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# Land Policies **Across Geography** and

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**A**ny reference to Latin America as a single, homogeneous entity sharing common land policy issues is misleading. Moreover, the land challenges faced by large metropolitan areas are entirely different than those faced by small towns that operate as dormitory communities for rural workers. Similarly, many nuances may be found across countries in the form of their land policy institutions, such as the regulation of titling rights; private rights over land value increments attributed to public action; the limits for public-private partnerships on large and complex urban operations; or even the requirements applied to the formalization of property transactions. If all these differences pose considerable

methodological caveats, they also provide fertile ground for promising land policy analysis.

## **Geographical and Institutional Comparisons**

There is much to be learned from the different land market manifestations and land policy attributes in countries or jurisdictions with apparently similar sociopolitical and economic frameworks that yield different outcomes. In many cases political will can affect performance as much as administrative factors. Lessons may also be drawn from the similarities of other land-related phenomena observed in countries or jurisdictions with apparently distinctive institutional frameworks. The ubiquitous presence of slums and irregular settlements, and their physical resemblance in the newly expanding areas of most Latin American cities irrespec-

tive of size and functional position in the country's urban system, certainly suggests powerful (and likely common) structural determinants in the functioning of urban land markets.

This idea that lessons may be drawn by comparing experiences across geography is contested by some observers. In our experience, in whatever city we are visiting, we hear impassioned statements claiming that urban land markets and land use patterns are absolutely unique, that land prices are rising as nowhere else in the world, and that local stakeholders in land markets have illogical, if not questionable, motives for their actions—in short, everyone is convinced of the singularity of land issues in his or her country, city, or district. This claim is reinforced by statements to the effect that reality beats theory: there are no commonalities, no grounds for generalizations, as any claim for relevance is circumscribed to individual lessons from accumulated local experience.

After 13 years of activity in Latin America, interacting with public agencies and officials, participating in academic seminars, promoting research, and producing publications, we are left with a compelling sense of *déjà vu* upon hearing these claims. Urban land markets in Latin America seem to be affected by definite macro-structural forces which, in most countries, have engendered very high prices for serviced land, persistent and impressive infor-

institutional determinants in the evolution and design of land polices. Insensitivity to these aspects in policies designed (or legitimized by the need) to improve the functioning of the urban land market in the region has largely contributed to the very existence, reproduction, and expansion of socially unacceptable land use outcomes.

Perhaps one of the characteristics that makes working on land policy in Latin America so fascinating is this ever-present contrast between the characteristics that are common throughout the region and the anomalies that make each country's relationship with land unique. The most salient issues lie somewhere between the commonalities and singularities. Our work has given us some insight into the issues that are truly critical, which are sometimes quite different from those that are most obvious or present in the public agenda.

### **Constraints on Effective Land Policy Implementation**

Most countries in Latin America share a poor performance record in the taxation of land, recovery of publicly generated land value increments, dissemination of urban infrastructure and services, provision of housing alternatives for the urban poor, a strong culture of urbanistic delinquency, and so on. The responsibility for this state of affairs is attributed to a hostile environment for implementing

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mality, strong intra-urban residential differentiation (segregation), significant retention of land as a reserve of value, and widespread urbanistic delinquency.

One also confronts frequent sweeping generalizations of the “seen one, seen them all” type, alleging that whether they are called *barriadas*, *barrios*, *conventillos*, *favelas*, or *villas miseria*, all informal settlements look the same and they all undergo the same processes. No matter how unconventional are the forms taken by an expressive segment of the population to access and occupy urban land—illegal, irregular, informal, or clandestine—they ultimately reflect the assertion that urban land markets apparently do not function well in Latin America.

One need not dig deeply into the literature to realize the relevance of cultural, historical, and

land policy, as expressed in the need to overcome the lack of adequate administrative conditions and human and technical resources, and the need to curb a strong legacy of powerful landowning interests who attempt to influence land policies to their own benefit.

There is a growing understanding that many of the challenges affecting Latin American urbanites are not the result of the absence of land polices, but rather a paucity of good policies. Illustrations may be found in the significant number of existing slums and deteriorated settlements that began as emergency camps, or in specific public housing projects; the hard-to-comply-with, elitist, urbanistic norms and regulations (and their effects on land prices); or the distortions produced by clientelistic practices traditionally used when allocating public

infrastructure and services. There is even disturbing evidence of the possible negative effects of many regularization policies on informality itself. Although some such diagnoses are now commonplace, their contours and implications are not necessarily generally perceived.

### ***Unavailable or Untapped Resources***

Experience 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. The paralysis of the Franja Costera project in Asunción, Paraguay, in spite of resources made available by the Inter-American Development Bank, is a case in point. On the other hand, in Porto Alegre, Brazil, the experience of using transferable development rights as a currency in costly expropriations or compensations of land needed for an important inner-city transportation corridor illustrates the existence of latent resources waiting to be tapped.

The use of more creative means to leverage the necessary resources is often met by strong resistance, however. It is with a sense of frustration that, in spite of the rhetoric and fanfare about capturing or mobilizing publicly created land value increments, the overall balance still leans in favor of the compensations given to private landowners by the public when acquiring land for public or social uses.

Urban land still seems to represent an asset for some to demonstrate their patrimonialist privileges in society, rather than a taxable base to generate needed resources for the broader community. From a different perspective, the historical legacy of the socially skewed concept of “privatization of benefits and socialization of costs” still predominates when it comes to public management of urban land. In sum, the resources exist, but not the capacity and willingness to tap into them.

### ***Lack of Existing Information or the Capacity to Use It***

A similar misconception prevails in regard to access to relevant land information. All too often the information exists, but not the capacity to find, recognize, organize, and above all interpret it. Consider the significant amount of public resources invested in cadastres and other sophisticated land information systems, academic empirical research (including graduate student theses), and commissioned consulting work, for example. Even after

discounting the frequent problems with updating of information systems, lack or stoppage of funding, and restricted circulation of these sources, there is still an overall balance of valuable, rich information that is applied, at best, superficially or ceremonially. The root problem is public officials’ inability (let alone unwillingness) to assimilate and translate such information into operational results.

### ***Lack of Dialogue Between Urban Planners and Public Finance Officials***

The making of land policy in Latin America is frequently impaired by the lack of dialogue between planners, who are mostly concerned with the quality of the built environment (even if their work is restricted to a small area of the city), and fiscal officials seeking to maximize public revenues. In practice this is reflected in planners often overlooking how projects should be financed and how urban form affects the tax base, or the impacts of tax collection practices on land uses.

Although these concerns come together in the increasing numbers of large-scale urban redevelopment projects, in most if not all cases the economic and/or financial benefits tend to be spatially and socially circumscribed, as in the case of gentrified enclaves. The real direct and indirect costs associated with these projects are largely ignored or unaccounted for, if not deliberately misrepresented. Puerto Madero, the seminal and much-acclaimed development project in Buenos Aires, has yet to be evaluated for its contribution to the economic and fiscal base of the city as a whole.

### ***Discontinuity in Program Implementation***

Political and administrative discontinuities can disrupt, derail, and ultimately terminate even the most popular or successful projects. This is a particularly important issue for expectations about the permanency of the rules of the game—a major component affecting how private agents behave with regard to land. Land use development is a long-term decision, and as such it is loaded with expectations regarding the fiscal, regulatory, and administrative environments. Too often a self-defeating cycle is created: stakeholders expecting land policy decisions to be discontinued hold onto initiatives supposedly targeted by the policy. Independently of how accurate an evaluation regarding the expected impact of the policy is, the resulting behavior may actually “prove” the policy to be ineffective, resulting in its ultimate discontinuation.



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Latin America abounds with promising ideas that were never implemented successfully, not because of their technical quality or social relevance, but because of outright petty political or economic interests. As a result, important land policy decisions are often met with skepticism, if not outright civil disobedience by stakeholders who knowingly count on this kind of administrative discontinuity that undermines decisions from their very inception. Distrust and suspicion toward the seriousness of administrative actions is illustrated by the all-too-familiar behavior of property taxpayers, informal occupants, and irregular developers who understand from experience that the last proposed amnesty is never really the last one.

### Slow but Persistent Advances

In spite of this less-than-optimistic scenario, it is important to remember that not everything is “broken” in the region. A closer look reveals important signs of consistent improvements in land policies in certain areas over the last 10 to 15 years. Although one tends to take a somewhat nostalgic view, many deliberate efforts to innovate and im-

prove on policies have proved quite successful.

The history of implementing value capture instruments in Colombia corroborates the point made previously that a well-designed instrument is neither a necessary nor a sufficient condition for successful implementation of a policy. Even that country’s sophisticated *participación en plusvalías* needs to be improved and adjusted. If some landmarks have been reached, they have more to do with the growing legitimacy of these initiatives among stakeholders who see value capture as an integral part of the urban fiscal and regulatory culture.

It is not trivial that the City of Bogotá has approved a new program to finance about US\$800 million in public works with *contribución de valorización* over the next ten years. Indications of lowering land prices in areas affected by *participación en plusvalías* demonstrate the assimilation of the instrument by the market. The public legitimacy of these instruments and their success illustrate the growing recognition by policy makers of the politics of policy: the fact that no matter how enlightened the incumbent technocrat is, successful policy change and

implementation require ample involvement of civil society over a long trial-and-error period.

Another widespread issue is the legitimacy of most so-called informal occupations. Although many policies in this arena can be improved, the innovations and advances at the judicial level and the techniques designed for upgrading consolidated



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settlements have been significant. The region has been converted into a laboratory where a formidable array of important local innovations has been tested. At the institutional level, the 2001 Statute of the City in Brazil recognizes certain individual and collective rights to the use of land by informal settlers. At the market entrepreneurial level, an example is the privately provided affordable, fully serviced housing in El Salvador. Certain public-private projects involve the mobilization of land value increments directly for the provision of serviced land for the poor, such as the experiences with the Social Urbanizer project in Rio Grande do Sul region of Brazil, or the Nuevo Usme and Pereira macroprojects in Colombia. Other notable examples include the initiative of earmarking to public programs the voluntary property tax contributions beyond the imposed tax (Bogotá); the shift to a land value based property tax in many jurisdictions of Baja California in Mexico; or the use of the property tax as a tool for regularization of informal occupations in some Brazilian municipalities.

Latin America now exports technical expertise and innovative methods to deal with informality to officials in Africa, and even to U.S. authorities dealing with the *colonias* in Texas. The special social interest zoning (ZEIS), developed originally in Recife, Brazil, is now being assimilated in many other countries. Likewise, the experience with participatory budgeting, notably in Porto Alegre, is being disseminated throughout Brazilian municipalities and other countries, and the bus transportation corridors (surface metro) originally conceived in Curitiba, Brazil are being studied by other jurisdictions.

### Education: A Key Ingredient for Policy Change

The tendency to underestimate local capacities, ideas, and technology in favor of “imports” from the developed countries persists as a major source of inspiration when designing new urbanistic norms and regulations. The Lincoln Institute, however, emphasizes local solutions and the need to look more closely at available resources and to recognize their value.


We have found over our long involvement with the Latin American land policy debate that not all limitations on improvements derive from powerful, vested political and economic interests. An important share of the unexplained variance associated with the success of land policies can be attributed to better understanding of the issues (basic concepts, the mechanics of the tools, and the likely impacts) involved in urban land policy. The Institute’s educational training and research initiatives may play an important role in bridging the gap between theory and practice. The sharing of experiences among public officials invited to our seminars, courses, and workshops has unequivocally demonstrated great pedagogical value. Likewise, the cross-fertilizing effects among our programs have revealed direct impacts that can reshape policy options.

Certain key concepts are most relevant in changing stakeholders’ attitudes regarding land policy initiatives. The capitalization effect of a fiscal charge on land value, or land value increment, is one example. Much of the resistance to value capture and property taxation is grounded in the misconception that the burden is fully transferred to final prices, thus affecting the size of the market in general and housing affordability in particular. The lack of understanding of locational interde-

pendencies in land markets is another major deterrent to discussions around project financing and targeting.

Overall there are many misunderstandings in the form of myths, prejudices, and misinformation that seriously distort the views of otherwise well-intentioned participants in the land policy debate. The list of fallacies is endless: landowners are motivated by monopolistic power, and all their properties are marketed according to strategies for maximum speculative gain; developers are equated to socially predatory speculators, whereas low-income families are seen to transfer informally tenured or owned land according to its strict use value (as opposed to market exchange values); land use irregularities can be found only in low-income settlements; informal occupation is a strategy used by the poor to “beat the system”; or it is useless to tax the properties of low-income landowners since they have no capacity to pay and are more likely to evade paying taxes.

These and many other similar propositions may have some historical origin, but most of them have not been subject to a rigorous empirical test. Anecdotal information collected during Lincoln Institute programs indicates that there may be grounds to question their perceived validity, but they need more extensive study and the results need to be translated into the languages of the stakeholders and disseminated throughout society. More important, this information should be used to qualify a broader range of stakeholders capable of not only implementing better land policies in the region, but also of demanding policy responses from public agencies. Efforts toward the qualification of demand from civil society are as much an essential ingredient for good land policy as the qualification of its supply.

Political sensitivities are a strong determinant in all public policy in Latin America, and land policy is no exception. The Institute places importance on political plurality and diversity by approaching the issues from different angles and political tendencies. We believe that land policy should transcend party politics, and our programs have often achieved constructive dialogue among opposing factions. Similarly, our work in Latin America aims to help bridge the gap in communication and interaction among public officials at different governmental levels, representatives of civil society, and urban development professionals in diverse disciplines. 

## Urban Perspectives: Critical Land Policy Themes in Latin America

### Perspectivas urbanas: Temas críticos en políticas de suelo en América Latina

This article is based on the introductory chapter of a new Lincoln Institute book that includes more than 60 *Land Lines* articles written over the last 13 years. Translated into

Spanish for our Latin American audience, this collection presents an overview of critical land policy issues based on the Institute’s experience in the region.

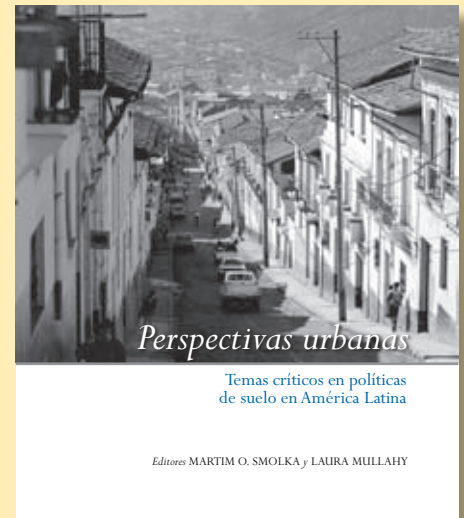
Each of six thematic chapters includes an introductory essay that highlights the articles on that theme: tendencies and perspectives in land markets; informal land markets and regularization of tenure; property taxation; value capture; planning and urban development; and public policy and participation. Taken together, these chapters present an opportunity to explore the similarities and differences that coexist in land use and taxation policies across Latin America today.

The editors make no claim of comprehensiveness on land policy subjects and geography in the assembly of these articles. Not all themes are equally pertinent in all countries, and not all countries are equally represented in each of the themes covered. Nevertheless, the book offers a spectrum of critical and original thinking on important land policy issues at the core of the Institute’s Latin America Program.

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