



Property Registration Reform Lessons from Honduras

This Best Practice was adapted from "Doing Business 2007: How to Reform Case Study: Registering Property—Honduras," prepared by Booz Allen Hamilton in cooperation with USAID for the World Bank Group's 2007 Doing Business Reformers Club Conference.

Executive Summary:

One of the notable success areas for Honduran governmental reform efforts is the modernization of the property registration system. Although only partially complete, the reforms have already paid dividends. Honduras stands as an example of how strong executive leadership, effective collaboration with the private sector, tangible donor coordination, and careful selection of agency management can lead to early tangible results

Introduction

The modernization of the property registration system in Honduras represents, by most accounts, a notable success area for the Honduran government's reform efforts. These successes, which include legislative, regulatory, and organizational reforms implemented at national, regional, and municipal levels, illustrate both the promise and the challenges that are intrinsic to a comprehensive overhaul of a national property registration system. Although only partially complete, the reforms have already paid dividends in the most commercially active area of the country, administrative red tape and transaction costs of the registration process have been noticeably reduced, and transparency and business confidence in the land-titling process have increased.

Further, Honduras' example is also a reminder of the need for strong executive leadership and effective collaboration with the private sector as well as the imperative of effective donor coordination and international support amid a backdrop of domestic political uncertainty.

Context

The economic uncertainty associated with unclear and poorly managed land titling constitutes a significant disincentive to investment and the sustainable use of land in Honduras,

which is the third poorest country in the wider Latin American region. In order to generate sustained high rates of economic growth, the government of Honduras has moved to clarify titling rights and has granted poorer populations greater legal access to property in an attempt to unlock an estimated \$12 billion in extralegal and unregistered assets.

Most of the rural population and poorest communities in Honduras live on extralegal land. Only 30 percent of the country's 2.6 million estimated parcels of land (1.8 million parcels in urban areas, and 0.8 million parcels in rural areas) are legally registered. Moreover, approximately 8 percent of the population, numbering nearly 500,000 people, belong to indigenous and Afro-Honduran communities whose land-use traditions emphasize collective titles of property, contrary to the notions of individual property ownership.

Amid this economic and social context, in early 2003 the Honduran government, supported by several key advisors, initiated an ambitious property registration reform agenda, with two linked goals: create the institutional and legal framework for a greatly expanded system of legal titles for the population at large; and, in so doing, establish the basis for the securitization and com-



2 _____

mercialization of the new titles, generating new wealth and capital for the owners by unlocking the extralegal value of the associated property.

The mechanism for achieving these twin goals is a World Bank–sponsored program entitled the Honduras Land Administration Program (PATH). PATH is a \$139 million program, made up of three phases, divided into four-year components to be achieved in 12 years. The specifics and cost of each PATH phase is set forth in the following chart:

Phase	Focus	Cost	Years
Phase I	Establish National System for Property Registration (SINAP). Registration in selected areas in seven key departments in the center of the country.	\$39 million	2004–08
Phase II	Expand SINAP to seven more departments. Incorporate movable assets, commercial rights, and intellectual property rights registries into SINAP.	\$50 million	2008–12
Phase III	Expand SINAP coverage to the entire country. Complete integration of other registries. Establish basis for secondary mortgage markets	\$50 million	2012–16

Additional donor support would be provided by the Inter-American Development Bank in the area of the forestry sector, while other donors, including USAID and the newly created Millennium Challenge Corporation, have committed additional support linked to the PATH program’s progress.

Approach

Property registration reform is a key component of the larger PATH program. Following a successful pilot program in the Department of Comayague implemented during 1998–2003, which registered some 145,000 land parcels, PATH Phase I was launched in 2004. The pilot program was very much a precursor to the PATH effort and an important guide for PATH sequencing and program design.

PATH worked to support the government’s legislative reforms, in particular the adoption of Ley de Propiedad, Decreto Legislativo 82-2004 (May 29,

2004), a property law that served as the basis for the new institutional and legal framework supporting the revised property registration system. Specifically, this law overturned legislation related to property derived from the 1906 Civil Code and Civil Procedure Code, the Registry Law of 1974, and part of the Agrarian Reform Law 1973.

Additionally, the new law removed the judiciary from an oversight role in the registration process, named the executive branch as the primary supervising body, and decentralized the registry accounts, with chambers of commerce and other nongovernment organizations gaining the right to operate specific registries under the oversight of the newly created Instituto de la Propiedad (IP). An executive council comprised of seven members, four of whom were appointed by the government and three of whom represented the wider Honduran society, was named to govern the IP and its related activities.

Results

Though it is only in the middle of Phase I of the reform effort, the government of Honduras has achieved significant, if still unfinished progress in modernizing the property registration process.

The reforms have created the legal and organizational basis for a new registration system. Imovable, movable, and intellectual property registries are all being automated, modernized, and updated, and geographic data from the cadastre is being integrated with the alphanumeric data under the parcel-based (folio real) method. The legal and institutional fundamentals are now in place to reduce transaction costs and simplify procedures within the national registration system.

Despite some uncertainties associated with the transition process, the commercial sector has already benefited from the increased transparency and independence of the registration process. The PATH program purposely focused on the central corridor of the country—Cortés, Francisco Morazán, Atlántida, Colón, Gracias a Dios, and Choluteca—which accounts for a disproportionately high share of the national economic activity. With the increasing clarity of land titles in the registration process, investment and economic activity has been bolstered in this key geographic region.

The government’s effective engagement with the Consejo Hondureño de la Empresa Privada (CO-

HEP), the Cámara de Comercio e Industria de Tegucigalpa, and other groups have provided a generally laudatory model of public-private collaboration in pursuit of national economic development and decentralized administrative management. COHEP and other actors, which played an important role in their early support for the reform process alongside the government, are now the formal stewards of various components of the property registration system, with the IP acting as the executive and supervisory entity.

More important, there are already measurable improvements in the response time and transaction costs associated with the property registration system. In one registry, registration of a commercial property transaction has decreased 80 percent from 25 days to less than 5. With the elimination of the stamp duty and reduced transfer tax and registration fees, the cost of registration has decreased as well.

Conclusions

While only halfway complete, the following successes have already been realized. Notable aspects of the reform include:

- Clear political commitment. The Honduran government's clear political commitment during the 2002-2003 period, particularly in the Office of the Presidency, ensured that the reforms gained the necessary momentum to overcome opposition, received wide acceptance, and were adopted by Congress. This demonstrates that even in very difficult reform areas, if the executive leadership acts decisively and commits to a clear and sustained reform path, tangible progress is possible and plausible. Moreover, the presidency was able to rely on the expertise and dedication of a core group of Honduran advisors that was committed to the reform process, ensuring that the presidency was fully informed on the nature of the reform and related issues. This enabled the government to draft the new laws and support the initial implementation phases effectively and cohesively.
- Cooperation with private sector. One private sector representative closely involved in supporting the reforms commented: "We worked closely with the government on getting the details worked out and the reforms under way." This close cooperation, which

arose once the government was able to communicate its goals effectively through repeated rounds of formal and informal discussions, led to a relatively efficient transfer of registry administration in 2005 from the judiciary to the respective private sector authorities. It also engendered trust and private sector support at a key time in the reform cycle.

- Donor coordination and prioritization. General agreement about which donor would be leading in the property registration reform area and the roles to be played by other donors was reached by consensus among the donors. This coordination significantly benefited the reform process.
- Management of the main implementing agency. Through a careful appointment process, a number of capable and experienced managers were placed in key positions in the IP. As a result, the IP succeeded in ramping up and assuming oversight and management responsibility for the newly created registration model.

Although generally viewed as a success, current and former government officials, donor representatives, and other participants noted the following three areas of concern in the reform process: delays and complications associated with the initial transition process from one registration method to another; the impact of politics on the management of the IP and associated staffing appointments; and weaknesses within the organizational design and structure of the IP itself.

With respect to the transfer of the registration process from one authority to another, Honduras experienced a protracted and unexpectedly difficult initial transition phase. The judiciary's reluctance to relinquish control, together with administrative hold-ups caused repeated delays. Overall, it took some eight months to effectively transfer control over the registry and begin the process of automating files. In the end, the judges appeared to recognize the need for improved administrative efficiency and transparency. While the protracted transition period has impacted the customers of the new registry, in the end there has been marked improvement in the registry transaction times and cost reduction.

A more serious threat to the reform process is posed by the apparent politicization of the staffing and management of the IP. Following the

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change in government in Honduras, which occurred in January 2006, more than 50 percent of the IP's senior management left the organization. This high turnover has damaged the IP's efficiency and hurt morale at an important time. Moreover, some key posts have been filled by less-experienced appointees, which has negatively affected response time. Further, both the current and previous executive secretaries of the IP have noted that organizational guidelines regarding management of the IP and the executive secretary's authority in particular need to be better defined. For example, the executive secretary is nominally in charge of the IP's staffing and management and supervises the IP's four main departments. The position does not, however, have explicit authority to enforce decisions and hire or fire senior IP staff. There is some debate as to whether a strong executive secretary is required for effective operation of the registry.

Finally, there are concerns over the thrust and prioritization of the reform relative to the country's demographics. As noted previously, the reform process has specifically targeted the most important commercial sector of Honduras first, leaving most impoverished communities to be dealt with later. Several critics noted that there should have been a greater emphasis on including needy communities that are commercially marginalized with the reform process's earlier stages. As one lawyer who represented several rural squatter communities noted, "Some of these communities are getting frustrated and are losing patience with the reform process... the government needs to do a better job to include them in the registration reform process."

In the span of only two years, Honduras has embarked on a wide-ranging property registration reform process that has the potential to dramatically increase the value of the legal assets available to the Honduran people—and thereby stimulate higher sustained domestic growth rates. Moreover, the reform process has already paid dividends in the most commercially active areas of the country, administrative red tape and transaction cost of the registration process have been noticeably reduced, and transparency and business confidence in the land-titling process have increased. Finally, the number of registered titles in the central region of the country

has increased, and the number of conflicting claims on municipal property has decreased.

Since the reform process is still so nascent, the lessons of the Honduran experience are still being shaped and are open for interpretation. Even so, it is clear that other countries could benefit by noting the example of strong executive leadership, effective collaboration with the private sector, tangible donor coordination at the early stages of the reform process, and careful selection of management staff for the implementing agency. It is also fair to recognize that the Honduran government was not fully prepared for the operational exigencies of the transition phase immediately following the new law's passage. Moreover, there is a real need to address the apparent politicization of the IP's senior ranks, and the lack of organizational definition in the IP's management structure and hierarchy.