GOOD GOVERNANCE AND NATURAL RESOURCES TENURE IN THE CARIBBEAN SUBREGION

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FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

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Cover photograph by Salisha Ali-Bellamy, other photographs by author

List of Abbreviations

AGD	Administrator General's Department
AWNC	Asa Wright Nature Centre
CANARI	Caribbean Natural Resources Institute
CARICOM	Caribbean Community
CDA	Chaguaramas Development Authority
CBO	Community Based Organisation
CLAWRENET	Caribbean Land and Resources Network
COJ	Companies Office of Jamaica
CoSL	Commissioner of State Lands
CPDC	Caribbean Policy Development Centre
CPI	Corruption Perception Index
EEZ	Exclusive Economic Zone
EMBDC	Estate Management and Business Development Company
eTecK	Evolving Technologies and Enterprise Development Company Ltd
FACRP	Fondes Amandes Community Reforestation Project
GDP	Gross Domestic Product
GEF	Global Environment Facility
HDC	Housing Development Corporation
LSA	Land Settlement Agency
MIND	Management Institute of National Development
NGO	Non Governmental Organisation
NLA	National Land Agency
NWA	National Works Agency
NEPA	National Environment and Planning Agency
PIDCOTT	Property and Industrial Development Company of Trinidad and Tobago
PROUD	Programme for the Regularisation of Unplanned Development
RGD	Registrar General's Department
TI	Transparency International
TTTI	Trinidad and Tobago Transparency Institute
UDECOTT	Urban Development Company of Trinidad and Tobago
UNCLOS	United Nations Convention on the Law of the Sea
UNDP	United Nations Development Program
WAMM	Women's Affairs Ministers Meeting
WASA	Water and Sewerage Authority

Table of Contents

List of Boxes

List of Tables

List of Photographs

Summary

Caribbean countries in general have key issues affecting land and natural resources tenure. These issues include; insecure and informal tenure, illegal occupation, use and degradation of environmentally sensitive and other unsuitable land, bureaucratic and lengthy land administration procedures, inequity in access and distribution of land, and land conflicts exacerbated by overburdened legal systems and inadequate land information systems. Most of the islands are densely populated leading to conflicting land use pressures. With few economically exploitable natural resources, the islands depend on the sustainability of the environment inclusive of the coastal seascapes for tourism income. Providing equitable access to coastal areas and fisheries for local communities, minorities and vulnerable populations as well as developers, industries and tourism has been an exercise in balance and sustainability. Climate change and sea level rise present disproportionately larger challenges to the small developing countries of the Caribbean in contrast with the larger, developed, continental countries. These global warming effects result in erosion, flooding, landslides, and drought, which all affect the availability and use of land. While these issues are land and natural resource issues they are also governance issues that need to be addressed on several levels. National governance can effect policy to treat optimally with these land issues. Civil governance can make demands of the national governance to craft policy that involves and includes the society in the formulation and implementation. Civil governance can also accept some primary responsibility for defining directions for resolving these land issues.

Land governance policy in the Caribbean is currently conflicted between internally led pro-poor programmes such as housing provision and lax land tax and squatting enforcement on the one hand, and externally initiated economic directives from international banks such as advice to divest state held lands and to improve land tax recovery on the other. Large inter-country and intra-country disparities in levels of development, income levels and values and amount of land held, result in land invasions on both state and private land by the landless but this is more widespread in some of the Caribbean countries than in others. There have been technical programmes in most of the countries of the region initiated to introduce legislation to address regularisation of informal occupation, to institute land titling and registration and to increase public awareness of environmental issues but these initiatives have been hampered by the lack of capacity in the state institutions responsible for the timely and efficient implementation of these initiatives. There are therefore very few success stories in the governance of these processes.

Recent global economic challenges have filtered into the Caribbean leaving funding sources diminished and food sources out of economic reach. This status requires a refocusing of attention towards food sustainability and away from industrialisation and built development. Efforts to include a more inclusive and participatory approach to land governance have largely been driven by the political imperative of appeasing constituents or by the growth in size and increase in political awareness of a more demanding and yet increasingly vulnerable population and not by a proactive policy to improve governance. Institutional corruption in general, and in the land agencies in particular, is becoming more entrenched as value systems change and modernise to become less community sanctioned and more economically centred.

Suggested interventions to land governance include establishment of special purpose land courts to deal with conflicts over tenure, accelerated regularisation, titling, and registration efforts with special provisions for those who stand to be disadvantaged by these programmes, and clearly articulated land policy objectives. These interventions would require establishment of legislation, policy, and institutions to provide continued support and to implement the initiatives. Family land tenure is widely found and therefore is of particular importance in the Caribbean. It thus requires special intervention. There is some measure of internal self governance within these family land communities, albeit dwindling under the pressures of modernisation and globalisation. First of all, acknowledgement and recognition of the tenure type as a valid form of tenure is required. A supportive structure for 'family land' governance, inclusive of purposive legislation, and capacity building in alternative dispute resolution, could allow the beneficial aspects of family land, as opposed to individualisation of tenure, to continue.

New modes of governance in land tenure, such as land trusts or other communal and participatory mechanisms can be used to distribute the efforts and capacities required for sound management on land. Support for civil organisations, either community or issue focused, would help to distribute the responsibility for governance of land and natural resources tenure so that national governance is not over burdened. Participation by these local groups in the governance would also help to ensure that decisions on activities and programmes would include the voices and the wishes of the society at every level. This would go a long way to providing sustainability and flexibility to the programmes and to the governance.

1 Background and Coverage of the Report

This report is a regional background paper on the status, trends and regional champions of good governance in general and specifically in the field of governance of land and land resource tenure. The Caribbean in this context comprises the primarily English speaking island countries of Jamaica, Trinidad and Tobago, Bahamas, Barbados, Saint Lucia, Saint Vincent and the Grenadines, Grenada, Dominica, Antigua and Barbuda, Saint Kitts and Nevis, and Montserrat, some of which are independent and others dependencies of former colonising countries. These, together with the mainland countries of Belize, Guyana, and Suriname and the country of Haiti, make up the CARICOM group, established in 1973. In addition, 5 associate members of CARICOM include the other British Overseas Territories of the British Virgin Islands, the Turks and Caicos Islands, Anguilla, Cayman Islands and Bermuda. The island countries range in population from 10 million persons in Haiti on 11,000sq miles to 9 thousand persons in Montserrat on 40 sq. miles. The islands of Aruba, Bonaire and Curacao belong to the Netherlands, while Martinique and Guadeloupe belong to France. The focus of this paper will be primarily on the English-speaking island countries with some mention of the mainland and overseas territories.

This paper will cover firstly the general status of governance in land tenure and natural resource issues and then identify the drivers and trends of good governance in the region at the macro policy level with a focus on the national level of land and natural resources policies. Within this latter discussion, examples of good governance and efforts and initiatives that relate to good governance are identified. A conclusion will identify areas mentioned that can be part of voluntary guidelines for good land governance.

Historically, the region shares a common colonial heritage of rule by one or more of the British, French, Dutch, and Spanish and a common past that includes African slave labour and Indian indentured labour. This history has provided the background for primarily agricultural land uses dictated by and for the benefit of the colonial powers, and a subsequent decline in the agricultural use of land and also for disparities in the type and size of land holding. To effect change in this situation, land reform has gone through nationalisation and redistribution in the 1960s and 1970s to land titling programmes in the 1980s specifically for improving agricultural production, and then to intensification of land titling in the 1990s and continuing, in this instance for economic purposes. With the realisation of the rapid urbanisation of the population of most countries, the focus was also shifted in the 1990s from rural land reform to urban land reform. After many programmes and reforms, disparities in land holding and landlessness still continue. Current trends in national governance relate to the creation of more autonomous agencies within the ambit of the governments for increased efficiency of delivery of services to the public. Amongst these agencies there is a predominance of land related agencies which demonstrates the fundamental importance of land to all societies and indicates a commitment by governments to improve the efficiency and effectiveness of primarily land related processes as these have a significant impact on the well-being of the societies. However, the shift away from the bureaucratic processes of the public service creates greater potential, if left unmanaged, for corruption within the agencies. Having already experienced some of the negative repercussions of this quasi-privatisation trend, governance measures should now evolve to include ensuring that transparency and accountability are built into the activities of the land and natural resources

sectors of the states in the region. Despite the fact that this may reduce the level of efficiency gained by increasing the authorities of the institutions, better governance would result.

The population densities in the Caribbean countries are some of the highest in the world as shown in Table 1. Some of the islands are more densely populated than India, most are more heavily populated than the UK and significantly more populated than the US. This has a direct impact on the challenges to governance of tenure and land use. In this situation, pressure on available land is increased. The scarcity of land causes values to escalate beyond the access of aspiring homeowners. Many forms of agriculture and in particular large animal rearing become almost impossible and conversion of natural forests and habitats to other uses increases. To be economical and competitive with global markets, any non-subsistence agriculture conducted for export and income earning must be for specialty and niche markets, such as exotic flowers and spices, and not volume crops such as sugar cane.

In most instances in the Caribbean, because of these population densities, land conversions take land from natural reserves or agricultural uses to residential uses. In addition, a significant proportion of residential development is still low density single family dwellings as opposed to other higher density housing arrangements. Physical planning, monitoring and development control become more difficult in this situation as there are few alternatives to flouting of regulations.

A look at the GDP per capita for the countries of the Caribbean also points to disparities in development and economic status amongst the countries (See Table 2).

Table 1. Population Densities for Caribbean Countries

World Ranking	Country	Persons /km^2
8	Bermuda	1226
18	Barbados	595
19	Aruba	554
24	Puerto Rico	448
31	Haiti	361
32	India*	360
33	Martinique	356
39	St. Lucia	319
45	Grenada	302
48	St. Vincent and the Grenadines	280
49	Trinidad and Tobago	261
51	UK*	254
54	Jamaica	247
178	US*	32

*Included for reference

Table 2. Per Capita GDP for Caribbean Countries

World Ranking	Country	GDP per capita ($US) (various years)
4	Bermuda	69,900
14	Cayman Islands	43,800
24	British Virgin Islands	38,500

46	The Bahamas	29,800
55	Trinidad and Tobago	23,100
64	Barbados	18,500
65	Antigua and Barbuda	18,100
66	St. Vincent and the Grenadines	18,100
70	Puerto Rico	17,200
71	Netherlands Antilles	16,000
74	St. Kitts and Nevis	15,200
80	Virgin Islands	14,500
97	Turks and Caicos Islands	11,500
100	St. Lucia	10,900
106	Dominica	10,200
113	Suriname	9,000
116	Dominican Republic	8,300
117	Jamaica	8,200
118	Belize	8,100
157	Guyana	3,800
161	Montserrat	3,400
203	Haiti	1,300

Source of data: CIA World Factbook[1]

The land tenure in the Caribbean primarily stems from the British law and is manifested in rights that are restricted to freehold and leasehold with tenancies that can be held jointly or in common. In many countries, the recording systems for land rights contain deed registration alongside title registration. Most of the title registration instituted in the nineteenth century follows the Torrens model and was installed to operate in a voluntary manner. The more recent land title registration programmes follow the English model and are instituted in a compulsory and systematic process. Running alongside this formal system is a vibrant informal tenure system with the concomitant informal land market. This informal sector occupies primarily state lands especially in the countries with large state land holdings but also exists on private lands. Family land tenure is an important communal and customary land tenure system that still obtains in some of the islands. There are few small pockets of indigenous tenure systems.

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[1] https://www.cia.gov/library/publications/the-world-factbook/rankorder/2004rank.html

2 Indicators of Governance and Land Governance in the Caribbean

Politically, the Caribbean region is known to be relatively stable with democratic governance being well established. Barbados is said to have one of the oldest parliaments in the Commonwealth. Some of the independent, formerly British colonial countries have two dominant political parties that alternate governing while others have nominally two parties with one being dominant and retaining power for long stretches of time. Jamaica, and Barbados are examples of the former while Trinidad and Tobago, Antigua, and St. Kitts and Nevis are examples of the latter type of system. The British, Dutch and American dependencies have elected governments as well. The French dependencies have representatives in the French National Assembly. Despite the reality of the democratically elected governments, actual economic power rests, in some cases in the hands of the wealthier, propertied minorities who can trace their antecedence to the former colonial population. Added to this political situation that preserves class and income level disparities, ethnicity based political divisions in Guyana, and Trinidad and Tobago affect the appearance of equity and transparency in governance. In these two countries political parties are polarised along the two major ethnic groups of ethnic Africans and ethnic Indians despite having members of the other group in significant positions in each party.

Violent upheavals in the political situation are not unheard of in fairly recent history. In Grenada in 1979 Sir Eric Gairy was overthrown by Maurice Bishop who would rule for four years before being killed in another coup whose government would eventually be ousted by the US. In Suriname in 1980 Desi Bouterse seized power, stepped down in 1987, then seized power again in 1990. Trinidad and Tobago has had two unsuccessful coup attempts in 1970 and 1990. This lack of adherence to law and the democratic process at national governance level affects how the society views the legal systems. Violence often accompanies the electoral process in Guyana and Jamaica.

The Corruption Perception Index (CPI) of Transparency International (TI) quotes scores for 2009 for a few of the larger English-speaking island countries of the Caribbean; Barbados, Jamaica, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago, and Dominica as shown in Table 3.

Table 3. Corruption Perception Index Scores for Caribbean Countries

Country	Corruption Index Score	World Ranking
Barbados	7.4	20
St. Lucia	7	22
St. Vincent and the Grenadines	6.4	31
Dominica	5.9	34
Trinidad and Tobago	3.6	79
Jamaica	3	99

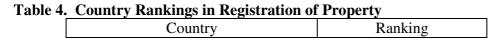Data source: http://www.transparency.org/policy_research/surveys_indices/cpi/2009/cpi_2009_table

There is one local arm of TI in Trinidad and Tobago called Trinidad and Tobago Transparency Institute (TTTI). Of the countries assessed and listed in Table 3, Jamaica attained the lowest score of 3 out of a maximum of 10, ranking at level 99 of 180 levels representing all countries

surveyed. Barbados attained the highest score of 7.4 or level 20 of all countries surveyed. Trinidad and Tobago attained a score of 3.6, 79th in the world out of 180 positions. St. Lucia obtained a score of 7 while Dominica got a score of 5.9. St. Vincent and the Grenadines obtained a score of 6.4.

These scores reflect a range of between 3 and 7.4 of the perceptions of the level of corruption in the Caribbean islands polled and therefore indicate the heterogeneous nature of the region in this particular aspect. Perception indices, however, have limitations as ethics are usually not universal but have cultural characteristics. Perceptions are also based on what an individual or a society accepts as the norm. Practices accepted as common in one society may be perceived to be corrupt in another more developed society with a more flattened power hierarchy where citizens feel an empowerment to effect change. The proximity of the Caribbean to the west, facilitated by e-communication, allows the societies to increasingly expect a regulated and enforced openness, transparency and equity beyond the capacity of the traditional under-resourced public institutions to satisfy. In some cases, the small size of the countries causes an incestuous interlinking amongst the individuals within the regulatory authorities that obviates objective checking mechanisms. The differences in wealth between the individual countries and accompanying differences in development have also lead to differences in perception about corruption as reflected in the scores. Corruption infiltrates the individual governments and many institutions accept rent seeking behaviour as the norm. This issue infiltrates the land sector as corruption affects many of the services involving land transactions, development approvals, state land acquisition, and land registration. In Trinidad and Tobago allegations of corruption in the vibrant development and construction sector continue to plague successive governments.

The World Bank and the International Finance Corporation rank countries in terms of the ease of doing business. One of the indicators used is the registration of property. While this ranking is limited in this context since it does not involve residential properties or take into consideration whether there is corruption in the process, the rankings themselves are an indicator of the relative efficiencies of a land related process in various countries. In this listing, Antigua and Barbuda, which has a complete registry of all lands after having performed systematic registration, ranks as the highest amongst the Caribbean economies included while Trinidad and Tobago ranks lowest at 170 out of the 183 economies ranked (See Table 4).

These scores again reflect a need for governance in the development and implementation of policy to effect change in this process. The visible unfettered presence of civil society in the form of NGOs in the Caribbean alludes to the existence of issues that affect people so greatly that they feel the need to unite in addressing them but also indicates that there is an empowered sector of the regional society with the requisite energy to positively impact problems. The Caribbean Policy Development Centre (CPDC)[2] is one such umbrella body for regional and national NGOs. This body has individually and collectively recognised a movement of change in the Caribbean where civil society is demanding a larger voice in national politics and governance.

Table 4. Country Rankings in Registration of Property

Country	Ranking

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[2] http://www.cpdcngo.org/

7

Antigua and Barbuda	103
Dominica	113
Jamaica	122
Belize	128
St. Vincent and the Grenadines	137
Bahamas	149
St. Kitts /Nevis	153
Grenada	162
Suriname	168
Trinidad and Tobago	170

Data Source: The World Bank Group http://www.doingbusiness.org/

3   Major Issues in Land Governance

The graver issues in land governance are all interlinked until it is difficult to extricate and address one issue without addressing other related issues both in discussion and in policy provision. It is important to note, however, the foundational position of land and its governance in other social, economic, and environmental issues in the Caribbean.

3.1   Crime and Violence

Crime and violence currently top the list of problems confronting the Caribbean countries. The levels of these are said to be fuelled by the location of the Caribbean, which places it in an ideal location to drive drug transhipment activities between the South American source and the North American market. Transnational crime at the macro level therefore impinges on a state's ability to govern within its own borders. Pervasive crime and violence also affect governments and national governance as reflected in recent allegations of linkages between politicians and prominent drug figures in Jamaica[3].

Crime and violence also affect land markets and land values, rendering property in certain locales unattractive to acquire. Trinidad and Tobago has seen the once low-income but safe peri-urban communities of Morvant, Laventille, and Felicity become implosive crucibles of gang violence. Jamaica has also been gravely affected in this way. These areas become controlled by gang leaders who can determine who has rights to occupy which parcels and the amount that must be paid for the privilege.

Weak national governance is reflected in weak judicial systems that fail to protect innocent citizens and that allow alternative aggressive governance systems to obtain and become entrenched in urban enclaves far from the reach of national law. For the small, close knit societies of the Caribbean, unaccustomed to this situation, the rapid increase in crime and violence has not been able to be met with adequate response. In Trinidad and Tobago in particular, court cases take an interminably long time to be resolved. Meanwhile, witnesses and their relatives are murdered by gang affiliates or other hired killers leading to reluctance to seek the redress of the court system whether the complaint is boundary, title and tenure related or otherwise.

3.2   Insecure Tenure

Good land governance is required to correct a situation where there is a lack of security of tenure that would not only provide well-being but encourage occupants and land holders to invest their energies in the development of the land. Providing secure tenure is also posited as a means of ensuring that land is used in an environmentally sustainable fashion. Ensuring secure tenure is of economic, social and environmental benefit to the country and is therefore an essential land governance requirement. Many of the instances of insecure tenure in the Caribbean, however, are of such long standing and so well entrenched with state supported services provided (See Photograph 1) that perceptions of security are high. Only documentary security of tenure is lacking. Since many persons do not intend to use documentation to access credit, many in

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[3] http://www.jamaicaobserver.com/news/Dudus-Blow-by-Blow_7487253

informal areas request assistance with regularisation of planning informality and services provision as opposed to regularisation of tenure informality. These owners have been in occupation over many years and over many generations in some instances. Their lack of documentary security derives from a difficult to negotiate and expensive land registration process. Many of the countries of the Caribbean have already embarked on land adjudication/land titling projects with the theoretical imperatives in mind as shown in Table 5. In 2003 Jamaica estimated that 45% of the estimated 1 million parcels were not formally registered. Jamaica embarked on intensified attempts at voluntary systematic adjudication where the land owners pay to get onto the register if they so desire. These attempts were conducted between 1989 and 1996 and again between 2002 and 2005. It was found that public participation was lower than anticipated (Clarke and Allen 2006) as is usual in voluntary registration programmes. Antigua, Anguilla, British Virgin Islands, Cayman Islands, and St. Lucia stand out as having completed 100 percent registration and mapping of their countries as shown in Table 5. However, it has been found that even when comprehensive mapping and registration has occurred, the information can becone outdated and the tenure creep back into informality as persons neglect to register death and inheritance.

Photograph 1. Well Established Insecure Tenure

The other countries have not had as successful a process as they continue a much attenuated programme that magnifies the cost of the activity. Trinidad and Tobago is reluctant to begin the process even though the legislation has been passed since a large amount of state land that has been occupied will be titled in the name of the occupant under this current legislation. Jamaica is pursuing voluntary adjudication and titling even though this process is well documented to fail in its ability to deliver a comprehensive database of land ownership because the alternative of a state financed compulsory process would be too costly. Barbados is performing precise cadastral surveys in its programme even though this process is more time consuming than the general boundary process undertaken by St. Lucia. This situation indicates that a clear determination of the objective is necessary before the programme is undertaken. The criteria of low cost,

timeliness and comprehensiveness are usually mutually exclusive in this activity and therefore one has to detemine which objective takes priority.

3.3 Family Land

Family land is a separate but related issue to the insecure tenure. Both forms of tenure may have the same genesis; historical occupation or unregistered inheritance. The difference is that amongst the family land owners, the land is not informally subdivided and sold but remains within the ownership of the entire family. It is recognised that in the Caribbean, as elsewhere with customary tenure, family land tenure provides more than an economic benefit but also kinship to communities, a source of pride and a refuge in economic adversity (Besson 1987; 2003). Most legal professionals, however, see absolutely no virtue to the continued existence of the tenure form and this view is supported by an increasingly modernised and urbanised family land membership. The demise of family land as a tenure form and a cultural practice as development continues may be inevitable. However, the sudden imposition of a more individualised form of tenure on the existing family land communities may not be accepted and therefore may not be sustainable.

Table 5. Land Registration Programme Initiatives in the Caribbean

Country	Registration system	Date of Registration	% registered	% parcels mapped	% Informal
Anguilla	Title (English)	1972-1976	100	100	0
Antigua	Title (English)	1977-1980	100	100	0
Bahamas	Private	1928-		30	
Barbados	Title	1988-	10	10	<1
	Deeds				
Belize	Title (English)	1977-	8	8	
	Title (Torrens)	1861-			
	Deeds	1857-	51		
Bermuda	Private				
British Virgin Islands	Title (English)	1970-1974	100	100	
Cayman Is.	Title (English)	1973-1977	100	100	
Dominica	Title (English)	1883	50	0	
	Deeds				
Grenada	Deeds			0	15
Guyana	Title (English)	1960-		65	29
	Deeds				
Jamaica	Title (English)	1890	45	60	45
	Deeds	1841			
Montserrat	Title (English)	1978-			
St. Kitts-Nevis	Title (Torrens)	1886	50	0	4
	Deeds				
St. Lucia	Title (English)	1983-1987	100	100	45
St. Vincent-Grenadines	Deeds				

Trinidad & Tobago	Title (Torrens)	1892	15		47
	Deeds		35		
Turks & Caicos Is.	Title (English)	1967-1970	100		

Adapted from Johnson (2009)

A related situation is the resistance of the Barbudan community to have communally held land on Barbuda become individualised (Potter and Sluyter 2010). Historically, the land in Barbuda was held communally by the inhabitants who lived there. The Barbuda Land Act, 2007[4] was instituted to formalise the reality of this tenure. The Act states that the land is communally owned, that the inhabitants have the rights to use the land for specific purposes, and that the inhabitants cannot alienate the land and use rights whether by sale or prescription. The Act also establishes a Barbuda Council as the body authorised to manage the land and its use including leasing the land. This is a positive mechanism and initiative to acknowledge, recognise and lend support to an existing tenure form.

Amongst the countries of the Caribbean, St. Lucia stands out as having implemented good governance practice in completing compulsory systematic titling of the country in 4 years in a successful programme while providing a means of securing tenure for the large family land groupings.

3.4   Illegal Occupation (Squatting)

Illegal occupation or squatting primarily on state lands and inclusive of forest reserves is a problem in Trinidad and Tobago, and Jamaica (Williams 2003) together with long established informal occupation on private land. An internal self-governance similar to that on family land obtains in many of these informal settlements where an active informal land market often flourishes. While the presence of these occupants indicates a failing in the governance that should provide alternatives for housing to the landless, their activities and a lack of enforcement of laws against the practice, send a message to the law abiding that lawlessness is rewarded. This can lead to a ripple effect of flouting of laws in the society. Antigua and Barbuda has a population of 3000 squatters on state land who originate primarily from the Dominican Republic. Again, here the state attitude towards the squatters is lenient as it should be if sufficient alternatives are not provided. Even so, there should be structured programmes to address the informality as it is linked to poverty, poor health, crime and lack of sanitation. Illegal occupation occurs in many areas ill suited for dwelling as shown in Photograph 2; on treacherous and unstable slopes, in low-lying flood prone areas and on river banks, and in vulnerable watersheds. The results are usually destruction of property and even loss of life in the rainy season and contamination of water supplies from unregulated waste disposal. Trinidad and Tobago claimed more than 25,000 squatter households on state lands since prior to 2000. Jamaica claims that a quarter of their population lives in squatter settlements[5]. With continued squatting, it is estimated that the current figure is much larger and still does not take into consideration squatting on private lands which has not been quantified.

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[4] http://www.laws.gov.ag/acts/2007/a2007-23.pdf
[5] http://www.jamaica-gleaner.com/gleaner/20090213/business/business15.html

Photograph 2. Squatting on slopes and along highways

There have been attempts to regularise informal occupation on state lands in Jamaica, St. Lucia and Trinidad and Tobago, among others. In St. Lucia there is the Programme for the Regularisation of Unplanned Development (PROUD), in Dominica and Trinidad and Tobago, the Squatter Regularisation Programme[6]. However, there have been few attempts to address the problem on private lands as well. Engaging private enterprise in the regularisation activity on both state and private lands and to address both planning and tenure informality would reduce the burden on the state to provide solutions and resources.

3.5   Bureaucratic Land Registration Procedures

Bureaucratic land procedures delay or deny access to land to vulnerable populations. They also invite corruption, rent seeking and further delay to persons who do not conform to these unethical practices. Acknowledging the presence of the corrupt practices invites the suggestion that even more checks and counter checks are required to reduce the incidence of corruption. There have been countless projects instituted, using foreign funding and foreign expertise, to increase efficiency in the state agencies responsible for land administration and land governance. It has been found that while these projects temporarily improve the status of the activity by installing new technologies and methodologies, the improvement ends with the end of the project as technology becomes out of date, is not maintained or is under-resourced. The capacity of the local institution is seldom built sufficiently to continue the project.

In Trinidad and Tobago the Freedom of Information Act, 1999 was enacted to provide the characteristics of good governance; listed as transparency, accountability, equality of access, empowerment and increased participation, on a national level to the country. While this is a laudable initiative, in practice generally and particularly in the area of land administration and land tenure, the action is difficult to achieve. Since much of the information is still held in analogue format it is difficult to access information on the formal ownership of a parcel of land without already having some knowledge of who owns it. Since most land is registered under the deed system of registration, even though the more recent deeds have been scanned and indexed, access to information is usually only available by searching on the name of the owner or the deed

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[6] http://www.caribbeannetnews.com/cgi-script/csArticles/articles/000013/001328.htm

number, neither of which may be known by a prospective purchaser who observes a parcel in a particular location and would like to purchase. Inter-agency collaboration is also restricted as each agency attempts to preserve its hold on data in an effort to ensure its continued existence, and in order to demonstrate productivity and profitability of its services. There is also no collaboration in terms of the format and standard of the data so exchange of data is rare and difficult.

3.6   Land Conflict and Equity

Land conflict is an indicator that governance is lacking. The Bahamas has estimated that 25% of the land is in dispute (Stanfield et al 2003).

Land use conflicts are also relevant as the available land is small in these islands but the competing uses are many. Tourism use conflicts, sometimes very uneasily, with social uses especially at beaches, at coastline interfaces, and in forest and nature reserves.

3.6.1   Ethnicity and Equity

Primarily in Guyana and Trinidad and Tobago, ethnicity provides a factor for conflict in distribution of land by the state and claims of inequity. Descendants of African slaves point to the fact that some Indian indentured labourers received land in lieu of their passage back to India when the indentureship period was completed as providing a historical disparity in land holding that should be equalised. Descendants of the Indian indentured labourers, on the other hand, claim that few got land and that the land was marginal. The historical settlement patterns created by the emancipated slaves moving away from the plantations and toward the towns and the indentured labourers remaining near the sugar cane estates, still persist even though in less marked fashion. Any perceived difference in land resource distribution is therefore sometimes seen as being racially motivated instead of spatially derived. Since the two major political parties are seen as representing the two ethnicities, any land distribution programme engaged in by either party in power is seen as either targeting their own or targeting the other constituency to win votes.

3.6.2   Gender and Equity

Gender issues are not perceived to be significant in many quarters in the Caribbean since females outperform males in all levels of education and since women fill many senior, key positions in the public service and in government. There have been female prime ministers in Dominica, Jamaica and currently in Trinidad and Tobago even though this is a small percentage of the total number of heads of government over time and amongst countries. The belief is that women are provided more often than men with sympathy and assistance (Griffith-Charles 2004). The reality is that many female headed households exist that have inadequate tenure on land (Griffith-Charles and Opadeyi 2009). The Ninth Commonwealth Women's Affairs Ministers' Meeting (9WAMM) was held in Barbados in June 2010 with a preceding Partners Forum to provide a statement from civil society to the Ministers of the concerns required to be addressed. It was noted that land tenure was required as one of the necessary factors of production, as a source of credit and finance for entrepreneurial activities for women, and as a source of empowerment for

women singly and as heads of households. Legally there are few current restrictions to women accessing and holding land, however culturally and in practice some disparities exist.

3.6.3   Local Communities and Equity

The islands that are seen as being the most attractive tourist destinations inclusive of Barbados, St. Vincent and the Grenadines, St. Lucia and Tobago have all witnessed with growing consternation the loss of land to foreign ownership. In a bid to ensure access to land for local populations and to monitor the scale of the migration of ownership, some have put in place the requirement for a licence to purchase land and restrictions on the area of land parcels being purchased by foreigners as shown in Table 6. Trinidad and Tobago, under the Foreign Investment Act, limits foreigners, who require a licence, to the purchase of only one parcel of residential land with no subdivision permission. In St. Lucia, foreigners must apply for an Alien Landholding Licence and foreign sellers must pay an additional 10% vendors tax. In St. Kitts and Nevis, foreigners pay an additional 10% for the Alien Landholding Licence. Jamaica and Barbados have no restriction on foreigners purchasing land. Grenada requires an additional 10% and an Alien Landholding Licence. Anguilla requires an additional 12.5% of the value and an Alien Landholding Licence for parcels up to half an acre. Turks and Caicos has no restriction. St. Vincent and the Grenadines requires an Alien Landholding Licence and planning regulations require that any permanent structure be at least 12 metres from the high water mark but this is sometimes flouted. While the influx of capital from foreign investment is attractive to the state, it is also worrisome that the profits garnered from the development of tourist resorts are usually lost to foreign bank accounts with only the wages to low level service staff remaining in the country.

Table 6. Attitudes to Foreign Land Ownership

Country	Alien Land holding licence required	Additional Tax
Trinidad and Tobago	Yes	No
St. Lucia	Yes	10% vendors tax
St. Kitts Nevis	Yes	10%
Jamaica	No	No
Barbados	No	No
Grenada	Yes	10%
Anguilla	Yes	12.5%
Turks and Caicos	No	No
St. Vincent and the Grenadines	Yes	

There have been programmes to address inequity of tenure in many of the countries. Nationalisation of land proved to be a burden on the land management abilities of the state. In Trinidad and Tobago the sugar cane growing and sugar production factory, Caroni, after nationalisation, went through many years of being an economic drain on the state before being closed and the land distributed to the former workers. It is yet too early to tell if this intervention will result in a more productive agricultural sector.

3.6.4   Post Disaster Equity

Good governance on land must also put in place contingency plans for when governance structures are challenged.   In times of disaster, immediately afterward and in long term reconstruction, land tenure and access to natural resources are required to be well managed or equity is put in jeopardy.   In the Caribbean, where natural disaster may not mean violent conflict but may mean annual hurricanes, increased risk of flooding, intermittent volcanoes, as in Montserrat, and, as was seen in Haiti, earthquakes, plans must be put in place for reinstating tenure and civil society after the disaster.   Hurricane Ivan in 2004 wantonly destroyed Grenada resulting in a need to reinstate tenure and protect the tenure of vulnerable groups without documentary evidence of land rights.   Haiti is still experiencing land grabbing and evictions without a pre determined process to manage the impact of the disaster on land tenure.   It should therefore be acknowledged that governance of land tenure does not end in the event of a disaster but is one of the primary factors that should be reinstated in order to return the country to normalcy.   After disaster, women and girls stand to be affected more readily than men and boys so plans must be gender sensitive to protect their tenure in the instance of loss of the male family head and breadwinner.   In Haiti, many male heads of household died in the earthquake leaving heirs to defend their inherited land rights without documentation in most cases.

3.6.5   Indigenous Populations and Equity

Equitable distribution of lands to vulnerable populations is an issue that has been successfully addressed in some of the countries.   Throughout the Caribbean the indigenous peoples were decimated by war or disease in the initial encounters with the colonisers.   Some small pockets of indigenous people remain but most were assimilated into the larger ethnic groups.   Within recent years the remaining populations that identify with the heritage have found a voice, supported by international organisations of indigenous peoples[7], to demand acknowledgement and restitution of access and tenure to traditional enclaves.   In 1987, the Caribs, the indigenous group in Dominica, were allocated 3,700 acres of land in Dominica in the Carib Territory.   A Carib chief and Carib Council provide the governance within this community.   Transactions in land may occur within this territory amongst members.   This example can be a guideline for not only other indigenous populations but this model can be adapted to other communal groups such as family land.   Guyana has an indigenous group that makes up 10% of the population.   An Amerindian Act of 2006 secured their tenure to the land they customarily occupy.   However, defining the limits of these lands has proved challenging to the Guyanese and the Amerindians continually feel that they must defend their boundaries and their rights from the authorities[8].

3.7   Land Taxation

As a consequence of the lack of secure documented tenure, there is a contingent inadequacy of the tax roll in many of the countries.   This latter failing impacts on the income stream of the states primarily at local government level and therefore the ability of the communities to determine and control the development at this level.   It also impacts on another opportunity to maintain an information system that would support land management and governance decisions.

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[7] http://www.centrelink.org/
[8] http://www.reuters.com/article/idUSTRE65T6UW20100630

Dominica and St. Kitts and Nevis, for example, have no land tax. Attempts to increase property taxes to improve revenue are met with strong resistance and protestation from civil society. Jamaica estimated that 50% of landholders were not on the tax roll (Stanfield et al 2003). A revision of the land and building taxes to a property tax in Trinidad and Tobago was met with strong resistance and protests and was abandoned with a change in government in 2010. Many of the islands are considered to be too small to have a separate local government system that would manage the tax revenue for local services provision. Barbados for example, has no local government system.

Land and property taxes, even though usually touted by property rights theorists as one of the benefits to the country of land titling, has been found to lead to loss of land and increased insecurity in some instances as well. Good governance must ensure that the introduction and the implementation of the tax is just and equitable and that there should be recourse for those who wish to query the valuation or who wish to declare an inability to pay.

3.8 State Land Management and Institutions

The countries that have a state land management issue because of the quantity of state land held and leased and therefore required to be managed include Guyana, Jamaica, Belize and Trinidad and Tobago. The magnitude of state land holding in the Caribbean countries ranges from 0.9% of all land in Barbados to greater than 90% of the land in Guyana as shown in Table 7.

Table 7. State/Crown Land Holdings by Country

Country	Area (sq. Km)	% Area State Land (estimated)
Anguilla	0.1	
Antigua	0.44	42
Bahamas	13.9	70
Barbados	0.43	0.9
Belize	22.9	57
Bermuda	0.05	
British Virgin Islands	0.15	40
Cayman Islands	0.26	
Dominica	0.75	50
Grenada	0.34	10
Guyana	215	90
Jamaica	11.0	20
Montserrat	.10	
St. Kitts-Nevis	0.26	82
St. Lucia	0.62	38
St. Vincent-Grenadines	0.39	25
Trinidad and Tobago	5.12	53
Turks and Caicos Is.	0.42	

Adapted from Johnson (2003)

Jamaica has instituted the establishment of semi-autonomous agencies primarily in the land sector to improve the efficiency of and to reduce the waste and delay of land related transactions.

The creation of these executive agencies began in 1999 with the establishment of the following agencies:
- Registrar General's Department (RGD)
- Administrator General's Department (AGD)
- Management Institute for National Development (MIND)
- Companies Office of Jamaica (COJ).

In 2001, the following executive agencies were formed:
- Jamaica Information Service (JIS)
- National Land Agency (NLA)
- National Works Agency (NWA)
- National Environment & Planning Agency (NEPA).

In Trinidad and Tobago a comparable policy to create special purpose companies for more efficient and productive land management led to the creation of:
- Urban Development Company of Trinidad and Tobago (UDECOTT)
- Housing Development Company (HDC)
- Estate Management and Business Development Company (EMBDC).

These agencies were overlaid on the several existing authorities that manage state land:
- The Commissioner of State Lands (CoSL)
- The Land Settlement Agency (LSA)
- Caroni (Sugar cane company)
- Chaguaramas Development Authority (CDA)
- Petrotrin (oil company)
- Property and Industrial Development Company of Trinidad and Tobago (PIDCOTT)
- Sugar Industry Labour Welfare Committee (SILWC)
- Evolving Technologies and Enterprise Development Company Limited (eTecK).

Guyana also created in 2001 the Guyana Lands and Surveys Commission to provide more efficiency to the regularisation of tenure, management of state lands and land leases, planning and policy preparation.

It has been found that the proliferation of agencies to manage land results in overlapping responsibilities and conflicts over authorities. In Trinidad and Tobago for instance, the LSA dismantled and removed squatters households until a court decision indicated that only the Commissioner of State Lands had that authority. The new agencies also lack capacity borne of institutional memory and experience leading to mistakes in the operations of the newly formed spin-off agencies.

The increased autonomy provided to these companies also increased the governance responsibilities.

Tenure on state lands is provided through leases of 25, 30 or even 99 or 199 year leases in these countries. Transactions of mortgage and sale are possible on state lands with the consent of the landlord so that credit institutions willingly enter into transactions knowing that their willingness is based on the value of the property and the ability of the lessee to pay.

3.9   Natural Resources Tenure

There are few natural resources in the Caribbean that can be exploited for economic benefit. Trinidad and Tobago remains the most prosperous of the Caribbean nations in terms of natural resources owing to its petroleum and natural gas exploitation and exportation. Jamaica is also fortunate to be able to exploit its bauxite for aluminium production and exportation. Guyana counts as its major natural resource the vast amounts of land it possesses. Other than these examples, the islands have to maintain the environment to attract income from tourism. St. Lucia declared the Pitons as a World Heritage Site to preserve the characteristics for which the location is known. The Pitons Management Area was declared a World Heritage Site in 2004 but the enormous economic potential of the areas from a tourism perspective is threatening the sustainability of the area.

3.9.1   Quarrying

Illegal and unmonitored quarrying of material for building purposes plagues many of the countries that are undergoing development and construction. In most instances there is little or no rehabilitation of the denuded and scarred landscape after extraction is exhausted. Jamaica requires that a bond be in place for the rehabilitation of the land after quarrying is complete prior to the issue of the licence. Trinidad and Tobago has found that quarrying activity occurs at night or on weekends when the staff responsible for monitoring the activity of quarries is unavailable. Fisheries are often over exploited, affected by development or the rights to the activity are challenged. Tenure information on the rights to use these resources therefore needs articulation and input from international best practice or wise practice.

3.9.2   Coastal Zone

The coastal zone has become a contentious area over many years with development impinging on traditional access to the beach for recreational and livelihood use. Notably, Barbados, St. Lucia and Trinidad and Tobago have had incidents that have escalated into violence in regard to beach access. Most of the former British colonies such as Barbados and Trinidad and Tobago have received British law resulting in ownership seaward of the high water mark being in the ownership of the state and lands landward of this high water mark being allowed to be vested in private ownership. St. Lucia, formerly a French colony, has a system of French Civil Code and a Queen's chain law and Tobago has a Three Chains Act that restrict private ownership for a strip of land landward of the high water mark. In both instances the legislation was instituted for placement of fortresses and canons and other war and security reasons but has come to be used conveniently for the protection of public right to use the coastal area. Barbados has found difficulty in managing the high values of beach properties, providing access to the beaches for the public and managing the allocation of accreted beach lands. The high valued coastal lands with high tourism earning potential are priced out of the reach of all but the most affluent locals and foreigners. Access routes to beaches, especially those routes that the public has acquired rights to by prescription after many years of use, are sometimes blocked by new private owners and have been the focus of much dispute and protest. The subdivision and assignment of accreted coastal land has not been sufficiently aired in court or discussed among land professionals to develop a local precedence for handling the process. Each instance of accretion must be taken to court and adjudicated on individually to determine not only if the accretion

occurred in a slow and imperceptible manner but also if it was of natural causes before deciding on whether and how to allocate the accreted area. If the matter is not dealt with, the occupant of the accreted area remains in insecure tenure or the area can become a source of conflict over the rights to use and occupy. In St. Vincent and the Grenadines most of the prime beachfront properties are now owned by foreigners. Almost two thirds of the island of Canouan in the Grenadines has been leased by the government to foreign developers for a hotel complex resulting in great dissatisfaction on the part of the natives. The ensuing riot had to be quelled by the police. The narrow footpath that the public has been allowed to retain for access to the beach is felt to be inadequate (Cambers et al)[9].

Land use is not only regulated by legislation that grants rights and entitlement to use land but use can also be regulated by restrictions contained in planning legislation and policy and also by responsibilities that are bestowed on land occupants and users or that they take upon themselves through ethical or cultural practice. Good governance is the use of the mechanism that requires the least effort and resources to effect and the knowledge of when one mechanism is not the most efficient and should be supplanted by another. Climate change and sea level rise have and will continue to have a disproportionately larger impact on the small island developing states (SIDS) in the Caribbean as opposed to the continents. Photograph 3 indicates how these increasing impacts must be mitigated by changes in land use regulations and monitoring and enforcement to prevent economic and social repercussions. The Caribbean is experiencing loss of land, erosion, and coastal flooding in greater proportions than previously felt . One development can block off an entire beach from being accessed by the public and by fisherfolk. Reclamation is also a problem in Trinidad and Tobago. Reclaimed land remains the property of the state and therefore requires approval for any development but this law is flouted and reclamation goes on primarily in the high valued coastal areas of the northwest. Unregulated reclamation damages marine habitats and mangroves or creates current changes that cause erosion or accretion along adjoining coastal areas.

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[9] G. Cambers, A. Muerlig-Hofmann, D. Troost. Coastal Land Tenure: A Small-islands' Perspective. http://www.unesco.org/csi/wise/tenure.htm

Photograph 3. Escalated impacts of erosion

3.9.3 Marine Environment

Tenure conflict over natural resources does not stop at the high water mark as the close proximity of the islands means that the economic resources of the marine environment are sometimes the subject of dispute. For example, Barbados historically has fished in the waters between Barbados and Trinidad and Tobago for Flying Fish, which is known as the national dish of Barbados. The migration of this species of fish to areas closer to Tobago escalated a dispute over the rights to fish as opposed to the territorial rights to occupy between the countries. Barbados complained that the customary fishing of their fisherfolk in the waters close to Tobago of Flying Fish, was being impeded and challenged by security forces in Trinidad and Tobago. In 2004 the countries agreed to go to arbitration under the jurisdiction of the United Nations Convention on the Law of the Sea (UNCLOS) to determine the fishing rights issue. The issue was expanded from one of fishing rights to a territorial issue inclusive of defining the limits of the Exclusive Economic Zone (EEZ) between the two countries. In 2006, the decision of the arbitration court was handed down stating that Trinidad and Tobago had an obligation to negotiate in good faith with Barbados for a peaceful agreement that took into consideration the traditional rights and the sustainability of the resource[10]. The continued and sustainable use of the fish resources would therefore require ongoing negotiation and discussion between the two parties.

3.9.4 National Land Information Systems

Governance of natural resources and natural resources tenure at the national and regional level require databases linking the resource to the rights and the rights holders. All the corners of the region do not possess the access to the technology required to acquire and maintain the information nor are the linkages present to allow information to be accessible to those who wish to or are charged with the responsibility to manage. Organisations such as Caribbean Natural Resources Institute (CANARI), Caribbean Land and Resources Network (CLAWRENET) attempt to acquire and maintain data on the natural resources in the Caribbean.

3.9.5 Environment

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[10] http://untreaty.un.org/cod/riaa/cases/vol_XXVII/147-251.pdf

Environmental issues have become politically powerful tools. Over the last few years the issues of siting of cellular phone transmission towers and the issue of aluminum smelter industry have been prominent in the Trinidad and Tobago public space. Protests from community groups and demands for removal of cell towers from the vicinity of residential neighbourhoods have come from community groups. Similar protests and demands for removal of the building equipment for the smelter plant also came from community groups. Most of these initiatives have been championed by university lecturers with opposing stances to the safety assurances of some of the literature. A less confident and less scientifically supported voice usually comes from persons in the community seeing the financial benefit to come from a lease of their land to house the cell tower or the jobs provided by the fledgling smelter industry. This dichotomy of views makes the final governance decision to curtail the action or forge ahead difficult. Good governance would allow full public consultation and participation by all groups not only the most vociferous.

Eco tourism needs to be supported by recognising alternative tenure forms such as land trusts where environmental protection and preservation can be a private concern with private governance of boards and trustees. This can reduce the responsibility of the state which has been lax in the enforcement and policing of environmental laws and regulations.

4 Examples of Good Governance in Land Tenure in the Caribbean

Good Governance is required to demonstrate certain key characteristics as detailed by FAO (2007). A list of 12 characteristics is provided in the document including those of efficiency, effectiveness, responsiveness, transparency, and consistency. The following examples of good governance in the Caribbean display some of these characteristics.

4.1 Good Governance in Land Administration

Box 1. Jamaica's Good Governance in Land Administration

Jamaica stands out as having moved from a documented and articulated land policy in 1996 to the establishment of a National Land Agency and National Environment and Planning Agency with alacrity. Under this structure the country has quickly been able to embark on a pilot programme to systematically/sporadically title land for those in insecure tenure who voluntarily wish to improve their tenure. An online interface provides land occupants who subscribe to the system with information and access to documents[11]. Under the practical measures for improving governance in land tenure and administration documented by FAO (2007), this initiative stands out as a method of improving systems and processes to achieve the aim. It also provides transparency for the public. While the process is not optimal and can be improved in many aspects, the speed of implementation, the provision of access to people in insecure tenure, the use of technology to increase access to information are all positive aspects to this initiative.

Box 2. St. Lucia's Good Governance in Family Land Tenure

St. Lucia has demonstrated good governance in the successful titling and registration programme completed that strengthened the security of land tenure amongst the family land occupants by using the mechanism of titling in the name of the family such as 'heirs of Smith'. It has been noted that retention of the family land tenure allows for the beneficial aspects of providing subsistence to members in difficult economic times (Dujon 1995) as well as maintains cohesive community spirit amongst members. In this instance the speed and comprehensiveness of implementation of the titling and registration programme, the inclusion and acknowledgement of the family land occupants, the sustainability of the system and the access provided up to the present to the public for the information housed, make this initiative a successful one that illustrates some of the characteristics of good governance. The sustainability and tenacity of the family land tenure form is also a positive aspect of its existance and indicates that the governance mechanisms have characteristics that should be adopted and replicated elsewhere.

Barbados in its land reform since independence in 1966 has focused on compulsorily acquiring the large estates tenanted by low and middle income earners, most of them descendents of former slaves, and transferring the subdivided land to the occupants. These owners in turn have, over the years become small scale landlords themselves and have rented or leased the properties. This programme in various updated manifestations and this pro-poor policy has gone a long way towards improving insecure tenure until today Barbadians do not have the significant squatting and insecure tenure problem that is found in Trinidad and Tobago.

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[11] National Land Agency, Jamaica. http://www.nla.gov.jm

4.2   Good Governance in Civil Society

Box 3. Asa Wright Nature Centre Good Governance in Natural Resources Tenure

There are good civil society natural resources tenure governance models in the form of trusts such as the Asa Wright Nature Centre (AWNC)[12] in Trinidad and Tobago. This organisation has performed responsible governance over many years and has had to engage in conflict, negotiation and protests to preserve the environment and defend it against loggers and quarry operators. The AWNC is a not-for-profit Trust that was established in 1967 by a group of naturalists and bird watchers as one of the first in the Caribbean. Since then it has provided conservation of approximately 1500 acres of forested land as a natural habitat for a rich collection of birds, butterflies, and mammals. It provides a tropical research facility for local and international visiting scientists and an eco-tourism destination for local, regional and international visitors. It is managed by a composition of local and foreign board members who are all interested in conservation. As a tenure governance model, the trust should be supported and encouraged by the state through legislation and policy to ensure that this example is replicated. A trust provides for governance of the tenure, and security and management processes that have legal support. Decisions are inclusive and participatory and also in keeping with the tenets of the group. Use is communal as well as costs, therefore providing for sustainability and not dependent on the fortunes of an individual land owner. While the AWNC was presented with a national award for its community service in environmental conservation, there needs to be more tangible evidence of support and recognition for this civil society initiative. National governance can support and encourage ventures such as this with not necessarily financial incentives but with tax waivers, creation of supportive legislation, and promotion of the tenure form.

In Barbados, in the 1980s, a civil organisation called 'Windows to the Sea' was established to ensure the provision of access points to the beach for inhabitants fearful of losing their heritage to tourism (Camber et al 2003). This project is remarkable for the fact that it was promoted by a civil society group and later supported by the state regulatory agencies and included in physical planning decisions. The group documented the situation and provided recommendations that included not only developing access routes and visible viewpoints but also suggested provision of beach facilities.

Trinidad and Tobago was lauded by UNHabitat for a programme that allowed landless groups to combine their efforts and resources to purchase land communally before subdividing amongst all the owners and then gradually improving and servicing the land[13]. This concept, known as Sou Sou land, indicates a best practice coming up from the society to provide governance to support solutions that may or may not exist at a national level. Some of the parcels acquired in this way did not meet with the assigned use determined by the planning authorities. The incremental method of services provision also was frowned on. This is a good civil society initiative that should be supported by national governance in a partnership agreement since it is of mutual benefit to the parties. If planning regulations are discussed and compromises reached, then this initiative can be replicated as a housing mechanism that would relieve some of the burden on the state to provide housing for the society. The recipients would also be able to achieve land

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[12] http://www.asawright.org/
[13] Habitat. 1986. Report on Settlements. Nairobi: UNCHS

acquisition that is affordable and which they can enhance over time. Low-income communities are often united and motivated to work towards improving their tenure and their lives. Community groups abound and are supported by some state programmes such as provision of community centres, recreation grounds, and communal water supplies. Photograph 4 shows a humble structure constructed by the community in which they could meet and manage their neighbourhood.

Photograph 4. Meeting place built and used by squatter community group

4.3   Good Governance in Informal Tenure

In Trinidad and Tobago, a state governed programme supported by appropriate legislation also provided an approach to gradual improvement of tenure security for persons in informal occupation of state land (McAuslan 2002). The Regularisation of Tenure Act 1998 allows occupants of state land to obtain a Certificate of Comfort that acknowledges their occupation if it began before and was continuous since prior to 1st January 1998. This provides the occupant with 'protection from ejectment' which is sufficient security of tenure in most instances, even though it cannot be used to access credit, for a usually risk averse informal occupant. There has been a continuation of squatting since the date specified in the legislation and though the Land Settlement Agency has been charged with monitoring and ejecting new squatters there are households who have remained undetected. Since the Act applies to a prescribed list of settlements on state lands, three suggestions to advance the initiative have arisen. These suggestions are; to expand the list to include settlements not previously listed in the legislation for regularisation, to expand the definition of state lands to include land vested in statutory bodies and state companies which also are affected by squatting, and to amend the threshold date to include more recent squatters. Despite these observed failings of the current legislation and the inadequacies in the alternatives to squatting provided, this initiative of recognising squatters and providing a legal foundation to the acknowledgement, remains a sound governance principle. Photograph 5 shows a burgeoning squatter community on state land scheduled for regularisation of tenure.

Photograph 5. Peri-urban squatting on state land

4.4 Good Governance in Natural Resources Tenure

The declaration of the Pitons Management Area as a World Heritage Site demonstrates good governance in natural resources tenure in the Caribbean. Despite the ongoing challenge of maintaining the site while defending it from the attraction of the economic benefits of tourism this initiative illustrates the need for flexibility in good governance. Situations continually change but good governance demands resolution of issues that arise while keeping the characteristics of good governance in mind. Nicholas et al. (2009) explore the difficulties of balancing the needs and desires of conflicting stakeholders in the attempt to use a participatory approach to the management of the site. Good governance is desirable but good governance is seldom easy to perform. Consensus may be difficult and even impossible to attain as the stakeholders become more disparate and the goals seem to be diametrically opposed.

Another example that demonstrates good practice in national, and civil governance and also in natural resources tenure is the story of the Fondes Amandes Community Reforestation Project (FACRP). Initially a small group of farming squatters in the hills of Fondes Amandes, occupying an important watershed on state lands managed by the Water and Sewerage Authority (WASA) overlooking the capital city of Port of Spain in Trinidad and Tobago, this group used their initiative to become a recognised contributor to environmental protection in the area. The group was first formed in the early 1980s under the championship of the late Tacuma Jaramogi and was continued by his wife Akilah Jaramogi. The NGO has organised tree planting, recycling, organic gardening initiatives within the area with a focus on preserving the environment. They have obtained grants to continue their efforts inclusive of a Green Fund[14] grant and a Global Environment Facility (GEF) UNDP[15] grant and have been unofficially

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[14] An initiative set up by the Trinidad and Tobago government and managed by the Ministry of Planning Housing and the Environment. See http://mphe.gov.tt/home/
[15] http://sgp.undp.org/web/projects/14084/green_wave_tree_planting_caravan.html

allowed to remain in informal occupation of the area. Even though this concession to the occupants may seem to be sufficient when their initial occupation of the land is considered, this is an instance when good governance would require the state entering into some partnership arrangement with the occupants. In this scenario, a lease or trust can be established to improve the security of tenure of the occupant as the positive and mutually beneficial land use is continued.

5 Major Issues for Voluntary Guidelines for Good Governance in Land Tenure in the Caribbean

This report has indicated the major issues hampering governance in the Caribbean and has highlighted some instances where successful good governance has been achieved. Some failures have resulted from experimental attempts at activities that have been attempted elsewhere without close examination of the indirect negative effects. While real world experiments do not always result in the intended result because of exogenous factors, there is a need for continuous monitoring of programmes to observe outcomes and to modify processes so that the objectives are beneficial. Some key issues resonate in the Caribbean, however, and these are listed here as being of importance where those in governance are concerned. These recommendations may be of interest to the voluntary guidelines for good governance and natural resources tenure in the Caribbean. Deriving not only from what has failed in the Caribbean in the land reform activities but also from the successes of the land reform efforts, the following list of guidelines can form part of the discussion on processes that states in the Caribbean can adopt.

5.1 Documentation and Articulation of Governance Objectives

There is a need for states to provide clearly articulated and documented land policies that have stated objectives and priorities. This would provide direction for programmes to focus on a primarily economic, social or environmental aim depending on the state of development of the individual country. This in turn would make governance stronger and simpler with a clearer mandate. Social aims are imperative for those countries that are at low levels of development. A focus on secure tenure, equity in land holding for vulnerable communities and segments of the population can provide the impetus and the encouragement for land based entrepreneurial activities at a low level. At later stages the focus can shift to more economic imperatives with environmental protections being a larger part of the development objectives introduced as development becomes entrenched. Since there is always a balancing act to be performed, all three major objectives of economic, social and environmental aims will not be equally and evenly achieved. Governance, however, should be sure of its mandate and how this guides decision making at any one point in time. If citizens are aware of the goals, they can accept and be supportive of the process to attain the goals.

5.2 Good Governance of Technology Use

Information technology can provide efficiencies in governance if planned and used optimally. A database on land ownership can assist with governance decisions. This knowledge can lead to decisions on how best to approach the land titling process. Voluntary adjudication and titling increases the overall cost, human resource requirement and time required for achieving a comprehensive database. It has been shown that compulsory, systematic adjudication is much more effective for obtaining a comprehensive and complete database of all existing rights. If cost is an issue, it is more effective to target vulnerable communities for comprehensive compulsory systematic adjudication and titling and for information system establishment and maintenance. Various techniques currently available such as remote sensing, satellite imagery, GIS can be used to provide current and historical information upon which governance decisions can be made. Even where formalisation of tenure or the recording of formalised tenure is not the

main goal, acquiring and maintaining information on all existing tenure whether it is informal, illegal or customary is good governance. Knowledge of the extent and trends in the tenure types that are other than the formal would assist in management and service provision to these communities. While the technology can be effective, the resources and the capacity to maintain the system current and accurate are often lacking or difficult to achieve. The long term view of what is required to maintain the system is necessary to prevent losing the value of the entire dataset.

5.3   Support for Good Governance in Informal Tenure

Supportive mechanisms for family land communal tenure are necessary so that the society experiences the positive aspects of this tenure form. The governance that already exists within these communities can be harnessed to relieve the state from some of the responsibility. This guideline has the characteristics suggested of good governance; efficiency and effectiveness from being locally responsive to the family land communities, and being participatory. Good governance has been demonstrated by the continued existence of the tenure form especially in some pockets of the Caribbean such as St. Lucia, Grenada and Trinidad and Tobago. This illustrates the sustainability of the governance system and the tenure form.

5.4   Good Governance in Data Dissemination

There is a tendency for governance in the Caribbean to guard data securely. Providing free and unrestrained access to land ownership data can be a surrogate for transparency and can provide the controls required at no cost. If data is public, attempts to change and corrupt data or to restrict processes until a fee is paid would be easily seen. Many in the Caribbean are fearful of publication of private data. Many view enquiries about their ownership of land and property very suspiciously. Some fear that their lives or property would fall victim to criminal activity if widely known. This aspect needs to be not only managed but the public needs to be educated about how the publication of land tenure data is implemented in developed countries and whether there are negative impacts.

5.5   Well-resourced Good Governance

Monitoring and policing land use activity by the state must be well resourced. Where the state assumes all responsibility for monitoring of activity and it is clear that the civil society is not yet ready and capable of accepting some of this responsibility, then resources should be provided to ensure that the efforts are serious and not half-hearted. Photograph 6 shows an instance of state constructed terracing of land to stabilise a slope that could affect major construction. Land reform programmes should be supported beyond the initial lifespan of their establishment. It is only after initial establishment and continued implementation of the programme that impact assessments can be made to determine the success or failure of the programme. Governments sometimes lose interest in a programme, especially where it is the initiative of another regime or sufficient political mileage cannot be obtained from publicising the outcomes.

Photograph 6. State terracing of slope to protect construction

5.6 Civil Society Acceptance of Responsibility

Civil society must take responsibility for governance in the community and at national level as well. Many NGOs exist that would appreciate the acknowledgement and support that could be provided to allow them to take responsibility for much of the governance especially in areas of sustainability of land use at the local community level. Allowing and providing support for participation at community level would be a characteristic of good governance thtat would ensure that the voices of the individuals are heard. Caribbean societies are said to be passive, looking to national governance to provide solutions, but if they are supported in building their capacities to participate, great benefits will accrue to the communities and to the societies as a whole. When communities see that they are the immediate beneficiaries of their actions, they would be motivated to act more readily and to give more of their efforts.

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