

OPEN LETTER

Provisional Presidential Act No.759/2016 Deconstruction of Land Regularization in Brazil

Introduction

This open letter is meant to summon social movements and all those who believe in Urban and Rural Reform to demand Brazilian Federal Government to withdraw Provisional Presidential Act No.759/2016 from Congress; therefore stopping the voting process and promoting a large scale debate about land ownership, property and possession, guided by constitutional principles of social function of property and individual and collective human rights.

Brazilian domestic policy on Land regularization: the result of a democratic process

Since the 1970s, urban areas staged a fast population growth resulting in the emergence of informal settlements all over the country (slums, irregular land subdivision, and irregular housing projects). As a result of a chaotic and exclusionary urban growth, 11 million people live in informal settlements in Brazil, a figure that represents 6% of Brazilian population. Such scale of informality is a challenge to all government agencies, especially in terms of introducing land regularization as a priority in housing policies.

In 2001, the City Statute (Law No. 10257/01) was enacted, which was the result of a broad and long public debate. The City Statute regulated a constitutional chapter on Urban Policy dealing with the social function of property and participatory urban planning, as well as established land regularization and urbanization of settlements occupied by the poor as a basic rule. After a decade, this law was consolidated as the legal guide for the Brazilian Land regularization policy.

In the following years, several other statutes were enacted guided by the Constitution and the City Statute. In 2007, the laws regarding the Federal Union Real Estate Property were updated in order to include legal tools to promote social interest land regularization on public owned land and, in 2009, a specific law was enacted to regulate regularization of public owned land in the Amazon Region. Further in 2009, a national law regarding land regularization was enacted and became a guideline to Municipalities to promote regularization policies because it established principles and procedures and self-operating tools that set apart regularization with social interest purposes, speeding its administrative and registry procedures as well as increasing local authority's autonomy.

Surprisingly, at the very end of 2016, a Provisional Presidential Act was enacted deconstructing that entire legal body that represented the result of a long term public debate and consolidated collective understanding and agreement of multiple stakeholders.

This Provisional Presidential Act has a constitutional defect that makes a legal mess because, without any urgent justification, it revokes consolidated and democratic laws replacing them with a not self operating law enacted without any public debate. Furthermore, the Provisional Presidential Act burdens the poor, because the special procedures for land regularization of social interest are not as clear, while it makes it easier to regularize high class settlements and pardons land speculation, including the ones in the Amazon Region.

Therefore, rights are at risk with Provisional Presidential Act 759. It breaks a democratic legal system that promoted access to land, harming a participatory process in law enactment. Furthermore, it causes the privatization of the land owned by the Federal Government and puts the Amazon Forest and its traditional population at risk. The Provisional Presidential Act was enacted with no public debate: the government group that conceived the text of the law did not consult the population directly affected, the Public Defense Office, the Public Prosecutor's Office, the National Council of Cities, any social movements or any civil servants directly involved with land regularization. Spoiled with constitutional defects, the Provisional Presidential Act promises things that it does not deliver – leaving it all to future (and unknown) regulations.

Say no to Provisional Presidential Act759!

Not a single right less!

In favor of land regularization for the poor, a

fundamental right!

Democracy defense!

In favor of the social function of the property in

the city, rural land and forest!

Send your support by signing the letter at <https://contramp759.wixsite.com/cartaaobrasil> (link Assine a Petição Pública)