

# No Economic Growth Without Clear Property Rights

WASHINGTON – The almost unanimous mission statement of key International Financial Institutions (IFIs) devoted to development, along with national development agencies and their many private and public sector partners is that they are all united in a major effort “*to fight poverty*”, or at least “*reduce poverty*” around the world. Well, may be so. But if this is indeed their goal, they are not focusing on one of the most important issues –may be the most important– that prevents poor countries to get out of poverty.

## **Not what you think**

And it is not what you think. The issue is not insufficient health care services, poor education facilities, or gender inequality. Nor is it insufficient resources devoted to international aid. It is something completely different –and perhaps surprising for both analysts and practitioners.

***The issue is property rights, in fact lack of properly defined, universally recognized and enforceable property rights.***

Such property rights are clearly defined and codified in modern capitalistic economies. But in most emerging countries their legal status is uncertain, very messy and confused. This creates huge impediments in buying and selling property.

Indeed it is hard and in most cases outright impossible to sell what you do not legally own. Furthermore, all these assets with no legal standing cannot be used as collateral when requesting commercial loans.

**The problem is not poverty**

Simply stated, in poor countries the main impediment to economic growth and therefore higher standards of living, is not lack of wealth, as in crushing poverty.

The problem is instead that most emerging markets lack the recognized legal frameworks and regulatory arrangements regarding property and its legal status that are common place in most modern countries.

According to economist Hernando de Soto, (*The Mystery of Capital*, published in 2000), the key to understanding under performing economies and therefore continuing poverty is not lack of wealth as an objective impediment.

The problem is that the existing real estate and industrial/commercial ventures assets –and the not insignificant wealth they contain– in most cases are not legally owned by those who control them. Therefore they cannot be mobilized and leveraged by their “owners” in order to spark new investments and thus additional growth. They are therefore “dead assets”. And for this reason they cannot be mobilized to obtain financing that would promote significant new economic development.

### **A big deal**

Is this lack of modern property laws and regulations shared by most developing countries really a big deal? Yes, it is.

Let me expand on this. In the U.S. in Europe and elsewhere there are clear laws that provide a legal framework for real estate ownership and related transactions. These laws regulating property rights (with universal applicability within a country) created accessible inventories of all real estate assets. They prescribe how deeds held by property owners should be formulated, what a title to a property is and how it is legally obtained. They also clearly indicate which public agencies are the official repositories of all deeds and titles. As a result, all the real estate existing within any

country's borders is properly accounted for, while all transactions (buying, and selling and more) related to it are a matter of public record.

### **A uniform legal system regulates property rights**

The point here is that in developed countries all records of who owns what are compiled according to one standard formula, this way creating one system that captures all assets and all transactions involving them. These standardized records in turn become accessible public documents that clearly define the nature and boundaries of a property and allow anybody to reliably trace its lawful owners.

### **Legally owned property can be mobilized**

But this is only half the story. The truly important consequence of this uniform legal treatment of property is that, by virtue of having such a system in place, real estate becomes a "live asset" that can be easily bought and sold and rented at market prices.

***Most critically, property becomes an asset that can be used as guarantee and collateral for commercial loans and mortgages. Lenders can determine the market value of these assets on the basis of publicly available information regarding their size, locations and other attributes.***

Furthermore, owners of large businesses can sell parts of their assets and receive fresh capital by creating corporations that own the assets and therefore can legally issue shares. This way, new shareholders can "own" a fraction of the assets controlled by the corporation without any need to subdivide the assets controlled by it.

### **None of this in emerging countries**

In emerging countries, almost none of this exists. There are some rules regulating property; but they are not uniform and

not universally enforceable. They are murky and usually recognized only in a specific locality within the country. Outsiders do not know them and do not understand them.

All this means that property cannot be easily and reliably bought and sold on the basis of market prices. Hard to buy from someone who has no clear legal title on the asset in question. The buyer has no guarantee that henceforth he will indeed be recognized as the lawful owner.

Given all this, most loans that require real estate as collateral, as well as other transactions based on the ability to offer solid guarantees to lenders or business partners, are off-limits to most property “owners”, for the simple reason that most people do not “legally” own what they have.

### **Squatters have no rights**

Let me explain. The “owners” do occupy and use property, a building for instance. May be they built it themselves. But they have no legal title to the land on which the building sits, or to the building itself. In most instances they are squatters who built something illegally. Therefore, since they did all this outside any prescribed law, they cannot use the wealth they do have and control –however modest this may be– as collateral that would be accepted by banks in order to get a loan. De Soto correctly calls these assets “dead capital’.

### **This is critical**

Now, how important is all this? very important. Indeed, we all know that commercial credit is the yeast of all modern capitalist economies. It is really hard to think of economic growth without the lubricant and fertilizing power of commercial loans.

***But almost all loans that require collateral are beyond the reach of most would-be borrowers in emerging countries. This has the effect of a huge wet blanket on economic growth. How***

***can a small entrepreneur borrow from a bank to finance its expanding business if he/she cannot offer any collateral? Very simple: they cannot.***

### **Informal sector does not help**

Of course, other means to obtain credit may be available within the informal economic sector, (think “loan sharks”), but they are generally extremely onerous in terms of short repayment terms and exorbitant interest rates. Therefore these instruments are in most cases unappealing.

It is clear that these types of “loans” can hardly become the main engine of economic growth serving the purpose of funding promising new enterprises, as is the case in most advanced economies where commercial loans are routinely provided by established banks.

### **How much “dead capital”?**

And how much “dead capital”, (meaning capital that does exist but cannot be leveraged), are we talking about? Well, according to de Soto’s book cited above, an enormous amount:

*“By our calculations, [de Soto and his team worked in several countries in order to conduct their research] the total value of the real estate held but not legally owned by the poor of the Third World and former communist nations is at least \$ 9.3 trillion”.*

*“This is a number worth pondering: \$ 9.3 trillion is about twice as much as the total circulating U.S. money supply...It is more than twenty times the total direct foreign investment into all Third World and former communist countries in the ten years after 1989, forty-six times as the World Bank loans of the past three decades, and ninety-three times as much as all development assistance from all advanced countries to the Third World in the same period”.*

(NOTE: Data cited in de Soto's book goes up to the year 2000. Since then the picture may have shifted somewhat. But there has been no dramatic transformation, because in most developing countries property is still held mostly without proper legal title. Therefore, it still cannot be used as collateral for commercial loans and/or any other form of financing).

***These are truly amazingly large figures. Yes, poor countries are poor. But not as poor as we would generally think. The problem is that whatever wealth most individuals hold in these countries, it cannot be used as a legally recognized asset; and therefore it cannot be leveraged. This is a major impediment to growth.***

### **Working hard is not enough**

It should be stressed that this impediment originating from lack of legal status of so much property has nothing to do with how much or how hard people work in these countries. In poor countries many people do work hard, and they do acquire assets.

The problem is all about the failure to create a modern property laws system that would allow citizens in developing countries to gain legal title to what they own, this way transforming large amounts of "dead capital" into "live capital".

### **Priority one**

In the light of de Soto's remarkable findings, a legal/regulatory/administrative effort leading to clear and enforceable property rights should be priority one for both governments and donors who want to enhance economic growth in developing countries.

You want to eliminate poverty? Well, begin with breathing real life into (now anemic) commercial lending backed by real

estate as collateral.

And this starts with creating a rational and transparent property rights legislation and system that will allow business people to **a)** gain title to what they own, and **b)** be able to borrow in order to grow their enterprises, offering their now *"live assets"* as acceptable collateral.