

LAND USE REGULATIONS IN THE STATE OF PARÁ, BRAZIL: AN OVERVIEW OF ITS GUIDELINES

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SUMMARY

This essay presents the guidelines and methodology of ITERPA's land tenure regularization program in Pará as well as the Federal Government's land tenure regularization program created after ITERPA's experience. It also indicates the existing major problems related to ownership rights and occupation of public lands in Brazilian Amazonia. It presents what legal and administrative changes took place in order to implement these programs as well as what complementary activities were developed to integrate the agrarian and environmental agendas in Pará focusing in the development of sustainable economic activities and in the implementation of basic human rights.

Keywords: Land Tenure – Amazonia – South America - Brazil

INTRODUCTION

The state of Pará is the second largest state in extension of Brazil and presents very complex features in comparison to the other states in the Brazilian Amazonia¹. However, at the same time, it may be also considered as a living laboratory to think land tenure regularization and territorial planning policies for the whole region once we can find all types of land use occupation in urban and rural areas, whether in federal, state and private lands. See tables below for comparison²:

LAND TENURE AND ENVIRONMENTAL LIMITATIONS IN PARÁ	
LEGAL CATEGORIES	ÁREA (HECTAR)
FEDERAL PROPERTY	40.453.268,71
FRONTIER SECURITY ZONE UNDER FEDERAL JURISDICTION (150 km)	8.526.358,49
INDIGENOUS LANDS	28.412.562,26
FEDERAL PROTECTED AREAS	20.147.441,44
STATE PROTECTED AREAS	20.110.882,91

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RURAL SETTLEMENTS	11.144.410,20
STATE PROPERTY	17.207.622,09
MILITARY ÁREA	1.200.000,00
TOTALdo	147.202.546,10
TOTAL AREA OF PARÁ STATE	124.764.803,61

Source: INCRA, 2009.

LAND TENURE AND ENVIRONMENTAL LIMITATIONS IN BRAZILIAN AMAZONIA

LEGAL CATEGORIES	ÁREA (HECTAR)
FEDERAL PROPERTY	121.279.882,78
FRONTIER SECURITY ZONE UNDER FEDERAL JURISDICTION (150 km)	104.546.284,91
INDIGEOUS LANDS	108.529.872,49
FEDERAL PROTECTED AREAS	64.532.496,97
STATE PROTECTED AREAS	55.335.991,67
RURAL SETTLEMENTS	39.171.802,72
STATE PROPERTY	66.821.787,75
MILITARY AREA	3.492.641,32
TOTAL	579.356.014,20
TOTAL AREA OF BRAZILIAN AMAZON	502.044.872,21

Source: INCRA, 2009.

It is estimated that only in the State of Pará there are 28 million hectares of rural public federal and state lands that have been occupied by different social segments who need State's recognition of their inhabitation and development of economic activities (BENATTI; SANTOS; GAMA, 2006). Especially in the case of Pará, there is no room for the idea of a "scarcely populated rainforest", not only because its area has been explored since the early 1600s, but also due the fact it is the most populated State in the northern region, with a fast growing population of more than 7 million inhabitants, living mostly in towns and villages.

These people, whether located in rural or urban areas, occupy in its majority public lands, with no state's recognition of ownership rights. This situation unable them to obtain financings at banks or to invest in long term sustainable economic activities once are daily threatened to be removed from where they live and work, leading to high internal migration rates, violence and violation of human rights. The uncertainty related to land ownership also affects municipalities that are not legally authorized to build essential infrastructures (schools, hospitals, roads, etc) or obtain public funding because they have no ownership rights over the urban areas they have to manage and control.

To address this major land problem Pará has created a comprehensive land tenure regularization policy³, embodying urban and rural areas over a territory larger than the country of Angola, partially funded by the World Bank.

Considering its positive initial results this program inspired a major federal land tenure program in Brazilian Amazonia called *Terra Legal* (Lawful Land). These joint efforts represent the biggest existing land tenure regularization program in the world;⁴ with the scope assure ownership rights in Pará and other states in Brazilian Amazonia,

promoting economic and social development, and, at the same time, integrating agrarian and environmental policies⁵ in the region.

This essay has the purpose to present the state land tenure regularization program established since 2007⁶ to overcome negative human and environmental indicators related to the use and access to land. It is important to mention that it is the first time in five decades the Land Institute of Pará⁷ (ITERPA), takes the initiative to debate a public policy, focusing on securing land tenure of small properties, in order to overcome the existent land use chaos, guaranteeing access to land, and the sustainable development of agrarian and forest-based extraction activities⁸.

As a result of this debate some legislative changes occurred. A Federal Law was enacted to address this situation in the Brazilian Amazonia, recognizing its specific land tenure problems. This change enabled a massive land tenure regularization program and also influenced the update of State laws over the subject. With this new regulatory milestone land tenure regularization programs are not an exception, but the basis of a new policy, which takes into consideration the existing cultural and social diversity in the Brazilian Amazonia.

Currently, the State has increased the control over its territory, coordinating the process of land tenure regularization, in order to have effective public policies. Therefore, it is necessary to establish a global territorial planning approach that includes land tenure regularization in rural and urban areas, environmental limitations in the use of property and inspection of its economic use; creation of protected areas, and recognition land rights for indigenous populations and other traditional groups, seeking the promotion of sustainable activities and reduction of deforestation rates.

To achieve the intent purposed in this essay's exposition is divided in six parts. At first, we will present the available legal possibilities to regularize land holdings. After, we will present the legal criteria to grant ownership rights in public lands.

In the third section we will discuss briefly the Federal and State legislative changes related to land tenure and recognition of ownership rights in Pará and Brazilian Amazonia. In sequence, we will describe the employed methodology to regularize rural land holdings.

In the fifth part we will discuss the importance of urban land tenure regularization in this program and its expected long-term effects in the population's wellbeing. And in the last part, we will briefly present what ITERPA and the Federal Government have done to improve its activities in order to accomplish their institutional missions.

LAND TENURE REGULARIZATION OF RURAL PROPERTIES AND OWNERSHIP RIGHTS

The first step in a land tenure regularization program is to grant access to land and natural resources appropriation to different social segments, in such way that one conception of land use does not overlap the other or results in a concentration of land in few hands.

For this reason, the land tenure regularization policy seeks to guarantee access to the development of different social and economic activities, although the focus of the

land tenure program is the small property. We cannot implement the first without the latter. It is important to mention that to grant preference to regularize small properties does not exclude the possibility to sell lands to medium and large land holders.

A Land Tenure Regularization Policy concerns not only the identification of public lands for regularization, but also how individual or collective properties will be constituted; that is, what legal strategies will be used to avoid land speculation and land concentration.

Since ITERPA's land tenure program targets different social segments which are differently affected by market laws, it proposes different rules and restrictions when granting ownership rights. Thus, depending on type of regularization ITERPA issues titles (definitive property titles) or concessions (concession of right *in rem* of use).

The first type corresponds to the document issued in the regularization of municipalities, and individual properties, whether small, medium or large areas. A collective property title may also be issued to *quilombolas* communities, but in this case this title cannot be sold or have its area divided.

Concessions, the second instrument, are only granted for the beneficiaries of rural settlements⁹ or urban land tenure regularization programs for low income communities. In both cases, depending on the type of land occupation these concessions can be individually or collectively granted.

A concession in Brazilian law assures almost the same rights to beneficiaries who receive properties titles. The difference consists in restrictions to the concession's beneficiary to acquire other areas, enlarging the area already occupied and to sell it without in the State's previous approval. The concession is also transferable through succession, as long as the new grantee meets the same criteria for the concession and does not make different use from what is established in the contract. Nonetheless, this limitation does not cause an economic unfeasibility of the property because its proprietary continues with all powers of its use and enjoyment¹⁰.

These restrictions have the goal to avoid land speculation and concentration, allowing low income rural and urban families, who are normally excluded from the legal land market, to have legal protection of their possessions and real estate transactions¹¹.

LAND TENURE REGULARIZATION CRITERIA OF OCCUPIED PUBLIC LANDS¹²

In the process of land tenure regularization the occupation of public lands must be respected¹³, as long as it is not violating legal dispositions. Therefore, occupation is a *sine qua non* condition for land tenure regularization. There are situations where certain social groups have priority over others in the land tenure regularization process.

Thus, indigenous groups' lands, even if occupied by third parties cannot be ever regularized. Similarly, quilombolas communities' occupation, as long as do not conflict with indigenous interest are in second in the legal priority to ownership rights recognition.

Besides these two groups, protected areas come in third for destination of public lands. Thus, if there are people occupying areas in these situations, they will only have their areas regularized if their occupation is compatible with protected areas' creation¹⁴.

Fourth in the list of priorities are rural settlements and small properties¹⁵. After, considering that smaller areas have priority over larger ones, are medium and large occupations¹⁶. It is important to mention that municipal donations have priority over land tenure regularization for agrarian purposes, as long as municipal requests do not conflict with conservation units, indigenous and quilombola's territories.

Another aspect that ought to be taken into consideration is environmental law regulations. Thus, the areas to be regularized must be registered, prior the issuance of any title, in the Rural Environmental Registry (RER)¹⁷, under the authority of the State Environmental Agency (SEMA).

Depending on the land's size to be regularized, different legal requirements apply. Although there is no disposition in the Constitution that establishes a maximum limit for rural properties in Brazil, we find various constitutional commands that prohibit the State to favor the concentration of land¹⁸. Thus, the larger the land to be regularized, more stringent the requirements are to grant ownership rights.

To regularize small land holdings up to 100 ha the beneficiary must fulfill the following requirements to receive a land donation: (a) continuous possession; (b) effective use of the land for no less than one year; (c) inexistence of opposition of a third party; (d) inexistence of other rural ownership rights; (e) that he/she did not receive any other concession of land or any incentive from the agrarian reform program; and (f) an adequate use of natural resources.

To regularize medium and large land holdings, the requisites for land tenure regularization are: (a) the beneficiary must explore the area for over a year according to the environmental law; (b) the beneficiary must reside in the in the area or near it; (c) the beneficiary must have, as main activity, farming and extraction of forestry products; (d) the beneficiary must not have a public function; (e) the beneficiary cannot have received any incentive from agrarian reform; (f) inexistence of opposition of a third party, regarding the occupation; and (g) the beneficiary has to be legally capable to purchase land.

Both donated and sold public areas will have issued property titles containing clauses to compel beneficiaries to maintain, conserve, and in certain situations, to restore the environment. Besides, all issued titles/concessions and existing environmental limitations must be registered in the property public registry.

THE FEDERAL LAW Nº 11.952/2009 AND THE DEBATE ABOUT SOCIAL JUSTICE AND ENVIRONMENTAL PROTECTION

The Federal Law Nº 11.952/2009 presents the criteria for land tenure regularization in federal lands in Brazilian Amazonia for areas up to 15 fiscal modules¹⁹ occupied since December, 2004. The innovation of this law has enabled the direct sale of the land to the occupant instead of subjecting him to lose it in case of a third party higher bidding in a public auction²⁰. However, this measure was severely criticized under the arguments that it would favor consolidation of *grilagem* in the region and would increase deforestation²¹.

To dispute these arguments it is important to analyze in which context this law was enacted. In reality, Federal Law Nº 11.952/2009 is part of a new political context,

where state and federal agrarian and environmental agencies are focused in a joint approach to combat *grilagem*, environmental violations, and the enforcement of human rights. In this scenario, illegal deforestation violates the possibility of land tenure regularization. Its goal is to give rural producers the possibility to legally explore properties, complying with its social function.

The causes of *grilagem*²² and illegal deforestation are the lack of a definition of property rights in Brazilian Amazonia. What this law proposes is a broad land tenure program to abate illegal deforestation and to strengthen public control over public and private lands.

Nowadays, one fifth of Brazilian Amazonia is still legally defined as *terra devoluta*²³ and a considerable part of identified public areas by the Government in the 70's and 80's were not distributed and used as planned. These facts indicate the government does not to have control over these areas or how they are being used and occupied. The State's recognition of different types of occupation of public lands will enable State and civil society to control the use of the land and its natural resources in the region.

Disputing the second most frequent criticism regarding this federal law, it is not the recognition of ownership rights to medium and large land holding that will favor land concentration. It is already a reality, despite all land reform actions implemented in the last couple of decades, mainly because there are no limits to the land market's transactions. Thus, as long as there is no restriction to buy and sell rural properties, it is more likely that land concentration will increase. It is our understanding that to have a fair land distribution in Brazil it is necessary to limit property rights²⁴.

The Pará State Law n. 7289/2009 was deeply influenced by the enactment of the Federal Law, following its principles and guidelines, establishing a plural access to State owned lands and natural resources²⁵. The State Law's proposed land tenure regularization model tries to reconcile the principles of agrarian production and environmental protection.

In conclusion, despite precipitated critics, federal and State land tenure laws will have an overall positive impact, since its goals is maintained in small rural properties.

MUNICIPAL LAND USE SCANNING: THE METHODOLOGY TO REGULARIZE RURAL LAND HOLDINGS

One conclusion we could withdraw from ITERPA's previous land tenure programs is that isolated land tenure regularization only contributes to land concentration, not representing overall improvements for the families who are beneficiaries of land donations or its surroundings.

In addition, we also learned that when there is a landowner surrounded by public lands, the property title gains a separated economic value from the land, often used to legalize timber products extracted from public areas and indigenous lands or to dispossess non title holders, occupants of public lands.

In order to avoid negative effects from isolated land tenure programs ITERPA in the year of 2006, obtained funds from the World Bank to develop an innovative land tenure regularization methodology.

This new approach, nowadays used as a model in federal and state land tenure regularization programs throughout Brazilian Amazonia, consists in scanning the whole municipal's territory, identifying the land occupation (individual farmers, *quilombola* communities, protected areas, indigenous lands, urban areas, etc) regardless the existence of property rights or compliance with environmental regulations using GPS (global positioning system) technology to build a land use scenario and propose a integrated land tenure and environmental regularization program.

This proposed methodology is divided in four phases: (a) predecessor stage (*fase precursor*), consisting to collect data about the territory and to inform the population regarding the program that will be developed in the location; (b) registry phase (*fase de cadastro*) when land holdings are inventoried and social and economic data from land holders' families are collected; (c) georeferencing phase (*fase de georreferenciamento*), when all land holdings, in private and public areas, are located using GPS technology; and (d) land tenure regularization phase (*fase de regularização*), when, based on the information gathered, ITERPA proposes a land tenure regularization program for state areas or a joint program for state and federal areas.

As a result of this scanning the State seeks: (a) to identify the type of predominant land use in the municipality; (b) to establish the exact location of protected areas; (c) to identify all indigenous and *quilombolas* communities and their territories; (c) to identify and donate consolidated urban occupations do the local authority, as well preferred areas for urban expansion according municipal ordinances; (d) to identify the amount and location of public (state and federal) areas, as well as the exact location of previously issued property titles; (e) to promote a broad land tenure and environmental regularization program for all land holders (small, medium and large farmers), giving priority to rural settlement projects; (f) to obtain updated social and economic data about each of the 144 municipalities in the state; and (g) to improve agrarian and environmental law enforcements programs, and after the program is finalized, to monitor its progress, improving land regularization strategies²⁶.

With this policy we aim to implement a process of continuous, transparent and democratic territorial management, legitimated by different actors (federal, state, municipal and civil society). Thus, the intended objectives are to reduce rural violence and violations to human rights, to assure property rights to different segments of society, to reduce deforestation and to guarantee environmental sustainability.

URBAN LAND TENURE REGULARIZATION

If we want to implement a comprehensive land tenure regularization program in Pará and Brazilian Amazonia, urban areas cannot be left out of it. Most of the population in Pará, and as well as in other States of Brazilian Amazonia, is located in the state's capital, towns and villages.

However, despite the fact municipalities are considered members of the Brazilian Federation; these legal entities only own lands if they receive donations from the Federal and States' governments. To have an idea of this problem, until 2007 only 51 out of the 144 municipalities in Pará received land donations for urban purposes²⁷.

The combination of large amounts of the population living in urban areas of municipalities that have no authority over it is very problematic and results in adverse affects in the people's quality of life. With no land municipalities cannot build essential infrastructures (hospital, schools, roads, etc) or receive public funding to build houses for low income urban residents. Even implementing local ordinances is very difficult because most of households and commercial activities are outlaw because they result of unauthorized occupation of public lands or *grilagem*. This situation leads not only to the migration of large cities, but also to the migration of the population to rural areas, where they will join landless movements or serve as cheap workforce for medium and large land holders of public areas, with no labor rights' guarantees.

Moreover, the absence of updated information regarding the exact location of consolidation urban area or local planning for urban expansion leads States and Federal Governments to grant property and concessions' rights to individuals, increasing the cost of urbanization or in disregard of local plans.

Trying to address these problems Pará and the Federal Government enacted laws where it is foreseen a simplified donation process of consolidated urban areas to municipalities. Federal and State governments can also help municipalities in urbanization process, creating joint urban land tenure regularization programs for low income inhabitants, providing opportunities of household improvements and urban fixation, reducing urban and rural migration rates.

It is also important to mention that urban land tenure regularization programs in Brazilian Amazonia take into consideration the cultural, social and economic diversity of urban occupation in the region. In this sense, local ordinances are essential to understand this phenomenon. The size of the concession, the type of construction materials employed in housing projects and what infrastructures are priority to be constructed are crucial factors to a successful urban land tenure regularization process.

LEGAL CHANGES AND IMPROVEMENTS ON STATE'S BUREAUCRATIC APPARATUS TO IMPLEMENT THE LAND TENURE REGULARIZATION PROGRAM IN PARÁ

In order to implement the land tenure regularization program in Pará ITERPA also had to adopt some changes in the State's bureaucratic apparatus. Traditionally State land institutes in Brazil were underfunded, with outdated equipments and with untrained personnel. It is also a fact that land public registries were in no better shape.

Therefore, before to start a land tenure program it was necessary first to take some administrative and legal measures create minimal conditions for a land tenure program to be carried on.

In the last few years the real estate national registry system has been modified to restrain *grilagem*. This process started in 2001, with Federal Law n. 10.267, which dispositions modernized the demarcation specifications for private properties²⁸. This law enabled to compare different public land databases²⁹, indicating the first approximations of the *grilagem*'s scenario in Brazilian Amazonia.

To expedite the land tenure regularization process the Federal Government the Lawful Land program, withdrawing from INCRA's authority this activity. This separation has enabled INCRA to focus on agrarian reform and in the creation of rural settlements, as well as in granting ownership rights to quilombolas communities. This federal land institute is also in charge of the rural properties registry, which will be integrated in a near future to the public land registry, crossing data related to economic rural activities with ownership rights.

At the State Level, ITERPA updated its regulations, trained its personnel, acquired new equipments, such as GPS, computers, cars and is in the final process in acquiring an appropriated location to develop its activities.

Besides the improvements in infrastructure and capacity building, this existing structure is still insufficient to implement in few years the purposed land tenure program in occupied federal and state areas. For this reason the Federal Government contracted private companies to georeference land holdings of approximately 100 thousand properties in Brazilian Amazonia.

Only in the State of Pará this year these contracted companies with federal funds, under Lawful Land Program coordination, will identify and georeference land holding in over 23,4 thousand square kilometers in the municipalities of northeastern Pará (*Aurora do Pará, Capitão Poço, Irituia, Mãe do Rio, Santa Luzia do Pará, São Domingos do Capim and Viseu*).

Using the same strategy the State of Pará, mainly using World Bank's funding, will invest over one million dollars to georeference rural land holdings in the municipalities of *Tailândia, Rondon do Pará, São Felix do Xingu and Dom Eliseu*.

This approach has the objective to potentialize the State's action to overcome land tenure chaos in Brazilian Amazonia and, at the same time to assure Federal and State Agencies receive proper investments to continue a long-term land tenure program, especially after most labor-intensive activities have been finalized.

Other actions have been taken under state authority to improve control over the existing information of land public registries. As a complimentary activity in the land tenure regularization process all Federal and State land titles issued in Pará since

colonial times are being scanned and included in ITERPA's land database, reducing the risks of data loss and issuance of multiple property titles over the same area³⁰.

When this process is completed Pará will have for the first time an unified georeferenced land tenure database (with federal and state information) with the location all legally issued property titles, as well as the municipal urban limits, recognized indigenous and *quilombolas* communities, federal and state conservation units, roads and rivers. This complete data will be permanently updated with the land scanning process in Pará's municipalities, and will be accessible to public registries in Pará, as well as all public and private institutions through the internet.

ITERPA and the Federal Government are also financing the digitization process of public registries in Pará, which will be in a near future integrated to the unified public land database there is already under construction. This measure will nearly eliminate real estate transaction risks caused by *grilagem* in Pará³¹.

The use of available technology to increase security in real estate transactions will also benefit state control over its territory, enabling a prompt response in identifying land owners responsible for environmental and human rights violation and land concentration. This modernization complimentary program is also the most comprehensive cooperation strategy involving federal and state agencies, as well as, the judiciary ever seen in the Brazilian Amazonia, serving as model to other Brazilian regions, where the *grilagem* problem is less severe, but existent.

CONCLUSIONS

There is an increasing pressure from international and national markets and consumers to increase trade restrictions over products originated from environmentally and socially predatory activities. Thus, if Pará seeks to promote equitable and environmentally sound economic activities accepted internationally it is mandatory to improve its public policies.

In this scenario the present federal and state land tenure regulation programs purpose an integrated territorial management for Brazilian Amazonia, not only for economic reasons, but as a strategy to improve the quality of life of its inhabitants. To abate violence related to land disputes in Amazonia, in direct violation of human rights; to recognize property rights to different social segments, to reduce illegal deforestation are the main purposes of these programs.

However, to structure a land tenure database is a long-term project, which can only be accomplished with careful planning, and the joint efforts of legislative, judiciary and executive branches from all spheres. The civil society also needs to be directly involved if we desire an expedite process. The first results of ITERPA's project in Pará reinforce this assumption.

Currently in Pará there are personnel and equipments to carry on a large scale land tenure regularization program. There is also an effective methodology to orient this process and to promote an integrated territorial planning. If the State accomplishes to allocate sufficient funds to implement these activities, balancing conflicting social interests and creating a synergy among its actions we foresee promising social and environmental improvements already in the next few years.

The strategy to recognize ownership rights to different social segments in Pará, giving priority to small land holders, is presenting positive results to abate land concentration. It was also a gain for Pará to unify its environmental and land tenure regularization agendas.

In conclusion, this project – that started as a pilot funded by World Bank and ended up serving as a model for a federal land tenure policy for whole Brazilian Amazonia – is a long-term program to promote in the region the implementation one of the most basic human rights: the access to property.

However, this right's recognition, in order to be socially relevant has to be accompanied by a territorial planning with well established and enforceable environmental regulations. In this sense, the State has to have its bureaucratic apparatus ready to recognize ownership rights, consolidating a territorial management process, in order to guarantee sustainable economic opportunities to all Brazilian Amazonia's inhabitants.

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¹ The States of Acre, Amapá, Amazonas, Mato Grosso, Pará, Rondônia, Roraima and Tocantins as well as part of Maranhão State constitute de Brazilian Amazonia (*Amazonia Legal*).

² Tables organized according INCRA's official data (2009). Due its imprecision, the total area exceeds the area of Pará State and Brazilian Amazonia in reason of the overlapping of legal categories. The total area of private properties is included in the federal and state Areas, once there is no accurate official data regarding the amount of private lands in the Brazilian Amazonia. Only with land tenure regularization programs and the modernization of public registries it will be possible to identify this data. However, ITERPA officials (2008) estimate that are 11 million hectares of private land in the state.

³ It is important to mention that due to the presence of extensive federal areas within the State, ITERPA's policy plays an important, but limited, role in the discussion of the land tenure regularization and territorial planning in Pará. ITERPA's activities will only be effective if articulated with other segments of State and Federal administration, as well as with the Legislative, Judiciary and civil society.

⁴ Rural land tenure regularization is an administrative process which consists in the State's recognition of private land holdings in public lands. Its purpose is to legalize occupations granting ownership rights to occupants who comply with the social function of rural lands and environmental regulations.

⁵ Notice that there are ongoing initiatives from the State environmental agencies to plan the use of the territory, such as the development of state's macro zoning and the ecologic-economic zoning and creation of protected areas, which must be integrated to ITERPA's policy. It is also important to mention there are other non integrated programs that directly influence in land tenure policies, such as the recognition of indigenous and *quilombolas* (rural communities formed mainly by former slaves) rights over their territories.

⁶ Although since 2006 ITERPA, funded by World Bank, has been developing land tenure regularization activities; it was only in 2007 that were developed principles and guidelines for a state program. Based on a pilot project carried on in 2006 at Municipality of *São João da Ponta* it was possible to organize this broader project. This Project is called *Para Rural* and there are two higher level objectives: (1) to reduce rural poverty and inequality and (2) to create conditions for the sustainable and efficient use of natural resources and the reduction in extensive, unsustainable resource mining. The estimated cost for the first stage is of US\$ 100 million, of which US\$ 60 million will be financed by the World Bank and US\$ 40 million by the Government of Pará. The loan will support specific investments in targeted income generation and territorial development. *Para Rural* consists of four components and five subcomponents: Component A is Income Generation to support the financing of Productive Investment Plans (PIPs) proposed and implemented by eligible producer associations. Component B is Territorial Development with Sub-components B1 Environmental Management and B2 Land Administration. Component C is Policy Development and Component D is Project Management with sub-components D1 on Coordination, D2 on Communication and D3 on Monitoring and Learning (M&L).

⁷ ITERPA is branch of the indirect administration, similar to an Agency, which institutional goal is to execute the State's land distribution and control.

⁸ It is important to mention that the absence of such policy has not refrained unlawful land occupation or the use of natural resources. A spontaneous form of "territorial planning" has taken place in the State, complemented with isolated administrative measures to control its adverse effects, resulting in *grilagem* (Portuguese term for unlawful appropriation of public lands), impoverishment of local communities and human rights violations.

⁹ A factor that must be observed is, when the Government creates a rural settlement to promote agrarian reform, this area is destined for family agriculture. Thus, the creation of a rural settlement projects is an instrument of intervention in the land use structure and, at the same time, a settlement of dispossessed rural workers. Therefore, this process is part of the agrarian reform policy. In order to maintain families in rural settlements financial expenditures are justifiable to offer technical, social and environmental support, and for the construction of minimal infrastructure to assure the success of the enterprise.

¹⁰ An advantage of concessions is the fact that these areas destined to family properties cannot be concentrated, because we are dealing with land partially "out of the market" (with sale restrictions), therefore, not interesting for those who have the intent to concentrate large amounts of land.

¹¹ The objective of land tenure regularization programs is to discourage the formation of large properties because the State cannot favor land economic speculation. Therefore, only when there is a stable land market and a solid agrarian policy for family properties, it will be possible to think in change the concession instrument to property titles.

¹² The Federal Law N° 11.952/2009 present the criteria for land tenure regularization in federal lands in the Brazilian Amazonia and the State Law N° 7.289/2009 present the criteria for land tenure regularization in Pará.

¹³ Under Brazilian law occupation is defined by the effective use of the land and customary habitation.

¹⁴ The term "protected areas" is widely employed to designate environmentally sensitive areas protected by the State. However, Brazilian Law adopted the term conservation unit (*unidade de conservação*). In Brazil these areas can be publicly or privately owned where it may be allowed human presence and inhabitation, depending on the type of conservation unit (preservation or conservation). 12 different types of conservation units form the Brazilian nation system of conservation units (*Sistema nacional de unidades de conservação*). In Pará over 50% of its territory is constituted by conservation units.

¹⁵ It is prohibited the regularization of land holdings with area inferior to the minimal dimensions established in law for a productive rural property. The minimal area for agrarian exploration (*módulo rural*)

is the area large enough to provide alimentary security for the farmer and his/her family, as well as, their social and economic development. This module varies according to the region and type of agricultural activity.

¹⁶ The State regularizes small properties and areas occupied by traditional populations free from any charge. In all other cases the land tenure process is partially or totally refunded by the beneficiary.

¹⁷ This registry is an internet-based system where all rural properties of Pará must be registered, even if not in use. Based on the system's information all environmental permits are issued. This registry indicates GPS coordinates from registered properties, improving the identification of private properties inside indigenous lands, protected areas or superposition among private properties. The registry also enables the control of illegal deforestation through satellite images' analysis. This registry is also mandatory for land tenure regularization of occupations with over 300 ha, when it is necessary to present the occupation's GPS coordinates. The main purpose of this registry is to integrate environmental and land tenure data in the State, improving territorial planning and environmental enforcement.

¹⁸ A large land occupation in Pará varies mainly from 1025 ha to over 2500 ha, depending on the municipality where it is located. Areas from 500 ha to 2499 ha need previous approval from the state legislative to be regularized. To purchase areas over 2.500 ha it is necessary to obtain previous approval from the Congress.

¹⁹ The fiscal module (*módulo fiscal*) is a land unit established by the National Institute of Colonization and Agrarian Reform (INCRA) mainly for rural real estate taxation according to Federal Decree Nº 8.485/1980. In Pará most municipalities have fiscal modules between 55 a 75 ha, with exception of the metropolitan area, where the fiscal module is set in 7 ha. The Amazonas State has the largest fiscal modules of Brazil, varying from 80 to 100 ha. In Acre State it varies from 70 to 100 ha; in Amapá State from 50 to 70 ha; in Rondônia State the average is 60 ha and in Roraima State it varies from 80 to 100 ha.

²⁰ Before the Federal Law Nº 11.952/2009 the only way to acquire public lands in Brazil was through public auctions (*licitação*). The occupant of the land had the preference to acquire it as long he could afford paying for the highest bidding for the area.

²¹ According to this argument the possibility to regularize the present occupation of public land would award people who illegally occupied it. Moreover, the present possibility of regularization would be an incentive to new occupation and the increase of illegal deforestation under the premise that in the future a new Law would be enacted to regularize this new demand.

²² The illegal privatization of public lands is a constant in Amazonia. Data from the Brazilian Ministry of Land Use Policy and Agrarian Development give the dimension of *grilagem* phenomenon: more than 30 million hectares of land were illegally appropriated only in Pará.

²³ This legal term was first employed in the 18th century regarding public unused lands. Nowadays it is used to identify all lands that are state owned but not used for a specific public purpose.

²⁴ For the purposes of this essay we understand as property rights the rights that rule the owner's rights and duties in the private use of the soil and its natural resources as well as the relation of the owner with other individuals. This term cannot be seen as an individual absolute right, once limited by laws and administrative regulations. The right to property is a constitutional right to acquire land and to have it protected. It is a constitutional protection against suppression of private property (BENATTI, 2003).

²⁵ This Law replaced various sparse State Laws, which were confusing even for lawyers. This new state legal milestone presents simplified clear criteria for the State and general public to engage in land tenure regularization programs.

²⁶ According to ITERPA estimates in Pará 66% of its territory are composed for indigenous and *quilombolas* lands, conservation units, urban areas and private properties. Consequently, this land tenure program will be necessary in over 42 million hectares or 34% of the state's territory.

²⁷ The State of Pará has the goal to regularize the situation of more 28 municipalities until the end of 2012. The Federal Government in 2009 has started 14 donation processes for municipalities located in federal lands and plans to regularize in this year more 20 areas for urban purposes.

²⁸ Before this Law there was no legal criteria do identify and describe the private properties' location in public land registries. This omission favored *grilagem*. Since GPS coordinates were adopted there is certainty of private properties' location.

²⁹ Georeferenced data enable the comparison of two public databases: (a) real estate public registry; and (b) rural properties registry. The first registers real estate transactions. The latter has information regarding the area of rural properties with GPS coordinated and is used for rural real estate taxation

³⁰ This project is financed by the Federal Government (more US\$ 3 million) and its estimated conclusion is November, 2010.

³¹ This public registry modernization process was established due two agreements. The first was celebrated among the Agrarian Development Ministry (*Ministério do Desenvolvimento Agrário*)/ Lawful Land Program (*Programa Terra Legal*), National Institute of Colonization and Agrarian Reform (*Instituto Nacional de Colonização e Reforma Agrária*) and ITERPA at the total cost of US\$ 4.7 million. The latter was signed in February, 3rd, 2010 by the Agrarian Development Ministry (*Ministério do Desenvolvimento Agrário*), the National Justice Council (*Conselho de Justiça Nacional*), National Institute of Colonization and Agrarian Reform (*Instituto Nacional de Colonização e Reforma Agrária*), ITERPA and the State Court of Justice (*Tribunal de Justiça do Estado do Pará*), responsible for inspecting public registries. This process is estimated to start in July, 2010 with the duration of 12 months.