of ownership prior to the initiation of the LRTP.

The inability to award absolute titles, however, corresponds in large part to the inability to resolve the family-land issues. Only about 50% of the family-land parcels were awarded absolute titles.

- **Mapping**

The demarcation and mapping done by the LRTP may prove to one of its strongest contributions to improving the property system of St. Lucia. Prior to the LRTP only 20% of the parcels had an adequate survey plan, and 23% had no written description of the boundaries whatsoever. The remainder had very approximate descriptions.

Following the LRTP all parcels are described in the Registry’s parcel map at a scale of 1:2,500 for rural areas and 1:1,000 for urban ones. This represents a substantial improvement in accuracy and availability of parcel boundary information.

- **Land Use Intensity and Investment**

A major rationale for the LRTP was that it would reduce disincentives to farmers’ investing in or using the land to its maximum potential. This was hoped to occur as a result of LRTP’s 1) reducing tenure insecurity, and 2) increasing farmers’ access to formal credit.

Regarding access to credit, the baseline study found that prior to the LRTP the use of parcels as collateral had been rare. However, the ownership of the parcels used for collateral was well documented.

The baseline study found regional differences. Because the proportion of family land is unevenly distributed across the country, the connection between family/nonfamily land tenure status and credit had regional implications. Areas like Choiseul, with a high proportion of family land and, at the time of the LRTP, provisional titles, were likely to remain in a disadvantageous position unless explicit policy measures were devised to overcome this unfavourable circumstance.

Yet even amongst parcels that were documented with deeds, the percentage used for local collateral remained small, about 20% at the time of the completion of LRTP.

Regarding land use intensity, the baseline study found that almost three quarters of the parcels were utilised to most of their potential extent. Under-utilisation was most marked in Choiseul and Micoud, where less than half of the area is cultivated in 25% or more of the parcels. The baseline study also found out that rented parcels displayed the least favourable qualities in terms of flexibility of land use (in particular, tree planting) and conservation practices. The baseline survey data suggested that, to the extent that ownership documentation was improved by the LRTP, land rental might become more common. Rental may be more acceptable or less risky to a land owner with title document who has less ground to fear that a renter would establish a claim that subsequently would not be able to be countered.

Another issue highlighted by the baseline study was to take a multi-parcel research strategy. In holdings composed of only a single parcel, the owner would have little option but to try to get the most out of that parcel. By focussing on multi-parcel holdings, it would be possible to control for some of the key factors, other than tenure status, that bear on production and investment.

Finally, the pervasive belief that family land tenure itself (that is, its organisational principles) inhibits intensive exploitation of land resources was only partially supported by the baseline study. The study revealed that it was certainly the case that a problem of land use intensity through lower investment does exist for those operating family land holdings. However, the baseline study questioned if the appropriate response to this condition was the destruction of this tenure form by policy fiat or, if a better strategy was to modify or develop new initiatives in the institutions serving agriculture to support such holdings and increase the potential of their productivity. This conclusion was later validated by Dujon (1995.)

The recommendations of the baseline study were:

- Solve the incompatibilities of the LRA and the Civil Code.
- Reevaluate or eliminate the trust-for-sale provision.
- Study the role of the private sector in land policy projects.
- Appoint a family-land task force.
- Conduct an educational campaign on the LRTP.
- Correct the lack of credit access for small farmers.
- Study the land rental and conservation clauses of LRTP.
- Pursue a multiparcel holding strategy.
- Establish a link between the Registrar of Land and the Deaths Registrar.
- Establish an office in Vieux Fort.
- Organise the field notes of the LRTP.

5.2 USAID Interim Evaluation (1986) and Project Completion Report (1988)

An interim evaluation of the St. Lucia ASAP was conducted in 1986 (USAID, 1986). The main conclusion of the evaluation was that progress was being made towards achieving the original goals and purposes of the project. At the time of the evaluation it was concluded that the marketing and the banana component of the project had been generally satisfied, and therefore the recommendation of the interim evaluation was to transfer all remaining project funds to the Land Registration and Titling component. Part of this reallocation consisted of the inclusion of the Castries urban area in the project.

The interim evaluation also concluded that at that time it was still too early to measure benefits from the LRTP. However, the evaluation stated that the original assumptions concerning increased investment in agricultural land stemming from secure and clear title still appeared to be valid.

The interim evaluation included a Legal Annex regarding the functioning of the Land Registry at the time of the evaluation. This Annex is considered valuable for the assessment team because of the detail and perspective it provides regarding the implementation of the LRTP.

The Project Assistance Completion Report (USAID, 1988) is largely based in the Land Tenure Center baseline study (LTC, 1988). One recommendation of the project completion report was that a follow-up study of the impact of the land registration and titling component be undertaken in about four years to compare with baseline data. This study should have occurred in the early 1990s; however, there is no evidence that a follow-up study was conducted.

The project completion report highlighted the main contributions of the LRTP such as the creation of a functioning Land Registry for over 33,000

parcels, the demarcation and mapping of all parcels, the widespread political support and consensus received by the project, and the outstanding record of management and technical performance by the contractor.

5.3 Other Indirect Evidence of the Impacts of the LRTP

A search in the Government of St. Lucia Web Site for the word “land” (<http://www.stlucia.gov.lc/>) yielded valuable documents.

A Christmas Message in 2000 by the Minister of Planning, Development, Environment and Housing, Hon. Walter Francois¹², highlights the role of the Ministry regarding the allocation of land resources. Fragments of the this speech are reproduced here to show that the Government of St. Lucia has continued to build on the achievements of the LRTP.

The allocation of land, a non-renewable resource and a basic input for a range of development activities, is critical in this context. The response to the demand for land in the past had been ad hoc and the use of land haphazard with little attention given to the environmental consequences of this policy of benign neglect.

Our land resources are severely limited and inaction cannot be permitted to continue.

Some of the initiatives which my Ministry has at both its Physical Planning and Land Administration levels put in train to deal with this problem are:

- 1. The Development of a National Land Policy to serve as a guide for the future use of lands.*
- 2. In terms of implementing controls on the actual use of land, an independent review of the Land Development (Interim Contract) Act and Regulations has been undertaken. Based on this review a reconstituted Development, Control Board has been appointed. A Revised Physical Planning Act is in the process of being finalised for Parliamentary action.*
- 3. Computerisation of all departments involved in Land Administration including Physical Planning, Crown Lands, Survey & Mapping Sections, and the Land Registry is being pursued.*
- 4. The Conversion of all land information currently stored on paper into a digital database is the precursor to the development of the integrated land management database.*
- 5. The use of Geographic Positioning Technology in conducting surveys. This is intended to improve efficiency and accuracy and allow for easier integration of new surveys into the land management database.*
- 6. All these efforts are in preparation for the development of an Integrated Land Management Database, under which all persons who require land information will be able to share and cross-reference same. The database will also allow electronic access to stored information.*
- 7. Improved control over the illegal use of Crown lands and the Queen’s Chain in particular.*

¹² www.stlucia.gov.lc/addresses_and_speeches/christmas2000/hon_walter_francois.

In addition to creating an environment for more effective control over land use these measures are expected to provide for greater efficiency in the processing of planning applications.

Another document found in the Government of St. Lucia Web Site was a report issued by the Commission of Inquiry into a trio of events in public administration in St. Lucia in the 1990s. One of these events was the sale of 26 acres of beach-front at Roseau Bay in 1994. The document examines the facts of that purchase and provides insight into the buying and selling of land in St. Lucia post-LRTP. A future assessment of land issues in St. Lucia may look at this case as illustration of the market in land St. Lucia¹³.

6. CONCLUSIONS AND RECOMMENDATIONS

- The issue of land tenure has been a concern for the St. Lucian Government and international donors for more than 30 years. St. Lucia has showed a skewed distribution of land. While less skewed in recent years, even in 1996 the distribution showed that 81% of the smaller holdings with land operate almost 48% of the land, while less than 0.1% of the larger holdings hold about 11% of the total land.
- The agricultural sector of the country has been dependent on a single crop (bananas) since the 1960s with preferential market to the European Union. However, the preferential market for bananas has been slumping.
- USAID and the Government of St. Lucia implemented a landmark project in 1984-87 aimed at land registration and titling. The project was highly successful in creating a land registry for the more than 30,000 parcels in the country and created accurate maps.
- The LRTP had limited success in the stated original goal of modifying the tenure structure by encouraging the conversion of the family land system to freehold.
- The cost per parcel of the titling and registration effort was very high, US\$250 (Barnes, 1988).
- The evidence of the operations of land markets in St. Lucia is scarce. Results of the 1996 Agricultural Census show little change in the land tenure structure. The percentage of family land remains at the same level (about 45%) when comparing the 1986 and 1996 census results. Recent studies (Dujon, 1995) claim that land markets do not operate fluidly and transparently in St. Lucia.
- It is difficult to assess the impacts of the LRTP on the poor. Considering that the family farm sector was practically not affected by the LRTP and that there seems to be evidence of recent land market stimulation in highly valuable areas, such as touristic sites, it can be

¹³ <http://www.stlucia.gov.lc/features/commissionofinquiry/BlomCooper.htm>

speculated that the poor may be negatively affected as they cannot compete with the high prices.

- Recent initiatives, such as the Heritage Tourism Programme, recognise the need for a supportive framework that considers the devolution of rights of use and exclusion around communal assets as a condition for the poor to share some of the benefits of tourism development in St. Lucia.
- The interventions and implementation of USAID in land registration and titling in St. Lucia created the framework for a solid land registry and mapping. The issue of family land remains as an integral part of St. Lucia's economy and alternatives regarding its contribution to the agricultural sector and family income should be examined and alternatives developed that capitalise on its beneficial aspects.
- Field visits are needed to assess the direct effects, status of policy and institutional issues and implementation factors of the land registry and titling interventions in St. Lucia.

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APPENDIX 1. SELECTED INDICATORS¹⁴

Total Population	156,260 (July 2000, est.)	
Population Density	720 per sq. mile (277 per sq. km)	
Annual Growth Rate	1.21%	
Unemployment	15%	
Reproductive Rate	22.19 per 1000	
Adult Literacy	72.8% (1992)	
Labour Force	43% of population	
Ethnic Divisions	Mainly African, East Indian and European descent	
GDP (market prices)	1995	1999
Total	554 million US\$	674 million US\$
Per capita	3,880 US\$	4,380 US\$
Status	Independent (February 22, 1979)	
Capital	Castries	
Official Language	English	
Local Language	A French-based patois is widely spoken	
Currency	East Caribbean Dollar (EC\$)	
Land Use ¹⁵		
Arable land	4.92%	
Permanent crops	22.95%	
Permanent pastures	5%	
Forest/Woodland	53%	
Irrigated land	2,471 acres	

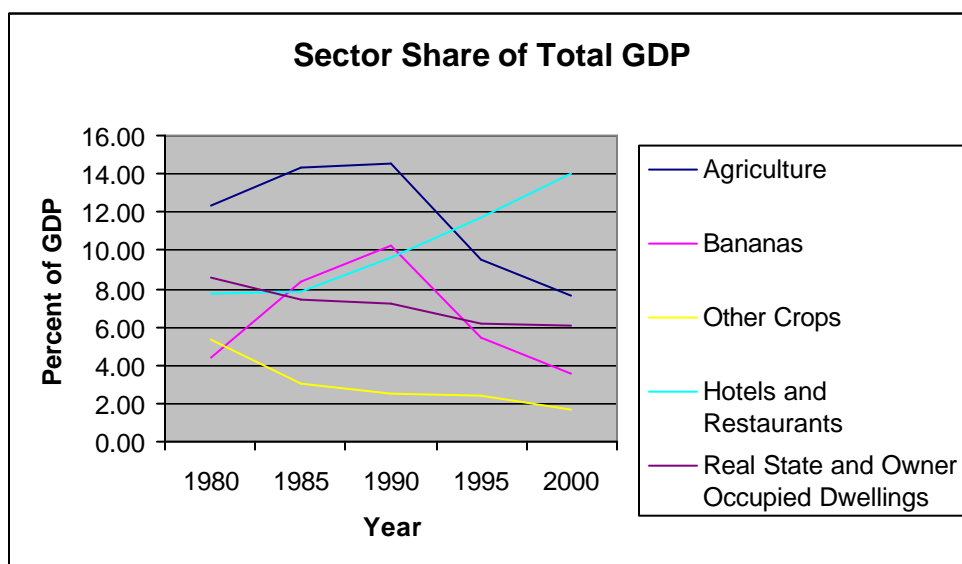
GDP at Factor Cost (current prices) – Sector Share of Total (in percentage)

SECTOR	1980	1985	1990	1995	2000
Agriculture, Livestock, Forestry, Fishing	12.34	14.37	14.53	9.54	7.66
Bananas	4.42	8.36	10.28	5.40	3.56
Other Crops	5.29	3.06	2.56	2.40	1.67
Livestock	1.11	1.23	0.90	0.62	0.68
Fishing	0.70	0.90	0.42	0.86	1.62
Forestry	0.82	0.82	0.38	0.26	0.12
Mining and Quarrying	1.23	0.49	0.39	0.46	0.41
Manufacturing	10.27	8.23	8.17	6.93	5.11
Construction	9.96	6.07	6.42	8.10	8.39
Electricity and Water	1.75	3.07	2.90	3.76	4.45

¹⁴ St. Lucia National Development Corp.: A Guide to Investing in St. Lucia, pp. 5-8. http://www.stluciandc.com/INVESTMENT%20GUIDE_UPDATED%20AUGUST%202001.pdf.

¹⁵ World Factbook, 2002 (<http://www.cia.gov/cia/publications/factbook/geos/st.html>) for the figures on arable land and permanent crops. Consulted on February 21, 2003.

Wholesale and Retail Trade	17.06	13.81	16.51	14.26	13.19
Hotels and Restaurants	7.72	7.81	9.61	11.69	14.06
Transport and Communications	12.27	16.24	16.82	18.27	19.21
Financial Intermediation	6.79	6.83	7.35	8.74	9.37
Real State and Owner Occupied Dwellings	8.55	7.46	7.17	6.21	6.11
Producers of Government Services	13.03	16.44	12.75	15.26	14.93
Other Services	3.60	3.60	3.82	4.62	4.96
Less: Banking Service Charge	4.57	4.42	6.44	7.84	7.85
TOTAL	100.00	100.00	100.00	100.00	100.00



Source: Saint Lucian Statistics
Government Statistics Department
<http://www.stats.gov.lc/>

APPENDIX 2. SOURCES IN THE INTERNET

Official site of the Government of St. Lucia

<http://www.stlucia.gov.lc/>

St. Lucia Statistics Department

<http://www.stats.gov.lc/>

CIA Fact Book (2002)

<http://www.cia.gov/cia/publications/factbook/geos/st.html>

St. Lucia Ministry of Agriculture, Forestry and Fisheries (slumaffe)

<http://www.slumaffe.org/index.html>

Census of Agriculture Report, 1996, (slumaffe)

http://www.slumaffe.org/Corporate_Planning/Statistics_Unit/Agriculture_Census/agriculture_census.html

Green Gold — The St. Lucia Banana Story

http://www.slumaffe.org/Agriculture/Extension_Services/Green_Gold/green_gold.html

The World Bank — Small States: Meeting Challenges in the Global Economy, April 2000

[http://wbln0018.worldbank.org/html/smallstates.nsf/\(attachmentweb\)/final/\\$FILE/final.pdf](http://wbln0018.worldbank.org/html/smallstates.nsf/(attachmentweb)/final/$FILE/final.pdf)

OEA, St. Lucia Natural Resources and Agricultural Development Project, 1986

<http://www.oas.org/usde/publications/Unit/oea36e/begin.htm#Contents>

Statement of St. Lucia, 1998, at Caribbean Group for Cooperation in Economic Development, World Bank

<http://wbln0018.worldbank.org/External/lac/lac.nsf/c3473659f307761e852567ec0054ee1b/42f7277877aabead852567f300525b04?OpenDocument>

St. Lucia National Development Corporation

<http://www.stats.gov.lc/>

Land Sale Information.

<http://www.stluciandc.com/landsaleinfo.htm>

A Guide to Investing in St. Lucia

http://www.stluciandc.com/INVESTMENT%20GUIDE_UPDATED%20AUGUST%202001.pdf

Practical Strategies for Pro-Poor Tourism: A Case Study of the St. Lucia Heritage Tourism Programme. Pro-Poor Tourism Working Paper 7. By Yves Renard. April 2001. http://www.propoortourism.org.uk/st_Lucia_cs.pdf

Pro-Poor Tourism Report No. 1. Pro-Poor Tourism Strategies: Making Tourism Work for the Poor. A Review of Experience. By Caroline Ashley, Dilys Roe and Harold Goodwin. ODI, IIED and CRT.

http://www.propoortourism.org.uk/ppt_report.pdf

APPENDIX 3. AN EXAMPLE OF A DISCUSSION REGARDING “LAND” AT THE LUCIAN TOWN HALL¹⁶

IS TOURISM THE ANSWER?

From: Bobish

Category: General

Date: 18 Feb 2001

Time: 17:22:49

Remote Name: 207.136.80.204

Comments

Fellow Lucians, are we being raped? A new 400+ room hotel is planned for the Troumassé area near Micoud. A new cottage-style “development” for the Anse Cochon area. Saturation of hotels in the North. What the heck is going on?

The pundits tell us that all those hotels will create jobs. But what kind of jobs? Cleaning rooms, doing laundry, cleaning swimming pools and other menial low-paying jobs? Is that what St. Lucians want? While the big bucks are sucked out of the country, the locals are left with a pittance for their efforts. Not to mention the environmental disaster looming ahead.

The more tourists is the more GARBAGE they create. Can the island support and absorb all that garbage?

And what about water. Is there enough, nice, clean, fresh, water to service all those hotels?

The life-blood of the island is being squandered on a few outsiders who don't give a damn about the welfare of the poor locals. After they leave, they bad-mouth the islands: “oh, there's so much poverty, so much this, so much that”: they don't care.

Now is the time to say, enough is enough. St. Lucians deserve better jobs and a better stake in the resources of the island: it's our HOME and NATIVE LAND.

ST.LUCIA FOR ST.LUCIANS!!!

Cheers.

Re: IS TOURISM THE ANSWER? It is One of the Answers

From: Bobish to DNextPM

Category: General

Date: 20 Feb 2001

Time: 18:17:27

Remote Name: 207.136.80.204

Comments

OK Sir, here are some negatives about Tourism. 1) When once land is sold to a tourist developer at an inflated price, that parcel of land is gone forever for good from the pool of land available to locals: they can't afford it.

2) Only the best of the best parcels of land are bought out, what's left is not worth having.

3) Tourism demands fresh clean water in abundant quantities, St. Lucia barely has enough for the locals.

¹⁶ <http://www.sluonestop.com/townhall/index.html>

- 4) What do you do with the tons of sewage generated each day? No: you can't burn it.
- 5) The jobs generated by tourism are low-paying menial jobs, akin to begging.
- 6) All profits from tourism go to the owners who live overseas. Not one cent is spent on building new hospitals. Not one cent is spent on attracting good doctors and dentists. Are you proud of the healthcare situation in St. Lucia?
- 7) When tourism fails, who's left with the massive environmental cleanup bill?
- I am sure you could add another dozen more negatives to my list. Be honest about it, do you think the "developers" have the well being of St. Lucians at heart? I think not.
- Cheers & Peace.

Re: IS TOURISM THE ANSWER? It is One of the Answers

Category: General

Date: 20 Feb 2001; Time: 21:48:02

Remote Name: 172.148.11.33

Comments

You: 1) When once land is sold to a tourist developer at an inflated price, that parcel of land is gone forever for good from the pool of land available to locals: they can't afford it. Me: Sir, if the Prime Minister were to wake up tomorrow and say: Okay my fellow ministers, why don't we make the price of our land cheap enough for every St. Lucia, to be able to afford reasonable parcels. As a matter of fact while we at it, let's ensure that no foreigner or big investor can get their hands on it. Where then would the Jobs come from Sir? What sir would these very people, who now own the devalued land, do to ensure that our St. Lucia has the kind of product that the visitor requires to enjoy a vacation here. I am not even touching the fact that such devaluation would affect our real-estate industry to the point that you and I cannot imagine. Sir there are countries out there where the land is plenty and cheap and the foreigners won't go to invest. Do you realise that there is the distinct possibility that if the investor abandons an already built hotel that the government can potentially use this infrastructure in place and get local investors to continue the business? Our Land is not gone forever it is only being used by those who can afford to develop it to the standards that will bring visitors home. If the tourism industry is so bad, why don't we just cut our losses, like we did for AA?

You: Only the best of the best parcels of land are bought out, what's left is not worth having. Me: If you were the one with the money to spend, would you buy the worst piece of land just to be nice? Also look at our prominent St. Lucian, do you think they would give up their good plots of land for the lesser fortunate who can't afford to buy? I believe in progress. If we don't have people who can do better then sell it to those who can and get what we can from it. I know you won't like this but it's a fact. How many St. Lucians you know who can afford to make that kind of investment.

You: Tourism demands fresh clean water in abundant quantities, St. Lucia barely has enough for the locals. Me: Let the Hotels import their water! They already import most of their drinking water, since foreigners are warned about drinking water in the tropics.

You: What do you do with the tons of sewage generated each day? No: you can't burn it. Sir, It is being done here in the US every day! Almost everything that is consumed is "burnable". In the US and Korea and other developing countries it is recycled and used as a rich source of manure or natural fertiliser for the agricultural industry.

5) The jobs generated by tourism are low paying menial jobs, akin to begging. Unfortunately our government is marketing us as a destination of cheap labour. Check out how much they are quoting right here on Sluonestop. I definitely want to respond to all your comments. I will continue tomorrow.

Sources:

Is Tourism the Answer?, 18 Feb. 2001

<http://www.sluonestop.com/townhall/disc1/0000011a.htm>

RE Is Tourism the Answer? Feb 20, 2001

<http://www.sluonestop.com/townhall/disc1/0000013b.htm>

RE Is Tourism the Answer?

<http://www.sluonestop.com/townhall/disc1/0000011d.htm>

BE PROUD OF YOURSELF & YOUR ISLAND

From: Bobish

Category: General

Date: 23 Apr 2001

Time: 16:33:22

Remote Name: 206.186.174.22

Comments

This posting was meant for a reply. But I think there is material here which should be considered by all before the island is sold to the highest bidder and all St. Lucians become dispossessed.

Land is a fundamental birthright. Take that away, and you have NOTHING. Those who are selling now think they have hit the jackpot. Believe me, Ladies and Gentlemen, the agony of the dispossessed is not far away. Bobish.

Re: Re: National Alliance From: Bobish to (no name) Category: General Date: 23 Apr 2001 Time: 16:18:23 Remote Name: 206.186.174.22

Comments I don't know if your reply was to my posting. It would help to be a bit more specific.

First, how do you propose to increase the supply of land? This is by far the most STUPID argument I have ever heard. Seems to me you are one of those @\$%^ economists who cannot see the forest for the trees. You've got me really riled-up here.

St. Lucia is only 233 square miles: period. Most of that land is watershed which should not be touched. Next is arable land. You must have land to grow food unless you are planning on importing EVERYTHING!!!

Next comes land for roads. Without that you can't go anywhere. And what is left is extremely precious indeed.

So my dear Sir, close those stupid textbooks which talk about supply and demand and put on YOUR thinking cap for a change. Don't ever let others do your thinking for you. You should also visit some sites on the South Pacific islands. Like the Cook Islands etc. There you will see their land is NOT FOR SALE AT ANY PRICE, one can only LEASE land. Please do that before you talk nonsense about increasing the supply of land in St. Lucia. That cannot happen unless you go underneath the island and jack it up some more out of the ocean.

There will always be some less fortunate than others and my heart goes out to them. Yes they can clean rooms sure, but that should not be an END in itself. When I was a student, I cleaned toilets in high schools to earn my school fees. There's nothing wrong with that. But I did graduate with a profession and NEVER cleaned anything for anyone again. Stoop to conquer yes, stoop forever NO!!!

The present system in the islands puts people in positions where they have to stoop FOREVER. To that I say NEVER! Such jobs are nothing more than "paid slavery". St. Lucians are MUCH smarter than that. Don't forget: TWO Nobel Prizes. That is POWER!!!

Think about it.
Bobish

Be Proud of Yourself and Your Island, Apr 23, 2001
<http://www.sluonestop.com/townhall/disc1/000002e9.htm>

NATIONAL ALLIANCE

From: Brian Courtenay Deane
Category: General
Date: 22 Apr 2001
Time: 10:19:04
Remote Name: 205.214.193.75

Comments

The Brains behind the alliance should work with the present ruling administration and not against it, what St. Lucia needs as they have said is qualified guidance, so allegiance to the Government is first required, not authoritarian rule which Rick Wayne and George Odlum seem to be advocating when they try to impress the public, whenever they don't have their own way, check their history thoroughly, it won't work with them. What we need is to focus deeply on education, values, morality, family life and less material values and then people will come to grips of themselves. Today the vast array of material wealth has led us to create a high degree of avarice, selfishness, and defiance of regulation. I agree that patois is our lingo but it has led to a lot of low minded thinking by ignoring English at a high level leaving only the educated ones who don't want to lose their gains to the decline of the social fabric of the society, who just feel it is right to take from the rich because you are poor, and the decline of the income earner like tourism, has every eye-opener on their p's & q's. Wake up St. Lucia. Barbadians are now realising the danger of selling land to foreigners at exorbitant prices because they have hard cash available, resulting in locals having difficulty in obtaining funds or land, can lead to social upheaval, so they are now working to alleviate the situation. Poor Taking from rich is worse than rich taking from poor, so don't let political unrest step in.

RE: NATIONAL ALLIANCE

From: Bobish to Courtney
Category: General
Date: 22 Apr 2001
Time: 21:50:46
Remote Name: 206.186.174.33

Comments

Your intentions are good but I disagree with you when you say, "Poor taking from rich is worse than rich taking from poor, so don't let political unrest step in". You will have to define "rich" and "poor" to start. However, I agree with you about the land problem. Land can only be SOLD once, and when the money is gone, there's no more land and NO MORE MONEY!!! Problem #1 is therefore land reform. Land ownership reform. If you are not BORN in St. Lucia you CANNOT own St. Lucia's land: period.

#2. Water is vital. Water management in every form must be a priority. Including, watershed preservation, water processing and distribution and water CONSERVATION.

#3. Sanitation. You cannot continue to dump raw sewage into the harbour and sea without affecting fragile ecosystems.

#4. Tourism MUST provide for a better St. Lucia. Cleaning rooms and other menial jobs should be frowned upon.

#5. Healthcare is important. It is a national shame that people have to travel to other islands for minor treatments. How about up-to-date diagnostic equipment. A helicopter system to transport critically injured patients from inaccessible areas. Don't forget the roads are still bad. Choppers are the only way.

There's a lot more, but you get the drift!

Cheers Bobish

National Alliance

<http://www.sluonestop.com/townhall/disc1/000002e1.htm>

RE National Alliance, Apr 22, 2001

<http://www.sluonestop.com/townhall/disc1/000002e2.htm>

SURINAME: The Challenge of Formulating Land Policy

Harold Struiken & Chris Healy

1. INTRODUCTION

Section 2 contains an overview of the land management problems and challenges that emerged in Suriname during the past three centuries. This section surveys the origin, development and current status of land management issues in the country. The land management challenges facing Suriname today are related to historical and geographical factors, while during the various historical periods political, economic, cultural and demographic developments influenced the emergence of these challenges. Several historical periods and landmarks can be distinguished that have led to economic formations in different regions of the country.

Pre-1650	Country populated by indigenous groups.
1651-1770	Development of the plantation economy on the coastal area. British colonise Suriname under increased resistance from indigenous population. After the take-over by the Dutch in 1667 peace is concluded with the indigenous population and the number of plantations increased from about 100 to over 500. Formation of escaped slave communities, Maroon wars begin to threaten plantation economy in the 1750s.
1770-1870	Decline of the plantation economy on the coastal area. The number of plantations decreases to about 130.
1870-1920	The first gold mining boom in the interior (followed by a rapid decline). Number of plantations dips below 100; development of small-scale farming in the rural coastal areas.
1920-1950	Emergence and dominance of the bauxite industry. Only a handful of plantations still operational; small-scale farming dominates agricultural production.
1950-1980	Development of hydropower and aluminium industry; emergence of mechanised large-scale agriculture.
1980-1992	Political crises and economic decline; emergence of informal gold mining and large-scale timber extraction by foreign companies; oil industry emerges.
1992 to date	Restoration of peace and democracy, several efforts to stabilise the economy; the situation remains very critical.

Efforts to maintain the bauxite industry by developing inland mines and to revive the large-scale agricultural sector. Progress in aqua-culture, forestry and oil; formalisation of gold mining under way.

This background information is presented to give the reader an indication of the issues and challenges that have to be dealt with in developing a new land policy for Suriname. The challenges involve political, economic, social, human rights and environmental issues that have to be resolved in order to ensure the development of an efficient, equitable and sustainable land management system.

The need for a Suriname Land Management Project (SLMP) was identified during the process of preparing the Agriculture and Trade Policy Reform Loan (ATPL). Government of Suriname (GOS) officials realised that numerous issues related to land were constraining its efficient and effective allocation, use and management. The GOS determined that these land issues needed to be addressed in a timely manner in order to complement the policies and activities promoted under the ATPL. In this regard, the GOS asked the Inter-American Development Bank (IDB) to allocate funds from the ATPL to conduct the Land Use Policy and Administration Feasibility Study (hereinafter abbreviated as Feasibility Study).

The initial overall concept of the SLMP is to improve the allocation and use of land resources as a basis for sustainable economic and social development and environmental protection. To achieve this objective the GOS would initiate the SLMP with assistance from the IDB in an effort to:

- develop an integrated land policy,
- modernise land legislation,
- improve/expand delivery of land management services,
- provide reliable land information,
- rationalise the allocation and pricing of State land, and
- improve land use planning and development.

A three-phased approach to addressing land management and administration issues was envisioned by GOS. The first phase was the feasibility study, which undertook a diagnosis of land management and administration issues in Suriname. The second phase is now under way and involved the development of the project proposal for the funding and implementation of the SLMP. The final phase will be the implementation of the SLMP.

Section 3 surveys the land management institutions and the challenges they face. Most of this information emerged during the course of the feasibility study. Section 4 looks at the land administration departments and the issues they face. The issue identified here also emerged during the implementation of the feasibility study.

2. COUNTRY PROFILE

2.1 Basic Information on Suriname

Suriname is located on the north-coast of South America, bordering on the Atlantic Ocean, with French Guiana to the east, Guyana to the west and Brazil to the south. The total area is 163,270 square kilometres, and with a population of less than 450,000, it is one of the least densely populated countries in the world. The ecological and forest diversity in Suriname is determined for the most part by four ecological zones (Mittermeier et al. 1990):

- *The young coastal plain:* 0-4 metres above sea level, consists of swamp clays, mangrove forests, open swamps with vegetation and several types of swamp forest.
- *The old coastal plain:* 4-11 m above sea level, consists of swamp clays and sand ridges covered with grass and lush swamps, swamp forests, dryland forests and large areas of peat swamps.
- *The savanna belt:* 10-100 m above sea level, a plain consisting of bleached quartz sands and loam, dryland and swamp forests, and dry to very wet grass and scrub savannas.
- *The interior:* up to 1,230 m above sea level, rugged terrain consisting of rolling hills on the ancient Guiana Shield covered with tropical rain forest, interrupted by marsh forests along rivers and creeks. Here and there granitic inselbergs and mountain ridges rise above the dense forest cover.

2.2 The Population

The original inhabitants of Suriname are the indigenous peoples. They live in some 30 major villages located for the most part in the savanna area and in the remote interior of the country. The Carib and Arowak villages are located along the savanna belt that stretches from the east to the west of Suriname, while the Trio and Wayana villages are located along rivers in the tropical rain forest of south-Suriname.

During the early years of the colonial era over 300,000 Africans were transported to Suriname to work on the plantations as slaves. The plantations were initially established on higher ground in the old coastal plain and savanna areas. After the Dutch took over the colony of Suriname from the British in 1667, dikes and sluices were built to make the low-lying areas of the young coastal plain suitable for plantation agriculture. By the middle of the 18th century over 500 plantations had been established in the colony. Soon after the Dutch took over the colony of Suriname from the British, the town of Paramaribo emerged as the main urban centre and it became the capital of the country.

The indigenous population did resist the settlement by white colonisers in the coastal area, and in 1678 the Caribs took advantage of the still weak Dutch presence by initiating a six-year guerilla war. In 1684 the Dutch

governor concluded a peace treaty with the last to resist the European incursion into the country, and the Amerindians withdrew into the forest and avoided contact with the European colonisers, save for the trade in weapons, ammunition, metal implements and cloth.

Through rebellion and escape during the 17th and 18th centuries thousands of slaves freed themselves from their white masters and settled in groups on the banks of the rivers of the interior. The newly formed communities grew steadily in size until they began to present a military challenge to the plantation economy. The escaped slaves, known today as Maroons, raided the plantations to meet their need for metal implements, weapons and ammunition, but also to recruit new members, especially women, so as to develop and expand their societies. Peace treaties were signed with the Aukaner Maroons of south-east Suriname in 1761 and with the Saramaka and Matawai Maroons of central Suriname in 1762 and 1776. The treaties stipulated that the Maroons would only travel to town in small groups after receiving a pass from the government representative in the region, and that they would refrain from attacking plantations and would return any newly escaped slaves. The colonial government in turn agreed to supply the Maroons with the provisions they needed to survive in the rain forest. Three smaller Maroon groups, the Paramaka, Boni and Kwinti, were formed after this period, but in the 19th century the colonial government also concluded similar treaties with them.

Around 1853 the Dutch government sponsored an immigration program for Dutch farmers. Initially they settled in Groningen, the capital of District Saramacca, but eventually most moved to the western and northern outskirts of Paramaribo to become active in agriculture and animal husbandry (and until a few decades ago they were important suppliers of milk, beef and agricultural produce). Most of the ex-slaves after the abolition of slavery in 1863 left the plantations or settled on estates that they would eventually end up inheriting or owning. An effort was made to halt the decline in plantation productivity by importing indentured labourers mainly from India and Indonesia (Java). After completing the required labour contracts on the plantation most indentured labourers also left the estates and established small farms. Many Indians settled along roads around Paramaribo and became producers of rice, vegetables, fruits and meat that were transported to the main market in town. Others settled in Nickerie and Saramacca and south of Paramaribo in the district known today as Wanica. The Javanese settled in communities in the Commewijne and Saramacca districts, but also in areas north, west and south of Paramaribo. The capital city gradually increased in size as former slaves and indentured labourers settled both in the downtown area and in the outskirts of Paramaribo.

The settlement patterns of the population today still reflect to some extent these historical developments, though Greater-Paramaribo has grown into a multi-ethnic municipality of over 250,000 persons. Today about 65% of the population lives in and around Paramaribo, approximately 25% lives in the

rural-coastal areas, while the interior population should be around 10% of the total. A census is soon to be held and the results of this activity should give us a better idea of the distribution of the population across the various regions in the country.

TABLE 1. POPULATION OF SURINAME

Population of Suriname	(CBB estimates 2000)
COASTAL AREA	
Paramaribo	233,882
Wanica	77,115
Nickerie	34,464
Coronie	2,911
Saramacca	13,695
Commewijne	22,012
Para (coastal)	12,005
Marowijne (coastal)	7,166
TOTAL COASTAL AREA	403,250
INTERIOR	
Para (interior)	3,370
Marowijne (interior)	6,318
Brokopondo	8,039
Sipawini	24,696
TOTAL INTERIOR	42,423
TOTAL SURINAME	445,673

2.2.1 The Pre-Colonial Period

The indigenous inhabitants of Suriname relied on a subsistence economy for survival. Shifting cultivation and gardening were the main sources of starches, vegetable and fruits, while hunting and fishing were the main sources of proteins. However, areas with the remnants of more permanent systems of agriculture were located in the coastal area. Gathering was also an important source of food. Because the indigenous communities were rather small it is generally assumed that these groups were politically acephalous (head-less), implying the absence of a strong or centralised leadership. Cohesion came through family ties, charismatic leadership and marriage alliances with members of other groups. Apparently strong leaders did take control of the indigenous societies during periods of war. During the six-year war of resistance mentioned above, a strong leader by the name of Kaikusi led the indigenous fighters in the struggle against the Dutch colonial settlers. The indigenous population withdrew from the areas surrounding Paramaribo as well as lands that were cultivated under the plantation system.

2.2.2 The Emergence of the Plantation Economy

Historically the coastal area has been the setting of large-scale agricultural activities. In 1651 the British occupied Suriname and in 1667 the Dutch took over the colony. At that time about 100 plantations were in production. During the 18th century the Dutch established some 500 plantations with slave labour on the fertile clays in the coastal area. The main products were sugar, coffee, cacao and cotton. The emergence of the plantation economy in the coastal area based on slave labour ended up partitioning the country into two zones with different characteristics. The indigenous population migrated to the margins of the plantation zone or further south to make room for the new social and economic order of the European settlers. For the Europeans the southern part of the country, what today is referred to as the interior, remained an unexplored wilderness where the indigenous people could freely settle and subsist, as they had done on the coastal area prior to 1651. The Europeans developed the coastal area on the basis of western cultural, social, economic and political traditions and in this process the colonial trade economy of Suriname emerged.

African rebel slaves who escaped from the plantations used ties of kinship as the basic ordering principles to develop their social, economic and political institutions. After the onset of the 18th century the interior of Suriname was inhabited by both indigenous and Maroon societies. The fertile alluvial clays of the coastal area were necessary and sufficient to sustain the agriculture sector of the colonial trade economy. There was more than enough space in the hinterland to accommodate both the indigenous and Maroon populations, as long as they did not attack or interfere with production on the coastal plantations.

2.2.3 Decline of the Plantation Economy

Peak production in the plantation economy was reached around 1770, but after the economic problems and the stock market crises of 1773 in the Netherlands investment in agricultural undertakings in the colonies lagged behind earlier years and production began to decline. After the abolition of slavery in 1863 the decline of the plantation economy accelerated. Attempts to reverse this decline by importing indentured labourers did not have the intended effect. As noted above, after completing the required labour contracts on the plantation most indentured labourers also left the estates and established small farms in the coastal area. By the 1950s there were only a handful of plantations still in operation. At that time about 90% of agricultural produce came from small-scale enterprises managed by the Hindostani and Javanese former indentured labourers or their descendants.

2.2.4 The First Gold Mining Boom

A new economic era dawned in Suriname with the discovery of gold in the 1870s. Concession-owning companies replaced the plantations as the major players in the colonial economy. The extraction industry by its very nature requires the operator to move on to any part of the country where the potential for mineral discoveries is good, or where forestry products can be harvested economically. In the 1870s gold miners explored locations in the remote interior. Access was by rivers flowing through the rugged interior terrain consisting of rolling hills on the ancient Guiana Shield covered with tropical rain forest. The many cataracts and waterfalls in the interior rivers make navigation and the transportation of cargo a major challenge.

With the decline of the plantation economy almost complete, the country had a pressing need for new sources of State income. The determination to develop new economic opportunities was strong, and this meant incursions into the traditional settlement areas and those of the kin-based societies of the interior. At the end of the 19th and the beginning of the 20th centuries the reconnection of the coastal area and the interior built up momentum. First came the gold boom, which petered out rather quickly after a production peak of 1,200 kilograms in 1912. During this short interlude, however, a 180-kilometre railroad was built linking Paramaribo to the gold fields along middle Suriname River, an area populated by Saramaka Maroons. With the incursions of gold mining companies into the territories of the kin-based societies around 1900, a process was set in motion that would see competition for natural resources grow stronger and stronger as the 20th century unfolded.

2.2.5 Emergence of the Bauxite Industry

Soon after the decline of the gold industry a new mineral began to play a leading role in the Suriname economy. At the end of 1916 representatives from Aluminium Company of America (ALCOA) established the Surinaamsche Bauxiet Maatschappij (SBM, Suriname Bauxite Company) in Suriname. During the years that followed they bought up many of the known bauxite deposits and in 1925 the SBM started constructing a mine in Moengo, an abandoned Ndyuka Maroon village, about 100 kilometres east of Paramaribo, along the Cottica River. A few years later, in 1926, the SBM bought the Rorac mine along the Suriname River some 30 kilometres south of Paramaribo. Several other mines would be developed in this area in the years to come. In 1938 a Dutch bauxite company (N. V. Billiton Maatschappij) was established in Suriname. The high demand for aluminium during World War II saw production peak in 1943 at 1,660,000 tons. Production dropped immediately after the war, only to increase again to over 3 million tons by 1953. In 1964 the production of bauxite topped 4

million tons, two years later it was 5 million. Peak production was achieved in 1973, when Suriname produced almost 7 million tons.

2.2.6 Hydropower and Aluminium

In the 1960s ALCOA built a US\$150 million dam for the production of hydroelectric energy at Afobakka, some 100 kilometres south of Paramaribo, which created a 1,500 square kilometre lake. Some 6,000 Saramaka Maroons were forced to relocate to existing villages above the lake or to newly created transmigration villages below the lake. An alumina¹ refinery and an aluminium smelter were built at Paranam, 30 kilometres south of the capital city. The installed capacity of the aluminium smelter was 60,000 tons, but water levels in the lake did not match expectations, forcing Suralco to shut down half of the unit. In 1999 the aluminium smelter was shut down altogether, but the production of alumina remains high at about 5,000 tons per day. Today the economy of Suriname is still dominated by the bauxite industry, which accounts for more than 15% of GDP and 70% of export earnings. Nearly US\$300 million of alumina is exported annually.

Gold mining has always taken place in the interior, where the weathered basement rocks emerge above the topsoil, or where it is economically feasible for smaller operations to access the gravel layers and other ore bodies containing gold. Today gold is once again a significant revenue earner in the country, but it is also the source of massive environmental degradation including the pollution of inland waterways by small-scale mining. There is a boom in gold mining, but most of the extraction takes place in the informal sector. The government has trouble collecting taxes and royalties from the miners working in remote interior locations, and the trend has been to encourage large-scale gold mining projects foreign companies would operate in the formal economy. One such project is a US\$100 million investment in the Gros Rosebel mine, which is slated to come on line next year and produce about six to seven tons of gold per annum. The government will also be able to secure direct revenues from gold extraction through the formal sector.

Traditionally the extraction of bauxite has taken place in the old coastal plain, but as deposits in the coastal area are nearing depletion exploration for new mines is now under way in the interior. The major mines at Moengo and Lelydorp will be depleted by 2006. Other proven reserves exist in the east and west of the country. However, distance and topography make the development of these deposits costly. Options are being explored to find cost-effective ways to develop new mines. At the close of the 20th century both gold and bauxite mining companies are moving further into the traditional territories of the kin-based

¹ The intermediate product in the process of extracting alumina from bauxite.

societies and competition for natural resources has grown significantly stronger.

2.2.7 Modern Mechanised Agriculture

In the 1950s, with support from Dutch development aid, mechanised rice farming was introduced. The Foundation for the Development of Mechanised Agriculture in Suriname was created. The Wageningen project was one of the first major initiatives in mechanised rice farming. A 5,000-hectare farm was established and some 64 Dutch families immigrated to manage individual farms. The project was very successful and by 1975 large-scale agricultural undertakings dominated the sector in terms of production. By the early 1980s production in the rice sector peaked at 300,000 tons of wet paddy.

In the 1960s production of bananas became increasingly significant. Two large plantations were established, one west of Paramaribo at Jarikaba, and one in Nickerie. Regular export to Europe took place with ships built especially for the transport of the fruit that would ripen while in transit. In the 1970s two palm oil plantations were established, one in Victoria, some 80 kilometres south of Paramaribo, and the other at Patamacca, some 40 kilometres south of Moengo. The palm oil factory was established at Victoria, and in addition to local consumption Suriname began to export palm oil.

2.3 Political and Economic Challenges

In 1975 Suriname became independent. A bilateral treaty fund was set and was worth about US\$1 billion at the time. The post-independence period was one of optimism for the bauxite industry and the treaty fund assured a steady foreign currency income. The Government assumed the lead role in the development of the economy and began investing hundreds of millions of dollars in the Kabalebo project — a project to mine bauxite in Western Suriname. Another hydro-lake was anticipated, several times larger than the Brokopondo Lake, that would provide energy to an alumina processing plant and an aluminium smelter. A 60-kilometre railroad would connect the mine site in the Bakhuys Mountains to the Corantijn River. The railroad was built, but the dam and the processing plants were never built. A few years after the project idea was launched, pessimism set in. Questions began to surface about the preparation of the project. Certain fundamental issues were not resolved yet, such as the water rights agreement with Guyana to divert water from the Upper-Corantijn to the lake. Funding was also an issue. Only a small portion of the large investment needed to complete the project had been secured.

A labour conflict between the military and the Government came to a head when the leaders of an effort to establish a union in the military were jailed. On February 25, 1980, the military took over the country. Human rights violations during the seven years of military rule that followed prompted the Dutch to suspend development aid. In 1986 an internal war broke out

initially pitting a group of rebel insurgents against the military. In 1989 the conflict expanded and several other contra-guerilla groups became involved. During this conflict millions of dollars of damage was done to industrial and agricultural facilities in the rural and interior areas.

In 1987 democracy was restored and the traditional political parties returned to power with a landslide election victory. In 1990 the military removed the elected government for the second time, but within six months a plebiscite was held and a democratically elected government was sworn in. In 1992 a peace accord was signed with the guerilla groups, and the government gradually restored its authority in the rural and interior areas. The decade of turmoil, however, took its toll and the economy suffered significant setbacks. The Suriname florin declined in value by over 1,000% and this trend continued to this date. Today the Suriname florin is again declining in relation to the US dollar; the parallel market rate has passed 3,200 and continues on a downward trend. During the 1990s the rice production figure declined from the peak in 1982 of 300,000 tons of wet paddy to less than 200,000 tons. The palm oil plantations established in the 1970s would go out of business and both banana plantations would also cease production.

2.3.1 Animal Husbandry

Both the young and old coastal plain are suitable for animal husbandry, and large cattle farms have been established near the sea and up to the transitional zone between the old coastal plain and the interior region. Chicken and hog farms are scattered throughout the coastal area. The chicken industry is growing but had its ups and downs during the past two decades, particularly from competition of cheaper chicken imported from the United States. During the 1990s the herd of cattle has increased. A significant investment was recently made in a modern meat processing plant in order to comply with the more stringent export requirements, but the plant was unable to start production and went into receivership.

2.3.2 Fisheries and Aqua-Culture

Shrimp production and export from coastal fishing was an important export commodity, but during the 1980s and 1990s catches have declined significantly, probably from over-fishing and destruction of the fragile breeding areas. Alternatives are being developed. Along the coastal area several shrimp and fish farms have been established and it is estimated that in five to ten years the export value of shrimp produced on farms may actually bypass that of fish caught in the sea. Suriname is making an effort to control its maritime resources on an ongoing basis, but the vast area to be policed and limited resources hamper this effort.

2.3.3 Oil

While overall the economy stagnated or declined during the 1980s and 1990s, Suriname's small oil industry has been a success story. In the 1960s deposits of oil were found along the young coastal plain near the small town of Calcutta in the District of Saramaka. In December of 1980 the State Oil Company was incorporated and over the years this company has managed to secure the necessary expertise in technique and management to become a steady producer of the reserves that were subsequently located. Of the 170 million proven reserves some 42 million have already been produced. At this time the Tambaredjo field operated by the State Oil Company produces 12,250 barrels of crude a day. Suriname boasts a small refinery that produces diesel, heavy vacuum gas oil, fuel oil and asphalt-bitumen. The annual turnover is about US\$100 million with a gross profit of \$37 million. The prospects for larger offshore oil deposits are promising, but to date no commercially viable deposits have been discovered.

The State Oil Company has an excellent record in dealing with land access issues. Many of the oil wells are located on rice farms or private property. A 60-kilometre pipeline runs through private properties. The company has been successful in securing the co-operation of private owners and this is in large part due to a good company policy on public relations and tactful handling of claims. To date the company also has a good environmental record. It has developed a sound environmental policy and secured the resources and trained the manpower to implement this agenda.

2.3.4 Forestry

The country has one of the highest percentages of tropical rain-forest cover in the world. About three quarters of the surface area, between 14 and 15 million hectares, is covered with rain forest, making the country an attractive source of tropical hardwoods. The 1990s saw several foreign investors secure major timber concessions in the interior, but most of these companies have not fared well or have gone out of business. Several conflicts emerged when timber companies secured concessions in areas farmed by Maroon or indigenous peoples, and significant environmental resistance has been voiced against the more vigorous harvesting methods of the foreign companies. The Chamber of Commerce is now active in developing joint operating schemes amongst local timber companies. Programs include training in harvesting methods as well as in the production and drying of timber.

2.3.5 Tourism

Though development in this sector lags behind other countries in the Caribbean, the number of actual tourists — as opposed to family visitors — is increasing every year. The number of nationals visiting recreation sites in the savanna belt area is also increasing substantially.

Several companies have now ten or more years of experience in operating resorts in both the savanna region and the interior. Protecting the environment around potential and actual tourism sites is a growing issue in Suriname, as the extraction industry is moving south in search of new deposits that can mature into economically viable mines. The Suriname Aluminium Company (Suralco) is now drilling for bauxite in the middle of the Brownsberg mountain range, the most important tourism attraction in Suriname. The Brownsberg Nature Park has had about 20,000 visitors last year, and this number is likely to increase in the years to come. To be sure, the bauxite industry is the backbone of the Suriname economy. The mining industry, however, extracts non-renewable resources, whereas tourism should ideally develop economically sustainable products. Therefore, though it may make sense in the short term to mine the Brownsberg Mountains for bauxite or gold, the long-term benefits of tourism will most certainly outweigh the short-term benefits of mining. The Government needs to develop a clear zoning policy for tourism and the extraction industry in the near future, so that investors will not be discouraged from developing new resorts or from maintaining existing ones.

2.4 Future Challenges

It is clear that several sectors, including large-scale agriculture, are in serious trouble and need significant technical assistance and investment to spur a revival. Other sectors such as aqua-culture and the oil industry are doing quite well and are expanding rapidly. A major investment in the formal gold mining sector is now being made and the spin-offs from this industry will have a significant impact on the national economy. Land will play an important role in all these efforts. Competition for land resources in the coastal area will also increase as efforts are made to revive existing sectors or develop new ones. It is important that good resource and land management systems are in place to facilitate these developments, but also to ensure equity and sustainable development.

The expansion of the mining and processing of bauxite, as well as the mining and refining of gold, is likely to be the country's main hope in foreseeable future, although dependence on these resources is potentially problematic. For how is the government going to guarantee security to foreign investors in a vast and sparsely populated interior that is difficult to control? Not only the economic and technical feasibility of projects should be considered, but also political factors and policy decisions that may serve as a catalyst for renewed crises in the country. For the past three decades governments in power have been confronted with increasingly vocal demands by the population of the interior to recognise their right to the land they live on and to guarantee access to and preservation of the resources they need to subsist. Moreover, both the indigenous and Maroon populations of the interior are also asking the government to recognise their right to maintain their way of life in the context of the nation-state.

The uncontrolled extraction of resources in the interior is also having a devastating impact on the environment and in some cases on the health of the local population. Hydraulic mining operations are causing massive siltation and expulsion of mercury pollution in rivers throughout the interior, often upstream from villages. The unstructured communities of thousands of miners are plagued by many social and health problems, including high crime rates, prostitution and an increase in diseases such as malaria. Uncontrolled use of malaria drugs has bred resistance and the tailing ponds have provided a new breeding environment that has greatly increased the population of the carrier. The traditional authorities do not have the means to control the situation and several conflicts, some of them violent, have occurred in mining areas.

The extraction of timber does not always take place according to prescribed regulations, both leaving devastated forests behind and also reducing the opportunity of the damaged forest to regenerate. Lumber extraction on land used by indigenous and Maroon peoples is reducing the game population and depriving these communities of the resources they need to survive. Environmental pollution such as siltation, mercury pollution and deforestation can have a negative impact on tourism. Rumours of mercury pollution are enough to scare tourists not to eat fish or to avoid certain areas. Deforestation disfigures landscapes that would otherwise serve as a tourist attraction.

TABLE 2. LOCATION OF ECONOMIC ACTIVITY

ACTIVITY	LOCATION			
	Ocean/rivers	Coastal Plain	Savanna	Interior
Fishing (shrimp/fish)	X			
Oil	potential	X		
Industry		X		
Shrimp/fish farming		X		
Agriculture (large-scale)		X		
Agriculture (small-scale)		X		
Animal husbandry		X		
Cattle		X	x	X
Construction sand	X	X	X	X
Bauxite/Alumina		X		after 2006
Tourism		x	X	X
Forestry (lumber)		x	X	X
Subsistence farming		x	X	X
Hunting/Gathering			X	X
Hydro-electric dam				X
Construction aggregate	X			X
Palm Oil Plantations				X
Gold				X

The table above lists the main economic activities in Suriname and the area or regions in which they take place. The table gives an indication of the

potential or actual areas in which competition for land, mineral and forest resources is strong.

2.5 National Land Resources

Suriname has a land area of 163,270 square kilometres. Commercial agriculture and manufacturing are confined to the coast, which is inhabited by 90% of the population although it accounts for only 10% of the total land area. Most of the bauxite mining takes place in the old coastal belt, but this will change as current reserves at these locations are depleted in 2006. New mines are being developed in the interior. Gold mining takes place further inland, mostly in the “greenstone belt”, a geological formation that runs from Goliath Berg in the north-west to more remote mining sites along the Lawa River in south-east Suriname. This geological formation covers an estimated 5 to 10% of the land area. Timber extraction was traditionally confined to the “forestry belt”, a 10-40 kilometre wide girdle that runs east-west between the coastal area and the interior zone. A well-developed road network cuts through the forestry belt estimated at 1.4 million hectares, of which 600,000 are suitable for timber extraction. This situation is changing too. Foreign investors are now developing techniques to move further south and extract timber from locations that were not considered economically viable.

An agricultural census was made in 1981, but as we can surmise from the brief historical overview of the national economy, a lot has changed during the past twenty years. Let us briefly review these figures and point to where major changes have occurred.

Of the total 16.4 million ha of land in Suriname, 1.5 million ha are considered suitable for agriculture. As noted above, the coastal plain area is characterised by low-lying land (0-4 metres above sea level) with a level topography and fertile heavy clay soils interspersed with sand and shell ridges. As the Dutch discovered during the colonial period, many locations in the coastal plain are very suitable for agricultural production when drained. The soils of the interior, on the other hand, have a shallow humus layer and are less fertile, and access is difficult and costly. The interior, however, is the setting for shifting cultivation practices by the indigenous and Maroon communities. Information on land utilisation in the interior, where root crops, dry land rice and oranges are cultivated, is not available. Although no exact figures for the areas under cultivation and the amount of fallow land on reserve are available, along the middle-Suriname River alone shifting cultivation may account for an area of 50,000 hectares or more.

According to the 1981 census approximately 120,000 ha were under cultivation in the coastal plain. In those days about 65,000 ha were earmarked for annual crops while rice was by far the most important commodity. Some 61,400 ha were devoted to rice alone. This situation has changed dramatically. Wageningen is barely surviving and needs a major restructuring and investment program. Approximately 30,000 ha — about

half the area of 20 years ago — are now in cultivation for rice. Semi-annual crops amount for about 3,000 ha of which banana covered 2,000 ha. Although there was an increase in the area in production since 1981, with the closing of the banana plantation these figures will have declined significantly. Acreage under multi-annual crops account for 7,300 ha of which palm oil trees covered 2,800 ha, coconut 1,260 ha and oranges 1,860 ha. Again, with the closing of the palm oil plantations these figures will have declined significantly. Efforts are now being made to revive the palm oil plantation in Patamacca. Pastureland is estimated at 30,000 ha, but again this figure will have changed and may have even increased.

This information clearly indicates the need for a new agricultural census, and also for a survey of the forestry and mining concessions and the land areas involved.

2.6 Land Tenure Information

There are presently five types of valid title by which rights to own land have been issued by the government: allodial ownership, absolute (freehold) ownership, lease hold, land lease and simple rent.

- *Allodial ownership and inheritable property*: This title was issued by the Dutch during the colonial period under the conditions that the land would be developed and kept in cultivation. The owner also had the responsibility to contribute to other services that would promote the welfare of the nation, including security. Land not cultivated could be returned to the domain of the State. Allodial title is treated today as absolute ownership even though this may not be legally accurate.
- *Absolute ownership (BW-Eigendom, freehold under civil law)*: This is the most complete title to land available in Suriname. There are no limitations imposed by the State; the owner has full and unlimited enjoyment of the land within the context of the law. Only a limited amount of land was issued under this title, again due to the fear that the land would be used for speculation or would be left uncultivated.
- *Leasehold (Erfpacht)*: This was the most common title issued between 1937 and 1982. The term was for a period of 75 years and the owner had to pay an annual fee. Separate leasehold titles were issued for agricultural land. In 1938 several Javanese communities in the coastal area and four indigenous villages in District of Para were issued communal leasehold titles. These titles could not be alienated or mortgaged and thus differed from the standard leasehold title. In 1981 the Village Communities Act was repealed and these titles were automatically terminated.
- *Land lease (grond huur)*: This is the only title that can be issued after 1982 and it is issued for land to be used for habitation, agriculture and animal husbandry, industrial purposes and for special purposes. The

nature of the use is specified in the title and permission must be obtained from the government to alter the intended use of the land.

- *Simple rent*: A transitional title issued by the government to individuals for land in areas of which the zoning destination has not been determined yet. Also issued in anticipation of completion of the administrative procedure to obtain a land lease title so that the person in question can begin to conduct agricultural or other commercial activities, this title is personal and not transferable.

The land tenure system of coastal Suriname was originally designed to promote and guarantee a high level of productivity in the agricultural sector. The main purpose of the agricultural enterprises established in the coastal area after 1650 by white settlers was to supply the European owners of Suriname with tropical agricultural products such as sugar, coffee, cacao and cotton, but also with exotic tropical hardwoods. Land was issued under the condition that it must be cultivated. It was noted that throughout the land tenure history of the coastal area the State reserved the right to reclaim allocated land not being cultivated by appealing to expropriation procedures. The Suriname land tenure law in effect today is still influenced by the tenure system established in the 17th century. Today the State leases land to a person under the conditions that the obligation to develop (“cultuurplicht”) is met. Though the land tenure laws changed several times during the past three centuries, the Government of Suriname always insisted on maintaining a certain measure of control over land through a development obligation and by leasing land. Land was rarely issued as private property. Even though this was possible after 1865 and specifically legislated in the Agrarian Ordinance of 1937, only about 100 private property titles were issued. Table 3 summarises the land areas involved under the various tenure regimes.

TABLE 3. LAND TENURE TITLES BY LAND AREA

Ownership	Years of Lease	Area (ha)	% of Total Allocated
National land area		16,382,000	
Allodial (freehold)	Unlimited	37,000	21.7
Private lease agreements		3,600	2.1
Leasehold (<i>erfpacht</i>)	75	46,500	27.4
Land lease (<i>grond huur</i>)	40	26,200	15.4
Other forms*		56,700	33.4
Total allocated		170,000	100.0

* Government-owned land, communal ownership.

These figures indicate that “in terms of gross magnitude of land per capita, Suriname has an abundant supply of land”. On the other hand, land that is appropriate for housing and agriculture in the coastal area is not abundant.

In the urban and peri-urban areas, where population pressure is high, most available building lots are low and have to be filled up with substantial amounts of fill-sand before construction can take place. As noted earlier, most agricultural lots require irrigation schemes with dikes and sluices to control the water supply in the dry and rainy seasons.

In 1982 a major revision of land legislation took place. During a seminar in November of 1981 to pave the way for the introduction of the new land tenure laws, the leader of the Military Authority described what he considered to be the main shortcomings of the land management system prior to the military take-over in 1980:

- Corruption, political and personal favouritism: Under the current process of allocating land prominent persons get large lots, while poor people who need the land to survive get none.
- Many who have received land have not complied with the obligation to develop the land. This is a crime because others who are eager to use land productively have been waiting for years to get a parcel.
- Enforcing the obligation to develop the land is complicated by the fact that persons who received land cannot be found, as many left the country.
- Some land that was allocated is being cultivated but not by the persons who received title. Land that was received practically free of charge is being used to exploit other persons who have to pay high rental fees for the use of these lots.
- Land originally issued for agricultural purposes was instead parcelled out into smaller lots that were sold for the construction of housing. Adequate infrastructure was not provided in these housing schemes and as a result shoddy neighbourhood formation took place.
- Poor people who do not have access to land have squatted on lots not belonging to them. Even though this is understandable, it is wrong nevertheless.
- There are thousands of requests for land pending as a result of the lengthy procedures that have to be followed to acquire a plot. Persons are waiting five years or more for a lot of land. The procedures for acquiring a plot of land are not transparent and the bureaucratic hurdles that delay the process have promoted corruption. By paying a bribe one could expedite the procedure or circumvent it altogether.
- And finally, the lack of adequate control prevents the Government from enforcing the conditions under which land was issued.

Most important, however, is the conclusion of the leader of the Military Authority that these shortcomings have led to an unbalanced development of the Suriname economy. During the next presentation this conclusion was reiterated and the speaker added that whatever the intent of the management

system, land must be an integrated component of the economic process and contribute to the prosperity of the nation. Therefore, land should be collectively owned and the right of ownership to land should reside solely with the State. As noted above, only foreign nations wishing to establish representation in Suriname would be able to obtain private property rights for embassy buildings.

From 1982 on only land lease titles would be issued, with the development or cultivation obligation. Since allodial had evolved into a strong ownership right, almost the equivalent of freehold, the State could not alter the tenure regime of these lots. On the other hand, the military government vowed to see to it that stringent controls would be introduced to ensure compliance with the development obligation for the new land lease titles that would be issued under the L-Decrees.

Table 62 on page 94 of the Buursink Diagnosis of Land Management Issues contains more up-to-date information on the number of lease titles issued for housing and agricultural use. The table on the next page lists part of these figures. As expected, most of the leases in Paramaribo are earmarked for housing and businesses (included in “other”). Both Wanica and Nickerie have a substantial number of agricultural and residential parcels. The northern zone of Wanica is peri-urban, while the District of Nickerie includes the second largest town in Suriname, Nieuw Nickerie. The districts of Saramacca, Commewijne and Coronie are clearly farming regions; almost all the leases are for agriculture. Para has about three times as much agricultural as residential leases, while in Marowijne the number of farming plots is only slightly larger than housing lots. Moengo, the third largest town in Suriname, is located in Marowijne. This accounts for the relatively large number of residential leases.

This information also gives a good idea of the recent growth rates. The leasehold titles were issued between 1937 and 1982, and from 1982 on only land lease titles were issued. In Paramaribo where room for expansion is limited, the number of land lease titles is smaller than the leasehold titles. In other words, after 1982 there was little room left for expansion. In Wanica exactly the opposite is true. Here the area of State land is considerable; the number of land lease titles issued after 1982 is about four times the leasehold titles issued before this date (6,173 versus 1,647). Another district with a substantial number of new lease titles is Saramacca (2,889 versus 513, that is 5.6:1). Commewijne has a ratio of new lease titles to old ones of about 3:1, while Nickerie, Para and Marowijne have a ratio of 2:1. Coronie went from 1 lease title to 170.

The size of lots issued to farms is another important indicator. The table below indicates clearly that Saramacca was not only the fastest growing district in terms of number of new lease titles, it also contains the highest number of large estates, followed by Nickerie and Para. The number of new leases in Para is surprisingly high, as this district is not typically associated with a thriving large-scale agricultural sector. Many of the older lease titles

are probably located on estates dating back to the colonial era. The large estates in Brokopondo include the palm oil plantation, cattle ranches and experimental farms. The table also indicates clearly that after 1982 the number of titles increased substantially for almost all sizes. In Saramacca the number of smaller estates (0-5 ha) increased over eight times, while the number of very large estates (>100 ha) went from 8 to 111.

TABLE 4. NUMBER OF STATE LEASES ISSUED BY TYPE AND LAND USE DESIGNATION

District	Land Lease (<i>Grond huur</i>)	Leasehold (<i>Erfpacht</i>)	Agriculture	Housing	Other	
Paramaribo	1,937		27	1,389	521	
Sub-totals		2,984	14	2,633	337	
		4,921	41	4,022	858	
Wanica	6,173		4,179	1,872	122	
Sub-totals		1,647	1,154	399	74	
		7,820	5,333	2,271	196	
Nickerie	2,589		1,477	1,112	0	
Sub-totals		1,234	607	627	0	
		3,823	2,084	1,739	0	
Coronie	170		170	0	0	
Sub-totals		1	0	0		1
		171	170	0	0	
Saramacca	2,889		2,749	140	0	
Sub-totals		513	482	31	0	
		3,402	3,231	171	0	
Commewijne	1,949		1,792	127	30	
Sub-totals		701	657	28	16	
		2,650	2,449	155	46	
Para	958		711	235	12	
Sub-totals		425	300	116	9	
		1,383	1,011	351	21	
Marowijne	339		239	100	0	
Sub-totals		180	43	137	0	
		519	282	237	0	
Brokopondo	25		21	4	0	
Sub-totals		9	8	1	0	
		34	29	5	0	
Sipaliwini	3		0	0	3	
Sub-totals		none	0	0	0	
		3	0	0	3	
Lease titles		24,726				
Totals	17,032	7,694	14,630	8,951	1,125	

TABLE 5. FARMING DISTRICTS WITH LARGE ESTATES
(LL = Land Lease; LH = Leasehold)

District	0-5 ha	5-10 ha	10-50 ha	50-100 ha	>100 ha	
Saramacca	LH 255	LH 87	LH 139	LH 24	LH 8	
	LL 2,154	LL 436	LL 156	LL 32	LL 111	
	2,409	523	295	56	119	
Nickerie	LH 1,192	LH 17	LH 24	LH 1	LH 2	
	LL 2,206	LL 138	LL 172	LL 19	LL 51	
	3,398	155	196	20	53	
Para	LH 313	LH 48	LH 52	LH 12	LH 0	
	LL 575	LL 192	LL 152	LL 33	LL 6	
	888	240	204	45	6	
Commewijne	LH 685	LH 4	LH 5	LH 2	LH 5	
	LL 1,861	LL 36	LL 28	LL 7	LL 17	
	2,546	40	23	9	22	
Wanica	LH 1,627	LH 6	LH 10	LH 1	LH 3	
	LL 6,627	LL 22	LL 13	LL 12	LL 1	
	7,753	28	23	12	4	
Coronie	LH 1	LH 0	LH 0	LH 0	LH 0	
	LL 104	LL 43	LL 8	LL 15	LL 0	
	105	43	8	15	0	
Brokopondo	LH 3	LH 2	LH 0	LH 0	LH 4	
	LL 8	LL 5	LL 6	LL 5	LL 1	
	11	7	6	5	5	

The next table contains estimates of the number of land tenure titles issued in Suriname during the past three centuries. In the upper portion of the table are the titles registered at the Office of State Land Registry. These include the simple rent titles and the real titles issued on State land (domain land) to individuals and to legal persons such as corporations and foundations. The real titles based on State land are leasehold (*erfpacht*) and land lease (*grond huur*). In the table these two titles are grouped under the single heading lease. The special titles are those issued under the 1982 land tenure act to hotels, restaurants and small neighbourhood shops, and also to social institutions such as churches and schools. The Office of Mortgage Registry only registers real titles including land lease and the special titles, leasehold, absolute ownership and allodial titles. Simple rent (rent in the table) is not a real title and is not registered at the Office for Mortgage Registry.

By deducting the real titles from the total number of titles registered in the street index it was possible to produce an estimate of the number of allodial and freehold titles. The absolute ownership titles are not more than 1.5 to 3% of this category. The amount of allodial titles is above 97%. That means that about 20% of the titles (about 30,000) are of the lease type and 80% allodial (about 120,000), but this category includes a small share of freehold titles.

TABLE 6. NUMBER OF TENURE TITLES IN SURINAME

District	Population	Registers	Rent	Lease	Special	Total	/1000
Paramaribo	233,882	68	200	5,000	216	5,416	23
Wanica	77,115	160	4,940	10,486	351	15,777	205
Nickerie	34,464	77	1,270	4,500	220	5,990	174
Sipaliwini/ Brokopondo	32,735	3	42	45	4	91	3
Commewijne	22,012	34	635	1,700	43	2,378	108
Para	15,375	42	657	1,926	96	2,679	174
Saramacca	13,695	42	600	3,400	100	4,100	299
Marowijne	13,484	12	427	868	91	1,386	103
Coronie	2,911	9	527	221	21	769	264
Totals	445,673	447	9,298	28,146	1,142	38,586	150
Street register (part of index to tenure titles)						148,069	
Number of real titles (<i>zakelijke titels</i>)				28,146	1,142	29,288	
Allodial and absolute ownership						118,781	

This table provides some fundamental insights about the land tenure situation in Suriname. As expected, in terms of the issuing of recent titles (land lease and leasehold) the land tenure situation in urban Paramaribo shows that very few people own land — only 23 per thousand inhabitants possess some type of deed. This number might even be lower, because wealthy persons and corporations own more than one lot. This means that the demand for housing can be expected to be very high, a situation corroborated by the high rents charged in Paramaribo and the extreme shortage of housing in the city.

The table also shows that persons living in Nickerie, Wanica, Commewijne, Saramacca, Para and Coronie fare rather well in terms of land tenure titles. About 200 persons in one thousand possess a simple rent or lease-type title. However, the number of simple lease titles is rather high, about one third of the total. This might deter investment in agricultural production and animal husbandry, because the possessor of a simple rent title cannot secure a mortgage on the basis of this type of deed. Most of these titles have been held for many years and they should have been converted to land lease titles a long time ago.

Most significant, however, is the indication of how serious the land tenure situation is in the interior. Only 3 persons per thousand possess some kind of rent or lease title in the Sipaliwini and Brokopondo districts, and this situation entails certain political risks. Persons living in the interior will sooner or later begin to view this situation as unfair and may put pressure on the government to do something about it. It is advisable that the government make an all-out effort to remedy this substantial lag in the issuing of tenure titles to this sector of the population. The challenge, of course, involves more than issuing titles. Serious consideration should be given to the type of tenure regime that is introduced for kin-based societies

in the interior, where customary land tenure systems include substantial collective ownership components.

2.7 Land Transaction Information

An examination of the land allocation process in the Buursink Diagnosis of Land Management Issues report indicates that the land allocation process is time consuming for the individual applicant. A random selection of 21 requests indicates that an average time of 55.5 months elapsed from the moment the request was made until the registration of the property. The Buursink report indicates that the waiting times appear to indicate serious workflow or procedural problems, apparently due to the large backlogs and bottlenecks at almost every step of the process.

The table below gives an indication of the number of applications for State land and the number of leases that were issued.

TABLE 7. STATE LAND ALLOCATION APPLICATION AND COMPLETED LEASES, 1999-2001

Year	Number of Applications	Number of Leases Issued
1999	9,163	3,807
2000	8,855	4,043
2001	5,323	1,332
Total	23,341	9,182

The Buursink report notes further that the table does not show how many applications are rejected, but they suggest that each year the number of pending applications is growing, contributing to the mounting backlog and a noticeable fall in the quantity of leases issued in 2001. The Buursink report lists several reasons for this backlog. Here are some of the main issues listed:

- The search for determining if land is actually State land and free of any other application or other encumbrances is tedious and involves a manual check of the record books and parcel maps.
- It takes time to secure advice from the District Commissioner, Land Inspection and Ministries other than Natural Resources.
- The Department of Ground Inspection does not have the required staff or transportation to work efficiently.
- No time limits are set for the various steps in the State land application process.
- Absence of approved regional development plans or the localised structure or destination plans needed to efficiently evaluate requests.
- The backlog of pending applications appears to be growing.

It is clear that the institutions responsible for processing land applications need to be internally strengthened. Options for new institutional structures

should be considered and explored, and an effort should be made to eliminate or reduce the applications backlog.

2.8 Conclusion

Most fundamental, however, is the need to identify the root causes of the many land management problems in Suriname. The brief overview in this section indicates clearly that changes in the land management system throughout the history of Suriname have not necessarily contributed to the prosperity of the nation. The national economy changed considerably from time to time, but these changes rarely paralleled the introduction of new legislation or land management systems. In fact, during the entire land management history of Suriname new legislation rarely seemed to have achieved the desired goal of being a major cause of economic prosperity. The performance of the Suriname economy during the past twenty years is a case in point, as the introduction of a new land management system did little to stem the tide of economic decline. Principles should not merely be adhered to because they have always been around or appear to be drivers of economic prosperity from a purely ideational point of view. Perhaps the time has come to base a new land policy on basic principles with a proven merit in other countries or regions.

The figures presented above give some indication of options that should be explored in earnest. Table 3 suggests that just a little over 20% of the titled land area is covered by an allodial title, whereas Table 6 indicates that about 80% of the number of registered titles are of the allodial type. This suggests that a disproportionately high number of land transactions actually took place on only a small part (about 20%) of the titled land surface area. If the Government of Suriname wants to create a dynamic lands market and stimulate economic productivity by enlisting land as a catalyst in this process, more consideration should be given to the re-introduction of freehold title regimes unencumbered by unnecessary administrative restrictions inherited from a colonial past.

3. LAND MANAGEMENT

3.1 Legal Framework for Land Management

The analysis of land-related legislation in this paper is limited to the legislation that is directly applicable to the issuance of State land and which is in some cases connected to each other.

- Constitution of the Republic of Suriname
Article 34 stipulates that “property of both the public and individuals fulfils a social function”. Everybody has the right on undisturbed joy on his or her property, excepts for limits set by the law.

- Civil Code
Art. 625 deals with ownership/property rights as well as expropriation for the general good prior to compensation.
- Decrees on Land Reform
Deals with regulations to State land
- Decree on Land Valuation
This decree creates a regime on the bases of which the compensation due to Art. 28, Section 1, of the Decree on Issuance of State Land must be paid to the government in case of transfer of title rights on State land.
- Expropriation Act
In case there is the title of leasehold on the expropriated land, the compensation will be estimated in accordance with the remaining time of leasehold.
- Agrarian Ordinance
This is one of the first laws on land and deals with leasehold. With the introduction of the L-Decrees a great part of this law is abrogated.

The land titles for land allocation in Suriname were described in Section 2.6 above. Another legal issue related to land management relates to undivided estates. This problem has several implications for land use.

Undivided property leads to land that is left undeveloped and unstructured for the following reasons:

- When the owner of the plantation died years ago the heirs did not partition the estate according to inheritance laws
- In the event the owner of the plantation sold parts of the estate to former slaves, their customary land tenure regimes were often based on communal ownership, hence these parts of the estate were left undivided.
- Individuals who inherited parts of the estate did not have the resources to pay the surveyor's fees for the partitioning of the estate.

This situation is very complex and leads to a lot of problems. Because many relatives with entitlement to parcels are not living in the region or are residing abroad, it is difficult to locate all entitled relatives and to get them to agree to a partitioning scheme. Those who are present are concerned that any settlement that overlooked entitled relatives could be legally challenged in the future. A legal base should be created in order to address the undivided property.

3.2 Institutional Framework

There are five Ministries directly involved in the planning of land use and in the administration of land in Suriname:

- Ministry of Natural Resources. This ministry consists of the Departments of Land Management, Forestry, Mining and Energy.
- Ministry of Agriculture, Animal Husbandry and Fisheries. Within this Ministry the Planning Division is responsible for advising the Office of State Land Records with regard to applications filed to secure agriculture land.
- Ministry of Public Works. In this Ministry there is an Urban Planning Department with the following tasks:
 - Elaborate on national and regional plans in terms of technology and plan details;
 - Research planning and design of structure, development, parcel out and rehabilitation;
 - Advise several Ministries and District Commissioners regarding the destination of land;
 - Oversee and control on parcel projects, control and maintenance of roads and sewage of parcel projects;
 - Prepare policy on public housing.
- Ministry of Planning and Development Co-operation. The Ministry of Planning and Development Co-operation is in charge of the preparation of national development plans and the integration of sectoral and regional planning into the Multi-Annual Development Plan. The National Planning Office is a foundation that also contributes to national planning and ensures that special planning is part of the program at national and regional levels.
- Ministry of Regional Development. The regional bodies operate within this Ministry. They are governing bodies chosen during elections. Every district has a District Council and one or more Resort Councils; these bodies are also responsible for advising the Office of State Land Records with regard to requests for the allocation of State land.

3.3 Information Database for Land Management

The Government is establishing a cadastre system (GLIS — Ground and Land Information System) within a month. This five-year program is funded under the Development Aid Treaty between Suriname and the Netherlands and will cost €1 million. With the introduction of the GLIS the following objectives will be achieved:

- The possibility of introducing a real estate tax; however, the GOS has not committed itself at this time to such a program.
- Effectively parcelling in the context of destination plans.
- Minimisation of boundary conflicts.
- Ensuring an information back-up system in the event of the destruction of State land records.

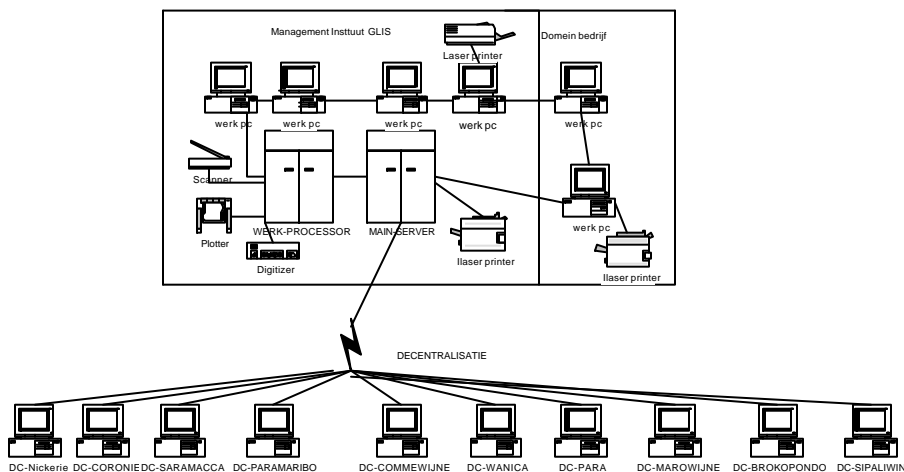
Prior to 1975 the Republic of Suriname was a colony of the Netherlands. The legal system in Suriname is based on that of the Dutch, and as a result the cadastre system in Suriname also inherited much of the Dutch system, which in turn is based on the French system, also referred to as the

Napoleonic cadastre. This is an important fact because the situation in the rest of the Caribbean is different, where land registration is based on the British titling system.

The specific objectives of the GLIS project are as follows:

- Establish a decentralised data-gathering system with units in each of the ten districts to ensure more effective and efficient data gathering.
- Re-establish a geodetic reference system.
- Carry out aerial photography and digital mapping of the coastal zone.
- Design/develop a computerised parcel-based GLIS.
- Establish data sharing platform for cadastral records registry.
- Conduct cadastral surveys.

Nowadays the Ministry of Regional Planning is establishing a decentralisation project. This project is financed by the IDB. The GLIS project is also based on the decentralisation process to give all District Officers access within their own area in the system.



3.4 National Development and Land Use Planning

Granting of land and concessions should take place within a strategy policy framework such as zoning or land use planning. Such a strategy framework is set out in the National Planning Act and the Urban Planning Act. Unfortunately, land use planning in Suriname is currently in an impasse. No national zoning is taking place; no regional land-use plans are made; no urban destination plans and structure plans are made. If they are made, they are not binding. This results in poor decision-making in the granting of land leases and concessions. The lack of land use plans and zoning plans will become more acute as the demand for land is rapidly increasing. In addition, sector ministries are free to determine development priorities, often without consultation with other ministries. Their procedures are often

not transparent, and often discussion in the community starts after the decision has been made on the administrative level

3.5 Conclusion

Although there are several Ministries involved in the land allocation process, with the Ministry of National Resources as the key Ministry, there is lack in co-ordination in land management. A consequence of the involvement of several other Ministries is that co-ordination becomes complex and cumbersome, and it takes more than a reasonable period before an application on State land is judged.

4. LAND ADMINISTRATION

4.1 Ministry of Natural Resources

The Ministry of Natural Resources has the pre-eminent responsibility in managing the nation's land resource. This Ministry has three divisions: The Land Management Department, the Forestry Department and the Mining Department. The Land Management Department consists of several sub-departments: Office of State Land Records, Office of Title Registry, Department of Ground Inspection, Cadastral Department, Central Bureau of Aerial Mapping and Department of Soil Surveys. An administrative and a technical services unit provide support to these sub-departments.

4.2 The Title Registry Office

Land is a source of welfare. The rights to land need an adequate registration for the public to find a simple way to the property they own. Land registration also gives the Government a clear insight in the properties of their own and the public so it can be a source for income and to design an effective land policy.

In Suriname all private property, leasehold and land lease (deeds) are registered at the Office of Title Registry (Mortgage Registry Office). The Office of Mortgage is the only office that keeps records of deeds, as required by law. Leasehold is a real right issued as early as 1690 while land lease (1982) is the only title issued by the State as a real right for certain land purposes such as housing, schools, stores, agriculture industry and for social and recreational purposes.

The main obligations of the Mortgage Registry Office are to:

- Register all legal actions with regard to immovable rights;
- Supply on request of an individual the information relating to immovable rights;
- Store the public records, hence the authentic source documents can be traced historically.

4.3 The Office of State Land Records

State land which has been granted must be registered at the Office of State Land Records with the following tasks:

- Registration of all State Land,
- Demarcation and mapping of lands, and
- Advising the Government on the issuance of State land.

In this office the real rights of leasehold and land lease are registered as well as the personal rights such as simple rent and simple use. At this office the total allocation process of State land takes place. This process requires advice from several land-related agencies. The Land Reform Law (L-Decrees) is currently the most relevant product of legislation for the issuance of State land.

4.4 Land Inspection

Each parcel of State land issued to a person or company is done under certain conditions. If the obtainer doesn't fulfil the conditions, the Government is entitled to take these parcels back. The Department of Land Inspection which inspects land does this with a small number of employees by car. That's why it is impossible to inspect the total country. A more sophisticated method is needed to perform this task.

Squatting is a common phenomenon in Suriname, and is considered a social problem that needs to be addressed structurally. This problem is also the responsibility of the Department of Land Inspection. On the one hand there are people that are in need of land and are not willing to follow the Government procedure to obtain a title on a piece of land. On the other hand there are people who do follow the procedures, only to discover that the land or house that they have obtained is occupied illegally. There are two forms of squatting merged:

- Organised illegal occupants who use services of a surveyor to set out the lots (there are indications that political party members sometimes lead the organised illegal occupants);
- Unorganised illegal occupants that are not united and occupy the land haphazardly.

4.5 Conclusion

Co-ordination between the various land management departments of the Ministry of Natural Resources should be improved. It is not possible to adequately survey, assess, allocate and manage State lands without adequate resources. This information is an important tool to help decide what land areas should be allocated for residential, agricultural, industrial or other use, and what land areas should not be allocated for various reasons, such as environmental considerations. In addition, the development of the modern Ground and Land Registrations System (GLIS) can help solve the

many management problems associated with land that has already been allocated.

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Country Diagnostic Studies

ANTIGUA & BARBUDA: Land Policy, Administration and Management: Country Experience.

Allan N. Williams

EXECUTIVE SUMMARY

The State of Antigua and Barbuda comprises three islands (Antigua, Barbuda and Rodonda) with a total land area of 442 km² (68,374 acres). Antigua & Barbuda is probably the Organisation of Eastern Caribbean States (OECS) member state that has moved the farthest from its agricultural base. In 1960, agriculture accounted for 40% of the Antiguan economy, primarily in the form of sugar production. Today tourism accounts for 60% of GDP with Agriculture contributing 3.6% (2001).

However, Antigua & Barbuda did not make the transition to a tourist-based economy without leaving in its wake serious land use problems. The Government is the largest land-owner in Antigua, owning about 42% of the land, while 32% is privately owned. The 1985 data were unable to establish the ownership of almost 16,000 acres of land.

The economic challenges facing the country of the future fall into two categories, both of which will require pro-active State policies. One challenge is to maintain the attraction of the country's tourism industry. This requires the Government of Antigua & Barbuda to be continuously engaged in efforts to maintain "the integrity of the natural resources".

The other challenge is that of overall balanced growth in the society at large. Although ties between agriculture and tourism are growing, they are still fairly weak. While both food and total imports increased considerably, the persistent and relatively high imports of food suggest the lack of a firm bond between crop production and domestic food consumption. Unbalanced growth in the economy is also being expressed in the rapid migration of labour away from agriculture, the abandonment of large farms and a plethora of landless livestock operators. Housing demand in the urban areas is becoming a critical concern. Antigua & Barbuda may not be an agricultural economy, but its land policies are essential to sustaining economic growth.

Antigua & Barbuda has no less than 23 pieces of legislation to assist the State in the planning, administration and management of its land resources. All land in

Antigua is now registered under the Registered Land Act, Cap. 374, passed in 1975. Such evidence as there may be of a smooth operation of the Land Registry under this Act, however, is not easily available. There are reported numerous applications for the rectification of the Register and claims that the records are not up-to-date. The last reported total of parcels registered is 41,000.

There are several Government units involved in the actual planning and management of land. The major units are the Development Control Authority (DCA), the Lands Division of the Ministry of Agriculture and the Central Housing and Planning Authority (CHAPA). Each interprets its mandate in specific ways leading to much ambiguity about land policy.

Security of tenure is a very important land issue in Antigua and Barbuda because it points to the integrated nature of land access and changing land use patterns. The majority of available land for farming is owned by Government and is available to farmers only on short-term leases (one year). This is mandated by the relevant legislation (Crown Land Act, Cap. 120). The inability to obtain leases for longer periods hampers investment opportunities, as Government-leased lands cannot be used as collateral for loans.

The peculiar aspect about land access in Antigua and Barbuda is that most of the laws and institutions assume that the pressing need is for land for agricultural purposes. This could not be further from the truth. The demand for access to land, at least by the poor, has been largely for shelter and settlement. This is a demand that is coming from the necessary expansion of villages and the migration into the St. John's area. Indeed the 60/40 urban-rural division shows this up in a dramatic manner.

With the Government owning a majority of the available arable land, and mounting pressures for their conversion into alternative uses, a clearly articulated and consistently implemented land policy is essential to the success of any medium-term economic strategy.

1. INTRODUCTION

1.1 Background

The State of Antigua and Barbuda comprises three islands (Antigua, Barbuda and Rodonda) with a total land area of 442 km² (68,374 acres). Antigua & Barbuda is probably the OECS member state that has moved the farthest from its agricultural base. In 1960, agriculture accounted for 40% of the Antiguan economy, primarily in the form of sugar production. Since the 1980s, the economic development strategy has focussed on exploiting the country's main natural resources, namely, climate, numerous white sand beaches, coral reefs and sailing season. The objective has been to promote tourism through the construction of hotels, airports and cruise-ship facilities. Today tourism accounts for 60% of GDP with Agriculture contributing 3.6% (2001).

TABLE 1. ANTIGUA & BARBUDA BASIC INDICATORS

Population (Year 2000)	68,487	Real GDP (EC\$million) 2000	\$1,240.5
Urban Population	60%	GDP Growth Rate (avg. 97-'00)	2.7%
Population Density (per sq. mile)	445.5	Total Area (acres)	68,374
Population Density in Capital City	8,296.9	Government-owned	42%
Life Expectancy	75.0	Privately Owned Land	32%
Antiguan Active Labour Force (1996)	22,075	Unestablished Ownership	23%
Immigrant Work force (1996)	7,546	Land in Agricultural Production	5%

Source: OAS/GOA Natural Resource Assessment Project, 1985; Draft National Physical Development Plan, vol. 2; OECS Human Development Report 2002.

However, Antigua & Barbuda did not make the transition to a tourist-based economy without leaving in its wake serious land use problems. The island of Antigua itself is about 280 km²; the sister-island Barbuda is 165 km². (The third island, Redonda, is a rocky volcanic island, 35 miles south-west of Antigua, measuring about 1 km². Redonda is uninhabited.) The Government is the largest land-owner in Antigua, owning about 42% of the land; 32% of the land in Antigua is privately owned. It is noteworthy that the 1985 Census was unable to reveal the ownership of almost 16,000 acres of land. In other words the cadastre is unable to identify any private ownership of 23% of the country's land (parcels under 25 acres) and there are no records indicating Government ownership of it either¹.

1.2 Economic Performance

In terms of economic performance, the tourism sector dominates the economy of Antigua & Barbuda, accounting for 74% of GDP in 2001. Agriculture accounts for only 4% and is focussed on the domestic market. This sector, however, is severely constrained by a limited water supply and a labour shortage stemming from the lure of higher wages in tourism and construction work. Manufacturing (2.3% of GDP) comprises enclave-type assembly for export with major products being bedding, handicrafts and electronic components.

The economy of Antigua & Barbuda, like all other OECS economies, is vulnerable to external shocks such as hurricanes and international events. Hurricane Georges in 1998 and Lenny in 1991 created difficulty for the tourism sector and weak tourist-arrival numbers in 2000 have slowed the economy. Growth in services, which had averaged 6% during the decade of 1981-91, fell to 3.1% in the subsequent period (1991-2001). Prospects for economic growth in the medium term will continue to depend on income growth in the industrialised world, especially in the United States and Europe, which collectively account for over two thirds of all tourist arrivals.

¹ Lemel et al., 1988, Table 1, p. 4.

TABLE 2. STRUCTURE OF ANTIGUA & BARBUDA ECONOMY (% OF GDP)

	1981	1991	2000	2001
Agriculture	6.8	4.2	3.9	4.0
Industry	18.5	20.9	20.2	21.1
Manufacturing	5.0	3.0	2.3	2.3
Services	74.8	75.0	75.8	74.9
Average Annual Growth	1981-91	1991-01	2000	2001
Agriculture	2.4	0.8	5.6	0.9
Industry	10.9	5.0	6.3	3.3
Manufacturing	2.7	1.8	3.0	3.2
Services	6.0	3.1	1.3	-0.7
GDP	6.9	3.4	2.5	0.2

Source: World Bank estimates.

1.3 Economic Challenges

The economic challenges of the future fall into two categories, both of which require pro-active State policies. The first challenge to Antigua & Barbuda is to maintain the attraction of the country's tourism industry. This requires large public-sector investments in tourism-related projects such as rehabilitating roads, maintaining the public utilities infrastructure, upgrading the airport etc. It also requires the Government of Antigua & Barbuda to be continuously engaged in efforts to protect the physical environment, monitor the quality of coastal waters to protect the marine environment and introduce and enforce legislation that will provide instruments to maintain "the integrity of the natural resources". The Government of Antigua & Barbuda will find this task a challenge, given its weak public finances and its overall fiscal deficit, which rose from 5% of GDP in 1998 to 9¼ % in 1999.

The second challenge is that of overall balanced growth in the society at large. Although ties between agriculture and tourism are growing, they are still fairly weak. While both food and total imports increased considerably, the persistent and relatively high imports of food suggest the lack of a firm bond between crop production and domestic food consumption. Growth of the economy in combination with the decline in agriculture has led to a rapid migration of labour away from agriculture, the abandonment of large farms and a plethora of landless livestock operators. Housing demand in the urban areas is becoming a critical concern. Antigua & Barbuda may not be an agricultural economy, but its land policies are essential to assuring resilience in its economic future.

2. LAND AND THE ECONOMY

2.1 Land Resources

The island of Antigua has three distinct geographic regions. The volcanic region is in the south-west of the island and is the highest in elevation. The central plain region, located between the volcanic and limestone regions, consists of gently rolling hills. The region stretches from the capital city, St. John's, in the west to Willoughby in the south-east. The northern and eastern part of Antigua and many of the islands off the western coastline are part of the limestone region.

The island of Antigua occupies a total area of 69,120 acres delineated in more than 41,000 land parcels. Of the total land area, 18% is considered suitable for agriculture. After the decline of the sugar industry, Government acquired 14,000 acres of land and other assets of the Antigua Syndicate Estates and the Antigua Sugar Factory, bringing its total ownership to about 41% of the land. Another 32% of the land is in private ownership, with the ownership of 23% of the land unspecified.

Under the 1904 Barbuda Ordinance, all land in that island is vested in the Crown on behalf of the people, in perpetuity. The legislation and its by-laws provided access for Barbudans to use the island's land for agricultural use, except for that land which has been set aside for public purposes.

The Government of Antigua has identified for conservation a series of parks and beaches as part of the resource endowment to its tourism industry. These include:

- **National Parks**
 - Nelson's Dockyard National Park
 - Parham Harbour and North Sound (proposed)
 - Parham Town Historic District
 - Northeast Coast Management Area (NECMA)
 - The Bird Island Marine Reserve and Wildlife Sanctuary (BIMRWS)
- **Marine Parks**
 - Diamond Reef Marine Park in Antigua (4,942 acres/2,000 ha)
 - Palaster Reef Marine Park in Barbuda (1,236 acres/500 ha)
- **Other Parks Declared**
 - English Harbour/Falmouth region (117 acres/47 ha — now part of Nelson Dockyard National Park)
 - Long Bay Indian Creek area (not specially managed nor protected)
 - Botanical Gardens (Botanic Gardens Act 1985)

Antigua is also known for its many beaches. Significantly, Government has decided to restrict any development on eight (8) such beaches. The following beaches were so designated by Cabinet in November 1998:

- Pigeon Point
- Ffryes Bay
- Halfmoon Bay
- Fort James
- Darkwood
- Jabberwock
- Long Bay
- Morris Bay

With the exception of Fort James, the boundaries of these beaches are still to be established, surveyed or gazetted.

The development of the country's land/natural resources continues to reflect a strategic commitment to the development of the tourism sector of the economy. However, there is a growing awareness that the needs of the general population, particularly for housing, productive land and personal assets, must also be addressed.

2.2 Changing Land Use

The development of the tourism sector is clearly reflected in the changing land use pattern in Antigua & Barbuda. Prior to 1975, the most prevalent use of land was in agriculture and livestock grazing. Between 1946 and 1983, the percentage of the labour force employed in agriculture fell from 46% to 9%². This is clearly reflected in the decline of land in agriculture from 24,891 acres in 1964 to 5,501 acres in 1985. Furthermore, most of the employment in agriculture in 1985 was in small livestock holdings utilising over 26,000 acres of pasturelands.

The transformation in labour force utilisation is also reflected in the new uses of land. By 1985, 60% of the work force was employed in public or private services including 23% in tourism and trade. This is surely reflected in 1,133 acres utilised in hotels and golf courses. The expansion of these facilities continued into the 1990s with the total acreage increasing by 138% (1995).

Currently, most agricultural land is left idle or is under low-intensity agricultural use. The failure to fully exploit areas with the potential for agriculture has left such lands vulnerable to encroachment by urban development and squatting. Encroachment of built development on good quality agricultural lands continues to occur, especially in St. John's Parish (Paradise View, Weatherhills, Cedar Grove, Woods Centre and new Winthropes), but to a lesser extent also in rural areas. Villages in the southwest are located at the fringe of prime agricultural lands. These villages include Liberta, Swetes, Jennings/Ebenezer, Bolans, Urlings, Old Road and Crab Hill/Johnson's Point. As these villages expand they will inevitably encroach on former agricultural lands.

² Lemel et al. 1988, p. 3.

TABLE 3. COMPARATIVE LAND USE, 1961–1995

Land Use Categories	1961	1964	1975	1985	1995
Agricultural (Crop)	15,884	24,891	9,259	5,501	7,740
Livestock (Grazing)	6,221	20,046	14,420	26,252	13,482
Woodland	9,394	25,780	22,440	23,645	22,024
Urban/Rural Areas			4,520	6,627	17,189
Industrial			300	381	584
Hotels, Golf Courses				1,133	2,699
Recreation and Historic Areas				714	1,558
Airports and Military				935	763
Dams and Reservoirs			435	635	n.a.
Swamps and Mangrove			1,125	2,164	2,142
Total				67,987	68,181

Source: Soil and Land Use Report (Hill, 1966); National Land Use Plans (UNDP, 1975); Wirtshafter, 1988; Land Use Survey (DCA, 1995).

2.3 Land for Housing

According to the 2001 Preliminary Census Report, there were 24,462 private household units in Antigua & Barbuda, an increase of 25.4% since 1991; 32% of the dwelling units were located in St. John's City (7,889) and 28% in the parish of St. John's Rural (6,861). Growth of 53% characterised St. John's Rural as persons continue to settle closer to the city.

Antiguan officials are of the opinion that there is an artificial scarcity of residential land in Antigua³. This, they believe, is created by:

- Private land owners who are unwilling to sell land for housing but rather hold land as a means of financial security and to pass on to their children;
- The existence of much undeveloped land in approved sub-divisions or which has been allocated to locals and foreigners who are unable or unready to develop them.

This “artificial scarcity” is reflected in high prices for land and housing which puts them beyond the reach of low-income earners. Regardless of whether the officials regard private asset decisions as speculative, most Antiguans have looked to the Government to provide land for housing.

Government-owned land is concentrated in the north-east and south-east parts of Antigua where it was held in large contiguous parcels at the time of the 1985 survey. Since that time, much land has been sub-divided and transferred (by sale and lease) to the private sector for residential development and for agricultural use. Allocation of Government lands for development has been carried out by two main agencies, viz., the Lands Division of the Ministry of Agriculture and the Central Housing and

³ This opinion is expressed in the National Physical Development Plan, 2001.

Planning Authority established under the Slum Clearance and Housing Act, Cap. 404, passed in 1948.

TABLE 4. NUMBER OF PRIVATE HOUSEHOLDS BY PARISH

Parish	1991	2001	% of Total	% Change
St. John's City	7,532	7,889	32.25%	4.74%
St. John's Rural	4,477	6,861	28.05%	53.25%
St. George	1,458	2,223	9.09%	52.47%
St. Peter	1,077	1,472	6.02%	36.68%
St. Phillip	924	989	4.04%	7.03%
St. Paul	1,929	2,503	10.23%	29.76%
St. Mary	1,712	2,069	8.46%	20.85%
Barbuda	392	456	1.86%	16.33%
Total	19,501	24,462		

Source: Antigua & Barbuda Preliminary Census Report 2001, Table 9.

During the 1980s CHAPA built some 441 units on Government land, mainly former sugar estates. During the 1970s and 1980s CHAPA undertook many other projects including housing for the urban working class and the middle class. The Lands Division, on the average, undertakes each year three housing schemes of 25 acres and approximately 137 housing lots in each scheme. Thus on average the Lands Division creates 411 housing lots using almost 75 acres each year.

3. ASSESSMENT OF LAND EXPERIENCES

Antigua & Barbuda has no less than 23 pieces of legislation to assist the State in the planning, administration and management of its land resources (see Appendix 1). These laws fall into the categories of:

- Land Administration,
- Planning Laws,
- Environmental Control, and
- Natural Resource Management

3.1 Land Administration

All land in Antigua is now registered land. The Registered Land Act, Cap. 374, passed in 1975, facilitated this process. A project was undertaken between 1975 and 1980 to create a new cadastral system, which currently serves as the basis for the Land Registry. The process was carried out under the Land Adjudication Act, which provided for extra-judicial resolution of title and boundary disputes for the purpose of first registration.

The registration system should provide some level of control to land development. The expected practice is that the Registrar would not record any sub-division without the written approval of the Development Control Authority. However, it appears that the Registrar without the approval of the DCA can undertake sub-divisions, pooling or re-parceling of land⁴.

The evidence of a smooth operation of the Land Registry under this Act is not easily available. There are reported numerous applications for the rectification of the Register and claims that the records are not up-to-date. The last reported total of parcels registered is 41,000.

The controls regarding registration apply in the case of Crown/State Lands in Antigua. Here the registration is compulsory. Thus, regardless of the agency to which the Crown lands are assigned, title documents for such lands will exist. The situation, however, is different in respect to Barbuda. The traditional position has been that all land in Barbuda is vested in the Crown on behalf of the people of Barbuda in perpetuity and that all the inhabitants of Barbuda are deemed to be land tenants. Under the Barbuda Act, Cap. 42, the Barbuda Council is empowered to allot, distribute and divide land in the village of Codrington amongst the villagers and to set aside and divide into plots agricultural land for cultivation by villagers, with the consent of Cabinet. This has led to some conflict between the Barbudan community and the central Government of Antigua & Barbuda with respect to Barbudan land and its control.

3.2 Land Use and Development Control

There are several Government units involved in the actual planning and management of land. The major units are the Development Control Authority, the Lands Division of the Ministry of Agriculture and the Central Housing and Planning Authority. Each interprets its mandate in specific ways.

The Development Control Authority exerts its influence through the granting of permission to develop any parcel of land in Antigua. Planning permission is not required for development of “Agricultural Lands” and although the DCA does express some concern about the loss of agricultural land to non-agricultural uses, it does not see itself as playing any significant part in this addressing this issue. The DCA does have “zoning maps” but these are not instruments of planning. The expressed hope is that the new “National Physical Development Plan” will identify land which will be zoned.

⁴ Discussion of this issue is expressed in Nelleen Rogers Murdoch, “Legal Report for Antigua and Barbuda”, March 2002, p. 56, as part of the programme of Assistance in the Development of Land Use Planning and Agricultural Production Zoning in the OECS, an FAO project.

TABLE 5. AGENCIES INVOLVED IN LAND MANAGEMENT

AGENCY	MINISTRY	LEGISLATION	FUNCTIONS
Development Control Authority (DCA)	Works and Public Utilities	Land Development and Control Act No. 15 of 1977	Development application review and approval; development surveillance.
Central Housing and Planning Authority (CHAPA)	Prime Minister's Office	Slum Clearance and Housing Act (Cap. 277) of 1948	At one time CHAPA functioned as Government's primary residential land allocation agency, but some of its functions have been assumed by the Lands Division, Ministry of Agriculture; Current concern is the implementation of low-income housing schemes.
Lands Division	Ministry of Agriculture	The Crown Lands (Regulation) Act (Cap. 130) of 1917	Planning and allocation of Government lands for residential, agricultural and other land use purposes; administration of Government of Antigua & Barbuda land leases and rentals.
St. John's Development Corporation	Prime Minister's Office	St. John's Development Corporation Act of 1986	Upgrading of downtown St. John's through urban renewal and implementation of other development projects (e.g. Heritage Quay, a tourism complex including shopping, hotel and cruise-ship berthing facilities).
National Parks Authority (NPA)	Ministry of Tourism	National Park's Act of 1985	Development and management (including development control) of national parks, at present limited to Nelson's Dockyard National Park.
Antigua & Barbuda Port Authority	Ministry of Finance		Development and management of lands at St. John's Deep Water Harbour.
Industrial Development Board	Ministry of Trade, Industry and Commerce	Industrial Development Board Act (Cap. 379)	The Board's main function is to facilitate the economic development of Antigua & Barbuda. It is responsible for management of the Industrial Estate at Coolidge and for providing assistance to small businesses.

Source: Draft National Physical Development Plan.

The Central Housing and Planning Authority was originally responsible for land use planning under the old Town and Country Planning Act, Cap. 432. CHAPA has lost most of its land distribution functions to other agencies

and is currently primarily concerned with developing infrastructure and building houses for low-income clients.

The Lands Division of the Ministry of Agriculture is now the main agency responsible for the re-allocation of Crown/State lands to residential, agricultural and industrial uses. The Division administers the leases on these lands.

For the most part, leases are used in respect to the agricultural development programmes. Rental levels are established by the State and are not determined by market conditions. Leases may range up to 5 years and can be withdrawn if the lessee is not fulfilling the conditions specified for use of the land. There appears to be very little formal eviction of lessees in default, with the result that land is sometimes re-assigned with more than one person having legitimate claim to the same parcel of land.

Sales of land occur in respect to housing, condominium and hotel development. Sale prices for private lands are usually expected to be about three times that of State lands in similar locations.

4. LAND ISSUES

4.1 Multiple Administrative Mandates

One of the first indications of the institutional complexity in the administration of land in Antigua is the co-existence of four institutions with overlapping mandates.

The main institution for the development and control of land is supposed to be the Development Control Authority. DCA has the responsibility to prepare development plans for Antigua and Barbuda and to grant permits for the development of land⁵. The Draft Physical Planning Act also positions the DCA as the central agency. However, agricultural lands remain the clear mandate of the Ministry of Agriculture and the DCA's permission does not extend to them.

A similar mandate, however, still remains in the predecessor to the DCA, i.e. the Central Housing and Planning Authority. CHAPA, which was established by the Slum Clearance and Housing Act, Cap. 404, was the instrument for "Town and Country Planning" prior to the DCA. Although CHAPA does not issue permits, it receives Crown lands and establishes housing units. As a practical matter, it is one of the main instruments for changing land uses in Antigua.

The St. John's Development Corporation (SJDC) further complicates the situation. It was created by the St. John's Development Corporation Act and

⁵ DCA's mandate is expressed in the Land Development and Control Act, Cap 207.

is empowered to carry out construction, maintenance, building and engineering operations within the capital city of St. John's. SJDC has the authority to prepare a development plan for the designated area and to set out the manner in which land in that area is to be used and laid out.

Finally there is the Lands Division of the Ministry of Agriculture. Its mandate is to plan and allocate Government lands for residential, agricultural and other land-use purposes and to administer land leases and rentals on behalf of the Government of Antigua & Barbuda. This is a significant mandate, as the Government owns 42% of the land, including land most suitable for agriculture.

In the absence of clearly enunciated land policy relating to land use, these three agencies tend to act independently of each other. The end result is that land use policy is made by fiat.

4.2 Security of Tenure

Security of tenure is a very important land issue in Antigua and Barbuda because it points to the integrated nature of land access and changing land use patterns. Insecure tenure plays a big role in:

- The under-capitalisation of small-holdings and their inability to provide a livelihood from agriculture;
- Destructive land clearing practices (burning of vegetation);
- Erosion and chemical use in the watershed areas;
- "Landless" farmers (those grazing animals);
- Undirected expansion of villages and the lost of agricultural land.

The majority of available land for farming is owned by Government and is available to farmers only on short-term leases (one year). This is mandated by the relevant legislation (Crown Land Act, Cap. 120). The inability to obtain leases for longer periods hampers investment opportunities, as Government-leased lands cannot be used as collateral for loans.

With respect to privately owned land, the Agricultural Small Holdings Act, Cap. 72, regulates contracts of tenancy between private land owners and tenant farmers, on parcels of land measuring between $\frac{1}{4}$ acre to 25 acres and intended for cultivation or pasturage. The basic idea of the Act was to protect individuals from arbitrary termination of their leases, to have such leases lodged in the Land Registry and to establish an Agricultural Rent Board and a "Register of Agricultural Small Holdings". In actuality, no such register appears to exist and such leases are seldom lodged with the Registrar.

4.3 Access to Land

The peculiar aspect about land access in Antigua and Barbuda is that most of the laws and institutions assume that the pressing need is for land for agricultural purposes⁶. This could not be further from the truth.

The 1984 Agricultural Census (OAS 1984) established that there were 4,639 farmers, with more than 69% of them being part-time farmers. The total amount of land under agriculture was 6,225 acres (Barbuda accounting for 8%). Forty percent (40%) of these farms were less than 2 acres with only 55 farms in Antigua larger than 10 acres.

By the 1991 Census, only 767 persons can be identified as being employed full time in agriculture. Furthermore, it is estimated that at least 50% of the arable land that was available for agriculture since the 1960 Census has now been alienated for built development.⁷

The demand for access to land, especially on the part of the poor, has been largely for shelter and settlement. This is a consequence of the necessary expansion of villages⁸ and the migration into the urban centre. Indeed the urban/rural division shows this up in a dramatic manner.

TABLE 6. POPULATION DENSITY IN PARISHES IN ANTIGUA & BARBUDA

Parish	1991 Density ^a	2001 Density
St. John's Parish	1,352.9	1594.1
: City of St. John's	8,087.2	8,296.9
: Rural St. John's	590.1	834.8
St. George's Parish	512.6	697.0
St. Peter's Parish	299.1	377.8
St. Phillip's Parish	191.3	197.2
St. Paul's Parish	351.1	420.5
St. Mary's Parish	250.1	284.0
Barbuda	21.1	23.2
Total Area	375.8	445.5

^a Persons per sq. mile.

Source: Antigua & Barbuda Preliminary Census Report 2001.

⁶ The Land Settlement Act, Cap. 237, allows areas of Crown land to be declared as "Land Settlement Areas" to be allocated for sub-division into *agricultural small holdings* to be sold to settlers (emphasis added).

⁷ Murdoch, 2002, pp. 11-12.

⁸ Prime agricultural lands on the southern side of the island have been lost to the villages in Cedar Valley and Perry Bay.

The City of St. John's and the adjacent areas (the remainder of the Parish is referred to as Rural St. John's) comprise a land area of 28.5 sq. miles (17%) and contain 60% (45,432) of the country's population according to the preliminary 2001 Census Report. Between the 1991 and 2001 censuses, the total population of Antigua grew by 18%. Over the same decade, the population of the City of St. John increased about 2.59% while the population of Rural St. John's increased by 41.46%. There is definitely a strong migration towards St. John's City.

4.4 Land Markets

4.4.1 Land Taxes

Under the Property Tax Act, No. 15 of 2000, an annual tax is levied on land and buildings with some exemptions. It is important to note that agricultural and grazing lands are not included in the exemptions. Agricultural lands are also taxed, although this tax can be reduced by application to the Minister. With the presence also of the Land Sales Duty Act, Cap. 326, which taxes capital gains on the transfer of any land developed with the benefit of concessions, the transition of land from agriculture to alternative uses invariably attracts some form of taxation.

4.4.2 Valuation of Property

The valuation of property is set out in the Property Tax Act, and is the responsibility of the Chief Valuation Officer. However, while such valuation for tax purposes could follow the market values, many complaints are made that the State itself does not pay market value for the land that it acquires.

TABLE 7. NUMBER OF PLANNING APPLICATIONS, 1990–2002

Year	No. of Plans Submitted	Estimated Value (EC\$ million)
1990	788	\$10.213
1991	765	\$271.652
1992	705	\$271.148
1993	477	\$111.291
1994	658	\$140.046
1995	616	\$146.188
1996	725	\$205.491
1997	696	\$289.655
1998	706	\$316.145
1999	739	\$383.102
2000	680	\$238.813
2001	617	\$273.835
2002	608	\$210.371

Source: Development Control Authority statistics.

4.5 Planning Applications

Planning applications to the Development Control Authority have averaged 675 annually, and have indicated a mild slowing down of building activity in the last 3 years.

4.6 Squatting

The authorities in Antigua & Barbuda are ambiguous about their squatting problem. There is an expatriate community (primarily persons from the Dominican Republic) occupying State lands in the St. John's vicinity. Estimates of the population of this community range as high as 3,000. However, there has not been any programme to regularise the tenancy of this population, as its existence appears to have wider political implications.

5. CONCLUSION

Land administration and land use policies will continue to be a core part of the development strategy of Antigua & Barbuda. The tourism product will require that close attention be paid to conservation of its natural resources, including its marine resources. The demographic changes will continue to impose on Government the obligation to respond to the social needs of a growing urbanised population.

The long-term objective of sustaining growth and development in the rural economy will demand increased efforts to stem the transition of land from agriculture to alternative uses. With the Government owning a majority of the available arable land, and mounting pressures for its conversion into alternative uses, a clearly articulated and consistently implemented land policy must become the cornerstone of any viable medium-term economic strategy.

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APPENDIX 1. LEGISLATIVE FRAMEWORK FOR ADMINISTERING LAND/NATURAL RESOURCES IN ANTIGUA & BARBUDA

1. Land Administration

- 1.1 Registered Land Act
- 1.2 Agricultural Small Holdings Act
- 1.3 Property Tax Act
- 1.4 Land Settlement Act
- 1.5 Land Sales Duty Act
- 1.6 Crown Lands (Regulation) Act
- 1.7 Rent Restriction Act
- 1.8 Land Acquisition Act

2. Planning Laws

- 2.1 Town & Country Planning Act
- 2.2 Land Development and Control Act
- 2.3 Slum Clearance and Housing Act
- 2.4 Draft Physical Planning Act

3. Environmental Control

- 3.1 Beach Control Act
- 3.2 Beach Protection Act
- 3.3 Botanical Gardens Act
- 3.4 Plant Protection Act
- 3.5 Bush Fires Act
- 3.6 Pesticides Control Act

4. Natural Resource Management

- 4.1 National Parks Act
- 4.2 Forestry Act
- 4.3 Barbuda Act
- 4.4 Fisheries Act
- 4.5 Marine Areas (Preservation and Enhancement) Act

BARBADOS: Land Reform and the Search for Security of Tenure

Timothy Maynard

EXECUTIVE SUMMARY

Barbados' major thrust in relation to land since Independence has been in the provision of social services. Utilising its powers under the Land Acquisition Act 1949, it acquired and paid for several plantations and other large tracts of land which were vested in the Housing Authority and later the National Housing Corporation for development and sale in lots to low- and middle-income earners at lending rates substantially below the market. The passage of revolutionary legislation in 1980 and the creation of two important social service agencies in the mid-1990s accelerated the process of connecting Barbadians to affordable housing and vastly improved services and created an irreparable break with the plantation era.

But the reforms have still not dealt in a thorough way with the question of the shortage of affordable land. In an interesting twist of irony, the virtual near-extinction of the traditional tenantry has seen the rapid rise of the new Barbados tenant holding of a landlord who himself was landless a generation before. Large numbers of these domestic tenancies have arisen in circumstances where rents are uncontrolled.

The purpose of this paper is to discuss in a general way the movement towards security of tenure and leasehold enfranchisement. The suggestion will be made that since there is a perceived scarcity of land available for development, new ways must be found of guaranteeing reasonable security of tenure for the new Barbados tenant while still allowing the new landlord to realise the benefits of his investment.

Connected with the problem of perceived land shortage are the questions of citizens' rights of access to beaches and whether lands should be restricted for purchase by Barbadians alone. This paper also briefly examines these issues and considers Barbados' attempts to reform its conveyancing processes in a modern environment.

BARBADOS: KEY LAND & SOCIAL INDICATORS

Total area: *430 sq. km / 43,085 hectares*

AREA BY MAJOR LAND USE

LAND USE	AREA (acres)	AREA (hectares)
Agricultural	59,352	24,019
Commercial	11,469	4,641
Residential	32,213	13,036
Other (e.g. churches, cemeteries, schools, roads & rights-of-way, parks)	3,430	1,388
TOTAL	106,464	43,085

GDP BY MAJOR SECTORS (US\$)

SECTOR OF ORIGIN	2001 (BDS\$ million)	2001 (US\$ million)
Sugar	21.4	10.7
Non-Sugar Agriculture & Fishing	35.7	17.85
Mining & Quarrying	7.5	3.75
Manufacturing	81.1	40.55
Electricity, Gas & Water	39.1	19.55
Construction	68.7	34.35
Wholesale & Retail Trade	189.7	94.85
Tourism	143.4	71.7
Transport, Storage & Communications	82.0	41
Business & General Services	165.8	82.9
Government	121.3	60.65
TOTAL	955.7	477.85

Population growth rate: *0.31% p.a.*
Per capita GDP: *BDS\$15,700.00; US\$7,850.00*
Number of households: *83,026 (2000)*
Dwelling units: *91,406*

LAND TENURE INFORMATION

Total land area: *43,085 hectares*
Percentage of private lands: *99.1%*
Percentage of public lands: *0.9%*
Number of private parcels: *98,098*
Number of public parcels: *907*

Number of rural parcels:	<i>Data unavailable</i>
Number of urban parcels:	<i>Data unavailable</i>

LAND TRANSACTION INFORMATION

Number of legal transactions in past 5 years:	47,455
Number of conveyances recorded in last 5 years*:	14,546
Number of leases recorded in last 5 years*:	25
Number of condo declarations recorded in last 5 years*:	21
Regularisation ratio*:	<i>Data unavailable at this time</i>

***Note:** The specific number of legal titles and leases is not easily available owing to the need manually to perform searches, which would be heavily time-consuming.

1. INTRODUCTION

Barbados is the most easterly of the Caribbean Islands and is located in the Caribbean Sea. It is regarded the world over as one of the most stable parliamentary democracies and boasts the 3^d oldest Parliament in the world after Britain and Bermuda. In 2003 Barbados celebrates the 375th anniversary of the City of Bridgetown which is regarded as amongst the top three oldest capitals in the world. Research is still ongoing to determine if, in fact, it is not the oldest.

Barbados, an open economy, is not rich in natural resources and depends mainly on tourism and financial services for its economic survival. There are only small amounts of petroleum and natural gas. Over the years Barbados has developed an international reputation for the prudent management of its economy. After eight straight years of economic growth, Barbados recorded a slump in 2001 following the September 11 attacks on the United States, which had worldwide repercussions. However, the economy recorded positive growth in 2002 and is projected to continue on this path during Fiscal 2003.

The country was a colony of Great Britain from 1627 until 1966, when it became fully independent on November 30. The Head of State is the Governor General whose functions are largely ceremonial. Real power in fact vests in a Prime Minister and his Cabinet. There is a bicameral Parliament, which consists of the elected House of Assembly and the nominated Senate. Persons 18 years of age and older are entitled to vote for elected representatives every five years. There is no system of Local Government. There are two main political parties. The current ruling party is the Barbados Labour Party headed by Prime Minister the Rt. Hon. Owen Arthur, the country's fifth Prime Minister.

Barbados, which is a member of the Commonwealth, models its written Constitution on the Westminster system inherited from England. Its legal system is based on the English common law.

A densely populated country, Barbados is mainly flat with no substantial hills or mountains. Its population is currently estimated at 270,000 of which 93% is Black. The majority of the population is descended from African slaves. European, Asian and Syrian comprise the other ethnic groups.

The official language is English and the literacy rate is over 95%. The currency is the Barbados dollar which is tied to the United States dollar at a rate of US\$1 = BDS\$2.

Barbados has one of the most impressive modern road, telecommunications and transport networks in the entire Caribbean. Its drinking water is one of the world's purest. Barbados is outside the earthquake belt. Although it is within the hurricane belt, no hurricane has hit Barbados since 1955. Tropical storms are more likely to affect the island though the incidence is relatively rare. A cursory examination of Barbados' land tenure history since the turn of the 20th century will reveal one unmistakable thing: a rapid and, I daresay, a permanent transformation of the entire country's landscape.

At the turn of the 20th century, Barbados was a plantation-based sugar export-oriented colony of the British Empire. Land ownership meant everything to the extent that every available nook and cranny of the island was cultivated in sugar. Besides skin colour the principal determinant of one's position in society was the ownership of land. There were hardly any available Crown lands.

The fact of the unavailability of lands meant that the recently emancipated slaves were tied to the plantations. With no source of subsistence or income other than plantation work, recently emancipated, black Barbadians did not face any reasonable prospect of becoming land owners. In *White Rebel*, Lewis (1999) observes:

“...at the turn of the century, the mass of black Barbadians — then comprising nearly 70 percent of the island population — were predominately plantation based and poor. Most continued to live in portable ‘chattel houses’ situated on small rented garden plots comprising less than half an acre. The portability of their houses reflected their precarious status. The plots were grouped into tenancies on the rural estates where it was highly probable that their occupants’ forefathers had worked since the end of slavery. They tended to work the plot of land after a day’s labour on the estate”.

At 430 square kilometres and approximately 107,000 acres, Barbados is one of the smallest islands in the Caribbean and the world. It never had the vast land resources of sister Caribbean countries Trinidad and Guyana on which the former slaves could squat after emancipation and apprenticeship. Laws such as the Contract Act 1840 guaranteed that the ex-slaves either worked on the plantations or faced starvation or imprisonment. Very few were able to purchase their way out from the plantation and earn some measure of independence.

This situation improved gradually and laws starting with the Security of Tenure of Small Holdings Act were passed in the mid-1950s granting plantation tenants an increased measure of security on rented plots that their forefathers had tilled for generations. But all the evidence suggests that by Independence in 1966

Barbados was still largely an agrarian society in which sugar was king. An overwhelming number of Barbadians still did not own their land although they might own some type of makeshift chattel house.

A remarkable transformation has taken place during the last 50 years and particularly during the last two decades. Sugar is no longer king, having been supplanted by a bustling tourist industry; Barbadians by and large have erected numerous large, very comfortable dwelling houses where sugar and agricultural crops once stood. The number of golf courses has expanded; the social services infrastructure and road network have improved beyond recognition; and Barbados has become a regional hub for trade and international financial services.

With this noticeable development, pressure has definitely been placed on planning authorities to balance the need for continued development against the need to ensure sustainability for generations to come. The challenge has been accepted and measures have been implemented to assure, amongst other things, the management of urban sprawl and the protection of the natural and built environments while at the same time allowing for continued maximisation of the benefits to be derived from Barbados' major natural resource.

2. OVERVIEW OF LAND TENURE PATTERNS IN BARBADOS

Undoubtedly one of the major social challenges Barbados has confronted since Independence in 1966 is the need to adequately service the housing needs of its citizens. Although the population has only increased marginally over the last 25 years, the longing of every Barbadian to own a "piece of the rock" has intensified.

Government's policies, legislative and administrative, since the latter half of the 20th century have been aggressive in tackling the related issues of lack of housing, lack of title to land and poverty. Four major pieces of legislation are noteworthy in this regard.

In 1955 Barbados was still very much a plantation economy, characterised by plantation workers who worked on the plantations and lived on small, rented adjoining plots, usually rab land on which they built their wooden chattel houses.

That these houses could be dismantled and removed at a moment's notice is indicative of the lack of security which tenants faced. It was in this environment that Parliament passed the Security of Tenure of Small Holdings Act, although this Act did not apply solely to plantations. It was entitled "An Act relating to terms of tenure of small holdings and for providing reasonable security of tenure for tenants thereof and for purposes incidental thereto or connected therewith". The Act provided that the contract of tenancy of an agricultural

holding or house-spot “shall not terminate” except in certain specific circumstances. But since it also allowed such tenancy to end by six months’ clear notice on either side, all it really did was to provide some mental relief to a tenant for six-month intervals.

The Tenancies Control Act of 1965 went substantially beyond this. The Act reinforced the concept of “tenantry” as a word that has a peculiar meaning in the Barbadian context. “Tenantry” was there defined as any area of land (other than Crown land) “which is now or shall be hereafter sub-divided into more than 5 lots for the purpose of being let to tenants as sites for chattel buildings used or intended to be used as dwellings”. The Act prevented any owner or lessee of a tenantry from further sub-dividing it without the permission of the Chief Town Planner and essentially prohibited such a landlord from ejecting his tenant unless the tenant committed some breach, for example, non-payment of rent, committing a nuisance or parting with possessions. By an amendment in 1974, the rent was frozen at a maximum of 20% above that obtainable at May 30, 1974, and could not be increased further except on application to the court. So, in effect, this legislation guaranteed security of tenure at a reasonable rent to tenants.

In November 1980, the Tenancies Freehold Purchase Act completed the process. This legislation, rightly hailed as revolutionary, transformed the tenant from a position as tenant to one as potential land owner. Section 3 of the Act bears quoting in full:

- “The purpose of this Act is to establish by law a right for tenants of lots in tenancies who satisfy the requirements of this Act to purchase the freehold at a purchase price governed by consideration of public policy and the requirements of the Constitution.
- “This Act shall receive such fair, large and liberal construction and interpretation as will best ensure the attainment of its purposes”.

Section 4 (1) is equally profound and showed that the Act also unilaterally altered specific agreements whether between landlord and tenant or licensor and licensee:

“Notwithstanding any other law or any term or condition of any lease, contract or licence relating to a tenancy, it is a term or condition of every tenancy within a plantation tenantry or other tenantry that the tenant, as of right and at his option may, if he is a qualified tenant, purchase the freehold of the lot of which he is a tenant...”

Even more radically, the Act set the purchase price of a lot in plantation tenancies at \$1.00 per square metre (ten cents per square foot) or by agreement between the parties, “whichever is the smaller amount”. Although non-plantation tenants could purchase at the open market price, the value of the land could not take into account improvements made by the tenant, but only those of the landlord.

What is more, the Act was passed with the required majority to alter Section 16 of the Constitution, which protects persons from deprivation of property except

on payment of reasonable compensation. Generally a person qualified to purchase if he was residing on the lot for 5 consecutive years prior to exercising the right to purchase or for five out of the preceding seven years.

When the Tenancies Freehold Purchase Act was first passed in 1980 it defined a tenantry simply as an area sub-divided into lots and so a very large number of tenants qualified to purchase their freehold. Conversely, this measure significantly affected land owners by on the one hand compelling them to sell and on the other depriving them of their asset. In 1989 the Act re-defined tenantry to mean an area comprising at least six lots to remedy what was seen by some as an injustice to landlords. Tenants who qualified under the original law automatically lost the right to purchase unless they had previously signalled their intention to purchase or had made substantial improvements to their homes by, for example, installing water-borne toilet facilities. However, those persons who became disenfranchised were given the right to be relocated on Crown lands or offered a Government subvention.

In some cases, persons residing in tenancies of less than 5 lots still were liable to have their tenancies determined on six months' notice except where they had resided on the lots for more than 20 years.

In 2001, the Act was again amended to allow non-plantation tenants the right to purchase at no more than \$2.50 per square foot instead of the full market price for the first 5,000 square feet. If the actual open market price of the land exceeds \$2.50 per square foot, Government pays the difference to the vendor up to 5,000 square feet. The tenant pays the open market price for the remaining lands above 5,000 square feet.

To further facilitate land and home ownership, the 1980 Act also set up a loan scheme to enable tenants to access financing to purchase the freehold of their lots. Government also fully paid for surveying and legal services in the case of plantation tenancies and assisted landlords in the other tenancies on condition that costs were recovered on completion of the sale to the new owners.

In similar fashion to the Tenancies Freehold Purchase Act, the Agricultural Holdings (Option to Purchase Act) 1982 gave a right to tenants cultivating such holdings as of 9th April 1982, the right to purchase the freehold. Doubtless, this series of Acts formed the high-water mark for widespread land ownership and security of tenure for Barbadians.

Government figures suggest that just over 6,000 households living in tenancies of the more than 300-plus plantations have been "enfranchised" since passage of the legislation. Another estimated 4,000 non-plantation tenants have benefited. This would amount to approximately 40,000 Barbadians out of a population of approximately 270,000 (assuming an average of four persons per household). The figures also suggest that another 2,000 households are qualified tenants but have not yet signalled their intention to purchase.

One footnote: Although a qualified tenant has been given the right under the Tenancies Freehold Purchase Act to purchase the lot, there has been some

debate whether the right vests in the estate of the tenant upon the latter's death. This point, unfortunately, has not been clearly addressed by the legislation and has never reached the courts. Some believe that the right is personal to the tenant and ceases at his death unless he had exercised the right to purchase. I would suggest that the scheme of the legislation suggests otherwise, though I do not explore the point here.

Despite recent amendments (not discussed here), the four pieces of legislation mentioned above, in particular the Tenancies Freehold Purchase Act of 1980, had a radical and irreversible effect on land-holding in Barbados. In stark contrast to the situation where 30 elite families owned 80% of the island around the turn of the 20th century and the ex-slaves were landless and dispossessed, by the end of the century 75% of dwellings were owner-occupied. Official Census figures show that at the end of 2000, 56% of people acknowledged being owners of their land. It is possible that another 22% were indeed owners of their land but they did not respond to the census takers when interviewed. Be that as it may, it is clear that by 2000 at least 56% of lands were owned privately.

To be sure, the result has been that both the chattel house and the early uncertainty of land tenure has been seeing a rapid demise in Barbados. This is evident as many former tenants have been able to upgrade their property from impermanent chattel houses with outdoor or pit latrines to elaborate concrete structures with indoor plumbing facilities.

2.1 Social Vehicles

The overriding emphasis on securing land-ownership and enhancing social conditions in post-Independence Barbados was also evident in the creation of three similar social vehicles designed expressly to fast-track the delivery of social services to citizens. The common theme pursued was the empowerment of citizens by creating mechanisms that allowed them to obtain title to land and subsequently or consequently improve their quality of life.

The first vehicle was the National Housing Corporation, which replaced the Housing Authority. The National Housing Corporation (NHC), established by the Housing Act, 1973, has been heavily used by Government in its housing and land redevelopment thrust. The functions of the corporation include the acquisition, disposal and management of land and it is also permitted to carry out development, building, maintenance, repair and other operations. The NHC can also provide water, gas, electricity, sewage and other services and executes plans for slum clearance and redevelopment.

Under its remit the corporation has added substantially to the housing stock. More important, however, since a conveyance from the National Housing Corporation vested a perfect title in a purchaser, it facilitated security of tenure for thousands of Barbadians by transferring title to lands mainly in areas where tenancies did not exist.

Although the NHC had power to acquire land, the majority of its land was vested in it by the Crown, which utilised its considerable powers under the Land Acquisition Act 1949.

Although the Land Acquisition Act had been in place since the around the mid-20th century, it has been utilised regularly over the last 20 years to compulsorily acquire portions of large estates and other areas for housing development, road improvement, sanitation services and other public purposes. The Housing Authority and NHC have been responsible for developing a large number of low-income rental terrace units, characterised by units sub-divided internally. In keeping with its policy of facilitating title transfer, these units are now in the process of being conveyed.

Consequent on Government's compulsory acquisition of lands, it is estimated that today the NHC has accumulated more than 1,000 acres of vacant land in its "land bank" to be made available for low-income housing development. Much of the development is expected to take place in joint venture projects with the private sector.

Of more recent vintage were the two other social vehicles. The Rural Development Commission was established in 1995 by the Rural Development Commission Act. The Urban Development Commission was established in 1997.

According to Government, there was the need to accelerate the delivery of social services to the urban and rural poor without the bureaucracy associated with central Government. Under the Urban Commission Act, for example, the Commission is given jurisdiction over a defined urban corridor and vested with powers to designate areas for slum clearance programmes with a view to tackling in a holistic and orderly way the redevelopment and renewal of entire communities within defined urban areas. A major part of its thrust is the acceleration of the Transfer of Title programme in urban tenancies, which has seen thousands of persons gaining the opportunity to "own their own house spot", a major element in the Barbadian dream.

2.2 The New Barbados Tenant and Security of Tenure

The demand for land in Barbados has resulted in a large and increasing number of private dwellings dedicated as rented accommodation both to locals and to a significant number of overseas clients. This phenomenon has helped to somewhat alleviate the housing problems but has in itself raised the further issues of whether tighter minimum standards of rented accommodation are required and whether or not the collectable rents should be controlled by the State. This issue is addressed briefly here.

2.3 Rent Control

Rent control is not new to Barbados. It had existed in relation to the tenancies prior to Independence. Application is normally made to the court

for variation and the court has discretion to vary the rates after considering all the circumstances. The question now, however, is whether such legislation should apply nationally to all rented domestic accommodation in a context where there is still a significant shortage of housing stock.

This issue has never really been fully ventilated in Barbados, perhaps because there are large numbers of such landlords. (Census 2000 figures, for instance, show that of 83,026 occupied dwelling units, 18,286 or just over 21%, were leased, whether formally or informally). The debate has rather centred more on the minimum standards of housing required. But the conclusion is inescapable that this issue will eventually have to be addressed.

New Rent Restriction legislation was enacted in Barbados in 1981. Shortly after the legislation was enacted the construction industry declined sharply as land owners shifted away from investing in housing development towards other types of development.

The number of rental units as dwelling houses also declined sharply. Faced with a statutory cap on rents, landlords allowed their premises to deteriorate. The relationship between the passage of the new legislation and the drop in such economic activity was obvious. The level of activity rose once Government granted tax incentives to encourage the building of more rental units and the repair of existing ones.

Rent control, by itself, however, would not be enough to guarantee security of tenure for the new Barbados tenant. The analogy with the Tenancies Control Act 1965 is instructive. As discussed above, that legislation prohibited landlords in certain tenancies from ejecting tenants except for specified infractions. It thus created a type of statutory tenancy. With the widespread number of new tenancies emerging in Barbados today, the issue here, too, would be the extent of the public interest in legislating islandwide statutory tenancies. This issue will also raise the further question of the constitutionality of such legislation, particularly the right not to be deprived of property without compensation as enshrined in Section 16 of the Barbados Constitution.

Connected to the question of islandwide rent control and statutory tenancies is the question of voluntary long leases of domestic accommodation. Long leases have been in vogue for quite some time in places such as England but have traditionally been unfashionable in a country such as Barbados, where nearly all lands were cultivated in sugar well into the 20th century. In the Barbados context of chronic land shortage, a policy might well have to be pursued of encouraging the long lease of both buildings or rooms within the buildings.

The idea of common ownership of multi-unit properties sub-divided internally is addressed somewhat in Barbados' Condominium Act 1971. Under this Act, each unit is deemed to constitute an estate in real property

and may be conveyed, leased, mortgaged or otherwise dealt with in the same manner and form as land.

Although the Condominium Act has been in force for more than 30 years, it is not widely used. Very few declarations, a prerequisite for the creation of such units, have been found recorded at the Land Registry. However, in an attempt to maximise the investment potential and marketability of land, a growing number of condominiums, duplexes and quadruplexes (quads) are being created in recent years. This approach has been sanctioned by planning authorities in appropriate cases and will, no doubt, be the way forward in terms of Barbadian land tenure.

3. PROPERTY LAW REFORM IN BARBADOS — LAND REGISTRATION SYSTEMS

Barbados' Property Act 1979 was modelled on the United Kingdom's Law of Property Act 1925 with only few exceptions. Barbados has made great strides in terms of reforming and modernising its system of property law and conveyancing inherited from England. Amongst other things (which will not be discussed here), it abolished all the old feudal systems of tenure and created greater certainty in dealing with legal transactions, for example, by reducing the number of legal estates to two. It also facilitated greater ease of conveyancing by reducing the number of years needed to search a title from 40 years under the 1891 Property and Conveyancing Act to 20 years and introduced a number of covenants and conditions in order to promote simplicity. For example, whereas before 1979, conveyances and mortgages could easily reach 15 to 20 pages, these documents could now be condensed into about three or four pages.

The Property Act by itself, though, did not sufficiently expedite the process of land dealings in Barbados, particularly in a jurisdiction which, although small, cannot be said to have observed the highest standards of record keeping or property management. For example, complete land ownership details, by and large, cannot yet be provided at a speed that is satisfactory enough to Government in a competitive international environment. This also includes details relating to both location and extent of Crown lands.

This situation has been considerably improved within the last ten years by computerisation of the Land Tax Department and is further addressed by the country's new emphasis since 1988 on registration of title to all lands in Barbados. In that year, the Land Registration Act and the Land (Adjudication of Rights and Interests) Act came into force and with them a new system of dealing with land in Barbados. The object of these two symbiotic pieces of legislation was to cheapen, simplify and expedite dealings with rights and interests in land in Barbados in a new global economy. It was well accepted at the time that the old process of unregistered conveyancing was cumbersome, expensive and time consuming in facilitating transfers of rights and interests in

land. The old law imposed a high duty of care and skill on a purchaser who was expected to make full and detailed investigations of his vendor's title to satisfy himself that he was getting a satisfactory title. These inquiries had to be repeated time and again on every transfer, often at short intervals. Needless to say, this process wasted effort, time and money. So, for example, a purchaser may have to make minute examinations into family settlements, joint ownership and other complex matters with the result that dealings with unregistered interests in land had become an obstacle to the ready marketability of land.

3.1 Registered Conveyancing

It was in this context that the decision was made to embark on the system of registered conveyancing based on the Australian Torrens model but still incorporating many English features. The complexity of rights and interests in land makes it impossible to transfer registered interests in land as easily as stocks or shares but in essence the principle is the same. The principal aim of the registered system is to substitute a single title, guaranteed by the State, for the repetitive, unproductive process involved in unregistered conveyancing. Generally there will no longer be the need to conduct long searches that are wasteful of much effort. Instead the official Land Register maintained by the Registrar of Titles provides an authoritative statement of the title as it stands at any given time.

In sum, the process begins with identification of a registration district by the Minister and the demarcation of all land, water and road boundaries within that district by the Chief Surveyor. This is followed by the adjudication or examination and declaration of titles in the registration districts by a Commissioner of Titles (or Adjudication Officer, as he is known under some statutes dealing with land registration). It is the Commissioner's duty to "settle" the state of the title before it is passed on to the Registrar of Titles for first registration and compilation of the Land Register.

The Commissioner's declarations are published in the *Official Gazette*, and 60 days after such publication the titles are deemed registered and thenceforth transactions must take place under the new registered system. This assures that whenever a transaction takes place in respect of such land, all one generally need do is apply to the Registrar of Titles for an Official Search. An aggrieved party who suffers loss as a result of errors in the Register is compensated by the State — hence the need for especial care in adjudication and registration.

Transactions involving registered land should normally take place in a fraction of the time when compared with the traditional process. They also relate to savings in costs. For example, legal fees payable in Barbados on a transfer of registered land are one third cheaper than before. In mortgages, the fees are two thirds less.

To date, approximately 10,000 out of an unofficially estimated 120,000 titles have been registered. There have also been noticeable differences in

the time it takes to complete transactions in the new system when compared with the older version.

Many lessons have been gleaned over the 15 years of the project. Chief amongst them is the need to recognise that land registration involves utilisation of many resources, both human and particularly financial, in a project that will not be expected to bear fruit in the short term. A programme that is to be successfully completed on target requires financial commitment plus the minimum number of competent land surveyors, draftsmen, registration officers, Commissioners of Title and legal assistants to conduct title searches. Presently an official review involving the operation of key aspects of the system is being conducted.

3.2 Guarantee of Legal Title

One particularly noteworthy aspect of the land registration programme involves the power of the Commissioner to declare absolute title to persons who have acquired a title by limitation. It had been expensive to acquire a legal title through the old foreclosure proceedings, but now the Commissioner grants such a title free of cost. There are thousands of such persons in the island, particularly in the poorer rural districts, who stand to directly benefit from this reform.

Presently the Land Registry is well advanced in computerising several of its operations with a view to accelerating the speed of delivery of its services to the local and international customers. In the near future it is expected that the public will benefit by on-line direct access to carry out searches of certain documents and make particular requests. In time, it is also expected that Barbados can follow the lead of the United Kingdom and other countries by facilitating the process of electronic conveyancing.

Properly executed, a land registration programme of this type is invaluable for a country and is indispensable in providing the necessary information to develop a national cadastral or land information system that can be of substantial benefit in an internationally competitive era. In this connection, it is also expected that Barbados might by 2005 embark on a digital mapping project of the entire island of Barbados to better co-ordinate and manage its land resources and develop a more organised modern land information system. Such a project has already been implemented or started in some Caribbean countries.

4. COMPULSORY ACQUISITION AND PUBLIC ACCESS TO BEACH LANDS

Two topical issues in Barbados within recent years have been Government's policies in relation to the provision of public access to beach lands and the question of the sale of land to non-nationals.

4.1 Public Beach Access

Barbados boasts some of the best beaches anywhere in the world. Within the last few years, Government policy in relation to these beaches has come more into focus owing principally to three factors, all of them interrelated:

- the scarcity and affordability of vacant coastal lands;
- public access to these beaches; and
- accretion of beach lands.

Coastal lands are now hardly available for sale and where available, they are usually at very high prices. Over the last two decades there has been a tremendous demand for and development of these valuable beachfront lands. Such development has been carefully monitored by the Town and Country Planning Development Office and the Coastal Zone Management Unit, which discourage construction in the active beach zone and enforce specified setback limits from the high-water mark in the case of buildings and enclosures.

One consequence of such development, particularly unauthorised development, has been the conflict of views amongst some land owners adjoining the beaches and members of the public. The crux of this debate is straightforward. The public claims the right to unhindered access to and use of the beaches while land owners claim the right to delimit the boundaries of “their” property. In some cases, it has been argued that private development has encroached upon ancient easements created by prescription, for example, through the private erection of signs and structures, blocking of public views and access.

In response to several cases, the Chief Town Planner has issued enforcement and stop notices prohibiting the erection of unauthorised structures on beach lands such as the placing of boulders along access routes or otherwise impairing the public view of the sea. In addition, it would appear that applications for the development of coastal lands are always considered with regard to the need for the public’s access to the island’s beaches.

These criteria are captured succinctly in Barbados’ National Physical Development Plan as amended in 1998. There, it is stated that policies are expressly designed to, inter alia:

- enhance existing views to the sea and create new opportunities during the development or redevelopment process;
- prevent the obstruction of existing pathways to the sea;
- create greater “visual space” in coastal management areas.

The Ombudsman of Barbados has shared these concerns. In a Special Report prepared in 1999, the Ombudsman opined that “if the need for windows to the sea was pressing in 1980, it is immensely more necessary in 2000, to provide Barbadians with a continual view of their most precious

natural asset. It seems to me that the retention and creation of windows to the sea is a clear must”.

4.2 Common Law Doctrine of Accretion

Undoubtedly, there is a public perception that any rights of enjoyment to beaches would be pointless unless access was assured. Closely intertwined with this perception is the fact that over the last 25 years several beaches have expanded considerably due to the common law doctrine of accretion.

Put simply, this doctrine holds that where lands are bounded by the sea, any accretions to those lands above the high-water mark are added to the land owner’s property, provided that those accretions were “gradual and imperceptible”. Conversely, such lands are also subject to the risk of being reduced in area owing to erosion. In *Southern Centre of Theosophy Inc. v. State of South Australia*, Lord Wilberforce put it this way in delivering the advice of the Judicial Committee of the Privy Council:

“To do so is also fair. If part of an owner’s land is taken from him by erosion, or diluvion (i.e. advance of water) it would be most inconvenient to regard the boundary as extending into the water; the landowner is treated as losing a portion of his land. So, if an addition is made to the land from what was previously water, it is only fair that the landowner’s title should extend to it”.

While this legal principle is settled beyond doubt and has been “in the English common law from the time of Bracton who derived it from Justinian” (*Southern Theosophy*), it is the application of the “gradual and imperceptible” test that has led to debate the world over. The courts have never evolved a clear, satisfactory test, preferring to consider the facts of each case before deciding whether accreted lands belong to the Crown or to the adjoining land owner. “The real question”, said Lord Wilberforce, “is how long it takes for a consolidation (of materials) to take place bringing about a stable advance of land”. So that while in one case accretion of a year’s duration might be held to be slow and imperceptible, in a different one, 20 years’ accretion might be found to have been too sudden.

Although this issue seems never to have been fully litigated in Barbadian courts, it is nevertheless of significant importance for Barbados owing to past and projected coastal works undertaken or planned by authorities. It is likely that these works might result in the expansion in prime beach land. For instance, investigations show that between 1964 and 1982 a beach in Bridgetown, the capital, increased by 20 metres in width. Similarly, a beach that in 1954 measured 6,000 square metres had expanded to 26,000 square metres by 1982. In his Special Report, the Ombudsman observed that one parcel had increased by one acre, “a staggering increase in property value”. He also highlighted “eight instances of significant accretion and the uncertainty which surrounds them”.

The Ombudsman further reported that “adjacent landowners have not been slow to assume ownership over *all* accreted land” and added support for the

need for legislation to address issues such as these. In the Special Report, he stated:

“I am of the view that there is an urgent need for local legislation which should be well publicised to determine who owns the beach, wet and dry — and what rights and responsibilities accompany that ownership”.

4.3 Policy of Public Beaches

Barbados’ declared policy in this matter is that all citizens and visitors alike have or must have access to all beaches including, where possible, windows to the sea. Accesses would be provided, where necessary, by compulsory acquisition.

During the plantation era where land ownership was not in question and sugar receipts were the mainstay of the economy, disputes relating to beachfront lands would not have arisen or, certainly, not to any strident degree. The common law of the old Bracton era was thus apparently sufficient despite its great uncertainties as to the ownership of alluvia. Today, however, owing to the rise in a well-educated, land-owning population, the dominance of a tourism-oriented economy and the unfettered saleability of scarce land, especially coastal lands, it is imperative that a small jurisdiction like Barbados tackle head-on the issue of the ownership of beach lands.

Published reports suggest that Barbados is well on the way to advancing an Accretion Bill which would give effect to the declared policy of preserving unhindered public access to beach lands. Government has not to date publicly announced the details of any proposed legislative changes, however. It would seem that to be meaningful, any legislation addressing the public ownership of beach lands would consider squarely the issues of the abolition of the common-law principles relating to private ownership of accreted lands and the express vesting of such lands in the Crown. One issue that immediately arises in this regard is whether or not any proposed legislation should be declared retroactive to include all beach lands, including those already secured to land owners, or to capture only those lands accreting in the future. This is also a question of policy making but it bears remarking that well-settled principles of statutory construction require that laws cannot have a retrospective effect unless this is clearly intended and once they do not collide with the Constitution.

Other related matters that should be considered would be the definition of “beach” itself and how much of a land owner’s beach land should be acquired to satisfy the public interest.

At common law, legal authorities are scarce on the definition of beach.

In *Tito v. Waddell (No. 2)*, Megarry V.C., in construing one of the myriad issues in that case, noted that “beach” was not a term of art. However, he ventured his analysis thus:

“From low water mark upwards to high water mark and beyond would all fairly be said to be part of the beach: but how far beyond? The terminus a quo may be clear, but what of the terminus ad quem?”

“In my judgement, all that lies to the landward of high water mark and is in apparent continuity with the beach at high water mark will normally form part of the beach. Discontinuity may be shown in a variety of ways: there may be sand dunes, or a cliff, or greensward, or shrubbery, or trees, or a promenade or roadway...But until one reaches some such indication, I think the beach continues”.

Barbados has, however, for the moment, placed beyond doubt the question of what constitutes a beach. By Section 2 of the Coastal Zone Management Act, 1998, it defines “beach” as:

“the entire area associated with the shoreline, composed of unconsolidated materials, typically sand and beachrock that extends from the highwater mark to the area where there is a marked change in material or natural physiographic form or to a distance of 500 metres landward, from the mean highwater mark whichever is the lesser distance”.

Since the Act declared that this definition must thenceforth be used in all relevant wills, deeds, contracts, orders and instruments, it seems entirely reasonable to expect it to be employed in any definition of beach for the purposes of any new legislation dealing with accretion. In this case, it would appear, therefore, that it is not contemplated that all beach lands would be the subject of automatic vesting in the Crown — an undertaking that clearly would have heavy financial considerations. Rather, the issue might be limited to access to beaches, access to accreted lands and the ownership of those accreted lands.

4.4 Compensation

If beach lands to be vested in the Crown under any proposed legislation include private lands, then any matter affecting the expropriation of private property would be the issue of compensation. It is a fundamental common-law presumption that the duty to pay reasonable compensation is implied in every statute unless clearly expressed. Provision for compensation on the acquisition of property rights is a feature of several post-Independence statutes in Barbados, exemplifying a principle that is enshrined in the Barbados Constitution.

In this connection, any proposed legislation should, for clarity, expressly address the question whether compensation should be paid to land owners for lands accreting in the future but which are currently bodies of water owing to diluvion and erosion. Presently, under ordinary common-law principles, such bodies of water vest in the Crown. On accretion, they vest in the land owner as discussed above and so compensation would become payable to a land owner if those lands were to be compulsorily acquired from him.

The pertinent question, therefore, is whether or not legislation should be framed in a manner that expressly allows this vesting in the Crown to continue, whether or not the waters recede in the future so that it becomes unnecessary for the Crown to pay compensation on formation of alluvium.

Although provision for the payment of compensation may be expected in matters involving compulsory acquisition of lands, one issue that always would arise is the quantum payable. No doubt, acquisition of coastal lands would normally be a particularly costly undertaking if former land owners are to be compensated at market value. As discussed earlier, in deciding to remunerate former plantation land owners at \$1.00 per square metre under the Tenancies Freehold Purchase Act 1980, Parliament expressly altered the Constitution to achieve this social purpose since the measure of compensation was below market value.

So how should they be compensated in a case such as this? Should coastal land owners be remunerated at market value or should they be compelled to sacrifice in the national interest? In the case of the acquisition of private lands for road improvement purposes, compensation is always paid at market value. Is there any meaningful difference of purpose between a public road and a public beach?

In resolving these issues, it would seem that the question of potential cost to a small economy should be highly relevant. No official estimates have been provided for such a cost, though in a special Select Committee report on *Ownership of Land Interests in Barbados* published in 1998, it was found that 656 lots touch the West Coast of Barbados while 421 touch the South Coast. These are Barbados' most popular, developed coasts. Land values at that time were said to be often valued at US\$15.00 per square foot. No land acreages were provided.

4.5 Non-National Ownership of Land

Barbados has always been an island where land affordable to the majority of the population, particularly beachfront lands, has been in short supply. However, unlike some Caribbean countries, for example, St. Vincent and the Grenadines, Barbados does not possess Alien Land-holdings legislation restricting the free sale of land to non-nationals. There has been some debate in recent years, however, about whether or not restrictions should be placed on the quantity of land available for purchase by non-nationals.

In 1998 one of the Houses of Parliament convened a special Select Committee which, inter alia, examined the quantum of non-national ownership of land in Barbados and the ownership and use of coastal land. The Committee noted that some evidence revealed a "tentative concern by Barbadians that ownership of land in Barbados would be alienated to Non-Barbadians" and went on to outline a number of suggestions made by persons testifying before it. These included suggestions that:

- external companies should not be allowed to own land in Barbados;

- some land should be reserved for Barbadians by giving plots to Barbadians on their attaining adult age (18);
- some land should be allocated for food security in priority to other purposes;
- land should be made available to non-nationals on leasehold tenure only.

However, in reaching its conclusions, the Committee found that the evidence did not support the perception that there were tracts of land in Barbados owned by non-nationals; “rather...non-resident nationals own a large number of lots of land in Barbados”.

It also heard evidence that land sold to non-nationals “almost always is resold to non-nationals”, including project developers and others, the spending habits of whom were likely to create employment and generate foreign exchange.

Considering the evidence as a whole, it finally concluded that “foreign ownership of land does no harm to the economy and that Barbadians are not being dispossessed. The Committee therefore does not see the need to restrict land ownership by non-nationals at the present time”.

No such restrictions have since been enacted and it is difficult to see any such restrictions now in an era of globalisation. On the contrary, Barbados’ policy has been to attract direct foreign investment by making generous tax concessions available not only in relation to hotels in general, but also villas, restaurants and other entities that can show they are largely tourism related.

5. CONCLUSION

Although Barbados’ population is not expected to significantly rise within the next 20 years, a steady influx of immigrants might be projected consequent on the soon-to-be-operational Caribbean Single Market and Economy (CSME). This market is expected to permit the free trade of goods and services within the region, which will also allow hassle-free travel of skilled regional labour. The availability of land for accommodation and business will therefore remain a burning issue.

Wrapped up in that issue is the question of how best is a land owner to maximise the value of his land in a way that at the same time not only protects a tenant from exploitation, but, more important, prevents him from being disconnected from the land: in other words, in a way that gives a tenant a stake in the land.

Barbados’ land history over the last 100 years has seen a phased improvement in the lot of the average Barbadian. From a society where only a handful of families owned nearly all of the country, Barbados evolved to a state where

landlords were compelled to give up tenantry lands in the interest of the public; land rents were frozen where necessary and large estates acquired as needed. Today, the lands are distributed amongst a majority of the population. But the wheel has now come full circle. A new landlord has arisen to replace the old. But just as the law was sure, if not swift, to adjust the rights of the old in order to do justice to the new, so, too, it is not farfetched to expect that it will also move to enhance the security of future generations of landless Barbadians.

It is reasonably certain that the law will also move to tackle the issue of public access to beaches, several of which adjoin hotels that market all-inclusive tourism packages.

In his Special Report referred to earlier, the Ombudsman quoted with agreement a 1980 report which stated:

“It is vital for the success of future tourist development that members of the Barbadian public should not feel that they are being prevented from enjoying the beauty of their coastline with its fine beaches and excellent sea bathing, by the construction of rows of high-rise hotels and apartment blocks dominating considerable stretches of the coast...”

It is noteworthy, however, that even before and particularly since 1980, Barbados’ economic health has been boosted by commercial tourism-oriented physical development in relation to the said coastal lands. But should a line be drawn? If so, where? It would seem that Barbados, a small open economy heavily dependent on foreign exchange, might in the future find itself regularly forced to make tough choices between public sentiment reflecting Barbadians’ strong attachment to their land and the country’s ability to survive and compete internationally.

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DOMINICA: Land Policy, Administration and Management: Country Experience

Allan N. Williams

EXECUTIVE SUMMARY

Dominica is the largest island in the Organisation of Eastern Caribbean States (OECS) sub-region. Its area of 751 km² supports a population of 70,000. Upwards of 70% of the land is covered by forests, which are very well preserved. Indeed Dominica deservedly retains the title of “Nature Isle of the Caribbean”.

Dominica remains an agricultural economy in spite of the fact that the contribution of agriculture to GDP has declined significantly from 38% in 1977 to 17.4% in 2001. Export earnings drive the economy of Dominica and primary exports from the agricultural sector have accounted for about 50% of total export earnings (1998-2000). A significant proportion of the workforce (31%) is self-employed and the vast majority of the self-employed operate in the agriculture sector.

Land follows agriculture in its importance to the productive base of the economy. About 30% of the total land area is considered arable (i.e. 58,537 acres), and of this total about 53% is currently used for agriculture. However, with the implementation of a strategy to replace agriculture with eco-tourism, the dependence on the natural resources increases significantly.

Dominica places a very high priority on the conservation of its forest reserves. There are three national parks and two forest reserves. The Trois Piton National Park has been declared a World Heritage Site by the United Nations because of the abundance of natural phenomena (waterfalls, boiling lake, diverse species of flora and fauna) found within its boundaries.

With the exception of the forest reserves (36% of which are privately owned) most of the land in Dominica is privately owned. Two systems for legally registering ownership of land in Dominica exist side by side. They are the Title by Registration Act and the deeds registration under the Conveyancing and Law of Property Act. Once land is brought onto the Register under the Title by Registration Act, it remains on the books. There are also unregistered lands, particularly State land. However, in the case of a State land grant, the recipient is entitled to convert the grant into a Certificate of Title under the Title by Registration Act.

The regulatory regime for the control of uses of land is within the domain of the Planning and Development Corporation. This unit uses the staff of the Physical Planning Division to execute planning permission functions. Of land development permits, 88% are for residential purposes and officials estimate about 25% of building structures are non-authorised activity. There is no national land-use zoning plan for Dominica.

The original people of Dominica, the Caribs, collectively own and control a grant of 3,700 acres of land. This land is held “communally” according to Carib land traditions, with the Carib Council effectively deciding its allocation and use. This form of tenure clashes with the requirements of commercial lending institutions for a demonstration of exclusive ownership before offering to provide investment capital.

Land use plays an important role in the development strategy of Dominica. One suggestion being considered is to create a “Land Bank” which would seek to make lands available for the most appropriate uses. Given the fact that most of the arable land is privately owned, this proposal would require significant improvements in the organisation of land information as well as in the functioning of the land-lease market.

1. INTRODUCTION

1.1 Background

Dominica is the largest island (land mass) in the OECS and also in the Eastern Caribbean. Its area of 751 km² supports a population of approximately 70,000 persons. In spite of its natural growth rate, outward migration has kept the population constant for the last decade. Amongst all the Caribbean island states, Dominica has the lowest population density (96 persons per km²)¹.

Between 60% and 75% of the land is covered by forest, much of it on steep slopes. The mountainous interior rises to about 1,422 m with very heavy annual rainfall levels (4,000-10,000 mm per annum). Dominica’s rain forest has been the least exploited, hence the tag “Nature Island of the Caribbean”.

1.2 Economic Performance

Dominica continues to be an agricultural economy in spite of the fact that the agriculture sector’s share in GDP declined from 38% in 1977 to 17.4% in 2001. It is true that the manufacturing sector (8% of GDP) currently generates more export earnings than does agriculture, and the tourism sector generates even larger earnings than either of the two. Nonetheless, it is the agricultural sector which involves such a broad base of economic resources

¹ Cuba at 87.6 persons per sq. km is the lowest density.

that its effects are felt immediately at a national level. In the 1991 Census, 30% of the economically active population was recorded as having agriculture as their primary activity.

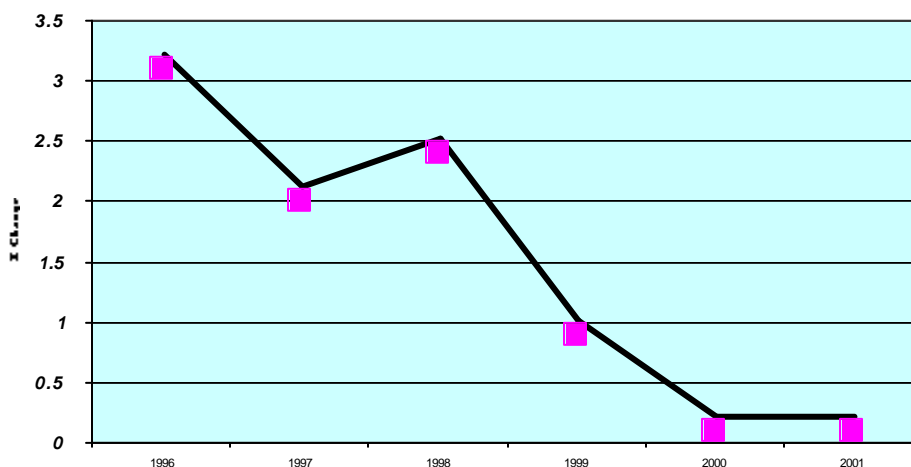
TABLE 1. BASIC DATA ON DOMINICA

Population (Year 2000)	70,000	Real GDP (EC \$million) 2000	\$266.6
Urban Population	71%	GDP Growth Rate (Avg. 96-'01)	1.7%
Rural Population	29%	Agriculture (% of GDP) 2000	18.5%
Population Density (1998) per sq. km	96	Total Area (sq. km)	195,129
Life Expectancy	76.2	Arable Land (acres)	58,537
Infant Mortality (per 000 live births)	14.3	Land Used for Agriculture (acres)	31,631
Poverty Rate	33%	Agriculture Land as % Total area	16%

Source: Central Statistical Office, OECS Human Development Report, 2000.

The Labour Force Survey of 1997 puts the total workforce at 33,418 of which 26% is considered unemployed. The private sector accounts for 44.3% of the employed workforce with self-employed accounting for 31.9%. It is agriculture in general and banana production in particular that accounts for a significant proportion of the self-employed and the employed.

GDP Growth Rates



The overriding concern in Dominica has been the decline in economic growth. Though the average annual growth rate of GDP was 5.28% over the

1986-90 period, growth fell in the subsequent five years (1991-1995) to an average annual rate of 2.25%. This trend of decline continued over the last five years of the last decade (1996-2000), when the average annual growth rate was 1.9%. More alarming still, recent reports² suggest that the level of economy activity continued to decline in 2001, with a 4% drop in real GDP.

1.3 The Economic Challenge

The traditional dynamism in the leading sectors has been significantly tempered. The agricultural sector, which has fuelled economic growth through the export of bananas, has been reduced from 38% of GDP in 1977 to 17.4% of GDP in 2001. The manufacturing sector makes a valuable contribution (although based on the performance of one company). The tourism sector weakened in 2000 (2% decline) and 2001 (1.3% decline), and for the first time in at least a decade, the number of stay-over visitors seemed to have declined³.

The impetus for growth in the economy of Dominica comes from foreign exchange earnings from exports and from national and foreign savings used as investment funds. The challenge to Dominica is two-fold. The first is to utilise its human and natural resources to increase the productivity and export potential of both its agricultural and tourism sector. The second is to maintain the integrity of its natural resources, particularly its forest reserves, while still attracting domestic and foreign investment funds.

2. LAND AND THE ECONOMY

2.1 Land Resource

The National Motto of Dominica, “Apres Bon Dieu c’est la Terre” (after God there is the Land), reflects quite accurately the position of land resources in the Dominican economy. The major use of land in Dominica is in forestry (75,543 acres). Of the forests, 64% is owned by the State with the remainder in private hands. Agricultural use is limited to about 32,000 acres.

Dominica places high priority on the conservation of its forest reserves. Protected areas comprise about 20% of the total land area. There are three National Parks and two Forest Reserves. Dominica is also in the unique position of having 3,782 acres ceded to the Carib people, the original inhabitants of the island. Land within this territory is held under a

² Economic Stabilisation Programme for Dominica, prepared by the Ministry of Finance & Planning, ECCB and CDB, March 2002, p. 4

³ Comparison of stay-over visitors, January–September, indicates 51,714 in 2001 compared with 52,207 in 2000.

“communal” title by the Carib Council, which grants permission for use to individual members.

TABLE 2. LAND USE

Land Use	Acres	% of Total
Forestry	75,543	
.. of which State lands	48,080	64%
.. of which Private lands	23,714	36%
Agriculture	31,631	

Source: Central Statistical Office, Ministry of Agriculture.

TABLE 3. PROTECTED LAND AREAS OF DOMINICA

National Parks	Hectares
The Cabrits National Park	550
The Morne Trois Piton National Park	6,879
The Morne Diablotin National Park	3,335
Forest Reserves	
The Northern Reserve	5,490
The Central Reserve	410

Source: Ministry of Agriculture, Central Statistical Office.

3. ASSESSMENT OF EXPERIENCES

3.1 Land Administration

Two systems for legally providing and transferring title to land exist in Dominica. Dominica has had a Title by Registration Act, Chapter 56:50, enacted since 1883. This system of land registration co-exists with the system of deeds registration governed by the Conveyancing and Law of Property Act, Chap. 54:01, and the Registration of Records Act, Chap. 54:04.

The Title by Registration Act (TbyR) is based on what is known as the “Torrens System”. Essentially it means that all legal rights must be registered on the title to be protected. The major result is that once land is brought onto the Register, it stays on the Register, although not necessarily under the name of the original proprietor.

The registration of titles has increased significantly in the last five (5) years from 953 in 1998 to 1,221 in 2002.

TABLE 4. RECORD OF TITLE REGISTRATION (1998-2002)

Year	Total
1998	953
1999	1,426
2000	1,369
2001	986
2002	1,221

Source: Registrar's Office.

Unregistered land can be legally transacted in Dominica through the Conveyancing and Law of Property Act and the Registration of Records Act. However, the commercial banks reinforce the Title by Registration as the acceptable evidence of ownership.

The two systems do have a beneficial use with respect to State lands. The State grant is a mechanism whereby the State distributes State lands not yet registered. However, the grantee has the option of converting the State grant into a Certificate of Title without paying the necessary fees. In this way, State land grants can be brought onto the Register of Titles to the benefit of the grantee.

3.2 Regulatory Control of Land Use

In Dominica, the Planning and Development Corporation exercises the regulatory control of land use. This is a statutory body that meets monthly to approve sub-division of lands and to rule on other land use plans. The Corporation itself does not have any staff and relies on the staff of the Physical Planning Division of the Ministry of Finance to administer development control.

In the 1989-1995 period, the average annual number of permits issued was 551. In the subsequent 7-year period (1995-2001), the average number of permits was 424, a decline of 24%. This is attributed to the downturn in the economy; 88% of the development permits are issued for residential purposes.

Sub-division of agricultural lands is exempt from planning permission. There is a Land Management Authority, which is supposed to regulate the sub-division of State lands. As a practical matter, however, this institution is not functional.

The Physical Planning Division estimates that about 25% of building structures are non-authorized activity. This occurs especially if the client has his own resources and considers the planning process to be too time

consuming. If, however, the commercial banks were involved, they would require evidence of a building permit.

TABLE 5. DEVELOPMENT ACTIVITY IN DOMINICA, 1989-2001

Year	Applications Received	Permits Issued
1989	697	561
1990	668	555
1991	602	541
1992	595	543
1993	691	556
1994	625	588
1995	543	517
1996	556	403
1997	503	424
1998	490	413
1999	490	390
2000	521	432
2001	478	391

Source: Physical Planning Division, "Construction Activity in Dominica, 2001 in review", Table 1.

The new Physical Planning Act 2002 is aimed at bringing a more comprehensive approach to physical planning and development of land. The Act introduces a schedule for planning permission, which would require that Environmental Impact Assessments accompany some applications. The Act also requires the Corporation to obtain advice from other agencies such as the Forestry Department, Fisheries, DOWASCO (the water authority) and the Environment Health Department.

4. LAND ISSUES

4.1 Access to Land

Private land ownership is more widespread in Dominica than in other OECS territories such as Antigua & Barbuda, although the distribution of land is uneven. Of the farming population, 74% owns parcels of land of 5 acres or less, but accounts for only 23% of the agricultural land. At the other extreme, 1.3% of the farming population controls about 35% of the agricultural land in parcels exceeding 50 acres.

State lands remain the primary source of land distribution. The State Lands Act vests the power to dispose of State lands by grant, sale, exchange or lease in the President. This power to grant lands is usually exercised on the

advice of a Minister. However, a complication arises in this exercise of this power, because the advice can come from any line Minister under whose portfolio the land will be put to use. Consequently, although land matters are within the portfolio of the Minister of Agriculture, other Ministers can also exercise this power to advise on the grant of land.

There is no national land-use zoning plan in Dominica. As lands are identified for specific purposes these, they acquire the status of being zoned for that specific land use. Thus urban and rural settlements and several former estates acquired by Government (Geneva Estate, Castle Bruce Estate and Melville Hall) are some of the areas subject to specific use. The lack of zoning has allowed many unsuitable areas to be used for farming while more suitable agricultural areas are under-utilised.

4.2 Communal-held Lands

The Caribs of Dominica occupy the Carib Territory comprising 3,700 acres, which was granted to the Carib Community in 1987 through the Carib Reserve Act, Chap. 25:90. The Act vests the parcel of land in the Carib Council and recognises their land traditions as applicable. As such the land is owned by the entire Carib nation, and the Carib Council grants permission for use to individuals.

The Act provides for the election of a Carib Chief and a Carib Council. The Council acts as the custodian of the land and may demarcate, apportion, allot or exchange lands in the territory to persons who it recognises as members of the Community.

Although the Act provides for the issue of a grant of the lands to the Carib Council, this grant has never been converted into a Certificate of Title. The Central Government still retains responsibility for the overall development and planning in the territory.

4.3 Land Taxation

There is no tax on land in Dominica, although there is a tax on houses. However, when land is transferred there is a tax on the appreciated value, calculated as the difference between the original purchase price and the current selling price of the land. This tax can be avoided by selling land by deed of conveyance but there is no evidence that this practice is widespread.

4.4 Land Information

Land information is not organised in any systematic manner in Dominica. Information is scattered around the many agencies exercising power in land administration and land management. Government has under consideration a “Land Bank” proposal, which would seek to make the lands available for the most appropriate uses. The proposal has serious and complicated legal ramifications because most of the land is freehold.

For State lands, the issue is simpler because such land can be leased or sold directly by Government. With private lands, however, the Land Bank proposal will require the development of a vibrant land-lease market in which private land owners can register their property for lease through the Land Bank programme. It is within this context that a national land database/GIS will improve the functioning of the Land Bank on a national scale.

4.5 Natural Resource Management

Environmental protection is an important issue in Dominica because the natural environment forms an important component of the Tourism product. The National Parks and Protected Areas Act of 1975 (Chap. 42:02) was enacted to provide for the creation and maintenance of national parks and other protected areas. Two were created at the time of the passage of the Act. They are the Morne Trois Piton National Park and the Cabrits National Park. A third park, the Morne Diablotin National Park, was created in January 2000. The marine environment is also considered a national tourism asset and the Scots Head Soufriere Marine Reserve was created in 1999 under the Fisheries Act (Chap. 61:02).

5. CONCLUSION

The commitment of the Government of Dominica to promote eco-tourism as an alternative income and employment-generation sector requires a strategy that balances conservation objectives with efforts to improve the quality of life of the citizens and contribute to the diversification of the economy. Land use becomes an important component of such a strategy.

The issues of land access and the viability of small agricultural enterprises become inseparable from those of diversification of the economy and poverty reduction. With one of the lowest population densities in the OECS sub-region and with an effective legislative framework to protect its natural resources, Dominica needs to develop the institutional capacity to administer a vibrant land market serving its various development needs.

GRENADE: Land Policy, Administration and Management: Country Experience

Allan N. Williams

EXECUTIVE SUMMARY

The State of Grenada comprises three islands with a total land area of 344 km². The Grenada economy has grown at an average annual GDP growth of 7.06% (1998-2000). This growth rate has been achieved through significant increases in manufacturing, tourism receipts and construction. The authorities are looking to a greater diversification of the economic base to address issues of poverty reduction and unemployment.

The strategy for achieving these goals will focus on attracting more investment in agriculture and tourism, and in new areas of agro-processing, internet-based marketing and data processing. Grenada, however, has the lowest level of State-owned lands in the Organisation of Eastern Caribbean States (OECS), with only 10% of the land area being owned by the State. This does not provide the State with significant land resources to address these problems. The development strategy would need to be supported by sound land policies and by improvement in the institutional structure for administering land ownership and land use control.

There are essentially four (4) pieces of legislation dealing with the administration of lands in Grenada. These are the Deeds and Land Registry Act, Cap. 79, the Conveyancing and Law of Property Act, Cap. 64, the Land Transfer Valuation Act, 39/1992 Repeal and the Property Transfer Tax Act 37/1998. The Land Registry is a registry of deeds and does not provide a means for identifying the location or any specific aspects of any parcel of land. Rather, it is the Valuation Division, which is able to identify the existence of 52,229 parcels of land in Grenada (4,659 in Carricou and Petit Martinique), covering some 73,315.61 acres.

Land management in Grenada has always meant the management of Crown lands. Records of all holders of Government lands are kept in the Lands and Surveys Department of the Ministry of Agriculture. Until recently, the use and development of lands in Grenada had been governed by two pieces of legislation. These were the Town and Country Planning Act, Cap. 322, and the Land Development Control Act, Cap. 160, which established the Land Development Control Authority (LDCA). The new Physical Planning and Development Control Act 25/2002 broadens the perspective of development

control in Grenada. The two important differences in this Act is that it provides the LDCA with a mandate to prepare a physical plan for the whole of Grenada and to identify, protect, conserve and rehabilitate the natural and cultural heritage of Grenada.

According to the 1995 Agricultural Census, there are approximately 18,277 households (59% of the total population) engaged in some form of agricultural activity. However, only 73% (13,338) of these households are considered farmers given their resource base. The census suggests that there is a significant number of households which may have an expressed need for agricultural land. Previous land distribution programmes have addressed this need but these have been too narrowly defined. The issue of creating *viable livelihoods* in the rural sector appears to be much wider than the sub-division of agricultural plots.

It is clear that most Grenadians prefer the most secure of all land tenure, freehold tenure. In Grenada 72% of the land under farms are owned outright, 15% are operated as family owned and only 12% are operated under lease arrangements. The approach to tenure security in the Land Settlement Act is to lock-in “original possession” by imposing restrictions on the alienation of lands allotted and sold as small-holdings. The broader perspective would be to strengthen the institutions that would support property relations such as the cadastre, the land registry, registration of leases, etc. The core of this approach would be good legal support combined with an effective land information system.

Squatting, defined as the illegal occupation of land, occurs primarily on Government-owned lands. In the last two decades, the Ministry of Agriculture has regularised over 1,250 plots, 55% of which have been in the Grand Anse area. The Housing Policy and Strategy acknowledges, however, that the lack of land-use planning or zoning by-laws, inadequate enforcement of existing laws and, in respect to private lands, titling issues related to poorly registered inheritance over several generations all contribute to increasing the incidence of squatting.

Land in Grenada is mostly in private hands. Even though the Government is the largest land owner, it is not expected to be the largest agricultural producer. Thus productive lands now in the possession of Government are expected to be transferred eventually to the control of private individuals. This requires that Government move from a position of articulating land policy with respect to Crown lands only, to developing a national land policy with the active participation of all other stakeholders.

1. INTRODUCTION

1.1 Background

The State of Grenada comprises three islands with a total land area of 344 km². The island of Grenada itself is 307 km² (90% of the total area); Carriacou has an area of 35 km² and Petit Martinique comprises 2.3 km². Grenada has a landscape of fast-flowing rivers and streams, which are the results of a steep hilly to mountainous topography. Of the land area, 77% of Grenada and 54% of Carriacou have slopes exceeding 20 degrees. Only 3% of the land area is at sea level and this includes the main towns and many of the key infrastructure facilities. Grenada has the lowest level of State-owned lands in the OECS. Only 10% of the land area is reportedly in Crown lands. The majority of the land, 90%, is privately owned.

TABLE 1. GRENADA BASIC INDICATORS

Population (Year 2000)	101,400	Real GDP (EC\$million) 2000	\$692.70
Urban Population	38,016	GDP Growth Rate (avg. 96-'00)	5.6%
Rural Population	60,984	Total Area (acres)	84,000
Life Expectancy	71.6	Crown Lands (acres)	8,030
Infant Mortality (per 000 live births)	16.2	Privately Owned Land (acres)	75,970
Poverty Rate (%)	32.1	Agricultural Land (acres)	35,000
Unemployment Rate	12%	Forest Area (acres)	6,950

Source: GOG 1996; Lands & Surveys Division, MOA (June 2000); OECS Human Development Report 2000.

Historically, land in the form of estate agriculture has dominated the economic profile of Grenada. In 1850, nutmeg was introduced into Grenada, and this has developed into an important commodity export even today. In 1923, bananas were introduced and the availability of export markets in the USA and the UK led to a rapid growth in this industry. By the early 1950s, cocoa and bananas accounted for 90% of the value of total exports. Today tourism dominates the economic profile of Grenada, accounting for an estimated 25% of GDP, 40% of export of goods and services, 9% of Government revenues and about 15% of employment.

1.2 Economic Performance

Grenada is one of the fastest growing economies within the OECS and its success has been largely due to the fact that it has succeeded in diversifying its export product base. Banana cultivation and export made up the main economic activity until the early 1990s. It then declined rapidly during middle of the 1990s and virtually ceased in 1997 as a result of low

productivity, poor fruit quality, disease and uncertainty regarding access to the preferential markets in the European Community.

The economy of Grenada has experienced significant growth in recent years. The average annual rate of growth of GDP in 1998-2000 was 7.06%. This is a significant improvement from the previous three-year period, 1994-1997, when the rate was 3.37%. This growth rate has been achieved through significant increases in manufacturing, tourism receipts and construction.

The comparison with the economic performance in the OECS sub-region as a whole clearly shows some of the differences in the achievement in Grenada. Grenada's agricultural sector contributed about the same level (8% to GDP) as the average agricultural sector in the OECS. However, the manufacturing sector in Grenada makes a larger contribution than the average for the OECS. This is the result of new electronic component manufacturing, which is exported directly to the USA market.

TABLE 2. COMPARATIVE ECONOMIC INDICATORS

	Grenada	OECS
<i>Economic Sectors (2000)</i>		
Agriculture	8.20%	7.60%
Manufacturing	9%	6.03%
Government	13%	14.96%
<i>Performance Indicators</i>		
Real GDP Growth (1996-2000)	5.70%	3.60%
Unemployment (2000)	12.00%	15.00%
Inflation (%; Avg Rate 1996-2000)	1.60%	2.10%
Tourism Growth ^a (1995-1999)	2.90%	1.40%
Export Volume growth (1995-1999)	21.80%	-1.80%

^aPercentage growth in stay-oved Data.

The other differences are that the size of Government is smaller, unemployment is lower and export growth is greater than the average for the OECS member-states. In fact, exports of manufacturing, nutmeg and fish products resulted in a 21% increase in export volumes between 1995 and 1999 as compared with a decline of 1.8% for the OECS on the whole.

1.2 Economic Challenges

The authorities are looking to a greater diversification of the economic base to address issues of poverty reduction and unemployment. The strategy for achieving these goals will focus on attracting more investment in agriculture and tourism, and in new areas of agro-processing, internet-based marketing and data processing. This strategy needs to be supported by

sound land policies and by improvement in the institutional structure for administering land ownership and land-use control.

The problem of poverty remains a major concern. The OECS Social Development Report estimates the level of poverty in Grenada at 32% of the population¹. This is referring to “resource poverty” which measures things like access to housing, health, education and land.

The amount of land in agricultural use has been declining over the last 30 years. Grenada has been aware of this problem and has a history of State intervention in the land market to address the distribution of land. The “land for the landless” programme was introduced by the Grenada United Labour Party (GULP) when it was in Government in 1967. This programme acquired large estates for sub-division into small plots. The People Revolutionary Government (PRG) of 1979-1983 inherited these estates and vested them in the Grenada Farms Corporation. Following the collapse of the PRG in 1983, most of the estates were returned to their original owners by the new administration.

TABLE 3. TOTAL LANDS IN AGRICULTURE

Agricultural Census	Agricultural Land (acres)	% Change
1961	60,200	
1975	46,600	-23%
1981	34,200	-21%
1995	35,000	2%

Source: Central Statistical Office.

The current pressure for housing and tourism development continues to exert pressure on the pattern of land use. The Public Sector Housing Policy and Strategy suggests that the average annual demand for housing for the poor would be about 150 new dwelling units for the next two decades — representing about 12 acres at an average plot size of 3,000 sq. ft.². The report offers the following land-related factors as influencing the housing sector³.

- Grenadians have a culture of family land holding that complicates land title and discourages sub-division and sale;
- The nature of the economy has been changing from rural agricultural to urban service-based, putting a premium on land in areas close to economic development;

¹ OECS Human Development Report 2000, Table 1.6; OECS Social Indicators, p. 34.

² Public Sector Housing Policy and Strategy for Grenada, p. 10.

³ Ibid., p. 9.

- Land prices have risen sharply in the past two decades, due mainly to the relative scarcity of housing plots, population and economic growth and expatriate Grenadians and non-Grenadians investing for retirement;
- The lack of published land-use plans probably restricts private and public initiatives that would otherwise bring new land onto the housing market.

Grenada's economic challenges will all have to be addressed by policies in which land will be the central instrument for implementation.

2. LAND AND THE ECONOMY

2.1 Land Resource Issues

The total land area in Grenada is approximately 84,000 acres (33,994 ha). Unlike other OECS territories, the Government of Grenada does not own a significant proportion of this land. Crown lands are estimated at about 10% of total holdings, with private land ownership of the remaining 90%. This would mean that land is as widespread a decision-making asset in individual investors' portfolios as would be savings and other assets. Thus, as the economy becomes diversified through private initiatives into other productive sectors (manufacturing and tourism), the proportion of land utilised in agriculture will tend to decline. Grenada has already experienced this trend. According to the Agricultural Census of 1995, 41% (35,000 acres) of the total land area is currently classified as agricultural lands, down from 72% (60,200 acres) in 1961.

Nevertheless, land in agriculture continues to be one of the pillars of Grenada's economy. In 1990 agriculture accounted for 13.4% of GDP. This relative position declined to 8.2% by 2000. In spite of this, however, the sector's contribution to employment only fell from 18% to 17% and it continued in 2000 to account for approximately 45% of total domestic exports. Thus any reduction in the use and productivity of land in agriculture will be noticeable at the national economic level.

Land and land policy also have a role to play in the diversification of the tourism product. This ranges from the construction of hotel facilities to development of eco-tourism sites, natural trails and the maintenance of the natural environment.

The settlement pattern in Grenada continues to pose a challenge to rational land use. The majority of Grenada's 300 towns and villages are located in the coastal areas with linear inland extensions along valleys and ridges. Unpopulated areas generally reveal natural physical constraints such as steep slopes unsuited for human settlements. The decline in the utilisation of land in agriculture has been accompanied by increasing poverty levels and migration from the rural area into the urban centres. About 60% of the

population now lives in the two “urban” parishes of St. George’s and St. Andrew’s. The non-urban part of the parish of St. George’s (adjacent to the capital) has experienced an annual growth rate of 2.1 % between the census years of 1991 and 2000 as compared with the overall population growth rate of 0.74%.

Poverty is also an issue that has to be addressed by land policy. The Poverty Assessment Report in 1998 indicated that the poor are young, with 51% below the age of 20 years, and represent 34% of the population in St. George’s Parish and 27% in St. Andrew’s Parish. Grenada is looking at a significant rate of household formation amongst the poor, requiring land for housing and for subsistence. As a result, the issues of squatting, settlements and making land available for low-income housing are now on the national agenda.

2.2 Changing Land Uses

The pattern of land use in Grenada has been influenced by the history of plantation cultivation, which established large tracks of land in single crop production. Private ownership of these estates remained intact until the State intervened in a series of land distribution programmes aimed at increasing the access of poorer and smaller farmers to land.

TABLE 4. CHANGES IN LAND USE PATTERN, 1961-1995

Land Use (000 acres)	1961	1975	1981	1995	'75-'95
Permanent Crops	28.1	23.2	21.6	22.3	-3.88%
Temporary Crops	13.1	10.2	--	2.4	-76.47%
Pastures	6.6	4.7	--	1.6	-65.96%
Forest/Bush	9.5	7.6	7.8	7.3	-3.95%
Non-Agricultural Lands	2.9	0.9	4.8	1.4	55.56%
Sub-Total	60.2	46.6	34.2	35.0	-24.89%
Other Lands	24.2	37.8	50.2	49.4	30.69%
Tota	84.4	84.4	84.4	84.4	

Source: Grenada Agricultural Census '95 Report.

The 1967 attempt of the Government of the GULP to distribute “land to the landless” resulted in the acquisition of some 24 estates comprising 3,201 acres. Of this amount, only 20% was actually distributed⁴, the remainder becoming the basis for various State land programmes. This initial State

⁴ “Assistance in the Development of Land Use Planning and Agricultural Production Zoning in the OECS”, by Ferron C. Lowe, Grenada, October 2001, p. 4.

action has been cited as the major factor in the initial decline in crop production between 1961 and 1981⁵.

Forest reserves have been stabilised after a significant loss of forest acreage between 1961 and 1975. About 6,946 acres (95% of this category) of forest is vested in the State. The Grand Etang has been declared a Forest Reserve by an Act of Parliament. There are plans to declare other areas as reserves and the Ministry of Agriculture is actively surveying these lands.

TABLE 5. FOREST LAND HOLDINGS OF THE STATE

Forests	Estimated Size (acres)	Status
Grand Etang	3,816	Forest Reserve
Mt. Gazo	84	To be made a Reserve in 1 to 2 years
Mt. St. Catherine	2,800	Currently being surveyed
Annandale	40	To be made a Reserve in 1 to 2 years
Grand Bacolet	180	To be surveyed (including agri. lands)
Plaisance	2	Declared forest by Lands & Surveys
Mt. Moritz	24	Declared forest by Lands & Surveys
Total	6,946	

Source: Lands and Surveys Division, Ministry of Agriculture (Nov. 2000).

The other two categories of land use, which have significantly changed in the post-independence period, are “Non-Agricultural Lands” and “Other Lands”. With respect to non-agricultural lands, the Housing Authority of Grenada has been instrumental in alienating some 155 acres of former estates into housing. About 25 acres are reportedly under squatting conditions and the remainder of lands would have diverted from agricultural use by private owners in tourism-related activities.

2.3 Land for Housing

The preliminary results of the 2001 Census indicate that there is a total of 31,122 households with a mean household size of 3.3 persons. The mean household size is the lowest in 30 years, from 4.7 in 1970 to 4.2 in 1981 to 3.9 in 1991. This fact, accompanied by internal migration from rural to urban areas and housing stock replacement, have all accentuated the housing needs of Grenada.

The housing strategy as expressed by Government is cognizant of these developments and has noted that “insufficient affordable land is being made

⁵ The Draft Land Policy for the Management of Crown Land in Grenada, April 2001, recognises State action as a contributing factor to the decline of the farming system (see Historical Background).

available to meet the housing needs of low income people, particularly in the parish of St. George's. Generally, in southern St. George's, housing is competing and 'losing' to commercial and industrial development, whereas in rural parishes housing is encroaching on agricultural lands'⁶.

Earlier estimates of housing needs by the Physical Planning Unit had suggested an annual average of about 260 new dwelling units during the period 2001-2011. This estimate has been revised upwards by the Housing Policy Paper to 580 units annually⁷. The housing demands for the poor during this decade have been estimated at 150 new units — representing about 12 acres at an average plot size of 3,000 ft². The remainder of the housing needs (430 units) would represent about 51 acres at an average plot size of 5,000 ft². Thus the new estimates suggest a need to alienate a maximum of 63 acres of land annually to fully satisfy the housing needs. Most Grenadians look to the State to provide new lands for housing.

Since the housing needs of low-income and poor citizens do not attract much activity from local land developers, the Government's approach has been to establish the Housing Authority of Grenada (HAG) as the institutional structure to utilise Crown lands to address these needs. This facility still looks to the conventional financing mechanisms to support housing development. However, it is evident that Grenadians are using their credit union institutions⁸, and other non-conventional sources, including financing through building suppliers, "sousou" savings schemes, remittances from overseas family members and annual earnings from the sale of agricultural products (e.g. nutmeg "back-pay") to achieve their housing/shelter objectives.

The vesting of about 155 acres of Crown lands in Housing Authority of Grenada over the past two and a half decades has boosted the Government's policy of utilising Crown lands for housing. The Authority has used about 57% (89 acres) to date to provide low- and middle-income housing. Yet HAG has significant resources in the form of 66 acres still vacant.

2.4 Divestment of Crown Lands

The demographic changes and the competing needs for housing and agricultural plots are also reflected in attempts at divesting Crown lands. The exact quantity of land over which the Government has direct control to date is not fully known.

This is because some lands acquired under previous administrations, including the PRG, had been returned to their owners. Other acquisitions are yet to be satisfactorily compensated. The Lands and Surveys Division of

⁶ Housing Policy and Strategy for Grenada, August 2002, p. 8.

⁷ Ibid., p. 10.

⁸ Grenada has 19 credit unions with a total membership of 19,500.

the Ministry of Agriculture has identified about 1,083 acres on 16 estates as “Crown Land Holdings”.

TABLE 6. PRESENT CROWN LAND HOLDINGS IN GRENADA

Name of Holding	Estimated Size (acres)	Name of Holding	Estimated Size (acres)
1. Grand Gras Estate	184	9. Amber Belair	16
2. Balck Bay Estate	138	10. True Blue	2
3. Mt. Reuil Estate	138	11. Belle Vue	2
4. Laura Estate	40	12. Loretto	1.5
5. Belle-Vue Estate (St. Andrew)	220	13. Malmount	1
6. Bocage Estate	79	14. Calliste	2
7. Beausejour	200	15. Diamond	35
8. Morne Rouge	25	16. Levera	Unknown
Total	1,024	Total	59.5

Source: Land and Surveys Division, Ministry of Agriculture.

TABLE 7. UTILISATION OF CROWN LANDS UNDER THE MODEL FARMS PROGRAMME

Name of Farms Divested	Estimated Acreage	Number of Model Farms	Number of House Lots	Number of Garden Lots
Belle Vue (St. George)	52.01	8	-	-
Mt. Horne	29.36	7	-	-
Fond Pecher	28.53	10	-	-
Malmount	67.18	11	7	1
Pointzfield	23.84	6	3	8
Paradise	53.12	13	-	-
Carriere	39.99	8	1	7
La Force	109.23	19	26	1
La Sagesse	30.1	6	8	12
Samaritan	-	-	35	5
Black Bay	-	-	43	-
Grand Bas	-	-	61	-
Laura	-	-	19	1
Cadrona	-	-	6	-
Bocage	-	-	4	-
Telescope	-	-	76	-
TOTAL	433.36	88	289	35

Source: Land and Surveys Division, Ministry of Agriculture.

The most recent land divestment programme was the Model Farms Project of 1985. Through this programme, 24 estates (approximately 3,200 acres)

previously vested in the Grenada Farms Corporation were to be divested to farmers and other private persons. The issue is whether it makes sense in the context of Grenada — with its levels of internal migration, limited opportunities for off-farm employment to rural households and mismatch between fortunes of the tourism sector and continuous decline of the agricultural sector — to conceive of access to land in separate, inflexible programmes. Although it has been terminated, the experiences of the “Model Farms” programme is very instructive.

Table 7 indicates that only 88 of the 182 model farms were established under the programme. Instead, 289 housing lots and 35 garden lots were also established. Officials have attributed this diversion to political and social pressures expressed through the political directorate. The obvious conclusion is that the recipients were intent on forcing the programme to create *viable livelihoods*.

3. ASSESSMENT OF EXPERIENCES

3.1 Land Administration

There are essentially four (4) pieces of legislation dealing with the administration of lands in Grenada. These are:

- Deeds and Land Registry Act, Cap. 79;
- Conveyancing and Law of Property Act, Cap. 64;
- Land Transfer Valuation Act 39/1992;
- Property Transfer Tax Act 37/1998.

The Land Registry is a registry of deeds and does not provide a means for identifying the location or any specific aspects of any parcel of land. The Registry, therefore, stands apart from most other institutions for administering land in Grenada.

The more central institution appears to be the Valuation Division of the Ministry of Finance. Land Transfer Valuation Act of 1992 provides for a better system of appraising property transferred where such a transfer attracts a tax. The taxing authority, the Comptroller of Inland Revenue, requires the Valuation Division of the Ministry of Finance to determine the prevailing market value of land for tax purposes. Thus it is from the Valuation Division that we are informed of the existence of 52,229 parcels of land in Grenada⁹ (4,659 in Carricou and Petit Martinique) covering some 73,315.61 acres.

⁹ Indication from the Valuation Division as of Wednesday, November 21, 2001.

3.2 Land Management

“State Land Management” in Grenada means the management of Crown lands. Records of all holders of Government lands are kept in the Lands and Surveys Department of the Ministry of Agriculture. This department also has responsibility for managing all Government lands and collecting revenue from the same. In 2000 they collected EC\$1.5 million in revenues.

The other institutions involved in the management of Crown lands are the Ministry of Agriculture, which has responsibility for managing six (6) estates, and the Forestry Department with responsibility for managing all forest areas.

There is a Land Use Division within the Ministry of Agriculture, which uses the Grenada Land Information System (GLIS) to provide physical and economic suitability of estates under the control of the State. Based on the suitability assessment, the Division makes recommendations as to proposed uses and/or change of uses of Crown lands. The Division has recommended that a proper Environmental Impact Assessment be made of any of the estate lands to be used for non-agricultural purposes.

3.3 Land Use and Development Control

The use and development of lands in Grenada have been governed until recently by two pieces of legislation. These are:

- Town and Country Planning Act, Cap. 322;
- Land Development Control Act, Cap. 160.

The Land Development Control Act, enacted in 1968 and amended in 1983, established the institutional structure for development control in Grenada, the Land Development Control Authority (LDCA). This statutory Board approves applications for development of land (including residential and commercial buildings). The sub-division of agricultural lands is not included in its mandate, although Crown lands that are developed for housing do require such permission.

TABLE 8. PERMITS GRANTED FOR BUILDING

	1996	1997	1998	1999	2000	2001	2002
Residential	350	448	504	434	482	491	453
Commercial	41	47	50	73	74	50	82
Industrial	2	1	2	3	5	2	2
Other	15	24	20	21	24	15	16
Total	408	520	576	531	585	561	553

Note: Approximately 95% actually built.

Source: Central Statistics Office & Physical Planning Unit.

The Planning Unit within the Ministry of Finance generally undertakes the deliberative field work of development control. In recent years (1997-2002) total permits have ranged between 520-585 annually.

The new Physical Planning and Development Control Act 25/2002 broadens the perspective for development control in Grenada. While the Act maintains the LDCA as the executing agency and defines the staff of the Physical Planning Unit as the staff of the Authority, the Act mandates the preparation of a physical plan for the whole of Grenada. The Act requires certain contents in the physical plan¹⁰, including, *inter alia*:

- Setting out prescriptions for the use of land;
- Inclusion of all maps and descriptive matter to illustrate proposals;
- Allocating land for conservation or for use or development for agricultural, residential, industrial, commercial, tourism as may be relevant;
- Making provisions for the development of infrastructure, public buildings, open spaces and other public sector investment works.

The Act also authorises the Authority to request, if it so desires, an Environmental Impact Assessment in respect to any application for permission to develop land in Grenada.

The Authority is also given the mandate to identify, protect, conserve and rehabilitate the natural and cultural heritage of Grenada. This is the wider perspective on land development. The Authority will have the ability to co-ordinate with other departments by creating a “Natural and Cultural Heritage Advisory Committee” comprising officers from other Ministries and members from civil society¹¹.

3.4 Environmental/Conservation Concerns

There are 10 pieces of legislation dealing with protection, management and use of natural resources in Grenada. The most important is the National Water and Sewerage Authority Act, Cap. 208, which governs the development and management of water resources in Grenada. This legislation mandates the Government to promote a national policy for water and sewerage and to secure the execution of that policy by creating the necessary bodies for the provision of water supplies and the conservation, augmentation, distribution and proper use of water resources, including the preservation and protection of catchment areas and the provision of sewerage and treatment and disposal of sewage and other effluents (Section 3). The Act created the National Water & Sewerage Authority (NAWASA).

The Forest, Soil and Water Conservation Act, Cap. 116, also makes provision for the conservation of the forest, soil, water and other natural

¹⁰ Physical Planning and Development Control Act 25 of 2002, Part 3, Section 14(1,2).

¹¹ *Ibid.*, Part 6, Sections 40 and 41.

resources. The responsible institution is the Forestry Department of the Ministry of Agriculture.

One of the ways in which Grenada protects its forest lands is through legislation for their preservation. This is the case with the Grand Etang Forest Reserve Act, Cap. 124. Of interest is the fact that Section 2 creates the reserve and Section 3 stipulates that the lands so mentioned shall forever form part of Government land and shall be strictly reserved and set apart for the public purpose of forest conservation.

Government also protects areas through the National Parks and Protected Areas Act, Cap. 206. Under this Act the Governor-General may declare any Government land to be a national park and the Minister can declare any Crown land to be a protected area for the purpose of preserving the natural beauty of the area, creating a recreational area or preserving an historic landmark, place or object. The Act establishes a National Parks Advisory Council to advise on matters of administration, management and control of the national parks system and other related matters (Section 8).

Other legal measures affecting the ability to manage the natural environment include the Beach Protection Act, Cap. 29, the Public Health Act, Cap. 263, and the Grenada Solid Waste Management Authority Act (Act 11 of 1995).

4. LAND ISSUES

4.1 Security of Tenure

Tenure situations vary between freehold and leasehold, with the former predominating. In Grenada, 72% of the land under farms are owned outright, 15% are operated as family-owned and only 12% are operated under lease arrangements.

One approach to tenure security is to be found in the Land Settlement Act, Cap.161. Part 2 of the Act imposes restrictions on the alienation of lands allotted and sold as small-holdings. The only visible programme under the aegis of “Land Settlement” has been the Model Farms Project. Although this project was expected to settle over 182 model farms, it only succeeded in settling 88 such farms¹². These farms are “sold” to small farmers with particular limitations. In particular, small-holdings cannot be encumbered for a period of three (3) years and cannot be sold for a period of fifteen (15) years following the date on which the owner receives possession.

The implied approach to tenure security therefore is to lock-in “original possession” by legal means. This approach does not allow the open market

¹² See discussion in Section 2.4, Divestment of Crown Lands, Table 7.

transactions in land to play a significant role in breaking the cycle of inter-generational poverty. Small land-holders who have gained access to land through projects under this Act are unable to reap benefits from any increase in the value of their land assets.

This approach in no way negates the need for a broader perspective, which would seek to strengthen the institutions that would support property relations such as the cadastre, the land registry, registration of leases, etc.

4.2 Family Lands

The prevalence of “family land” in Grenada, i.e., land co-owned in undivided shares by the descendants of the original purchasers, is a phenomenon that dates back to the abolition of slavery. In Grenada, 15% of the land is classified as family land. There are no legal measures to recognise or to protect the integrity of “family lands”.

4.3 Land Markets

4.3.1 Land Transfers

The “old law” system of conveyancing still governs exclusively land ownership and transactions in Grenada. The practice of “old law” conveyancing was simplified by the Conveyancing and Law of Property Act, Chapter 64. In addition, the Deeds and Land Registry Act, Cap. 79, provides for the registration of certain legal instruments affecting land, including wills.

4.3.2 Land Valuation

Land transfers do attract a tax in Grenada. The mandate of the Valuation Division is to value land and other immovable property for the purposes of transfer taxes. The Land Transfer Valuation Act, No. 39 of 1992, provides that the open market value of the land should prevail over the sale price stated by both parties to the transaction. The Division recognises that a cadastral-based land records system would be an asset to supporting such valuations, as the true extent of the land being valued will be clearly known.

The Property Transfer Tax Act, No. 37 of 1998, also imposes the tax payable on the transfer of land. Both Acts provide for the filing of objections to and appeals against the valuations set on land and the transfer taxes assessed by the relevant authorities. The vendor can be exempted from payment of this levy if, after having consulted the Land Development Control Authority, which is responsible for land use, the comptroller is satisfied that the land is not suitable, intended or designated for development.

4.4 Squatting

In Grenada the rural-urban migration is primarily the result of a failure of the rural economy to provide sufficient income opportunities (on-farm and off-farm employment) to rural households. About 60% of the population lives in the two “urban” parishes of St. George’s and St. Andrew’s. Squatting occurs primarily on Government-owned lands and has been a serious problem in the Grand Anse Valley in St. George. In the last two decades, the Ministry of Agriculture has regularised over 1,250 plots, 55% of which have been in the Grand Anse area.

The process of squatter regularisation comprises surveying the plots, valuation by the Valuation Board (usually at below-market prices) and ultimate transfer of legal title to the occupants. Squatter communities usually lack planning or adequate physical infrastructure and regularisation leaves these areas in the same position.

The Housing Policy and Strategy acknowledges the following problems that propel the phenomenon of squatting in Grenada¹³:

- lack of land use planning or zoning by-laws, which poses a serious constraint to the efficient use of land;
- inadequate enforcement of existing laws;
- with regards to private lands, titling issues related to poorly registered inheritance over several generations.

4.5 Land Information System

In 1994, an FAO-assisted project entitled “Land Use Planning, Management and Information System” introduced computer modeling for land suitability and agricultural land-use planning to the Ministry of Agriculture. This system, which is currently used by the Land Use Division of the Ministry, is referred to as the Grenada Land Information System (GLIS).

Essentially the GLIS can provide two suitability evaluations. The physical suitability expresses the degree to which a pattern of land use on a tract of land is sustainable without unacceptable risks to the ecosystem. The economic suitability, on the other hand, calculates the economic returns to any specific land use on a given tract of land. As the objectives of land policy become more inclusive, a more comprehensive land information system becomes an important component for the implementation of land policy.

¹³ Housing Policy and Strategy for Grenada, August 2002, p. 12.

5. CONCLUSION

The programmes for land distribution in Grenada will continue to play an important role in achieving the long-term objective in the agricultural sector of achieving sustainable growth and developing the rural economy. Both land and human resources will be needed to increase exports of traditional and non-traditional crops, achieve self-sufficiency in selected foods and implement a structured agricultural diversification programme¹⁴.

The real challenge comes from the fact that land in Grenada is mostly in private hands. The Government, even though it is the largest single land owner, is not expected to be the largest agricultural producer. Thus productive lands now in the possession of Government are expected to be transferred eventually to the control of private individuals. These individuals will have a variety of needs transcending that of agricultural production. This requires that Government move from a position of articulating land policy with respect to Crown lands for agricultural purposes, to developing a National Land Policy within an active land market where the predominant form of land management is that exercised by private owners.

¹⁴ Draft Land Policy for the Management of Crown Lands in Grenada, April 2001, Executive Summary.

MONTSERRAT: Land Administration Experiences

Franklyn Greenaway

1. INTRODUCTION

Over the years various land management measures have been instituted in Montserrat, in response to particular development issues (e.g. the alien land-holding licence), and to meet certain social and economic objectives, such as the stimulation of construction activity etc. However, such measures did not benefit from an overall integrated and co-ordinated approach to land policy formulation.

With the onset of the volcanic crisis in 1995, more recently emerging land-related issues require clear policy guidelines for their resolution and control. The finite nature of the land resources on Montserrat warrants proper management for this to be achieved, and to maintain a sustainable pattern of growth and development. From a policy perspective, there is a need to develop processes to:

- review and update existing policies in keeping with the changing circumstances;
- formulate policy for evolving issue areas;
- eliminate conflicts and secure consistency in the administration of land-related matters.

As far back as 1992, the Ministry of Agriculture took the initiative with respect to the formulation of the policy for the sale of Government lands for housing. This initiative was supported, and a draft policy statement on the subject was developed. Subsequently, the Ministry was of the view that the approach should be broadened to involve the establishment of a comprehensive and coherent set of policy measures for the use, development, conservation and management of the country's land resource. This expanded approach saw the establishment of a Land Policy Committee to undertake the exercise.

This paper will look at the current situation in Montserrat, and the related implications for Land Policy, Administration and Management for the country.

2. LAND TENURE

2.1 Unclaimed Lands

It was noted that one of the main objectives of the Cadastral Survey was to have all parcels of land properly registered. However, several parcels have remained unclaimed under the new registrations system (Registered Land Ordinance No. 4 of 1978). In some cases, unclaimed lands are in fact occupied by bona fide owners who cannot meet the cost of formal surveys required for registration. Additionally the problem of unclaimed lands is affecting Government revenue from land taxation since unclaimed properties are not assessed for tax purposes.

With assistance from the University of the West Indies, a number of parcels were surveyed in 1997. Additionally, the Government of Montserrat has enacted the Crown Title Act No. 4 of 1998, and its subsequent amendment, No. 1 of 2000. This Act sets out the procedures for registering titles, and establishes the time frame within which this should be done.

2.2 Squatting

Squatting on Government-owned lands is not considered a significant problem in Montserrat at this time. The problem is, however, existent on private lands, and the key issue appears to lie in the relatively short period of time in which a squatter has to be in possession of land before he can make a claim for such land.

The Registered Land Ordinance as amended by the Registered Land (Amendment) Ordinance allows a squatter to acquire ownership of land on proof that he has enjoyed the property without interference from anyone's claiming. The Limitation Ordinance stipulates that in the case of private land, the squatter must have been in possession thereof for at least twelve (12) years, whereas in the case of Crown Land, the period stipulated is thirty (30) years.

In view of the changing circumstances in Montserrat, particularly in relation to increasing levels of travel and emigration, the 12-year limitation for private lands appears too short, and needs to be increased to give extended protection, particularly to land owners who reside abroad.

An investigation into the background and justification for the existing periods of limitation will need to be undertaken, and recommendations for amendments made in keeping with current circumstances. A recommendation of an extension to twenty years for private lands is under consideration.

3. LAND REGISTRATION

The existing system of Land Registration uses as its base the network of land parcels woven together by the Demarcation and Adjudication process of 1978–1980, commonly referred to as the Cadastral Survey. Within this network, all land parcels are given a unique identifier and plotted on the Cadastral Index Map. Within the Land Registry, all interests in land are registered in the Property Register as to the parcels to which they relate.

The main problems associated with the existing system are:

- There are still many parcels without formal surveys.
- The larger holdings are demarcated only by their natural boundaries and their areas have not been determined.
- Parcels for which there were no owners or claimants at the time of the Cadastral Survey are registered as unclaimed.
- There is a need to increase the security of the records (maps, registers etc) from fire, natural disasters etc.

Within recent years, Government of Montserrat has taken measures to improve the land registration system to achieve security of title for all land owners. This will facilitate expeditious land transactions and the flow of sufficient supply of land to meet development needs.

As part of the process, Government of Montserrat has started the development of a Geographical Information System (GIS). With funding from DFID, work is ongoing in the following areas:

- Quality verification and updating of already developed spatial databases;
- Development of new GIS layers for a sustainable Land Information System;
- Computerisation and integration of the Montserrat Cadastre and Land Registry systems with the Land Information System (LIS);
- Development of other GIS-related sources/facilities including GPS-assisted land surveys and computerisation of aerial photography.

4. LAND VALUATION AND TAXATION

Prior to 1988 the system of property appraisal for taxation purposes was based on the Annual Rental Value method. This involved the computation of taxable value on the basis of a determination as to how much a property would rent per annum. The system was reviewed in 1983 and found to be crude and grossly inefficient.

Between 1984 and 1986, a complete valuation survey was undertaken for the island. On that basis, the decision was made to change the computation from Rental Value to Market Value for the computation of property taxes. Legislation governing the new system is the Property Tax Ordinance No. 3 of 1988.

The Ordinance contains provisions to discourage speculation, and to encourage agricultural development. However, the effectiveness of these provisions are limited by delays in applying penalties and by the general lack of public awareness of the tax benefits which could be derived from certain development activities.

There is a need to review the application of fiscal incentives and penalties to discourage land speculation and to encourage agriculture and other forms of appropriate development of idle lands. A land revaluation programme is currently being undertaken by the Government of Montserrat. The objective of this exercise is to improve and update the island's Property Tax System and to create a fairer and more equitable tax system. These data will provide valuable information for decision making and also lead to increased revenue generation.

5. LAND USE

5.1 Land Use Constraints:

Land in terms of soil and slope conditions has resulted in farmers' utilising unsuitable land for cultivation and grazing. This problem has been exacerbated as a result of the volcanic crisis, where almost two thirds of the island has been made inaccessible. Associated with such land use practices, however, are problems of soil erosion, landslides, reduction of the quality and quantity of the ground-water resources and a decline in landscape amenity value.

On the other hand, there are also cases of inappropriate and inefficient use of good agricultural lands. Prior to the volcanic crisis (1995), approximately 25% of the land found to be suitable for agricultural purposes was already lost to built development. This represented a loss of a prime resource and resultant decline in the agricultural development potential of the country.

Because of the crisis as well, the problems of inefficient use or non-use of land also exist in the urban context, and affect the timely supply and development of prime land for housing, industry and community facilities. These problems are associated with such development constraints as the holding of land for speculative purposes, the high cost of land, scarcity of development finance and absence of clear land-use policies to provide the level of certainty and confidence needed by developers to make investment decisions.

The Government of Montserrat has sought to promote efficient utilisation of the remaining land resources of the country through the formulation and implementation of appropriate land-use policies to guide the development process. To this end, the Physical Planning Unit (PPU) was established as a separate department within the Ministry of Agriculture, Land, Housing and the Environment.

Additionally, in 1996, the Town and Country Planning Ordinance 1975, was repealed and replaced with the Physical Planning Act No. 4 of 1996. This new Act incorporates the need for Environmental Impact Assessments (EIAs) for specified developments. Further, the Development Control Authority (DCA) was replaced with the Planning and Development Authority (PDA), with a broader-based membership incorporating major stakeholders in the development process. The emphasis and focus have also changed from strictly development control to the Authority's playing a more pro-active role in the development process, through a structured development promotion programme. On behalf of the PDA, the Physical Planning Unit (PPU) promotes the adopted land use policies and key development projects amongst major land-owners, developers, public sector agencies, financial institutions and the general public. The Unit also assists the various participants in the development process in the conceptualisation of projects.

The Unit also carries out an ongoing review of the development control process (regulations, policies, standards, application procedures etc.) with a view to streamlining the process in keeping with current circumstances, and in order to reduce delays and costs in the process of land development.

Government of Montserrat now has an Approved Physical Development Plan for North Montserrat 2000-2009. The plan has been prepared to facilitate planning on a pro-active basis and to guide and direct, from a physical planning perspective, the development and re-building of Montserrat in the north part of the island. The purpose of the plan is to provide a framework for land use and development in the longer term, to provide a basis for the co-ordination of development by Government, the private sector and the community and to help instil confidence in the future of the island.

5.2 Land Sub-division:

The segregation, division or sub-division of any building or land for any use, whether achieved by sale, transfer, lease, letting, use, trust or for any other transaction, constitutes development by virtue of the definition contained within the Physical Planning Act. As such the process of subdividing a lot or parcel of land into two or more parts requires planning permission.

The principal issues associated with land sub-division are as follows:

- Legal uncertainty. Prior to the enactment of the Physical Planning Act 1996, there was legal uncertainty as to whether agricultural subdivisions require planning permission. This uncertainty has led to challenges, which have been corrected with the enactment of the Physical Planning Act.
- Implementation and registration of unauthorised sub-divisions. Some of the effects of unauthorised sub-divisions, particularly residential sub-

divisions, include inadequately serviced plots; unsatisfactory layouts and inadequate provisions for amenities (open space etc.); encroachment of residential use into agricultural land; and fragmentation of agricultural land into small parcels.

Since the establishment of the PPU, there have been measures instituted to encourage submission of development applications for sub-divisions and to secure better quality layouts. The PPU has documented and publicised guidelines for land sub-division, including such details as the size and shape of plots, layout, access, building lines, site coverage, parking, density of development. This has had some success. Since the onset of the volcanic crisis, and the increasing pressure to find land for residential purposes, some developers have tried to circumvent the process. As a result, land is being sold, without proper infrastructure, and the issue of affordability of land has come to the fore.

In collaboration with the Land Registry, evidence of planning permission is needed before any new sub-divisions are registered. Under the Registered Land Ordinance 1978, all the requirements of other agencies must be met before registration takes place. Additionally, permission for sub-division is usually verified before a building permit is issued.

5.3 Restrictive Covenants

In the latter part of the 1960s and the early 1970s, the Government of Montserrat established a programme of encouraging the development of residential sub-divisions as part of its economic development programme. This programme was to create “exclusive” residential sub-divisions, aimed at attracting North Americans who would build homes in Montserrat, and eventually spend the winter months on the island.

The programme was two-fold. The first was to ensure that the construction industry that fuelled a substantial part of the island’s economy would remain vibrant. Secondly, the then-Government of Montserrat felt that mass tourism was not the best type of product that the island could market effectively. As a result, the GoM sought to create an environment where “residential tourism” would flourish in an atmosphere of peace and tranquillity.

Based on this philosophy, a number of these sub-divisions were established. Along with this came Restrictive Covenants, which sought to establish certain minimum standards which had to be adhered to (to include minimum lot sizes, size of dwelling, and exclusion of livestock, business or commercial structures and multiple dwellings). The law as it relates to Restrictive Covenants can be found in the Registered Land Ordinance No. 4 of 1978, Sections 94, 96 and 97.

In 1997, at the peak of the volcanic crisis, the PPU examined the future role of some these residential sub-divisions. This resulted from requests for temporary approval for some businesses to be set up in specific residential

sub-divisions that had Restrictive Covenants. In response, the PDA put in place a “fast track” approval process for “temporary” structures and uses. These requests and approvals have caused some concern to those who wish to see the integrity of the residential sub-divisions maintained. There is a counter-argument, however, that some small-scale commercial uses can co-exist in the residential sub-divisions.

The law provides that the High Court may modify or discharge a Restrictive Covenant on the application by any person who owns an interest in the land which is affected by the covenant. The applicant, must, however, satisfy the court that:

- Changes in the character of the property or neighbourhood or other circumstances render the Restrictive Covenant obsolete;
- The continued existence of the restrictive covenant interferes with the reasonable use of the land for public or private purposes without securing practical benefits to other persons, and
- The proposed modification or discharge will not cause damage.

The Planning and Development Authority in responding to requests for “approval in principle” for projects in such residential sub-divisions has been guided by Section 17 of the Physical Planning Act 1996. This section outlines the procedures which should be followed where it appears to the Authority that a proposed development may affect a locality. The law allows for a process of consultation and comments submitted in writing to the Authority, within a specified time frame.

With the impact of the volcanic activity on Montserrat, it is quite clear that additional areas, including the residential sub-divisions, will have to play an increasing role in the resettlement strategy of the country. The escalation in and the impact of the volcanic activity have increased the number of relocated persons and have necessitated a larger and faster housing programme.

While the residential sub-divisions contain a high proportion of the island’s visitors’ accommodations, and their contribution to the residential tourism has been significant, the volcanic activity has placed an added pressure on the utilisation of these areas, and the number of breaches of covenants has increased, albeit on a temporary basis, and until such time as permanent alternative facilities are provided, particularly for the commercial sector.

The issue, therefore, is whether the residential sub-divisions should remain residential areas and continue to play their part in the island’s tourism development, or whether non-residential uses should be allowed to develop in the areas to relieve the development pressures that are building up in the safe areas.

6. LAND RESOURCES MANAGEMENT

Although Montserrat is a small island, the natural resource development potential of the island rests in its high ecological and scenic value, ground-water resources, and certain geologic resources (deposits of rock, gravel quarry sand). Of potential value are the prospects for nature-based tourism activities.

The island is, however, a very sensitive and fragile ecosystem and signs of environmental stress are evident in certain areas. The more significant natural-resource management problems include:

- Loss of forest cover from volcanic activity and from indiscriminate agricultural practices and the implications for soil and water conservation and the maintenance of wildlife habitats, landscape amenity value and recreation-tourism potential;
- Soil depletion and erosion associated with the clearing of vegetation on steep slopes and other poor land-use and land-management practices, such as uncontrolled grazing of loose livestock;
- Unregulated extraction of beach sand for construction purposes resulting in severe problems of coastal erosion and reduction of recreation capability of beaches (recently, restrictions have been introduced on this activity).

The achievement of a sustainable pattern of development over the island will require innovative approaches towards natural resource utilisation.

Based on the above, the completion of the Physical Development Plan has assisted in that it includes policies for environmental management and the rational utilisation of natural resources. Additionally, for purposes of environmental planning and monitoring, the establishment of an integrated natural-resources database as part of the GIS now being introduced is critical. This system will be accessible to other relevant agencies.

The Forestry Division, within the Ministry of Agriculture, in collaboration with other relevant agencies (Montserrat Water Authority, PPU) has intensified its watershed management efforts, including reforestation of disturbed areas, implementation of soil conservation measures, protection of coastal resources and national park development. The Forestry, Wildlife, National Parks and Protected Areas Legislation No. 3 of 1996 has also been enacted, along with the strengthening of the institutional capacity for environmental management.

7. LAND ADMINISTRATION

7.1 Legislation

The legal powers relating to the management of land in Montserrat are scattered in various pieces of legislation. There are at least twenty (20) pieces of legislation which deal with issues affecting land management.

These laws were drafted over different time periods and were influenced by different perceptions and objectives of land management.

In view of the importance of rational management of the scarce land resource of the country, there is need at this stage to review the land laws and eliminate any inconsistencies, conflicts and obsolescence. While there have been amendments to existing laws, and the enactment of draft legislation in order to refine and update certain land management procedures, in overall terms, the need for a comprehensive review of land laws is justifiable. This exercise should form part of the ongoing law reform for Montserrat. What is needed is a manual on the land laws of Montserrat. The objective should be the production of a single document which explains the provisions of the various pieces of legislation in a coherent and simplified manner for the benefit of the public and private sector agencies as well as for the general public.

8. INSTITUTIONAL FRAMEWORK

Several agencies are responsible for the administration of various aspects of legislation dealing with land management in Montserrat. Most of these agencies fall within the Ministry of Agriculture, Land, Housing and the Environment, which has the overall responsibility for land administration. Outside the Ministry of Agriculture, the Inland Revenue Department, which falls under the Ministry of Finance and Economic Development, holds responsibility for property valuation and taxation.

In view of the dynamic nature of the land development process and land-related issues, it is important that the institutional arrangements for management of the land resources of the country are co-ordinated.

9. CONCLUSION

It is clear that there are a number of land-related issues that need to be addressed in Montserrat. However the framework for addressing these issues has been developed through the establishment of the Physical Planning Unit and the enactment of up-to-date legislation. These, along with other institutions and legislation, should assist Montserrat in dealing with current land-related issues and those that may arise in the future.

ST. KITTS/NEVIS: Land Policy, Administration and Management: Country Experience

Allan N. Williams

EXECUTIVE SUMMARY

The State of Saint Christopher (St. Kitts) and Nevis comprise 41,000 persons living on 259 km². The constitution is that of a federation in which the central Government in St. Kitts maintains a significant degree of central control. However, the Nevis Administration does enjoy autonomy in fiscal decisions and in land administration on that island

There is no system of zoning of areas for land use determination. Sugar production used to be the mainstay of the economy of St. Kitts and Nevis during the period 1960-80. However, the major driving force in the economy today is tourism, which is the leading source of construction activity and foreign exchange earnings. However, agricultural production has been established in areas where climatic conditions (particularly rainfall level) permit. Indeed, climatic factors help to define some clear agricultural/ecological zones in St. Kitts and Nevis.

About 15,700 acres of land in St. Kitts and Nevis is used for agricultural purposes. This represents about 24% of the total land area. Agricultural holdings occupy about 12,472 acres of land (28% of the total land area in St. Kitts). An additional 140 acres of unused lands are considered to be potentially productive. In St. Kitts, 93% of the productively used land is under sugar-cane production and the viability of this enterprise poses a serious challenge to planners with respect to land management and land use.

St. Kitts/Nevis has a dual system of administering land records. The Title by Registration Act, Chapter 279, provides for the registration of title of land in the form of a Certificate of Title. The majority of lands belonging to the Government are registered in the Land Registry of the Supreme Court. The majority of private lands, however, are still held by deed. The system is not a cadastral-based system, and in the absence of a unique parcel-based identification number, there have been reported instances of duplication in the registration of title to land.

Agricultural leases have been part of the instruments for managing lands distributed through the auspices of the State. The extent to which leases have been registered with the Registry is unclear, even though 12% of occupied land in St. Kitts/Nevis is reported to be rented land.

The Development Control and Planning Act 2000 is expected to provide for the orderly and progressive development of land in both rural and urban areas. It also provides for the protection of the environment and improvement of its amenities. The Act established the Development Control and Planning Board, which has amongst its powers the ability to undertake a survey to determine whether any area in St. Kitts ought to be designated an environmental protection zone.

The National Conservation and Environmental Protection Act No. 5 of 1987 makes provision for the protection of historic sites (Brimstone in St. Kitts and Bath Hotel in Nevis) as well as the protection of special areas. Such areas may be protected for such purposes as conserving bio-diversity, specific species and eco-systems and natural resources that are important for basic ecological purposes, including water recharge and soil regeneration. This becomes very important as St. Kitts/Nevis continues to face the challenges of alternate uses of natural resources in its quest for development.

The major challenge facing the authorities in St. Kitts is probably the allocation of 10,000 acres of sugar lands to alternative uses with an equivalent economic value. This challenge encompasses economic, social and administrative problems in St. Kitts/Nevis. How it is resolved would probably chart the course of social and economic development in the State for decades to come.

Squatting is recognised as a problem in St. Kitts/Nevis. About 408 acres of land in St. Kitts and 128 acres in Nevis are reported to be under illegal possession. This is viewed mostly as indicative of the acute need for shelter. The National Housing Authority is mandated to address this problem.

St. Kitts/Nevis does not have legislation that deals specifically with soil conservation, although there are provisions in the legislation dealing with forestry and land tenancy that are related to soil conservation. The problem of “landless” livestock farmers grazing their animals in unrestricted areas does add to the challenge of conservation.

Land information in St. Kitts/Nevis still resides in different agencies. The Land Registry contains information on Government-owned lands; the High Court Registry, which is the depository for all deeds and titles of certificate, contains information on privately owned lands, although some of this was destroyed by the fire of 1983. Alien land-holding licences, which reflect the extent of non-citizen ownership, are held in the Ministry of Agriculture. There are also various books or registers dealing with condominiums.

Land continues to be the critical factor of the national development strategy, which focusses on agriculture and tourism. Given the fact that the Government of St. Kitts/Nevis controls 82% of the land area, land policy will become critical for the implementation of this strategy.

1. INTRODUCTION

1.1 Introduction

The State of Saint Christopher (St. Kitts) and Nevis is a federation comprising 41,000 persons living on 259 km². The total area is 259.4 km².

- St. Kitts: 168.4 sq. km (65.1 sq. miles);
- Nevis: 93.2 sq. km (36 sq. miles).

The two islands are separated by a channel some 3 km (2 miles) in width.

Land and fiscal issues have always had the potential of destabilising this federal relationship. In the mid-1990s, there were discussions on the possible secession by the island of Nevis from the federation. The issue culminated in a referendum in 1998 in which voters rejected secession by a narrow margin. Today, the Nevis Administration does enjoy autonomy in fiscal decisions and in land administration in that island.

TABLE 1. ST. KITTS/NEVIS BASIC INDICATORS

Population (Year 2001)	41,082.2	Total Area (acres)	39,317
Urban Population	14,091.2	Government-owned land (82%)	32,239
Rural Population	26,991.0	Agricultural Land – acres (24%)	15,750
Life Expectancy	70	Lands in Sugar-Cane Production	10,000
Infant Mortality (per 000 live births)	12.7	Forest Area – km ² (11% of Total)	40.0
Poverty Rate (%)	31%	St. Kitts: Rented Land (% Holdings)	12%
Real GDP (EC\$million) 2000	\$559.3	Nevis: Rented Land (% Holdings)	18%

Source: St. Kitts Officials; OECS Human Development Report 2000.

1.2 Economic Performance

Sugar production used to be the mainstay of the economy of St. Kitts and Nevis in the period 1960-80. Today, although sugar-cane production still dominates agricultural activity, the sector itself only contributes 4.52% to GDP (2000). The important economic sectors are now construction (18% of GDP), wholesale and retail trades (15% of GDP), Government services (14.8% of GDP) and assembly-type manufacturing (12.15% of GDP)¹. Tourism is the major driving force in the economy, playing the leading role in stimulating construction activity and earning foreign exchange.

¹ Percentages are based on Gross Domestic Product in 2000 (constant 1990 prices); Source: ECCB Annual GDP Report 2001.

Within the Organisation of Eastern Caribbean States (OECS)², St. Kitts/Nevis ranks fifth in size of economy and accounts for 11% of total GDP of the sub-region. However, in relation to population size, St. Kitts/Nevis ranks second only to Antigua & Barbuda in per-capita GDP. In terms of growth rates in the 1994-2000 period, St. Kitts/Nevis ranks second in the OECS. This is in spite of the fact that in 1998, Hurricane Georges destroyed a significant portion of the infrastructure; and in 1999, Hurricanes Lenny and Jose inflicted coastal damage, destroying the cruise-ship pier in Basseterre, damaging some hotels and beaches and dampening tourism. A vital construction sector allowed the economy to grow in 1999 and 2000 to EC\$559 million (in constant 1990 prices).

TABLE 2. OECS RANKING BY AVERAGE GROWTH RATE, 1994-2000

Country	Average 1994-2000
Grenada	4.95
St. Kitts & Nevis	4.91
Anguilla	4.12
Antigua & Barbuda	3.60
St. Vincent & The Grenadines	3.11
Dominica	1.91
St. Lucia	1.82
Montserrat	-7.74

Source: Calculated from ECCB data.

1.3 Economic Challenges

In spite of its apparent buoyancy, the structure of production in St. Kitts/Nevis is subject to some challenges. St. Kitts and Nevis are both highly vulnerable to exogenous shocks, such as hurricanes, which have inflicted substantial damage to the capital stock. Such events divert much needed public finances to maintenance and repair work and also reduce the arrival of visitors.

Domestic investments are constrained by shortages in skilled workers in critical occupations and the continued out-migration of highly trained professionals. This requires greater use of migrant labour and the promotion of training programmes for young members of the community.

The sugar industry also poses a challenge to economic planners. The industry has an average production cost of EC\$2,440 per ton compared to the average selling price of EC\$997 per ton in 1998. However, this industry

² The OECS sub-region comprises seven (7) countries: Antigua & Barbuda, Dominica, Grenada, Monserrat, St. Kitts/Nevis, St. Vincent & The Grenadines, St. Lucia.

employs about 1,400 permanent workers (including some 600 migrant workers during the peak season), which is about 8% of employment in the economy. The accumulated loss incurred by this industry is a continued source of stress on the public finances.

The hotel industry, which is the major source of economic initiatives, also poses some interesting challenges to planners. Its demand for land, water and electricity have to be matched with the capacity of the local economy to satisfy these needs and still maintain affordable access to these resources/facilities by the general public.

2. LAND AND THE ECONOMY

2.1 Land Resources

St. Kitts/Nevis has no system of zoning of areas for land use determination. However, agricultural production has been established in areas where climatic conditions (particularly rainfall level) permit. Indeed, climatic factors help to define some clear agricultural/ecological zones in St. Kitts and Nevis. These include a semi-arid ecological zone, a sub-humid zone, a humid zone and deep ravines³. The semi-arid zone is located mainly in the south-east peninsula in St. Kitts and in a few areas in Nevis. Here the annual rainfall is below 40 inches and does not permit agricultural enterprises without significant infrastructure. Fortunately, from the point of view of alternative land use, most of this area has attracted significant hotel investments.

The semi-humid ecological zone comprises the gentle slopes in the north-eastern part of St. Kitts. This is the main agricultural area. Here sugar cane is currently cultivated on the more fertile lower slopes in St. Kitts, with vegetables and other permanent crops being grown on the marginal upper slopes. The rainfall in this area is between 40-80 inches annually.

The humid zone is the highest mountain area comprised mainly of forests with little or no agriculture. The ravines are relatively dry areas. Traditionally these areas have been used for growing fruit trees such as mangoes, breadfruit, guava etc. However there has been a practice of dumping garbage and other waste material in these areas, a practice which may require some control.

2.2 Agricultural Land Use

About 15,700 acres of land in St. Kitts and Nevis is used for agricultural purposes. This represents about 24% of the total land area. In St. Kitts, agricultural holdings occupy about 12,472 acres of land (28% of the total

³ Johnson, 2001, p. 3.

land area in that island). An additional 140 acres of unused lands are considered to be potentially productive. Of the productively used land, 93% is under sugar-cane production and the viability of this enterprise poses a serious challenge to planners with respect to land management and land use.

TABLE 3. LAND USE BY SECTOR IN ST. KITTS/NEVIS (ACRES)

TYPE OF USE	ST. KITTS	NEVIS	TOTAL
Permanent Crops	10,287	380	10,667
Temporary Crops	865	104	969
Cultivated Pastures	91	27	118
Naturally Grown Grasslands	813	1,542	2,355
Fallow/Resting	252	39	291
Wood/Forest	24	883	907
Other Unused Lands	140	303	443
TOTAL	12,472	3,278	15,750

Source: "Assistance in the Development of Land Use, Planning and Agricultural Production Zoning in the OECS States", by Anthony Johnson, FAO, September 15th, 2001, Table 1.

In Nevis, agricultural holdings are a much smaller percentage of the total land area, comprising about 3,278 acres or 14% of total land. Unused productive lands comprise about 303 acres.

2.3 Non-Sugar Production

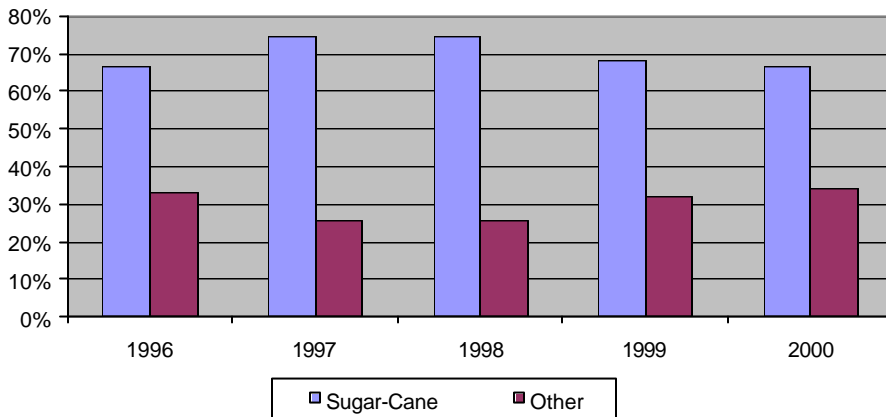
As of 2000, 64% of the total value of crop production in St. Kitts/Nevis is attributable to sugar-cane production. Other crops contribute 36% of total value of crop production. Banana is the most prevalent alternative crop involving 490 small farmers in St. Kitts and 460 small farmers in Nevis.⁴ Mangoes and coconuts are other frequently planted tree crops. Vegetable producers also make a significant contribution to "non-sugar-cane" agricultural production. A significant amount of land in Nevis (47% of productive land) is in naturally grown grasslands attesting to the prevalence of sheep and goats.

Progress continues to be made in increasing the production value of non-sugar-cane production in agriculture. There are reportedly 25 commercial farmers accounting for 75% of food crop production⁵.

⁴ Ibid., p. 5.

⁵ "St. Kitts and Nevis: Recent Economic Developments", IMF Staff Country Report No. 00/157, para. 16.

Sugar Cane as % Total Crop Production



Increasing non-sugar-cane production remains a desirable goal. However, the main constraints remain the land use pattern which allocates less favourable lands to these crops and the land tenure system which may be discouraging investments. It should be noted that the marketing infrastructure, the Central Marketing Corporation (CEMACO), provides more of a guaranteed price system rather than a mechanism for matching supply and demand.

2.4 Tourism Development

Tourism generates a significant amount of expenditures in the St. Kitts/Nevis economy. The average annual tourism expenditure during the 5-year period of 1995-1999 amounted to EC\$188 million. Of this expenditure 77% was generated through hotel and guest houses. This clearly confirms the relationship between establishment of these units and the growth of the tourism sector.

The policy to encourage the growth in tourism infrastructure involves the granting of concessions and the provision of land. The total value of concessions related to consumption tax, import duties and custom service charges amounted to about 5% of GDP (EC\$42.1 million) in 1999. Hotel expansion has involved the construction of the 900-room Marriott Royal St. Kitts Resort and Casino at Frigate Bay, the 18-hole Frigate Bay Golf Course and prospects for one or two more golf courses in St. Kitts⁶.

⁶ Description of the Government's vigorous programme for facilitating and upgrading hotel accommodations as expressed in the 2002 Budget Address.

3. LAND EXPERIENCES

3.1 Land Administration

St. Kitts/Nevis has a dual system of administering land records. The Title by Registration Act Chapter 279 provided for the registration of title of land by the Registrar of Titles in the form of a Certificate of Title. This bill was enacted in 1886. The majority of lands belonging to the Government are registered in the Land Registry of the Supreme Court. The majority of private lands, however, are still held by deed. There does not appear to be specific data as to the exact number of deeds or certificates of title registered and this has been compounded by the fire of 1983, which damaged and destroyed a number of deeds.

The system is not a cadastral-based system, and in the absence of a unique parcel-based identification number, there have been reported instances of duplication in the registration of title to land. Some of the lands acquired by Government have not been registered because of similar problems of obtaining legal title in the name of Government.

3.2 Land Management

St. Kitts/Nevis has in place land acquisition legislation that allows the State to acquire private lands for public purposes. These purposes have included policy attempts by the State to address the question of access to land by small operators (and the poor) for production and shelter activities.

Agricultural leases have been part of the instruments for managing lands distributed through the auspices of the State. The extent to which leases have been registered with the Registry is unclear, even though 12% of occupied land in St. Kitts/Nevis is reported to be rented land.

3.3 Land Use and Development Control

St. Kitts/Nevis has no zoning legislation, although the pattern of alternative use of land has followed closely its assumed productive use based on climatic conditions. Thus agricultural land use has continued to dominate the north-east gentle slopes while intensive hotel expansion has continued in the semi-arid south-east peninsula,

The Development Control and Planning Act 2000 is expected to provide for the orderly and progressive development of land in both rural and urban areas. It also provides for the protection of the environment and improvement of its amenities. The Act established the Development Control and Planning Board, which has amongst its powers the ability to undertake a survey to determine whether any area in St. Kitts ought to be designated an environmental protection zone. The Board also takes over the functions of building permits and application of building codes.

The Development Control and Planning Act 2000 repealed the old Town and Country Act as it applied to St. Kitts. Thus, the provisions in the legislation do not apply to the island of Nevis. Nevis is still working on its legislation with respect to development control and physical planning.

3.4 Conservation and Protection of Natural Resources

This ability of the Development and Control Board to provide for the protection of the environment is not to be confused with an explicit environmental framework in legislation. Indeed, the only legislation that appears to provide such a framework is the National Conservation and Environmental Protection Act No. 5 of 1987.

This Act makes provision for the protection of historic sites (Brimstone in St. Kitts and Bath Hotel in Nevis) as well as the protection of special areas. Such areas may be protected for such purposes as conserving bio-diversity, specific species and eco-systems and natural resources that are important for basic ecological purposes, including water recharge and soil regeneration. This becomes very important as St. Kitts/Nevis continues to face the challenges of alternative uses of natural resources in its quest for development. The Act also mentions Environmental Impact Assessments but only requires EIAs to be carried out in the coastal zone⁷.

4. LAND ISSUES

4.1 Re-Allocation of Sugar Lands

The major challenge facing the authorities in St. Kitts is the allocation of 10,000 acres of sugar lands to alternative uses with an equivalent economic value. This challenge encompasses economic, social and administrative problems in St. Kitts/Nevis. How it is resolved would probably chart the course of social and economic development in the State for decades to come.

Even though the sugar industry operates at a loss, its foreign exchange earnings have been in the vicinity of EC\$30 million (1999). That is about 4% of GDP (2000). In addition, the industry employs about 1,400 persons, which is about 5% of the workforce. In addition, the industry currently uses about 80% of total agricultural land, including some of the better lands.

There are multiple objectives that an alternative land-use pattern would seek to accomplish. Agricultural diversification is one such objective. This would involve measures to shift some of the sugar-cane lands into production of other agricultural crops, boosting domestic agricultural production. The land distribution programmes have sought to lease lands to farmers for

⁷ This observation was made by Christine Toppin-Allahar.

alternative production. These programmes call into question the security of tenure using registered leases and the efficient combination of land and capital in agricultural production given the fact that land rentals do not reflect market values of either the land or its productivity. An artificially low land rental could lead to under-capitalisation of new production enterprises and the subsequent failure to employ a significant amount of workers.

Diversification of the tourism product is also an attractive option. Currently there has been an innovative measure which converted the old railway service for bringing cane to the factory into a “Tourist Train” carrying visitors to different parts of the island by rail. The pressure is continuously on to utilise lands for golf courses, trails, new eco-tourism sites, historical/heritage sites and even hospitality facilities set within a sugar plantation environment⁸.

There is also the demand for housing. The National Housing Corporation has been developing housing units on Government-owned lands in an attempt to respond to the demand for low-income housing.

4.2 Security of Tenure

It is clear that freehold tenure is preferred in both St. Kitts and Nevis, although the proportion of rented land in Nevis is slightly higher than in St. Kitts. Previously, farmers were given possession of land under a letter of intent. However, this document did not qualify them for loans, as it was not an acceptable form of collateral. The most recent security of tenure legislation, the St. Kitts-Nevis Land Development Act 1991, has sought to correct this by providing formal land rights to tenants of Crown lands.

TABLE 4. PERCENTAGE OF LAND AREA BY TYPE OF TENURE

Land Tenure	St. Kitts	Nevis
Owned	84.46%	67.51%
Rented from Others	10.38%	17.60%
Squatting	3.27%	3.90%
Multiple Forms	1.88%	10.98%

Source: “Assistance in the Development of Land Use, Planning and Agricultural Production Zoning in the OECS States”, by Anthony Johnson, FAO September 15th, 2001. Percentages calculated from Table 2. Land parcels by type of tenure.

The Act provides for agricultural lands to be leased for periods of 35 years under registered leases and protects lessees from eviction by the landlord so

⁸ For example, the Whitegate project to build a “modern West Indian Tourist town” in the Dieppe Bay area using 5,000 acres of Government-owned lands, set in the heritage of an existing sugar plantation and located between the mountainside and the bay.

long as the land is developed and used in accordance with the lease. The lessee is permitted to mortgage or charge the leasehold land as security for a loan from a bank prescribed under the Act. It appears that this Act is intended to apply to publicly owned land and to provide a framework for the regularisation of Government practices with regard to the leasing of agricultural lands⁹.

4.3 Squatting

Squatting is recognised as a problem in St. Kitts/Nevis. About 408 acres of land in St. Kitts and 128 acres in Nevis are reported to be under illegal possession. This is viewed mostly as indicative of the acute need for shelter. The National Housing Authority is mandated to address this problem.

St. Kitts/Nevis has no recorded experience of regularising illegal land occupation. However, the Village Freehold Purchase Act of 1996 and the Amended Act No. 9 of 1997 did address an historical situation of unclear tenure. Most villages were developed on the outskirts of the sugar estates utilising lands owned by these estates. By 1990, most villagers had established full possession of their house lots without any form of tenure. Once the State had acquired the sugar lands, the villages were now technically occupying Government-owned lands.

The Village Freehold Purchase Act literally provided a facility for persons in current possession to purchase their lands at concessionary (non-market value) prices. This Act functions as a facility since it is the buyer who has to initiate the transfer. There is no programme attached to it.

4.4 Family Lands

“Family land” is a phenomenon that dates back to the abolition of slavery. It is land which is co-owned in undivided shares by the descendants of the original purchasers, in St. Kitts-Nevis

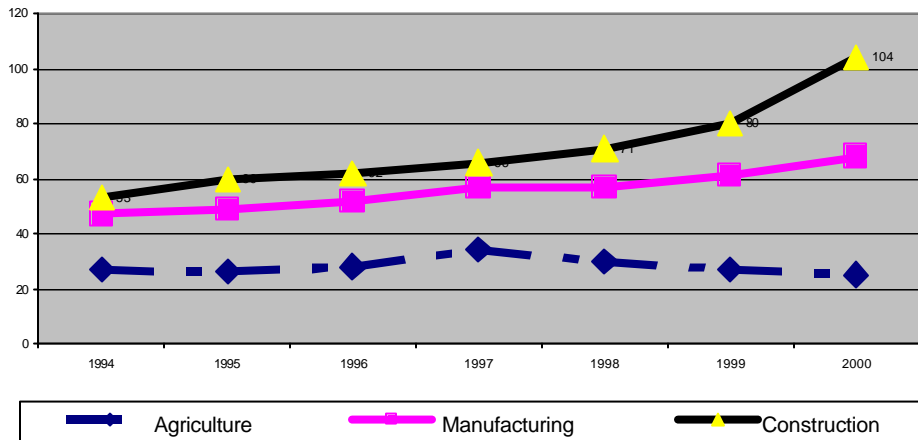
The laws do not seek to maintain the integrity of such lands. Rather, in St. Kitts/Nevis an application for partition can be made to the court for the sub-division of land held by co-owners in undivided shares. In the event that the parcel is incapable of sub-division into the pre-requisite shares, the land can be sold through the courts and the proceeds distributed proportionately.

4.5 Land Markets

One indicator of the level of activity in the land market in St. Kitts/Nevis is the level of construction activity. Even though this report is unable to provide the information as to the number of building permits granted in recent times, the increases in construction from EC\$71m in 1999 to EC\$104m in 2000 suggest that the land market is very vibrant in St. Kitts/Nevis.

⁹ Opinion expressed by Toppin-Alahar, 2002, p. 8.

**Economic Activity (EC\$m)
Constant 1990 Prices**



Land sales and land values have been influenced by the construction of hotels, golf courses and retirement homes.

The land market in St. Kitts/Nevis is generating solutions that are challenging the “carrying capacity” of the location. The electricity requirements for the newly constructed US\$200 million 900-room Marriott Royal St. Kitts Resort and Casino Hotel far exceeded the generating capacity on St. Kitts. They were eventually allowed to construct their own generating facility. The demands of the golf courses on the water resources are beginning to add up to a sizeable volume.

The challenge is for St. Kitts/Nevis to ensure the sustainability of its resource base while encouraging such investments in land. For instance, an area of approximately 235 hectares of sugar lands is to be declared a national park in order to protect it from any possible land market conversion to a golf course. This is because of the significance of its underground water resource to the capital city. The declaration of the area as an Environmental Protected Area can be supported by both the National Conservation and Environmental Protection Act (NCEPA) No. 5 of 1987 and the Planning Act of 2000.

4.6 Natural Resource Management

St. Kitts/Nevis does not have legislation that deals specifically with soil conservation, although there are provisions in the legislation dealing with forestry and land tenancy that are related to soil conservation. The problem of “landless” livestock farmers grazing their animals in unrestricted areas does add to the challenge of conservation.

The responsibility for the control, management, maintenance and supervision of all watercourses and waterworks in St. Kitts/Nevis resides with the Water Boards in St. Kitts and in Nevis. The specific legislation dealing with the management of water resources is the Watercourses and Waterworks Act, Cap. 185. Under this piece of legislation a provision is made for the declaration of specific areas as watersheds, within which certain activities may be regulated. It also prohibits certain activities, including cultivation and grazing, within a prescribed distance from watercourses. Additionally, National Conservation and Environmental Protection Act No. 5 of 1987 provides for the conservation of water and watersheds.

4.7 Land Information System

Land information in St. Kitts/Nevis still resides in different agencies. The Land Registry contains information on Government-owned lands; the High Court Registry, which is the depository for all deeds and titles of certificate, contains information on privately owned lands, although some of this was destroyed by the fire of 1983. Alien land-holding licences, which reflect the extent of non-citizen ownership, are held in the Ministry of Agriculture. There are also various books or registers dealing with condominiums.

The focus of land information, however, should be in the Development Control and Planning Board. This institution is applying GIS technology in analyzing and maintaining information on land in St. Kitts.

5. Conclusion

Land continues to be the critical factor of the National Development Strategy's focus on agriculture and tourism. The broad goal in agriculture is to diversify the production base, providing employment opportunities and successfully transferring the sugar-cane-producing land to other remunerative uses.

The broad goal of the Government's strategy for tourism development is to achieve sustained growth in stay-over visitors and to obtain optimal long-term benefits to the population from tourism without adversely affecting the country's cultural heritage or its natural resources.

Land policy with respect to State/Crown lands becomes very important since the Government of St. Kitts/Nevis controls 82% of the land area.

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ST. VINCENT & THE GRENADINES: Land Policy, Administration and Management: Country Experience

Allan N. Williams

EXECUTIVE SUMMARY

St. Vincent & The Grenadines (SVG) consists of 32 islands and cays, of which only eight (8) are inhabited. Its population of 115,900 (2000) is the second largest amongst the Organisation of Eastern Caribbean States (OECS), while its economy (EC\$617 million in 2000) is the fourth largest in the sub-region. Agriculture is the mainstay of the economy, amounting to 12% of the total GDP. However, in its attempt to diversify the economy, the Government is focussing on promoting tourism and offshore financial services.

The total area of St. Vincent and the Grenadines is about 96,000 acres, 47% of which are in forests and 32% in agriculture. The total number of parcels of agricultural land is 8,258. About 73% of these agricultural lands are under “owner or owner-like” possession. Rental land accounts for about 23% of agricultural land under use. These rental arrangements vary from cash rentals to Government and others to sharing of crops.

The Registrar of Deeds is the main instrument for land administration. The system of registration has been described as an unregistered title system in that the title in the land register may not necessarily refer to any certified plan.

Three institutions influence land management practices in SVG. These are the Department of Lands & Surveys, the Registry and the Physical Planning and Development Board. However, the Department of Lands & Surveys has the ability to link these three because of its ability to define the locality of the parcel of land.

The difficulty in accessing land can be gauged from the large proportion of “informal” rental arrangements and the incidence of squatting. One estimate puts the number of squatters at 16,000. The Forest Reserve is threatened by illegal occupation, and watershed management becomes a frustrating exercise. Competition for access to land through the continuous increase in land values is evident in the land market.

St. Vincent & The Grenadines is faced with the challenge of moving from a society organised around large parcels of land owned by Government and a few private estates to a more diversified and viable economy with wider access to property ownership. Although a more vibrant land market can facilitate such a

transition, intervention by the State is still required to address the social issues relating to land-ownership and access.

1. INTRODUCTION

1.1 Background

St. Vincent & The Grenadines (SVG) consists of 32 islands and cays of which only eight (8) are inhabited. The total land area of is 389 km². A chain of volcanic ranges and small peaks dominates the island of St. Vincent. This includes Mount Soufriere, an active volcano and tourist attraction. This volcano last erupted in 1979 depositing volcanic ash over much of the northern side of the island.

TABLE 1. ST. VINCENT & THE GRENADINES (SVG)

Population (Year 2000)	115,900	Real GDP (EC\$million) 2000	\$617.16
Urban Population	55.9%	GDP Growth Rate (Avg. 96-'00)	3.28
Rural Population	44.1%	Agriculture (% of GDP) 2000	12.3%
Population Density (1998) per sq. km.	287	Total Area (acres)	96,000
Life Expectancy	73	Arable Land (acres)	68,374
Infant Mortality (per 000 live births)	17.1	Land Used for Agriculture (acres)	17,800
Poverty Rate	33%	Agriculture Land as % Total area	18.6%

Source: ECCB Annual Report, 2000; National Agricultural Census 2000; OECS Human Development Report 2000.

TABLE 2. COMPARATIVE SIZE OF ECONOMIC ACTIVITY WITHIN OECS

Country	2000	% OECS GDP
Antigua & Barbuda	1,240.45	25%
St. Lucia	1,171.90	24%
Grenada	692.71	14%
St. Vincent & The Grenadines	617.16	12%
St. Kitts & Nevis	559.32	11%
Dominica	451.25	9%
Anguilla	183.99	4%
Montserrat	56.30	1%

Source: Calculated from ECCB data.

SVG has the second largest population amongst OECS member states. Its urban population of 64,000 comprises approximately 56% of the

population. Its economy is, however, the fourth largest in the sub-region and amounts to 12% of the total GDP of the OECS.

1.2 Economic Performance

St. Vincent & the Grenadines is mainly an agricultural economy in which the production and export of bananas continue to play a significant role. In terms of value-added to GDP, the agricultural sector is the largest contributor of all productive sectors. It is only exceeded by the services sector, viz., wholesale and retail services and Government services.

**TABLE 3. CONTRIBUTION OF MAJOR SECTORS TO GDP
(CONSTANT 1990 PRICES)**

Economic Sector	2000 (% of GDP)
Wholesale & Retail Trade	17%
Government Services	16%
Agriculture	12%
Communications	12%
Construction	9%
Manufacturing	6%
Hotels & Restaurants	2%

Source: Central Statistics Office, ECCB Annual Report.

GDP growth averaged 4.3% during the period 1997-1999. During this time, banana export earnings ranged from EC\$37 million in 1997 to EC\$51 million in 1999. The year 2000 signalled the beginning of the difficult years. Construction activity declined by 10% reflecting lower public sector investments with the completion of several large projects. Real GDP did grow by 2%, but this expressed mainly a recovery in the agriculture sector as banana production grew by nearly one fifth. GDP continued to decline in 2001, due primarily to the impact of a severe drought on agriculture (a 22% reduction in banana output) and lower tourism receipts.

1.3 Economic Challenge

Diversification of the economy is very much on the agenda of the current Government of St. Vincent and the Grenadines, which assumed office in April 2001. While not ignoring the need to restructure the banana industry and to reduce poverty in the rural areas, the Government has proposed a medium-term strategy, which will also focus on¹:

- the development of tourism and offshore financial services;
- the promotion of private sector activity through enhanced governance;

¹ International Monetary Fund 2001, Article 4, Consultation with St. Vincent & The Grenadines, p. 7.

- structural reforms and increased public investment in physical and social infrastructure.

There is also the concern with the level of unemployment. In the 1991 Census, unemployment was recorded at 19.8%. Although the data are not available for the current situation, the general opinion places the unemployment rate in the vicinity of 20%.

Associated with the high level of unemployment is a high rate of poverty. The Human Development Report 2002 of the OECS Secretariat places the poverty rate in SVG at 33%². This report also indicates that the poverty rate in the rural area is almost three times that found in urban areas.

2. LAND AND THE ECONOMY

2.1 Land Resource Uses

St. Vincent and the Grenadines has a total land area of about 96,000 acres. These resources are used for forestry, agriculture, industry and other buildings. Land use statistics from the Physical Planning Division suggest that about 32% of the land is available for agricultural purposes while 11% is built-up areas. However, the 1998 statistics suggest that only 17,789 acres are actually under agricultural production, equivalent to 19% of the total land area.

TABLE 4. LAND USE ACCORDING TO THE PHYSICAL PLANNING DIVISION

Land Use	Acres	% of Total
Forestry	44,819	47%
Agriculture	30,935	32%
Built up areas	10,170	11%
Industry	65	0.1%
Not identified		10%

Source: Legal Report on St. Vincent & The Grenadines, p. 4.

Over 42% of agricultural land (7,466 acres) is used for the production of permanent crops. Banana accounts for 63% (4,741 acres) of this acreage. Banana production still dominates the profile of agriculture in SVG.

² OECS Human Development Report – 2002, Table 1.6, p. 34.

2.2 Agricultural Land Tenures

The total number of parcels of agricultural land is 8,258. About 73% of these lands are under “owner or owner-like” possession. SVG uses the term “owner-like possession” to include such cases as family lands in which no clear title is vested in any one member. Combining these two categories (owner and owner-like) means that one is unable to ascertain the extent of such unclear titles.

TABLE 5. LAND UNDER VARIOUS TYPES OF TENURE

Type of Tenure	Total Agricultural Land	% of Total
Owner-Owner-like Possession	13,093.8	73.6%
Rent Cash-Government	1,810.5	10.2%
Rent Cash – Others	1,037.0	5.8%
Rented Cash for Share Produce	378.4	2.1%
Rented Share of Produce	606.9	3.4%
Rent Free/Peppercorn Tenancy	237.1	1.3%
Squatting - Government Land	401.8	2.3%
Squatting - Other Land	62.9	0.4%
Other	161.1	0.9%

Source: Legal Report on St. Vincent & The Grenadines, Table 3.1, p. 9.

Of equal importance is the level of rental arrangements in SVG. Rental land accounts for about 23% of agricultural land under use. Rental arrangements vary from leases of Government land to informal (oral) arrangements with private land owners. The Lands & Survey Department of the Ministry of Agriculture is responsible for rental of State/Crown lands.

3. ASSESSMENT OF EXPERIENCES

3.1 Land Administration

The Registrar of Deeds is the main instrument for land administration in SVG. Title deeds are maintained in date-order of registration and a deed index number is allocated consecutively within each year. Annual volumes of title documents are bound and stored at the Court House. There is a manually maintained annual cross-reference table of name and number.

Nicole Sylvester refers to the title registration system of SVG as an “unregistered title” system³, in that the title in the land register may not be

³ Land Consultancy Report for St. Vincent & The Grenadines, by Nicole O. M. Sylvester, February 2002.

referable to a certified plan. At most it may contain a general description of the boundaries of the said parcel of land. In order to certify the title as it relates to unregistered land, “searches have to be conducted in relation to the parties to the transaction concerning the land and not in relation to the specific parcel of land”⁴. Indeed, this author correctly concludes that “Title” to the interest in land to be conveyed is thus something that is deduced from evidence. It has to be proven afresh each time a disposition of land is made.

3.2 Land Management

Three institutions stand out in terms of their potential to influence land management practices in SVG. They are the Department of Lands and Surveys, the Registry and the Physical Planning and Development Board. All three of these institutions manage key land information in SVG. However, the main basis for functional linkages within these three institutions remains the ability of the Department of Lands and Surveys to define the locality of the parcel of land.

The Department of Lands and Surveys has large-scale topographical maps of settled areas at 1:2500 based on photography dated around 1982. The coverage is about 90% of the country excluding the Forest Reserve. The framework for survey control also resides with the Department. The Lands Survey Act of 1973 regulates the operations of surveyors. Thus the Department of Lands and Surveys performs the regulatory functions in relation to the checking and registering of survey plans and computations submitted by Government and private licenced surveyors.

The Department also manages all State/Crown lands. However, there is some difficulty in the determination of the exact acreage under State ownership. The main reason for the Registry having no records of compulsory land acquisition is that no legislation requires such records to be kept. Under the Land Acquisition Act, an acquisition is considered complete when it is reported in the Official Gazette.

With respect to private lands, the Registry maintains records of land transfers through the registration of deeds. However, the influence of the Registry is tempered to some degree by the cultural expectation of people engaged in land transactions. Some persons are still content with transferring land rights without the benefit of a lawyer or surveyor and do not register their transactions with the Registry. Rental arrangements are most prone to this type of behaviour. The ability to identify locality, however, gives the Department of Lands and Surveys the basis for establishing linkage between the indexing system of the Registry and that of survey plans.

The Physical Planning and Development Board influences land management practices through its regulatory efforts at land use planning

⁴ Ibid., p. 19.

and development control. The Board's responsibilities are detailed in the Town and Country Planning Act 1992.

Mortgaged-secured loans are most demanding in terms of documentary proof of ownership and planning permission. Where deeds are available, bank solicitors' clerks conduct a title search at the Deeds Registry. Affidavits are also utilised when applicants have only possessory titles. Where the financing of a project does not require commercial support, planning permission is seldom obtained.

4. LAND ISSUES

4.1 Access to Land

The tenure situation in St. Vincent & The Grenadines reflects very much the problem with access to land. Family inheritance obviously plays a role in ensuring access to land. We are unable to quantify its influence because "owner-like" possession is combined with clear ownership in compiling the data.

The "land reform" programmes play a significant role in providing access to land. The most recent was initiated in 1990 and saw the sub-division of eight estates in plots that were sold to persons for agricultural cultivation.

What should be of importance to planners is that even with the land reform programmes, access to land through rental arrangements (a situation characterising about 23% of land) is still a very prevalent form of tenure. The fact that there is no formal (recognisable) land rental market suggests that nearly a quarter of the land is occupied through informal relationships. Clarification of policy with respect to rental rates and sale prices for Government lands can influence the emergence of a land rental market and assist in the emergence of "economically viable" access to land so as to complement the social objectives of land distribution.

4.2 Squatting

Squatting on publicly owned land is considered pervasive in St. Vincent & The Grenadines. One estimate puts the number of squatters at 16,000⁵. This presents a number of problems. The Forest Reserve is threatened by illegal occupation, and watershed management becomes dysfunctional. Consequently, policy efforts to prevent the clearing of forests and to encourage reforestation on lands deemed unsuitable for agriculture are continuously thwarted by social forces that drive illegal occupation. While individual departments of Government may see the problem as one of

⁵ "Land Consultancy Report for St. Vincent & The Grenadines", by Nicole O.M. Sylvester, February 2002, p. 13.

removal of such persons and termination of such occupation, there are larger questions of land access and intensifying agriculture on lands that are deemed suitable for cultivation.

4.3 Family Lands

Although family land is very common in SVG, the incidence of it as an issue is not known. The term “owner-like possession” is used in SVG to describe land occupied by persons with a beneficial interest that is not expressed as a legal interest. The practice in SVG is to combine the data for “owned” and “owner-like possession”, so that the latter is indistinguishable.

4.4 Land Markets

4.4.1 Land Market Activity

The emergence of increased activity in the land market has been influenced by the fragmentation of former estates and increased urbanisation. This can be seen in the growth in the number of deeds registered. Although more recent data were not obtained, we do know that this process gained momentum in the 1980s. Between 1979 and 1988, the number of deeds increased by 63%.

The market is also registering the growing scarcity of land through the continuous increase in land values. Competition is increasing for various land uses including residential, industrial and agricultural purposes. Government also adds to the competition as it seeks to satisfy the needs to protect the watershed and the Forest Reserve and to provide institutional support for shelter and the establishment of small farming enterprises.

4.4.2 Land Valuation & Taxation

A tax is payable on all land included in the tax rolls prepared under the Land Tax Act, Cap. 316. The system of taxation of land relies on a traditional annual rental value (ARV) methodology. This may not be so appropriate where only a small leasehold market exists. Questions have also been raised concerning the lack of real evidence to sustain a system and the fact that the rental value system excludes unused land, which may have considerable capital value for future development purposes.

The Valuations Department performs all valuations for property taxation/rating purposes and also is required to formally certify market value on all property transactions for Estate Duty and Stamp Duty purposes. The Registrar can refuse to register transfers of property if the value is not certified by the Valuations Department. This reinforces the influence of the Valuations Department. The last revaluation took place in 1990, in which some 40,000 properties were involved. There are exemptions for Crown lands, land used exclusively for worship or education and parcels of agricultural land of 5 acres or less.

4.4.3 Land Information

Land information is a critical part of the land market. However, such information is scattered through different institutions in SVG. The Valuations Department does hold two valuable and well-kept computerised data information resources. These are the transaction records for Estate and Stamp Duty purposes and the 1990 revaluation of all properties on the roll. The Department of Lands and Surveys maintains its records of survey plans. Significant information is also held in databases with the private sector.

4.5 Natural Resource Management

Watershed management is also considered a serious problem. There is a legal framework for natural resource management in the only Act regarding Forest Reserves, the Kings Hill Enclosure Act, Cap. 239, of 1990. There have been reported attempts to improve the management of the forests. The draft National Forest Resource Conservation Plan (February 1994) done by the Ministry of Agriculture was one that, amongst other things, had planned to establish the Mesopotamia Forest Reserve. Because of poor monitoring, however, this area has been mostly cleared for agriculture, except for the highest and steepest ridges.

5. CONCLUSION

St. Vincent & The Grenadines is faced with the challenge of moving from a society organised around large parcels of land owned by Government and a few private estates, with the masses of people excluded from property ownership, to a more diversified and viable economy with wider access to property ownership. Although a more vibrant land market can facilitate such a transition, intervention by the State is still required to address the social issues relating to land ownership and access.

TRINIDAD & TOBAGO: Land Policy, Administration and Management: The Trinidad & Tobago Experience

Asad Mohammed

1. INTRODUCTION

The Government of Trinidad and Tobago has recently completed a comprehensive Land Use Planning and Administration Technical Assistance Programme (LUPAP) funded by the Inter-American Development Bank. This programme was completed approximately a decade after another comprehensive sectoral analysis established the programmatic framework for land-related reform. The previous effort was itself conducted some ten years after a major legislative review, which resulted in a comprehensive set of land legislature being passed in the Parliament. It is fair to say that the analysis, recommendations and programmatic framework coming out of these studies have not been matched by implementation. While there remain inadequate or confused areas of analysis and policy or programmatic solution, the cause for this gap between recommendation and implementation lies mostly outside the realms of technical issues.

The 1980's comprehensive Land Law Reform package was abandoned with some justification, but has been replaced by an ad hoc legislative agenda. The consistent leadership and co-ordination required for meaningful reform have been lacking and have been made worse by frequently changing administrations that mitigate against continuity. The national LIS/GIS remains a dream and coastal zone policy, plans and standards for development are a regional embarrassment. Land pricing, distribution and beneficiary policies are governed by expediency rather than consistency and rationality.

Notwithstanding these general problems there have been meaningful improvements in many areas that will be discussed. The level of success or simply implementation of policy must, however, be judged against the 1992 policy document, "A New Administration and Distribution Policy for Land" (GOTT 1993) which was the last comprehensive land policy statement of the Government and followed the Wisconsin Land Tenure Center study (1992).

This paper will review progress under the key headings in that policy statement before addressing other areas not dealt with. The paper does not attempt to detail the analysis, recommendation or implementation in all the aspects of land policies. Rather it tries to provide an overview of key issues that have hindered

the process of reform and issues not adequately addressed in policy to date. There are, however, a few conceptual issues that will first be reviewed.

1.1 Addressing Historical Legacies

Limited accessibility of the poor: A fundamental issue that has not been adequately addressed in the ongoing reviews of the land administration and management systems is the historical basis of many of the present land-related problems. Post-emancipation land policy that was clearly enunciated by Colonial Secretary Glenelg in Burnley (1842) can be seen as a root cause of many of these problems.

The policy of systematic denial of access to affordable land by the formerly enslaved established the basis of present-day problems of lack of access by the majority of the population, squatting, inappropriate land use and environmental practices by the poor. These problems thus have a more than 150-year history and were caused by intentional action by the State rather than inadvertent outcomes of policy, market or institutional failure. These problems were furthered by programmes of land access for indentured East Indian labourers who received or purchased mostly marginal and barren lands from either the State or the market.

1.2.1 Ethnicity and Access to Land

While the reality is that very few East Indians got access to land in lieu of passage back to India, there have been mythologies perpetuated that widespread access to land through this mechanism was the basis of the land-holdings and economic status of present-day East Indians. Underlying fear of the “other” group between the large African and East Indian populations as beneficiary of State largess in land distribution programmes in the post-emancipation period, real or imagined, has thus coloured and retarded open, fair and effective land distribution programmes. However, this issue is never openly addressed by academics, administrators or international technical specialists. Politicians have addressed the issue but not in a manner to resolve its negative impacts. These problems are relatively unique to the southern Caribbean countries of Guyana and Trinidad (not Tobago) and require different understandings and solutions than in the rest of the English-speaking Caribbean.

1.2.2 Narrow Definition of Land

Despite being islands the definition of land in Trinidad and Tobago has a terrestrial focus. While most of the rest of the Caribbean have understood the importance of the coastal zone and the near-shore area for their tourism and fishing industries, Trinidad and Tobago still deals with these areas largely in the realm of State land administration with inadequate integration of the various key stakeholders in its management. This is quite surprising because this country has exploited its offshore resources more than any other Caribbean country due to its

petroleum and natural gas industries. It also has a maritime boundary with its neighbour Venezuela with demanding management issues. As development accelerates in the coastal and marine environment the need for appropriate analysis, policy and standards becomes even more critical.

The need to specify the efficient use and management of coastal and seabed lands within the 200-mile Exclusive Economic Zone (EEZ) can also help to bring this neglected area into greater focus.

1.3 Land Resources in Trinidad and Tobago

Trinidad and Tobago has a population of just over 1.26 million people based upon the recently released 2000 Census. The gross domestic product (GDP) in 2002 was US\$8.4 billion with a GDP per capita of US\$6,278. Real GDP grew by 3.3% in 2001 and an estimated 4.5% in 2002. The sectoral composition of GDP demonstrates a continuing shift away from agriculture, which contributed only 1.6%, towards the services sector (55.2% of GDP). Industry, which is the strongest in the region, accounted for 43.2% of GDP.

The total land area of the twin island country is 512,600 hectares with Tobago being a little less than 32,000 hectares. While the exact figures are unknown, approximately 52% (266,500 ha) is regularly used as the area owned by the State. In Tobago, it is lower at 34% (10,772 ha).

TABLE 1. LAND CAPABILITY CLASSES AND AREAS — TRINIDAD AND TOBAGO

CAPABILITY CLASS	DESCRIPTION	TRINIDAD (Acres)	TOBAGO (Acres)
1	Suitable for cultivation without special practices	5,301	682
2	Suitable for cultivation without simple practices	17,920	8,298
3	Suitable for cultivation without intensive practices	164,173	16,395
4	Suitable for cultivation only with special practices though best suited to growing pasture grasses and tree crops	254,662	15,872
5	Not suitable for cultivation but suitable for pasture, fruit, other tree crops or forests	295,832	21,027
6	Not suitable for cultivation due to slope and/or water limitation, best left under indigenous growth or forest	261,500	10,542
7	Unsuitable for agriculture due to very steep slopes, best left under indigenous growth or forest	190,212	668
Totals		1,189,600	73,484

1.3.1 Land Use

Distribution of both public and private lands according to use is not accurately recorded in published documents. While there is some graphic representation in planning documents, Table 1 based upon an old land-capability study gives an indication of this distribution.

Agricultural uses have however been declining. Ministry of Agriculture estimates of 1998 suggest that only 14.62% of total land area is actually arable and of that, only 9.16% is in active agriculture. This leaves some 76.22% in other land uses.

1.3.2 State Lands

Despite various attempts to accurately calculate the extent and nature of State land ownership and distribution including a relatively successful State Lands Information System (SALIS), the picture is still very vague. Out of the total State land area of 266,552 ha, 126,490 ha are under forest and the balance is shared by a range of State agencies and companies. By far the largest amongst these are the Commissioner of State Lands (COSL) and the Land Administration Division (LAD) of the Ministry of Agriculture. Table 2 is derived from a 2000 LUPAP report.

TABLE 2. HECTARES MANAGED BY INSTITUTIONS

	Agency	Hectares Managed
1	LAD-COSL	68,436
2	Caroni (sugar company)	31,567
3	National Housing Authority	14,600
4	Petrotrin (Petroleum Company)	10,118
5	Chaguaramas Development Authority	4,856
6	PIDCOTT (Industrial Estates)	371
7	SILWC (Sugar Workers lands)	28
	Sub-Total	129,976
	COSL, and various others	10,086
	TOTAL	140,062

1.3.3 Security of Tenure

There are different ways in which security of tenure can be measured. This can vary from a strictly legalistic measure based on documentable title to the perception of the land-holder. There is some evidence in Trinidad and Tobago that there is a strong perception of security of tenure even amongst the squatting community where there would be no documentable evidence (Rajack, 1999). The definitive measure of documentable tenure status is not available for Trinidad and Tobago but Table 3 provides a useful estimate.

TABLE 3. FORMAL TENURE INSECURITY ON HOUSE PARCELS
(PRIVATELY OWNED AND STATE-OWNED LAND: NATIONAL ESTIMATES)

TYPE	DOCUMENTS POSSESSED BY HOLDERS OF HOUSE PARCELS				
	Deed Up-to-Date	Lease Up-to-Date	Other Doc.*	No Doc.	Total
House parcels on privately owned land	119,435	34,197	69,926	31,645	255,203
% (84.9% total)	46.8	13.4	27.4	12.4	100%
House parcels on State-owned land	0	5,492	17,883	22,014**	45,389
% (15.1% total)	0	12.1	39.4	48.5	100%
Total	119,435	39,689	87,809	53,659	300,592
%	39.7	13.2	29.2	17.9	100%

* Other documents include an out-of-date lease or a lease in the name of a person other than the holder of the land, a deed in the name of a person other than the holder, a tax receipt, a rent payment receipt, a private purchase document or receipt.

**This category is best defined as squatters. NHA estimates that there are about 25,000 housing squatters on State-owned land, which is somewhat more than the 22,014 estimate in the table but of the same order of magnitude. The problem of squatting may be even more serious on privately owned land. More study is needed of these phenomena to derive better estimates of the urban tenure problems.

Source: Table 6, Annex 12, 1991 Landholder Survey, 1990 Population Census.

2. GENERAL POLICY GOALS

The 1992 policy document (GOTT 1993) established four broad policy goals, with the underlying objective of greater efficiency in the use and management of land:

- Preventing prime agricultural land from being subjected to non-agricultural use by instituting a system of land zoning.
- The provision of adequate security of tenure for tenants on State lands.
- Discouraging land speculation and the taking of steps to bring idle land into production.
- The promotion of development that is sustainable economically, socially and ecologically.

These goals seem to be generally acceptable but two need greater scrutiny and possibly two more need to be added. A realistic examination of the present and future role of agriculture needs to be undertaken if agricultural potential is to be prioritised over competing uses. The introduction of a land zoning system is also not in harmony with the existing statutory form of land-use designation and control and needs to be approached first cautiously

and then comprehensively, if adopted. The role of speculation in the operation of land markets tends to be reasonably stigmatised and is much less harmful than unrealistic land-use standards that keep lands in non-viable sizes of holdings and land use types.

Certainly, a specific goal of State land policy should be to address the historically inadequate access to land by the poor through improving land market efficiency as well as better targeting of subsidies to disadvantaged groups to facilitate access.

3. INTER-AGENCY CO-ORDINATION AND RATIONALISATION

The 1992 policy document highlights the roles of ten agencies in seven Ministries with responsibilities relating to land administration and distribution. At that time however, there was an attempt to co-ordinate four of the key administrative and management agencies within one Ministry. The Lands and Survey Division, the Town and Country Planning Division, the Valuations Division and the Environmental Management Division had been assembled within the Ministry of Planning and Development. The remaining agencies carrying out sectoral functions utilising State lands were unaffected.

Subsequent to that, there appears to have been a reduction of attempts at co-ordination with extensions of management and administrative as well as sectoral and distributional functions in line agencies. Noticeably, there is a new Environmental Management Authority (EMA) that is in a separate Ministry from the Town and County Planning Division, and there are new agencies dealing with land distribution functions, notably the Land Administration Division (LAD) of the Ministry of Agriculture and a Land Settlement Agency (LSA) established within the Ministry of Housing by statute.

Except for the Cabinet itself, there is no statutory or high-level co-ordinating mechanism for divergent components of land policy and management. Two mechanisms of high-level co-ordination which existed for a while over the last few years have ceased to function. Briefly, there was a standing Cabinet Committee dealing with land-related matters chaired by the Deputy Prime Minister¹. There was also a sub-committee of the Interim National Physical Planning Commission (INPPC) dealing with land policy. This committee in fact functioned as the steering committee of the LUPAP project and was proposed to be established statutorily under the Planning and Development of Land Bill 2001. Most land policy matters — including land policy, land information policy and a National LIS/GIS, Coastal Zone Policy and Development

¹ There is no constitutional Deputy Prime Minister. This is just a tradition of the person who regularly acts for the Prime Minister in his absence from the country.

Regulations and parts of Land Use Policy and Development Standards — were co-ordinated through the INPPC.

The proposals for integrating and co-ordinating most aspects of land policy through statutory committees of the Planning and Development of Land Bill seem to have floundered with a change in administration and there is a return to ad hoc Cabinet-appointed committees.

It is clear that if those initiatives are not progressing there still remains a need for integrating and co-ordinating mechanisms for State land administration and management functions. Leadership and co-ordination continue to be the major stumbling blocks to implementation of accepted technical proposals.

3.1 Land Management Authority/Commissioner of State Lands

At various times, specific land management agencies — including a Land Management Authority (LMA) — have been proposed to undertake the functions of the Commissioner of State Lands (COSL). The 1992 policy document proposed the restructuring of the Lands and Surveys Division (L&SD) into separate entities, one dealing with surveying and mapping functions and the other with land administration functions. This would have resulted in the COSL functions being undertaken by a new office. This was agreed in various forms by Cabinet decisions of 1988, 1991 and as late as 1999. Subsequent to the 1999 decision the post of Commissioner of State Lands was actually advertised and candidates interviewed. However, no one was finally appointed.

In order to implement this proposed separation of functions, a review of the activities of both arms of the L&SD was undertaken under the LUPAP project. This project also provided land administration reform systems and provided expert personnel to facilitate the separation. Further training in land administration to staff the Commissioner's Office was proposed and in co-operation with the University of the West Indies, St. Augustine Campus, a specialised diploma was developed. Again these efforts may have been wasted in the short run as the reform of the L&SD appears to be stalled.

The establishment of a Land Management Authority in the form of a State Corporation to replace most of the functions of the Commission of State Lands has been often proposed. There was a Cabinet decision to that effect in 1994. The LUPAP project has examined various options for the operations of the LMA. The following were recommended by the Government's Steering Committee:

- The Commissioner's Office was to revert to policy and overview functions probably to be integrated with the Land Policy Committee of the proposed National Physical Planning Commission.
- The Land Management Authority was to directly manage residual State lands and co-ordinate and monitor the functions of the various agencies involved in managing State lands for sectoral purposes. This was to

include the power to recall State lands from agencies vested with such lands for specific purposes when they were not being carried out.

The interests of improved market efficiency in the management of State lands would recommend that this approach be adopted. This would require that the State take back the right of agencies vested with specific sectoral management functions to develop the lands not being used for those specific purposes. Three very specific examples illustrate the point. Caroni (1975) Ltd. inherited some of the best lands for sugar-cane production. These lands are also some of the best lands for most types of other developments in the country. Should that development potential be used to subsidise an uneconomic and inefficient cane and sugar production function? Similar questions can be raised with respect to the oil company, Petrotrin. The Port Authority also has large holdings of valuable urban waterfront lands, and the international record is that old port agencies do not make good urban waterfront developers.

The final proviso that must be made with respect to the operations of a Land Management Authority is the ethos of its operations. I mentioned earlier the concept of business and management efficiency. This would have to do with pricing and operation efficiency only. A distributional equity and beneficiary policy must address the historical imbalances in access to lands by the majority of the population.

Issues in respect of the operations of the COSL and the proposed LMA and their relationship are, however, complicated by a plethora of proposals to establish new specialised land-management agencies such as a National Parks Authority and special jurisdictions such as protected areas for wild life, and environmentally sensitive areas under the Environmental Management Act of 2002. Limitations of human, institutional and financial resources mitigate against successful implementation of the full range of proposals. While the objective of more effective management of various special and protected areas must be embraced, long-term management of State land resources (and therefore sustainability of special protected areas) would be better served by getting the Commissioner of State Lands Office and at least one effective State Lands Management Authority functioning. There is scope within the management and technical functions of such an authority for addressing the needs of specialised agencies or jurisdictions.

4. FUNCTIONS OF A STANDING CABINET COMMITTEE ON LAND

It is difficult to simultaneously put in place the full set of statutory and administrative procedures required to ensure effective co-ordination, integration and co-operation amongst the various agencies exercising land administrative or management functions. Jurisdiction and turf are used to resolve conflict rather than reason, and it is often easier to hide behind

statutory powers in a context in which relevant laws are not harmonised. Overlapping jurisdiction often occurs, and while this may even be desirable to ensure scrutiny and appropriate coverage of crucial issues, this can become problematic when there is no co-ordination between agencies.

It is important that there are mechanisms to overcome these problems at the highest level. A standing Cabinet Committee chaired by a senior Minister can facilitate such functions. Although a standing technical or expert committee is recommended, it may not be able to direct agencies when there is no consensus. A Cabinet Committee would be cognizant of the policy directives of the government of the day. However, through the committee of experts and stakeholders, it should have the best technical advice on the matters before it.

4.1 The Legislative Agenda

The 1992 policy document proposed that the 1981 Land Law Reform package be dropped because it was based upon an English precedent that was not relevant to the circumstances of Trinidad and Tobago at the time. The 1981 package comprised seven pieces of legislation. While the policy document noted that this package had not been proclaimed (implemented) due to a lack of financial and human resources, the 1992 policy document still recognised the need for codification, simplification and integration of the legislation affecting land. At the time, it listed some forty (40) pieces of legislation bearing on land administration and management.

It recommended proceeding on a legislative package with seven components:

- Not proclaim the 1981 package;
- Mandatory title registration supported by a comprehensive land information system;
- Land Adjudication legislation to facilitate expeditious and cost-effective determination of claims;
- Revision of the Partition Ordinance to facilitate realisation of multiple interest in lands;
- New Land Surveyor legislation;
- New Town and Country Planning legislation;
- New Environmental legislation.

The objective of this group of legislation was to create a single all-inclusive system of public land title records for all lands in Trinidad and Tobago, replacing

- Registering of Deeds (old law system),
- Registering under the century-old Real Property Ordinance, and
- State land records.

It was expected that such a system would support speedy and low-cost transactions, remove widespread uncertainty over land title and generally improve the land market. This 1992 policy report, as with previous and

subsequent documents, asserted that such measures would address all forms of tenure insecurity, and somehow through the efficient operations of the market make lands more easily available to the poor and thereby reduce the incidence of squatting. (The issues of squatting and land information will be addressed in separate sections that follow.)

Since 1992 significant progress has been made on this agenda. Three core pieces of legislation have been enacted:

- The Registration of Land Title Act 2000,
- The Land Tribunal Act 2000,
- The Land Adjudication Act 2000.

A committee was appointed to take steps to facilitate the proclamation of the package by March 2001. The key legislation was the Registration Act and the other two facilitated this process. However, the committee never met. Recently a new committee was established by Cabinet to review the legislation, make recommendations on necessary revisions and oversee the preparation of supporting subsidiary legislation for the package. It is also mandated to prepare an action plan for its implementation.

4.1.1 Land Tribunal

In the 1992 land policy document there was a broad-based discussion on the nature and purpose of this tribunal. It was suggested that it would have both legal and technical membership and could, sitting in different divisions, deal with a range of land-related matters. This would include appeals on planning decisions and on environmental reviews.

Subsequent to 1992, an Environmental Commission was established by the Environmental Management Authority (EMA) Act 1995 to review decisions of the Environmental Management Authority. The establishment of this Commission has been lengthy and expensive and has only heard one matter to date. During the initial passage of the Planning and Development Law (PADL) through the Senate it was suggested that planning appeals be heard by the same Commission. However this would have required an alteration or enlargement in the composition of the membership to allow it to hear planning matters. A reform of the EMA Act to address planning matters was treated by the EMA and the environmental community as a dilution and thus an attack on its integrity.

Given the limited human, financial and institutional resources to deal with Land Adjudication/Planning Appeals and appeals against EMA decisions, the reality is that it will be extremely difficult and unsustainable to support three separate tribunals/commissions. It still makes much sense to create one sustainable land-oriented court that sits in various divisions.

4.1.2 *Land Surveyor's Act*

There was a new Land Surveyor's Legislation, No. 33 of 1996. This act extended recognition to specialisations other than cadastral surveys, such as hydrography and engineering surveys, and developed alternate registration requirements. Significantly, the act also recognised the UWI surveyor's degree as a primary qualification for initiating professional membership.

4.1.3 *Environmental Legislation*

While the 1992 land policy document recognised the need for environmental legislation, it did not specify the nature of such. A combination of adherence to international conditionalities and the urgency to secure passage of the law led to an institutional arrangement out of harmony with existing English-based systems and practices existing in almost every related area. Legalistic enforcement of the American-based model defeats attempts to harmonise, co-ordinate and integrate the work of related agencies and was set up as an independent, super-agency overriding the original jurisdiction of many agencies. The cumbersome requirements of memoranda of understanding to facilitate co-ordination flew in the face of attempts at co-ordinated policy and institutional arrangements in the broad area of land administration and management. There is no doubt of the need for proper environmental review and enforcement, but the approach of creating a new super-agency with limited resources may need some re-examination.

4.2 *Land Information Management*

The 1992 policy document raised a series of issues regarding State land information management:

- The lack of a full inventory of State lands in private occupancy;
- Public information regarding availability of State lands;
- Surveys of land utilisation;
- Information on compliance with State leases.

With respect to the registration of title it understood the need to synchronise the implementation of an updated national land information system to deal with the introduction of a new title registration system.

History of National LIS/GIS: With the increased utilisation of digital technology in spatial information management many agencies undertook upgrading of their GIS/LIS systems in an uncoordinated manner. Dating back to 1988 and 1991 Cabinet was appraised of the issues and the need for a national GIS. A 1993 committee of key land information agencies put together a "Proposal for a National Land/Geographic Information System" which was published in 1994. Its recommendations were accepted in principle by the Cabinet in 1996. However, the steps towards its realisation have not been clear.

Various agencies such as the Water and Sewerage Authority (WASA) have pursued their own information management requirements to the point where they are functioning as a “quasi” national agency for digitised mapping over and above the functions of the national mapping agency, the Lands and Survey Division. The Central Statistical Office is also pursuing a similar approach with respect to spatially referenced socio-economic and demographic data notwithstanding the difficulties this presents with respect to a co-ordinated approach to a National Spatial Data Infrastructure (NSDI).

In 1999 on the request of Cabinet the Interim National Physical Planning Commission (INPPC) commissioned a working group on the establishment of a national GIS. Interestingly, this group found that many of the key elements of establishing a National GIS and an NSDI were already in progress and highlighted some key activities that needed to take place to proceed to a National GIS. It recommended a structure to manage a National GIS that was accepted in principle, and an Implementation Committee was established by Cabinet. While there have been some problems in moving the process forward due to the change in administration, many of the key elements have proceeded in a concerted but not necessarily co-ordinated manner. Under the Agricultural Sector Reform Programme (ASRP) that promoted the LUPAP project, the following key initiatives are proceeding:

- A Digital Parcel Index Map (PIM) and a Unique Parcel Reference Number (UPRN) system is in progress with the Lands and Survey Division in a supervisory role.
- The Land Registry, which is in the process of being digitised, is to have its digitised records populated with UPRNs.
- The implementation of the Land Registry Act is under active review by a recently appointed Cabinet Committee. A study was also supposed to be commissioned in this regard. It is to include elements of how to move all lands under the existing two registers into one register and study how that would impinge on a National LIS.
- The National Geodetic framework is also being upgraded.

There seem to be a few issues that can move the process forward.

- Apparently there is no specific champion for a national GIS/LIS at a high level of Government. The implementation committee appointed by Cabinet seems unable to get either clear directions or responses on its proposals or human or financial resources to proceed. This unclear mandate would also hamper the committee’s ability to bring other agencies of Government in line for an integrated approach.
- While there has been an apparent consensus that the locomotive to achieve a National LIS/GIS is first through a digital land registry, this is not the only way forward. The approach has been used in certain Canadian cases which have been studied by the Government as possible

models and partners. However, this approach can take time and retard integration of other spatially referenced data than land transactions data. There seems to be strong support from the banking sector for the land transactions approach, but a parallel development of other data may be possible with an appropriate NSDI.

- What is clearly lacking is a clear mandate to the committee appointed to the task and appropriate, technical, administrative and financial support.

5. LAND DISTRIBUTION

It seems that the 1992 policy document was caught up in the finer points of land administration with respect to the nature of leases and class of land and methods and rates of lease charges. While these matters need to be dealt with, two important issues seem to have been assumed. The first is that equity and poverty alleviation is achieved by fine-tuning the institution that guarantees title rather than the mechanism that gives access to land. The second is that a leasehold interest is the best mechanism to ensure that the State's objectives are met. It would seem that both methodologies of giving security of tenure are important, with access being more important, the more disenfranchised from land you are. With respect to leasehold tenure there are some issues which need further review before this assumption is retained.

Much of the land reform programme discussed so far has focussed on land market efficiency and land transaction efficiency as mechanisms for improving security of tenure. This section thus focusses on land distribution and beneficiary issues.

The Government has continuously distributed State lands at subsidised rates for agriculture and housing since independence in 1962. The largest allocation has been under the Crown Lands Distribution Programme of the 1960s when some 10,000 hectares of agricultural lands were distributed, the most significant areas being Wallerfield and Carsen Field. The 1960s also saw large housing estates such as Diamond Vale, Morvant. This scale of distribution did not take place again until the late 1970s and early 1980s. Significant urban housing projects took place in and around Port of Spain and San Fernando in the intervening period. The Food Crop Farm Project of the 1980s was spread throughout the country and there were significant housing projects at Maloney and La Horquetta. The late 1980s saw a shift towards squatter regularisation and serviced land projects based upon the influence of the Sou Sou Land Initiative. This included a large-scale IDB-funded national programme.

Many of the agricultural distributions have failed to meet production and sustainability expectations. It can be legitimately argued that there was inadequate infrastructure and extension support, and many projects were on soils unsuitable for agriculture. Various analytic reports have also suggested that the beneficiary selection process did not always allocate lands to the best farmers, with the highest percentage of beneficiaries coming from urban areas.

What is not directly mentioned is that criteria other than farming background may have been the unstated but real criteria for selection of beneficiaries.

Historically, rental as well as mortgage housing programmes operated by the State (although highly subsidised) tend to have very bad payment records by beneficiaries. Some of the impacts of low repayment included limited resources in the State agencies for maintenance, community and infrastructure development and limited new programmes. This has led to a cycle of decay and depression in most State-run low-income housing projects.

The late 1990s saw a systematic land distribution programme for both agriculture and housing through the Land Administration Division (LAD) of the Ministry of Agriculture and the Land Settlement Agency (LSA) of the Ministry of Housing and Settlements. The LAD's programme was more intent upon regularising leases of both legal and illegal agricultural occupants of State land and included attempts to systematically record occupation via a State Land Information System (SALIS). The LSA programme included both squatter regularisation and green-field low-income site-and-services projects with subsidised house construction support and financing. This latter programme is to be continued under a second IDB sector loan but with a greater emphasis on getting the lands into housing starts/completion.

There are a few lessons to be gleaned from these experiences:

- Beneficiary selection criteria will affect the repayment schedules and viability of agricultural and settlements projects and political patronage must be guarded against (as much as is possible under our system of party politicians).
- There is need for better integration of rural and peri-urban residential and agricultural projects and clear lines cannot always be drawn. Existing separate procedures and standards result in irrational layouts juxtaposed next to each other. A comprehensive settlements approach is needed, perhaps under one agency addressing the needs of both housing and land distribution.
- Housing and land distribution projects cannot take place in an efficient and sustainable manner without enhancing institutional capacity in land use and settlement planning, utilities and infrastructure planning and a review of relevant development standards.
- Previous and existing squatter regularisation programmes and low-income green-field sites have been unable to meet the demand. This has led to a continued proliferation of squatting with its environmental consequences. The main constraint continues to be the high level of standards being required by agencies and cumbersome implementation procedures. Given the scale of the problem this cycle needs to be broken by some large-scale infusion of serviced parcels of land. The present process of increasing security of tenure has also been retarded by land use planning, surveying and registration problems.

- The pro-active aspect of the LSA agenda was a silent land reform. This was to be achieved via its green-field programme to meet unmet demand in the low-income group. This like similar national programmes before has faltered on implementation requirements. These requirements may sometimes be invoked by external agencies such as the IDB but are in large part the making of regulatory agencies and national standards. New draft land use standards addressing squatting and a small building code developed by the Interim National Physical Planning Commission (INPPC) may address this problem.
- A major shortcoming of squatter regularisation problems to date is that they have addressed only half of the problem. Only State lands' squatting has been dealt with in the 1998 Act. Either planning and municipal acts need to be broadened to address this problem via special planning jurisdictions and standards or the squatter regularisation needs to bring private tracts into its domain.

5.1 Land Reform Initiatives

There continues to be a need to address in a widespread manner the legacy of the historical imbalance in access to land inherited from the colonial context. In this regard two issues need review. The first is the cumbersome nature of lease management which effectively limits the ability of the State to meet its pro-active goals in land distribution. More effective land use controls may be just as successful with freehold tenure since the State rarely revokes leases except for non-servicing of loans. This can be as effectively achieved by mortgage arrangements undertaken by financing institutions rather than a land administrative mechanism.

There continues to be mixed messages in land administration and management proposals. If market mechanisms are suggested to overcome access and poverty issues, then the supply issues need to be addressed. The State cannot retain supply for future generations and cause high prices in the present. Again the key issue is in effective land management procedures via the land use and environmental management and regulatory agency with strong enforcement capabilities.

The “real” or received differential access to Government land distribution programmes depending upon political affiliation or ethnicity needs to be addressed and resolved in a truly national programme that is transparent and participatory in its planning and management.

5.2 Land Use Management

Effective land use management and appropriate standards and development approval procedures are fundamental objectives for achieving the land policy objectives as outlined in the 1992 policy document. That document recommended the revision of the Town and Country Planning Act and the establishment of a sub-division code or regulations stipulating the procedures involved in the development control process. These two items

became policy agreements between the Government and the IDB for drawdowns under the ASRP and pre-requisites for the proposed Agricultural Sector Investment Programme (ASIP).

In 1995 a Cabinet Committee was convened which recommended substantial changes to the existing regime including devolution of not just development control but also development (forward) planning to municipal authorities, unification and simplification of land use and building approvals, established appeals mechanism, special regimes for squatter regularisation and non-viable older sub-divisions and the establishment of an advisory planning commission.

A subsequent committee made further amendment to the proposed bill, the key being the establishment of an integrating and co-ordinating function amongst physical planning and regulatory agencies through a strengthened National Physical Planning Commission (NPPC). Because many of the day-to-day powers of the Minister were to be delegated to this broad public/private stakeholders' Commission, it would also acquire some executive powers. This Commission was to replace the Town and Country Planning Division and the Building Branch of the Ministry of Works. It also acquired a range of policy framing functions to be operated via statutory committees. These included (a) Land Policy, (b) National Codes and Standards, (c) Development Planning, (d) Coastal Zone Planning and Regulation and finally (e) Development Control including a statutory established "one stop" shop sub-committee.

The work of the proposed NPPC was initiated via an Interim Commission (INPPC) pending passage of legislation. Its work to date has included advances in most of its proposed areas of mandate. Presently however, the change of administration has resulted in a hiatus. The reform programme has halted and the operating resources of the INPPC have been drastically reduced. The exact direction, if any, of land use planning and management reform remains unclear. There are however some critical side issues other than land use planning — with respect to the registration and regulation of built development professionals, fast tracking of development applications by such professionals and the whole area of land policies and coastal policy reform — that also need to be addressed from the PADL.

5.3 Coastal Zone Management

Existing land use management policy has historically ended at the high watermark, and land administration rather than land management has been undertaken from the high watermark seawards to the extent of the Exclusive Economic Zone (EEZ) by the Office of the Commissioner of State Lands. Additional jurisdictions involved in management of coastal and marine lands includes the Ministry of Energy with respect to the exploitation of petroleum and natural gas resources and the Drainage Division of the Ministry of Works with respect to river estuaries, coastal erosion and defence works.

Land management issues generally have been undertaken by ad hoc and Cabinet-appointed committees such as the West Coast Master Plan Committee and the Reclamation Committee which has an advisory role with respect to dredging, dumping, coastal structures, defence works, mooring, jetties, piers and reclamation. These functions have also not had resources available for technical support or appropriate studies and development of standards. Administrative support has historically been supplied by the Director of Survey and, for a few years in the recent past, by the INPPC.

The state of coastal land administration and management in Trinidad and Tobago is a Caribbean embarrassment. While Trinidad and Tobago enjoys the most lucrative off-shore resources in the region and has one of the more complex maritime boundaries with Venezuela, it has done little to upgrade its management and administrative capability in this area. The hydrographic and bathymetric mapping is outdated and incomplete. The offshore cadastral and boundary mapping is inadequate. There have been no systematic development planning or studies for the sustainable management of the coastal or marine lands. The only standards and policies that exist are preliminary ones developed by the West Coast Master Plan Committee on a shoestring budget. While those standards provided a quantum leap to what existed previously and have Cabinet's approval in principle, they are preliminary and need to be properly developed.

There have been no resources provided under either recurrent or capital budgets for the last five years despite repeated requests from the WCMP/Reclamation Committee. This is in a small part due to a lack of clarity as to the exact jurisdiction. The 1992 policy document had proposed a seabed authority to address some of the problems in the coastal zone, but it was more of a land administration improvement at the expense of management issues. There is need to place all the components of coastal zone management under one umbrella and establish a properly funded and dedicated administrative unit to develop this area as had been proposed in the 2001 PADL Bill passed in the Senate. There may eventually be the need to enact appropriate empowering legislation governing the coastal zone and the EEZ.

5.4 Ethnicity and Land Policy

One of the issues that has not been well developed in the southern Caribbean is the inter-relationship between ethnicity, land and post-independence politics. In an early work Wood (1968) considered that this was an important relationship and contrasted Guyana with Trinidad. While he noted the presence of the issue in Trinidad, he suggested that it was not as critical as in Guyana where the racial and political lines are more clearly drawn. However, in light of present-day politics in Trinidad and Tobago, his insight would have to be reviewed.

There are two aspects of the relationship that need to be explored further. The first has to do with the underlying fear that the two ethnic groups have of the “other” getting greater access to land resources either via the State or the market. This is because access to land by either group is perceived to restrict access by the other. There is some evidence that politicians use this as a mechanism to mobilise their constituencies at election time. Such political activities and ethnic perspectives would thwart the rational development and implementation of broad land distribution and welfare programmes.

The other aspect that is also not properly developed is that people of different cultural backgrounds approach the ownership, use and alienation of land in different ways. Besson and Momsen (1987) amongst other authors have studied how afro-Caribbean people view ownership of land. These values have affected common ownership and stewardship of “family land” traditions that are not in harmony with the single ownership that is normally part of the land market rationalisation and land registration processes. In contrast, East Indian attitudes to land in the Caribbean — though not so well studied — seem to support individual ownership processes. It seems the two cultural groups appear to support access and use of lands differently. It is a useful question to ask whether land registration processes and land use regulations in small societies can be adapted away from European and North American influences to accommodate heterogeneity.

Finally on this issue, there is the possibility that there are deep underlying factors that mitigate against clear, rational policies and programmes in land titling, distribution and use. Unless ethnic and cultural issues are brought into the agenda in the southern Caribbean in dealing with land, it may be difficult to understand why apparently technically sound programmes run into implementation problems.

6. TRAINING IN LAND ADMINISTRATION AND MANAGEMENT

The human resource context in this area is substantially better now than it was a few years ago. In 1984 a Land Surveying B.Sc. was introduced at the Faculty of Engineering, UWI, and in 1994 a specialisation degree in Geographic Information Systems (GIS) was added, followed by professional training in Planning and Development. In 2003 a Graduate Diploma in Land Administration has started in response to a Caribbean initiative of the Prime Minister’s Office, Jamaica, and the LUPAP programme. Key deficiencies remain in the area of Valuation Surveying, Coastal Zone Planning and Management and para-professional and technical training in all the above areas. The UWI is in discussions with the professional association for Valuation Surveying to introduce professional training in this area and it may possibly

come on-stream in 2-3 years. Technical and para-professional training is the purview of other national institutions, and little is being done in these areas.

An important challenge in upgrading the human resources of existing institutions is the need to develop alternative delivery modes of training where release time for employees is difficult. The UWI is already experimenting with intensively taught modular forms and distance learning via the Internet. The UWI programmes are Caribbean programmes not geared solely for the Trinidad and Tobago environments, and there is thus need for it to be in constant dialogue with regional governments and professional associations.

6.1 Tobago

The Tobago House of Assembly established by statute confers many elements of autonomy for Tobago with respect to land administration and management. The THA Act is however an enabling Act and specific mechanism need to be put in place to give full effect to this intention. There are also some issues to be clarified as to what is dealt with at the national level and the regional jurisdiction. Certainly the lack of technical, financial and institutional resources nationally in these areas recommend that resources not be duplicated or wasted.

Under the LUPAP, specific mechanisms and arrangements were proposed with respect to land use planning and land administration in Tobago and on relations with the central Government. The EMA has a working relationship with the House of Assembly and a conceptual development plan was done for Tobago in the 1999-2000 review of development plans by central Government. The key remaining issue is the availability of appropriate technical resources to allow the THA to fully implement the level of autonomy intended in its enabling Act.

While there are many similarities between land issues in Trinidad and those in Tobago, there are some significant differences. One important difference is that there is no underlying ethnic tension between the African and Indian population. Tobago however has a strong history of accepting informal titles as a legacy of the Metayage system in the 19th century. This can pose serious obstacles to a properly functioning land market.

Land pricing is also an issue with the land price inflation brought about by tourism development and residential tourism, much of the latter type circumventing the rules governing foreign ownership of land.

6.2 Participation in Policy and Programme Formulation and Implementation

As with most areas of public activity, land policy formulation and implementation face a real challenge in getting the support of civil society and key stakeholders. A national consultation exercise in 1992 conducted by the Caribbean Network for Integrated Rural Development (CNIRD) found that very few if any agricultural organisations had been consulted by

the Wisconsin Land Tenure Center in the major land policy and programme analysis.

The study had systematically conducted 435 interviews in Trinidad and Tobago, so that farmers' views could be considered in the recommendations. However, this did not facilitate the long-term involvement of farmers in possible monitoring and evaluation of proposed policy and programmes, as involvement was best achieved through engaging their representative organisations.

A skeptical Trinidad and Tobago society during 1999-2001 was very critical of measures proposed in the PADL and the passage of that bill through the Senate was rocky and difficult. At the same time, it was one of the more intensively reviewed land-related pieces of legislation, and that is a positive aspect of the situation.

As land matters so deeply affect everyone in the society and the voice of the poor is not normally heard, there is need for more exposure to the national community and targeted groups to policy programmes and statutory reform. This is critical because of the suspicions that exist of the "other" in land matters between the two major ethnic groups in the society and their leadership. The land policy development exercise conducted by the Government of Jamaica has lessons which could be shared with the broader Caribbean with respect to participatory policy development. The LUPAP project in Trinidad has also attempted to bring local government authorities into the process of land policy and programme formulation — especially institutions in the collaborative approach utilised with the Tobago House of Assembly, consultants and the INPPC.

7. CONTINUITY

The rapid changes in political administration and their negative impact on continuity of land administration and management reform represent one of the most critical areas to be addressed. The 1992 policy document had recommended a standing technical committee to keep land-related legislation under review. Such a measure is necessary, but there need to be mechanisms to de-politicise land policy formulation — if that is at all possible in adversarial electoral systems such as exist in our society.

One mechanism that was proposed in the PADL was a statutory committee with named representatives from both public and private sectors. This however would need to be populated with individuals of national stature and personal dedication to the task.

Along with the proposal of a standing Cabinet committee on land matters, there may be need for a standing committee of the Parliament to review legislation and make bipartisan recommendations on policy and budgetary recommendations on land matters. The onus is however on a sitting government

to make the right concessions to ensure continuity of even its own policy and programmes in the future.

7.1 Recommendations

The country paper has made recommendations in almost every topic area. This section does not attempt to repeat all but a few of the key recommendations:

- Establish a Standing Committee of the Cabinet on land-related matters under the chairmanship of a senior Minister.
- Reactivate a standing core committee of technical experts on land-related matters. This committee should include a range of experts from the university, the public service and civil society. Its membership should constitute respected individuals who can survive changes in administration and provide leadership for consistent review and reform of the land administrative and arrangement systems. The now disbanded LUPAP steering committee, which functioned as a forerunner to the Land Policy Committees under the proposed PADL, can provide a model for statutory establishment of such a committee.
- Because specific needs do arrive at different historical periods, the core land policy committee should have short-term technical working groups and sub-committees to give effect to its various elements. Specific sub-committees which should be immediately established are:
 - Legislative review committee whose mandate is to keep the plethora of land-related legislation under review and make recommendations for updating them;
 - Land Information/GIS committee which should be charged with continuing the existing mandate of the present National LIS/GIS Cabinet-appointed committee in the first instance and thereafter provide a policy and programme review function of the National LIS/GIS system.

Ad hoc technical working groups or technical capability should be established in the following areas, with others to follow as needed:

- Commissioner of State Lands/State Lands Management Authority — roles and relationship;
- Review of the technical components of the ASIP including the Geodetic Reference Systems and the UPIN and PIM systems;
- Remotely and satellite sourced data-acquisition and -management.
- The PADL reform process should be pursued with some vigour. Even though it may be redirected by the Government administration of the day, a fair amount of national debate has arrived at a national consensus on certain issues at the present and this should not be squandered.

- Under the PADL or separate legislation there is need to pursue the requirements of Integrated Coastal Zone Management. Technical and financial resources are urgently needed to facilitate studies of policy standards for development and management objectives. Certainly in the short-run these efforts should be concentrated in one Ministry and be under the purview of a single technical/stakeholders committee.
- Participatory policy and programme development in the area of Land Administration and Management would provide the key to stakeholders “buy-in” by alleviating suspicion of the “other” in land distribution programmes and by promoting continuity between in political administration.

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Next Steps

Final Workshop Report

Allan N. Williams and J. David Stanfield

1. INTRODUCTION

The Workshop on Land Policy, Administration and Management for the English-speaking Caribbean was held in the Hilton Hotel, Port of Spain, Trinidad & Tobago, between March 19-21, 2003. The workshop attracted 78 participants from 14 Caribbean countries and 9 regional and international organisations and 4 universities in the region. It also attracted a variety of professionals including Commissioners of Land, Permanent Secretaries, Private Sector Representatives, Physical Planners and Representatives of Non-Governmental Organisations. (Appendix 2 details the participants.)

For Caribbean societies to be peaceful, prosperous and environmentally healthy over the long term, the tensions inherent in the “triangle” of competing fundamental goals (dynamic markets, social equity and access to land and sustainable land uses) must be recognised and managed in each country, and for the region as a whole. This Workshop attempted to bring the main land administration and management issues into focus, and to provide a forum for participants to discover how the “triangle” is being managed and to identify such ideas which seem to work in one place with an eye to their applicability elsewhere in the region.

The general objectives of the Workshop were:

- 1) The accumulation of knowledge of the practical experiences between the various stakeholders of the countries in the region to assist the development of more effective land policies and investment programmes;
- 2) The development of a Caribbean perspective on land administration and management, in order to ensure that the policies of international agencies reflect the realities of the region;
- 3) The identification of ways in which broadly agreed principles of land policy can be translated into feasible national policies and programmes that respond to the specific problems confronting the countries and the region.

In addition to the learning that occurred from the Workshop’s discussions, the Workshop aimed at producing two specific *outputs*:

- 1) The establishment of a network of Caribbean professionals committed to working together on land issues; and
- 2) The specification of the “next steps” for the network to implement, which the Workshop participants identify as of the greatest priority for helping to resolve the problems identified at the Workshop.

Some of the land information systems technologies which have been developed recently, as well as work done in the region to make land information more accessible, were highlighted in a “Trade Show” organised for the afternoon of the second day of the Workshop. (Appendix 4 lists the trade show presenters.)

2. OPENING SESSION

Participants were welcomed to the Workshop by Dr. T. Driver, Chairman of the Workshop Steering Committee. Noting that this workshop had its genesis in a Workshop on Land Administration in Mexico, Dr. Driver noted with pride that this was one occasion in which a promise made at one workshop was actually realised in a timely manner!

Mr. Howard Batson, Director of Environment and Natural Resources (USAID-Jamaica) noted that property rights and property registration were key to poverty reduction as they provided a sound environment for trade-led economic growth. He expressed the hope that the Workshop will share experiences and lessons learnt that would assist in developing a Caribbean perspective and approach to improving land administration and land management in the region.

Dr. James Morton spoke on behalf of the Department for International Development (DFID). He observed that DFID’s support for this workshop resulted from the successes it has had in supporting land projects in the Caribbean, and noted that DFID is likely to participate in partnership with multi-national agencies and regional institutions.

Mr. Alvaro Llosa also expressed the support of the Inter-American Development Bank (IDB) for land projects in the region. He informed the gathering that as of December 2002, US\$500 million had been approved for land projects in Latin America and the Caribbean. However, only US\$30 million had been approved specifically for the Caribbean. Drawing from the lessons of other experiences, he noted the importance of the following:

- Having a better understanding of the historic and cultural aspects relating to access and use of land;
- Identifying the influence of interest groups and their stance vis-à-vis supporting changes to the *status quo*;
- Securing institutional capacity to execute project activity in an effective and transparent way;
- Obtaining sufficient political support to lead institutional and legal reforms.

The Feature Opening Address was delivered by the Hon. John Rahael, Minister of Agriculture, Land and Marine Resources of the Government of Trinidad &

Tobago. He outlined the progress made by the Government of Trinidad & Tobago in developing and implementing programmes for improving land administration and management.

The opening session concluded with a Vote of Thanks by Dr. Allan N. Williams, Workshop Facilitator. In his remarks, Dr. Williams assured the Honourable Minister that the gathering expressed the willingness of professionals in the Caribbean region to address these issues with informed and timely diligence.

3. SETTING THE FRAMEWORK

Three papers contributed to setting the Framework for interpreting land issues. Dr. Williams, ACT Consulting Associates, portrayed the challenge facing policy makers as *judicious management of the trade-off* so often evident in using land policy to simultaneously achieve higher productivity and efficiency in resource use, equity and environmentally sustainable development.

Dr. Peter Bloch, University of Wisconsin-Madison, outlined the “standard model” of the link between land tenure and *economic growth*. Elaborating, this involves the formalisation of tenure so as to motivate both: a) greater security of land holdings with consequent investments in the land, and b) improvement of title registration systems with consequent reinvigoration of land markets.

In her Feature Keynote Address, Prof. Jean Besson of the University of London cautioned Workshop participants to acknowledge the land tenure histories of the peasantry and indigenous groups in the region and to consider the implications of the historical fact that their tenure forms have evolved as adaptations to exploitative situations and the needs of the disadvantaged.

4. COUNTRY EXPERIENCES HIGHLIGHTING LAND MARKETS AND DEVELOPMENT

Three country experiences concerning the stimulation of land markets were taken up in this session. Andrew Bishop, Commissioner of Lands, noted that the main problems encountered in Guyana included holders of leases and freeholds without documentation, lease terms not sufficient to enable leaseholders to get access to credit, lack of information by the holders of land about markets and the domination of informal market transactions resulting in ever greater frequency of holdings without legal documentation of rights.

A major institutional reform has been the creation in 2001 of the Guyana Lands and Surveys Commission. This semi-autonomous agency unites the registration of rights with descriptions of properties, with wide powers for the regularisation of tenure, the management of State lands, the development of land policy and the planning of land use. The Land Tenure Regularisation project was

implemented to improve the documentation of rights and to introduce the 50-year lease, to convert some leases into freehold tenures and to reduce transaction costs.

Jacqueline daCosta, Permanent Secretary, spoke of the development of a comprehensive land policy using inclusive participation techniques in Jamaica. Major issues are the tenure situation with respect to “family lands”, keeping the tax roll updated and enforced, the high costs associated with bringing land onto the registry and squatting. Efforts to address these matters include:

- The enacting of legislation simplifying the land registration and land transfer processes while reducing the related cost;
- The enacting of new legislations to deal with family lands and the fragmentation of land;
- An organised and sustained land allocation process;
- Continued development of rural communities and road networks to reduce the strain on urban housing;
- A documented process as to the use and development of idle lands;
- A comprehensive educational programme with respect to issues related to land.

Substantial investments have also been made in the development of land information databases.

Peter Rabley, International Land Systems (ILS), presented the Bahamas case and noted how current land management in the Bahamas gets its underpinnings from 1920’s English Law. Land tenure is dominated by the issues of commonage and generational lands making for the lack of clear documentation.

It was pointed out that each of the departments charged with land administration has the same core functional problems, namely:

- Outdated manual processes that reflect methods and requirements from pre-independence days;
- Outdated legislation that has not kept up-to-date with modern methods of land administration;
- Inefficient collection of fees that do not reflect the current cost of processing or the value of the transaction;
- Fees that are generated for land transactions are assigned to the general fund and not the individual departments;
- Many of the land recording processes are optional and not mandatory;
- Financial disincentives to record land, i.e. high transfer taxes;
- Lack of co-ordination and integration amongst the different agencies managing land resulting in a lack of information available for each department to complete its task effectively; and
- Lack of funding for staffing, training, core data set development and maintenance and equipment modernisation.

The Government of the Bahamas, realising the increased threat and pressure from unguided development and growth and its inability to effectively steward land resources, embarked in 1998 on a National GIS Project (BNGIS). This

project would be the first step towards modernising land administration in the Bahamas

However, application of the project has been retarded by the same core factors that have created the current land administration environment — namely, a lack of Government priority and resources given for training, data collection and modernisation of land administration institutions and their processes. In light of this, Rabley recommended a series of reforms that would lay the foundation for economic planning in that the relationship of land parcels, the use to which the land is put and the proprietary interests residing in that land provide a means of achieving a sound fiscal base to meet social and community needs. Additionally, it is hoped that the reforms would establish an effective decision-making framework in relation to decisions that concern the natural environment and the impact of development on that environment.

4.1 Working Group Discussions

Following the 15-minute presentations of the three country cases, the participants in the Workshop were randomly divided into four working groups, with the assignment of discussing the previously defined questions relating to land markets and development illustrated in the three cases and encountered in the countries represented in the working groups.

The following issues were proposed to the working groups:

- What are some core requirements for maintaining comprehensive registers on all transactions in land?
- Do we need a more active role for local governance in restructuring the public institutions and processes for administering land?
- How can the current impediments to more effective land administration and functioning land markets be effectively removed, by:
 - Legislative measures,
 - Public sector reform,
 - Constitutional recognition of different forms of possession of land,
 - More open, less restrictive land markets,
 - More effective regulatory systems,
 - Greater social consciousness of the nature of land holdings,
 - Consolidation of institutional arrangements for dealing with land,
 - Decentralised governance and decentralised physical planning,
 - Application of geographic information systems,
 - Training of personnel,
 - Pilot projects in land management,
 - More flexibility in land use planning,
 - Less complicated processes for land registration,
 - More realistic land valuation systems/more effective land taxation.
- Can technology adaptation define some common point to which all land administration systems in the Caribbean should aspire?
- What can we do about reducing the costs of land transactions (costs of surveying, costs of registering, Stamp Duty etc.)?

- Issues of sustainability of the current programmes to “modernise” registries/cadastral — including issues like private sector licences to manage registries, etc.

Following the working group discussions, the participants were assembled in a plenary session to hear and discuss the results of their discussions, as presented by the working group rapporteurs.

5. COUNTRY EXPERIENCES HIGHLIGHTING SOCIAL EQUITY AND ACCESS TO LAND

Four country cases illustrate the issues encountered and solutions devised: Barbados, Belize, Suriname and Trinidad and Tobago. Mr. Timothy Maynard, Principal Legal Officer, noted that two topical issues in Barbados within recent years have been Government policies in relation to the provision of public access to beach lands. This reflects the scarcity and affordability of vacant coastal lands, the demand for public access to these beaches and the accretion of beach lands. Accordingly, the policies of the Barbados’ National Physical Development Plan are expressly designed to address these matters.

Dr. Joseph Iyo, Historian and Lecturer, University of Belize, pointed out that many attempts at improving equity in Belize have been carried out through the acquisition of land for public purposes which represents redistribution from individual owners to multiple landholders. There have also been equity concerns raised with respect to gender, poverty and the problem of ensuring access for the least advantaged as land market development intensifies.

While the Government of Belize has continued to pursue an aggressive policy of acquisition of private lands for public use and general distribution, the rise of the secondary land market can no longer be ignored. Problems surrounding the dissemination of information about records of ownership, use and value of land were also identified.

In discussing the case of Suriname, Dr. Harold Struiken, Faculty of Technology, Suriname Anton de Kom University, drew upon the Buursink Diagnosis of Land Management Issues Report. It points to excessively long waiting times, which appear to indicate serious workflow or procedural problems, apparently due to the large backlogs and bottlenecks at almost every step of the process.

Several causes for the backlog were identified, making it clear that the institutions responsible for processing land applications need to be internally strengthened. Options for new institutional structures should be considered and explored, and an effort should be made to eliminate or reduce the applications backlog. It was suggested that more consideration should be given to the re-introduction of freehold title regimes which are not encumbered by unnecessary administrative restrictions for issuing leasehold tenures inherited from a colonial past.

Dr. Asad Mohamed, Department of Surveying and Land Information at University of the Indies-St. Augustine, identified a key issue in the case of Trinidad and Tobago as being limited accessibility of the poor, which reflects a more-than-150-year history of land policy expressing an intentional action by the State rather than an inadvertent outcome of policy, market or institutional failure

Ethnic demographics and politics surrounding access to land has coloured and retarded open, fair and effective land distribution programmes, an issue that is never openly addressed by academics, administrators or international technical specialists. He observed that the narrow definition of land largely excludes the coastal zone and the near-shore area and thereby leaves these areas outside the realm of State Land Administration, with inadequate integration of the various key stakeholders in its management. .

Also discussed was the interrelationship between ethnicity, land and post-independence politics. Manipulative political activities and ethnic perspectives tend to impede the rational development and implementation of broad land distribution and welfare programmes. It was also pointed out that people of different cultural backgrounds approach the ownership, use and alienation of land in different ways. It is a useful question to ask whether land registration processes and land use regulations in small societies can be adapted away from European and North American influences to accommodate heterogeneity.

5.1 Working Group Discussions

Four working groups were formed by randomly assigning workshop participants to the groups. Each group was given discussion questions to consider in their analyses of the cases presented as well as their analyses of their own country experiences. The questions were as follows.

5.2 General Question for all Working Groups:

“Some issues of social equity and access to land have been raised by the presentations from Barbados, Belize, Suriname and Trinidad and Tobago. What are some of the experiences from those and your own countries that the Workshop should note specifically?”

Group 1:

1. For countries with State-owned agricultural land, should that land be provided to the disadvantaged (poor people, women, ethnic minorities, etc)?
 - a) What criteria should be used to decide who will be the future holders of that land?
 - b) What forms of tenure should be used (lease, freehold, household/family ownership, etc.)?
 - c) What should be the conditions of transfer (sale, gift, kept in agriculture, able to use for housing, etc.)?

2. For countries without State-owned land, how can the disadvantaged get access to land for: a) housing, b) agriculture, and c) businesses?
3. How can land settlement/distribution programmes be designed to promote inter-ethnic harmony?

Group 2:

4. Under what conditions should the State intervene in land markets to provide land to the disadvantaged (poor people, women, ethnic minorities)? What are the various options for such interventions?
5. What, if any, restrictions should be placed on foreign ownership of various types of land (agricultural land, land along the national borders, urban land)? Should the State keep a list of foreign land owners?
6. What legal, administrative and governance measures should be taken to resolve the competing uses of the same resources (e.g., beaches for tourist resorts versus local recreation, fishing)?
7. Do “family” or “generational” land tenures improve or discourage access to land by the disadvantaged?

Group 3:

8. What are the options for providing access to housing by the disadvantaged (people without accumulated capital, woman-headed households, ethnic minorities)?
9. What evidence can be assembled showing that improving the formal, legal security of land tenure will help reduce poverty?
10. Can the land (real estate) rental markets help improve access of poor people to land? Evidence?

Group 4:

11. What policies, programmes can help small-scale peasantry (holders of agricultural land) to increase their holdings and improve their standards of living?
12. What mechanisms, procedures can be used to improve the efficiency and accuracy of land (real estate) registries?
 - a) What is the impact of corruption (use of position in the registry for extracting money, etc., from the users of the registry) on disadvantaged groups, on the dynamism of land markets and on maintenance of up-to-date information in the registry?
 - b) What are the causes of corruption?
 - c) Does corruption (such as kickbacks) significantly affect efforts at first registration?
 - d) How can civil society gain control over corruption or other disagreeable practices of registries? Should registrars be elected?
13. Overlapping administrative mandates for land distribution cause some inefficiency in achieving social equity goals. What measures from your experience can be proposed to overcome this problem?

Following the working group discussions, the participants were assembled in a plenary session to hear and discuss the results of their discussions, as presented by the working group rapporteurs.

6. COUNTRY EXPERIENCES HIGHLIGHTING THE ENVIRONMENT AND SUSTAINABLE LAND USES

The four country cases studies presented were from St. Kitts/Nevis, Montserrat, St. Vincent and the Grenadines, and Tobago (Trinidad and Tobago).

Mr. Ellis Hazel, Chief Physical Planner, pointed out that for a small island of just 69 square miles, size is the decisive factor for St. Kitts. Size dictates the amount of land that can be allocated for uses, it limits the scope of land development activities and it determines the rotation rate for various land uses. The main constraints and considerations were identified as water, waste management, urban growth issues, sugar and non-sugar land uses and tourism requirements.

Mr. Franklyn Greenaway, Chief Physical Planner, pointed out that a very sensitive and fragile ecosystem and signs of environmental stress are evident in certain areas in Montserrat. The more significant natural resource management problems include:

- Loss of forest cover from volcanic activity and from indiscriminate agricultural practices and its implications for soil and water conservation and maintenance of wildlife habitats, landscape amenity value and recreation-tourism potential;
- Soil depletion and erosion associated with clearing of vegetation on steep slopes and other poor land-use and land-management practices, such as uncontrolled grazing of loose livestock;
- The unregulated extraction of beach sand for construction purposes until recently resulted in severe problems of coastal erosion and reduction of the recreation capability of beaches. Restrictions have since been introduced.

The achievement of a sustainable pattern of development over the island will require innovative approaches towards natural resource utilisation. The completion of the Physical Development Plan has assisted this process. The establishment of an integrated natural resources database as part of the GIS is now being established. This system will be accessible to other relevant agencies. Forestry, wildlife, national parks and protected areas legislation has also been enacted.

Mr. Bentley Browne, Head of EDF-PMCU, noted that watershed management is considered a serious problem in St. Vincent and The Grenadines. There have been attempts to improve the management of the forests.

Tourism development created complexity in the land market as a great deal of land was excised from the local market and sold to the wealthy on the

international markets. Sales of land on the Island of Mustique and the Canouan Resort are the best examples of this. In addition, in the Grenadines islands there is a duality of prices on land sold by locals. Locals are offered land in local currency, while aliens are offered land in US prices. The planning system remained weak throughout the period and most developments occurred outside the control of the planning system. He concluded that tourism on St. Vincent has reinforced spatial inequalities and encouraged rural-urban migration.

Mr. Raye Sandy, Director of Natural Resources, noted that for any discussion of land use in Tobago to be complete, one must include the land dedicated to the growth of forests. Some of the factors affecting the sustainability of land use in Tobago include ill-advised and outdated cultural practices, inappropriate solid and liquid waste disposal, land ownership patterns, lack of baseline information and absence of a comprehensive, integrated land-use plan. The environmental laws relating to the use of land are all predicated on the concept of sustainability. One can conclude, therefore, that environmental practices and regulations will increasingly continue to influence land use possibilities in the future. This is exaggerated on small islands where the land resource is limited and intensively utilised.

6.1 Working Group Discussions

Following the presentations of the four country cases, Workshop participants were again divided at random into four working groups to discuss the following questions.

6.2 General Question for all Working Groups:

“Some issues of environment and sustainable land uses have been raised by the presentations from St. Kitts/Nevis, Montserrat, St. Vincent & the Grenadines, Tobago (Trinidad and Tobago). What are some of the experiences from those and your own countries that the Workshop should note specifically?”

Group 1:

1. How does tourism development affect water and land resources?
2. How do land settlement/development programmes affect the protection of land and water resources, especially environmentally sensitive protected areas?

Group 2:

3. What have been experiences with “community forestry” management programmes in contrast with State forest management?
4. Should agricultural land be preserved for agricultural use?
5. How does squatting (informal settlement/occupation of land) affect the sustainable use of land and the health/welfare of the population? What programmes have proven successful in minimising the incidence of squatting?

Group 3:

6. How should sensitive environments be “protected” (such as wetlands, erosion prone watersheds, etc.) under private and public ownership?
7. What are the costs and benefits of “eco-tourism” as an approach for protecting bio-diversity?

Group 4:

8. Is peasant (small-scale) or capitalist farming more destructive to land and water resources? How can each type be encouraged to be more environmentally sustainable?
9. What evidence is there that improving the security of tenure of urban and rural land holdings improves the sustainable uses of the land and water resources?

Following the working group discussions, the participants were assembled in a plenary session to hear and discuss the results of their discussions, as presented by the working group rapporteurs.

7. CAPACITY BUILDING

In this session, there were four presentations from institutions which offer training and educational resources for improving the capacities of people working on land policy, administration and management.

Dr. Asad Mohamed, from the Department of Surveying and Land Information at UWI-St. Augustine, presented the origins and planned offerings of the Graduate Diploma in Land Administration in his department. This programme emerged from the recommendations of the Land Use Policy and Administration Project (LUPAP) and from the findings of a Caribbean review of University programmes initiated by the Office of the Prime Minister, Government of Jamaica, which noted shortages in land policy, administration and management training throughout the Caribbean region.

Prof. Elizabeth Thomas-Hope, of the Department of Geography and Geology at UWI-Mona, presented the graduate-level programme offered by the Environment Management Unit of that department. This programme has been operational for three years with European Union (EU) financial scholarship support for students from around the region. Sixty students have conducted research on land policy, administration and management as part of their degree work, and have graduated from the programme.

Dr. Grenville Barnes, of the University of Florida-Gainesville, described that University’s Masters and Ph.D. level programmes on land policy, administration and management. Dr. Barnes identified short courses, distance education modules, and one-year professional Masters as appropriate options for students who are unable to enter into the usual Masters and Ph.D. programmes. One important experience has been Dr. Barnes’s development and

conduct of an Internet-based course on Land Administration for students in various countries of Central America. Such an approach could be useful to potential students in the various countries of the Caribbean.

Mr. Jan Vermeiren, from the Unit for Sustainable Development and Environment of the Organization of American States (OAS), presented the LandNetAmericas facility, which emerged from the Second Summit of the Americas, held in Chile in 1998. At that Summit the heads of governments declared property rights registration as a key to poverty alleviation. Property registry reform influenced the goals of the Summit: justice, human rights, gender equality, education and economic integration. LandNetAmericas has been developed to assist with the dissemination of information, publications, conferences and research to people working on land policy, administration and management in Latin America and the Caribbean. Mariana Herrera of this same Unit set up a demonstration of how this service can be accessed and used, and offered to assist with the development of a Caribbean sub-net with these same or similar services.

A presentation was also made by Professor Joseph Iyo about the interest and experiences of the University of Belize with a distance learning programme based on teleconferencing. Dr. Harold Struiken described the offerings in the field of geodesy and surveying at Suriname Anton de Kom University.

Discussion subsequently identified other training and educational institutions, such as the University of Guyana and the University of Technology in Jamaica, which should be including in a “capacity building” programme should that option be carried out in the future.

8. NEXT STEPS

The participants conducted discussions in four (4) working groups after the presentation of the current measures at “Capacity Building”. The working group reports are summarised as follows.

8.1 Immediate Initiatives

The participants gave credence to a desire for the Caribbean to regard land as “*a scarce resource which needs to be appropriately administered, sustainably managed and equitably distributed*”. In pursuit of this vision, the working groups called for three (3) specific initiatives as immediate next steps.

- 1) The formation of a *Regional Network* of professionals, practitioners, researchers and other interested parties aimed at promoting practical and well-researched solutions to the institutional, legislative, policy and socio-economic issues that have roots in the way land is administered and managed in the Caribbean.

- 2) The articulation of a *Regional Land Policy Position* to heighten awareness of the fact that development in the Caribbean requires a structured approach to land markets, social equity and access to land and environmental protection and sustainable land use practices.
- 3) The pursuit of opportunities for *Training, Re-tooling and Administrative Capacity Building* in member States of the Caribbean to implement land policies which will improve the viability of production systems, address social needs of housing/settlement and poverty reduction and achieve environmental balance in the use of land resources.

8.2 Regional Network

The working groups called for the formation of a network to promote action on a regional basis on the common themes of land markets, social equity, access to land, environment and sustainable land uses. As a consequence, a Steering Committee was named to incubate such a network. The Network Steering Committee (NSC) comprises:

- Trinidad & Tobago Mrs. Jacqui Ganteaume-Farrell
- OECS Member States Mr. Bentley Browne
- Jamaica Mrs. Jacqueline daCosta
- Guyana Mr. Andrew Bishop
- Belize Mr. Armin Cansino
- Bahamas Mr. Tex Turnquest
- Barbados Mr. Robin Gittens
- Suriname Dr. Harold Struiken

The Network should seek to develop instruments for sharing information such as:

- *Analyses* of country situations pertaining to security of tenure, land administration (registration of rights, property mapping, valuation of land and real estate), management of State lands, protection of renewable and non-renewable resources, access of disadvantaged groups to land and water.
- *Statistical information* on these themes.
- *Opportunities for Training and Re-tooling* of Government and non-government entities engaged in land administration and management as well as policy formulation.
- *Legislative framework* for land administration and management.
- *Experiences regarding the interplay* between legal structures and cultural practices, such as access to beaches, family/generational land, informal settlements for housing and agriculture.
- *Experiences regarding the managing of competing objectives* such as how to “juggle” land policy goals and development imperatives.
- *Research design* with respect to land administration and management topics (see below).

The workshop groups also requested that the Network seek a short-term solution to establishing an Internet presence by utilising the facility and opportunities offered at the Workshop by LandNet Americas. The workshop groups also required that the Network establish co-operative links with other emerging networks, etc., in the Caribbean region whose goals may involve similar concerns.

8.3 Research Applications:

The working groups recognised that individuals are moving ahead to resolve their social and economic challenges through innovative arrangements to access and to use land. David Rudder expresses this succinctly in his lyrics *“While the wise men rumble and fight for their souls, we the people are ahead of our leaders”*. Accordingly, the working groups have expressed concern that more resource be allocated to practical research that would support rational decisions by individuals, organisations, the private sector, civil society and Governments in the application and utilisation of land resources. Specific attention was made of:

- Economic, social and environmental analyses of the compatibility of tourism development and other environmental, economic and equity goals of land policy.
- Baseline and inventory data:
 - Natural resources,
 - Degradation of the resource base,
 - Areas of informal settlements.
- Social equity analyses:
 - Role and different forms of tenure security, including indigenous group title, family/generational title, corporate and condominium title, various types of lease arrangements;
 - Baseline of equity situation in terms of access to land and water;
 - Functional contributions of “information” and training (extension) to improving the sustainability and efficiency of land use practices;
 - Formal and informal market arrangements, their origins and effects;
 - Evaluation of indigenous groups, ethnicity and race in land access.

8.4 Capacity Building

Taking full cognation of the capacity-building efforts expressed in the programmes of the University of the West Indies (Mona and St. Augustine campuses) and the University of Florida at Gainesville and other North American universities, and the programmes of the OAS, the working groups felt strongly that this Network must actively promote measures to build the capacity for land administration and management at all levels of governance in Caribbean societies. Some of the specific objectives that should be pursued include:

- Establishing skills bank.
- Proper assessment of training needs including consultation with employers/property managers.
- Incentive structures to re-attract professionals who have been sent on training to keep them in the field.
- Proper archiving of experiences for subsequent project design and implementation.
- Support to technicians/practitioners level of training:
 - Certificate programmes,
 - Distance learning,
 - Short courses/diplomas.
- Recognition of work experience as a credit to enter or progress in university/training programmes.
- Exchange visits.
- Exchange programmes of staff across territories with costs shared between hosts and home countries.

8.5 Implementation Strategy

To implement a strategy to increase the profile of land issues and support effective Land Policy, the working groups proposed that the *Network Steering Committee* meet and adopt short- and medium-term goals from the following list:

- Information Sharing,
- Forums,
- Linkages with regional network,
- Technical support to public servants,
- Lobbying,
- Research agenda,
- Capacity building.

The working group reports also propose that a programme of activities of the Network be formulated by the Network Steering Committee with the following contents:

- Identify sources of funds.
- Utilise LandNet Americas for an Internet solution to Network.
- Generate base-line information.
- Decide on a regional strategy to get communications going.
- Consider measures to increase awareness through the media.
- Hold interactive discussions on an annual basis.
- Identify skills in the region.
- Promote a comprehensive land policy in all territories.
- Create an action plan for specific activities in the next two (2) years.
- Target a follow-up Report to Workshop in two (2) years.
- Identify other initiatives for active co-operation.
- Broaden the Network base to include professionals — Government and civil society.

- Send a public statement to CARICOM Heads of State (from P. M Trinidad).
- Target presentation of statement to the CARICOM Council in Trade & Economic Development Meeting in the end of May, 2003.
- Consider CARICOM, UWI or some other structure as the eventual institutional home for the Network.

To move this process forward Terra Institute and ACT Ltd. have offered facilitation services in the immediate short term to assist with the operations of the Network Steering Committee.

APPENDIX 1. PROFILE OF LAND ISSUES IN CARIBBEAN TERRITORIES

(n.r. = Not Reported in Country Experience Study)

	Antigua	Bahamas	Barbados	Belize	Dominica	GRENADA	Guyana
Land Area (Hectares)	44,036	1,007,829	43,085	2,298,190	75,062	33,994	21,517,697
State Land Ownership	42%	n.r.	0.9%	39%	n.r.	10%	70%+
Property Parcels	41,000	86,590	98,098	n.r.	n.r.	52,229	n.r.
Other Ownership Patterns	Communal Lands in Barbuda; 23% un-established ownership	Generational Titles; Commonage; Crown Grants,	Land Leasing; Policy of free public access to beaches	Historic Communal Occupation (Maya, Garifuna); Leasing of National Estate Lands	Communal: Carib Territory 3,700 acres vested in Carib Council	Family Lands Estimated 15% of all lands.	Leasehold: Co-operative land ownership; Race & ethnicity issues involved
Major Land Uses	Forests, Agriculture, Built areas and Tourism	Tourism	Tourism	Forestry and Plantation Agriculture	Agriculture Forestry: 64% Public; 36% Private	Forest: 95% State-owned; Major hotel establishment	Agriculture; Mining; Forestry
Environmental Protection	Conservation of parks/part of tourism product	Environment Commission (BEST) needs improved information bases	n.r.	45% land under some form of protection; Active NGO participation bio-diversity/conservation institutions	National Parks; World Heritage Site Forest Reserves	Important Forest Reserve Act protecting Grand Etang	n.r.
Title Registration	All lands registered under Registered Land Title Act.	Registration of Deeds of Conveyance	Title Registration under way. Estimated 120,000 10% registered	Certificate of Title; Land Registration, Common law Conveyance,	Registration of Titles; Deeds of Conveyance	Registration of Deeds	Title Registration; Deeds of Conveyance
Land Taxation	Property Tax Act, Annual levy	Real Property Tax Act; many properties not assessed	n.r.	Land Tax Act at national level Towns Property Tax Act municipal level	No Tax on land; Tax on houses	Transfer of land attracts taxes	n.r.
Land Information		National GIS Project on urban and environmental information	n.r.	Land Information Centre - databank (GIS, LIS, CEDS)	Proposal for Land Bank	Grenada Land Information System	GIS - Digital land parcel data; LIS - Tracking titles;

	Antigua	Bahamas	Barbados	Belize	Dominica	Grenada	Guyana
Land Administration	Multiple administration mandates; 23 Pieces of legislation;	Property ownership documentation in multiple agencies	n.r.	Land Registration Act provides compulsory Registration Areas with large-scale Registry Index Maps	Planning and Development Corporation plays major role in regulatory control of land use	Planning Division regulates land use Valuations Division central in identifying parcels	Land Tenure Regularisation, providing title to holders of public lands
Land Disputes	Land Adjudication Act resolving titles & Boundaries for registration	Use of Quieting Titles Act. 25% of all land in dispute due to unclear documentation	Land (Adjudication of Rights & interests) Act: Commissioner's duty to "settle" status before passing on the Registrar of Titles	Land Adjudication Act helps clarify competing claims	n.r.	n.r.	Less than 8% land claims; 26% of disputes are Boundary Problems
Squatting Situation	Immigrant Community approx. 3,000; Politically sensitive	Problematic involving immigrants	n.r.	Not reported as a major problem	n.r.	25 acres under squatting; 1,250 plots regularised, 55% in Grand Anse area	n.r.
Housing Policy	587 units established annually by CHAPA & Land Division on State lands.	n.r.	National Housing Corporation addressing low & middle income demand with vested tracts of Crown lands	51% urban population; Land reclamation, canalisation and property development in environs of Belize City a booming private sector phenomenon	Private Sector driven; No incentives at low end market	Housing Authority addressing low income demand: using State land resources	n.r.
Land Price Inflation	Speculation and artificial shortages as source	Property prices not systematically monitored	n.r.	No consistent Land Pricing Policy; Private lots sell for 5-7 times equivalent size public lot.		Driven by foreign participation and tourism construction	n.r.

(n.r = not reported in Study)

	Jamaica	Montserrat	St. Kitts/Nevis	St. Lucia	St. Vincent & Grenadines	Suriname	Trinidad & Tobago
Land Area (hectares)	1,099,100	3,953	32,239	61,643	38,851	16,340,439	516,600
State Land Ownership	19%	(64% surface uninhabitable)	78%	n.r.	47%	n.r	52%
Property Parcels	Official estimate = 676,584 Could be in excess of 1,000,000	n.r	n.r	33,287	n.r.	n.r.	n.r.
Other Ownership Patterns	Family Lands	n.r	Family Lands Rental holdings: 12% in St. Kitts, 18% in Nevis	Family Lands - 45% of total lands	Owner-like possessions; Rental lands about 23% agricultural lands.	Communal Leasehold Titles to Javanese and indigenous communities	Agricultural Land Leases require Cabinet approval; Ethnicity and race are issues in land distribution
Major Land Use	Agriculture; Mining; Forestry	Prior to volcanic crisis, 25% of agricultural land lost to built development	28% in agriculture with 93% of this sub-group in sugar- cane production	Plantation Agriculture Forestry 53%: Crops 23%	Forestry 47% Agriculture 32%	75% Rain forest Tropical hardwoods; Mining; Agriculture;	Agriculture; Mining (Coastal Zone); Forests
Environmental Protection	Parks, protected areas and coastal zone management; NEPA and JaNEAP co-ordinate planning and environmental policies	Loss of forest cover; National resource database becoming part of GIS.	Enactments to protect historic sites; NGO co-operation in conservation	n.r.	Reported 16,000 negatively impacting forest management	Watershed management a problem	Environmental Protection Agency; Incorporated in planning process
Title Registration	Common Law Titles; Registered Titles; Possible 45% not registered	Title Registration	Title Registration; Registration of Deeds of Conveyance	Land Registry; family lands not included	Registration of Deeds of Conveyance	Only Leasehold titles issued after 1982	Title Registration
Land Taxation	Suspected number of properties not on tax roll	Computation of property Tax based on market values	No taxation on land	Foreign participation & higher prices keep local out.	Property taxation based on annual rental values	No real estate tax.	Tax on transfer of title; Annual Land taxes not related to market values

	Jamaica	Montserrat	St. Kitts/Nevis	St. Lucia	St. Vincent & Grenadines	Suriname	Trinidad & Tobago
Land Information	Land Information Council co-ordinating GIS policies	GIS and computerisation and integration of Cadastre and Land Registry systems	GIS in Development Control & Planning Board; Land Registry information on State Lands	Developing an integrated Land Management database	Transaction records in Valuation; Records of Survey Plans	Establishing a cadastre-based Ground & Land Information System (GLIS)	National LIS/GIS proposed. Digital Parcel Index Map in Lands & Survey Division.
Land Administration	National Land Agency comprising Titles, Survey & Valuation Division	20 pieces of legislation affecting land management.	Dual system: Deeds and Title Registration	Overlapping mandates in Physical Planning Crown Lands; Land Registry; Lands & Survey	Registry and Physical Planning Board; Crown Lands managed by Lands & Survey	Office of State Lands Records; Urban Planning Department; National Planning Office	40 pieces of legislation; Commissioner of State Lands; Planning Division; Land Administration Division
Land Disputes	Laws for adjudication of boundaries and ownership disputes	n.r.	Village Freehold Purchase Act addresses historic possessions	n.r.	n.r.	n.r.	Land Adjudication process
Squatting Situation	Concern with the capture of both private and public lands	More significant on private lands; 12 years' possession to make a claim.	403 acres in St. Kitts and 128 acres in Nevis under "illegal" possession	n.r.	Reported 16,000; Forest reserves threatened	Some incidence in urban areas; Not a national concern.	25,000 housing squatters on State Lands;
Housing Policy	50-70% of housing solutions occurring in informal sector. National Housing Trust also involved	n.r.	National Housing Authority addresses low-income market demand using State land resources	n.r.	n.r.	n.r.	National Housing Agency takes public sector lead. Private sector in higher-end market
Land Price Inflation	n.r.	n.r.	Partly fuelled by hotel construction, golf course and retiree home construction	n.r.	EC\$7-20 per sq.ft.; Tourism development main source	n.r.	n.r.

Source: Country Experience Studies, Workshop on Land Policy, Administration and Management in the English-speaking Caribbean, March 19-21, Hilton Hotel, Port of Spain, Trinidad & Tobago.

APPENDIX 2. LIST OF PARTICIPANTS

	NAME	COUNTRY	PROFESSION/POSITION
1	Mr. George A. Duberry	Antigua	Land Officer
2	Mr. Aldin Crump	Antigua	Chief Town Planner
3	Mr. Tex I. Turnquest	Bahamas	Director of Lands & Survey
4	Mr. Peter Rabley	Bahamas	Private Sector
5	Mr. Ronald Thompson	Bahamas	Permanent Secretary
6	Dr. Peter Maynard	Bahamas	President, Bahamas Bar Asso.
7	Mr. Cedric Moxey	Bahamas	Dep. Registrar General
8	Mr. Timothy Maynard	Barbados	Principal Legal Officer
9	Mr. Robin Gittens	Barbados	Chief Surveyor
10	Mr. Mark Cummins	Barbados	Chief Town Planner
11	Mr. Lloyd Powlet	Barbados	Private Sector
12	Ms. Patricia Barrow	Barbados	Chief Housing Planner
13	Dr. Joseph Iyo	Belize	University of Belize
14	Mr. Armin Cansino	Belize	Commissioner of Lands
15	Mr. Jose Cardona	Belize	Legal Counsel
16	Mr. Ray Davis	Belize	Dep. Commissioner of Lands
17	Mr. Reginald Winston	Dominica	Registrar
18	Mr. Raphael Stephen	Grenada, W.I.	Valuation Officer
19	Mr. Cecil Frederick	Grenada, W.I.	Senior Planning Officer
20	Mr. Andrew Bishop	Guyana	Commissioner of Lands
21	Ms. Shuwani Singh	Guyana	Land Use Specialist
22	Mr. Rudolf Gajraj	Guyana	Chairman, Agri. Dev. Authority
23	Mr. James Singh	Guyana	Commissioner of Forests
24	Mrs. Jacqueline daCosta	Jamaica	Permanent Secretary
25	Mrs. Elizabeth Stair	Jamaica	Chief, National Land Agency
26	Miss Cecille Blake	Jamaica	National GIS Co-ordinator
27	Mr. Silburn Clarke	Jamaica	Private Sector
28	Mr. Maurice Jones	Jamaica	Private Sector
29	Mr. Frank Greenaway	Montserrat	Chief Physical Planner
30	Mr. Ellis Hazel	St. Kitts/Nevis	Chief Physical Planner
31	Mr. Calvin R. Esdaille	St. Kitts/Nevis	Director, National Housing Auth.
32	Mrs. Magdalene Henry-Fontenelle	St. Lucia	Senior Planning Officer
33	Mr. Lyndon John	St. Lucia	Economic Planner
34	Mr. Bentley Browne	St. Vincent & Grenadines	Head EDF-PMCU
35	Mr. Adolphus Ollivierre	St. Vincent & Grenadines	Chief Surveyor
36	Dr. Harold Struiken	Suriname	Anton de Kom University
37	Ambassador Henry Illes	Suriname	Ambassador
38	Mr. Freddy Delchot	Suriname	Consultant
39	Dr. Thackway Driver	Trinidad & Tobago	Head, PCU
40	Dr. Asad Mohammed	Trinidad & Tobago	University of West Indies
41	Ms. Jacqui Ganteaume-Farrell	Trinidad & Tobago	Director, Land Admin. Division
42	Mr. Andrew Bowles	Trinidad & Tobago	Director of Lands & Survey
43	Ms. Susan Francois	Trinidad & Tobago	Registrar

NAME	COUNTRY	PROFESSION/POSITION
44 Ms. Carol Smart	Trinidad & Tobago	Director Town & Country Planning
45 Dr. Robin Rajack	Trinidad & Tobago	Consultant
46 Mr. Keith Scott	Trinidad & Tobago	President, Institute of Surveyors
47 Mr. Derek Outridge	Trinidad & Tobago	Chartered Quantity Surveyor
48 Mr. Kameel Khan	Trinidad & Tobago	Consultant – Valuer
49 Mrs. Deborah Thomas	Trinidad & Tobago	President, Society of Planners
50 Mr. Raye Sandy	Trinidad & Tobago	Director, Natural Resource
51 Dr. Peter Bloch	Speaker	Economist
52 Dr. Jean Besson	Speaker	Anthropologist
53 Dr. Carol James	CANARI	Consultant
54 Mr. H. Sam Lawrence	CARICOM	Advisor, Ag. Transformation
55 Dr. James Morton	DFID	Managing Director
56 Dr. Lystra Fletcher-Paul	FAO	Resource Management Officer
57 Mr. Howard Batson	USAID (Jamaica)	Director of Natural Resources
58 Mr. Jan Vermeiren	OAS	Principal Specialist
59 Ms. Mariana Herrera	OAS	Communications Specialist
60 Mr. Gabriel Montes	IDB-Washington	Principal Specialist
61 Mr. Cesar Falconi	IDB-Washington	Economist IDB-Washington
62 Mr. Alvaro Llosa	IDB-Washington	Chief of Division IDB-Washington
63 Ms. Michele Frederick-Johnson	IDB-Jamaica	
64 Mr. James Campbell	IDB-Guyana	
65 Mr. William Robinson	IDB-Trinidad	
66 Mr. Flavio Bazan	IDB-Trinidad	
67 Mr. William Grisley	IDB-Suriname	
68 Mr. Leon Harris	IDB-Belize	
69 Mr. Clark Sand	IDB-Washington	
70 Ms. Annalisa Mauro	ILC	Programme Officer
71 Dr. Robert Home	UK	Anglia Law School
72 Ms. Michelle McCanna	UK	Anglia Law School
73 Dr. Joseph Seepersad	UWI-Trinidad	University of West Indies
74 Prof. Elizabeth Thomas-Hope	UWI-Jamaica	University of West Indies
75 Dr. J. David Stanfield	Co-ordinator	Land Tenure Center
76 Dr. Allan N. Williams	Facilitator	ACT Consulting Associates Ltd.
77 Mr. Kevin Barthel	Terra Institute	Consultant
78 Dr. Grenville Barnes	Terra Institute	University of Florida (Gainesville)

cont.

ADMINISTRATION

Mr. Don Esser	Land Tenure, USA	Programme Assistant
Ms. Lynn Burns	Terra Institute, USA	Chief Operations Officer
Mrs. Helene Bissoon	Trinidad & Tobago	Events Manager
Ms. Candia Alfred	Trinidad & Tobago	PCU - Office Support Staff
Ms. Dana Medina	Trinidad & Tobago	PCU - Office Support Staff
Ms. Ranaa Muhammed	Trinidad & Tobago	PCU - Office Support Staff
Mrs. Erica Prentice-Pierre	Trinidad & Tobago	PCU – Programme Officer
Mrs. Salisha Bellamy	Trinidad & Tobago	Land Administration Division
Mr. Beaumont Celestain	Trinidad & Tobago	ACT – Trade Show Manager
Mr. Ramdat Bhagoo	Trinidad & Tobago	PCU – Transportation
Mr. Franklin Rodriguez	Trinidad & Tobago	PCU – Transportation
Mr. Cecil La Guerre	Trinidad & Tobago	Ministry – Transportation
Ms. Lindiwe Williams	Trinidad & Tobago	ACT – Floor Monitor
Ms. Ayana Gift	Trinidad & Tobago	ACT – Floor Monitor
Mr. Brent Fingal	Trinidad & Tobago	ACT – Floor Monitor

APPENDIX 3. WORKSHOP PROGRAMME

DAY 1: MARCH 19, 2003

Opening Session

9:00am – 9:45am	Formal Opening Ceremony
Dr. Thackwray Driver	The Chairman of the Steering Committee
Mr. Howard Batson	USAID-Jamaica
Dr. James Morton	DFID-UK
Mr. Alvaro Llosa	The Inter-American Development Bank
Hon. John Rahael	Minister of Agriculture, Land and Marine Resources
Dr. Allan N. Williams	Vote of Thanks
10:00am – 10:30am	<i>COFFEE BREAK</i>

Session 1

10:30am – 10:40am	The Framework Paper – Allan N. Williams
10:45am – 11:05am	The Economic Impact of Land Policy – Peter Bloch
11:10am – 11:30am	History, Culture and Land – Jean Besson
11:30am – 12:00pm	Discussion – Response to the Framework, Economic and Historical/Cultural Papers
12:00pm – 1:30pm	<i>LUNCH (Savannah Terrace 1)</i>

Session 2

1:30pm – 2:30pm	Theme 1: Land Markets & Development Presenter 1: Guyana Presenter 2: Jamaica Presenter 3: Bahamas
2:30pm – 4:30pm	Break-out sessions on Theme 1 Working Group 1: The Jasmine Suite Working Group 2: The Poui Suite Working Group 3: La Boucan (North Section) Working Group 4: La Boucan (South Section)
3:00pm – 3:30pm	<i>COFFEE BREAK</i>
4:30pm – 5:30pm	Report to Plenary
5:30pm	<i>CLOSE</i>
8:00pm	<i>OFFICIAL RECEPTION</i> : at the Programme Coordinating Unit, Ministry of Agriculture, Land and Marine Resources, # 2 Serpentine Road, St. Clair, Port of Spain

Day 2: MARCH 20, 2003

Session 3

8:30am – 9:30am	Theme 2: Social Equity & Access to Land Presenter 1: Barbados Presenter 2: Belize Presenter 3: Suriname Presenter 4: Trinidad and Tobago
9:30am – 11:30am	Break-out sessions on Theme 2 Working Group 1: The Jasmine Suite Working Group 2: The Poui Suite Working Group 3: La Boucan (North Section) Working Group 4: La Boucan (South Section)
10:00am – 10:30am	<i>COFFEE BREAK AVAILABLE</i>
11:30am – 12:00pm	Report to Plenary
12:00pm – 1:30pm	<i>LUNCH (Savannah Terrace 2)</i>

Session 4

1:30pm – 2:15pm	Theme 3: Environment & Sustainable Land Uses Presenter 1: St. Kitts/Nevis Presenter 2: Montserrat Presenter 3: St. Vincent & The Grenadines Presenter 3: Tobago (Trinidad & Tobago)
2:30pm – 4:30pm	Break-out sessions on Theme 3 Working Group 1: The Jasmine Suite Working Group 2: The Poui Suite Working Group 3: La Boucan (North Section) Working Group 4: La Boucan (South Section)
3:00pm – 3:30pm	<i>COFFEE BREAK AVAILABLE</i>
4:45 pm – 5:45pm	Report to Plenary
6:00 pm – 9:00 pm	<i>TRADE SHOW</i>

Day 3: MARCH 21, 2003

Session 5

9:00am – 9:30am	Revisit of the Framework Paper by David Stanfield
9:30am – 10:15am	Presentation on Capacity Building. Education and Training in Land Administration and Management by Asad Mohammed; Graduate Level Programme, UWI, by Elizabeth Thomas-Hope

	Graduate Level Programmes, University of Florida, Gainesville, by Grenville Barnes; LandNet Americas by Jan Vermeiren, OAS;
10:15am – 10:30am	Comments from Participants
10:30am – 11:00am	<i>COFFEE BREAK</i>
11:00am – 12:00pm	Break-out session: Identify follow-on activities (Next Steps) Working Group 1: The Jasmine Suite Working Group 2: The Poui Suite Working Group 3: La Boucan (North Section) Working Group 4: La Boucan (South Section)
12:00pm – 1:30pm	<i>LUNCH</i>
1:30pm – 2:30pm	Break-out session on “Next Steps”, continued
2:45pm – 3:30pm	Report to Plenary
3:30pm – 4:00pm	<i>COFFEE BREAK</i>

Session 6

4:00pm – 5:30pm	<i>PANEL DISCUSSION</i> by International/Regional Agencies (USAID, IDB, DFID, OAS, CARICOM, UWI)
5:30pm - 6:00pm	Closing Statements
6:00pm	<i>CLOSE</i>
7:00pm	<i>WORKSHOP DINNER</i>

APPENDIX 4. LIST OF TRADE SHOW PRESENTERS

LandNet Americas

Mariana Herrera
Organization of American States
Washington, D.C.
U.S.A.
www.landnetamericas.org

Land Use Policy & Administration Project (LUPAP)

Dr. Allan N. Williams
ACT Consulting Associates (ACA) Ltd.
3 Pelham Street,
Belmont, Port of Spain
Trinidad & Tobago
lupap@tstt.net.tt

BlomInfo AS

Andrew M. Thriscutt
Business Development, The Americas
703 Pelton Rd., R.R.#3
Kemptville, ON K0G 1J0 Canada
e-mail: beh@blominfo.dk

Towill, Inc.

Trevor Greening
Regional Project Director
5099 Commercial Circle, Ste. 100
Concord, CA 94520-1268
www.towill.com

Fujitsu Transaction Solutions (Trinidad) Limited

Mr. Jinnah Kajim
Vice President – Government Business
19-20 Victoria Square West.
P.O. Box 195, Port of Spain
Trinidad & Tobago
jkajim@fj-icl.com