



Brazilian Land Tenure Law Encourages Land Grabbing and Deforestation in the Amazon

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About Amazônia 2030

The **Amazônia 2030** project is a Brazilian research initiative with the purpose of developing an action plan for the Brazilian Amazon. Our objective is to achieve conditions for a higher standard of economical and human development in the region, and to achieve a sustainable use of natural resources by 2030.

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Executive Summary

With the substantial increase in deforestation in the Amazon from 2019 onwards, federal and state governments in the region began defending land tenure regularization as the best strategy for identifying and punishing those responsible for the destruction of the forest. However, contrary to common sense, regularizing newly occupied and deforested lands will be a reward for deforesters, in addition to reinforcing a cycle of land grabbing in the region, in which public land is invaded, followed by deforestation, amnesty for illegal occupation, and land titling. This work is part of Amazônia 2030 (AMZ 2030) and analyzes evidence that supporting current forms of titling private occupations on public land or changing the law to facilitate regularization of recently deforested areas will have the opposite effect to what is sought: more invasion of public land and further deforestation in the future.

It is estimated that an area equivalent to 29% of the Amazon (1.43 million km²), currently without information on land use, may be the target of the continuing process of land grabbing and deforestation, which generates conflicts and drives away quality investments for development in the region.

In fact, the fight against deforestation must become one of the guiding premises of land policies implemented in the Amazon, if Brazil intends to comply with the commitments to reduce greenhouse gas emissions presented under the Paris Agreement.

But for this to happen, it is necessary to eliminate incentives that encourage land grabbing and forest destruction from the legislation.

In this study, we identified six of these perverse incentives present in federal and state land tenure rules, caused by legal loopholes or vacuums:

Laws allow the continuous occupation of public lands

Most state land tenure laws in the Amazon do not set a deadline for the occupation of public land that can be titled. When there is a deadline, it is subject to modification, as was the case with the federal law in 2017 and the state law of Roraima in 2019. Thus, there is a continuous expectation of legalization of occupied and deforested public lands at any time.

The legislation does not prohibit the titling of illegally deforested areas or areas with predominantly forest

No land tenure law (federal or state) applicable in the Amazon prevents the privatization of deforested public forests. There is also no impediment to the privatization of properties formed predominantly by forest areas, for example, areas with 90% forests. In this case, after receiving the title, the new owner may request authorization to legally deforest up to 20% of the property. Thus, by claiming areas covered predominantly by public forests, governments end up legalizing the possibility of future deforestation.

Most laws do not require a commitment to recover environmental liabilities prior to titling

Only Acre requires the signing of a Conduct Adjustment Term (*Termo de Ajustamento de Conduta* - TAC) prior to issuing the title for all properties that have illegal deforestation. In federal law and in Pará, there are exceptions requesting this commitment before the titling in some cases.

When there are environmental obligations after titling, monitoring is non-existent

Some land tenure laws require that environmental damage be recovered after receiving the title, under penalty of property loss in case of non-compliance. However, there is no monitoring of this obligation. In practice, there is no real punishment for non-compliance with environmental rules, which also works as an incentive for the continuation of occupation and deforestation of public land.

Subsidies in the price of titled property do not guarantee sustainable land use

On average, state and federal governments use public land sale price tables well below market (between 15% and 26% of market value). The difference between the amount charged and the market price ends up being a hidden subsidy for this regularization. However, the government's justification that this subsidy exists to promote sustainable use and socioeconomic benefits is unfounded, as there is no guarantee that these areas are actually used for production, creating jobs, or even that they comply with environmental rules. This is because there is no monitoring of the obligations assumed by the landholders.

Land agency procedures do not guarantee land allocation in accordance with legal priorities

The government must consider the legal priorities for recognizing the territorial demands of indigenous peoples, *quilombolas*, and traditional communities, as well as the establishment of protected areas and the titling of properties for family farming. However, in most states there is no requirement for prior consultation on the degree of interest of other bodies in the area under evaluation, such as the National Indian Foundation (*Fundação Nacional do Índio* - Funai) and environmental bodies. Finally, at the state level, there is no public disclosure of areas that are in the process of land tenure regularization.

Recommendations

To align government land tenure regularization actions with the reduction of deforestation, we recommend:

- Define a time frame for occupation of public land and establish a ban on any reversal related to the deadline
- Charge market price for the sale of public land and reward producers who adopt sustainable land use practices
- Demand commitment to environmental regularization before titling and punish non-compliance after titling with the repossession of the property
- Prohibit titling of properties with recent deforestation
- Establish land concessions, rather than sale or donation, with a ban on deforestation for properties with predominantly forest areas
- Establish a broad consultation on the destination of public land.

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