

# Informal markets and land regularization programs:

## a critical discussion

*Edesio Fernandes*

# Main questions

- How are informal settlements produced?
- Why is it important to regularize them?
- When/how should regularization programs be formulated and implemented?
- What rights should be recognised to residents in informal settlements?
- Who should pay, and how, for regularization programs?

# 20 years on...

- Policy discussion
- Program implementation
- Academic research
- Financial investment

# Main lesson

- Evaluation of regularization programs
  - Analysis of practical and methodological aspects of project design and implementation
- ↓
- Understanding of urban informality
  - Economic, political, social, legal, institutional and technical perspectives

# Risks

- Failure to understand the process of urban informality has led to all sorts of problems and distortions
- Do regularization programs reproduce urban informality instead of promoting sociospatial integration?
- Need for critical and comprehensive discussion
- There is no need to keep re-inventing the wheel...

# Main assumptions

- Discussion on regularization programs needs to be supported by previous understanding of the socioeconomic and legal-political processes that produce urban informality
- Regularization programs have a remedial nature and cannot be dissociated from set of public policies, planning directives, and city management strategies aimed at reverting the pattern of urban development

# Main arguments: I

- Informal settlements/lack of security of tenure result from exclusionary pattern of urban development, planning and management
- Land markets, political systems, and legal systems have failed to offer sufficient, suitable and affordable conditions of access to urban land and housing to the urban poor

# Main arguments: II

- Tenure regularization policies need to be combined with preventive public policies to break with exclusionary cycle
- This requires direct intervention and public investment to produce housing options, democratize access to land and promote overall urban reform

# Main arguments: III

- Tenure regularization programs have a fundamental importance in their own right
- Such programs should aim not only at recognizing individual security of tenure, but mainly at promoting the sociospatial integration of informal settlements

# Main arguments: IV

- Choice of legal rights should reflect need to render goals, strategies and instruments compatible
- Public law-private law divide needs to be taken into account
- There is a wide range of legal-political options to be considered other than exclusively full, individual freehold rights

# Main arguments: V

- To have impact on social poverty, regularization programs need to be combined with/supported by a set of processes and mechanisms
- Regularization programs need to be formulated in line with poverty alleviation strategies

# Supporting processes and mechanisms

- Financial
- Institutional
- Urban planning
- Gender policies
- Land administration and management
- Information
- Other legal instruments
- Political
- Social mobilization

# Financial processes

- Funds (funds for the poor; communal funds)
- Loans (socially-orientated schemes)
- Community mortgage programs
- Incentives to private sector
- Reform of financial and banking system

# Institutional processes

- Co-operation among land-related agencies
- Intergovernmental co-operation
- Decentralization
- Public-private partnerships
- Community participation
- Capacity building
- Community development consultants
- Academics

# Urban planning

- Recognition of informal settlements by urban planning
- Democratic use of planning tools and planning process
- Special zones of social interest
- Revision of urban regulations and building standards
- Planning gains

# Gender policies

- Redress historical/cultural imbalance
- Empowerment of women

# Land administration and management

- Cost effective cadastral system
- Remove registration obstacles
- Identification of ownership
- Land valuation
- Land banks
- Land expropriation and acquisition

# Information

- Produce: survey of land tenure regimes; analysis and review of policies
- Provide: information-based planning; decentralization; open resources centers

# Other legal instruments

- Land subdivision laws
- Social and environmental values and conflicts
- Review system of conflict resolution

# Political processes

- Urban governance: transparency, accountability, participation
- Bottom-up approach
- Democratization of city management strategies

# Social mobilization processes

- Strengthen capacity of local residents' associations and NGOs
- Emphasis on implementation: many policies are there already

# The Brazilian case

Twenty years of policy discussion  
and program implementation at local level:  
Belo Horizonte, Recife, Porto Alegre,  
Rio de Janeiro

Objectives: promote sociospatial  
integration; security of tenure;  
sociopolitical citizenship

Upgrading + legalization (area and plots)

Special zones of social interest

# The discussion of rights

- Belo Horizonte: full, individual freehold rights regardless of original regime of land ownership (donation following expropriation)
- Recife and Porto Alegre: individual and collective adverse possession rights in private land and concession of the real right to use in public land

# Main lessons

- Upgrading has not depended on legalization
- Access to (in)formal credit and services
- Basic gender principles
- Perception of security of tenure
- Investment in houses and businesses
- ZEIS have had impact on land market
- Incipient conditions of sociospatial integration
- Incipient conditions of political citizenship
- Is legalization necessary?

# Legalization: main discussions

- Legalization based on individual freehold titles has failed
- Titles are important when there are conflicts: ownership, domestic, family, neighborhood, etc.
- Need to reconcile individual security with social/environmental interests and housing rights

# Recent trends

- Perception of security based on precarious pact, often broken to the detriment of residents' interests: policy changes, speculation, pressure from official burden, public works, drug trafficking
- Sociospatial segregation has increased

# The City Statute

- New national law on urban policy (2001)
- Proposes combination of innovative tenure policies, inclusive urban planning and participatory city management strategies
- Proposes combined use of adverse possession rights and concession of the real right to use
- New legal instrument created  
Concession of Special Use for Housing Purposes: subjective right