

EMG Venezuela Land Rights Report

Low Xuan Kai Kevin

MA Economics Candidate

New York University

INTRODUCTION

This report critically examines and assesses the issue of land rights in Venezuela, limiting its attention to the property rights of land after the passing of the Law on Land and Agrarian Development in 2001. In particular, it will focus its attention on impacts on domestic private entrepreneurship. The report would proceed first with dissecting the various elements of the land reform initiated in 2001 as well as the new implementation measures in 2005 and 2010 before analysing the property rights impacts these elements have on the local entrepreneurial environment. In line with the approach of institutional economics, attention would be given to the specific context and structural factors such as the prevailing political climate and the distribution of power in the society that are driving these impacts.

The motivations and the purpose of the reforms are highly complex, politicized and ideological rather than driven by economic principles even if there may potentially be economic gains from it. We will keep our attention on the impacts particularly on property rights and relating it to entrepreneurial outcomes without being drawn into discussion on the optimality of these reforms (or if they accomplish the purposes they have been set out for).

This report will be divided into 4 sections: Section 1 will look briefly into the channel by which property rights influence entrepreneurship, applying it to the case of Venezuela's reforms; Section 2 examines the impacts these reforms have particularly on property rights of the various groups in the society of Venezuela. Section 3 extends the analysis to the domestic private entrepreneurial activities - focusing on but not limited to that of market entrepreneurship. And finally, Section 4 concludes.

I. PROPERTY RIGHTS ORTHODOXY & VENEZUELA'S REFORMS

Venezuela's land reforms, at its roots are motivated by political ideals of a socialist government and involved a massive asset redistribution in land. The registration, surveying and distribution of legal titles to the poor in Venezuela is unlike the land rights formalization that De Soto (2000) championed. Rather than an attempt to convert assets from 'dead capital' to capital that can take on a second life in the wider economy, the reforms see certain market outcomes of unequal land distribution and the economic 'coercion' through the market with power

This paper was written as part of an assessment in a course on the MA Economics program in Economic Development

of wealth by the elites as corrupt. We thus should not be surprised that the reforms constraints exercise of rights within the market sphere such as transfer, or renting.

Particularly for the case of Venezuela, the extralegal elements of land rights enforcement is of great importance and the ability of the state to enforce these legal titles relative to the extralegal enforcement that is present in the society will have a large part in determining the actual ‘economic rights’ of the actors. In the spirit of Trebilcock & Veel (2008), there is a sense of a dynamic interaction between the market, political actors and the balance between de jure and de facto power that shapes the entrepreneurial outcomes in the economy. As with the narration of events and implementation of changes brought about by the Law on Land and Agrarian Development in Wilpert (2014), it is impossible to divorce the impacts of the implementation process from that of the reforms themselves. Consequently, the rest of this report will analyse these impacts together as resulting from the reform itself.

II. PROPERTY RIGHTS IMPACTS OF THE REFORMS

A. *Land Rights Security*

Stålberg (2006) cited a view from the domestic legal expert who claims that the lack of clear definition makes the denotation of latifundia contentious and result in great insecurity amongst landowners. As Albertus (2009) argued, even going by the word of law, the concept of a ‘latifundio’ is such that it constantly changes as large properties in the region are broken up, forcing down the regional average and subjects new properties to expropriation risks.

With the legality of their land titles and ownership threatened, the large landholdings literally went up in arms, resorting to violence and assassination as Wilpert (2006, 2014) pointed out. The extralegal enforcement is often an attempt to ward off the peasants occupying property in anticipation of receiving temporary titles for cultivation (Carta Agraria - granting temporary usufructuary rights over the land whose ownership is in dispute). A case of Beveré Cooperative cited in Enriquez (2011) reveals how peasant farmers in a legally constituted cooperative seek to pressure the government to step up with their promise to grant them land by invading a section of the estate they were supposed to ultimately receive their land from.

The impunity and general lawlessness on both sides reflects how de facto power remains important given poor state enforcement of rights to begin with. De jure rights were simply insufficient for the preservation and utilization of land rights in Venezuela. According to Wilpert (2014), adding to the difficulty is a sense that the state bureaucracy is overtaxed by the excessive institutional complexity of the reforms.

B. *Truncation of Land Rights*

Splitting apart the idea of ‘ownership’ of land into the typical property rights bundle of ‘use’, ‘exclusion’ and ‘transfer’ rights. This bundle of land rights in Venezuela becomes truncated through the reform via the tax on idle agricultural land, risk of expropriation. In this case, the use rights of land-owners become severely truncated by the fact that they are ‘forced’ by the tax and threat of expropriation to use their land in ways dictated by the government.

For the larger farms, use-rights of their farms are severely truncated through the need to satisfy productivity requirements to avoid tax and expropriation in accordance to the land classification that is imposed by the government. Their power to exclude others has also been reduced as land to be expropriated for peasant farmers is usually disclosed even before official possession and

Wilpert (2014) also brought up the issue that renting of land for farming is prohibited. This effectively ties the land beneficiaries to an agricultural occupation even if they discover they were ill-equipped and would benefit from renting it out to a better farmer.

At the same time, Page (2011) explains that beneficiaries receive a permanent title (Titulo de Adjudicación) that allows them to stay on the land only so long as they continue to keep farming (and often conditional on their cooperative farming). This means ‘true’ ownership in the purest sense ultimately lies in the state - the market transfer rights for peasant land-beneficiaries is completely eliminated.

C. Sanctity of Property Rights

As Demsetz (1967) would have it, the stability of property rights provides an environment where it is possible for a man to form expectations he can reasonably hold in his dealings with others. In the background of the specific property rights impacts is the exercise of arbitrary power by the state and its various organs. The land reform itself is constructed with severe lack of clarity to leave room for official discretion.

The Venezuelan state, when so empowered, could expropriate specific privately-held land parcels arbitrarily, disturbing the said stability, and puts into question the sanctity of property rights necessary for economic dealings. Wilpert (2006) claims that even when presented with documentary evidence of land-holdings dating back to 1800s, the government declared the titles fake and moved forward with its attempts to ‘repossess state-lands’.

And the anti-corporatist slant of the ‘socialist government’ definitely does not offer any consolation for the large private entrepreneurs of the agricultural sector. In fact, Cordova (2009) describes the government’s declaration of underproductive lands as ‘aleatoric’ and raised mid-sized farmers’ concern that prevailing ownership rights may simply be converted into use rights of the land occupied. According to Suggett (2010), new amendments of the Land Law came in mid-2010, further restricting rights by prohibiting third party cultivation of land (no renting or hiring of farm labour). The reactionary policy-making and law-amending habit of the government thus upsets the stability of land rights, possibly putting a standstill on the land market since buyers cannot possibly be sure if they would be robbed of the bundle of rights they think they are purchasing. Land-holders face further uncertainty on the returns of the asset without being able to liquidate their investments readily.

III. IMPACTS ON DOMESTIC PRIVATE ENTREPRENEURSHIP

With the land reform threatening the security of prevailing land rights, truncating the ‘ownership bundle’ and putting into question the sanctity of these rights, impacts on entrepreneurship would appear rather adverse. The new property rights structure created by the land reforms is one where the state is the ultimate owner of agricultural lands and peasant farmers with land titles are not allowed to rent out their lands for farming. Such a structure

effectively suppresses the market entrepreneurship that decentralizes economic decision-making, leaving the most decision-making power concentrated in the state. Private land parcels, if any, are severely constrained in terms of economic rights, limiting entrepreneurship in agricultural production.

The land reform definitely changes the relative payoffs across scale and type of enterprises in the agricultural industry. The formal, legal protection of rights for individual peasant farmers and cooperatives secures tenure for the smaller scale farms while larger ranchers and farms have to exhaust resources resorting to extralegal forms of protection. The risk and uncertainty associated with private landholding also restrains private investment in these land parcels, limiting productivity improvements. As such, one would expect 'free' entrepreneurial activities to shift away from production in the agricultural industry.

A. Domestic 'Private' Entrepreneurial Experiment - Cooperatives

According to Wilpert (2014), as part of the most current amendments to the land reforms, beneficiaries of the land distribution turned towards cooperatives rather than individuals. However, these individuals forming cooperatives were largely from the urban areas with limited actual farming experience. Daguerre (2011) cited the assessment of Venezuelan social 'missions' from d'Elia et al (2006) indicating that the cooperatives were characterized by a culture of amateurism that lacked managerial rigour (absence of proper administration, accounting and human resource management), fosters exploitation of workforce and inefficiency.

Cases of agrarian cooperatives studied by Purcell (2013) exhibited the typical failures of 'social production companies' but in particular, suffered from "low technological content of production, inadequate transportation and commercial links to markets, low rates of profits to compensate for higher costs". Cordova's (2009) study of such cooperatives confirms similar failures. Page (2011) reports that most farmers were not producing enough to be able to pay back their loans to the government agency FONDAFA which provided credit for cultivation. It is unclear if the farmers in the cooperatives were unwilling to make sufficient investments with the credit or were inadequately equipped to make the right investment decisions.

Nevertheless, the property rights structure definitely plays a part in their incentives for investing in the lands they farm on. Stålberg (2006) contrasts the differing views relating to the time horizon of the peasant farmers relating to the ultimate state-ownership of land with inheritable lease. There were concerns that farmers may not invest efficiently, in reaction to changes in the political climate - investments are made based on the peasant farmer's trust in the state.

Venezuelan academics and lawyers interviewed by Stålberg (2006) have mixed opinions about lack of transfer rights; some believes it is hard for farmers to have the necessary long-term perspective on the land. However, most affirm that the ability to inherit the land across generations does provide the stability and incentives for longer term investments assuming increase political stability.

However, if the failure of these cooperatives traces its roots in mere bureaucratic inefficiencies, there is still much potential in the market entrepreneurship; there is an implicit demand for managerial expertise, propagation of agricultural innovations and distribution networks. The limitations imposed on agricultural production through

the land reforms would merely shift the entrepreneurial activities downstream where there may potentially be profit opportunities.

B. Domestic Market Entrepreneurship

Indeed, Enriquez (2011), McKay (2011) and Purcell (2013) all points out the emergence of private intermediaries between production and retail of agricultural produce. While the state tries to monopolize farming and agricultural production on behalf of the peasants, their lack of expertise and efficient distribution networks gives rise to profit opportunities in transportation and retail of agricultural products. Enriquez (2011) questions the efficiency of a set-up with the presence of a state marketing agency created to support the land reforms as cooperatives complains of negative experiences with the agency and continued poor access to market. The 'Beveree Cooperative' cited in Enriquez (2011) eventually keeps afloat by using the private intermediaries to reach their final consumers anyways, reflecting the market power of the private intermediaries may stem from their efficiency.

Although the private intermediaries purchases the produce of farms at low prices and sells them off to the retail markets at higher prices, these entrepreneurial profits should quickly be eroded if new entrants are allowed into the market. Page (2011) highlighted that despite the government's initial promise to market the produce on behalf of the farmers - ostensibly through the CVA, the government's agriculture marketing arm - most farms were left to find buyers for their products after harvest. The inefficiency and bureaucracy of CVA creates room for monopsony power from private intermediaries who are faced with many small farms and multiple cooperatives created by the land reform. McKay (2011) highlighted the importance for CVA to establish itself as a credible and reliable intermediary that is able to displace the private intermediaries or enhance competition within this point of the supply chain.

C. Political Entrepreneurship & Rent-seeking

Albertus (2009) discovers through econometric analysis that political opposition of the ruling party is being denied access to the benefits of the land redistribution. This implies that the reform is implemented in a way that makes it a vote-buying tool and risk political clientelism. Such partiality clearly generates room for political entrepreneurship and rent-seeking behaviour.

Individual rent-seeking is also observed in Daguerra (2011) where interviewed officials of the administration admitted the cooperatives training programme was a failure since participants were mainly attracted to the stipend paid out rather than the creation of sustainable cooperatives. The land reform, in this sense, creates a new avenue for redistribution of resources without corresponding incentives to produce.

IV. CONCLUSION

The land reform essentially impinge upon the property rights of land in Venezuela and shifts most of these rights from the hands of private landowners into the hands of the state. Along with the loss of freedoms important to entrepreneurship identified by Harper (1998), we have seen the state tries to issue some - but perhaps insufficient - freedoms to peasant farmers so as to drive the agricultural sector. This process, however, appears to shift market

entrepreneurship from private hands to the state instead with the cooperatives becoming reliant on the state's support and directions.

Over-reliance on the state machinery to drive market entrepreneurship would only serve to encourage domestic private entrepreneurs to divert resources towards political entrepreneurship - the 'unproductive activities' that reeks of rent-seeking identified by Baumol (1990). The short-term shift in payoff structure to different entrepreneurial activities can give rise to long term implications in terms of the entrepreneurial environment.

Agricultural expertise in management of large ranches and farmlands may be lost as a result of the demolition of 'latifundios'; at the same time, farms that are well-managed or with productive individuals would not be able to expand (due to the shutting down of land markets) and propagate productivity improvements to other farms. In long run, the market economy in the land and agricultural sectors loses its ability to perform the vital process of entrepreneurial selection that helps to drive economic development as a result of this deterioration in property rights .

BIBLIOGRAPHY

Albertus, M. (2009, December). A Revolution for Whom?: Measuring Political Bias in the Venezuelan Land Reform using Maisanta. Stanford University, California, USA. Retrieved from <https://politicalscience.stanford.edu/sites/default/files/worksmaterials/cp'albertus.pdf>

Baumol, W. J. (1990). Entrepreneurship: Productive, Unproductive, and Destructive. *Journal of Political Economy*, 98(5), 893–921.

Cordova, A. J. S. (2009). Agrarian Reform In Venezuela: Case study of a Fundo Zamarano in the State of Monagas. University of Florida, Florida, USA. Retrieved from <http://etd.fcla.edu/UF/UFE0025027/sintjago'a.pdf>

Daguerre, A. (2011). Antipoverty Programmes in Venezuela. *Journal of Social Policy*, 40(04), 835–852. doi:10.1017/S004727941100

D'Elia, Y. and Cabezas, L. (2008), *Las Misiones Sociales en Venezuela*, Caracas: Instituto Latinoamericano de Investigaciones Sociales.

De Soto, H. (2000). *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*. Basic Books.

DeLong, S. (2005, February 26). Land Reform in Venezuela. CounterPunch. Retrieved from <http://www.counterpunch.org/2005/02/26/land-reform-in-venezuela/> Duarte, C., Ettkin, L. P., Helms, M. M., & Anderson, M. S. (2006). The challenge of Venezuela: a SWOT analysis. *Competitiveness Review*, 16(3/4), 233–247.

Enríquez, L. (2013). The paradoxes of Latin America's "Pink Tide": Venezuela and the project of agrarian reform. *Journal of Peasant Studies*, 40(4), 611–638.

Harper, D. A. (1998). Institutional Conditions for Entrepreneurship. *Advances in Austrian Economics*, 5, 241–275.

McKay, B. (2011). Assessing the impacts of Venezuela's state-led agrarian reform programme on rural livelihoods. Retrieved from <http://library2.smu.ca:80/xmlui/handle/01/24819>

Page, T. L. (2011). The Ambiguous Transition: Building State Capacity and Expanding Popular Participation in Venezuela's Agrarian Reform. Retrieved from <http://escholarship.org/uc/item/2j30z0zq>

Purcell, T. F. (2013). The Political Economy of Social Production Companies in Venezuela. *Latin American Perspectives*, 40(3), 146–168.

Stålberg, A. (2006, June 22). Agrarian Reform in Venezuela. Swedish University of Agricultural Sciences (Sveriges Lantbruks Universitet), Uppsala, Sweden. Retrieved from <http://ex-epsilon.slu.se:8080/archive/00001459/01/c-uppsats.pdf>

Suggett, J. (2010, June 17). Venezuelan Land Law Reform Promises “Land for Those Who Work on It” — venezuelanalysis.com. *Venezuelanalysis*. Retrieved March 8, 2014, from <http://venezuelanalysis.com/news/5432>

Trebilcock, M., & Veel, P.-E. (2008). Property Rights and Development: The Contingent Case for Formalization. *Journal of International Law*, 30(2), 397.

Wilpert, G. (2006). Land for people not for profit in Venezuela. In P. Rosset, R. Patel, & M. Courville (Eds.), *Promised Land: Competing visions of agrarian reform* (pp. 249–264). Oakland, California: Food First Books.

Wilpert, G. (2014). Chávez’s Legacy of Land Reform for Venezuela. *Review of Agrarian Studies*, 3(2). Retrieved from <http://www.ras.org.in/chavezs'legacy'of'land'reform'for'venezuela>