



**Woodrow Wilson School of Public and International Affairs
PRINCETON UNIVERSITY**

SECURE TENURE IN LATIN AMERICA AND THE CARIBBEAN

**REGULARIZATION OF INFORMAL URBAN SETTLEMENTS
IN PERU, MEXICO AND BRAZIL**

**EXECUTIVE SUMMARY
JANUARY 2006**

Authors: Egypt Brown
Dessislava Dimitrova
David Ehrenberg
Jim Heyes
Peter Kusek
Giancarlo Marchesi
Viany Orozco
Lauren Smith
Ernesto Vilchis

Project Advisor: Prof. Shlomo Angel

INTRODUCTION

In his recent book, *The Mystery of Capital*, Hernando de Soto blames the absence of clear property rights in developing countries as a key factor in inhibiting economic development, by keeping both residential and commercial properties as “dead capital”. For the first time, property rights reform has been put on the global development agenda. The goal of this document is to evaluate tenure security programs in informal settlements in Latin America and the Caribbean, focusing on case studies in three countries: Peru, Mexico, and Brazil. The case studies, which were assembled from background research and field visits in the Fall of 2005, assess the implementation of programs in each country, identify program impacts, and distill recommendations for cities, countries, and multilateral institutions that are considering establishing regularization programs. In addition, a literature and document survey was conducted to determine the existence or non-existence of titling legislation and titling programs in each country in the region, with the aim of getting a broader perspective on the progress made to-date on this front.

This document was prepared for the IDB by nine graduate students in the Public Affairs program at Princeton University’s Woodrow Wilson School under the guidance of Dr. Shlomo Angel. Dr. Angel has researched secure tenure issues in developing countries since the 1980’s and has, over the past few years, advised the IDB on housing policy issues—including property rights reform—in ten countries in Latin America and the Caribbean.

EXECUTIVE SUMMARY

Background and Rationale

The Roots of Informality

Urban populations in Latin America and the Caribbean exploded in size in the last half of the century. A tripling in overall population was exacerbated by the internal migration that accompanied a massive shift from rural agricultural economies to urban industrial development. Neither municipalities nor national governments could muster the resources or the political will necessary to prepare cities to absorb large numbers of migrants, either through direct provision of adequate public housing or by offering adequate assistance in accessing the formal housing market. As a result, new migrants were driven outside the formal planning and settlement process in increasing numbers.

Despite a range of official responses, the growth in the informal sector has continued largely unchecked. The utter dominance of the unplanned, under-serviced city has been the fundamental challenge of urban development. It has taken mainly two forms: squatter invasions on the one hand and informal land subdivisions on the other. An estimated 40 to 60 percent of the urban population of the region lives in informal settlements with much higher percentages in some cities.

The Constructive Response to Informality

In 1967, John Turner illuminated the process and rationale behind informal settlements in cities in the developing world and identified the critical importance of tenure security, whether legal or de-facto, for the well-being and progressive development of these communities. Turner's observation was that when people are not afraid of an impending eviction they invest their savings and labor in their homes and communities. Houses then become progressively developed and shantytowns gradually turn into vibrant neighborhoods. For Turner, the provision of secure tenure was a key policy tool for solving the housing problem of the urban poor, something that neither the public nor the formal private sector was capable of at the time.

Hernando de Soto, in his best-selling *Mystery of Capital*, takes John Turner's work a step further, highlighting the role of property rights as one of the crucial tools for poverty alleviation, economic development, and consolidation of a market-based economy. In contrast to Turner, de Soto sees the consolidated houses of the poor as assets, capital, and wealth and considers these assets "dead" because they cannot be fully utilized. Therefore, for de Soto, giving the poor property titles is not only a means to improve their homes and neighborhoods, but a means to show the poor a way out of poverty by giving them access to the productive capital that they sorely lack. It should come as no surprise, however, that the expansion of the housing security debate to poverty alleviation is not without its critics.

While the importance of integrating the urban poor more fully into the social and economic life of the developing world's cities has been largely accepted, actual mechanisms for doing so remain both highly contested in theory and underdeveloped in

practice. Fundamental questions yet to be resolved include: a) the extent to which individual freehold titles, rather than other instruments, should be provided in tenure-granting programs; b) the mix of infrastructure and public services that should be included in such programs; and c) the ability of the poor to interact with the formal real-estate market to their own benefit once they obtain ownership documents.

Critics of titling programs also point out that de-facto security— provided by the lack of evictions in recent history, or by the provision of public services and street addresses—may be sufficient to induce the most important of the benefits commonly associated with titling. The gains to incremental housing investment, labor mobility and employment, and the fundamental humanitarian interest in providing a measure of stability for the urban poor can all be accomplished through legal instruments other than freehold titles.

Observers have pointed to several potential benefits of more secure tenure, including:

- *Gradual Investment in Progressive Housing.* When people feel secure from arbitrary eviction, they are likely to invest what they can afford in improving and extending their homes and environment.
- *Increased Property Values.* Increased property value due to titling and formal registration of a property is a summary indicator of the capitalized value of three major types of benefits associated with land regularization: (1) increased incentive to invest in improving and enlarging the property, (2) increased resale value of the property, and (3) the ability to use the property as collateral for credit.
- *Increased Labor Mobility and the Employment of Women.* In cases where the possession of property titles decreases the perceived probability of eviction, the increased security frees up the labor of household members, especially women, whose economically productive role had been constrained by the need to maintain a physical presence in the house. The title also increases inter and intra-city labor mobility by facilitating the process of market transactions through clear and simple property sale and purchase procedures, thus affording residents the freedom of choice and flexibility to relocate to a different area.
- *Access to Credit.* De Soto is one of the chief proponents of the idea that land titles will transform “dead” assets into productive ones, by allowing the owner to use the title as collateral to secure loans from formal financial institutions. However, the titling of an urban area may not lead to an immediate increase in the extension of credit, since financial institutions may not lend to households with low incomes. In the long run, titles will likely be an essential pre-condition for improved access to mortgage loans, as the income of regularized communities rises and the financial markets respond with more favorable financial conditions. In short, a property title is a necessary condition for using the property as collateral for a bank loan, but by no means a sufficient one.

While the development field is in general agreement that security of tenure is a desirable goal, the most appropriate ways to provide this security and the attendant costs of each option are still under debate. The fundamental question is whether freehold title documents are an essential component of providing tenure security or a threat to

communities, ultimately leading to gentrification and further squatting. Some argue that the provision of freehold title documents offer limited or negative benefits for the urban poor when compared to other legal options or de-facto security.

- *Gentrification.* There is considerable debate about the extent to which full freehold titles, and the attendant integration of extremely poor communities into the wider real-estate market, might contribute to the gentrification of communities, especially those located on desirable land.
- *Encouragement of Further Squatting.* Another commonly-stated concern in the titling debate is that the provision of full titles as a matter of course to those who squat on public land will provide a windfall profit to the new owners, who will sell their property as soon as formal tenure is granted. If the sales price is insufficient to purchase a house on the formal market, these formal residents will have little choice but to resettle in a new location and wait for the next round of upgrading and titling.

The case studies of this report illustrate the importance of taking all of these concerns into account when designing an effective program for the regularization of informal settlements. The three examples drawn from the experience of Peru, Mexico and Brazil document the diversity of approaches undertaken by various countries. Despite the countries' often opposing ideologies and strategies, this report identifies a set of common lessons learned from these initiatives.

Land Titling in Peru: COFOPRI Case Study

Peru has, over the last decade, become an internationally recognized and researched case study in the regularization of private property rights. Many countries are looking to replicate the remarkable achievement of its national program, COFOPRI, in granting freehold titles to almost 1.5 million properties at an average cost of less than \$50 per title.

That Peru is a regional pioneer in land rights formalization comes as no surprise given the political influence of the Peruvian property rights champion, Hernando de Soto. The Commission for the Formalization of Informal Properties (*Comisión de Formalización de la Propiedad Informal* - COFOPRI) came about as a result of three main factors: (1) the ideological push for regularization championed by de Soto and the Institute for Liberty and Democracy (ILD); (2) President Alberto Fujimori's prioritization of secure tenure; and (3) institutional interest and financial support from the World Bank.

The creation of COFOPRI in 1996, which consolidated titling authority at the national level, was preceded by two decades of smaller-scale regularization programs and the 1988 creation of a new public registry for informal settlements. After his 1990 election, President Fujimori prioritized the formalization of property rights nationally. He drew on ILD's ideas in designing the legal and institutional framework for the titling agency that became COFOPRI. Its key characteristics included operational independence, budgetary autonomy and temporary ownership of all the public land to be formalized.

COFOPRI reached its pinnacle in 2000, when it issued over 400,000 titles in a single year. However, with the change in presidential leadership, the program was weakened as

Fujimori's successors sought to distance themselves from his priorities. Through decentralization, COFOPRI was transformed into a technical assistance agency, while explicit title-granting authority was devolved to provincial mayors. This change has hindered the titling process by adding an additional level of bureaucracy. Since 2000, COFOPRI has averaged less than 100,000 titles issued per year, granting less than 66,000 titles in 2004.

The Titling Process

The titling program served informal households in the settlements on the outskirts of Lima and other Peruvian cities. The beneficiaries were among the poorest in society, who were frequently migrants from smaller cities and rural areas.

The formalization process in each community involved similar steps. The first phase consisted of a preliminary survey of parcels and legal information, identifying the mix of different types of cases and the eligibility of the area for titling. In the most straightforward cases, on geographically safe public land, squatters were immediately eligible for titling. In risky areas, such as those prone to erosion, squatters were instructed on how to construct their houses to minimize the risk of potential collapse before they were given titles. In the riskiest cases, they were encouraged to move to safer areas where they could receive titles. On private lands, COFOPRI attempted to mediate an agreement between the landowner and the squatters. Those squatters who occupied the private property for more than ten years with no interference were granted ownership of the land by adverse possession. On government-designated archaeological sites, COFOPRI facilitated the reclassification of the land when possible.

The initial phase was followed by town hall meetings to explain the titling process to communities. Then COFOPRI conducted a home-by-home census, collecting and verifying documentation of residence. A list of people in the community and their respective plots was then posted publicly so that community members could dispute fraudulent claims to the land. Other government agencies also verified the consistency of the new deeds with their current information. Finally, the plots were formally registered within the public registry and official titles were disbursed.

Program Cost and Scale

The cost of the first phase of COFOPRI's operation (1996-2004) was US\$66.3 million, co-financed by the Government of Peru (US\$28.3 million) and a 1998 World Bank loan (US\$38.0 million). During this period COFOPRI issued 1.481 million property titles, benefiting more than 5.7 million urban dwellers. There have been no user fees charged to the beneficiaries for either titling or primary registration. The World Bank is expected to approve a new loan in early 2006, extending COFOPRI's operation until 2010.

Secondary Benefits of Formalization

In addition to increased security, a number of secondary benefits from titling have been observed in Peru:

- *Increased property value.* Studies have shown that property values increased an average of 25% of their market value after titles were issued.

- *Access to credit.* COFOPRI has attempted to link titled beneficiaries to credit institutions by organizing presentations by credit providers in newly-formalized communities. However, studies have not yet been able to demonstrate direct causation between the titles and increased extension of credit, since the main cause for loan rejection in Peru is low repayment capacity of the borrower rather than lack of collateral in the form of a title. However, mortgages and loans among COFOPRI beneficiaries have increased steadily since 2000, both in number and amount.
- *Gender equity.* 56% of COFOPRI titles have been granted to women, while only 44% have been granted to men, increasing female participation in the formal sector.

Lessons Learned from COFOPRI's Experience

- *Enabling environment.* The success of COFOPRI benefited from an enabling political environment which included high-level commitment from President Fujimori, a local politically-connected ideological champion in de Soto, financial support from the World Bank, and the wide availability of vacant public land of low commercial value.
- *Program design.* The centralization of program operations and budgetary autonomy made COFOPRI powerful and autonomous in its first several years. The simultaneous development of a cadastral agency to handle registration of squatter settlements facilitated COFOPRI's regularization programs. COFOPRI provided titles for free, but developed mechanisms to prevent households from obtaining multiple free titles to discourage speculative invasions. The program worked closely with elected community leaders to build community acceptance, and formed strategic partnerships with providers of infrastructure, utilities, and credit to connect titling beneficiaries with these services.
- *Program implementation.* COFOPRI's success was enhanced by a flexible and innovative management team, a well-paid and motivated staff, and simple and transparent legal procedures for titling.
- *Long-term strategy.* COFOPRI was originally established as a temporary agency, but the institution could have been strengthened in several ways with a long-term strategy. The agency could have addressed broader housing policy issues, such as accommodating additional flows of settlers in planned areas, facilitating improved access to infrastructure and credit, and dealing with the return to informality that might accompany secondary acts such as subdividing properties among family members. Additionally, long-term planning might have improved COFOPRI's resilience to political and institutional changes such as Fujimori's fall from power and the subsequent decentralization of the agency.

Land Titling in Mexico: CORETT Case Study

Mexico has had a national level regularization program for much longer than Peru. The Commission for the Regularization of Land Tenure (*Comisión para la Regularización de la Tenencia de la Tierra* - CORETT), a large scale, nationwide program currently providing titles to irregular settlements in Mexico, was created in 1974.

Like many Latin American countries, Mexico has experienced tremendous rates of population growth and urbanization in the last 50 years. Mexico City in particular has seen a population explosion that has created an enormous demand for housing and urban land. This demand has outstripped the ability of the formal markets and the government to provide formal, adequate housing for the large number of households that enter the housing market every year. Faced with few affordable choices, income constraints, and limited access to credit markets, low and middle income households have increasingly turned to building their homes in informal settlements without proper services or clear legal title.

In Mexico City most growth has taken place at the urban periphery. Informal settlements have sprouted primarily in *ejidos* – social entities established by the Mexican Constitution that organize agrarian land on a communal basis – which make up two-thirds of the area surrounding Mexico City. Because of strong legal protections for *ejido* land, it was illegal until 1992 to sell or convert *ejidos* to non-agricultural use. As a result, most of these settlements were established through sales in the informal market rather than through land invasions and illegal occupation.

In 1974, the Commission for the Regularization of Land Tenure (*Comisión para la Regularización de la Tenencia de la Tierra* - CORETT) evolved out of a committee established by President Luis Echeverría to regularize informal settlements on *ejido* land. CORETT worked with federal, state, and local governments to expropriate the land from the *ejido* owners and sell it to the current informal occupants. In 1989, CORETT took on new importance as President Salinas made regularization the centerpiece of his strategy to address the needs of the poorest members of society. By streamlining CORETT's procedures and marketing the agency to the public, Salinas quickly increased the reach of the program.

However, a 1992 change to the Mexican Constitution that allowed for the privatization of *ejidos* has reduced the role of CORETT in regularization. Another government agency, the Program for the Certification of Ejido Rights (*Programa de Certificación de Derechos Ejidales y Titulación de Solares Urbanos* - PROCEDE), now issues certification documents that circumvent the expropriation and titling process. In addition, political support for regularization has declined since the Salinas administration, as politicians distanced themselves from the Salinas agenda. Finally, CORETT was moved to a new agency within the federal government, and resulting complications in the bureaucratic structure and accountability have hampered the expropriation process in recent years.

The Titling Process

Regularization of *ejido* land is accomplished through government expropriation, with the appropriate consent and compensation of the *ejido* owners. The process begins with survey and cadastral work by PROCEDE, which resolves any boundary disputes

between *ejidatarios* or *avecindados*.¹ Then CORETT verifies the eligibility of the land for regularization (high risk areas are ineligible, and at least 80% of the area must already be settled). In addition, the *ejidatarios* must approve the expropriation through an assembly vote. Once the expropriation is approved, the *ejidatarios* are compensated with a ‘social’ price that is normally well below the actual market value.

Once the land has been expropriated, CORETT works with the municipal and state authorities to create an urban plan for the area. CORETT then sells the land to the existing residents, who are required to document their claim on the land with a bill or sale, utility receipts, or other documents. Residents pay a ‘social’ price which depends on the socioeconomic status of the community, the size of the plots, and the existing or projected land use. A typical resident might pay \$0.50-\$2.00 per square meter to regularize their property, in addition to the market price (perhaps \$20 per square meter) that they likely paid for the property on the informal market. Once the property has been expropriated, the titling process takes about three to six months. Although informal residents are not required to regularize their plots, CORETT actively markets titles to residents in expropriated ejidos, and in the end most settlers obtain titles.

Program Scale and Cost

In the 30 years that CORETT has operated, it has given out 2.5 million titles nationwide. On average, it issues 80,000 titles per year, although this rate has slowed somewhat since 1992, when the Constitution was amended to enable *ejidatarios* to convert their land into private property outside of the expropriation mechanism. CORETT is funded by the titling fees that it collects when it expropriates and titles land, an arrangement which insulates it somewhat from political pressures and budget cycles and makes it financially self-sufficient. CORETT’s most recent annual budget was approximately \$45 million dollars.

Secondary Benefits of Regularization

The theorized benefits of regularization are evident only in limited scope in Mexico.

- *Security.* Due to the rarity of evictions in Mexico, most homeowners feel relatively secure whether or not they have a title (even if they cite security as the primary reason for wanting a title). Thus, the issuance of titles does not seem to markedly change their perception of tenure security.
- *Property investments.* Because property is relatively secure even without titles, homeowners do not wait for titles to make improvements to their homes. Any lack of investment appears to be controlled more by limited income than lack of title.
- *Home values.* Although we don’t have the benefit of econometric studies to verify the impact of titles on home values, our fieldwork found that most homeowners believe their property is significantly more valuable with a title.
- *Mobility.* There is very little buying and selling of homes in consolidated communities, except in desirable areas that are subject to gentrification.

¹ *Ejidatario* is the term used to describe the legal resident of the ejido. *Avecindados* are migrants from rural areas and people pushed out of the central city by rising housing prices who illegally purchase *ejido* land.

- *Access to credit.* Although a title is a necessary precondition for access to loans in the formal market, utilization of credit does not appear to be widespread among regularized communities, even after titles are issued.
- *Infrastructure and services.* CORETT does not bundle any infrastructure provision in its titling program. However, the regularization does appear to accelerate the provision of services, as formalized communities feel more empowered to demand services from the government in exchange for their taxes.
- *Gender equity.* Nearly half of the titles issued by CORETT are held by women.

Lessons Learned from CORETT's Experience

- *Strengths*
 - CORETT's program is accessible to beneficiaries because the titling process is simple, affordable, and voluntary.
 - The agency is self-funded, relatively independent of political influences, and forward-looking.
 - CORETT is effective in its outreach and provides good quality customer service.
- *Weaknesses*
 - CORETT does not have full authority to carry out its mission, since it depends on approvals from a number of agencies and institutions that do not share its mission.
 - CORETT is not set up to handle new forms of urban irregularity that arise out of new construction to accommodate multiple generations on the same property.
 - The *ejido* system was established to promote an agricultural economy and is poorly suited to solving today's urban housing issues. Because the regularization process is currently controlled by the Ministry of Agrarian Reform, there is often little or no proper land subdivision or planning for urban services and infrastructure, and little mixed use zoning.
 - CORETT officials have a significant amount of autonomy in setting titling fees, which creates a structural opportunity for rent-seeking.

Zoning and Regularization in Recife, Brazil

Recife's approach to tenure regularization differs fundamentally from those presented in the other two case studies in this report. Instead of issuing full freehold titles, Recife has developed programs to maintain urban land in low-income housing use by insulating these communities from the pressure of the formal real estate market. The creation of Zones of Special Social Interest (*Zonas Especiais de Interesse Social – ZEIS*) and the issuance of Concessions to the Real Right to Use (*Concessão de Direito Real de Uso – CRRU*) are separate but related mechanisms used to secure land tenure in informal settlements.

Recife's focus on the underlying goals of securing tenure, rather than on the mass issuance of title documents, is an important counterpoint to the Mexican and Peruvian

approaches. However, the actual implementation of Recife's program has experienced a number of technical, resource and bureaucratic problems that have severely limited its reach, particularly in its issuance of CRRUs.

As in other Latin American cities, Recife's poor population is largely excluded from the formal housing sector. Informal settlements are distributed widely throughout Recife, both in the low-lying tidewater areas and in the hillsides that encircle the city. Currently, there are more than 600 informal settlements (often called *favelas*) in Recife, housing nearly 1 million of Recife's 1.5 million residents.

By mandating urban policies that promote social inclusion, the 1988 Brazilian Constitution, created provisions for the protection of *favelas* that had endured decades of displacement and conflict. Combined with widespread social mobilization, the 1988 Constitution enabled the first significant land regularization policies at the municipal level, including a program in Recife which recognizes the rights of residents of informal settlements. This program had its roots in community mobilization which years earlier had organized poor communities into Neighborhood Associations to protect their urban settlements. Leaders of the Catholic Church helped form a zoning strategy to protect poor communities facing development pressures in centrally located areas. This strategy was incorporated into law by the municipality in 1987 as the ZEIS. The complementary Regularization Plan for Zones of Special Social Interest (*Plano de Regularização das Zonas Especiais de Interesse Social* – PREZEIS) Law established a system of urban upgrading that was appropriate to the needs of informal communities and mandated community participation in planning decisions.

ZEIS Incorporation

The first step in Recife's regularization approach is the designation of an informal settlement as a Zone of Special Social Interest (ZEIS). The ZEIS designation serves as an anti-gentrification zoning tool by restricting the lot size and building heights so as to discourage real estate speculation. Communities are eligible to apply for ZEIS status when they have organized Neighborhood Associations and have occupied the land without dispute for more than 5 years. The ZEIS designation of an informal settlement officially recognizes the legitimacy of that community's claim to the land, and obligates the municipality to engage the community in a participatory upgrading program. ZEIS status is a prerequisite for municipal recognition as a neighborhood and the receipt of Concessions to the Real Right to Use (CRRU) documents.

Infrastructure Upgrading

Once an area is designated a ZEIS, the municipality develops a new community plan that seeks to provide road access, public space and other infrastructure while minimizing the dislocation of residents within the community. Upgrading priorities are then established by the participatory PREZEIS Forum. Due to resource constraints, some ZEIS areas are not represented on the Forum, and as a result receive less priority in upgrading projects.

Tenure Documents: Concessions to the Real Right to Use (CRRUs)

Formal land tenure in a ZEIS neighborhood is recognized by the issuance of CRRUs. CRRU is a legal instrument that has been in place in federal law since 1967. These documents do not provide freehold title, but permit the legal use and occupation of public land. CRRU titles can be registered either individually or collectively, and may allow the transfer of use and occupancy rights to legal heirs. In accord with the city's anti-gentrification goal, CRRU titles provide residents with the ownership of the structures and the contractual right to use the land for 50 years, but allow the Municipality to retain ownership of the land. Although CRRU titles permit the selling, renting and use of land as collateral, they are rarely used for such purposes due to a variety of restrictions.

Costs, Timeframe, and Scale of CRRU Program

CRRU documents are distributed free to recipients. It is difficult to estimate an accurate per-document cost, since so many documents have yet to be processed. The titling process includes a number of steps, including registration of the community's residents, establishment of a local plan, preparation and signing of the contract documents by beneficiaries and municipal representatives, and formal registration of the contracts. As in other titling programs, squatters in risk areas such as steep slopes or along waterways are ineligible for titling. The full process, from community plan to CRRU, takes at least two to three years. However, due to a variety of political and bureaucratic reasons, some communities have been waiting nearly twenty years and have not yet received CRRUs.

There is wide consensus in the literature and on the ground that Recife has been more successful in providing the zoning and upgrading services than in issuing title documents, possibly illustrating the low relative importance placed on title documents. Whereas approximately 220,000 households citywide live in informality, only 1,659 CRRU documents have been issued by the municipality to date.

Lessons Learned from Recife

- *Political Environment.* Strong political backing and clear accountability will lead to more effective program implementation. Good communication and agreement between political leaders and program beneficiaries will minimize confusion and misunderstanding about the goals and details of the program.
- *Legal Framework.*
 - Anti-gentrification zoning measures can complement regularization programs by limiting development pressures on informal settlements.
 - Clear legal jurisdiction over the land from the start will facilitate the regularization process.
 - An explicit link between regularization and upgrading improves services for beneficiaries of the program.
 - Overly burdensome rules for property re-sale (such as requiring mayoral approval for sales) can limit the coverage of the program and may lead to a reversion to informality.

- *Institutional Framework.*
 - A sufficient municipal commitment of budgetary and human resources is important.
 - Transparent municipal cost and administrative structures will benefit citizens.
 - The length of the titling process should be shortened.
- *Community Mobilization.* It is important to maintain a high level of community involvement in program planning, design and implementation. Ongoing community education will support such involvement and lead to informed decisions by community members. To facilitate community involvement, city agencies should allocate sufficient administrative staff to ensure that all ZEIS areas are properly represented on the PREZEIS Forum, which currently only represents about 60% of ZEIS communities.

Regularization Programs in Other Latin American Countries

In addition to Peru, Mexico, and Brazil, our team has surveyed regularization and titling programs in countries throughout Latin America and the Caribbean (LAC). We have identified a total of 17 countries in LAC with active tenure-granting programs. Each program is described briefly later in this report with an emphasis on the enabling legislative framework. See the chapter titled “Regional Inventory of Titling Programs and Legislative Frameworks.” The programs are also summarized in a table at the end of the chapter.

The heterogeneity of the laws described in this chapter highlight the fact that there is no single best way to implement a regularization program. An effective program will account for the context of the country, including the structure of its government, its technical capacity, the magnitude and nature of its irregularity problem, and the goals of its society. However, despite the disparate approaches to regularization across countries there appear to be a few recurring themes. Most countries, for example, have designated a single government agency to address the issue of informality. Also, most laws designate which lands are to be regularized and who qualifies for regularization.

Recommendations

Based on the three primary case studies discussed in this report, we make a series of recommendations on how to create and implement effective large-scale land titling programs for informal properties in urban settings. The recommendations are divided into three sections: a) prerequisite conditions that should be met before the IDB invests in titling programs; b) aspects of program design which are instrumental in making programs cost-effective and expedient in delivering titles; and c) long-term strategies necessary to regulate current and new forms of informality.

Preconditions for an effective titling program

- *There should be evidence of high-level political commitment.* This commitment will facilitate the passage of key legislation necessary for the effective implementation of the program, as well as increasing the likelihood of adequate funding. We

recommend that the IDB look for the existence of national land regularization legislation and the allocation of necessary budgetary resources as demonstration of political commitment.

- *A national government agency dedicated to urban land issues should be willing to implement the program.* The comparative experiences of Mexico and Peru demonstrate that implementation can be much more effective if there is only one lead agency. This agency should be appropriately staffed, well-regarded by the public, and well-respected within the government.
- *The implementing agency should have legal jurisdiction over the land it regularizes.* Such authority greatly reduces the time and cost involved in issuing titles.
- *The formal property system should be functional.* Countries should have consolidated registration and cadastre systems. Lack of a cadastre system prevents legal recognition of ownership, inhibits sale of property in the formal market, and disqualifies property for mortgage or other credit.

Elements of program design and implementation

- *The process should be user friendly.* A streamlined process which minimizes the number of transactions will make the program more accessible to the intended beneficiaries and will increase the efficiency of the program.
- *Titling fees should be affordable.* The goals of each program will determine the appropriate beneficiary fee structure. However, titling programs with prohibitively high fees will be less effective given the financial constraints of the majority of beneficiaries.
- *Meaningful community participation is important.* Mechanisms should be devised to create and support on-going civic involvement in the regularization process. On-going community awareness and education programs may also be appropriate.
- *The agency should be managed from one central office.* This will lead to economies of scale and avoid duplication of the effort to design programs.
- *Budgetary autonomy will insulate the agency from the political process and enhance long-term stability.* CORETT is self-financed, and COFOPRI was supported in part by a World Bank loan, while the ZEIS program saw budget reductions due to low administrative capacity.
- *Agency staff should be well compensated.* A well qualified and highly motivated staff is necessary since the titling process demands expertise in urban planning and policy matters in a difficult working environment.
- *The program should incorporate mechanisms to discourage land speculation.* Speculation increases land prices, which makes land less accessible to the poor and may undermine the goals of the titling program. The ZEIS program was designed to inhibit such speculation and thus protect informal communities from displacement.
- *The program should have a clear process for resolving ownership disputes.* Ownership and boundary disputes can be a significant barrier to moving forward with regularization.

Long-term strategy

- *Be prepared for a long timeline.* Tackling the informality problem in many LAC cities could take more than a decade. This calls for ongoing titling programs and a

long-term commitment to these programs. The programs should be flexible enough to respond to new challenges of informality, such as illegal subdivision caused by vertical building over time within one property.

- *Coordinate between agencies.* Strategic partnerships with providers of infrastructure, public services and credit institutions maximize the utility of titles to beneficiaries.
- *Consider anti-gentrification zoning.* The Recife case study demonstrates that zoning can increase tenure security in informal settlements. Limitations on plot sizes, building heights and the number of plots per individual can significantly reduce real estate pressure in newly regularized communities. Such zoning can be adopted as an alternative tenure security mechanism or used in conjunction with titling programs.
- *Titling should be part of a comprehensive housing policy.* Titling is only one component of an effective overall housing policy. A comprehensive national housing strategy must deal both with the existing housing stock and with future land and housing needs. Such a strategy should incorporate urban planning for livable communities, including infrastructure, public spaces, and access to appropriate community services.

Conclusion

The Latin American and Caribbean region now offers a wealth of experiences in developing and implementing secure tenure programs. Different countries have taken different approaches to designing their legislative and institutional frameworks for regularization initiatives, and have also varied in the process of their implementation and enforcement. The uneven degree of success calls for a greater need to identify best practices and share lessons learned. We hope that this report will make a useful contribution to the efforts of multilateral and bilateral donor agencies, international institutions and national-level actors committed to improving the homes and livelihoods of poor urban residents in Latin America and the Caribbean in the years to come.