

# Obstacles to Legalization of Squatter Settlements in Venezuela

Teolinda Bolívar Barreto

Few low-income urban settlements in Venezuela are located on land owned by their occupants. As a result, the occupants cannot register the structures they have built and are entitled to only a *substitute title* (“título supletorio”) granting them limited rights. A legal interpretation handed down by the Supreme Court in the early 1970s has been upheld by repeated court decisions: transactions involving structures on land not owned by the builder cannot be registered without the landowner’s express consent (Pérez Perdomo and Nikken 1979, 38). This is a general legal principle, applicable not only to urban shacks but to all structures.

It could be said, however, that the inhabitants of houses built in the country’s squatter settlements enjoy possession of the land they occupy, though strictly speaking it is what former Venezuelan President Rafael Caldera and others have called a “precarious possession.” These settlements have considerable stability in some cases, less stability in others, and in certain cases there is no stability at all; occupants are evicted and their structures are demolished.

Peaceful occupations of land, and occasionally more aggressive invasions, are by no means a new development in Venezuela; such settlements have been prevalent since the 19th century. As a result, Venezuelan cities are characterized by their physical and social diversity:

- varied materials and structures that reflect the country’s rapid urbanization (especially in the 20th century);
- the lack of access to standard housing for lower-income families arriving in the major cities;
- forms of urban government that have accepted unauthorized occupation of land *de facto* though not *de jure*;
- extreme socioeconomic inequality; and
- the Venezuelan people’s talent for building.



TEOLINDA BOLÍVAR BARRETO

## Changing Conditions

Many observers wonder, when considering the legal status of the squatter settlements, why it has become “normal,” and to a substantial extent accepted, for Venezuelans to build houses or take up residence on lands assumed to be owned by others. Reactions to this complex situation can vary. It is striking that, in many instances, neither the presumed landowners nor the occupiers of these lands have taken the extreme responses available to each party—demands for eviction or expropriation by the owners or purchase of the land and legalization of its ownership by the occupiers. The presence of a *parallel official law* has permitted the establishment of settlements and improvement of housing conditions on “invaded” lands (Ontiveros & Bolívar 2000, 128-139). Furthermore, this pattern has become a chronic condition whose end is not demanded by any of the parties involved.

However, this tacit understanding has broken down in recent years, chiefly due to new requirements by banks, which refuse to lend to anyone who does not have registered ownership of the land. The World Bank’s involvement as a co-financier of urban renewal projects has also changed the status of the urban squatter settlements. The national Housing Policy Act (Article 14) now provides for the legalization of land holdings in the squatter settlements,

and a team of specialists, mainly lawyers, is drafting a bill that would help make it possible to end the illegal status of Venezuelan urban squatter settlements. Some lower-income neighborhoods with commercially built housing would also be legalized by this action.

## Obstacles to Legalization

In spite of these recent developments, procedures and mechanisms relating to urban squatter settlements have been created and modified over many years. The state’s inability to legalize these entrenched settlements can be attributed to a number of interacting factors.

### *Unclear Land Ownership*

Former President Caldera has argued that the main reason for the continuing illegal status of squatter settlements is a lack of clarity as to who actually owns the invaded lands. He argues that, given this prevailing doubt and uncertainty about land ownership, the most important and urgent need is to provide public utilities and other basic public services to the occupiers. Legalization has not been a top priority in the process of consolidating squatter settlements. Nevertheless, there are other causes for the continuing absence of legalization, causes that are deeper and less visible.

See **Venezuela** page 6

## Venezuela

continued from page 5

### *Acceptance of the Status Quo*

Since the expansion of urban squatter settlements in the 1940s and 1950s, it has been commonly assumed that eventually they would be controlled and demolished, though that has not occurred; they have simply been banished from city maps. The replacement of self-built settlements with standard housing developments has not gone beyond political rhetoric or electoral promises. Proof of this assertion is that half the residents of Venezuelan cities continue to live in these informal settlements.

A kind of official but informal law has emerged for the squatter settlements. Pérez Perdomo & Nikken explain "...how the State itself has contributed to the creation of a kind of informal legal order to meet the squatter settlements' legal needs in relation to the ownership of housing" (1979, 2). This is a *de facto*, but not a *de jure*, acceptance of squatter settlements.

Does this mean that the residents of these settlements do not want legalization of ownership? We know that is not entirely true because they treat the land they possess as if it were their own. When the owner appears and wants to evict them, they fight back until the eviction order is stopped. As long as mere possession poses no risk of eviction, the residents remain satisfied and make no effective distinction between ownership and possession in their settlements. Furthermore, some are afraid of having to pay taxes and accept other obligations that would come with legalization of their status.

### *Provision of Services and Infrastructure*

Further evidence of this acceptance of squatter settlements is the provision of public utilities, services and infrastructure by state agencies, though in most cases the services are considered "precarious" investments. This official attention to the settlements is convincingly illustrated in the work of Josefina Baldó (1996), although it is well known that such attention is provided only to a minimal degree and only in exchange for votes.

Researchers and policy makers from other countries, especially in Latin America, express surprise at the range of public



OSCAR O. CAMACHO

services provided in Venezuelan urban squatter settlements that do not have legal recognition. Even more surprising is the progressive improvement of housing units as they are transformed from shacks into solid houses and even multistory buildings made of appropriate materials (Bolívar et al. 1994). This pattern is not unique to Venezuela, but it reflects the path chosen by the country's leadership decades ago: a consistent policy of providing "precarious" public services for settlements whose occupation has been accepted, rather than first settling the issue of ownership. This policy has prevented, or at least slowed down, the legalization of the squatter settlements. In addition, improvements built by the residents are paid for by the government if the land is ever expropriated.

### *Bureaucratic and Legal Procedures*

Venezuela is a country characterized by unequal access to the legal and administrative systems. Bureaucratic procedures consume a great deal of energy and are very costly. Accordingly, until a legal deed to property is required of them, most occupants appear content without it, and may even forget that such an option exists. It should also be noted that technical experts are not always available to determine ownership status and that incorrect diagnoses are not unusual.

Furthermore, legalization initiatives run up against the need to identify the true owners. It is necessary to specify the *legal tradition of ownership* and resolve questions

of *legally undivided plots* ("tierras indivisas"), which traditionally have been dispersed among multiple owners by inheritance. However, there is a prevailing lack of sensitivity and ignorance of the law among court employees and the professionals retained resolve these cases. The laws are very strict, and hence very difficult to apply. The situation is further complicated by unprepared and sometimes corrupt bureaucrats, who may be prejudiced against and resent the "beneficiaries" of land cases, especially when they are illegal occupants of self-built neighborhoods.

Still another obstacle expressed by government officials has to do with the diverse sizes and shapes of land plots in the squatter settlements (Bolívar et al. 1994, 53-100). Some plots may be only 20 m<sup>2</sup> in size, while others may cover thousands of square meters, making legalization extremely complicated. A land survey of each settlement would have to be taken, and in many cases their maps would have to be redrawn, implying a highly detailed and difficult challenge to city or state agencies.

### **Conclusions**

Peaceful struggles by settlement residents to occupy land are seldom publicized, although some fights have resulted in the loss of human lives. Most of these battles are not recorded officially, but for those who work in this field they comprise indispensable documentation for the study of the legalization issue.

# Risk Prevention in Irregular Settlements

Given these obstacles and other factors, the political will to launch a legalization process is also lacking in many Venezuelan cities. The politicians who depend on patronage to remain in office have no interest in “resolving” the problem, since that would “kill the goose that lays the golden egg.” To date the occupation of land and subsequent acceptance of possession has been the prevailing pattern, but many observers believe it is imperative to overcome that pattern. To continue relying on the ambiguous position that only possession counts and that ownership is irrelevant is to condemn both the possessors and the owners to a permanent legal vacuum. In time this posture leads to urban chaos and a daily life for the inhabitants characterized by uncertainty, fear and violence.

## REFERENCES

Baldó, J. 1996. “Urbanizar los barrios de Caracas.” En: Bolívar, T. y Baldó, J. (comps.), *La cuestión de los barrios. Homenaje a Paul-Henry Chombart de Lauwe*. Caracas: Monte Ávila Editores Latinoamericana, Fundación Polar y Universidad Central de Venezuela.

Bolívar, T., Guerrero, M., Rosas, I., Ontiveros, T., y De Freitas, J. 1994. *Densificación y vivienda en los barrios caraqueños. Contribución a la determinación de problemas y soluciones*. Caracas: Ministerio de Desarrollo Urbano/Consejo Nacional de la Vivienda.

Bolívar, T., Ontiveros, T., y De Freitas, J. 2000. *Sobre la cuestión de la regularización jurídica de los barrios urbanos*. Caracas: SEU/FAU/UCV e Instituto Lincoln (mimeo).

Ontiveros, T., y Bolívar, T. 2000. *Vivienda y acceso al suelo urbano. ¿Institucionalización de un derecho oficial paralelo*. En: Edesio Fernandes (coordinador), *Derecho, espacio urbano y medio ambiente*. Madrid: Instituto Internacional de Sociología.

Pérez Perdomo, R., y Nikken, P. 1979. *Derecho y propiedad de la vivienda en los barrios de Caracas*. Caracas: Universidad Central de Venezuela y Fondo de Cultura Económica.

**Teolinda Bolívar Barreto** is an architect and professor in the Department of Architecture, Central University of Venezuela, Caracas. The Lincoln Institute is supporting her research and educational programs on this topic. Translator Richard Melman contributed to this article. Contact: yinlay@posta.arq.ucv.ve.

## Douglas Keare and Luis Javier Castro Castro

In recent years, Latin America has suffered from many natural disasters that have had especially serious impacts on irregular settlements in densely urbanized areas. Drawing on the findings of research in Mexico funded by the World Bank and other institutions, the Lincoln Institute cosponsored a seminar in November 2000 in the port city of Veracruz, focusing on ways to mitigate the risks and results of natural disasters. The seminar explored such issues as:

- the relationship of irregular settlements in high-risk areas to regularization processes;
- the attitudes and efforts of the local populations;
- recent technological advances relevant to diagnosing risks;
- lessons learned from previous disasters; and
- successful experiences with disaster prevention and mitigation.

Representatives from municipal authorities and community organizations shared experiences and learned technical and practical methodologies to identify high-risk zones, implement policies to reduce illegal settlements in those zones, and establish prevention and mitigation measures. Participants also identified the importance of social participation in the process. The principal findings are summarized below:

Irregular or illegal settlements reflect the inability of land markets to provide suitable (low-risk) residential locations for low-income families. Mitigation efforts will continue to be frustrated unless this policy environment is improved.

Actions at higher levels of government are almost exclusively reactive, such as relief measures only after disasters strike and limited efforts to improve planning and prevention. There is an urgent need for governments to revise their priorities to avoid some of the predictable impacts of natural disasters.

Data and management tools to improve preventive approaches need to be made available to citizens and local authorities, who have been the source of most successful mitigation efforts in recent years and are in the best position to originate future initiatives.

It is important to begin promoting and developing insurance policies that will both reimburse households and localities for damage and losses and put in place incentives to improve practices with respect to building standards, maintenance of watercourses, and other preventive measures.

Since rapid and poorly managed urbanization has been a major culprit in increasing the number of families at risk, as well as the levels of risk, strengthened urban planning should be a vital tool in the quest to reduce the effects of disasters.

The Institute has been working on this issue with State, Urban and Municipal Services (SUME), an institution established in late 1999 to raise the quality and efficiency of governance and management at state and local levels in Mexico. SUME aims to accomplish these objectives through consulting, technical assistance and training of government officials. Its activities have been supported by the United Nations Centre for Human Settlements (Habitat), which cosponsored this seminar, and by the World Bank and the Interamerican Development Bank. □

**Douglas Keare** is a fellow of the Lincoln Institute and **Luis Javier Castro Castro** is director general of State, Urban and Municipal Services (SUME) in Mexico City. Contact: doug@lincolninst.edu or ljcastro@sume.com.mx.