

**Models Of Interaction Between Land Registries, Cadasters, and
Land Tenure Systems**

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There are remarkable gaps of information (as incoherencies, fragmentation, inconsistency) between registries, cadasters and land systems¹ which relates to negative consequences related to poverty and inequity that impact economic growth, public finances, public participation, and other aspects of urban planning, and access to housing and urban services, environmental and social conflicts which arise given overlapping, and dominant interests over land.

Legal institutions in Latin American countries commonly prioritize the private property as the core of property rights, which is linked to a registration system that provides juridical certainty to land rights. For instance the legal institution of adverse possession under which a person in possession of land owned by someone else may acquire valid title to it, as long as certain legal requirements are met, and the adverse possessor is in possession for a sufficient period of time, as defined by a statute of limitations.

These legal institutions are widespread in the various legislations, but the difference is that they become more effective compared to others, based on: i) the regulatory frameworks (policies and laws), how they are applied in practice to deal with informality, legal security of tenure, and access to housing for the neediest social sectors; ii) the institutional capacities and practices on land administration including the use of geo-reference data; and, iii) the needs and expectations of the population to access land tenure protection mechanisms.

¹ Scoping Study: Governanza Responsable y Tenencia Segura del Suelo Urbano y Peri Urbano: Marco para el Dialogo y la Acción en América Latina y El Caribe” HFHI Lac, GLTN 2016

Based in the cases of Peru, Bolivia, and Guatemala this paper argues that the use of technology, specifically the use of geo reference information interlinking land registry, cadaster, and land tenure systems will positively impact responsible land governance.

While in Peru the consultation on titles in the Land Registry is free of charge, accessible through internet; all titles issued by COFOPRI are georeferenced as well as all relevant land information including previously existing land rights in the target land and surrounding areas. Overlapping land rights were identified geo referencing the literal land title information and “cleaned” through legal and technical actions.

Consultations related to a land title in the Property Rights Registry in Bolivia is only possible if it is authorized by the Court, and Court sentences are not always accepted by the Land Registry.



PERU: GEO-REFERENCED REGISTRY AND COLLECTED INFORMATION IDENTIFICATING LAND RIGHTS OVERLAPPING



BOLIVIA: LOCATION OF NON-REGISTERED, NO GEOREFERENCED INFORMATION ON LAND RIGHTS BY COURT SENTENCES

In the case of Guatemala, the Land Registry does not have geo-referenced property rights information. Land information is filed in the Land Registry based on the Municipal approved plans. The Registry of Guatemala has no cadastral consultation procedures in place.

In the case of Peru, the regularization model is a massive process in charge of a specialized public agency of the State (COFOPRI),

The Peruvian property rights formalization program is based on the application of a massive administrative regularization processes implemented by a public entity called Commission for the Formalisation of Informal Property - COFOPRI whose final product is the issuance of a deed duly registered in the Land Registry, taking around 45-60 days according to Legislative Decree No. 803 Law 'Promotion and Access to Formal Property' and Law No. 28687 'Development and Complementary Act for the Formalization of Informal Property, Access to Land and the Provision of Basic Services'. **COFOPRI articulates directly with other relevant entities in order to strengthen the rights in the Property Registry.**

In the case of Bolivia, the regularization model focuses on the regularization of property rights and housing jointly through a judicial process, and at an individual basis, the resolution period is extended by more than a year; **there is no direct coordination between the cadastre and registration**, which leads to the generation of conflicts over boundaries and rights. The governing tool of this this procedure is the Law No. 247 Law 'Regularization of Property Rights on Urban Properties for Housing" and its amending Act No. 803.

The Decree No. 49-79 "Supplementary Titles Act", and its amendment by Decree No. 128-85 are in place in Guatemala. In addition, a technical legal tool on tenure regularization additionally exists in the Guatemalan legislation, regulated by Decree No. 41-2005 "Law of Cadastral Information Registry".

Legislation in different countries mainly focuses to rule with principles of good faith and good intentions, without attacking the main gaps of information on land rights through a solid system of georeferenced information and the assignment of a registration code that provides legal certainty, and including different tenure systems, to guarantee the right to adequate housing and life conditions of the poor.