



A New Look at Value Capture in Latin America

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The City of São Paulo has been successful in generating revenue from the sale of building rights along Faria Lima Avenue.

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Many countries in Latin America have passed legislation that supports value capture policies as a way to recoup some or all the unearned increase in private land values resulting from public regulations or investments. Thus far, however, only a few jurisdictions in certain countries have applied this potentially powerful financing tool systematically and successfully.

In 2011 and 2012 the Lincoln Institute of Land Policy surveyed public officials and academics in the region to discover why value capture has not been used more often. The 2012 questionnaire was designed to elicit respondents' views about the prospects for designing, institutionalizing, and implementing two emblematic value capture instruments—betterment contributions and the sale of building rights.

Betterment contributions (known as special assessments in the United States) are charges imposed on owners of selected properties to defray the cost of a public improvement or service from which they specifically benefit (Borrero 2011; Borrero et al. 2011). Under the sale of building rights, in contrast, the government charges for special

rights that it grants, such as allowing a higher floor-to-area ratio (FAR), a zoning change (e.g., from residential to commercial), or conversion of land from rural to urban use (Sandroni 2011).

The results of both surveys challenge much of the conventional wisdom about the use of value capture policies in Latin America. In particular, respondents with actual experience in using these tools consider legal and technical difficulties less of an obstacle to implementation than the lack of understanding among key government executives about their potential payback. Moreover, value capture is still viewed primarily as a tool to promote equity in cities rather than as a way to improve municipal fiscal autonomy.

Survey Distribution

Launched in the spring of 2011, the first survey was distributed to 436 public officials and academics who had participated in one or more of the Lincoln Institute's previously offered courses and workshops on value capture issues. A second questionnaire with a different set of questions was sent by email in February 2012 to 14,355 people affiliated with the Institute's Program on Latin America and the Caribbean. Respondents (134 and 1,066 respectively) included officials at all levels of government,

city planners, academics, independent scholars and consultants, and members of nongovernmental organizations (NGOs).

When classified by country, responses to individual choices for many questions numbered fewer than ten. For this reason and to simplify the presentation, the analysis combines the responses from countries with similar sociopolitical characteristics in terms of value capture into three groups.

1. Bolivia, Ecuador, Paraguay, Uruguay, and Venezuela. All five countries have some national legislation on value capture and are currently run by governments sympathetic to value capture policies. Uruguay in 2008 (Law No. 18.308 of 18.VI.2008) and Ecuador in 2010 (with its new national code, COOTAD) approved national legislation enhancing the scope of government prerogatives with regard to land value increments.
2. Argentina, Chile, Mexico, and Peru. These fast-growing, mature countries are still struggling to introduce more explicit national legislation on value capture, in addition to imposing betterment levies.
3. Central America and the Dominican Republic. Countries in this region comprise a single group because they are relatively small and have liberal urban development regimes.

Brazil and Colombia are presented separately because they make up a significant share of survey respondents, and they have the most experience with value capture tools. The number of respondents generally follows the size of the population of the country group, except for Brazil and Colombia, which account for disproportionately large numbers of respondents (table 1).

The Pragmatic Character of Value Capture

Even though only a few countries explicitly prescribe value capture in their legislation, the smaller 2011 survey revealed detailed information about jurisdictions that had recovered some land value increment resulting from changes in land use.

Of 13 countries covered in that survey, respondents cited 22 cases of value capture in 30 jurisdictions in 8 countries. In general, these cases involved some kind of benefit exactions for the community achieved through direct negotiation between developers and public authorities.

On average, though, the value extracted was less than one-third of the estimated land value increment. The likelihood of the contribution exceeding one-third of the total value was higher when the contribution was made in cash rather than in kind. These cases occurred in countries without explicit legislation on the sale of building rights, such as Bolivia, Costa Rica, and Peru, illustrating the pragmatic approach to value capture on the part of officials in charge of urban land management.

Overall, survey respondents consider themselves familiar with the topic, and the findings of the 2012 survey reinforce the point that awareness of value capture instruments is not limited to countries that have institutionalized the practice. Relatively few respondents claimed to be unfamiliar with value capture instruments, although the real number of officials may be larger, given the self-selection bias of the survey respondents (table 2). The share of respondents unfamiliar with value capture instruments in Brazil and Colombia is about half the share of respondents from other countries.

TABLE 1
Survey Respondents by Country Group and Population

Country Group	Survey Respondents		Country Group Population (000s)	
	Number	Percent	Number	Percent
Brazil	191	16.8	193.7	35.0
Colombia	286	25.2	45.7	8.3
Bolivia, Ecuador, Paraguay, Uruguay, Venezuela	130	11.5	61.5	11.1
Argentina, Chile, Mexico, Peru	401	35.4	193.9	35.1
Central America and Dominican Republic	126	11.1	58.4	10.6
Total	1,134	100.0	553.2	100.0

The Implementation Challenge

One of the common arguments raised about the chances of applying value capture policies in Latin America relates to the technical difficulty of implementation—specifically, assessing the land value increment resulting from public interventions. To probe the importance of this issue, the 2012 survey asked whether respondents consider a 30-percent margin of error in valuation acceptable enough to justify application of value capture. The overwhelming majority of respondents (89 percent) stated that, regardless of the margin of error, value capture policies should be applied. Only 11 percent argued to the contrary.

The main reason cited for supporting value capture is again a pragmatic one. Similar margins of error occur in other contexts, such as valuation for property taxation purposes (36.9 percent). A close second is the “need to establish the principle” (31.8 percent). The fact that value capture instruments are contemplated in the legislation places third (21.4 percent). As expected, respondents from Brazil and Colombia rank the legal reason for applying value capture as more important (27 percent and 31.6 percent, respectively) than respondents in other countries (15.2 percent on average).

It is notable that 41.8 percent of respondents in Argentina, Chile, Mexico, and Peru—countries still striving to pass national legislation on value capture—ranked “need to establish the principle” higher than other respondents. In contrast, Colombian respondents ranked this reason third. Reasons

given by respondents from the other country groups are not significantly different from the sample average (31.8 percent). Among the 11 percent of respondents opposed to value capture policies, legal and legitimacy arguments prevail over pragmatic ones (illegitimacy of policy or administrative and judicial costs).

The Known versus the Unknown

Laws throughout Latin America support betterment contributions, and local governments frequently count on revenues from that source in their budgets. However, these revenues are generally modest and rarely account for more than 1 percent of local own-revenues in most places except in Colombia and to a lesser degree in certain cities with experience using this instrument, such as Cuenca, Ecuador, and San Pedro Sula, Honduras, and in a few Brazilian jurisdictions in the State of Paraná. The sale of building rights, in contrast, is still being established as a value capture tool and is legislated in only a few countries.

Survey respondents were also asked about their preference between betterment contributions (the familiar value capture tool that performs poorly) and the sale of building rights (the newer instrument with stronger revenue-generating potential). Across all countries the results show greater support for betterment contributions: 59 percent versus 41 percent.

Even among respondents from Brazil, the only country where preference for the sale of building

TABLE 2
Familiarity of Respondents with Value Capture Instruments by Country Group and Experience

Country Group	Not Familiar (percent)	Familiar (percent)				Number of Cases
		With Experience	Without Experience	Not Interested	Total	
Brazil	5.2	53.4	37.7	3.7	100.0	191
Colombia	6.4	50.7	41.8	1.1	100.0	282
Bolivia, Ecuador, Paraguay, Uruguay, Venezuela	12.3	46.9	39.2	1.5	100.0	130
Argentina, Chile, Mexico, Peru	10.5	45.1	44.1	0.3	100.0	399
Central America and Dominican Republic	11.1	50.0	35.7	3.2	100.0	126
Percentages	8.9	48.7	41.0	1.5	100.0	
Number of Cases	100	549	462	17		1128

rights was significantly above average (48.9 percent), betterment contributions still rank as the preferred value capture instrument (51.1 percent). This is remarkable in light of São Paulo's success in generating considerable revenue from selling building rights. For example, the April 2012 auction of Certificates of Additional Construction Potential (CEPACs) in São Paulo added US\$420 million to public coffers, on top of about US\$2.5 billion from previous auctions (São Paulo Stock Exchange 2012).

The survey evidence suggests that most respondents are not fully aware of the difference in the revenue potential of these two value capture tools. In fact, only 10 percent of respondents cite revenue potential as the main reason to prefer one over the other. Proponents of value capture give top priority to promoting equity rather than to generating revenue—another surprising finding given the potential of value capture to strengthen municipal autonomy.

When asked how they would characterize the arguments for value capture, respondents in the 2011 survey could choose from 50 terms related to land policy attributes. The eight terms that received the most responses (49.7 percent of the total) were associated with equity issues such as charges and benefits, redistribution, social function of property, anti-speculation, equity, and social justice. The one exception was a financial term, which ranked fourth.

In contrast, terms such as fiscal autonomy, fiscal harmony, decentralization, tax, self-sufficiency, financing, and additional resources received only 18.7 percent of the votes, while terms related to the functioning of urban markets, such as efficiency and market discipline, received just 11 percent. Arguments against value capture were associated with such terms as tax, fiscal burden, acquired rights, and double taxation, as well as abuse, violation of rights, and illegitimacy.

Respondents to both the 2011 and 2012 surveys cited ethical and sociopolitical legitimacy as the primary reason for preferring one value capture tool over the other. Indeed, the 59 percent of respondents favoring betterment contributions over the sale of building rights mention ethical and sociopolitical legitimacy as the most important reason for their choice. The 41 percent of respondents favoring sales of building rights gave the same reasons for their preference. At the same



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time, 24.4 percent of respondents favoring the sale of building rights consider the capacity to generate revenues the second most important reason for choosing that instrument, but only 17.6 percent of respondents favoring betterment contributions share the same opinion.

All in all, this suggests that officials in Latin America often tolerate a wide gap between the equity-legitimacy principle and revenue generation, based on a perception of greater technical ease in charging betterment contributions. From another perspective, it appears that they favor the quicker path to the moral high ground rather than one leading to higher local revenues.

Experience Matters

After ethical and sociopolitical legitimacy, the next most important reason for preferring a particular value capture instrument varies according to the respondent's level of experience. Strong confirmation of the importance of implementation

Despite the lack of specific value capture legislation in Cordoba, Argentina, changes in building rights were charged for this mixed-used project.



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Betterment contributions funded the construction of this bridge over Street 100 where it crosses Avenue 15 in Bogotá, eliminating former congestion nuisance to neighbors.

experience comes from the two countries that have applied the tools: Colombians favor betterment contributions, and Brazilians prefer the sale of building rights.

Colombia has long experience with betterment contributions, which may explain why 16 percent of respondents from that country cite technical ease of implementation as the reason to choose that approach. By comparison, only 7.9 percent of respondents in other countries mention that reason. Meanwhile, 12.6 percent of respondents in Brazil favor the sale of building rights due to ease of implementation, compared with just 5 percent of respondents from other countries. These results underscore how much experience shapes opinions about the technical constraints involved in applying value capture tools.

Obstacles to Implementation

Respondents to the 2012 survey attribute the reluctance of public officials to apply value capture policies primarily to lack of information (23.2 percent) and political risk (22.5 percent). Other explanations include complicity with landowners' interests (18.4 percent) and technical difficulties in implementation (15.4 percent). Few consider lack of legislation as an important reason for not using

value capture instruments (1.5 percent), with ideological motives (3.2 percent) and administrative costs (3.8 percent) ranking somewhat higher.

Pragmatic reasons are important only among respondents from countries lacking significant experience with such tools. While 13 percent of respondents from Brazil and Colombia mention technical implementation difficulties as the primary obstacle, 31 percent of respondents from other countries cite that reason on average. This reinforces the finding that experience with value capture tools counts. Brazilians explain why value capture instruments are not used in terms of land interests and political risk, which together account for 59 percent of responses. Among Colombians, 26 percent see no reason not to use value capture instruments. This is a much higher share than among respondents from other countries (7.2 percent on average), indicating a perception in Colombia that the tools are getting the attention they deserve.

Targeting Key Stakeholders

The 2012 survey asked respondents to select which stakeholders involved in the debate should be the primary targets of capacity building in order to overcome resistance to value capture policy. High on the list are heads of the executive branches of government, such as mayors and directors, followed by members of the legislature, including members of congress and city councilors (table 3). Planners—who are frequently on the front line of policy operations—rank third.

Surprisingly, only 6.2 percent of respondents cite members of the judiciary (judges, lawyers, and public attorneys), even though the courts often block value capture initiatives. Brazilian respondents are the only ones to assign a higher importance to members of the judiciary. Consistent with the institutional advances their countries have made in value capture, respondents from both Brazil and Colombia give lower priority to legislators (20.7 percent) than respondents from other countries (32.3 percent on average).

Respondents from all occupation groups rank academics and journalists last. As a result, the strategy of training the trainers would seem counterproductive as long as academics are not considered critical stakeholders in reducing resistance to value capture policies. This result supports the Lincoln Institute's program focus on building

TABLE 3
Priority Targets for Capacity Building among Stakeholders by Respondent's Occupation

Respondent's Occupation	Value Capture Stakeholders by Occupation Group (percent)						
	Planner	Jurist	Journalist	Academic	Legislator	Government Executive	Total
Planner, Architect, Engineer	20.7	5.7	2.0	3.4	28.3	40.0	100.0
Social Scientist	15.9	3.7	4.2	5.1	28.0	43.0	100.0
Lawyer	9.4	15.1	0.9	2.8	25.5	46.2	100.0
Total	18.6	6.2	2.4	3.7	27.9	41.2	100.0

capacity of public officials directly involved in the policy debate or tool implementation, rather than on building capacity in graduate schools. The low priority given to journalists as a target for capacity building is puzzling, but may reflect the fact that the value capture discussion is still largely confined to public agencies and academia. Nevertheless, greater involvement of the media could have a positive influence in broadening the debate.

One other interesting result of the survey is that responses across various groups are relatively consistent. Occupation, institutional affiliation, place of employment, level of education, and even size of the respondent's city make little difference. Indeed, only the distinction between respondents from countries with and without significant experience with value capture seems to stand out as important.

Conclusions

The survey results point to a relatively consistent understanding about the state of the debate and implementation of value capture across Latin America. The prospects for successfully implementing value capture policies in the region, however, are less clear. The social justice rhetoric still seems to prevail even among "informed" supporters. In addition, decision makers in critical executive positions are seen as ill-informed or lacking in political will. Moreover, as the experiences of Brazil and Colombia attest, institutionalizing value capture policies is a process of painstaking trial and error that takes time to succeed.

Three lessons follow from the work done by the Lincoln Institute on value capture in Latin America. First, land value increments are captured more successfully from specific actors who receive

greater benefits from a public sector intervention than from the general community (the win-win condition). Second, value capture tools are more likely to succeed when conceived to address a locally recognized problem than to emulate alleged best practices.

Third, strengthening the legitimacy of value capture policies is essential. This can be achieved by publicizing successful projects, especially in countries where value capture initiatives are still isolated and sporadic. It is important to shift the debate on value capture from ideological, wishful-thinking rhetoric to a more technical and practical context grounded in evidence that it can be done and, most importantly, that it has been implemented effectively in many cases. **L**

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