

Determining Cadastral System Conformity to the VGGTs

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SUMMARY

There are specific guidelines within the Food and Agriculture Organisation's (FAO) Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGTs) that suggest the optimal structure of a cadastral system that would provide for equity, security of tenure, and social well-being. Part 5 of the VGGTs under Administration of Tenure indicates that states should provide systems, and that these systems should be appropriate, inclusive for all, simple, available, public, and transparent. The Land Governance Assessment Framework (LGAF) also provides more specific evaluation criteria for the assessment of structures within the land administration that are required to support good governance. From 2014 to 2016 the cadastral system in Trinidad and Tobago underwent a revision to improve the management of the cadastral information. Shortly thereafter, in 2016, a governance assessment of the wider land governance, inclusive of the indicators signified by the status of the land registry and cadastre, was performed. This paper evaluates the status of the cadastre after the revision of the cadastral information system, using the findings of the governance assessment to determine how close the system now sits in relation to the ideals promoted by the VGGTs.

The methodology used for this assessment was to compare indicators on the structure and performance of the cadastre to the requirements suggested in the VGGTs to determine the closeness of the cadastre to the ideals of the VGGTs.

The findings of the assessment were that subsequent to the reform activities, publicity was increased but much of the information was still unavailable. Whereas there was no online view of the cadastre prior to the revision there is now visibility but there is limited information to be accessed. Approximately 204,160 parcels now have an identifier and this has increased inclusiveness of the system information but there remain large numbers of parcels that have not been included.

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1. INTRODUCTION

Cadastral systems or records of tenure rights, as they are called in the Food and Agriculture Organization's (FAO) Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security (VGGTs), aim to be structured in such a way as to provide the society within which they are established with optimum benefits. The VGGTs posit that records of tenure rights that are structured in a particular way would support responsible governance of land tenure that could lead to greater equity, more secure tenure and social well-being as well as a means to attain environmental sustainability and resilience to anticipated climactic challenges of global warming (FAO 2012; Mitchell et al. 2015). This paper evaluates the conformity of the cadastral system in Trinidad and Tobago to the VGGTs, before and after a recent reform project as a way of determining the country's preparedness for improving its land governance. Trinidad and Tobago is shown in geographical context in Figure 1.

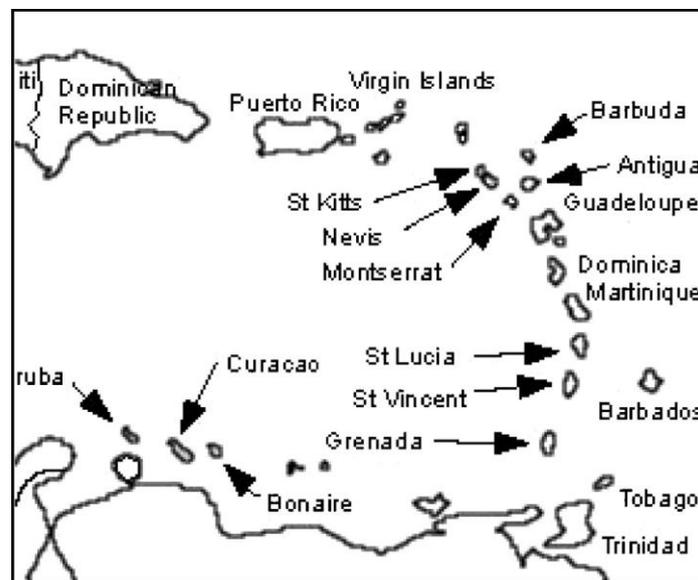


Figure 1. Trinidad and Tobago in the Caribbean

2. BACKGROUND

Effective governance in all spheres of activity has been established to be instrumental in human development including economic, social and environmental. The 2030 Development Agenda, and its Sustainable Development Goals (SDGs) which came into force at the end of 2015 (as a replacement of the MDGs) include governance as a key input to the achievement of positive

outcomes of equity, profitability and sustainability. Land governance specifically, plays a significant role in overall governance since land is a vital aspect of and underlies development.

Governance structures within Trinidad and Tobago have been criticised primarily because of perceived and actual corruption and rent-seeking in state institutions. This overall perception, as researched and recorded by Transparency International in its Corruption Perception Index also pervades the land sector. The country was ranked 72nd out of the 168 countries assessed with a score in 2015 of 39 on a scale of 0 to 100 where 0 is highly corrupt and 100 is very clean. It fell to 101st out of 176 countries with a score of 35 in 2016 (Transparency International 2017). The perceptions in overall governance can also be extrapolated to perceptions in the land governance where a large informally tenured population remains un-regularised, unrecorded, and unallocated to subsidised housing.

Between 2014 and 2016 the cadastral information system was the beneficiary of an Inter-American Development Bank (IDB) loan to upgrade the functioning of the cadastral system. The tender notice for the upgrade of the Cadastral Management Information System described the requirements of the project as being to upgrade the current system so that services could be provided in the digital environment and online at lower cost and in quicker time with more functionality (Central Tenders Board). An activity of this kind can be anticipated to improve land governance and result in social, economic and environmental benefits.

3. METHODOLOGY

The methodology used for this reporting was to compare the status of the cadastre to that required of the cadastre in the VGGTs. A land governance assessment conducted after the intervention provided an opportunity to get stakeholder feedback on land governance that could feed into the determination of conformity of the cadastral system to the VGGTs (Sanjak and Donovan 2016; Griffith-Charles and Rajack 2017). The land governance assessment used some of the Land Governance Indicators (LGIs) of the Land Governance Assessment Framework (LGAF) promoted by the World Bank (Deininger et al. 2012). The LGIs can be used to grade a country's land governance by the responses to specific questions. The LGAF structures the assessment along several interrelated land related dimensions ranging from legal and institutional framework, management of public land, and public provision of land information, to dispute resolution and conflict management. The questions related specifically to the cadastre include:

LGI 2.1. - What percentage of communal lands have boundaries demarcated and surveyed or mapped and registered?

LGI 2.2 – What percentage of individually held land in rural areas is formally registered?

LGI 2.3 - What percentage of individually held land in urban areas is formally registered?

LGI 2.4. – What percentage of land registered is registered in the name of women either individually or jointly?

A full list of questions can be found in the text on the LGAF. Not all of the questions were used for the assessment but discussions were wide ranging and discussed the land governance in its totality. The stakeholders who assessed the system were knowledgeable about the details of the system even though actual statistics were not readily available as a result of the incomplete information systems.

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Grades were discussed and agreed on based on experience and perceptions, and ranged from A where the desirable level was attained to D where the system level did not at all conform to the ideal.

4. THE VGGTS AND TENURE RECORDING SYSTEMS

Part 5.17 of the VGGTs, under Administration of Tenure: Records of tenure rights, suggests, from guideline 17.1 to 17.5, that states should provide systems, and that such systems should be appropriate, inclusive for all, simple, and available. Each of these suggestions can be compared to the reality in the case study of Trinidad and Tobago to determine the conformity of that system. The change in conformity can be determined after the intervention.

4.1 States should provide systems

The VGGTs suggest that:

‘states should provide systems (such as registration, cadastre and licensing systems) to record individual and collective tenure rights in order to improve security of tenure rights, including those held by the state and public sector, private sector, and indigenous peoples and other communities with customary tenure systems; and for the functioning of local societies and of markets’.

The Land Governance Assessment conducted during 2016 indicates that Trinidad and Tobago does provide a cadastre. However, the cadastre contains an estimated 50 to 60% of all parcels. Some 200,000 parcels are now registered with a unique, system-generated identifier after the upgrade project. Figure 1 shows an excerpt from the current cadastre. Prior to the intervention, there was an attempt at uniquely numbering all parcels but this did not come to fruition. This new attempt should be monitored to see whether the statistic improves. Table 1 synopsis the conformity of the system to the VGGT suggestions related to provision of systems.



Figure 1. Excerpt from the current upgraded cadastral information system

Table 1. State provision of systems

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VGGT	Trinidad and Tobago's Status	Comment
State should provide systems	Cadastral system and registration system exist.	The country only partially conforms. Only 50 to 60% of parcels included in cadastre. The revision of the cadastre did not increase the number of parcels included.
State should record individual and collective tenure	Individual tenure is registered. Collective tenure is not recorded	The country only partially conforms. State systems do not record communal tenure forms. No information on the quantity of land in this tenure form exists.
Systems should record, maintain and publicise tenure rights and duties	Formal tenure rights are recorded. Legitimate tenure rights are not recorded or are recorded separately. Access to only some formal tenure rights can be obtained with some difficulty	The country only partially conforms.

4.2 Systems should be appropriate

The VGGTs recommend that recording systems be appropriate for the jurisdiction and its particular circumstances. In Trinidad and Tobago this would mean that the informal customary tenure called family land should be identified and recorded in a registry, preferably the same registry as the formal tenure. The large percentage of households occupying state lands without any formal documentary evidence of tenure, determined to be 55,000 to 60,000 households (JSC 2016), should also be recorded in a registry that is interoperable with the cadastre. Table 2 identifies the characteristics of the cadastral system that prevent it from being appropriate.

Table 2. Appropriateness of systems

VGGT	Trinidad and Tobago's Status	Comments
Systems should be appropriate	The registered 50 to 60% of land conform to the requirements for registration. Family land and squatters on state land cannot legally be registered.	The system cannot be deemed to be appropriate if a large percentage of the parcels cannot legally be registered.
Socio-culturally appropriate ways of recording rights of indigenous peoples and other communities with	Family land customary tenure is not recorded. There is no system for the recording of family land.	The country's system does not conform

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customary tenure systems should be developed and used		
Systems should be integrated.	The cadastre is not integrated with the title registration system.	The country's system does not conform.
Care should be taken to prevent registration of competing rights	Conflicts must be resolved at great cost and time in the legal system	The country's system does not conform

4.3 Systems should provide access

The VGGTs suggest that systems should allow all rights holders to be able to access the system and register their rights. In Trinidad and Tobago there are many long standing occupants of state and private lands who cannot register their rights because there is no legal process to do so or the legal process is long, cumbersome and not encouraged by the court. Table 3 gives the status of the cadastral system in relation to accessibility. The upgrading of the cadastre has provided access to some of the information to members of the public and this is a positive step to accessibility.

Table 3. Access to systems

VGGT	Trinidad and Tobago's Status	Comment
System should be non-discriminatory	Discrimination is to the poor or the uninformed as to how to access the system.	The country only partially conforms.
There should be mobile access or other decentralised access	Access to the some of the cadastral information can be obtained online at http://www.surveys.gov.tt/publicmap/	The country only partially conforms.

4.4 Systems should be simple

The VGGTs suggest that systems of recording of rights should be simple with cost effective processes for registration of rights affordable to all. Table 4 indicates the features of the cadastral system that prevent it from being classified as simple.

Table 4. Simplicity of the system

VGGT	Trinidad and Tobago's Status	Comment
There should be simplified procedures	Processed related to the cadastre are lengthy. Despite the new access to viewing the cadastre no services are provided online.	The country's system is not compliant.
Spatial accuracy should be sufficient for identification	The accuracy for cadastral plans is rigid and the checking process is lengthy	The country's system is not compliant.

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	and rigid.	
Records should be indexed by spatial units as well as holders	Records in the cadastre can now be accessed by spatial units but holders are not recorded and there is no link to title information	The country's system is not compliant.

4.5 Systems should be transparent

The VGGTs require that the records of rights be transparent and open so that all information is provided for public scrutiny and thus discourage attempts at corrupt practices related to land. Table 5 gives the status of the system in terms of its transparency.

Table 5. Transparency and openness to tenure information

VGGT	Trinidad and Tobago's Status	Comment
Tenure information should be available to all	Title information is restricted to rights holders. There are security concerns about providing information.	The country's system is not compliant.
All processes, fees, requirements should be publicised	Most requirements are available online through a ttconnect system.	The country's system is compliant.

5. ANALYSIS

The Trinidad and Tobago cadastre provided a system that recorded tenure rights prior to the recent upgrading. However, the system did not meet and still does not meet many of the requirements suggested by the VGGTs that would support ideal levels of responsible land governance. Key among the issues is the inability to record collective tenure rights as is required to improve tenure security for a significant vulnerable group.

6. CONCLUSION

The Trinidad and Tobago cadastre can do well to focus on the suggested guidelines in the VGGTs as a roadmap for improving land governance. The value of many of the indicators cannot readily be determined as a result of gaps in the cadastral information so this makes monitoring the fundamental desirable characteristics of equity, economy, and others difficult. The first step on the way to conformity is to ensure that comprehensive land tenure information is captured in a cost effective and timely fashion.

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