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HUGO CHAVEZ: VENEZUELA’S NEW BANDITO OR ZORRO?

Andy Mielnik*

I. INTRODUCTION

On 32,000 sprawling acres in central Venezuela, a British cattle ranching corporation is struggling to retain legal ownership of its ranch.1 Approximately 1,000 landless peasants have taken refuge on the unused acres of Hato El Charcote and are doing so under the authorization of the Chavez administration.2 These squatters have initiated their own form of adverse possession and are doing so at the expense of foreign investors like the Vestey Group.3 Due to recent developments in Venezuela’s new land reform program, the number of cattle being raised at Hato El Charcote has fallen by half, and more foreign owned private property is being threatened.4

While such a development may alarm individuals familiar with westernized notions of property rights, viewing property rights under such a mindset is impractical in most Latin American countries.5 “Any attempt to alter the inegalitarian pattern of landholdings found in Latin America necessarily implies shifting individual [property rights] in land, plus their associated rents, from the relatively rich to the relatively poor.”6 Thus, with the harsh reality of expropriation possibilities for many Latin Americans and foreign investors—coupled with the current state of disarray in the area of international compensation for seized property—it is evident that land reform programs will be an imminent threat for many landown-
ers in the near future. 

Land reform is a hot issue in many developing countries around the world. From Zimbabwe to Cuba, many academics and foreign investors alike view land reform as counter-productive and influenced by power-hungry politicians who use these programs to stay in office. The aim of this article is to describe the current land reform situation in Venezuela and to provide a prediction as to its possibility of success or failure. To do so, one must understand the current state of property ownership in Venezuela as well as the Chavez administration’s position regarding property rights and social goals. In light of the goals, the article will relieve additional concerns and problems facing both proponents and opponents of Chavez’s plan.

While no land distribution program can ever be implemented in a vacuum, theory-based land reform programs should also be analyzed. These ideal hypothetical land reform programs provide a benchmark that land reform programs can be compared to. In addition to a cursory study of the practical aims of a generic land reform program, the article will highlight current land reform programs in other countries as well as respective objectives and concerns regarding the programs. Finally, the article will conclude with both a comparison of Venezuela’s land reform program to the ideal land reform program as well as a general prediction on the outlook of the land reform program and its effect on the state of Venezuela.

II. THE CURRENT STATE OF LAND OWNERSHIP IN VENEZUELA

Land ownership is one of many fundamental rights recognized by the international community. According to the Universal Declaration of Human Rights, “everyone has the right to own property” and to not “be arbitrarily deprived of that property”, on the other hand, “[c]oncentrated ownership promotes neither efficiency nor equity.” While possession of these bundle of rights is a reality taken for granted in most developed countries, millions of Venezuela’s landless are trapped in a vicious cycle of poverty and servitude. Of private landholdings in the country, roughly 80 percent is owned by 5 percent of the population.

8. *Id.* at 154.
Additionally, “a mere 2 percent of the population owns 60 percent of the country’s farmland, much of which is fallow.”

A. A Brief History on Land Distribution in Venezuela

The first wave of events that led to the disproportionate ownership of land among the peasants can be traced back to regional military strongmen and the large land estate bourgeoisie in the early twentieth century. During the civil strife of landless peasants in Venezuela, land ownership was primarily restricted to the military and local supporters of the “personalistic dictatorial regime” of the time. Land tenancy and urban squalor provided the only form of land ownership available for the peasant-class during this time period.

After a succession of civil wars and government upheavals, the economic focus of Venezuela shifted from agricultural development to mineral exploitation—providing the main reason for the “gross imbalance between urban and rural populations” as well as the cause of the current state of the landless peasant. The government’s shift to oil exploitation had a devastating affect on agriculture and consequently put a hold on any shift in land ownership to the peasants. Moreover, the surge of oil investment and employment created an economic paradox, called “Dutch Disease,” triggering a second wave of disproportionate land ownership that continues to distress the local economy to this very day.

B. Mission Zamora: The New Land Reform Program of Venezuela

Echoing the free-land and free-men sentiments of Ezequiel Zamora, President Hugo Chavez enacted Mission Zamora to address the landlessness of the masses as well as the harmful symptoms of Dutch Disease.

13. Id.
15. Id.
18. Wilpert, supra note 16.
20. Id.
21. Wilpert, supra note 16.
22. Ezequiel Zamora was a peasant leader famous for fighting against the oligarchy after Venezuela’s war of independence during the 19th century. While unsuccessful
Promulgated under the Constitution of the Bolivarian Republic of Venezuela, Mission Zamora is becoming one of the most aggressive land distribution programs in Venezuela's tumultuous history. The Mission's main goal is "to reach equality and social equity fulfilling Article 307 of the Constitution of the Bolivarian Republic of Venezuela." By providing the landless peasants with land and the opportunity to cultivate it, the Mission should curtail the extreme disproportion of land ownership in Venezuela. But it is clear that the ultimate means of achieving these goals will be tantamount to calling a war on latifundios and the investors that own these developments.

The authorization of this negative stance on latifundios is embedded in article 307 of the Constitution of the Bolivarian Republic of Venezuela:

The predominance of large land estates [latifundios] is contrary to the interests of society. Appropriate tax law provisions shall be enacted to tax fallow lands and establish the necessary measures to transform them into productive economic units, likewise recovering arable land. Farmers and other agricultural producers are entitled to own land, in the cases and forms specified under the pertinent law. The State shall protect and promote associative and private forms of property in such manner as to guarantee agricultural production. The State shall see to the sustainable ordering of arable land to guarantee its food-producing potential.

With such broad language prescribing the "recovering [of] arable land," coupled with the State's guarantee to provide the means to realize agriculturally efficient lands to the people, it is clear that the Chavez administration will have the green light to use almost any means to achieve the ends expressed in the Constitution of the Bolivarian Republic of Venezuela. As such, even land reform apologists are questioning the viability of a land distribution program that threatens extremely productive latifundios like Hato El Charcote. But the Chavez administration adamantly defends its purported confiscations against investors, like the Vestey Group, by giving them the opportunity "to show that the land is not...


23. Wilpert, supra note 16.
26. Wilpert, supra note 16.
28. Wilpert, supra note 16.
idle and to show [that their] farm has been illegally invaded."^{30}

Under the scope of article 307, President Chavez utilized his Decreto power^{31} to issue Decree Number 1546 or Ley de Tierras y Desarrollo Agrario (Ley de Tierras), which essentially provides the means to expropriate land.^{32} According to Ley de Tierra, the size of a legal farm will range from 100 to 5,000 hectares as determined by the land’s respective productivity.^{33} Additionally, Ley de Tierra authorizes the government to tax any holding beyond threshold acres that is 80 percent idle and further allows landless peasants to personally expropriate or adversely possess idle land so long as they cultivate the under-utilized land.^{34} In an effort to expedite the redistribution, “the decree also gives any citizen the right to report idle or uncultivated land to the government.”^{35}

Even though the initial result of this legislation is a transfer of property rights from the rich to the powerless, the ultimate aims of Ley de Tierra include “set[ting] limits on the size of landholdings, tax[ing] unused property as an incentive to spur agricultural growth, redistribute[ing] unused, primarily government owned land to peasant families and cooperatives and, lastly, expropriat[ing] uncultivated and fallow land from large, private estates for the purposes of redistribution.”^{36} Furthermore, in an effort to mitigate the effects of Dutch Disease, the new law hopes “to double the share of agriculture in [Gross Domestic Product (GDP)] to 12 [percent] by 2007,” essentially making Venezuela agriculturally self-sufficient.^{37} While the expropriation aim is sparking the most attention and controversy,^{38} the Chavez administration continuously stresses its intent to emulate the Homestead Act of the United States rather than the extreme land distribution program of Cuba.^{39}

Under the Homestead Act, any citizen of the United States that was twenty-one years old or older was entitled to 160 acres of government land; however, restrictions provided that the land could not be used for speculation purposes or as debt collateral.^{40} The homesteader could only receive a land patent once there was at least five years of “actual settle-

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33. Wilpert, supra note 11, at 108 (analyzing Ley de Tierra).
34. Id. (analyzing Ley de Tierra, art. 2(5)).
35. Ankersen & Ruppert, supra note 25, at 105-06 (analyzing Ley de Tierra, art. 37).
37. Wilpert, supra note 11, at 109.
ment and cultivation."\textsuperscript{41} "[I]n Chavez's plan, only after three years may the peasants obtain legal ownership of the land, and only then after they have rendered it productive."\textsuperscript{42} But unlike Venezuela’s land distribution program, the Homestead Act did not authorize the government to seize land from private landowners.

The opposition, including many national labor organizations, has been leading media campaigns lambasting the Chavez administration and its position on property rights.\textsuperscript{43} According to the Táchira State Cattleraisers Association and the Táchira section of the Fedecámaras, one of Venezuela’s most powerful employers’ organizations, "[t]he law is interventionist. It imposes state control and ignores the right to property, which is a fundamental human right."\textsuperscript{44} Furthermore these groups specifically criticize the land distribution program as "Castrocommunist" and call it an example of the administration’s defiant stance against fundamental rights and true democratic principles.\textsuperscript{45} Still, President Chavez reiterates the fact that "the war against latifundios is key to the revolution," and any subsequent seizure is a legitimate end for the cause.\textsuperscript{46}

To help initiate this massive expropriation process, the government enacted the National Land Institute (INTI) "to determine ownership of land and to redistribute it according to the land law."\textsuperscript{47} To fulfill the terms of its charter, the INTI works with the peasant farmers by providing them with agricultural knowledge and technology.\textsuperscript{48} This approach differs significantly from previous land reform distribution projects as well as from land reform programs in different parts of the world.\textsuperscript{49} Unlike the "here[ ] [is] a plot of land . . . [g]ood luck" approach that was synonymous with land reform programs in developing countries,\textsuperscript{50} the Chavez administration is using the INTI to "take[e] a much more activist roll in the reform process than previous attempts at land reform."\textsuperscript{51} Even though a more proactive INTI provides peasant farmers greater opportunity to succeed once land ownership is attained, critics fear greater land

\textsuperscript{41} DeLong, supra note 12 (analyzing Homestead Acts).
\textsuperscript{42} Id.
\textsuperscript{43} Fuentes, supra note 38.
\textsuperscript{45} Id.
\textsuperscript{46} Ankersen & Ruppert, supra note 25, at 105 (quoting Sibylla Brodzinsky, Squatters Sit Tight as Land Revolution is Put to the Test in Venezuela, GUARDIAN (London), Jan. 25, 2005, at 15).
\textsuperscript{47} Wilpert, supra note 11.
\textsuperscript{49} DeLong, supra note 12.
\textsuperscript{50} See Nick Dancaescu, Note, Land Reform in Zimbabwe, 15 Fla. J. Int’l L. 615, 631 (2003) (noting that the lack of a subsistence program, all but guarantees the failure of new farmers benefiting from Zimbabwe’s land reform program); Penalver, supra note 7, at 208-10 (demonstrating that the lack of an adequate farming assistance program destroyed Cuba’s chances of having a successful agrarian reform).
\textsuperscript{51} DeLong, supra note 12.
expropriation by such a zealous organization, especially since "[f]ailure to prove ownership is . . . complicated . . . and landowners see their bargaining power heavily undermined . . . ." 52

C. PROBLEMS OF THE LAND REFORM THAT ARE HINDERING THE LANDLESS PEASANT

While proponents of Venezuela's new land distribution program champion its progressive initiatives and are optimistic about its successful implementation, its shortcomings are not only applicable to property rights issues of current landowners. 53 One of the biggest challenges facing the INTI and threatening the viability of Mission Zamora is Venezuela's weak legal infrastructure—specifically judicial issues relating to title registry. 54 "In many countries of Latin America, frequently up to 50 percent of cultivated land is untitled thus making it de facto open access." 55 One of the main reasons for the current state of Venezuela's murky title system stems from the original large landowners. 56 Throughout history, Venezuelan landowners have expanded their territories beyond their stated title. 57

Though part of the problem stems from the lack of an adequate surveying procedure and the existence of irregular property boundaries, many landowners have simply ignored the boundaries, especially since previous administrations rarely enforced property rights violations. 58 Such a disregard for property rights and title registry has exacerbated current property claims, even when the chain of title can be proven. 59 A landowner might legitimately have purchased land, made improvements, and obtained some form of title and still be subject to expropriation proceedings if the original owner did not have proper title. 60 Moreover, many current Venezuelan landowners—especially the indigent property owners—have been satisfied with the absence of an effective titling and land registry system. 61 These landowners are content with their current state of possession and see government development of a system for documenting land ownership as an attempt to solicit property taxes and to enforce additional legal responsibilities. 62

53. Wilpert, supra note 16.
54. Id.
55. Vogelgesang, supra note 5, at 25.
56. Wilpert, supra note 11, at 14.
57. Id.
58. Vogelgesang, supra note 5, at 25.
59. Wilpert, supra note 16.
60. Id.
62. Id. at 5-6.
The result of such a poor quality of land title registry makes "the expropriation and redistribution of privately held land extremely difficult and slow." With Venezuela's title registry system in such disarray, many worry that the INTI might simply assume that since clearing legitimate titles would be too "difficult and conflictive, it [might] be easier to simply declare any land holding over a certain size as illegal [or idle], regardless of the land title documentation a landowner might have." Some argue that an alternative method of proof of ownership should be allowed. In a country already plagued with violence and corruption, however, it is best to require a title system least susceptible to fraud and misrepresentation.

In addition to pervasive titling issues, most are mindful of the lawlessness and violence plugging both sides of the land distribution program. Even though article 89 of Ley de Tierra, which allowed "peasants to preemptively [sic] occupy expropriable [sic] land (ocupacion previa)" until the present landowners legally proved their ownership, was deemed unconstitutional by the Tribunal Supremo de Justicia [Venezuelan Supreme Court], many peasant leaders still assert their squatter's rights and attempt to usurp the property rights of landowners. As a result, many peasant leaders have been killed by property owners and paramilitary mercenaries. Thus, without control and order, fear will become the ultimate factor used to determine whether Mission Zamora will succeed or fail.

III. ANALYZING THE MERITS OF CHAVEZ'S LAND REFORM MISSIONS: WILL THEY WORK?

While no single test or perspective could ever be used to validate or invalidate an effective democratic program, Chief Justice Marshall provides an interesting framework to judge the viability of a program in its respective constitutional context: "Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional." Though speaking of course in the context of the Constitution of the United States, Marshall's words can also be used to review the constitutionality and sufficiency of legislation under the purview of the Constitution of the Bolivarian Republic of Venezuela. Marshall's test provides a
good method not only to analyze the ends of the land reform program, but more importantly, to analyze the means that President Chavez is utilizing to achieve those ends. 70 Few would argue that providing arable land to impoverished farmers is not a legitimate end. 71 It is the means the INTI is using, however (seizing landholdings from the rich and excising additional taxes on unproductive lands, for example), that are sparking controversy in the region.

A. THE SOCIAL FUNCTION DOCTRINE: REASONS FOR LAND REFORM

Of the twenty-five million inhabitants of Venezuela, 75 percent own 6 percent of any form of property ownership in the country. 72 It is the extent of this disparity in land ownership that gives rise to necessary land and agrarian reform in the region. Though an aggressive land reform distribution program may not be the only method available to curtail the massive ownership gap, 73 the current socioeconomic position of developing Latin American countries that are predominately agrarian, like Venezuela, require drastic change in the form of a land redistribution initiative. 74 "Peasants invariably and persistently demand measures to break the land monopoly that keeps property in the hands of an elite which dominates political and economic life." 75 As such, land reform is an inevitable process needed to equalize years of disproportionate land ownership because "inequitable distribution of land will continue to levy hidden costs in the form of income inequalities, nutritional deficiencies, and social unrest." 76

Recognizing the social turmoil of Latin America as well as the special interests of American investors during the 1960s, President John F. Kennedy established the Alliance for Progress to support any reform of the

70. One could argue that testing the constitutionality of these land reform programs is pointless given the fact that the Chavez administration itself revised the Constitution of the Bolivarian Republic of Venezuela, but Venezuela's Supreme Court is monitoring the decrees and has already overruled some land reform laws for being unconstitutional.

71. Opponents of any form of land distribution argue that uneducated peasants should not receive land because they cannot manage property nor develop it as effectively as large land holders. See William C. Thiesenhusen, Introduction: Searching for Agrarian Reform in Latin America, in SEARCHING FOR AGRARIAN REFORM IN LATIN AMERICA 1, 6 (William C. Thiesenhusen ed., 1989).

72. Wilpert, supra note 11, at 8.

73. "Countries sometimes pursue other alternatives, including distribution of or 'resettlement' on uncultivated public lands, strict regulation of the landlord-tenant relationship, or voluntary sale and purchase of land through 'land bank' or 'market-assisted' mechanisms. Such alternatives can provide important benefits, but they have rarely provided widespread beneficial impacts." Roy L. Prosterman & Tim Hanstad, Land Reform in the Twenty-First Century: New Challenges, New Responses, 4 SEATTLE J. SOC. JUST. 763, 780 (2006).

74. Thiesenhusen, supra note 71, at 1.


76. R. Albert Berry, Land Reform and the Adequacy of World Food Production, in INTERNATIONAL DIMENSIONS OF LAND REFORM 63, 80 (John D. Montgomery ed. 1984).
social conditions in the region. While the initial Communist threat is no longer an issue in the region and the program itself is now merely a page in history books, one of the tenets of the initial mission is still an issue in Latin American countries like Venezuela:

To encourage, in accordance with the characteristics of each country, programs of comprehensive agrarian reform leading to the effective transformation, where required, of unjust structures and systems of land tenure and use with a view to replacing latifundia and dwarf holdings by an equitable system of property so that, supplemented by timely and adequate credit, technical assistance, and improved marketing arrangements, the land will become, for the man who works it, the basis of his economic stability, the foundation of his increasing welfare, and the guarantee of his freedom and dignity.

Therefore, even though past land reform programs in Venezuela have not been successful, and current land reform programs in other regions of the world are failing, it is clear that a well-established and customized plan will be the best means to achieve social and economic stability in Venezuela.

1. Land Reform Defined

For most of the twentieth century, the dominant methodology for conducting land reform in non-Marxist settings was compulsory acquisition of defined lands from private landlords or plantation owners, often at a sharp discount from market value, and redistribution of such lands to tenant farmers or agricultural laborers in farms whose size approximated that of small-to-medium sized farms in that country.

While both harsh and contrary to the traditional notions of property rights and ownership, pure land reform necessitates a balancing act between the fundamental rights of property ownership and the public function that ensures the social right to housing. After balancing these concerns, "[r]esearch confirms that a broad-based distribution of land assets not only benefits the poor but becomes a solid basis for sustained and inclusive economic growth."

In addition to the inherent costs attributed to the loss of property rights as well as the logistical and financial resources required to undertake a
land reform program on a national scale, the redistribution of land and rights is a tremendously difficult government undertaking that necessarily infringes on a nation's social, economic, and political positioning.\textsuperscript{84} \textquotedblleft[Land reform] often involves reversal of local power balances and a strengthening of regional forces that central governments perceive as threats to their stability.\textsuperscript{85} Difficulty in the reform transition further lies in the trade-off of polar values coupled with the struggle in determining the ultimate compromise between fundamental property rights and humanitarian responsibilities.\textsuperscript{86}

2. \textit{The Socialist View of Land Reform}

One theory that can be used to conceptualize the implications of a land reform program as well as its respective principles is the Socialist Function Doctrine. \textquotedblleft The modern Socialist Function Doctrine emerged in its broadest context from the early twentieth-century writings of the French jurist and political philosopher Leon Duguit, and posits that the legitimacy of government originates in the social functions promoted by government action.\textsuperscript{87} At the outset of the Socialist Function Doctrine, one must accept the premise that society, and more importantly the state government, must assume a greater role in developing programs to effectuate positive social change.\textsuperscript{88} More specifically, \textquotedblleft[w]hen applied to real property, the Socialist Function Doctrine operates to justify a fundamentally distinct view of the role of property in society, and the rights and obligations of the individual holding property.\textsuperscript{89}

Along a continuum describing property rights, there are two extreme views that merit a brief review when analyzing the Social Function Doctrine: the allodial model and the regalia model.\textsuperscript{90} \textquotedblleft Allodial land is land held in absolute ownership and which gives rise to no obligations on the part of the owner to anyone else,\textquotedblright including taxation and regulation.\textsuperscript{91} On the other side of the property rights spectrum is the regalia model, which holds \textquotedblleft that all land originally belongs to the state.\textsuperscript{92} But this is not an absolute right; \textquotedblleft[t]he idea is not that the state has all of the rights of ownership in all of the land, but rather that the recognition of private

\begin{itemize}
  \item \textsuperscript{84} DORNER, supra note 75, at 7.
  \item \textsuperscript{85} Joseph S. Nye, Jr., \textit{Ethical Dimensions of International Involvement in Land Reform, in INTERNATIONAL DIMENSIONS OF LAND REFORM} 7 (John D. Montgomery, ed. 1984).
  \item \textsuperscript{86} \textit{Id.}
  \item \textsuperscript{87} Ankersen & Ruppert, supra note 25, at 71.
  \item \textsuperscript{89} Ankersen & Ruppert, supra note 25, at 72.
  \item \textsuperscript{90} \textit{Id.} at 89-91.
  \item \textsuperscript{91} \textit{Id.} at 89-90.
  \item \textsuperscript{92} \textit{Id.} at 90-91.
\end{itemize}
rights in land came originally from the state and properly depends for its continuance upon the satisfaction of community needs."93 Thus, while property rights in land can be thought of as being derived from the sovereign, it is better to view this right as subject to the condition that the land becomes cultivated; such land may revert back to the state if the cultivation condition is not satisfied.94

Though no country adopts either model in its purest form, it is clear that the Socialist Function Doctrine aligns with the allodial jurisprudence on property rights.95 But regardless of which model of property rights a country adopts, government intervention and support is a key component of the Socialist Function Doctrine and a necessary factor in a land or agrarian reform.96 “All states along the property rights continuum include policy justifications for limitations on property rights to benefit society, including the physical expropriation of property under appropriate circumstances.”97 On the other hand, one should also consider the neoliberal view on economic growth, which holds that socialist policy interventions will create disequilibrium between the classes.98 Such a consequence will materialize because the focus of the development policy, like land reform, will be on achieving social equity rather than ensuring the proper distribution of recourses to their best use.99 Additionally, as expressed by the late Pope John Paul II, “to attain social justice, much more is required than the simple application of ideological schemes . . . such as . . . the invasion of lands . . . [or] the adoption of extreme technical measures that can have much graver consequences than the injustice they are meant to resolve.”100

By carrying land expropriations on lands deemed idle and uncultivated, it is clear that the Chavez administration succumbs to the “socialist function” line of thinking.101 Additionally, President Chavez himself asserts that “the land expropriations are being carried out only for public use or for social necessity.”102 One need only look to article 115 of the Consti-
tution of the Bolivarian Republic of Venezuela, however, to see the State’s ultimate position on the Socialist Function Doctrine as it pertains to land reform: the expropriation of property will only occur “for reasons of public utility or social interest.” Thus, “state protection of private property remains justified only insofar as its protection by the state furthers the state obligation to ensure that property provides a ‘social function.’” Once the property fails to satisfy that social function, the state must seek a social intervention, like land reform, to curb “unrelenting poverty and concomitant landlessness.”

B. ANALYSIS OF LAND REFORM PROGRAMS: CASE STUDIES

While “[m]ore fruitful exposition of [land reform] is probably based on more contemporary experiences and in countries with similar extant institutions,” a visual inspection of the land reform programs like Cuba and Zimbabwe provides a spectrum that can be used to provide greater understanding of Venezuela’s own land reform program. Like several Latin American countries, Cuba is a country that has undergone numerous political changes with the land reform policies to match. Simply stated, Cuba’s current land reform developments can best be described as Marxist-community land sharing. On the other side of the land reform spectrum is Zimbabwe. As a country in political and social turmoil, its respective land reform program mirrors the surrounding economic instability and can be defined as a tyrannical land reform regime. These polar land reform institutions provide a wide range of alternative land reform programs to learn from—good or bad.

1. The Cuban Land Reform Model

In the 1960s, the drastic land ownership gap between the rich and the poor in Cuba was very similar to present day Venezuela—with approximately 9.4 percent of land owners owning 73.3 percent of the land in Cuba. As a result of the disparate land gap, a deep chasm developed between the standard of living of the urban and rural sectors, which exacerbated the financial drain from the rural to urban areas of Cuba. These conditions, coupled with the increasing political uproar in the region, instigated the catalyst that set the revolutionary operation in motion. After the Cuban Revolution of 1959, “the first and second Agrarian Reform Laws [were implemented and] the Cuban state took control of

104. Ankersen & Ruppert, supra note 25, at 95.
105. Id. at 119.
106. Thiesenhusen, supra note 71, at 2.
107. Prosterman & Hanstad, supra note 73, at 780.
more than 70 percent of the arable land and created the state sector in agriculture” and the crusade against the rich and foreign investors was born.

“Broadly speaking, the goals [of the Revolution] were a redistribution of property[,] . . . political reform, and greater independence from [U.S.] domination.” Additionally, part of the strategy was also diversification of the agricultural sector by eliminating the vast sugar plantations owned by U.S. companies and encouraging agricultural research, technological implementation, and diversified agricultural cultivation. In an effort to instigate these goals, the First Agrarian Reform Law of May 17, 1959, was enacted to eliminate the latifundia that characterized Cuba’s agricultural landscape as well as the foreign-owned sugar plantations. While similar in purpose and reason, the land reform policies of Cuba differed greatly from those of Venezuela in their underlying principles and application.

For example, one of the significant means used to effectuate land reform in the Cuban model was the use of cooperative farming. As stated by Fidel Castro: “To maintain consumption, to maintain abundance, to carry out agrarian reforms, the land cannot be distributed in one million small pieces . . . cooperatives must be established in the right places for each type of production, and the crops to be sown must be planned . . . .” Thus, under the First Agrarian Reform Law, “recipients of redistributed land were to be encouraged to form private agricultural cooperatives.” But since there were no infrastructural improvements included in the law, many farmers were forced into these cooperatives for fear of confiscation of uncultivated or underdeveloped arable land, even though they might have been more successful as small independent farmers.

When the First Agrarian Reform Law failed to initiate the drastic reform sought by Fidel Castro, the Cuban government adopted a more aggressive stance on agrarian and land reform. The Second Agrarian Reform Law of 1963 “was much more far-reaching than the first” agrarian reform law that enumerated social consumption and cooperative farming aspects in its provisions. The Cuban government added additional transferability restrictions on newly acquired farmlands and contin-

111. Penalver, supra note 7, at 120.
113. Penalver, supra note 7, at 122.
115. Id. at 7 (quoting Fidel Castro, Closing Session of the First Farm Workers Congress (Feb. 1959)).
116. Penalver, supra note 7, at 123.
117. Id.
ually stressed cultivation of these lands. For example, in order for farmers to transfer land, they "must obtain state permission to sell their land, and the state has the right to buy the land from the farmer for a price fixed by law." On a more extreme level, the Cuban government even restricted the right of inheritance of these lands to family members that have actually been working on the land for a fixed term of years.

The fall of the Soviet Bloc instigated a Third Agrarian Reform in Cuba, which highlighted a clear shift in the socioeconomic climate in Cuba and a change in the property ideology of years past. The events in Eastern Europe exacerbated the "generalized decrease in yields and in other indicators of efficiency in an important group of commodities" that defined the Cuban agricultural viability. As a result, Cuba began to allow the private ownership of both commercial and industrial property, which significantly reduced Cuba's role in the agricultural sector. While the privatization of these sectors signaled Cuba's new advent towards agricultural independence and property ownership, the Castro administration remained committed to this sector by emphasizing agricultural research and development.

To curtail the repressed state of the agricultural sector and the Cuban economy as a whole, Cuba undertook a number of legal reforms to attract foreign capital and to mitigate the negative land reform perceptions. But "[t]he lack of an adequate legal system for real estate development and mortgage lending in Cuba is a major obstacle to implementation of all these instruments." Moreover, these agricultural reforms focus on developing the agricultural economy without dealing with issues like property ownership, compensation, and property rights. Rather than changing the current state of land reform, the Cuban government allowed individual farmers to join other farmers to develop their lands in a cooperative-type endeavor (Cooperatives of Agricultural Production) or, if large enough financially, the Cuban government allowed

120. Id. at 125.
121. Id.
122. Id.
123. Id. at 130.
125. Penalver, supra note 7, at 130.
129. Penalver, supra note 7, at 135-36.
investors the opportunity to develop certain commodities as a private farm.\textsuperscript{130} Though independent in form, these non-State sector farms were still subject to state control and restrictions such as forced sales to the state procurement agency (acopio) and asset ownership by the acopio.\textsuperscript{131} While the shift in policy is welcoming for the foreign investor, it does not address property rights and ownership, and thus fails to assure future investors and domestic farmers of security in their respective lands.\textsuperscript{132}

Both Venezuela and Cuba share much with respect to land reform history and policy; it is undeniable, however, that they differ in land reform implementation and results. The agricultural focus of Cuba in recent times "has undergone a positive transformation toward sustainability."\textsuperscript{133} But an analysis of Cuba’s agricultural productivity on a State farm versus non-State farm level indicates that the private farmers are far more productive and that they have the potential of being even more productive if these private farmers were to own farmland free and clear of State interference.\textsuperscript{134} Thus, while there are many positive developments resulting from Cuba’s land and agricultural reform, the absence of substantive property reform and the “uncertain and unpredictable legal situation can prevent the formation of serious business partnership, which normally require long-term vision, stability, and transparency.”\textsuperscript{135}

2. The Zimbabwean Land Reform Model

On the other side of both the ocean and land reform spectrum is Zimbabwe’s fast-tract redistribution program. As a step-child of the apartheid and colonialism era, Zimbabwe has endured decades of both positive and negative political and economic periods. Zimbabwe’s past defined the extensive inequitable distribution of land between the descendants of white colonists and the native blacks. In the 1980s, for example, “700,000 black families lived on 16.2 million hectares, while 5,500 white farmers had rights to an almost equal 15.6 million hectares.”\textsuperscript{136} These statistics are compounded by the fact that this “miniscule white minority owns most . . . of the large commercial farms that support

\begin{itemize}
  \item \textsuperscript{130} Puerta & Alvarez, supra note 118.
  \item \textsuperscript{131} Id.
  \item \textsuperscript{133} Alvarez et al., supra note 108, at 26.
  \item \textsuperscript{135} Núñez, supra note 128, at 2-3.
  \item \textsuperscript{136} Dancaescu, supra note 50, at 619.
\end{itemize}
Zimbabwe’s agriculture-dependent economy.’’

In addition to these restrictions on land ownership, black locals were relocated to resettlement areas and forced to act as cheap labor on lands they could never legally own. These dramatic realizations can be attributed to the years of British rule and the respective laws that prohibited local natives from owning property.

While it is undeniable that the previous era of property law and disproportionate land ownership merit revolutionary change, President Robert Mugabe of Zimbabwe must be mindful of the human rights implications for current land owners as well as the future beneficiaries of his land reform. The “[s]tate and para-state organizations [are using] hastily-created laws, intimidation, and violence to chase away white farmers, displace or intimidate tens of thousands of farm workers, and partition commercial farms into small-scale or medium-scale holdings.’’ But the ultimate move occurred on May 23, 2000, when the Mugabe-backed government changed the Land Acquisition Act of 1992, authorizing the requisition of white-owned lands, regardless of their productivity level, while only offering compensation “for any improvements on or to the land.’’

Though the Zimbabwe Supreme Court overwhelmingly overruled the amendment as unconstitutional, fear and intimidation caused a change in the composition of the Supreme Court, and the newly Mugabe-appointed Supreme Court quickly lifted the moratorium on Mugabe’s fast-track land resettlement program. Considering all these land reform policies, it is clear that “the Mugabe regime ha[s] transformed from a democratically elected, responsible, and socially-minded government, to a semi-fascist oligarchy, which still ha[s] done little for the rural poor.’’

While the social and economic welfare of a developing country is arguably more important than individual rights, it is the responsibility of countries like Zimbabwe to “strike a balance between individual and social interests” to ensure future prosperity for the rural class. Even Zimbabwean governmental officials acknowledge that not all land acqui-

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138. Dancaescu, supra note 50, at 619.

139. Id.

140. Id. at 626.


142. Dancaescu, supra note 50, at 621.

143. Id. at 622-23 (citing Zimbabwe Targets White-Owned Farms, N.Y. TIMES, Jun. 29, 2001).

144. Id. at 623.

145. Nading, supra note 137, at 776-77.
sitions have been legally expropriated or confirmed.\textsuperscript{146} In contrast to these developments, the Chavez administration recognizes the rights of individuals as it tries to fulfill its social interests.\textsuperscript{147} Unlike the fast-track land resettlement, Mission Zamora and its progeny legitimize the rule of law,\textsuperscript{148} enable just compensation,\textsuperscript{149} and facilitate ancillary programs with the land reform.\textsuperscript{150} Furthermore, the policy decisions of the Mugabe administration have seriously exacerbated drought and natural disaster problems and have further depressed agricultural productivity and foreign investment.\textsuperscript{151}

With the widespread violence, political corruption, and socioeconomic collapse in the region, it is clear that a policy shift in Zimbabwe's land reform program is crucial. Just compensation must accompany expropriated lands, regardless of history and current economic effects on the natives.\textsuperscript{152} And in spite of the final land expropriation program that is adopted in Zimbabwe, its implementation should comport to democratic principles of equity, transparency, and justice.\textsuperscript{153} Finally, it is hopeful that other countries will consider the staunch position of Zimbabwe as they develop their own land distribution programs.\textsuperscript{154} For while the ends may be legitimate, we must also be concerned with the means, for the future of Zimbabwe and other countries will depend on its effects.

\textbf{C. How Chavez's Land Reform Program Compares to Other Programs}

Previous land reform systems in Latin America "suffered from such factors as the poor quality of the land redistributed, insecure titles, a lack of farming expertise on the part of the beneficiaries, plus a number of policy distortions."\textsuperscript{155} These land reform programs fail because they simply give the beneficiaries arable land without access to financial credit, a sufficient marketplace, or technological assistance.\textsuperscript{156} Other politically motivated factors dooming previous Latin American land reforms include indiscriminate land takings, insufficient compensation, and the absence of any necessary land reform information.\textsuperscript{157} Thus, while private property is not always an absolute right, "[t]he key to protecting individ-

\begin{itemize}
\item \textsuperscript{146} According to Zimbabwe's Minister of Special Affairs in the President's Office Responsible for Lands, Land Reform, and Resettlement, over 86% of the farms that have been acquired are not yet "confirmed." This means that these lands have not been legally acknowledged by the government. Rutherford, supra note 141, at 105.
\item \textsuperscript{147} Wilpert, supra note 16.
\item \textsuperscript{148} See infra note 253.
\item \textsuperscript{149} See infra note 252.
\item \textsuperscript{150} See infra note 175.
\item \textsuperscript{151} Nading, supra note 137, at 751-53.
\item \textsuperscript{152} Id. at 783.
\item \textsuperscript{153} Rutherford, supra note 141, at 111.
\item \textsuperscript{154} Dancaescu, supra note 50, at 642.
\item \textsuperscript{155} Vogelgesang, supra note 5, at 22.
\item \textsuperscript{157} Dorner, supra note 75, at 57.
\end{itemize}
ual rights to property lies in political institutions, which require that rules be reasonable and not arbitrary, necessary for the purpose imposed, and carried out by due process of law.”

With Venezuela’s current land reform focused on the redistribution of land as well as its productivity, President Chavez is doing more than just handing out titles. Simply stated, the twin aims of Mission Zamora can be summarized as “the creation of greater social justice and the establishment of food self-sufficiency in Venezuela.” Moreover, by including “de facto government ownership of the distributed land, dissemination of knowledge about proper farming techniques to the new peasant cooperatives, and . . . the creation of internal and external markets [that are] required to absorb the new products” in the land reform process, the Chavez administration is directly combating the failures of previous land reforms attempted by other administrations in Venezuela.

1. Restricting the Transferability of Newly Distributed Land

Rural poverty is a product of the peasants’ inability to control, develop, and transfer income-generating assets. With access to land and the rights to control and transfer that land, low income farmers will have the opportunity to enhance the value of their endowment and subsequently increase their bargaining power. But unfettered access to property rights by the land reform beneficiaries may result in an opposite outcome, especially if the indigent become financially desperate or if they are exploited by large landowners or institutional creditors.

For example, in an attempt to curb formerly-landless peasants selling their newly acquired lands back to the large landowners, the INTI will hold the land title in an escrow account for three years. Once three years have passed, with the new landowner living and cultivating the land during that time period, title will pass to the landowner free from any government enacted restrictions that initially made the land inalienable. According to critics of the Chavez administration, these government restrictions on land transfers are tantamount to providing only licenses to farm the land, rather than actual ownership of it. Moreover, excessive restrictions on the alienability of land may actually burden the new farmers more, especially since they will be deprived of access to credit to improve their land and expand its size when it is economically

158. Id.
159. Wilpert, supra note 16.
162. Deininger, supra note 96, at xl.
163. Wilpert, supra note 16.
164. Delong, supra note 12.
165. Id.
166. Gould, supra note 102.
167. Wilpert, supra note 16 (quoting Olivier Delahaye).
prudent.\textsuperscript{168} Desperate farmers will have to resort to selling their farmland at 40 to 60 percent below its fair market value on the black market due to the government restrictions currently in place.\textsuperscript{169} And with poor farmers having to sell their land at such a low level, such a provision made to assist the destitute will unintentionally "lead to making poor farmers even poorer than they otherwise would be."\textsuperscript{170}

According to the World Bank, governmental restrictions on the transferability of land can often stifle access to credit and thus have an adverse effect on the credit market.\textsuperscript{171} Additionally, "secure land rights that are transferable also acquire a predictable market value and can be used as collateral, 'cashed out' for non-agricultural investment or retirement, or passed on as a wealth to the next generation."\textsuperscript{172} While "[s]uch restrictions can have perverse results even if they are intended to 'protect' the beneficiaries,"\textsuperscript{173} theories, like the Socialist Doctrine, provide that it is better to restrict the rights of the despot in order to benefit them in the future.\textsuperscript{174}

2. Establishing Supplemental Institutions to Facilitate Post-Land Reform Growth

The critical stage of land redistribution, which determines the viability of a land and agrarian reform program, is the point at which the landless peasant actually takes possession and tries to utilize the available support services.\textsuperscript{175} An inexperienced arable property owner lacks the knowledge and resources to develop his land without any external assistance. Furthermore, "[e]xperience has shown us that the lack of operational capacity or unscrupulous behavior of authorities when managing existing resources is frequently a critical impediment that affects the development and execution of good projects."\textsuperscript{176} The tools provided by the government to the people will determine the success of the land reform and the agricultural sector as a whole.\textsuperscript{177}

\textsuperscript{168} Prosterman & Hanstad, supra note 73, at 785.
\textsuperscript{169} Wilpert, supra note 11, at 9.
\textsuperscript{170} Wilpert, supra note 16.
\textsuperscript{171} DEININGER, supra note 96, at 37.
\textsuperscript{172} Prosterman & Hanstad, supra note 73, at 772.
\textsuperscript{173} Id. at 785.
\textsuperscript{174} Ankersen & Ruppert, supra note 25, at 105-06.
In an effort to minimize the perceptions that "[e]conomies of scale in terms of technology, credit markets, labor supervision, and labor markets are affecting the historically inverse relationship . . . [that] eliminate[es] the advantages of breaking up large estates," President Chavez established the National Rural Development Institute (INDER) under the mandate of article 307 of the Constitution of the Bolivarian Republic of Venezuela, which enables the government to "promote associative and private forms of property in such manner as to guarantee agricultural production." "To ensure success of the reform and productive use of the land, land reform needs to be combined with other programs at the government's disposal." Therefore, the Chavez administration specifically authorized INDER to develop Venezuela's agricultural infrastructure while working with the other institutions created under the gamut of Mission Zamora. As part of its mission, INDER provides effective and efficient services to enhance the wellbeing of struggling farmers through scientific and technological innovations.

Despite the fact that INDER is authorized to rehabilitate the agricultural infrastructure and eliminate the barriers that are hindering poor farmers, INDER has been slow in implementing adequate drainage and irrigation systems. Many critics, including a number of peasant farmer leaders, accuse the central government of paying little attention to infrastructure development and the instrumentalities necessary to support continuous land reform growth, "in favor of the more controversial and visible land redistribution aspect[s]" of Mission Zamora. On the other hand, INDER has successfully managed over twenty-two irrigation system projects, thirty-three agricultural road projects, and eighteen projects geared toward basic services and support for production in 2005 alone. Additionally, "[r]esearch has long pointed to the need for a careful and differentiated approach as a precondition for making clear policy recommendations in relation to land that can help improve both efficiency and equity."

In addition to the institutions developed for the purpose of revitalizing Venezuela's agriculture directly, the Chavez administration has established an indirect program aimed at the agricultural marketplace. The Venezuelan Agrarian Corporation (CVA) "helps farmers and cooperatives that benefited from the land reform to bring their products to mar-

179. VENEZ. CONST. art. 307.  
180. DEININGER, supra note 96, at 40.  
181. Wilpert, supra note 16.  
182. INDER Mission, supra note 48.  
184. Wilpert, supra note 16.  
185. Id.  
187. DEININGER, supra note 96, at 17.
The CVA is a conglomeration of state-owned enterprises that sell both domestic and imported fungible goods, like agriculture, to the people. The CVA works with other entities, including CASA (Corporación de Abastecimiento y Servicios Agrícolas) and MERCAL (Mercado de Alimentos), to establish the marketplace for peasant farmers. Though initially established to provide a food distribution channel for the impoverished purchaser, these entities are essential for the survival of peasant farmers in a post-Dutch Disease Venezuelan economy. Due in part to these and other programs established under the presidency of Hugo Chavez, since 2005 "agricultural production in Venezuela has increased from about 5 percent to 6 percent, as a percentage of GDP." Thus, although the land reform programs that were instigated to facilitate agricultural infrastructure and development failed to meet expectations, Venezuela's commitment to these supplemental programs demonstrates a greater possibility of success and agricultural growth.

3. Providing Credit to Peasant Farmers

"The majority of the landless and land-poor do not have savings or access to the financial resources required to convert an economic desire to own land into effective demand." Access to credit is a vital component of agricultural productivity since financial support determines the type of crop the farmer will be willing to invest in. For example, credit further enables a farmer's access to working capital and also acts as an insurance substitute. Once the harvest is cultivated, the farmer will have the finances to pay off the loan. Without these funds, however, peasant farmers will not have access to essential agricultural technologies like fertilizer, pesticides, hybrid seeds, and other capital equipment.

188. Wilpert, supra note 16.
190. Id. at 691.
191. Id.
192. Wilpert, supra note 16.
193. Id.
194. The importance of these supplemental programs "is reinforced by the mandate of the Popular Coalition to Eradicate Hunger and Poverty, a coalition of civil-society and intergovernmental organizations whose mandate is to revive agrarian reform through a holistic approach that incorporates land tenure, support services and participation by the rural poor in the formulation of public policies affecting the livelihood systems of their communities." The Popular Coalition to Eradicate Hunger and Poverty, The Land Poor–Essential Partners for the Sustainable Management of Land Resources 14, available at http://www.landcoalition.org/pdf/eqp_2eng.pdf (last visited Mar. 6, 2007).
195. Shearer, supra note 175, at 45.
198. Id.
199. Id.
More than that, as is evident in Brazil’s land reform program, these credit transactions will also increase monetary transactions in the local economies and further other local-level economic benchmarks.200

But the absence of a stable credit market presents another hurdle for peasants with newly acquired land to maneuver, as they lack the ability to solicit funds to develop the land.201 “The transition from subsistence to money or market economy . . . requires some capital investment which the small agricultural producer in general cannot materialize out of his own resources.”202 While the privatization of the credit market may be the ideal form in a free-market vacuum, creditors lack the ability to repossess any collateral in land, should a small farmer fail to satisfy his debt obligations.203 This is important because “making land marketable provides a basis for using it as collateral in credit markets.”204 Since the Venezuelan government has transferability restrictions on redistributed farmland, the transaction costs associated with providing credit to small farmers will be too high for a private creditor, and subsequently not worth the risk.205 Such a realization will be detrimental to these farmers as they will not have any other means of financing for land development.206

While many critics, including land reform economists, argue that restrictions on the transferability of property title will in fact worsen the productivity of land,207 the INTI utilized its mandate under article 307 of the Constitution of the Bolivarian Republic of Venezuela to provide credit to peasants that do not hold full title.208 Realizing that it takes money to make money, and more importantly, it takes money to cultivate a farm, the Chavez administration has instigated a mechanism providing financial resources to the beneficiaries of his land reform program.209 For example, in addition to receiving title to newly redistributed lands, peasant farmers will receive access to cheap credit courtesy of the INTI.210 Such an institutional credit enabling program is essential because “the security and equitable functioning of institutions dealing with land markets, credit, and property relations cannot be left solely to local

201. MEYER, supra note 197, at 5.
202. Id.
203. DEININGER, supra note 96, at 82.
204. Id. at 93.
205. Id. at 82.
206. Id.
207. Prosterman & Hanstad, supra note 73, at 785.
208. VENEZ. CONST. art. 307.
jurisdictions."\textsuperscript{211}

Additionally, in an effort to mitigate the increasing technological costs of agriculture, which prohibits thousands of property owners from farming the little land they do have, the INTI established local government programs to allow for training and economic assistance.\textsuperscript{212} According to the International Land Coalition (ILC), a plan of action must be instituted at a national level in order to address the massive level of credit needed by these new farmers.\textsuperscript{213} Furthermore, in relation to the administration process of the credit, the program should be simple and decentralized and the program should focus on easy communication between the credit program, other land reform administrations, and the farmers themselves.\textsuperscript{214} With these considerations in mind, it is the responsibility of the government to provide low income farmers with access to credit in order to equalize the disparity between the institutional farmers, who can obtain financing to cultivate, and the small farmers, who lack the capacity to solicit funding and to develop their plots of land.\textsuperscript{215}

4. Repairing the Method of Recording Land Titles

To ensure successful land reform sustainability, the INTI must also develop the physical and technical infrastructure related to property rights.\textsuperscript{216} While "[t]he methodology of land formalization should reflect national conditions,"\textsuperscript{217} a developing country needs to fix the method of titling and land registry it uses to record the titles of newly acquired property rights as well as the titles of current landowners because "[i]t is practically impossible to have an effective land market . . . without good land records."\textsuperscript{218} Furthermore, "farmers are generally unwilling to invest their resources and efforts to improve their land and living conditions to the optimum desired unless they can feel secure in their legal status over the land."\textsuperscript{219} Thus, an emphasis on the land registry will effectuate land security, stimulate foreign and domestic property investment, provide

\begin{itemize}
\item \textsuperscript{212} Wilpert, \textit{supra} note 16.
\item \textsuperscript{213} Dorner, \textit{supra} note 211, at 16.
\item \textsuperscript{214} Meyer, \textit{supra} note 197, at 10-11 (citing Jerome French, \textit{Analysis of Organizational Aspects of Small Farmer Credit Programs}, 19 \textit{AID Spring Review of Small Farmer Credit}, No. SR119, 237 (1973)).
\item \textsuperscript{215} See Solon L. Barraclough, \textit{Agricultural Policy and Land Reform}, 78 \textit{J. of Pol. Econ.} 906, 910 (1970), \textit{available at} \url{http://links.jstor.org/sici?sici=0022-3808%28197007%2F08%2978%3A4%3C906%3AAPLR%3E2.0.CO%3B2-O}.
\item \textsuperscript{216} Fernandes & Smolka, \textit{supra} note 82, at 14-15 (arguing that "legal titling can contribute to the stabilization of land markets and allow for more rational and better articulated forms of public intervention").
\item \textsuperscript{217} Hendrix, \textit{supra} note 65, at 211.
\item \textsuperscript{218} Land Tenure Service, \textit{supra} note 98.
\item \textsuperscript{219} Joseph R. Thome, \textit{The Process of Land Reform in Latin America}, 1968 \textit{Wis. L. Rev.} 9, 15.
\end{itemize}
greater access to credit, and can increase overall land value.\textsuperscript{220}

Many countries in Latin America, including Venezuela, have land registry systems in place but are particularly ineffective since the registries lack "the capacity to find, recognize, organize, and above all interpret" the stored data.\textsuperscript{221} The Food and Agriculture Organization of the United Nations (FAO) recommends the following objectives a developing country should consider when developing a land information management system:

1) overcoming institutional barriers that currently create duplication of information collection and management;
2) developing common standards for quality and format to ensure information can be shared with confidence;
3) ensuring that these standards are achievable given the existing economic, technological, institutional, and other constraints;
4) clarifying land policy objectives . . . and legislation in order to focus, in the short term, on the minimum set of data required to support the policy;
5) ensuring that the data collected and stored have an economic value to users, which in turn will help provide financial resources for keeping information up-to-date and relevant; [and]
6) ensuring that decisions on such issues as confidentiality, security, equity of access to information, and pricing strategies are clarified and not in conflict with each other or with other policies.\textsuperscript{222}

In addition to these objectives, the Chavez administration must balance the cost of implementing a new land registry system and the added land security it provides with the current state of the "existing documents which . . . evidence ownership rights and interests."\textsuperscript{223} By utilizing these objectives, Venezuela can create a titling system that will increase investor confidence to continue to invest in agriculture and provide a user-friendly method for the common farmer to transfer title in his or her land.\textsuperscript{224} Furthermore, there is evidentiary support for the proposition that titling has a positive economic effect—for example, "[i]n Venezuela, from 1965 to 2000 the prices of land in informal markets were consistently between 40 to 60 percent lower than the prices for titled land."\textsuperscript{225}


\textsuperscript{221} Smolka & Mullahy, supra note 176, at 6.

\textsuperscript{222} Even though these recommendations were specifically made for Central and Eastern European countries and the Commonwealth of Independent States, there are similar titling issues in both Latin America and these countries that merit the same recommendation. Sue Nichols et al., Land Reform and Administration with Private-Public Sector Partnership: Lessons from the Black Sea Region, in Land Reform-Land Settlement and Cooperatives 30 (1999/1-2), available at ftp://ftp.fao.org/sd/sda/sdaa/LR99/X3720T03.pdf

\textsuperscript{223} Hendrix, supra note 65, at 191.


\textsuperscript{225} Deininger, supra note 96, at 93.
As the land registration system in Venezuela currently stands, no aggressive effort towards revamping the titling procedures are in place. On the contrary, a present landowner must prove ownership by utilizing the previously ineffective land registry that is causing the uncertainty in the current ownership of land in rural regions.\(^{226}\) A landowner must offer the INTI a property description that is detailed and provides an explicit timeline of property transfers—dating back to 1847—in order to prove that the lands are not illegally acquired government lands.\(^{227}\) Furthermore, landowners must also demonstrate that their land is being cultivated and used productively.\(^{228}\) According to Eliezer Otaiza, the head of the INTI: "If [the landowner is] not being productive with the land and cannot show definite chain of ownership, [they are] done."\(^{229}\)

In the meantime, "some citizen groups in Venezuela have developed a system of alternative titles (titulos supletorios) that derive from the existence of a dual legal structure."\(^{230}\) Essentially, alternative titles are affidavits whereby the purported property owner submits a sworn claim before a judge maintaining that they are the rightful landowner.\(^{231}\) Full legal title still trumps a titulo supletorio, but the likelihood of such a claim in a non-litigious society such as Venezuela is remote at best.\(^{232}\) While the perpetuation of conflicting property titles is the hallmark of an ineffective recordation system, "[t]hese parallel titles serve . . . as effective claims deriving from a plural legal system that seems to work rather well in this particular context."\(^{233}\) But by expropriating lands based on the old land registry system while passively addressing the need for a more effective system, land investment in Venezuela may continue to dissipate as investors lose confidence in the institutional land registry currently in place.\(^{234}\)

5. Public Perception and Political Support for Land Reform

For many, the term "land reform" connotes negative impressions like violence, revolutions, public corruption, and the ultimate sin against property rights.\(^{235}\) As such, it is the responsibility of the governing body to advertise the benefits of the land reform program and to address any potential concerns.\(^{236}\) For example, in an effort to solicit participation in a grassroots registry reform, Peru successfully implemented a broad-based public awareness campaign aimed at communicating the program's

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\(^{227}\) *Id.*

\(^{228}\) *Id.*

\(^{229}\) *Id.*

\(^{230}\) WARD, supra note 220, at 6.

\(^{231}\) *Id.*

\(^{232}\) *Id.*

\(^{233}\) *Id.*

\(^{234}\) Hendrix, supra note 65, at 211.

\(^{235}\) Ankersen & Ruppert, supra note 25, at 70.

\(^{236}\) Nichols, supra note 222, at 32.
It is clear that building widespread grassroots support is an essential component in a land reform program that is often overlooked and underestimated. For that reason, President Chavez will need to consider media relations as well as public dissemination of information regarding his land reform project, especially in a new age of communications technology.

Even though the land reform administrators will need to address their media campaigns to land reform dissenters, the campaigns should also include publication "of the land reform program and [the] beneficiaries' rights at the local level using local media and other means that will effectively communicate such information." Such a widespread dissemination of rules and procedures as part of the land reform is especially critical when implementing the registry system and the actual land redistribution. By failing to provide information such as application instructions to the actual beneficiaries of the land reform, Venezuela will fail to break the poverty cycle it is trying to redress.

Other significant issues facing land reform are acts of violence and intimidation. Present day Venezuela is in the midst of negative advertising campaigns, violent demonstrations, and a seemingly biased flow of information from the government itself. In an action of clear defiance, the president of Fedecámaras (a large employers' federation group) publicly ripped up a copy of Ley de Tierra in front of demonstrators and on live television. But even more startling are the acts of violence and assassinations motivated by the land reform. For instance, the National Agricultural Coordinator Ezequiel Zamora (CANEZ), a coalition of pro-government peasant groups, reports that there have been over 130 assassinations of peasant leaders since 2005. While a media campaign alone will not curtail these acts of brutality, "[m]any of the past century's most violent civil conflicts ensued when land issues were ignored." Thus, Venezuela should continue to address aggressive acts of the opposition and continue to disseminate valuable information to the beneficiaries of the land reform.

6. Just Compensation for Expropriated Property

In the event that expropriation of property occurs, it is widely accepted that some form of compensation is warranted. In general, there are three basic elements used to validate fair expropriation procedures: ex-
propriations must be for some legitimate public purpose; such expropriations need to be implemented uniformly and nondiscriminatory; and some form of compensation must be given for any property taken.\textsuperscript{247} Despite the fairness of compensation itself, compensating former landowners will often determine the successful implementation of a land reform program.\textsuperscript{248} For example, by offering adequate compensation for expropriated private property, the government will placate former landowners and “help legitimize reform for significant sectors of public opinion, thereby substantially reducing the amount of grassroots pressure” pushed by the opposition.\textsuperscript{249} Given the bloodshed of past land reforms, it is clear that reasonable compensation to private landowners is a vital component of land expropriation.\textsuperscript{250}

While the seizure of private property necessitates some form of compensation, issues regarding the source of these funds merit notice.\textsuperscript{251} Since the impoverished farmer will not have the ability to pay for recently acquired lands, the government will bear the burden of paying the owner of confiscated land.\textsuperscript{252} To prevent abuse and the peasant’s reliance on government assistance, “beneficiaries should also be required to repay the government something for land.”\textsuperscript{253} With such a burdensome undertaking, developing countries may need to consult different methods of just compensation.\textsuperscript{254} In Cuba, for example, the government has the option of issuing bonds and can determine compensation from the value of land by using tax records.\textsuperscript{255} In the end, a country has the discretion to decide how it will compensate expropriated land; in making that decision, however, every country should consider “both market value and the flow of income from the land” as factors to just compensation.\textsuperscript{256}

Even though many large estate-holders fear for their entitlements to land, Venezuela provides that lands that are legally documented and cultivated will be protected under the law.\textsuperscript{257} As such, “if the [Venezuelan] government expropriates it for redistribution, then it must compensate

\begin{flushleft}
\textsuperscript{247} Penalver, supra note 7, at 139-40.
\textsuperscript{248} Prosterman & Hanstad, supra note 73, at 778.
\textsuperscript{249} Id.
\textsuperscript{250} Id.
\textsuperscript{251} DEININGER, supra note 96, at 153.
\textsuperscript{253} Prosterman & Hansted, supra note 73, at 781.
\textsuperscript{255} Penalver, supra note 7, at 123; see also Joseph R. Thome, Law, Conflict, and Change: Frei’s Law and Allende’s Agrarian Reform, in SEARCHING FOR AGRARIAN REFORM IN LATIN AMERICA 188, 197 (William C. Thiesenhusen, ed. 1989) (warning that long-term bonds, especially twenty-five to thirty year-old bonds, may undermine the concept of just compensation since the interest rate normally does not consider hyper-inflationary problems that have historically plagued Latin American countries).
\textsuperscript{256} Prosterman & Hanstad, supra note 73, at 781.
\textsuperscript{257} Wilpert, supra note 16.
\end{flushleft}
legitimate landowners at current market rates for this land.”

Furthermore, this position on just compensation is endorsed by the Venezuelan Supreme Court, which overruled article 90 of Ley de Tierra for not requiring the government to provide any compensation for expropriated property.

In conclusion, by requiring a form of compensation for expropriated lands, Venezuela will prevent “deleterious effects” on its economy and avoid social conflict among the classes.

IV. CONCLUSION

After many years of uncertainty and frustration, the Vestey Group finally formalized an agreement with the INTI. While both sides appear pleased with “the financially compensated land transfer,” it is not clear how future negotiations with other landowners will fare or what the overall implications will be on foreign investment. President Chavez and his Mission Zamora program have been subject to severe criticism and ridicule. Property rights advocates and foreign investors remain fearful about the state of the latifundio in the near future. Although it is apparent that President Chavez is willing to continue financial relationships with foreign investors and their respective landholdings, it is unclear how severe his war on the latifundios will be.

Looking back at previous land reform initiatives developed in Venezuela, it is obvious that Mission Zamora will have a lasting effect on Venezuelans—either positive or negative. Closely correlated to the land reform program recommendations outlined in this article, Venezuela has the opportunity to change the negative perceptions cast down on land reform programs. Furthermore, after comparing Mission Zamora to the land reform programs of Zimbabwe and Cuba, and by analyzing its policies under the guise of the Socialist Function Doctrine, developing countries in Latin America will have a tangible means of evaluating their land distribution programs and will be able to take note of the advantages and disadvantages under each system. “Land reform creates more secure and self-confident producers who are willing to challenge the inertia, elitism, and neglect that frequently characterize the politics of underdevelopment.” By administering the land reform program transparently, consistently, and efficiently, the Chavez administration can use Mission Zamora to ensure a result the previous regimes failed to provide—a promising future for the landless peasant.

258. Id.


260. DEININGER, supra note 96, at 156.

261. The first 12,950-hectare property, ‘El Charcote,’ located in the state of Cojedes, was given to the government in return for US$4.2 million. The other, in the state of Apure, was compensated by U.S. $4.7 million. Barbel, supra note 52.

262. Id.

263. Prosterman & Hanstad, supra note 73, at 771.