Slashing the time to register property from 18 months to 15 days

Roger Coma-Cunill and Marie Delion

Honduras's property registry system was obsolete. Its 24 national registries were in dire need of staff and technology. Registration was done by hand in books. The "personal folio" system recorded the name of the owner and a brief description of the property but did not link the owner to the location. A citizen could know whether a neighbor sold his property 2 days before but could not be sure which of his 2 properties he sold. Was it the one next door or the one in back of the house?
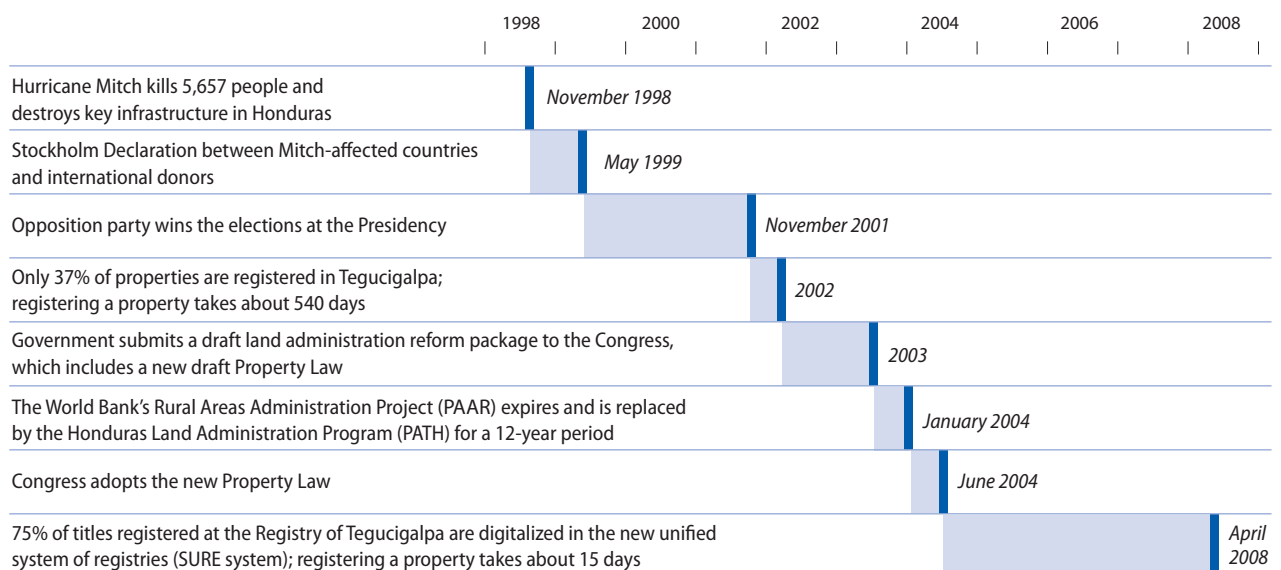
This system created instability in the real estate market. The same property could be registered 2 or more times by different owners, leading to painful litigation. Citizens distrusted the registry because of its inefficiency—registering immovable property took 1–2 years. In 2002 only 37% of properties in the capital city, Tegucigalpa, were registered. The system was ripe for reform.

Today, land administration reform and, especially, a new property registration system have increased confidence, bringing higher standards for efficiency and security. The modernization slashed the time to register a property transfer from an average of 18 months to 15 days

FIGURE 1

Timeline of property reform in Honduras

Source: Doing Business database.

Event	Date
Hurricane Mitch kills 5,657 people and destroys key infrastructure in Honduras	November 1998
Stockholm Declaration between Mitch-affected countries and international donors	May 1999
Opposition party wins the elections at the Presidency	November 2001
Only 37% of properties are registered in Tegucigalpa; registering a property takes about 540 days	2002
Government submits a draft land administration reform package to the Congress, which includes a new draft Property Law	2003
The World Bank's Rural Areas Administration Project (PAAR) expires and is replaced by the Honduras Land Administration Program (PATH) for a 12-year period	January 2004
Congress adopts the new Property Law	June 2004
75% of titles registered at the Registry of Tegucigalpa are digitalized in the new unified system of registries (SURE system); registering a property takes about 15 days	April 2008

The reform team—rich in political experience

There was broad consensus about the need for reform. The question was how to do it.

On 30 November 2001 Ricardo Maduro became the 2nd president from the National Party to be elected since the reestablishment of democracy in 1982. Luis Cosenza was named as his vice-president, and Jorge Ramón Hernández Alcerro, as the minister of homeland security and justice. The government envisioned modernizing the real estate registry not as a standalone reform but as part of a larger initiative: the land administration reform.

Someone with a strong political background was needed to spearhead the reform. Henry Merriam, former mayor of Tegucigalpa (1976–80), had the experience to act with a lower profile and strike consensus across political parties to obtain Congress's support.

He was appointed to head a special unit inside the government that would implement the reform, the Project Coordination Unit. He would have direct access to the President and manage funds from international donors. Immediately after the appointment, Merriam staffed the Project Coordination Unit with a small team of lawyers and land specialists and started working on a new land administration reform law. That work was instrumental in drafting the new property law.

The most innovative property law in Latin America

In 2003 the government submitted to Congress a draft land administration reform package composed of 5 draft laws: Framework law of water and sanitation, Law of territorial planning, Property law, Forestry law, and the General Law on water.

The new property law had 2 interlinked objectives. One was to create the institutional and legal framework for a more efficient system of property rights that would reduce transaction costs and activate capital markets. Another was to regularize the situation of properties under dispute and help regularize the land claims of indigenous people. International experts considered it "the most innovative property law in Latin America"—for 2 reasons.

First, the draft law transferred responsibility for the property registry from the judiciary, where it traditionally resided in Latin America, to the executive. The law created a decentralized government agency, the Property Institute, to manage a new computerized system on property data, accessible to the public. It would also be responsible for the regular operations of the registries of immovable property.

Second, the law introduced a new registration system, the "real folio" technique, to make property registration easier, cheaper, and safer. The starting point of the reorganized system would be the location of the property and its cadastral record. The idea was to connect the registry records with geo-referenced cadastral information in a central electronic database. Parties involved in a sale and purchase would then be able to verify the ownership and encumbrances of the property online. That would make the registration process more convenient— and more secure.

The technical challenges ahead were significant. Tegucigalpa had a registry but not a cadastre, so all the maps and measurements from the properties had to be done from scratch. But in 2003 the most pressing challenges were political.

Opposition from notaries, lawyers, and civil society

In 2003 the government submitted the 5 draft laws to the Congress for debate. The first 2, on water and sanitation and territorial planning passed with widespread support. The private sector supported the land reform package, especially the chambers of commerce of the bankers and the real estate brokers. It was a golden opportunity to expand their business. But the property law stalled.

Notaries enjoyed their monopoly over the whole registration process. The old law required that notaries personally submit all the registration documents at the registry. The new law eliminated this requirement, restricting the role of notaries to certifying the identity of the parties in a transaction. Notaries feared that citizens would rather pay a lower fee to the registry by doing the paperwork themselves than pay a higher fee to the notary. That would cost them business. So, notaries organized an intense campaign against the new law, targeting members of Congress. And lawyers supported the notaries' claims because they feared that taking the system outside the judiciary would cost them career opportunities and political clout.

Various civil society organizations considered that some legal provisions of the draft law were against the interests of their communities. They argued that the law violated ILO convention no. 169 concerning indigenous and tribal peoples in independent countries. The organizations also felt that their communities had not been adequately consulted in the drafting of the property law. In August 2003, the government of Honduras supported, through a World Bank-financed project, a wide consultation process of the law.

In parallel to the opposition from the notaries and the Garífuna community, was a grassroots movement led by the charismatic priest, José Andrés Tamayo. This movement did not directly oppose the new property law, but opposed the draft

forestry law, the 4th of the 5 laws in the land reform package. Tamayo's claims placed ecological issues and land regularization at the center of the national debate. Since both laws addressed similar issues, the opposition to the forestry law could easily hinder the adoption of the property law.

Building consensus for reform

Henry Merriam focused his efforts to build consensus on 2 key stakeholders: congressmen and civil society leaders.

Merriam organized meetings for congressmen in Tegucigalpa. Senior congressmen from the 2 major political parties and other minority parties gathered in an informal group—"the good guys," as they called themselves. They spent several nights discussing the 5 draft laws, far from media attention and political pressures. They came to a general consensus on the draft property law, reconciling their positions on such controversial issues as transferring the registry from the judiciary to the executive.

Merriam worried that the popularity of Tamayo's movement would hinder the property draft law. So, he sponsored another grassroots movement to balance the messages from priest Tamayo. This movement used a family-oriented message to convey the benefits of the new property law for future generations. Influencing the public opinion proved effective, especially in Tegucigalpa. Thousands of citizens picked up the message, overcoming their initial skepticism about the new draft law. This paved the way for Congress to adopt the new property law on 29 June 2004.

While this approach proved effective to obtain Congress approval, several indigenous organizations continue to oppose the law, and further consensus is needed on several provisions. The implementing rules of the law have not yet been prepared, and many ambiguities created by the law need to be resolved.

Financing reform—with help from the World Bank

The reform got a financial boost from an ongoing project on land reform financed by the World Bank. The Honduras Land Administration Program was launched in early 2004, with the Project Coordination Unit managing the World Bank's funding at national level.

The Honduras Land Administration Program is a 3-phase, $139 million project divided into 4-year parts. The first phase, funded with $39 million and set to run through 2009 was restructured to support the goals of the 2004 property law. First, it establishes a national electronic property rights system—the National System

for Property Administration. Fully integrated and decentralized, this system will bring together geographic data from the cadastre and alphanumeric data from the registry under the real folio registration method. Second, it aims to incorporate into the system about a third of the country's real estate in 7 departments.

The reform after 4 years

The new property registration system has increased confidence, bringing higher standards for efficiency and security. Citizens are more willing to register their property. The registry in Tegucigalpa received 65% more registration applications between July and December 2007 than in the same period in 2006. And the modernization slashed the time to register a property transfer from an average of 18 months to 15 days

It is expected that the Property Institute will progressively take over the management of the unified registry system from the Honduras Land Administration Program. Until now, political factors and insufficient resources hindered the Property Institute's capacity. Even so, the accomplishments are impressive.

A NEW INSTITUTIONAL FRAMEWORK FOR PROPERTY REGISTRATION Immovable, movable, and intellectual property registries are being modernized, with central coordination from the Property Institute.

A UNIFIED COMPUTERIZED SYSTEM OF REGISTRIES Of the 24 registries throughout the country, 7 are interconnected through a central server in Tegucigalpa, managed by staff from the Honduras Land Administration Program, soon to be transferred to the Property Institute. The 7 registries—for Tegucigalpa, Comayagua, Siguatepeque, San Pedro Sula, Puerto Cortés, Roatán, and Trujillo—account for around 85% of real estate transactions. The unified electronic system of registries is 1 of the 4 subsystems of the National System for Property Administration.

DIGITALIZED REGISTRY BOOKS The registries for Comayagua and Siguatepeque have their books fully digitalized. The registry in Tegucigalpa, however, is only 75% digitalized because of its many books to scan—around 10,000—and the limited resources available.

INTEGRATION OF GEOGRAPHIC AND LEGAL PROPERTY INFORMATION—THE REAL FOLIO SYSTEM This integration is the most innovative and complex part of the reform. Digitalizing the registry books is a big step in the right direction, but the digitalized data are still not linked with the geographic data from the cadastre. This is the goal of phase 1 of the Honduras Land Administration Program. Comayagua, 80 kilometers northwest of Tegucigalpa, is the only city that has

achieved a completely digital real folio system. There were 3 reasons for the early success: Comayagua was part of a pilot project started 12 years ago, it is the only municipality among Honduras's 298 that had a complete digital cartographic database, and it had a visionary mayor who quickly realized the advantages of an integrated online system for property registration—for example, better tax collection.

Tegucigalpa, however, did not have a cadastre. Instead, teams from the Honduras Land Administration Program had to organize regular onsite visits, undertaking laborious property measurement and cross-checking with the existing registry information. The geographic data obtained from these field operations, known as tables of cadastral-registry validation, had to pass a strict quality controls before being introduced into the unified registry system together with the existing legal information. With staff and resources in short supply, only 1% of the properties in Tegucigalpa have yet been measured.

LOWER TRANSACTION COSTS TO REGISTER PROPERTY   The digitalized registry information in Tegucigalpa, though not a perfect real folio system, has cut the time and cost to register a property dramatically. The 15 days it takes to register property today is a long way from the 1–2 years under the old system. And the process is transparent, traceable online through the unified registry system.

The new procedure for buying and selling land is simple: the buyer presents the copy of the notarized title deed and other necessary documents at the Property Institute's office. The buyer receives a receipt. Experts from the Property Institute evaluate the documents. The buyer tracks the steps at home online—scanning, verification of title problems, and the like—until the final registration is granted. The buyer then goes to the Property Institute to pick up the documents, stamped to prove that they have been registered.

Lessons learned

Modernizing the property registry is a technical process—at least at first glance. But a related goal, the highly political titling process to regularize disputed properties, took over the political attention and funding for the whole reform. Honduras' institutions are highly sensitive to the political cycle every 4 years, paralyzing the reform during most of 2005 and 2006. Several years after the reform, 4 lessons are clear.

First, separate the technical from the political. The politicization of the property registry modernization could have derailed the reform. Political interference brought frequent changes in management at the Property Institute, affecting the daily work of its staff.

Second, create a modern career path for civil servants. Reforms cannot be sustained if staff, from the secretary to the manager, changes every time a new government comes to power. Honduras should consider establishing a modern career path for the public sector based on merit, so that qualified and well-paid personnel guarantee the stability needed for reforms to succeed. Staff from the Property Institute and the registries nationwide would benefit from this measure, which in turn would improve outcomes.

Third, grant financial autonomy to the registries. The Ministry of Finance currently collects registration fees ($5 million in 2007) and redistributes them across ministries through the national budget. Meanwhile, the 24 national registries are underfunded. They could become financially autonomous if they collected the registration fees directly, allowing them to buy more computers and hire more support personnel. This would eliminate some bottlenecks in the registration process and further reduce the transaction costs to register property.

Fourth communicate the benefits to citizens. The team squads of the Honduras Land Administration Program have had trouble measuring private properties in Tegucigalpa because citizens are reluctant to collaborate. Some fear, without basis, that the authorities are planning to raise taxes. The real folio system cannot be established without their participation, so the government must be sure to communicate the benefits.

Although citizens can already verify a property's ownership from their home computer, they cannot verify its location in the same digital document, except in Comayagua. The digitalized registry is certainly an improvement on the old system, but a complete digital real folio system in Tegucigalpa remains far away. Political and economic problems must still be overcome.