

Property Rights

Property rights, the topic of the Lincoln Institute's annual land policy conference in June 2008, are an important feature in the global political economy. In the United States many see the lack of compensation for reduced property values caused by regulations as weakening property rights, and the Supreme Court's 2005 *Kelo* decision—supporting the use of eminent domain for economic development—put this issue on the front page of U.S. newspapers. Internationally, property rights received new impetus from Hernando de Soto's 2000 book, *The Mystery of Capital*, which argues that clarifying property rights would stimulate economic growth in developing countries.

Property rights defined. Leading off the conference, Harvey Jacobs reviewed the historical debates among Adams, Franklin, Jefferson, and Madison about the nature of property in the United States. Elinor Ostrom then assessed how well a set of principles underlying property rights, advanced in her seminal book, *Governing the Commons* (1990), have stood the test of time in empirical work.

Public compensation for takings. In the United States compensation is required when property is acquired by the state through eminent domain, and some feel that compensation should be paid when less than full rights are taken—for example, when areas are classified as unbuildable wetlands or protected for endangered species. Abraham Bell addressed the merits of compensation when such regulations decrease property values, and also explored the complementary question: Should owners pay for “givings” when property values rise because of state actions such as infrastructure investments?

Jerold Kayden's paper, motivated by the *Kelo* case, presents evidence suggesting that eminent domain was rarely used in U.S. cities to take private property for economic development from 2000 through 2004. Antonio Azuela reported on experiences with eminent domain in three Latin American cities—Bogotá, Mexico City, and São Paulo—where practices differ greatly. Both Mexico City and São Paulo had extended periods when judges, unversed in property valuation methods, set values for property compensation well above market values. Vincent Renard reviewed regulatory trends in the use of property rights in Western Europe, and



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found a wide variety of evolving practices with strong differences between northern and southern countries.

Enhancing security of ownership. Making urban and rural property rights more secure is thought to increase investment in fixed facilities and to improve property owners' access to credit markets. Klaus Deininger and Gershon Feder reviewed experience with land titling projects in developing

countries, finding a mixed record especially when titling ignored local practices. Edesio Fernandes reviewed the evidence on the link between land titling and credit access, finding little support for the hypothesized relationship.

Environmental applications. Assigning property rights has been posited by economists as a way of incorporating environmental issues in market transactions. Dallas Burtraw and Rich Sweeney reviewed the income distributional consequences of the cap and trade systems being proposed for carbon emissions because of the large financial sums involved—ranging from one to three percent of GDP annually. Gerald Korngold then reviewed experience with private conservation easements and outlined the benefits and drawbacks of current practice.

Affordable housing. Inclusionary zoning approaches give developers greater powers to build affordable units in municipalities. Keri-Nicole Dillman and Lynn Fisher reported on the success of this property rights-based regulatory approach in terms of providing affordable housing units. Robert Ellickson then returned to first principles, exploring the efficiency and equity of supply-side versus demand-side subsidies in terms of their efficacy in promoting affordable housing.

Transitional economies. Property rights are playing a key role in the emergence of housing and land markets in urban and rural areas in transitional economies. Stephen Butler reviewed the case of Viet Nam, where long-term and stable land use rights have been developed along with land use right certificates. Dwight Perkins discussed the case of China, describing the evolution of urban and rural land use regulations and practices in essentially a dual system. Finally, Bertrand Renaud, Joe Eckert, and Jerome Anderson explored property rights and real estate privatization in Russia in comparison with other Eastern European economies. **L**