
**TRINIDAD AND TOBAGO
REAL PROPERTY RIGHTS FORUM**

**THE IMPORTANCE OF PROPERTY
RIGHTS AND ITS REGULARIZATION**

A PRAGMATIC APPROACH

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19 JANUARY 2005

HOW DO PROPERTY RIGHTS RELATE TO US?

MOST OF OUR DAILY ACTIONS OR DECISIONS HAVE TO DO WITH THE TRADING AND/OR THE EXERCISING OF PROPERTY RIGHTS...

FOR THE MAJORITY OF THE PEOPLE, REAL ESTATE ASSETS REPRESENT THE MOST IMPORTANT AND VALUABLE SINGLE ASSET THEY OWN. THEY PROVIDE SHELTER, MEANS FOR SUBSISTANCE, A SENSE OF BELONGING, THE PRIDE OF OWNERSHIP, A SOURCE TO RAISE CAPITAL, AND MUCH MORE...

IF...

- **PROPERTY RIGHTS ARE PRESENT IN ALMOST EVERY SINGLE TRANSACTION OR ACTIVITY IN OUR DAILY LIVES, AND...**
- **PROPERTY RIGHTS GOVERN OUR MOST IMPORTANT ASSETS, THEN...**

...ONE WOULD EXPECT...

- **CLEARLY DEFINED RULES**
- **RULES WIDELY KNOWN**
- **SECURED RIGHTS BEING TRANSACTED**
- **EFFECTIVE RESOLUTION MECHANISMS**

MOST LIKELY TO FIND THIS SCENARIO INSTEAD....

CLEARLY DEFINED RULES

INSTEAD...

- **“PATCHWORK” LEGAL FRAMEWORK**
- **UNHELPFUL TAX LEGISLATION**

WIDELY KNOWN RULES

INSTEAD...

- **LOW LEVELS OF UNDERSTANDING AND AWARENESS AMONG THE POPULATION**
-

THE SCENARIO CONTINUES...

**SECURED RIGHTS BEING
TRANSACTIONED**

INSTEAD...

- **INCOMPLETE AND OUTDATED CADASTRES**
- **OUTDATED, UNSECURED, AND INADEQUATELY STRUCTURED REGISTRIES**

**EFFECTIVE RESOLUTION
MECHANISMS**

INSTEAD...

- **“OVERSIZED” INSTITUTIONALIZATION**
- **LOW LEVELS OF EFFICIENCY AND EFFECTIVENESS**
- **TOLERANCE OF INFORMAL AND ILLEGAL TENURES**

SOME REVEALING EXAMPLES...

- It took 289 days for a team of people working 6 hours a day to register a small business according with all formalities required by law, and the total cost of it represented 31 times the minimum wage (PERU)
 - To obtain legal authorization to build a house in state owned land took 6 years and 11 months, 207 administrative steps in 52 different government offices (PERU)
-

The “transactional world” is difficult to stop...SO ACTIVITY MOVES OUT of this formal but unfriendly environment...

SO WE FIND THAT....

- In VENEZUELA 1976 approximately 2/3 of the population were employed in legally established companies; 20 years later, it was less than 50%
- In BRAZIL 30 years ago, 2/3 of new construction was intended for the rental market. Nowadays only 3% is officially listed as rental housing. No rent controls, the attraction of rent payment in US dollars, and “informal” but effective eviction process...

...Venezuelan workers and the Brazilian homeowners migrated their activities and assets into the INFORMAL ECONOMY....

A COMMON OBJECTIVE, BUT DIFFERENT PROBLEMS....

- Property Rights are in need of urgent “repair works” in most countries
- Regularization represents a common objective, but the “treatment” differs from one case to another

3 DIFFERENT CASES...

COLOMBIA a complex case of *mostly* Illegal Tenure...

GRENADA a good example of *mostly* Informal Tenure...

NICARAGUA an extreme case with most of the Informal and Illegal elements, and lots of Irregular situations

LAND TENURE – SITUATIONS & PROBLEMS

TENURE	CHARACTERISTICS	EXAMPLES	PROBLEMS
INFORMAL	Tenure is “perceived” to be rightful, but lack of evidence to prove it. Usually unchallenged and lacks major conflict regarding tenure.	<ul style="list-style-type: none"> ➤ Unregistered transactions ➤ Informal donations, gifts, or wills ➤ Private agreements lacking formalities ➤ Family Land 	Transactional difficulties Financing restrictions Reduced Tax collection Inheritance difficulties Unsecured tenure Asset devaluation Uncertain fate of improvements
IRREGULAR	There is a conflict, claim, or challenge to the tenure, whether total or partial.	<ul style="list-style-type: none"> ➤ Claims on undue expropriation ➤ Inheritance legal issues ➤ Boundaries conflicts ➤ Ownership conflicts 	Work overload for Administrative and Judicial services Asset isolation from market while conflict lasts
ILLEGAL	Outright illegal occupancy of land belonging to third parties	<ul style="list-style-type: none"> ➤ Squatting ➤ Forceful wrongful occupation ➤ Fraudulent tenure 	Health and Safety hazards Violent disputes Mistrust of the system

HOW IMPORTANT IS TO REGULARIZE PROPERTY RIGHTS?...

IRREGULAR OR INFORMAL ASSETS	IMMEDIATE RESULTS OF REGULARIZING PROPERTY RIGHTS...	BENEFITS OF REGULARIZATION...
Cannot be used to generate capital	Immediate Migration of assets and activities to formal economy	Releases the capacity of generating capital to finance economic development
Are “devalued” assets and command prices below market	Automatic revaluation of those assets...	Reduces poverty levels and generates “fungible” wealth
Are not precisely defined and a source of conflicts. Also, they usually do not pay taxes.	Clearly identifies objects and subjects of property rights, minimizing conflicts, and enabling fairer and more effective tax collection	Tax revenue increases in a fair manner and without need for tax increases Cost reduction in the Judicial System
Are “risky” unattractive investment opportunities	Risk reduction in investment opportunities	Encourages foreign and domestic investment, assisting the economic development of the country
Usually transact discreetly, and there is no publicity of those acts, and third parties have no access to information about them	Transactions and situations are recorded; information becomes public for interested third parties; the whole process is more transparent	Provides more security to the whole system, facilitates transactions, and corrupted practices become more difficult to materialize
Cannot secure tenure and potential challenges are permanent concerns	It provides people with needed sense of security, ownership, and pride	Betterment of the quality of life as new options and alternatives become available. People tend to be more responsible with the compliance of their obligations as legal owners.

In certain countries, it provides a definite solution to long standing problems that have been impediments for economic development. It reduces conflictive situations and allows to put the past behind and approach the future with more positivism.

IS IT DIFFICULT TO REGULARIZE PROPERTY RIGHTS?



Solutions are usually provided in the same legal system and they can be achieved in a reasonably short term

Illegality prompts a “sense of urgency” to resolve, as it is a duty to maintain law and order

Solution requirements: a) Determination to eliminate the problem, b) effective Law enforcement, and c) certain mitigating actions

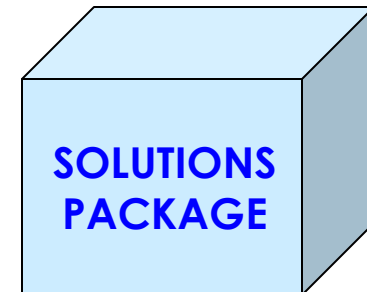
ILLEGALITY is less difficult to resolve...

It has many different reasons and manifestations. It is “defined” by as many “formalities” are required in a given system

There is no “natural sense of urgency” in resolving this problem by authorities as it is perceived as being “the individual tenant’s problem”...

Solution requirements: a) a revised Global Vision, b) good comprehensive Strategic Planning, and c) the ability to execute sets of coordinated actions of different nature

INFORMALITY is more complex to resolve, and solutions are usually achieved in longer terms...



HOW TO REGULARIZE INFORMAL PROPERTY RIGHTS....

3 MUST TO DO STEPS....

A PRE-CONDITION



An accurate **Diagnosis** permits the proper identification of adequate remedies

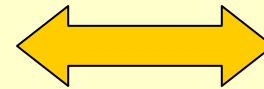
THE "RIGHT"
STARTING POINT



A **State Vision** that formalize the commitment and support necessary to take actions needed to achieve the intended goals without major deviations or interruptions.

The Vision should integrate all Property Rights related issues and show no inconsistencies minimizing potential for conflicts.

THE NEEDED TOOLS



COMPREHENSIVE – UP TO DATE – LINKED – SECURED – RELIABLE

These are **ENABLERS** of the regularization
and will provide **SUSTAINABILITY** to the new order...

A REGULARIZATION PROJECT DEVELOPMENT...

The **VISION** determines the “*spirit*” of the new **LEGAL FRAMEWORK** and the **STRATEGY**

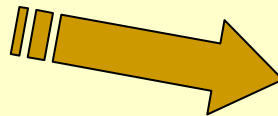
The **STRATEGY** determines de **MAIN OBJECTIVES**

The **MAIN OBJECTIVES** determine the **SUB-PROJECTS**

Each **SUB-PROJECT** has its own **OBJECTIVES**

These specific **OBJECTIVES** determine the **ACTION PLANS**

IMPLEMENTATION APPROACH



CENTRALIZED MANAGEMENT
DECENTRALIZED EXECUTION

A REGULARIZATION PROCESS...

