

# Global Experiences in Land Readjustment

Urban Legal Case Studies: Volume 7



# Global Experiences in Land Readjustment

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**HS Number:** HS/050/18E

**ISBN Number:** (Volume) 978-92-1-132806-6

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## Foreword from the Executive Director

Land is an integral component of urbanization. The New Urban Agenda recognizes its ecological as well as social function with the aim of having sustainable cities and human settlements that are inclusive, safe, economically productive and environmentally sound. As part of its global mandate, UN-Habitat is actively involved in advocating for sustainable use of land through the development and promotion of various land tools, such as land readjustment. Through it, cities can grow in a planned and coordinated manner while increasing land values, being inclusive and promoting the security of tenure. Improvement in core infrastructure and basic services are also among the potential benefits of land readjustment.

UN-Habitat has a rich and fruitful experience working in countries where land readjustment has been implemented. In the course of its work in Africa, Latin America, Asia and parts of Europe, the Agency has become increasingly aware of not only the benefits of land readjustment but also possibility of negative yet unintended outcomes of the process. It realizes that inadequate appraisal of the likely effects may adversely affect the poor and the marginalized by reproducing existing inequalities.

This publication is a crucial part in UN-Habitat's effort to develop normative knowledge in appropriate land management practices. It presents case studies from various parts of the world with a specific focus on developing countries. The intention is to promote land readjustment as both a relevant and implementable tool in countries within the Global South.

I am pleased that UN-Habitat's Urban Legislation Unit has carried forward this initiative which was started during the tenure of my predecessor, Dr. Joan Clos. As the New Urban Agenda draws attention to the relevance of effective regulatory and institutional frameworks, the publication of this book marks a significant step in highlighting the role that laws and institutions play in urbanization. My hope is that countries will find this publication useful in the implementation of land readjustment within their specific contexts taking into consideration their varying resources and institutional capacities.

A handwritten signature in black ink, appearing to read 'Maimunah', with a long horizontal line extending from the end of the signature.

Ms. Maimunah Mohd Sharif,  
Executive Director, United Nations Human Settlements Programme (UN-Habitat)

## Letter from Dr. Joan Clos, Former Executive Director, UN-Habitat

Urbanisation is one of the most significant trends of the 21<sup>st</sup> Century with the global urban population growing from 732 million to 4 billion between 1950 and 2017. Urban areas are engines of economic growth, social, and cultural development and environmental protection. However, rapid growth presents numerous challenges to the ability of urban areas to provide these benefits and to satisfy the needs of their inhabitants in terms of infrastructure and basic services. In particular, cities have struggled, and continue to struggle, to provide adequate and affordable urban land for development. As urban areas continue to expand, they too often do so in an unplanned and spontaneous manner, limiting the benefits that urbanisation can provide.



To counter these challenges, national and local urban authorities have devised innovative tools to minimize the social, economic and political costs associated with the acquisition of land. Land readjustment is one such tool. It is a mechanism through which land parcels in a particular area are pooled and planned as a unit, regardless of their previous pattern or tenure. This approach limits burdens on public finances and unlocks the intrinsic value of land that was limited by plot fragmentation and land ownership patterns that were incompatible with the optimal use of land. It may also enhance citizen-government dialogue and facilitate the provision of infrastructure and basic services.

Land readjustment has been traditionally seen as a “developed country tool”, with the best known examples coming from countries such as Germany and Japan. Its utility in developing countries has been doubted due to its perceived complexity, reliance on strong local governance systems, and the relatively weak legal and institutional frameworks of countries in the global south. This book counters the misconception of land readjustment as a developed country tool. It shows that this mechanism is not only relevant but also provides examples of its implementation in a variety of developing countries and one country in transition. The case studies presented include experiences from Angola, Bhutan, Chile, China, Colombia, Ethiopia, India, Russia, Thailand and Turkey. The book also highlights the different circumstances under which land readjustment may be used as a tool and the diverse range of social, political, economic, and cultural contexts in which it operates.

This book does not aim at giving the perfect formula for a successful land readjustment or even that land readjustment is a magic bullet for the challenges of urbanisation. But this book does establish land readjustment as one of the most flexible tools available to all countries to bring citizens, planners and governments at all levels together with the aim of making ordered urbanisation at scale possible.

A handwritten signature in black ink, reading 'Joan Clos'.

Joan Clos  
Former United Nations Under-Secretary-General and  
Executive Director, UN-Habitat



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# Land Readjustment

## I. Introduction

Urbanization is one of the most significant trends of the 21st Century.<sup>1</sup> In 1950, about 30 per cent of the world's population lived in urban areas. This figure currently stands at 55 per cent. Urbanization in developing countries is taking place at lower levels of income and with less investment in infrastructure.<sup>2</sup> This presents daunting challenges in terms of meeting the current and future housing, water supply and sanitation needs of a rapidly urbanizing population.

The majority of future urban population growth will take place in developing countries and in small and medium sized towns and cities. Cities are growing much faster spatially than in population, as the expansion of urban areas is on average occurring twice as fast as urban population growth, with significant consequences for the provision of infrastructure, greenhouse gas emissions, climate change, environmental degradation, as well as for the occurrence and consequences of natural and human-made disasters. Many cities all over the world are not well-equipped to harness the economic and social opportunities associated with the rapid growth caused by urbanization and they are unprepared for the multidimensional challenges associated with it. Many rapidly growing cities keep sprawling, slums are expanding or consolidating, there are high and increasing levels of poverty and inequality, just to name a few challenges cities are facing.<sup>3</sup>

Most residential areas in the expansion areas of cities, especially those in developing countries, are unplanned, developing spontaneously and often in contravention of urban planning and building regulations. Before 1990, about 59 per cent of the residential areas in the urban expansion areas across the world showed evidence of being planned prior to being occupied. However, between 1990 and 2015, only 37 per cent of the residential growth in the expansion areas was planned; suggesting a decline in the practice of urban planning.<sup>4</sup> Even where cities are planned, there is a high demand for serviced, or serviceable, land. Achieving the provision of serviced land at scale has been a major political and economic challenge for governments at all levels. A failure to provide serviced land at scale generally leads to numerous inefficiencies and social challenges and dramatically increases the financial and political costs of improving spatial design and service provision in the future. Urban authorities need innovative tools to lower these social and economic costs associated with the acquisition of land for urban development.

Recognizing the nature of the challenges of urbanisation and the impact of urbanisation processes on development outcomes, it has been recognized as an important element of international development policy. The adoption of Sustainable Development Goal 11, to make cities safe, inclusive, resilient, and sustainable, and the New Urban Agenda firmly places urbanization at the forefront of the international development agenda. The endorsement by the international community of these landmark declarations is a clear appreciation of the role that cities can play in achieving sustainable development. We are often reminded that the battle for sustainable development will be won or lost in cities.<sup>5</sup> The New Urban Agenda reaffirms the role of UN-Habitat in the development of "normative knowledge and the provision of capacity development and tools to national, sub-national, and local governments in designing, planning, and managing sustainable urban development."<sup>6</sup> Land Readjustment is one of the tools that can be used to promote sustainable urban development.

This book first provides a brief introduction to land readjustment as a method, particularly as it may be relevant to the context and needs of developing countries and countries with economies in transition. It then provides a brief comparative analysis of the case studies presented later in the book. This comparative analysis does not provide a 'how to guide'<sup>7</sup> but, rather, seeks to highlight the basic objectives, features and strengths and weaknesses of each example and how they might be seen to relate to each other. For those who would like to go further, the eleven case studies are then presented in full. The first describes a rural to urban land use conversion in China, with particular emphasis on institutional and inclusion concerns. The second case study is an urban regeneration project in Colombia, which places an emphasis on the retention of population. The third is a slum intervention in Ethiopia with ambitious densification and service provision objectives. The fourth case study also describes a slum intervention with particular detail provided on community engagement in the process. Fifth is an informal settlement intervention in Thailand that addresses multiple public and private objectives with improved security of tenure for residents as a significant outcome. The sixth case study explores the challenges of public participation in land readjustment in Turkey. The seventh describes the responses to the challenges of public participation adopted in Bhutan and also highlights the importance of well thought out institutional and legal

<sup>1</sup> UN-Habitat, (2016), *World Cities Report 2016: Urbanization and Development- Emerging Futures*, UN-Habitat, Nairobi.

<sup>2</sup> Freire, M. E., Lall, S., & Leipziger, D. (2014), "Africa's Urbanization: Challenges and Opportunities," *The Growth Dialogue*, Working Paper 7.

<sup>3</sup> UN-Habitat, (2016), *Fundamentals of Urbanization: Evidence base for Policy Making*, UN-Habitat, Nairobi.

<sup>4</sup> Ibid.

<sup>5</sup> United Nations, (2014).

<sup>6</sup> Para 129.

<sup>7</sup> UN-Habitat, (2016), *Remaking the Urban Mosaic: Participatory and Inclusive Land Readjustment*, UN-Habitat, Nairobi.

structures. The eighth case study incorporates two examples of land readjustment in India, with a particular consideration of their governance and institutional elements. The ninth is a case from Russia, describing collective approaches to development as a response to a public subsidy programme. The tenth case study describes two contrasting examples from resource poor contexts in Angola. The final case study is from Chile and describes a case of post-disaster reconstruction that seeks to reinforce spatial planning systems.

The purpose of this book is partly argumentative; it demonstrates that land readjustment is a practical and useful tool for addressing a variety of spatial and development challenges in a range of contexts. However, its principal purpose is to assist those who are already interested in land readjustment as a possible solution to the challenges they face. It will help them identify and explore choices, and their likely impacts, and, as a result, improve the quality and durability of project outcomes. The book may also be useful in implementing urbanisation policy, as it provides examples of the resources and institutional capacities required to deliver different types of project.

## II. Land readjustment; nature and characteristics

Land Readjustment can offer a land management solution, as it is a tool used to pool all land parcels in a particular area and plan them as a unit. It works to provide access to land for public use by capturing a proportion of the value, whether financial or in kind, created by development. Land readjustment is a mechanism that can be used to unlock the intrinsic, but latent, value of land that was previously inhibited by plot fragmentation and land ownership patterns which are incompatible with the optimal use of land.

Land readjustment is often seen as a “developed country tool”, with the best known examples coming from countries such as Germany and Japan. The utility of this mechanism in developing countries has been doubted by some, arguing that countries in the global south are unable to implement land readjustment in practice because of its relative complexity and reliance on strong local governance systems. Moreover, it has been thought that developing countries, and possibly also countries with economies in transition, lack the legal or institutional framework required to undertake land readjustment processes. It has also been argued that the socio-economic, political and cultural conditions are unsuitable for a task as complex as land readjustment. This book counters the misconception of land readjustment as a developed country tool. It shows that the method is not only relevant, but also provides examples of cases of its implementation in developing countries, and one country with an economy in transition. The case studies present the different circumstances under which land readjustment may be used as a tool and the diverse range of social, political, economic, and cultural contexts in which it operates.

## The Usefulness of Land Readjustment

In many urban areas, land is typically divided into many small, irregularly shaped and sized plots, each with a different landholder holding particular interests. The outcome is often haphazard and incoherent development with little reference to planning guidelines, poor infrastructure, inadequate provision of services, and lack of public space. In some cases, unplanned development leads to the sprouting of informal settlements where large numbers of poor people are crammed into restricted areas with squalid living conditions and insecure tenure.<sup>8</sup> Land development and redevelopment is imperative in these urban areas. Firstly, patterns of land ownership should match their existing uses, and secondly, development needs to be carried out in a planned and coordinated manner. Furthermore, these informal, underdeveloped areas need to be equipped with the necessary infrastructure and basic services. UN-Habitat advocates for five principles for sustainable neighbourhood planning: i) adequate space for streets and an efficient street network; ii) high density; iii) mixed land use; iv) social mix (making houses available in different price ranges and tenure types to accommodate different incomes); and, v) no more than limited land use specialization.<sup>9</sup> In order to implement these principles, urban development must take place within a clear planning framework, with set designations for public space, such as streets, and other criteria like the provision of affordable housing and the integration of land uses.

Land readjustment is needed when existing parcel layout and ownership patterns are prohibitive to desirable development. In such cases, the latent value of land is often reduced by fragmentation, informality, decay and incompatibility with existing uses. Land readjustment creates the opportunity to harness the opportunities of urbanization, by pooling land together, installing roads, sewerage, and other infrastructure, and then redistributing the land back to the original owners. In the land readjustment process, a proportion of land is also reserved for public spaces like roads, schools, and parks. When the land owners act collectively to have their land assembled and planned as a unit they are also increasing inclusivity and participation in the urban process. The financial benefit, as will be described below, comes in the form of increased property values at the end of the project, when previously inaccessible areas become vibrant centres of socio-economic activity. Land Readjustment can be used to achieve the five sustainable neighbourhood planning principles as during the land readjustment process, land is reserved for streets and some of it may be set aside for the construction of affordable housing. When carried out within a clear planning framework, it may also promote mixed land use.

Voluntary purchase and compulsory acquisition are other urban legal tools that can be used for assembling land for development. In voluntary purchase, a land developer negotiates with individual land owners to buy their land, but a holdout from one owner may jeopardize the whole development project. The developer also needs to have the initial capital to pay the landowners. Without such capital, the project inevitably collapses.

<sup>8</sup> Ibid.

<sup>9</sup> UN-Habitat, (2014), *A New Strategy of Sustainable Neighbourhood Planning: Five Principles*, UN Habitat, Nairobi.

In compulsory acquisition, the government uses its power – usually granted under a specific law – to acquire land when it is deemed necessary for a ‘public purpose.’ The definition of ‘public purpose’ can be difficult to interpret. Some jurisdictions give ‘public purpose’ a literal meaning – public usage and ownership – while others have interpreted it more broadly and allow for the private acquisition of property to achieve a public purpose.<sup>10</sup> Compulsory acquisition is often a contentious matter; many landowners resist it and it can become a costly and lengthy legal battle. Similar to voluntary purchase, the landowners do not enjoy the benefits of the project once completed. It also requires initial funds that most local authorities do not have.

In light of the cumbersome and expensive processes of voluntary purchase and compulsory acquisition, land readjustment offers a comprehensive alternative planning tool for local governments, which is cost-effective, creates value, and can produce equitable outcomes.

Land readjustment provides the opportunity for land owners to be consulted and negotiated with, rather than forced to sell their land. It also avoids the expense and the lengthy, expensive and risky court battles associated with expropriation. The landowners’ ‘right of return’ is perhaps the most distinguishing feature of land readjustment compared to voluntary purchase and compulsory acquisition. Even though it may not be the exact original location, land readjustment still offers the opportunity for landowners to remain in the same neighbourhood and maintain their social links.

At the end of a land readjustment process, the municipal authority gets a well-planned and fully serviced area without having to pay for the acquisition of the land for public services. In addition to saving money, the municipality can also generate revenue by reserving part of the land to be sold later to developers or kept for other uses, such as affordable housing projects.

Finally, land readjustment is a proven useful tool for slum upgrading. The process can be used to incorporate slum dwellers into the urban fabric and strengthen their security of tenure, as well as to provide infrastructure (roads, electricity, piped water) and other services such as healthcare, schools, and waste management in informal settlements. Furthermore, as a result of the process, clear formal documents may be provided to the land holders which clarify the tenure status of residents. The success of this depends on the scale of operations and the site-specific objectives.

Its benefits aside, land readjustment is not always a perfect process. It has two main weaknesses: frequent delays and tenant displacement. Getting landowners to agree on a project’s value may be difficult, particularly in countries where there is no precedent of successful land readjustment projects or a general distrust for government projects exists. While some owners may be privy to the potential benefits of land readjustment, others may express doubts or even open resistance and hostility. Convincing such people to join the project is a significant task. The commencement of the project may also lead to disagreements on a lot of issues including the method of land valuation, the size of land to be returned, as well as the location of such property. These issues may not be easy to solve. Furthermore,

land readjustment projects have the risk of being influenced by local politics. In some cases, projects have collapsed due to political disagreements. A change in leadership may adversely affect land readjustment efforts if new leaders fail to appreciate the utility of this tool. Therefore, land readjustment requires high levels of trust, cooperation, and political will among the participants.

The second disadvantage of land readjustment is that it may fail to address the needs and concerns of tenants who are not landowners. The process is primarily based on securing the consent of property owners and ground leaseholders with renters being ignored in most cases. Land owners are often left to negotiate with the respective tenants. In these cases, the interests of the owner may not be consistent with the needs of the tenant, placing the latter at the mercy of the landowner. This means that the extent to which tenants are compensated depends on country-specific laws that protect renters from arbitrary eviction; for rental, the land readjustment process does not currently provide an avenue where mutually beneficial terms are agreed.

## The Land Readjustment Process

Land readjustment has been used in many developed countries. In Germany, for example, land readjustment was originally used at the edges of cities to consolidate and improve “undeveloped” land in the early 1900’s, but during the 1950’s there was a shift towards using land readjustment as a tool to change developed lands. Land readjustment has since been widely used in various other developed countries including Spain, the Netherlands, Japan, Israel, South Korea and Taiwan.

The success of land readjustment is exemplified in Japan – where one-third of the built-up environment has been created or recreated using this method.<sup>11</sup> Land readjustment was a crucial part of land management in urbanizing Japan throughout the 20th Century. The case of Japan emphasizes that there is real potential in land readjustment if it can be done effectively and efficiently.

There are significant differences in the land readjustment processes. Germany, for instance, has integrated land readjustment as a formal part of their Urban Development Plans, which are adopted by local legislative bodies, making the land readjustment process mandatory for all purposes. This practice differs from the Japanese process, which instead relies on a “supermajority,” or two-thirds of residents, to agree on land readjustment to initiate a project.

Almost any stakeholder – national or municipal authorities, landowners, land holders, and non-governmental organizations – may initiate a land readjustment process. The process normally starts by identifying the legal framework, choosing the location where existing land uses are inconsistent with optimal use due to social, spatial or economic reasons, determining the desired land use, and checking the legal status of the land and plans for the area. Once the location has been chosen and an implementation strategy developed, consent or the other means for the plots to be acquired from land owners and consolidated as a unit for planning purposes needs to be obtained.

<sup>10</sup> See *Kelo et al. v. City of New London et al.*, 545 U.S. 469, where the US Supreme Court ruled that the local government had the right to take petitioners’ properties for the purpose of revitalizing the city’s economy.

<sup>11</sup> “Case Study: Land Readjustment in Japan”, p.2. WB TDLC. January 2017. Tokyo Development Learning Center. <https://collaboration.worldbank.org/docs/DOC-23643>

Once the consensus ratio – the proportion of landowners and landholders who have to agree for the project to go ahead – has been attained, the implementation phase of the project may start. If some minority land owners refuse to participate in the project, their land may be compulsorily acquired at a set rate. This should be supported by the prevailing laws. Indeed, the whole process should be carried out within a clear legislative framework, even if unanimous support from a community for a project may mean that this is not absolutely necessary. If a law that explicitly provides for land readjustment exists, it should form the basis for the process. In cases where no such law exists, the implementing authority may borrow concepts from related legislation. These can include laws on planning, expropriation, environmental protection and housing, among others. The law may also be needed to handle issues such as the land valuation method, the sale and transfer of land before the project is announced and, after its completion, the manner of handling disputes, land classification, financial arrangements, and the types of land rights that may be allocated.<sup>12</sup>

As the process develops, various stakeholders are involved (landowners and the project implementers, tenants, informal settlers and community groups). In the past, land readjustment frequently ignored the input of non-land owners, excluding tenants and informal settlers. Residents with insecure or limited tenure were thus either evicted, forced out through market mechanisms, or were unable to afford the cost of living in the regenerated areas. As this process may conflict with internationally accepted principles on forced eviction, new and more inclusive forms of land readjustment have developed, which are responsive to the varying forms of tenure that are common in cities, particularly in poor or informal neighbourhoods. UN-Habitat has developed a method called Participatory and Inclusive Land Readjustment (PILaR) to counter this problem by including all stakeholders, including tenants, in planning and decision making. PILaR also aims to achieve consensus among all stakeholders, to avoid forced removals or evictions, and to ensure that even the poor and disadvantaged benefit.

The final step in the process is land re-allocation, where a plot that is usually smaller, but more valuable, is returned to the land owners and land holders, because a proportion of the land was contributed for public infrastructure. This proportion may vary depending on the amount of land needed for roads and other public spaces, as well as the land to be held by the municipality in reserve for later redevelopment or sale. In some countries, the minimum/maximum land contributions percentages are set in the law. The value of the land has increased due to proper planning, rezoning, added infrastructure and improved services. The value of the land may also be increased by the authorization of a higher building potential, meaning that the extent to which the land can now be built upon is increased, whether by building height, or plot coverage, and accommodation of a new range of land uses. For example, zoning rules, height restrictions and footprint or 'plot coverage' rules – what proportion and area of a given plot may be built on and the floor space that may be constructed, often calculated as a 'floor to area ratio' (FAR) or floor space index (FSI) – have the ability to determine the value of a piece of land. Increasing the FAR from 1.0 to 1.2, for instance, allows landowners to increase the floor space of their buildings by 20 per cent. Such an increase can be initiated during the land readjustment process thereby allowing landowners to reap extra benefits from their

land. It is important to note that a well planned strategy to increase value is not incompatible with the interests of the poor. Some mechanisms to limit the cost per metre square of built space can be introduced while increasing the overall amount of available built space and, therefore, of total value.

The difference in value between serviced and un-serviced land is often enough to incentivize the landowners to accept reduced land sizes. If a land use change increases the value of land by a typical multiple of eight or ten times, contributing a percentage of the land area for public purposes becomes more acceptable. As described earlier, the land contributed may be used for roads, walkways, parking spaces, parks, squares and other public uses. It may also be needed for utility lines (electricity, gas, water, sewerage) and to protect heritage sites and environmentally sensitive areas. After the land is serviced by public utilities, some or all of the remaining land available for development is subdivided and redistributed to the original land owners in accordance with the size or the value of the land that was initially contributed. The entire process should take place within a larger spatial planning framework so that the land which is readjusted is integrated with the broader urban fabric. Doing so optimizes the results of the urban development. It is important to realize that fragmentation, informality, decay and incompatibility of uses occurs due to the unavailability of plans or non-compliance with them. To ensure that land readjustment is a long-term solution to these challenges, its implementation should be in accordance with such plans. If not, the project will only postpone the inevitable breakdown of proper plans or lead to the creation of 'planned islands' in a sea of decadence. After all, this is the key benefit of using land readjustment as a planning and integration tool.

Land readjustment, at least in theory, results in a situation where everyone benefits. Land owners and land holders benefit from increased land values. The municipal authority gets a compact, dense, and well-connected urban area without having to pay for the compulsory acquisition of land and, while it is not always the case, land readjustment can assist in the development of better housing. Sometimes, however, the process may be characterized by tensions, social divisions, and political controversy, while the final outcome may only benefit a few groups. These issues will be discussed in detail in this book.

## Situations Where Land Readjustment Is Used

Land readjustment can be used in a variety of contexts including urban expansion; urban renewal; infill and densification; and post disaster reconstruction.

### i) Urban Expansion

Many cities in developing countries are growing exponentially, both in population and area. This rate of growth often outpaces the city's ability to plan and respond to the infrastructural requirements and basic services needed by the population. The result is unregulated expansion which leads to poorly developed land and insufficient structures and, in some cases, large informal settlements. In China,

<sup>12</sup> UN-Habitat, (2016), *Remaking the Urban Mosaic: Participatory and Inclusive Land Readjustment*, UN-Habitat, Nairobi.

<sup>13</sup> See Case Study on China: "Land Readjustment in Urbanizing China: Decentralization, Profit Concession, and Redevelopment of Village Land in Chinese Cities"



for example, the rapid expansion of urban areas throughout the Twentieth Century has threatened food security, as large portions of agricultural land has converted into urban use.<sup>13</sup> In other countries, urban expansion results in exploitation as poor families sell their lands to speculators at low prices before the latter make huge profits from the resale of such lands. In cases with a lack of regulation for housing affordability, and curbing the negative effects of gentrification, these families are pushed further away from their original homes when land in increasingly expensive neighbouring areas is bought by people who can afford it.

While land readjustment is not a panacea for every problem that cities face, it can be useful in preventing or mitigating the problems highlighted above. For instance, it can be used to regulate urban expansion as the prospect of land value increment dissuades poor land owners from selling their land. As the land readjustment process normally conforms to existing plans, it would also prevent haphazard erection of structures. Furthermore, through land readjustment, the municipal authority may increase the number of low-cost housing units thereby curbing the burgeoning of informal settlements. The case studies from China, India and Angola (Chapters 1, 8 and 10) will discuss the utility of land readjustment as a tool of regulating urban expansion.

## ii) Urban Renewal and Densification

Land readjustment may be appropriately used to redevelop run down areas, upgrade infrastructure and services, and modernize degraded areas. Defunct areas typically occur when the urban fabric fails to keep up with new uses, such as when a formerly residential area is turned into a commercial zone. Poor neighbourhoods, often characterized by overpopulation, lack of, or unclear, legal rights, poor infrastructure, inadequate services and poverty, are often not only spatially segregated but also economically and socially alienated. Land readjustment presents a mechanism through which such areas may be transformed from blight spots into vibrant communities. Urban renewal has been instituted through this process in Ethiopia, Thailand, Bhutan and India (Chapters 3, 5, 7 and 8).

Land readjustment processes can also be used to turn shacks and single-story houses into multi-story buildings that house more people while utilizing less space.

This would in turn create more space for the construction of infrastructure and the creation of social amenities such as parks, gardens, and social halls. A case study from Bhutan (Chapter 7) will be examined to highlight the use of land readjustment to promote infill and densification.

## iii) Post-disaster Reconstruction

Disasters often lead to substantial destruction of city infrastructure and the disruption of public services. Indeed, the effects of disasters are often exacerbated by the city's layout and planning deficiencies. For instance, an earthquake may cause more casualties because buildings were constructed on unsuitable locations or built using improper materials. Similarly, poor roads may hinder evacuation and other emergency responses in the disaster's aftermath. Land readjustment, therefore, provides the city an opportunity to build back better taking into consideration planning laws and the needs of the residents. One of the case studies (Chapter 11) explores the use of land readjustment in Chile after its devastating earthquake in 2010.

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<sup>13</sup> See Case Study on China: "Land Readjustment in Urbanizing China: Decentralization, Profit Concession, and Redevelopment of Village Land in Chinese Cities"



# Land Readjustment in Developing Countries: Analysing Common Themes and Enabling Factors

Many, if not all, cities sometimes need to reorganise parts of their spatial plan. The need may be driven by a range of objectives, including economic development, population growth or technological change. The need may also exist within a diverse set of circumstances, including the relative wealth and capacity of a city, concerns about natural disasters or a city's place in a national system of cities. As discussed in the previous chapter, land readjustment may be useful in reorganising land use and land ownership in a collective and largely consensual manner that minimises conflict and promotes the sharing of benefits. However, it is usually a time consuming process that requires skill and commitment in its governance.

This chapter considers the eleven case studies included in this book in terms of their characteristics and any common themes and enabling factors. These include the role of participation and inclusivity, the availability of finance, the role of law and the importance of political goodwill. This chapter also discusses the various institutional designs that were put in place to facilitate the process and examines the role of these institutions in the success or otherwise of the projects. The comparative analysis suggests that many developing countries have the institutional and organizational capacity to utilize land readjustment on a wider scale than they currently do and that a number of the prerequisites for this to happen are common across countries.

It is important to highlight two key points. First, the case studies illustrate the use of land readjustment to achieve different purposes with varying scopes. Second, the process can be instituted or managed by different parties including landowners, community members, local authorities, government ministries, international NGOs, and private developers. These parties are able to come up with innovative institutional arrangements for the implementation of land readjustment. This chapter summarizes the case studies, highlighting the scope and the institutional arrangements, which are used to discuss the common factors.

## a) Purpose and Scope of Land Readjustment

As exhibited by the case studies, land readjustment can be used for a variety of purposes. In China, it is used to rejuvenate an area whose uses became incompatible with optimal land utilization. Lie De village, the subject of the case study, was a rural enclave which was spatially absorbed as the city of Guangzhou grew rapidly. As an old village within a recently expanded and vibrant city, the village was redeveloped through land readjustment. The tool is also used for urban renewal in Colombia to renew and provide better infrastructure to a rundown area of Bogotá.

In other areas, land readjustment is used to promote security of tenure and resolve conflicts over land. This is clearly seen in Sengki, Thailand where public land was shared between a public agency, the King's Property Bureau, and informal settlers to produce a mutually beneficial outcome. At the end of the process, the residents not only get secure tenure but are also provided with housing, core infrastructure such as roads and basic services such as water and electricity. Indeed, land readjustment may play a fundamental role in slum upgrading, which involves the integration of informal settlements into the urban fabric. This is seen in Angola and Ethiopia where the tool is implemented to formalize tenure, provide infrastructure and facilitate the provision of services.

In Nagpur, India, land readjustment is also used to formalize an informal settlement with a particular focus on the provision of better housing. In another Indian case study, however, it is utilized as a land value capture mechanism. Here, agricultural land in Magarpatta, Western India, is converted to urban land to enable the owners to benefit from rising land values. The case study highlights the potential of land readjustment to create exponential rise in property values, particularly when based on fundamental land use change.

Land readjustment is also a viable reconstruction tool in the aftermath of disasters. In Chile, its use is assessed through two pilot projects that were proposed immediately after the devastating earthquake of 2010. In this case study, land readjustment is seen as a useful tool in the provision of housing as well as the implementation of a master plan. Interestingly, it is seen as not merely a reconstruction tool, but a practical method of guiding future development. In Thimphu, Bhutan, land readjustment was used to meet an immediate need for change in urban morphology and lay a foundation for future growth through the implementation of a Local Area Plan (LAP).<sup>1</sup> Through the process, the project area benefitted from improved infrastructure and services.

<sup>1</sup> Land Pooling and Land Readjustment are identical in design with the only distinction being in terms of the legal procedures involved. In land pooling, original land owners convey their respective titles to the development entity and receive new ones after re-parceling. In land readjustment, however, the original owners retain their individual titles throughout the process. The title is only modified at the project's end to reflect the new designations. As this publication is not primarily concerned with the legal processes, 'land readjustment' will be used to cover both terms unless otherwise stated.

In Russia, land pooling was proposed to subsidize housing costs for multi-child families. The government provides these families with free plots of land but the families then often face significant challenges in securing the funds necessary to build on their land. The pooling of plots and development of medium density housing enables the families to form a cooperative that finances the construction of houses and installation of facilities.

## **b) Range of Parties and Institutional Designs**

Land readjustment has been cast as a complex process that relies heavily on strong local governance systems. However, local governance systems are not synonymous with formal local authorities or municipalities. In developing countries, a range of different actors have initiated and managed land readjustment projects to successful conclusions. In fact, they have come up with unique institutional designs that exhibit characteristics similar to the strong local governance systems often found in the developed world.

In many of the case studies, the projects were initiated by community members rather than local authorities. In Ethiopia for instance, the redevelopment of Lidata – an informal settlement in Addis Ababa – was initiated by residents through a petition to the city's administration. In China, land readjustment involved a number of stakeholders including rural collective organizations, individual villagers, local governments and commercial developers. The involvement of the collective organizations was particularly important considering their disapproval could have completely sabotaged the project. They took charge of the redevelopment process including demolition, compensation, and resettlement; whereas the municipality's role was limited to monitoring compliance with land use and building regulations.

In Angola, the process was initiated and managed by a Non-Governmental Organization, Development Workshop (DW), at the invitation of the provincial government. Despite the absence of a capable local authority, DW oversaw the establishment of a multi-stakeholder management group that comprised both the formal and traditional leaders. Through their engagement and collaboration, land readjustment was successfully implemented in Huambo. Another NGO, Global Communities, was instrumental in bridging the gap between different players in Nagpur, India. These two case studies underscore how that by having active NGOs and community based organizations, the absence of strong local governance systems can be mitigated.

Colombia presents an interesting case in that the initiating authority was a private institution, Los Andes University. The University took a leading role in engaging all the stakeholders in completing the first phase of the Fenicia project. Notably, it was solely responsible for the preparation of the partial plan while the city authority was only involved in approving it. Furthermore, the participants organised themselves into a commercial trust scheme where each of them became a partner with an entitlement to share in the profits. Through this innovative design, the Colombian case study offers a clear rebuttal to the existence of strong local governance systems as a pre-condition for the successful utilisation of land readjustment.

Similar to the institutional design in Colombia, land owners in Magarpatta, Western India, formed the Magarpatta Township Development and Construction Company Ltd. This company operated as a real estate entity with the landowners acting as shareholders. In Russia, multi-child families also formed a Housing Construction Cooperative which undertook all proceedings on behalf of the participating families, including entering into agreements with state and non-state bodies. Importantly, it is through the Cooperative that the families are able to secure financial resources for the construction of their houses. The Thailand experience also manifested the ability of thousands of people with multiple interests to unite for a common cause. Residents in Sengki informal settlement formed a Housing Cooperative with a mandate to raise funds and act as the community's legal representative.

It must, however, be noted that while land readjustment can work in contexts with weak local government systems, the presence of strong governance, even if only in a supporting role, gives the process a boost in terms of technical capacity, finances, and political legitimacy. Some of the case studies highlight the pivotal role played by active local authorities in implementing land readjustment projects within their jurisdictions. The most notable experience is from Thimphu, where the municipality used land readjustment to implement local area plans. Indeed, in the other cases including Angola, China, Ethiopia, India, Russia and Chile, local authorities were actively involved, albeit to varying degrees. Accordingly, the evidence suggests that, while strong governance systems are an advantage in implementing land readjustment, their weakness is not necessarily detrimental to successful implementation. This is particularly the case when projects can use innovative governance solutions to address any weaknesses. Indeed, such innovation may even contribute to longer term improvements in local governance.

## **c) Participation and Inclusivity**

The prevailing consensual nature of land readjustment projects suggests that they should be carried out in a participatory and inclusive manner. This is often limited to participation and inclusion based on property rights. However, consideration of the right to shelter and rights around access to economic opportunities as well as the desirability of advancing security of tenure, requires a broader approach to participation and inclusion. Participation refers to a process in which all the stakeholders – landowners, tenants, municipal authorities, community organizations, land professionals and private developers – are involved in decision making. Each of these actors, including public authorities, has identifiable direct interests in the establishment, characteristics and outcomes of any given project. A successful project finds a reasonable compromise between some or all of these interests. Inclusivity, on the other hand, concerns the outcome of the process. In this sense, an inclusive process is one that not only satisfies landholders but also benefits the poor and the disadvantaged, who may not be landowners, but still occupy that area as renters or workers. Moreover, they could be land 'owners' in a looser sense with tenure based on less than pure and uncontested title. As previously noted, land readjustment often focuses on the interests of landholders at the expense of non-propertied residents. This phenomenon is repeatedly manifested in many of the cases in this publication. While the former benefit from increased land values, improved housing and secure tenure, the latter are left in a more disadvantaged

position. Land readjustment does have the potential to change this situation as part of a stable outcome, but this requires detailed consideration and will often be a complicating factor in projects where informality is a significant factor.

The renewal of Lie De Village in China involved several parties including rural collective organizations, individual villagers, local governments and commercial developers. Indeed, the success of the project was largely due to the involvement of villagers who had been previously excluded from the benefits of redevelopment. Illustrating the complexities that can arise, a process that was intended to be participatory and inclusive ignored the interests of a major interest group, migrants, who informally rented housing from the villagers. The demolition of the village was followed by the construction of modern, yet more expensive, apartments. Consequently, the migrant population which had previously relied on the village's low cost houses could no longer afford to live in the area. It is important to note that this type of situation creates challenges not only for the excluded migrant population but also for the public authorities and other communities as the shifting of the migrant community typically creates unexpected demands on shelter and services in other areas.

The development of Magarpatta Township in Western India shares similar characteristics with Lie De Village. There was active participation among landowners with little consideration paid to the poor and the marginalized. Each landowner was consulted and involved in the process. A real estate company was formed and its shares divided to all the existing landowners in proportion to their land sizes. Furthermore, the shares of each landholding family were equally divided among adult members of the household including women. Nonetheless, poor non-land holding labourers were excluded from the benefits of land readjustment. Through these two case studies, the ability of land readjustment to reproduce existing social, economic and cultural hierarchies is clearly manifested.

In Turkey, the situation is even more acute with landholders being among the excluded parties. Because local authorities have the powers to unilaterally initiate land readjustment as a planning tool, the landholders have little say during project initiation, implementation and benefit distribution. They are also excluded from the preparation of local plans with specific details only brought to their knowledge after the plans have been approved. Their comment period is limited to only one month after public postings of the plans. Furthermore, a lack of inclusion during land re-allocation makes small land landowners vulnerable to displacement through compulsory purchase.

The land readjustment process in Thailand was largely participatory, although the poorest were still disproportionately affected. The residents participated in decision making at various stages, including plot selection and price determination. However, the case study shows that, because the project did not provide housing construction costs, most of the poor residents sold their plots and left the area due to unaffordability. In this sense, inclusivity was not fully achieved through land readjustment. It may be possible to mitigate some of these outcomes but it requires explicit issue identification in the early stages of a project and the political will and capacity of the project to implement mitigation measures. UN-Habitat advocates an approach based on 'first do no harm' and that may mean delaying some projects, or exploring other solutions, where the resources or will are not there to meet that standard.

In Ethiopia, the process was participatory, as the residents of Lidata were actively involved. They created focus groups and elected local leaders to represent their interests. Individuals on the project site were also asked to present claim documents and express their preferred housing options. The success of the project is attributed to proper participation, democratic handling of issues and consensus building. These factors created community acceptance. However, it is important to note that, while the outcome of the project may be said to be inclusive because of its consensual nature, its physical impact was less predictable. The majority of the original informal settlers chose to obtain land outside the project site rather than settle in the redeveloped area, an outcome that may have unpredictable consequences in the future.

Bhutan offers one of the participatory and inclusive cases. The residents of Lungtenphu were engaged by the local government in numerous public consultations. Ultimately, the municipality achieved 100 per cent agreement from landowners despite a court ruling that declared compulsory land readjustment to be illegal. Indeed, the process characteristics of the project, allowing for lengthy consultations seeking full consensus, were largely determined by the legal context. However, there was minimal involvement of tenants and other non-property owning residents in the process, although they were given relocation allowances and demolition compensation producing an arguably inclusive outcome.

In Nagpur, the implementing NGO cultivated a relationship of trust with the residents through the formation of a children's club and "resource centres" that organized women into self-help groups. These approaches helped to allay fears held by the community about the government's intention. During the process, the residents were consulted in the design and size of their future houses. They also formed a housing cooperative to facilitate negotiations among the different stakeholders. Remarkably, this case demonstrates that people with diverse interests can come together and demand accountability from public authorities. It also argues for meaningful participation rather than participation as a formality. The residents of Nagpur were interested in real issues such as the size and design of their houses and not wall colours. Furthermore, it shows that people should not only be given an opportunity to air their views but should also have such views taken into account during decision making.

The case of Colombia highlights the project proponent taking a deliberate step to involve the affected parties, describing how the renewal of Fenicia was transformed from a relatively closed and technical project into an open and participatory one. The involved parties are the university, the local authority, investors, owners and occupants of the area. Nonetheless, as the project has not been completed, it is difficult to make a determination on its inclusivity.

#### d) Role of Law

Law plays a significant role in land readjustment. As a process that involves a change in people's legal relationships in the same way that it alters their physical situation, the force of the law is needed to provide guidance, clarity, predictability and equity. It serves several important functions. First, the law protects private property. In most countries, the right to private property is laid out in the constitution as well

as being reflected in statutes and subsidiary law. This means that any interference with this right has to be permitted and carried out within the due process of the law. Protection from arbitrary evictions is an example of protection offered by the law through property rights. On the same note, however, the law can also be used to take private property for public good. In the context of land readjustment, the law is used to facilitate the transfer of property when voluntary participation fails. This mostly happens when some landowners are unwilling to participate in a project despite an overwhelming majority of the concerned owners or residents being in favour. In such cases, the state can use the power of eminent domain to acquire land compulsorily. Alternatively, this power can be used to compel the unwilling owners to participate in the project or sell their land to other willing parties.

Second, the law is used to handle issues such as the proportion of landowners who must support the project before it is approved, the land valuation method, handling of disputes, land classification, financial arrangements, and the types of land rights that may be allocated. It is interesting to note that, while the existence of a law specifically dealing with land readjustment will greatly facilitate the process, the absence of such a law does not necessarily impede its implementation. Related legislation, including laws that deal with planning, expropriation, environmental protection, and housing may be relied upon. Most of the case studies manifest a reliance on the law in some way.

In Russia, for instance, the federal law allowed municipal authorities to provide multi-child families with free land plots. The Russian planning law also defined the different land uses and building specifications including plot size, setbacks, maximum height, and FAR parameters. The constructed houses were, therefore, expected to be guided by these laws. In Turkey, land readjustment is used to implement detailed local area plans. Additionally, the law defines the percentage of land contribution and specifies the purposes for which such land may be contributed. These include the construction of roads, religious buildings, schools, police stations, and parks. Furthermore, the law gives the Mass Housing Authority and the Ministry of Environment and Urbanization the power to use land readjustment to institute large scale housing projects.

Land readjustment in Chile was planned in accordance with existing laws. The pilot projects in Las Heras and Constitucion were aligned with their respective local master plans. In the latter, the proposed housing units were to be built in strict conformity with new disaster-resilient construction regulations. The correlation between land readjustment and the law is clearly demonstrated in the Colombian case. The country's legislation lists land readjustment as one of the ways in which partial plans are to be implemented. The Constitution of Colombia, as well as Law 388, lay out a set of principles to guide urban development including the ecological and social function of property rights, public space, and land value capture as collective rights. These principles are then extrapolated and applied during land readjustment.

While the force of the law was not directly invoked during the implementation stage in Nagpur, India, it was responsible for setting the stage for the use of land readjustment. The *Olga Tellis* decision had prohibited the government from demolishing slum dwellings without providing alternative settlements for the poor

residents.<sup>2</sup> In making this decision, the Supreme Court relied on Article 21 of the Indian Constitution which guaranteed the right to life. The Court's view was that a violation of the right to shelter presented a direct threat to the life of the informal settlers. As the governmental authorities were legally barred from tearing down the slums, they had to come up with alternative solutions; one of them being land readjustment.

Interestingly, the law does not always facilitate land readjustment. In some cases, it obstructs the process, results in unnecessary delays or even leads to the project falling apart. This happens when the design of the law is inconsistent with the objectives of land readjustment. The Angolan case studies offer a good illustration of this phenomenon.<sup>3</sup> A new decentralization law transferred local land management powers from the relatively strong and experienced provincial governments to the weaker municipal administrations that had poor technical capacity. While the law's intent was possibly the promotion of subsidiarity, the fact that it was not preceded or accompanied by measures aimed at strengthening the municipal authorities posed a serious threat to the implementation of land readjustment; a common challenge in decentralisation processes. Moreover, the law provided that all locally raised income – through fees and taxes – must be forwarded to the central government. This requirement meant that local governments had no incentive to create land value surpluses through land readjustment. As a result, the success of Bairro Fatima could not be replicated in Bairro Camussamba as the latter was started after the law's promulgation. The Angolan experience also manifested the paradoxical nature of the law and its ability to result in seemingly contradictory outcomes. On the one hand, the land legislation did not recognize the right of adverse possession. This measure was clearly intended to protect private property rights. On the other hand, however, this legal position meant that informal settlers and other illegal occupiers were highly vulnerable to eviction.

In China and Western India, rigid legal restrictions were waived when deemed to be obstructive. In the former, innovative institutional arrangements were allowed to operate although they did not fall into strict conformity with the law. In the case of China, because land is collectively owned, without individual property rights, legal restrictions had previously prevented the involvement of commercial development and market circulation in urban redevelopment. These legal barriers called for innovative institutional arrangements to motivate and incentivize the land users to develop the land in the case of Guangzhou, which redefined urban development frameworks. In Western India, the Magarpatta project was exempted from some land regulations that restricted land use changes and consolidation beyond a stipulated limit. Nonetheless, while these exemptions facilitated the successful implementation of land readjustment, the fact that they were obtained through political patronage and connections raises governance concerns. In particular, the integrity of the law and its ability to regulate land uses is threatened considering that not all projects involve Magarpatta's level of benevolence and philanthropy.

Where land readjustment receives unanimous support from the affected parties, legal rules may hinder rather than ease the process. In Bhutan, the High Court relied on the Municipal Act and the Land Act 1979 to rule that land readjustment was illegal. Fortunately, active public consultations led to an overwhelming majority of the landowners proceeding with the project despite the Court's ruling.

<sup>2</sup> *Olga Tellis & Ors v Bombay Municipal Corporation* (1985).

<sup>3</sup> See Case Study 2: Bairro Camussamba.

Similarly, the Land Act of 2007 centralized the administration and management of land through the establishment of the National Land Commission Secretariat. This move resulted in administrative and bureaucratic delays in rendering land-related services including registration, site plan preparation and dispute resolution. It should, however, be noted that despite these legal drawbacks, Bhutan recognized the importance of a functional legal framework by passing the Local Government Act (2009) which explicitly defined land pooling and provided for the scope of its use.

A number of basic conclusions can be drawn from the experiences with legal frameworks for land readjustment described in the case studies. One is that land readjustment can be undertaken with any combination of public and private law solutions, including institutional structures. Second is that, whatever legal strategy is being used, commitments to project objectives, transparency in decision making and inclusive outcomes are foundational elements of the administration of a successful project. Third, while an explicit framework of public law for land readjustment may be useful, a framework made up from various non-explicit elements of planning and property law may be just as effective if the capacity exists to identify and implement it. Fourth, the design of public law frameworks continues to be relatively poor in many countries and, therefore, public law can sometimes be restrictive or counter-productive. Fifth, legal frameworks relating to planning and property tend to have disproportionate impacts on major groups and to be blind to the interests of the poor and vulnerable, meaning that these aspects need consistently close attention in any legal strategy for land readjustment.

## e) The Availability of Finance

In theory, land readjustment projects may be self-financing. A percentage of the contributed land is reserved and auctioned to cover the construction and local infrastructure costs. In practice, however, it is very difficult to recover full construction and infrastructure costs from internal financing through land readjustment. This may be possible in projects involving fundamental land use change at the urban fringe or in previously underdeveloped neighbourhoods, i.e. where a major increase in land value and a small number of project beneficiaries are central characteristics of the project. In projects that involve inclusive upgrading or regeneration with larger existing populations, this is less likely to be possible. This is particularly the case where a substantial proportion of that existing population is poor. In these cases, outside finance will be needed to make projects financially viable. These external funds become even more important when land readjustment also involves significant relocation costs or compensation to landowners who are unwilling to participate in the project. Therefore, the availability of finance could be the difference between a successful and a failed project. The case studies portray various mechanisms used to generate funds.

The land readjustment experience in China comes close to being completely self-financing. A third of the project land in Lie De was earmarked for transfer to private developers to provide the funds needed for development. Another portion was set aside for the construction of a five-star hotel owned by the collective cooperation

and intended to generate recurrent income for the villagers. However, the project still relied on external funds with the municipal government financing the improvement of a road, the extension of a bridge, the relocation of a school and the cleaning up of a stream.

In Huambo, Angola, 30 per cent of the land was reserved for infrastructure with another 35 per cent being sold to private individuals and families in Bairro Fatima. This approach raised funds for clearing roadways and drilling boreholes. In Bairro Camussamba, the project failed because it did not generate enough funds to sustain itself.

Like many of the cases described, the utility of land readjustment in Turkey is in making land available for local infrastructure and public facilities. However, it does not provide funds to cover the accompanying construction costs and there is need for other sources of funding to achieve the desired objectives. In Turkey, the construction costs are borne by municipalities. Similarly, land readjustment in Russia provides multi-child families with land but does not cover the housing construction costs. These have to be independently outsourced. The Federal Agency of Housing Construction Financing (AHCF) creates special purpose vehicles (SPVs) which are able to get loans from commercial banks. The land-owning families have also created Housing Construction Cooperatives which are then funded by the SPVs. Thereafter, the SPV owns all the house units except the ones returned to the participating families until the loan is repaid. In theory, this makes the projects self-financing over the long term but the strategy is dependent upon the availability of fairly flexible loans and loan guarantees at reasonable or concessionary rates.

The success of land readjustment in Bhutan was dependent on loans from the World Bank and the Asian Development Bank. The funds covered not only infrastructure and resettlement costs but also provided stipends to the elderly and the disabled. Given that multilateral loans are sovereign debt, this is basically public funding of the projects. External funds were equally instrumental in the successful implementation of land readjustment in Thailand. The Netherlands Habitat Committee and UNDP, among other organizations, provided finance to cover the cost of buying land from KPB as well as infrastructure costs. The residents of Sengki also formed a Housing Cooperative as a community savings fund through which they made contributions towards repaying the loans. Nonetheless, the funds did not cover housing construction costs. Consequently, some of the poor residents were forced to sell their plots as they could not afford to build houses. As such, limits on the availability of funds prevented the most vulnerable members from fully enjoying the benefits of land readjustment.

In Western India, loans from the Housing Development and Finance Corporation covered the development costs of Magarpatta Township. In Nagpur, the project was largely financed by the government. The central government and the state government covered 50 per cent and 30 per cent of the housing costs respectively and the remaining 20 per cent was left to the municipality and the residents. The municipality intended to raise its portion through the sale of vacant land created in the readjustment process. It also planned to sell unutilized development rights to private developers.



In Chile, the costs were to be covered by subsidies from the Ministry of Housing and Urban Development and investments from private developers. However, none of the projects were implemented for several reasons with the most consequential one being lack of commitment from the developers. Accordingly, the Chilean case study underscores the importance of a realistic financial strategy to attract investments where public or internal project funding isn't available.

## f) The Role of Political Will and Politics

Political will refers to the “demonstrated credible intent of political actors”.<sup>4</sup> It has also been defined as “the commitment of political leaders and bureaucrats to undertake actions to achieve a set of objectives and to sustain the costs of those actions over time”.<sup>5</sup> In the present context, it refers to the extent to which political actors are willing to promote the implementation of land readjustment with inclusive objectives. This section assesses the importance of political will and argues that it plays a decisive role in the success of certain projects and the failure of others.

In Thailand, political will was manifested through KPB's decision to participate in land sharing. The Bureau offered to sell land to the informal settlers at rates well below the market rate. If the intention to assist poor residents was absent, land readjustment in Sengki would have undoubtedly failed. Political will also proved to be a crucial factor in the success of land readjustment in Nagpur, India. Here, the project was completed under the Jawaharlal Nehru National Urban Renewal Mission (JnNURM), a nationwide urban renewal plan that enjoyed substantial political backing. Government officials, including the Municipal Commissioner were also actively involved in the implementation stage. This involvement cultivated community support as residents saw that the government was serious about the project. Indeed, the importance of leaders with credible intent was more clearly seen when leadership changes occurred. The replacement of the Municipal Commissioner led to multiple delays as the new one was not equally committed to oversee the project's completion.

The Magarpatta case in Western India presents a complex scenario of political manoeuvring from start to finish. One person from a politically prominent family used his influence to convince other landowners to participate in the project as well as to secure financial assistance. He was also able to get exemptions from compliance with some land regulations through close political connections. The renewal of Lie De village in China owed its success to political will. The municipal government was motivated by the desire to boost its image. The development of a new city centre that would host major world events, boost the property market and augment the local tax base was considered a big political statement.

The success of land readjustment in Angola and Ethiopia is also attributable to the presence of political will. Development Workshop, an NGO which played a huge part in implementation in Angola, enjoyed the support of the provincial government. Additionally, the projects were managed by a group that included traditional leaders as well as senior municipal and municipal representatives who promoted political legitimacy and acceptance. In Ethiopia, the initial stage was challenging as locally elected leaders refused to take a leading role for fear of political reprisals from dissenting residents. However, the project proceeded smoothly with the election of group representatives whose role included facilitating communication between the community and the project managers.

The role of active political leadership was also seen in Bhutan where local leaders facilitated the process owing to their trusted status in the community. Furthermore, the Mayor took a personal initiative to support the project by frequently visiting the site and mediating conflicts between different parties. Such acts promoted political legitimacy and was manifested in ensuring successful implementation of land readjustment. In Chile, the two projects were supported by the Ministry of Housing and Urban Development which was instrumental in providing technical as well as financial support. The Ministry's participation also helped to allay fears that the community might be exploited by private developers. In Constitucion, local leaders provided the project with local insights and fostered community acceptance. While none of the pilot projects was ultimately implemented, it clear that they would not have progressed as far as they did without the political support provided.

In Russia, lack of political will proved detrimental to the implementation of land readjustment for multi-child families. Both projects collapsed due to insufficient political endorsement at the regional and local administrative levels in addition to a range of other political factors. For instance, the process was encumbered by the uncertainty that characterized gubernatorial and mayoral elections. Relevant stakeholders were hesitant to proceed at such times as they were unsure of the leadership changes and whether the newly elected leaders would be as committed to the project as their predecessors.

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## Chapter 1

# Land Readjustment in Urbanizing China: Decentralization, Profit Concession, and Redevelopment of Village Land in Chinese Cities

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One of the major milestones in contemporary global development has been the phenomenal urbanization of population and land taking place in China—one of the largest and most populous countries of the world. For nearly thirty years under state socialism (ca. 1949-76), China had undergone a peculiar process of industrialization with limited urbanization for ideological and strategic considerations.<sup>1</sup>

While the share of industrial output in total social output expanded substantially from 34.4 to 61.9 percent during 1952-78, the level of urbanization, defined as the proportion of the non-agricultural population who lived in urban settlements, increased marginally from 12.5 to 17.9 percent—a growth by only 5 percentage points in 26 years.<sup>2</sup> Market reforms and globalization have brought about a new

institutional and social environment under which urbanization has taken place at a scale and speed unprecedented in human history and unparalleled anywhere else on earth.

While it is difficult to give an accurate and uncontroversial estimate of the extent of China's urbanization, official statistics suggest that China's urban population size expanded from 172 million in 1978 to 691 million in 2011 and its percentage of the total population increased from 17.9 to 51.3. For the very first time in the thousand-year-long history of Chinese civilization, the majority of the Chinese population now lives in urban settlements.

<sup>1</sup> The authors would like to acknowledge the Research Grants Council of the Hong Kong Special Administrative Region, China (CRF C7028-16G and GRF 17662116) for grants that facilitated this research and to thank Fang Qing-Fang (former Minister of Housing and Urban Development, Guangdong Province) and Jun-Ming for cooperation, and Yifei Wu for research assistance.

<sup>2</sup> See Chan, K. W., (1992), "Economic growth strategy and urbanization policies in China, 1949- 1982." *International Journal of Urban and Regional Research* 16 (2), 275-305; Lin, G.C.S., (1998), "China's industrialization with controlled urbanization: Anti-urbanism or urban-biased?" *Issues & Studies*, 34 (6), 98-116.

<sup>2</sup> Obviously, these official statistics cannot be taken entirely at their face value because they involved changes in the classification of the urban population and urban settlement as well as changes in the administrative boundaries of many cities.

China's phenomenal urbanization has involved not only population redistribution but also massive land conversion from agricultural to industrial and urban development. In the earlier period of market reforms, China's cultivated land shrank from 99.4 to 95.0 million hectares between 1978 and 1996—a net loss of 4.4 million hectares or 4.4 percent in 18 years. Farmland loss has continued and become accelerated in the recent decade despite government's alarming concerns and extraordinary attempts to bring it under control. Between 1996 and 2006, China's cultivated land shrank further from 130 to 121.8 million hectares or a reduction of 6.3 percent in 10 years.<sup>3</sup>

Meanwhile, the total urban built-up area dramatically expanded from 8,842 to 32,520 square kilometers, a growth by 260 percent between 1984-2005.<sup>4</sup> Since the 1990s, urban land expansion has been characterized and indeed driven by a “fever” of setting up numerous “development zones” (kaifa qu) all over the country.<sup>5</sup> By the year 2005, China reportedly had a total of 6,866 development zones with a planned area of 38,600 square kilometers—an area larger than the total urban built-up area of existing cities and towns estimated at 31,500 square kilometers.

For a country that had, until recently, depended upon land cultivation as a basic source of subsistence, accelerated urbanization of population and land has intensified competitions over access to the limited and dwindling land resource base. Massive and sometimes uncontrolled expansion of urban land at the cost of agricultural land has not only threatened food security for China and the common small planet but has also undermined Chinese long-term strategic interests in sustained economic growth, social stability, and environmental sustainability. Concerned over the possible consequences of massive farmland loss to urbanization, the Beijing government has in recent years imposed major institutional controls over the continuing expansion of “newly developed urban land” and has also urged localities to explore all possible ways that they can better (re)utilize existing urban construction land. One important attempt made by the Beijing government was to identify Guangdong Province as a national site for an experiment in land readjustment in 2008.<sup>6</sup> The purpose of this chapter is to provide a documentation and preliminary assessment of the practices of land readjustment in the city of Guangzhou, which is the provincial capital of Guangdong.

It should be clarified at the onset that the concept of land readjustment has its special connotations in China. In rural China, land readjustment refers to the reallocation of the land contracted to farm households in response to demographic changes of the farm households. In urban China, the term land readjustment has seldom been used because of possible confusion with its rural connotations. Instead, a popular and commonly used concept has been “the reutilization or rejuvenation of existing urban construction land”. To avoid any possible confusion, this chapter adopts land redevelopment or land reutilization in lieu of the concept of land readjustment.

The practice of urban land redevelopment in China has involved experimenting with innovative institutional arrangements that give local governments at the municipal and district levels both special authorities to deal with land redevelopment and flexibilities to determine the distribution of the benefits from land redevelopment among major stakeholders (municipal and district governments, original users of the land, and developers). This experiment of institutional reforms has taken the form of a scheme of “the renewals of three olds”. Specifically, the “three olds” refer to: (1) the “old factories” that have been identified for relocation out of the inner-city because their production activities do not comply with the regulations for safety and environmental protection or no longer fit the development agenda set by the master plan of the city; (2) “old neighborhoods” that have been identified for redevelopments in city planning because of their poor conditions and chaotic distribution; and (3) “old villages” that have been identified in city planning for “complete redevelopments” or “comprehensive renovations”.<sup>7</sup> The areal extent of Guangzhou and its administrative constitution have been a source of confusion. This study focuses on the Guangzhou urban area which included 10 districts within its jurisdiction with a total population of 11.1 million (inclusive of a local resident population of 6.7 million and a migrant population of 4.4 million) and a land area of 3843.4 square kilometers in 2012.

This chapter is organized in three parts. It starts with a contextual introduction of how land redevelopment has become an important issue in a Chinese city such as Guangzhou. This is then followed by a documentation of the innovative institutional changes made to facilitate the practice of land readjustment and minimize social resistance. A detailed case study is presented to demonstrate how land readjustment has been planned and implemented in the Lie De village—the first “village in the city” identified by the Guangzhou municipal government to practice the special institutional arrangements made for urban redevelopments. Finally, implications of the practices of land readjustment in Guangzhou are discussed in the end.

## Situating Land Redevelopment in Guangzhou – China's Southern Gateway to the World

Among Chinese cities, Guangzhou is best described as China's “window to the south” where the forces of globalization are strongly felt and where market reforms are made ahead of others to test the limits. Its southern location with geographic proximity to Hong Kong and extensive pre-existing connections with overseas Chinese—a major advantage well-received today—were seen with skepticism in Mao's era, for ideological and strategic reasons. Other than the designation of Guangzhou as the single and only site for hosting China's Commodity Exports Fair since the spring of 1957, the city has received little investment from Beijing for

<sup>3</sup> Careful readers would immediately spot the discrepancy between the two estimates for China's cultivated land in 1996, namely 95 and 130 million hectares. The former was reported by China's state statistical bureau and the latter was derived from the first national land census.

<sup>4</sup> The concept of “urban built-up area” (chengshi jianchengqu) is defined by the Chinese statistical authorities as “an area within the municipal jurisdiction covered by the land obtained through state expropriation and other construction land actually developed for non-agricultural activities, including the continuous and concentrated land within the urban district as well as other urban construction land scattered in the suburb but with close urban linkages and covered with some well established urban facilities (e.g. Airport, sewage disposal stations, telecommunication stations, etc.).” See China State Statistical Bureau, *Zhongguo tongji nianjian* (China Statistical Yearbook) (Beijing: China Statistical Press, 2006), p. 459. The data are from pages 101 and 395. The growth rate quoted here is the result of both the expansion of the land of existing cities and the urban land reclassified from the official designation of new cities.

<sup>5</sup> Lin, George C.S., (2009), *Developing China: Land, Politics and Social Conditions*. London: Routledge.

<sup>6</sup> See “广东省建设节约集约用地试点示范省工作方案” (A work plan to efficiently and intensively use construction land in Guangdong Province as a testing site and showcase) jointly submitted by the provincial government of Guangdong and the Ministry of Land and Resources to the State Council on 17 October 2008 which was subsequently approved in December 2008.

<sup>7</sup> See Guangdong Provincial Government “关于推进 ‘三旧’ 改造促进节约集约用地的若干意见-粤府[2009] 78号文” (Guidelines to facilitate “three renewals” for efficient and intensive land use—Guangdong Official Document No. 78, 2009), 25 August 2009; Section 3, Article 6.



industrial and urban development, leaving it with an urban infrastructure severely congested and poorly maintained.<sup>8</sup>

Market reforms and the opening up meant that a decade-long pent-up demand for housing and urban infrastructure would have to be met by an explosive land development. Soon after the establishment of the Huangpu Economic and Technological Development Zone—China's first development zone—in the eastern suburb in December 1984, Guangzhou quickly expanded its urban space and improved its urban infrastructure. For its political sensitivity, it is difficult to estimate the exact magnitude of urban land expansion. Using the technology of remote sensing and based on the analysis of Landsat images, China's Ministry of Land and Resources estimated that urban land for China's 27 extra-large cities expanded by over 50 percent in the decade of 1986-96. Among these 27 cities, Guangzhou was identified as one of the top three cities where urban land had expanded by over 100 percent.<sup>9</sup>

Expansion of urban construction land has been accompanied and safeguarded by urban administrative changes. Once the land within the existing jurisdiction of the city has been exhausted, major administrative adjustments are made to expand the boundary of the city. In 1985, the city incorporated the two suburban districts of "Fangcun" and "Tianhe" into the urban area. A more drastic action was taken in June 2000 when Guangzhou dramatically expanded the boundary of its urban districts through a forceful annexation of its two suburban county-level cities, namely "Huadu" to the north and "Fanyu" to the south. Further administrative changes were made in September 2005 when the city expanded its boundary eastward by taking over 18 administrative villages from the suburban county of "Zengcheng".<sup>10</sup> As a result, the land area covered by the Guangzhou urban districts expanded from 1,444 square kilometers in 1985 to 3,700 square kilometers in 2000 and further to 3,843 square kilometers in 2005.

Continuing expansion of urban construction land cannot last forever. In recent years, urban land expansion has been met with increasing institutional blockage from above and strong resistance and protests from below. Much of the urban land expansion has been made possible through the conversion of land from agriculture into urban uses. Concerned with national interests in food security, the Beijing government has in recent years tightened up controls over farmland conversion. Important measures included the allocation of an annual quota for farmland conversion, the hierarchical review and approval of requests for conversion, the establishment of "protected primary farmland zones", and the formulation of an overall land utilization plan.<sup>11</sup> Meanwhile, increased marketization and opening up have made Chinese farmers better informed of the value of their land and the

lucrative potentials from land conversion. In the Pearl River Delta region, villagers have managed to mobilize themselves through the formation of collective economic organizations such as share-holding corporations and negotiate collectively with land developers in strong solidarity.<sup>12</sup> This has made it increasingly difficult and costly for land expropriation and conversion. Confronting the institutional blockage from above and growing resistance from below, municipal governments and land developers have become interested in exploring ways of land supply other than land expropriation and conversion. Land readjustment through urban renewal has turned out to be an obvious alternative for consideration.

## Motivating Land Readjustment from the bottom up: Power Transfer and Profit Concession

It is a well-known fact that land in Chinese cities has not been used efficiently. In the era of state socialism, land in Chinese cities was administratively allocated by the state to "state units" free of charge and without terms. As a result, land is not a commodity for market transactions, has no value, and is indifferent to location. It was therefore not uncommon to see many state units occupying large parcels of land in the city center without full utilization. Market reforms have opened up a new track through which the rights to use state-owned land could be granted and transferred for a fee and with a term of use. This track of market transaction has co-existed with and not over-ridden the traditional planned track of administrative allocation, however.<sup>13</sup> The problem of irrational and inefficient land use has continued to plague Chinese cities. An inventory of existing urban land use in the city of Guangzhou conducted by the municipal government in February 2010 identified a large number of land parcels occupied by old factories, neighborhoods, and villages where great potentials existed for re-developments. These under-utilized land areas were estimated to be around 399.5 square kilometers or about one-third of the total urban land area in the city (1,250 square kilometers). Geographically, the land parcels subject to renewals are widely scattered across the city and there is no shortage of centrally located cases. Although most of the old villages are located in the outskirts of the central city, many of the old factories of state-owned enterprises and old neighborhoods are found in the inner urban district, which is clearly a spatial legacy of the socialist city. Despite their central location, the land areas identified for redevelopments were full of the problems of congestion, pollution, run-downs, and definitely under-utilization. The municipal government estimated that the average "gross floor area ratio" was 1.7 for old neighborhoods, 1.0-3.0 for old villages, and 0.4-1.85 for old factories, lower than the average for the city.<sup>14</sup>

<sup>8</sup> It has been noted that, of the 156 "key industrial projects" invested by the state in the First Five Year Plan (1953-57), 86 were located in the cities of the northeastern and the northern regions of the country whereas none was found in southern China. See George C.S. Lin, "State policy and spatial restructuring in Post-reform China, 1978-95," *International Journal of Urban and Regional Research* 23 (4) (1999), 670-696.

<sup>9</sup> Guangzhou's urban land was estimated to have expanded from 95 to 199 square kilometers—an expansion by 109 percent. The other two cities are Dalian (expanded by 213 percent) and Shijiazhuang (expanded by 110 percent). See Li Yuan, "中国土地资源 (China's land resources) (Beijing: China Land Press, 2000), pp. 593-594. For detailed discussions, see Samuel P.S. Ho and George C.S. Lin, "Converting land to nonagricultural use in China's coastal province," *Modern China* 30 (1) (January 2004), 81-112 and George C.S. Lin, "Reproducing spaces of Chinese urbanization: New city-based and land-centered urban transformation," *Urban Studies* 44(9) (August 2007), 1827-1855.

<sup>10</sup> These 18 administrative villages were taken away from "Zengcheng"—a suburban county to its east—and merged with part of the Baiyun District to the north and Huangpu District to the east to form a new district of Luo Gang. Meanwhile, Dongshan District was abolished and merged into Yuexi District and Fangcun District was abolished and merged into Li Wan District. The southern part of Fanyu was taken out to form a new district called Nansha District. These sophisticated administrative changes were made to expand the land area covered by the urban area without increasing the total number of the urban districts. For a detailed discussion, see George C.S. Lin, *Developing China: Land, Politics, and Social Conditions* (London: Routledge, 2009), 213 and 226.

<sup>11</sup> For detailed discussions of various means to control over farmland conversion, see Samuel P.S. Ho and George C.S. Lin, "Emerging land markets in rural and urban China Policies and Practices," pp. 693-695; George C.S. Lin, *Developing China*, pp. 83-86.

<sup>12</sup> For discussions of the approach adopted in the Pearl River Delta region wherein the rural collective organizations have played an active role in the process of land expropriation and development, see George C.S. Lin, "Transformation of a rural economy in the Zhujiang Delta," *China Quarterly* 149 (March 1997), 56-80; Yongshun Cai, "Collective ownership or cadres' ownership? The non-agricultural use of farmland in China," *China Quarterly* 175, 662-680.

<sup>13</sup> See Ho, Samuel P.S. and George C.S. Lin, (2003), "Emerging land markets in rural and urban China: Policies and practices," *China Quarterly* 175, 681-707; Lin, G. C.S. and S. P.S. Ho., (2005), "The state, land system, and land development processes in contemporary China," *Annals of the Association of American Geographers* 95(2), 411-436; Lin, George C.S., (2009), *Developing China: Land, Politics and Social Conditions*. London: Routledge.

<sup>14</sup> The "floor area ratio" or "plot ratio" refers to the ratio of the total floor area built to the total area of the land base and is the most important measurement of land use intensity in Chinese cities. "Gross floor area ratio" included the land base area used for roads, green and open space in the denominator whereas "net floor area ratio" counts only the land base for residential purpose in its denominator. Currently, Chinese city planners rely on two instruments to shape land development in a city, namely zoning and the setting of floor area ratio, the former being used to determine the purpose of land use and the latter to control the intensity of land use. The data quoted are derived from Guangzhou City Office of Three Renewals.

Conventional wisdom has usually attributed the irrational and inefficient use of land in Chinese cities to the ambiguous definition and ineffective protection of land property rights in a socialist economy. The logic is not difficult to understand: an ambiguous definition of property rights gives no incentive to land users for rational and efficient use. Valuable land assets are left in the public domain, devoid of competitive access, which leads to the “tragedy of the commons.” The notion of the “tragedy of the commons” needs to be taken with caution, however, because it assumes an automatic and (over)deterministic cause-effect relationship; on one hand between the definition of property rights and efficient land use, and on the other hand, it leaves no room for the functioning of other incentive mechanisms.

While it is evident that the definition of land property rights in China has suffered from notorious ambiguity, it remains uncertain to what extent an ambiguous definition of property rights is responsible for the wasteful use of land in both town and country. Moreover, it is arguably over-simplistic to take the definition of property rights as the only solution to the problem of inefficient land use; it rules out completely other local, informal, and communal institutional arrangements beyond the legal arena.<sup>15</sup> Interestingly enough, what has been practiced in the redevelopment of existing urban land in Guangdong is precisely what is ruled out in conventional wisdom: improved land use efficiency has been made through innovative institutional arrangements that give localities, especially original land users, stronger power of decision-making and a greater share of the profits from land redevelopment. Power transfer and profit concession have been initiated locally and spontaneously in southern China as the two pillars of an incentive mechanism for improved land use efficiency beyond a wholesale land privatization.

The Ministry of Land and Resources in Beijing had a keen understanding of the fact that the existing legal definition of the property rights over urban land does not necessarily prevent innovative institutional changes to facilitate the actual functioning of the land property rights for improved land use efficiency. With this in mind, they designated Guangdong Province as the site of an experiment in 2008 to see how flexible arrangements could be made to redevelop existing urban construction land within the overarching legal framework set up by the rules and laws concerning land use and development. It did not take long before experienced local land management practitioners in Guangdong had identified major institutional bottlenecks that dampened the enthusiasm and motivation of existing land users for efficient land use. The following section provides an explanation for the nature of these bottlenecks and the special institutional changes made to overcome these bottlenecks.

For the old factories and neighborhoods on the urban land owned by the state, any attempt to redevelop the land involving conversion into more profitable commercial purposes must undertake land conveyance through open bidding, auctioning, or listing.<sup>16</sup> During this process, the municipal government carries out requisition of the land, pays a compensation fee to the original land users, and then sells the land

to developers for a conveyance fee. The net profit or the difference between the conveyance fee and the compensation fee is captured by the municipal government. The original users of the land for old factories and old neighborhood are excluded from the distribution of the net profits incurred from land development. The result is a strong resistance of original land users (government agencies, state-owned enterprises, etc.) toward redevelopments and endless bargaining for compensation making it extremely difficult for the project of urban renewal to break ground. In the seven years of 2005–12, only six cases of renewal of old factories were completed through this procedure of land requisition and conveyance.

For the redevelopment of “villages in the city”, legal restrictions existed for both the purposes of land use and the possibility of market circulation outside of the rural collective. The land collectively owned is not allowed for conveyance, transfer, or leasing for commercial uses.<sup>17</sup> Existing construction land in the villages is reserved for the use of rural housing, township and village enterprises, and public facilities and is prohibited from other commercial or real estate developments.<sup>18</sup> Obviously, these legal restrictions are made to dam any excessive conversion of agricultural land for non-agricultural uses. They are particularly applicable to the control and management of the growth of newly added construction land. However, they have had negative side effects upon the reutilization of existing construction land owned by the rural collectives within the city. With these restrictions in place, it is literally impossible to redevelop the villages in the city involving commercial development and market circulation.

In short, innovative institutional arrangements are in order to overcome legal barriers in the functioning of the property rights over existing construction land and motivate land users for an improved efficiency of land use. What has been done locally is not to do any change of land property rights definition along the line of exclusivity and transferability. Rather, innovative institutional arrangements are made in the redistribution of the benefits of urban renewals. By giving original land users a share of the profits to be made out of urban renewals, formidable social resistance is overcome so that original land users, municipal governments, and commercial developers find a compromise in the process of land development without violating the stipulated rules and regulations from above.

The designation of Guangdong Province as a site of experiments for urban renewals in March 2008 has provided a green light for local innovations of institutional arrangements that may or may not comply strictly with existing legal requirements. Acknowledging the fact that resistance from the original users of the land has always been the most formidable barrier that needs to be overcome in the process of urban renewal, new institutional arrangements are made primarily for two considerations, namely to directly involve original land users in the process of renewals and allocate them with a significant share of the profits to be made out of the renewals. The purpose is clearly to minimize resistance and better motivate original land users for the utilization of existing construction land.

<sup>15</sup> See Lin, George C.S., (2009), *Developing China: Land, Politics and Social Conditions*. London: Routledge; (2010), “Understanding land development problems in globalizing China,” *Eurasian Geography and Economics* 51(1), 80–103.

<sup>16</sup> See Lin, G. C.S. and S. P.S. Ho., (2005), “The state, land system, and land development processes in contemporary China,” *Annals of the Association of American Geographers* 95(2), 411–436; Xu, Jiang, Anthony Yeh and Fulong Wu, (2009), “Land commodification: New land development and politics in China since the late 1990s,” *International Journal of Urban and Regional Research* 33(4), 890–913.

<sup>17</sup> China, (1998) 中华人民共和国土地管理法 (Land management law of the People's Republic of China, hereafter the Land Management Law). Originally enacted on 25 June 1986, revised and promulgated on 29 August 1998. Beijing: Official Document, Article 15; China, (2007), 中华人民共和国物权法 (Real Property Law of the People's Republic of China), enacted on 16 March 2007 and effective on 1 October 2007. Beijing: Government Document, Article 184.

<sup>18</sup> Lin, George C.S., (2009), *Developing China: Land, Politics and Social Conditions*. London: Routledge; Lin, G. C.S. and S. P.S. Ho., (2005), “The state, land system, and land development processes in contemporary China,” *Annals of the Association of American Geographers* 95(2), 411–436.

For the renewal of old factories and old neighborhood involving state-owned land, relaxations on the rules were made to allow the conveyance of the rights to use the land for re- developments to be undertaken through negotiation involving original users of the land, developers, and municipal government. The mandatory requirement that conveyance of state-owned land for commercial uses must be conducted through public bidding, auctioning, or listing is waived. The justification made for this waiver is that the mandatory requirement is applicable to land conveyance in the primary market and is arguably not relevant to urban renewals involving reutilization of state-owned land in the secondary market. This waiver guarantees original users of the land with a direct participation in the negotiation of how the land should be reutilized. It provides developers with a better and more flexible opportunity to invest in the project. Municipal government maintains its control over urban renewals through its requirements for the purpose of land use and intensity of development (i.e. specification for the floor area ratio).

For urban renewals involving “villages in the city” where land is owned by the rural collectives, two important changes are made. First, villagers are offered with an option to convert the land collectively owned into state-owned. This option needs agreement of the majority of the villagers (at least two-thirds) and endorsement of the government at or above the county level. Once the land becomes state-owned, many of the legal restrictions over the purpose of use for the land owned by rural collectives (e.g. for rural housing, TWEs, and public facilities) would be removed and the land can be used for conveyance to developers for commercial developments. Second, existing construction land owned by the rural collective and located in the villages of the city is allowed for market circulation if villagers decided to maintain their collective ownership of the land. This allowance is made to improve the marketability of the existing construction land owned by the rural collective and open up the possibility to involve financial institutions and developers outside of the collective into the process of land redevelopment.

The institutional changes described above are necessary to improving the functioning of state and collective land ownership in the process of urban renewals. They are not sufficient enough to motivate original land users to actively engage in the redevelopment of the land. The project of urban renewals would never work unless the current users of the land are ensured with a fair share of the profits to be made out of land redevelopment. The approach adopted is to redistribute the land conveyance income—a net profit from land requisition and development (land conveyance fee paid by the developers to municipal authorities minus land compensation and land demolition/development costs) previously held in its entirety by the state (70 percent municipal and 30 percent central) by law—so that the current users of the land take a significant share.<sup>19</sup>

For the renewals of old factories and old neighborhoods involving existing urban construction land owned by the state, the current land users (e.g. SOEs) displaced are entitled to a maximum of 60% of the land conveyance income made out of the redevelopment of the land.<sup>20</sup> If the current land users (e.g. SOEs) take charge of the

renewal themselves or worked with commercial developers, they are requested to share the net profits with the municipal government by paying a land value-added price.

The redistribution of the profits out of the redevelopment of villages in the city involving collectively-owned land follows the same logic. The rural collective concerned would be given a maximum of 60% of the land conveyance income paid by developers to municipal government when the land is sold to developers through land conveyance after state requisition and conversion from collectively into state-owned.<sup>21</sup> If villages decided to hold on to collective ownership of the land, no conveyance fee needs to be paid by developers to the state and the rural collective concerned may collect the annual income to be made out of the rental of the land after its redevelopment and market circulation.

Finally, special attempts are made to allow multiple social actors other than the municipal government to play an active role in the process of urban renewals. In addition to the traditional approach whereby municipal or county government take over existing construction land in old factories, neighborhoods, or the villages in the city either through requisition or expropriation for renewals, commercial developers and the original or current users of the land (i.e. SOEs, district governments of the city, rural collectives and collective organizations) are encouraged to take charge of the renewal projects either by themselves or by forming partnerships among themselves. Municipal government oversees all projects of urban renewals through the guidance of an overall land use planning, monitoring of land use purposes, and regulations over the intensity of redevelopment with a building-land ratio to ensure that improved efficiency of land use would not jeopardize livability of the city.

## Redevelopment of the Lie De Village in Guangzhou

From time to time, visitors to Chinese cities may be puzzled by the persistence of some “rural enclaves” where a cluster of dilapidated and irregularly built multi-story village houses are located in the inner city and caged by a modern cityscape of obvious inconsistency. These rural enclaves in the city are referred to as “Cheng Zhong Cun” which literally means “villages in the city.”

They are the spatial manifestation of the contradiction between rural land that remains collectively owned and urban land that is owned by the state in the ongoing process of accelerated urbanization. These rural enclaves were originally villages located at the edge of the old city center. As the city expanded, the village land for farming was expropriated at a low price whereas the residential land for rural housing was left alone because of the higher price for compensation. This has given rise to many “rural enclaves” scattering across cities.<sup>22</sup> The Guangzhou municipal government identified a total of 138 “villages in the city” in 2009, among which 52 were singled out for land redevelopments.

<sup>19</sup> By law, the land conveyance fee collected from newly-added construction land should be distributed in such a way that 30 percent be handed over to the state revenue and 70 percent be retained by the local governments “with all funds to be used exclusively to develop cultivated land.” See the Land Management Law, Article 55.

<sup>20</sup> This applies to the cases when a municipal government takes over the land through requisition and then conveyed the land to developers for a land conveyance fee. Current land users (e.g. SOEs) may participate in the negotiation but will have to be displaced because of the renewal project. See Guidelines to facilitate “three renewals” for efficient and intensive land use—Guangdong Official Document No. 78, Section 7, Article 23.

<sup>21</sup> Ibid, Section 7, Article 23.

<sup>22</sup> Zhang, L., Simon X.B. Zhao and J.P. Tian, (2003), “Self-help in housing and chengzhongcun in China’s urbanization,” *International Journal of Urban and Regional Research* 27(4), 912-937.

Located at the heart of the new city center of Guangzhou (Figure 1), Lie De village is one of the 52 “villages in the city” identified by the municipal government for a complete transformation. The village’s size is moderate in the context of southern China. At the time when the renewal project was initiated, the village had a registered population of 6,500, 3,300 households, and a land area of 33.8 hectares.<sup>23</sup> There was a migrant population estimated at 23,000—three times larger than the local population—who made Lie De their habitat with low-priced rental housing. Despite its moderate size, Lie De was singled out by the municipal government to become the first “village in the city” for redevelopment because of the special location it held right at the heart of the new city center. Guangzhou’s latest version of city planning was formulated after it was chosen on 2 July 2004 to be the site of the 2010 Asian Games. A new city center in the name of the Pearl River New Town was to be built to impress the region and the world and Lie De happened to be an “old, messy, and dirty” village located within one block from the new city center. A Chinese banquet was to be held, so the dirty spots had to be removed out of the sight of the invited dignitaries and honorable guests.

Interests in urbanization and place promotion as a political project are among the motives for the municipal government to trigger the redevelopment of Lie De with its strategic location.

Renewal of an old village such as Lie De has only been a part of the ambition of the municipal government to develop a new city center and host mega-events as a means to build city-image, boost up the property market, augment the local tax base, and deliver an impressive record of growth for political advancement. Yet, the redevelopment of an old village in the city such as Lie De is obviously a project financially costly and socially risky. Demolition and rebuilding of villagers’ property would entail not only sizable financial commitments but also formidable social resistance and discontents—both are against the will of the municipal government. The project of urban renewal involving old villages such as Lie De would not work unless special arrangements are made to generate the funds needed for redevelopment and unravel possible resistance and discontents from villagers.

Figure 1. Location of Lie De Village in Guangzhou



<sup>23</sup> Of all the households, 3,167 have registered to be affected by the redevelopment and resettlement project. The land area is inclusive of the Lie De creek with a water body of 2.1 hectare.



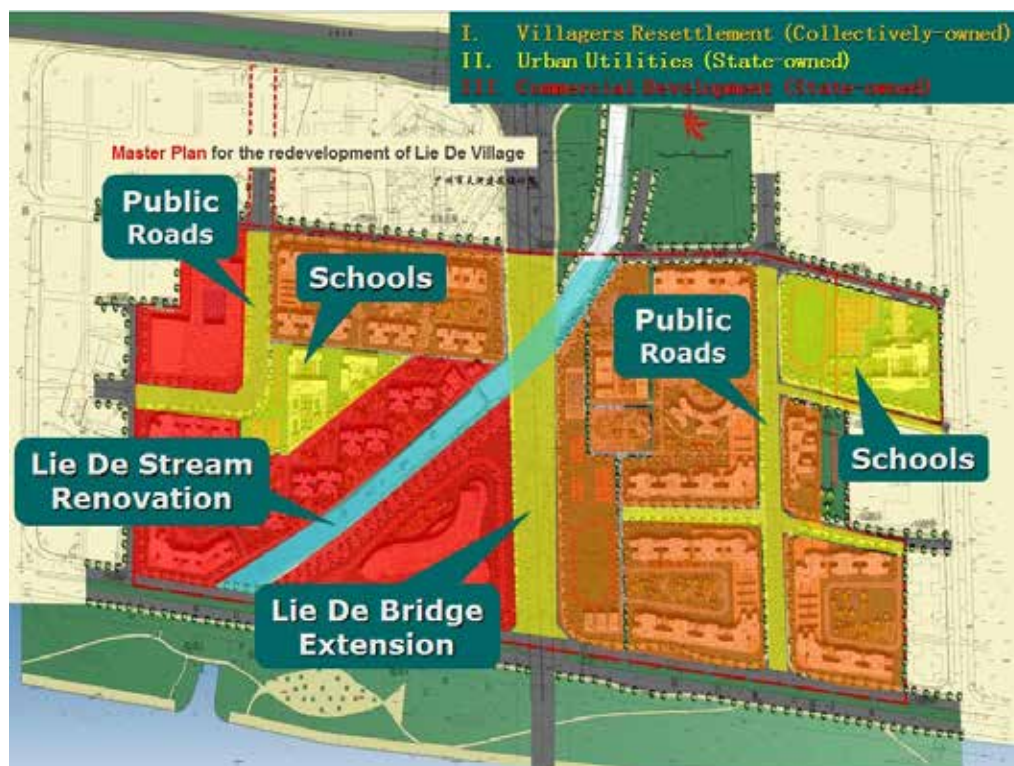
Earlier in the foregoing section, we identified three important institutional arrangements made by the government of Guangdong to break the legal bottlenecks placed upon the reutilization of existing construction land in the city. Two of the three arrangements were made for the renewal of “villages in the city”, namely: (1) collectively owned land can be converted for state-owned land, subject to the consent of at least 2/3 of villagers, which can then be sold or conveyance to commercial developers for a land conveyance income; and (2) collectively owned construction land can be leased, transferred, or used as collateral for mortgage other than the use for rural housing and public welfare. These arrangements were made essentially to allow for a marketization of the collectively owned land in the city so that necessary funds could be generated for the renewal project without creating financial burdens upon the shoulder of the municipal government. They could also provide financial incentives to both the collective organizations and individual villagers and serve as an instrument to reduce possible resistance and discontents. Above all, these two special arrangements were made for a better functioning of the property rights over the existing land in the city and they have been practiced in the renewal of the Lie De village.

The redevelopment of Lie De has involved a number of stakeholders, noticeably municipal and district governments, a rural collective organization, commercial developers, and individual villagers. For a municipal government unwilling to either make any financial commitment or take any political risk of dealing with grievance and social discontents, an approach of indirect involvement and distanced management was adopted in which the power and responsibilities for redevelopment were shifted downward from the municipal to the district government and further to the rural collective organization. Yet the district government and rural collective organization

would not take this “hot potato” unless they were offered a financial incentive strong enough to motivate their active involvements. The approach adopted has therefore been a combination of both responsibilities and revenue collection rested upon the shoulder of the collective organization as the leading agent. The collective organization of the village was asked to be responsible for the redevelopment of the village inclusive of demolition, compensation, and resettlement. The income generated from land conveyance that theoretically should be remitted by laws to the municipal government can be kept by the collective organization at its entirety. In other words, the Lie De village was requested for “self-redevelopment” whereby the collective organization takes up the responsibilities although the mobilization of the funds for redevelopment also involves commercial developers and municipal/district governments.

The downward transfer of the power and responsibilities of land redevelopment does not mean that the municipal government has opted out completely from the process of urban renewal, however. The municipal government has been instrumental and pivotal to the initiation, planning, monitoring, and implementation of the entire process of land redevelopment. Furthermore, the municipal government has been directly involved in the planning and development of the urban infrastructure that is located in or cut through the Lie De village. A special fund of 461.7 million yuan was provided by the municipal government for the extension of the Lie De Bridge, widening and upgrading of the public road network, purification of the Lie De stream, and relocation of the municipal deaf school located in the village (Figure 2). It appears that the Guangzhou municipal government has been conscientious of the role it must play in the interests of the general public, although it remains debatable whether or not it has fulfilled its obligations sufficiently and satisfactorily.

Figure 2. Master Plan for the Redevelopment of Lie De Village



Source: Adapted from Tianhe District Government (2006).

The proposal for Lie De's redevelopment was made by a planning institute of the Tian He district government in June 2006. All land, estimated at 33.8 hectares, was divided into three parts, about one-third of the land—a land parcel measured at 11.4 hectares or 33.8 percent of the total land area—was earmarked for conveyance to commercial developers so that the income generated from land conveyance could provide the funds needed for the redevelopment project. Another half of the land, measured at 17.1 hectares, was identified for the building of high-rise housings and other community services (public school, temples, ancestor halls, sports and recreation centers, etc.) for the resettlement of all villagers. A third portion was reserved for the building of a five-star hotel owned by the collective corporation for the generation of recurrent income that would give dividends to the villagers as shareholders.

Of these three parts of land earmarked for different purposes, the first parcel would have to be converted from collectively owned into state-ownership before its sales to commercial developers. Although the municipal government allows Lie De to keep the whole income to be generated from land conveyance, this parcel of land previously owned by villagers would be gone forever. In other words, the village to be rebuilt would be one-third smaller than what it used to be for over 800 years. Furthermore, the redevelopment plan was formulated in such a way that the two parcels of land on the west side of the village with a better market value because of a favorable location close to the new city center are reserved for commercial developments whereas the less marketable land on the east side was to be used for the resettlement of villagers. Clearly, the decision-makers and professional planners who came up with the redevelopment plan knew perfectly well what they were doing. It is doubtful the individual villagers as original owners of the land had the knowledge to comprehend what they were up to.

Individual villagers may not have the vision to understand the broad picture of the redevelopment of their village. Nevertheless, they must have the knowledge to evaluate the gain and loss individually from the redevelopment project. To reduce possible resistance, the governments, both municipal and district levels, came up with a policy to deal with the sensitive issue of demolition compensation and resettlement. Despite the legal requirement of "one household one plot" and the standard set by the provincial government concerning the size and height of rural housing, rural housings in the Lie De village varied greatly in size and height.<sup>24</sup> Some were built within the legal standard, but many were not. The policy was set in such a way that there would be a one to one (square meters) resettlement for any rural housing built within the legal limit (i.e. for every rural housing demolished, there would be a new housing of the equal size to be claimed for resettlement, the orientation and location of which would be determined by a lucky draw). For the rural housing built beyond the legal limit, the portion beyond the legal limit

could be used to make a claim for resettlement into new housing on the conditions that (1) the claim must be kept within the ceiling of a floor area of 200 square meters and no more than four stories; and (b) the claimant would pay 3,500 yuan per square meters for the portion of resettled new housing beyond the legal limit and under the ceiling of 200 square meters.<sup>25</sup> Anything beyond the ceiling of 200 square meters and four stories height would not be entertained for any resettlement with new housing, but would be given a demolition compensation for the costs of construction at the rate of 1,000 yuan per square meters.<sup>26</sup>

Given the fact that nearly one third of the village land had been earmarked for commercial developments, the villagers opted for resettlement in high-rise buildings of 26-40, mostly 33, stories high with higher intensity of use. The approach adopted is arguably modeled after the one in Hong Kong whereby a dense population is packed up vertically so as to make room for green and open space. The floor area ratio—the ratio of total floor area constructed to total land area—increased from 2.06 to 5.13, suggesting that more than twice of the original floor area has been built per unit of land. As housing is packed up in high-rise buildings, green and open space has been opened up. The building coverage ratio—the ratio of the base area of all buildings to the total land area—reduced from 60 percent to 28.1 percent whereas green space ratio—the ratio of green area to total land area—increased from 5 percent to 30 percent.

Higher intensity of land use, coupled with increased marketization of the land (the special allowance for land conveyance after conversion into state-ownership and for market circulation of collectively-owned construction land), has naturally led to a higher output generated out of the land. An improved and renovated living environment has also helped bring up the land value of the rural enclave in the city center that was previously suppressed by both institutional restriction over market circulation and a run-down living environment.

The rental price for villagers' housing has gone up from 10-15 yuan/month/square meter to 30-50 yuan/month/square meter. This price hike is welcomed by the villagers, but it has become a nightmare for the migrant population. The lenient approach adopted for compensation and resettlement beyond the official standard has meant that a household could normally be allocated two to three apartments from the resettlement scheme. It is thus common to see a household keep one apartment as its own residence and rent out the other one or two apartments. The result is a substantial increase of personal income for the villagers and their collective organization. Annual personal income for the villagers has increased from 25,000 to 90,000 yuan since the redevelopment. The rural collective organization's total income increased from 100 to 500 million yuan, and its ranking within the Tianhe district moved from 12th to 1st.

<sup>24</sup> Chinese laws maintain that "[E]ach household of village residents may only possess one residential plot, the area of which must not exceed the standards stipulated by the province, autonomous region or directly administered municipality." The Land Management Law, Article 62. The standard set by Guangdong Province is to allow each farm household to build a rural housing covering a land base area of no more than 80 sq meters for plain and suburban regions, 120 square meters for hilly regions, and 150 square meters for mountainous regions. See 《广东省土地管理实施办法》(Guidelines for the Implementation of Land Management in Guangdong Province) (Guangzhou: Government Document, 2011), Article 21 and 《广东省农村宅基地管理办法(送审稿)》(Guidelines for the Management of Rural Housing Sites in Guangdong Province) (Guangzhou: Government Document, 5 August 2013). The Guangzhou municipal government provided a more specific standard that each farm household is allowed to build a rural housing covering a land base of no more than 80 sq meters and 3 stories or 11 meters high with a total floor space of no more than 280 sq meters. See 《广州市农村村民住宅规划建设指引(试行)》(Provisional Guidelines for the Planning and Construction of Rural Housing in Guangzhou Municipality) (Guangzhou: Government Document, 12 November 2012).

<sup>25</sup> This additional new housing claimed for resettlement can be for market circulation, sales, lease, rental, transfer, etc. within the village only.

<sup>26</sup> See Tian He District Government, 猎德村旧村改造村民房屋拆迁补偿安置方案(初步方案) (A Provisional Plan for Demolition, Compensation, and Resettlement for the Villagers and Housing Affected by the Redevelopment of the Lie De Village) (Guangzhou: Internal Document, 2006).

There are unfortunate victims of the redevelopment project and the increase in income for villagers. Those who have suffered the most happened to be those who have the least power and ability to protect their interests. Perhaps the most noticeable victims are the migrant workers in the village whose population size was several times larger than the villagers. The demolition of the village and its resettlement with modern and yet more pricey apartment buildings meant that the low-cost habitat upon which the migrant population had rested and the social networks they cultivated for communication and mutual assistance have been completely destroyed in the interests of modernization and urbanization.<sup>27</sup> Ironically, it is the project of modernization and urbanization to which the migrant population has contributed so much that has deprived them of their rights to live and work in the city.

## Conclusions

In the current era of planetary urbanization when the majority of human race has moved to conglomerate in urban settlements, efficient use of the valuable land in cities, especially large cities, to meet an ever growing demand has become a challenging task posed to planners, policy makers, and land management practitioners. While the significance of the task to (re)utilize urban land efficiently has been generally recognized, the way in which land use efficiency could be achieved in different world regions has remained a controversial issue for critical evaluation and investigation. Conventional wisdom has suggested an unambiguous definition and effective protection of property rights, best guaranteed by private ownership, as the prerequisite for rational and efficient land use. Exclusivity and transferability are believed to be the key to motivating land users for an optimum utilization of the valuable land asset.

This study of land readjustment or land redevelopment in Chinese cities undergoing market transition has identified an intriguing practice that deviates from normal theoretical expectation and popular perception. Despite a notorious ambiguity in land property rights definition, innovative institutional arrangements have been initiated at the grassroots level of a city in southern China where original land users are motivated through power transfer and profit concession to engage in land redevelopment. All institutional arrangements are made not to redefine legally who owns what but instead to reallocate who gets what in the process of land readjustment or land redevelopment. By giving existing users of the land a share of the profits to be made out of land redevelopment, social resistance is reduced to a manageable level and existing land users are better motivated to participate in the process of urban renewals. A detailed study of the redevelopment of the Lie De village located within the inner city of Guangzhou has demonstrated significant improvements in land use intensity, efficiency, and productivity as a result of institutional innovation. Efficiency gain does not come without social costs, however. Improvement in land use intensity and efficiency has been accompanied by an intensified social stratification, exclusion, and disparity.

The practice of land readjustment in Guangdong has been based upon an understanding of the overarching principle that privatization of land is not an option to pursue and that all institutional arrangements can be made without violating the constitutional stipulation of a state ownership of urban land and collective

ownership of rural land. In this perspective, the Guangdong experiment may be considered to be a political compromise rather than an ideal and optimum solution. Nonetheless, the experiences of land readjustment in Guangdong have demonstrated the fact that improved land use efficiency can be achieved through the introduction of incentive systems other than wholesale privatization. Political empowerment and financial motivation can function to bring about improvement in land use efficiency apart from the theoretical prescription of exclusivity and transferability. It remains uncertain whether or not the Chinese practice of power transfer and profit concession should be considered more favorably than normal theoretical prescription. It looks quite obvious, however, that there exist diverse paths and trajectories of land readjustment contingent upon local social and political conditions beyond the narrowed theoretical cannon of a linear and deterministic cause-effect relationship between clarity in property rights definition and land use efficiency.

The experiment of redevelopment of village land within the city in Guangzhou has been carried out in the hope that important lessons could be learned therein before its general applications elsewhere in the country. Viewed in the perspective of planning and policy making, three critical issues need to be addressed if land readjustments are to be pursued in the interests of not just improved land use efficiency economically but also enhanced social justice and cohesion.

First, redevelopment of village land within the city must involve all stakeholders and become more inclusive socially than what it has been. The current practice that takes into consideration only the interests of local residents and completely ignored “the rights to the city” of the migrant population requires rectification as it has produced the rich and wealthy in the redeveloped city-center while pushing the displaced and homeless migrant workers out of the city-center. The voices of the migrant population as the renters of the housings in the village will have to be heard and taken seriously in the process of consultation and public hearing. Their interests in the village within the city as natural habitat of low-cost housing must be respected and safeguarded in the planning of the redevelopment project. One way to address the needs of the migrant population could be for the municipal government to introduce quota for affordable housing that must be built in the redevelopment of village land.

Second, redevelopment of the villages within the city should go beyond the narrowed concern over physical resettlement and engage more broadly in community building under a newly urbanized environment. The current approach adopted has been focused on the demands of villagers for monetary compensation and housing resettlement. Little attention has been paid toward the needs of villagers for an adaptation to a new urban life. This has created great anxiety and uneasiness among the villagers who have become jobless although they are not homeless. To facilitate rural-urban transition of not just the village but the villagers and their community, special effort will have to be made by planners and policy makers to create diversified occupations economically, socially, and culturally for the new urbanites transformed from villagers. This will entail a comprehensive urban planning that aims at not just the building of high-rise residence for physical resettlement of the villagers but more importantly the generation of job activities suitable to the villagers through a cohesive arrangement of land use that cover a wide spectrum (manufacturing, services, recreation, etc).

Finally, the Chinese practice of land redevelopment needs improvements in the area of transparency and accountability. The experiment of power transfer and profit concession in Guangzhou has been rested upon the village or its collective organization as the main agent in the process of land redevelopment. In reality, there existed ambiguity in who can act on behalf of the village or its collective organization. The village land owned by the rural collective has become owned by

the village head or a few village cadres who may or may not act in the interests of the villagers. This has given rise to corruption involving village cadres and become a main source of grievance and discontents. A special mechanism of checks and balances will need to be established at the grassroots level to ensure that the redevelopment of village land and the distribution of the income generated are carried out in a fair, transparent, and accountable manner.

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View of Journalist's Park with Monserrate and the Candelaria district of Bogotá, Colombia @Shutterstock

## Chapter 2

# A New Approach to Urban Renewal in Bogotá, Colombia: **The Fenicia Project**

Juan Felipe Pinilla

The *Triángulo de Fenicia* is an urban renewal project in a section of Downtown Bogotá, within the immediate vicinity of Los Andes University, the main promoter of the project. As at 2017, the project had not yet been executed and was in the final phase of approval, but the way in which it has been formulated, as well as its characteristics and basic objectives, have made it a reference point in the city of Bogotá. In general, it presents two notable characteristics.

First, the promoter is neither the state nor private investors or landowners, but rather an institution of higher education, Los Andes University. Second, it aims to correct many of the equity problems that other urban renewal projects in the city have generated. It does so by promoting inclusive and deliberative dynamics among the promoters, local authorities and property owners in the zone. Land readjustment is an instrument that could allow the current property owners, occupants, and renters to remain in the area, participate as partners in the benefits of the project and play a leading role in decision-making processes during the implementation stage.

In the following eight sections, this chapter will show the particularities of the case and the process carried out thus far. It first presents the basic context of urban

renewal in Bogotá, including the role of partial plans as planning and management instruments. It also illustrates the tensions and difficulties generated by partial plans and land readjustment, the relation between two emblematic cases of urban renewal projects in Bogotá, and the specific development and characteristics of the Fenicia project. The second part characterizes the project's background and its promoter, Los Andes University. The third part presents basic information about the area where the project will be implemented and its main characteristics. The fourth part presents a detailed description of the way the design and planning stages of the project were undertaken, and participation and discussion promoted among the inhabitants of the area. The fifth part presents the main characteristics of the project as well as the way it evolved given the discussion and coordination with different neighborhood actors. The sixth part gives a general description of the land management proposal used to execute the project as well as the plans for undertaking the lot readjustment through a trusteeship scheme and a governance structure in which all the actors involved have representation. The seventh part describes the progress in executing the first stage of the project – the Unidad de Actuación Urbanística No. 1 (Urban Action Unit Number. 1, or UAU1). The final part reflects on the lessons, which can contribute to the general objectives of this book.



## The Context of Urban Renewal in Bogotá

This project is promoted within the framework of a partial plan of urban renewal. Partial plans are the instruments established by the Colombian legal system for undertaking urban expansion, densification and infrastructure improvement. Their basic objective is to regulate the transformation of large areas of land—generally with multiple lots and owners—to guarantee an equitable distribution of the costs and benefits of urban development among local property owners, promoters and authorities, thus contributing to better results in terms of urban design and regulating the engagement and participation of the different actors involved.

Although partial plans have been part of Colombian legislation since 1997 and they have been employed in Bogotá since 2001 in areas of urban growth or expansion, the first partial plan of urban renewal in the city for an area of approximately 8 hectares, was not implemented until 2010, mainly due to the complexities of its administrative procedures.

Land readjustment is one of the ways in which Colombian legislation permits the implementation of partial plans. For this purpose, Law 388 creates *unidades de actuación urbanística* for urban matters of the progressive 1991 Colombian Constitution that establishes a set of principles such as the ecological and social function of property rights, public space, and land value capture as collective rights. Law 388 also establishes the right to housing and rights and powers for municipalities to assign land to different uses. As established in Article 39 of the law, these refer to the "...area formed of one or various pieces of real estate, explicitly delimited in the rules of the ordering plan, that should be urbanized or built as a planning unit in order to promote the rational use of land, guarantee compliance with the city-planning rules and facilitate the endowment charged to the owners, of the infrastructure for transport, domiciliary public services and collective equipment through the equitable distribution of charges and benefits." It is precisely through these *unidades de actuación urbanística* that land adjustment plays a key role in land management. Readjustment is the mechanism through which the *unidad de actuación urbanística* is executed, or more exactly, it becomes the way in which the different owners come together to undertake the urbanization or renovation of a specific area of a partial plan.

Urban renewal is one of the strategic axes of the city's growth and transformation since the adoption of its first territorial ordering plan (POT) in the year 2000. Since then, and especially in the past three years, the interest in revitalizing large sectors of the city has been at the forefront in discussions of local authorities, especially between their planning and housing agencies. Nevertheless, they have not managed to translate this interest into approval and implementation of urban renewal projects and plans. To illustrate this situation, since 2000 the area potentially open to urban renewal has been growing considerably by way of urban regulations that develop and complement the POT (Decreto 190 de 2004), but no specific projects have been undertaken. The pace of growth can be seen in Table 1.

As can be seen, the total area open to urban renewal has tripled in the last ten years, especially for areas outside the central city. Nonetheless, only two partial plans and one special project for urban renewal have been approved to date, which together add up to about 20 hectares of land, i.e., less than 1 per cent of the total area open to projects with these characteristics.

This great difference between the possibilities and reality of urban renewal projects in Bogotá is explained by a series of factors. However, for the purpose of this chapter, this difference is related to the difficulty that urban renewal programs face in managing and assembling consolidated areas of land that compose of several city blocks with a large number of owners and occupants under different forms of tenancy.

Table 1. Growth of areas susceptible to urban renewal in Bogotá: 2004–2013

Areas open to urban renewal 2013	2013		2004		Area Growth Rates %
	Area (Ha)	%	Area (Ha)	%	
Central Area	545.3	23.4	374.4	42.7	1.5
The rest	1781.3	76.6	502.2	57.3	3.5
<b>Total</b>	<b>2326.6</b>	<b>100.0</b>	<b>876.7</b>	<b>100.0</b>	<b>2.7</b>

Source: Pinilla (2013).

The two most representative examples within the universe of three approved projects are: the Manzana 5 Project and the Proscenio Partial Plan, which are clear examples of the difficulties and tensions associated with land management in urban renewal projects, as it will be explained in the next section. Furthermore, they are two very clear antecedents that influence and explain the way in which the Fenicia project aims to solve the main difficulties faced in past experience. The Fenicia project distances itself from past extremes and represents a deliberate attempt to amend the main deficits that they had in their planning in terms of community participation and inclusion.

## The “emblematic” cases of urban renewal

Manzana 5 is a public-initiative project whose objective is to build a Spanish Cultural Center and begin urban renewal in a block-by-block manner in the traditional center of Bogotá. The land management process took place between 2005 and 2007, after which the district waited for the *Agencia Española de Cooperación* (Spanish Cooperation Agency) to concretize its contributions and disburse the resources for construction. However, the project was delayed for more than six years and in 2012 the Spanish government withdrew from the agreement due to its own economic crisis. Since 2010, the owners whose property was expropriated presented legal and administrative appeals seeking to have their property returned, arguing that the maximum legal time limits for the effective realization of the project had passed. These appeals have not been successful, and none of the expropriation proceedings have been annulled.

This case reflects the premise that when government expropriation is perceived as convenient legally, land readjustment will rarely be used as a land-management mechanism.<sup>1</sup> Manzana 5 is formed based on the application of a tool known in Colombia as expropriation by administrative procedure, regulated in Article 68 of Law 388 of 1997, which establishes that in “emergency conditions”, the expropriation may be applied with no judicial intervention when the negotiation between the expropriator and the owner fails. This is to ensure the control over time for the agency in charge of expropriation. The pressure to secure the Spanish cooperation made the use of expropriation more attractive, although land readjustment would be less exclusionary and traumatic for the inhabitants. Especially the targeted area was a block with a moderate number of lots where land readjustment would theoretically have been possible and viable.

The project after many delays and difficulties was finally executed. Instead of the Spanish Cultural Center, a new facility for the City’s Film Center is under construction. The area destined for commercial development and housing was acquired by a consortium of development firms at the end of 2011, with the amount paid per square meter close to 10 times more than the average price paid by the Urban Renewal Company to acquire the lots. The consortium, finally, in 2017 finished the construction of three towers and at the end of the process the towers were designated to be university dorms and several convenience stores (Drugstores, Cafes, Restaurants).

The second antecedent, Proscenio, is a partial plan of private initiative that seeks to develop a cultural center and offer a series of associated services in a strategic area in northern Bogotá. (Decreto 334 de 2010). Proscenio starts with a partial plan managed by the Corporación Niños Cantores (Misi-Compañía de Teatro Musical) who will develop and promote cultural activities in this part of the city. The partial plan is justified by the fact that, given the excellent location and the area’s present deterioration, the implementation of a series of better uses is possible. The main part of the proposal is the construction of a theater for 1,300 persons, which is expected to be a catalyst for development in this area of Bogotá.

This case is interesting in the light of reflections on land readjustment for two main reasons. First, because it is the first case in which there was a formal application of land readjustment under the law. Second, it is a case that the spirit of this land management tool is completely erased. A disgruntled property-owner succinctly and accurately describes what occurred during urban renewal: “.....*we are not saying that there has been anything illegal but the process has lacked ethics and transparency.....*”.<sup>2</sup>

If evaluated in light of the theoretical principles of land readjustment, the fundamental dilemma with Proscenio has been that its promoters have misapplied the law. In Colombia, the legislation establishes that the development of a unidad de actuación urbanística requires associated management by the owners who represent at least 51 per cent of the total area. Cognizant of this situation, the investment group represented by the project’s promoters initiated an intensive purchase of much of the real estate located within their unidad de actuación No. 1 where the theater is expected to be built. The main interest behind this strategy was to design and

delimit the plan without having to negotiate its uses and characteristics with the majority of property owners in the area.

After securing the project’s approval, the proprietors knew that the other owners would have no other option other than participating in the project or losing their land. . Under this strategy, the investors and the promoting group managed to consolidate the titles of around 53 per cent of the area. In essence, their strategy was to obtain the majority of land titles to force the rest of the owners to join the unidad de actuación urbanística under the threat of possible expropriation. The unidad de actuación urbanística No. 1 was legally consolidated after more than one year of discussions and legal appeals, during which the owners of the minority area claimed that they were never taken into account nor consulted, and that the process generally lacked deliberation and transparency.

Despite the formal delimitation of the unidad de actuación urbanística and the fact that the legal conditions required that expropriation proceedings begin against reluctant owners, the city government has publicly stated that it is unwilling to undertake expropriation and that the conditions that would make it possible to expropriate the property of reluctant owners legitimately do not exist. This position suggests that a majority of only 51 per cent, represented by a single actor in this case, does not provide a scenario where the objectives of land readjustment are being fulfilled and in general terms could indicate that threshold of 51 per cent might be too low.

These two projects share a common denominator: both were initially conceived and executed as top-down initiatives. They were imposed by their promoters with little if any concern for those who lived there, conducted business or owned/rented a piece of property. They were characterized by little or no effort to encourage community participation in the design phase. In the case of Proscenio, the promotor, after 5 years of discussion and tensions with many property owners, opted for a more attractive and inclusionary strategy and designed alternatives for property owners to participate in the Project and receive real estate products out the redevelopment process. Nevertheless, this Project after 8 years of its first approval, is yet to finish its first Urban Action Unit properties pooling.

One of the results is growing public skepticism toward urban renewal. Today, urban renewal represents the threat of dispossession and displacement for many residents. Social leaders and citizens’ groups always bring up the example of Manzana 5 in discussions about urban renewal projects. In addition to having failed to actually get underway almost 10 years after its initial formulation, this project has become a negative example that constitutes a paradigm for many people of urban renewal processes should not be carried out in the city.

## The Fenicia Project

Founded in 1948, Los Andes University was the first private institution of higher education in Colombia that was both non-denominational and independent of traditional political parties and social or economic power groups. Ranked the fourth

<sup>1</sup> T Hong, Y. and Needham, B., (Eds.) (2007), *Analyzing Land Readjustment: Economics, Law and Collective Action*, Cambridge, Massachusetts: Lincoln Institute of Land Policy.

<sup>2</sup> Morales, L., (2009), “Megaproyecto en Bogotá enfrenta a Vecinos” *Revista Semana*.

<sup>3</sup> Universidad de los Andes, (2013)

best university in South America, Los Andes is considered one of the most important training centers for local technical elites. It has more than 17,000 undergraduate and graduate students each year.<sup>3</sup> Although its scholarship program for students of lower income and socioeconomic profile is constantly growing, its students are mainly from wealthy families with connections, relations, and influences in the world of politics, industry, and mass media.

The university has grown through a process of transformation and physical expansion beyond its original campus. Ever since its foundation, the university has had a growth strategy based on the purchase of nearby lots and houses, but with no major concern for the situation and needs of the inhabitants of the surrounding area.

Taking advantage of the fact that the 2003 revision of the Bogotá POT included an area adjacent to the university's traditional campus as part of the areas open to urban renewal, beginning in the 2007 the university decided to play a leading role in formulating the partial plan for the area. For this purpose, it hired well-known promotion and construction firm to formulate an urban renewal partial-plan project. Although the area included in the project covered a total of 9 blocks, the university focused its attention on only one of them where it planned to expand its campus.

Coupled with the initiatives presented to the city planning authorities to formulate the project, the university constituted a land trusteeship in 2008 to manage and administer the acquisition of the lots on the block it was interested in. For this purpose, an agent called a "facilitator" was structured, which in its own name, and bound to not reveal its link to the university, would undertake the initiatives and negotiations regarding the purchase of the required lots.

The project advanced in accordance with this logic until it had a partial-plan proposal that was officially registered with the Secretary of City Planning in 2009. Given that the legal procedure for formulating and approving partial plans requires that the consultation process with property owners and neighbors be undertaken once the proposal has been registered and initially evaluated, this initial proposal was never the subject of consultation or participation, leading to certain developments which will be explained in detail below.

By 2010 the situation was precarious. There was a proposal that had been elaborated completely "behind closed doors" by the university; only three lots had been negotiated on the block in question; public resentment of the Manzana 5 project – a neighbor of the area of this project – was growing; the social movement organized to defend the land in the city center from urban renewal by real estate projects with no consideration for resident communities gained ground in public discussions; and all private initiatives of partial plans for renewal – except Proscenio – were blocked in their processes of formulation and approval.

It was at this moment that an unprecedented process took place within the university. Under the leadership of Oscar Pardo, a professor of the Business School, the way in which the university had been developing the proposal, as well as its scope and objectives, began to be questioned. According to the professor, an urban project in the zone adjacent to the university's traditional campus should be an

opportunity not just for the physical transformation of the university surroundings, but for the social and economic situation of neighborhood inhabitants as well. With his leadership and vision, a process of raising awareness and negotiations began with those responsible for transforming the initiative. These actions totally reformulated the project. Thus by the end of 2010, Pardo obtained the endorsement of the project administrators and the university president to modify the project and form a multidisciplinary team of university professors charged with creating a different and innovative workspace for this urban transformation initiative.

Thus the Progresía Fenicia Program of Los Andes University was born and given the mission of coordinating an urban renewal project capable of transcending the logic of real estate project and making it possible to modify the patterns of exclusion and lack of consultation and cooperation that characterized the city's "emblematic" urban renewal initiatives at that time.

The first consequence of this change of focus was to return to the very beginning of the administrative process to formulate and approve a partial plan. Although the first initiative had formally advanced to the consultation and coordination phase, the Progresía Fenicia team understood that the only way to advance in a transparent way was by forming bonds of trust with the neighborhood community, and for that it was necessary to start the process all over again.

## The area and its basic characteristics

The area of intervention is located in the Las Aguas neighborhood (see Figure 1). The target area of intervention is delimited by Circunvalar Avenue, 3rd Avenue, 20th Street and Jiménez Avenue, grouping together 9 blocks and a total of 504 lots that make up an area of approximately 8 hectares.

Table 2 shows the primary use of the land in the zone that is residential (50 per cent of the area of the plan) with three main types of housing: (1) one- and two-storey adobe houses; (2) two- and three-storey houses built of concrete and brick; and (3) condominium buildings. The next most common use is that of commerce and services (34 per cent) that mainly cater to the needs of the university population of Los Andes and other neighboring universities. These mainly consist of restaurants, stationery stores, shops and parking lots. This last use has the greatest impact on the zone and occupies around 21 per cent of the land (Universidad de los Andes 2014).

The area is characterized by a very low percentage of land occupied by buildings, with an average occupation rate of 47 per cent, except for Manzana 4, which is 84 per cent. The present occupation illustrates what has been happening in the neighborhood in recent years, mainly a dynamic of demolition of deteriorated buildings giving way to parking lots that create unsafe urban vacuums.

The housing types that make up the target area of the partial-plan project appear in Table 3. In general, the presence of condominium properties is very significant since it represents 53 per cent of the total number of real estate units. Nevertheless, their land coverage accounts for only 7 per cent of the total land area.



Figure 1. Location of the area



Source: Universidad de los Andes (2014).

Table 2. Land Uses

Use	Total	%
Commerce	6,063	13
Industrial	3,487	7
Institutional	3,463	7
Parking	10,133	21
Residential	18,283	38
Residential with storefronts	1,506	3
Residential HP	768	2
Residential HP with storefronts	3,222	7
Fiscal property	1,129	2
<b>General Total</b>	<b>48,055</b>	<b>100</b>

Source: Universidad de los Andes (2014).

Table 3. Real Estate Units within the Partial Plan

Property type	Real Estate Units	%
Condominium	269	53
Non-condominium	235	47
<b>Total</b>	<b>504</b>	<b>100</b>

Source: Universidad de los Andes (2014)

## The process

Starting with the complete rethinking of the project and together with the discussion with the Secretary of Planning throughout 2011 for the new issuance of the initial administrative act to officially formulate a partial-plan project, the team began to get to know the neighborhood, its inhabitants, social networks, leaders, economic dynamics, expectations and prejudices with respect to the university. The strategy of approaching the community and gathering primary material consisted of ongoing activities in the area of intervention and influence (broadened) within the Triángulo de Fenicia. The majority of these activities included open calls for participation and approaches to the La Paz neighborhood, the El Payán sector, and the community of the entire neighborhood of Las Aguas (see Figure 2).

Figure 2. Location of Neighborhoods



Source: Universidad de los Andes (2014).

## Phase 1: Getting to know the neighborhood and its situation

The first phase, “Recognition of the neighborhood and its actors”, lasted about one year and involved the following activities and steps:

- Preliminary information (October 2010): In this stage, basic data collection on the sector and of previous local studies was carried out. This is where the first contacts with institutional leaders were made, the preliminary work plan was drawn up, and the parameters for initiating the project were established.
- Exploration of mediators and actors (November 2010 – January 2011): In this stage, the land uses and the demographic and socioeconomic characteristics of the population were studied through interviews of community leaders.
- Identification of interest groups (February 2011): At this stage, identification was made of, and meetings were held with the following groups: small-business owners, large-property owners, social leaders, institutional actors like the Universidad de América, and the Philharmonic Orchestra of Bogotá. Important information was collected in these meetings for the design of interviews and future workshops.
- Community building workshops (March–April 2011): During this stage, social cohesion workshops were held with the community to help them take ownership of the project. Work began on collecting material for carrying out projects like the Ver más allá, an exposition done by the children of the community.
- Elaboration of the questionnaire for the survey on living conditions (April – July 2011): In this stage, a survey on living conditions was done to establish the socioeconomic conditions of the sector's inhabitants.

As a result of this first exercise, a network of key actors who served as contact points with the community and the neighborhood was constructed.

The census of living conditions covered the three neighborhoods of the area: (1) Las Aguas (159 households surveyed); (2) El Payán (15 households surveyed); and (3) La Paz (66 households surveyed). Nonetheless, it is worthwhile to note that Las Aguas is the project's neighborhood. The Living Conditions Survey is a basic survey that was applied to the resident households in the Triángulo de Fenicia. The survey aimed to gather information on the living conditions and the characteristics of the households and the businesses located in the community. The survey encompassed the households residing in private units and commercial storefronts in the Las Aguas, El Payán, and La Paz neighborhoods.

The Living Conditions Survey had two units of observation: (1) the household, defined by the common expenditure unit; and (2) the storefronts with economic activity unrelated to the households of the lots where they are established. The questionnaire asked about the housing conditions, the households, and the people. In relation to housing and the household, information was gathered regarding the characteristics of the building, housing conditions, accommodation conditions of the household. In relation to the people, questions were asked about their demographic, educational, and employment characteristics. Information on the tenancy conditions of the property and economic activities was gathered on the commercial storefronts.

Despite the university's efforts to emphasize the importance of the survey with the community, its coverage results were not completely satisfactory. On one hand, the residents of four apartment buildings in the Las Aguas neighborhood (blocks 2 and 4) with a dense concentration of population were reluctant to give information. Only 240 complete surveys were obtained from all the households visited, a total coverage of 44 per cent.

Despite its limited coverage, the survey made it possible to know four socioeconomic aspects of the households surveyed: housing conditions, household characteristics, characteristics of the head of household, and characteristics of the people. Tables 3 and 4 show only the information relating to the area of direct intervention, but do not include the results for the Payán and La Paz sectors – which are considered the area of influence and were also studied.

Table 4. Percentage of Housing types and conditions

Housing condition	Las Aguas
Type of housing	
House	50.3%
Apartment	27.1%
Room	22.6%
Other	
With reforms	43.4%
Extension plans	17.6%
Floor material	
Carpet, marble	15.1%
Tile, tablet, brick	38.4%
Cement gravel	29.6%
Unfinished wood, wooden floorboard	15.7%
Number of responses	159

Source: Universidad de los Andes (2014).



Table 5. Tenancy and legal situations

Tenancy conditions	Las Aguas
Housing tenancy	
Own paid in full	41.5%
Own not paid in full	1.3%
Rented	37.7%
Possessor, de facto occupant	16.4%
In usufruct	1.3%
Other	1.9%
Property deeds	
Held	83.8%
Registered	98.2%
Is the legal measure that affects the property known?	
Yes	8.8%
Embargo	
Mortgage	21.4%
Lawsuit	42.8%
Other	35.7%
No	75.5%
Doesn't know	15.7%

Source: Universidad de los Andes (2014).

The information gathered through the Quality of Life Survey was complemented by a socio-demographic study of the neighborhood and the needs, priorities, and preoccupations of all households. It was carried out by a team of anthropologists, using tools such as semi-structured interviews, direct social observation, and focal groups. The team surveyed approximately 100 families, coinciding with the area of greatest social vulnerability. The study gathered information on the situations of families, their forms of organization, and life trajectories, thus making it possible to better understand the main perceptions of the most vulnerable inhabitants of the area and to obtain important information for building trust and designing alternatives for participation and social programs for the project.

## Phase 2: Information gathering and trust building

This phase continued the process of recognition between the university and different community actors. Workshops and discussions between the two aimed to recognize the differences and disparities between the expectations and needs of the community depending on variables such as socioeconomic condition, type of tenancy, and economic activities conducted there. Different actors were invited to trust-building activities, segmented on the basis of such variables, and discussions regarding the project continued by bringing the community together in diverse groups based on the aforementioned characteristics. One of the most important activities carried out during this phase was the participatory urban design workshops (see Figure 3).

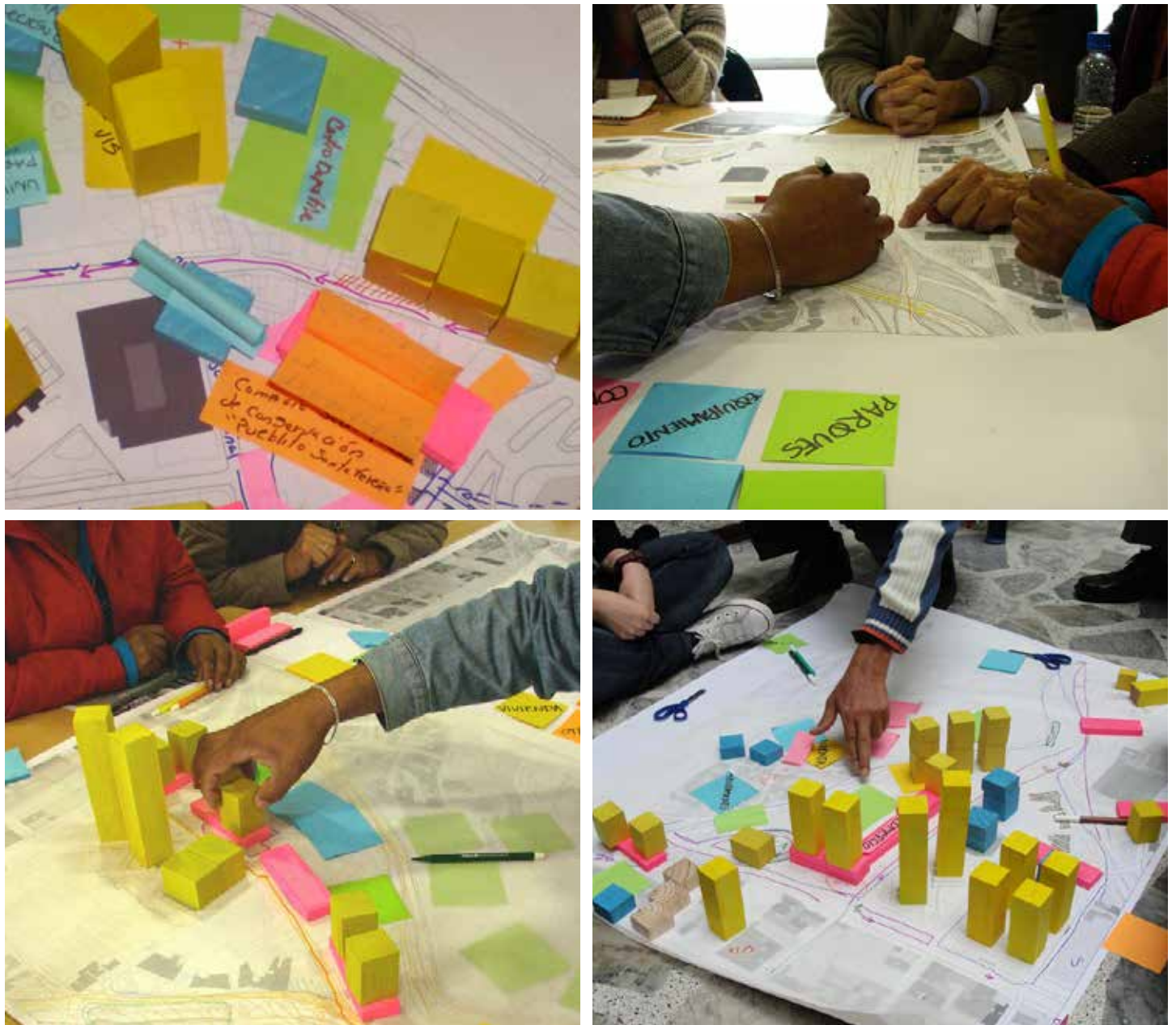
The objective of these workshops was to create space for informed participation with the people who inhabit and/or work in the Fenicia sector, so as to define a collective vision regarding how they imagined the urban transformation of the area. For this purpose, each workshop carried out discussion and reflection on the implications of change in the area. These activities began in plenary sessions and later divided into smaller groups, with the aim to get the group working together to develop abstract volumetric proposals representing ideas about what the physical transformation of the sector could look like. The results of these participatory workshops later became the starting points for development of the urban proposal.

A total of nine workshops were held with different community groups. Based on the conclusions, a set of basic urban design criteria was constructed for the project and incorporated into the detailed technical design of the proposal. These criteria related to the territorial conditions that the project should respect, preserve, and realize, associated with its proximity to the city's eastern mountains and close connection to nearby hills—Monserate and Guadalupe. The following basic objectives were generated:

- Define two thoroughfares (22nd Street and the Environmental Axis) as central elements of circulation within the project;
- Recover the parks and green areas;
- Generate more space for developing housing of diverse heights and uses that will bring more activity;
- Develop space for commerce on the lower floors;
- Enhance the tourism potential of the area, taking advantage of the elements of cultural heritage and conservation that it has today;
- Ensure the integrity of community space for children and for the elderly; and
- Improve security that is linked to improving access roads, quality of sidewalks, and entry routes into the neighborhood.

The results of the workshops were presented in two activities—an exposition opened to the public and a plenary session for the presentation of results. The objective of these activities was to present the synthesis of the results of the workshops and main ideas generated through the process. Figure 4 shows the primer report titled “Results of the Participatory Urban Design Workshop” that was prepared for the plenary session.

Figure 3. Participatory urban design workshops



Source: Universidad de los Andes (2014).

Figure 4. Public information about the results of the participatory urban design workshops



Source: Universidad de los Andes 2014

### Phase 3: Consolidation of trust and formalization of interest in participating in the project

In the process of building trust, many actors approached members of the university team to have more direct and personalized contacts with the project. There was a growing interest on the part of many owners in knowing about the project in detail, especially the eventual conditions of participating in the project and its benefits for their specific situation. In response, the project began to draft criteria and rules for “entry and exit” to the project that were later refined and improved in the process. The basic characteristics of these criteria and rules are detailed in the following section together with the description of the urban project.

This interest expressed by some proprietors in early 2013 also led to the formalization of agreements with the project, specifically the design of a “letter of intent and good will” signed between interested proprietors and the university. This document does not represent any contract or definitive commitment between the university and the proprietors, but is simply a sign of good will between the parties to define the specific conditions of participation and the owners’ association with the trusteeship that will facilitate land readjustment as well as the equitable

distribution of costs and benefits. For the interested owners and the university, the signed document represents the acknowledgment of interest in participation and a clear indication of confidence in the university and the project.

The signed documents symbolized that the project was consolidating an important basis of legitimacy. As of May 2014, the process of formalizing the letters of intent and good will had advanced to the point of being accepted by approximately 120 owners that represented about 25 per cent of the total number of owners and approximately 30 per cent of the total private area subject to land readjustment.

Yet there was still one part of the community that questioned the project and the process carried out thus far, and they organized themselves into a civic committee called No se Tomen Las Aguas. The committee was led by the property owners of one of the eight condominiums of multi-family housing that represented about 50 per cent of the total number of properties and an important part of the population with the highest incomes and levels of education in the area. Despite having contact with them since the beginning, their relationship with the project was tense and pugnacious.

The committee organized demonstrations in the neighborhood (see Figure 5) and invited others to join them in vindicating their rights. They also contacted the mass media to make their activities and grievances known and pressured different agencies of the city government, especially the City Planning Secretariat, to address their concerns. Their main complaint was that the project was imposed on them and designed only to suit the needs and expectations of the university.

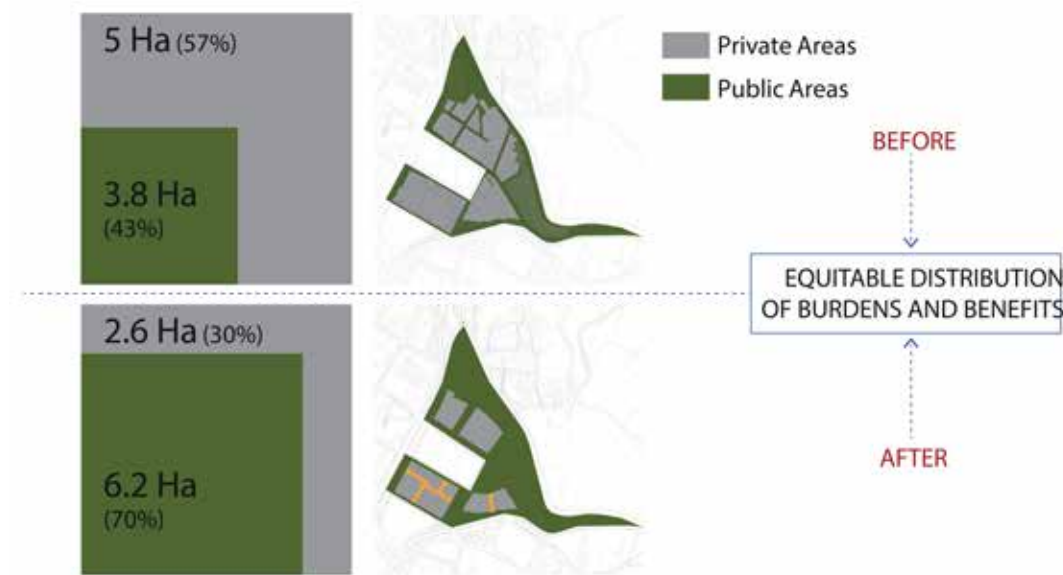
As a measure to permit some final adjustments to the project and as an incentive to achieve greater cooperation on the proposal, the City Planning Secretariat stipulated that the proposal could be adjusted, incorporating new agreements and consultations. Given the pressure exerted by the committee, the window left open by the Planning Secretariat, and the university was willing to make all necessary efforts to build consensus and gain legitimacy both for the process and for the project. In January 2014, under the mediation of the *Veeduría Distrital*<sup>4</sup>, different actors of the community, especially with the civic committee, opened new discussions and dialogues about the project.

At first, the process was marked by tension and the civic committee’s intention to delay the approval of the project as a way to gain stronger bargaining position and to discredit the process of discussion and cooperation on the proposal previously undertaken by the university with the residents and property owners in the area. Nonetheless, during the discussions on the points of discord, two things became clear: (1) the committee only represented owners’ interests of the complex where its spokespersons lived or owned property and some neighboring lots located on the same block; and (2) their intention was mainly to maximize the economic benefits for this group according to the rules and criteria established by the partial plan for land readjustment.

<sup>4</sup> The Veeduría Distrital is an agency of the city government whose main mission is to promote transparency and prevent corruption in public management of the district. One of its objectives is to encourage citizens to exert control over the activities, programs and projects carried out by different city government agencies. For more information consult: [www.veeduriadistrital.gov.co](http://www.veeduriadistrital.gov.co).



Figure 5. Public/ Private Space of the urban proposal



Source: Universidad de los Andes (2014).

The Planning Secretariat continued the activities in the process of final approval of the partial plan along with these panel discussions, but after the first three months of work, the agreements were still incipient. Although the main discussion points had been identified, no progress had been made in terms of reaching any concrete agreement. From the start of the workshops, both the Secretariat and the Veeduría warned about the need to finalize agreements within a short time and about the impossibility of delaying the final approval of the partial plan.

On this point and given the pressure imposed on the process to decide on the topics of discussion and agreement, the committee spokespersons specified their points of concern and presented their proposals to be discussed with the university and the city government. They were:

- location of the replacement housing on the same block of origin;
- modification of the proposal on the delimitation of the *unidades de actuación urbanística*, excluding the unit corresponding to the block where the housing complex of the committee spokespersons is located—an area corresponding to approximately 26 lots located on another block;
- revision and refinement of the estimated costs of the project, especially those associated with the general infrastructures of the city and not of the project's own area, with social programs to support the urban transformation process;
- participation of the owners in the profits and financial benefits of the project and establishment of commercial valuations as a starting point for appraisal of the owners' contributions;
- location of the project's social housing units; and

- temporary freezing of the socioeconomic stratification of replacement housing units in the neighborhood, so as to avoid escalating the cost of public services.

To moderate the economic demands of the committee, the university spokespersons insisted on the argument about the effects over the interests of other stakeholders and the equity implications of giving the civic committee more benefits or having artificial distinctions between property owners in the land readjustment criteria. To discuss these points and their respective technical analysis, the committee decided to hire an external consultant with knowledge of architecture and city planning as well as processes of building construction to assist the project. Although the owners who eventually joined the committee had indicated from the start of the conversations with the university that they were going to consult a real estate expert, the consultancy was not arranged until the end of this stage. The consultant with knowledge of technical matters involved in the partial plan created more productive discussion and made it possible to have a more detailed analysis of the project. As a result, both the city government and the university decided that it was possible to revise some points of the project and agree on how they should be included in the decree that would adopt the partial plan. An agreement between the parties was reached, and the specific adjustments to the project were as follows:

- Greater flexibility regarding the location of replacement housing.
- Modification of the proposal for delimiting the *unidades de actuación urbanística*.
- Clarification of project expenses, excluding some costs for improvement of two thoroughfares or main roads, which the Secretary of Planning decided that they were not essential for the project.

- Clarification of the method of exchange for the system of land readjustment, making visible the valorization or benefit that the owners will obtain.
- Freezing of the socioeconomic strata for replacement dwellings for a 10-year period starting from the moment of transfer of the property.

The only points that no agreement was reached with the committee were those related to not locating social housing on the new blocks of the project and decreasing the resources for social programs. It was not possible for the city government to be flexible on these points as the decision was in favor of the diversity of uses and socioeconomic conditions in the area, which required the availability of social housing throughout the area. Likewise, the decrease in the estimated costs for social programs was non-viable because of the importance of accompanying the process of physical transformation with social support, especially for the most vulnerable inhabitants.

## The final proposal

The final urban proposal resulting from the discussions with neighborhood actors and city authorities posed a new reconfiguration of the public and private space, increasing public areas from 3.8 hectares to 6.2 hectares, and reducing private areas from 5.0 hectares to 2.6 hectares as illustrated in Figure 5. The urban design recognized the most sensitive and strategic topics that resulted from the participatory urban design workshops, as shown in Figures 6a and b. Table 5 also states the proposed new land use composition for the area in detail.

Figure 6a. Urban design proposal



Source: Universidad de los Andes (2014).

Figure 6b. Main proposal new Public Park (Parque de Piedemonte)



Source: Universidad de los Andes (2014).

Table 6. General data about the proposal

	HOUSING	LOTS	LAND USES
BASE LINE	400 dwellings	9 blocks 180 apartments 504 pieces of real estate 222 lots: 50,000 m2 private	20% Parking lots 12% Commerce 14% Institutional and Industrial 8% Condo Housing 40% Housing 6% Housing in public space
THE PROPOSAL	380 replacement housing units 520 apartments with new residents 10% social housing units	5 blocks 900 apartments 22 lots: 26,200 m2 private	Mixed uses, predominantly: 36% Commerce, offices, housing 7% Hotel 19% Institutional, commerce 38% Condo Housing, commerce

Source: Universidad de los Andes (2014).

In principle the proposal states that for the purpose of facilitating integral management of the project and minimizing the need to move residents temporarily, the construction of all the replacement housing would be concentrated in the first phase of development. Despite the fact that the land readjustment proposed is not done among all the lots but only in five areas grouped in an equal number of unidades de actuación, the initial idea was that the university would take charge of promoting the readjustment of lots in the first unit and of building all the corresponding housing. Unit 1 has few lots (see Figure 7), and close to 40 per cent

of it consists of one large piece of property where an industry currently occupies. The dwellings in this unit would offer replacement housing to the owners in all the other unidades de actuación and would thus free up the land needed to continue developing the remaining units. To facilitate the exchange of existing housing for new housing, the trusteeship scheme was designed to permit the remuneration of the owners (with one or more dwellings, depending on the size of their properties) for the readjustment that could be agreed outside of their own area and in Unit 1.



Figure 7. Location of Unidades de Actuación Urbanística Proposal



Source: Universidad de los Andes (2014).

Despite the fact that this was based on the need to guarantee the construction of all replacement housing with minimal relocation, the proposal was not well received by different stakeholders. For many, concentrating all the replacement housing in a single area was unacceptable since this area is presently located in one of the sections inhabited by low-income population with deficient urban surroundings. Their main grievance was that the replacement housing should be located throughout all the unidades de actuación of the project, thus permitting not only permanence within the area of the project but on the origin block as well.

This rejection made it necessary to modify the proposal in the final phase of project approval in order to locate the replacement housing throughout the entire project area and in each one of its units. This situation demonstrated the importance of ensuring that the lot or building offered to each owner would be located as close as possible to the original property. The adjusted proposal includes the location of replacement housing in four of the five unidades de actuación. There is only one unit with no replacement housing because that unit is designed solely for public facilities.

### The governance structure for implementing land readjustment

In accordance with the proposal by the university, its role as the promoter of the project transcends real estate interests and instead aims to revitalize an urban area that includes the development and reinforcement of its social networks and the permanence of the residents with greater possibilities of economic growth and development. In order to guarantee the equitable distribution of costs and benefits and to facilitate associated management mechanisms among proprietors, the proposal states that land management will be done through unidades de actuación urbanística. The proposal defines five different unidades de actuación that group blocks and lots in the way as presented in Table 6. The location of each unit can be seen in Figure 7.

The purpose of the defined unidades de actuación urbanística is to guarantee adequate use of the target area of the plan, a transformation in stages, and the provision of the infrastructure required for renewal. Despite the transformation will be carried out in steps, the equitable distribution of costs and benefits will be shared among all the properties and owners involved. There will be a trusteeship in charge of regulating and finalizing this equitable distribution among all the units. It has been calculated that land contribution ratio in the land readjustment scheme will be around 50 per cent.

Table 7. Areas and composition of Unidades de Actuación Urbanística Proposal

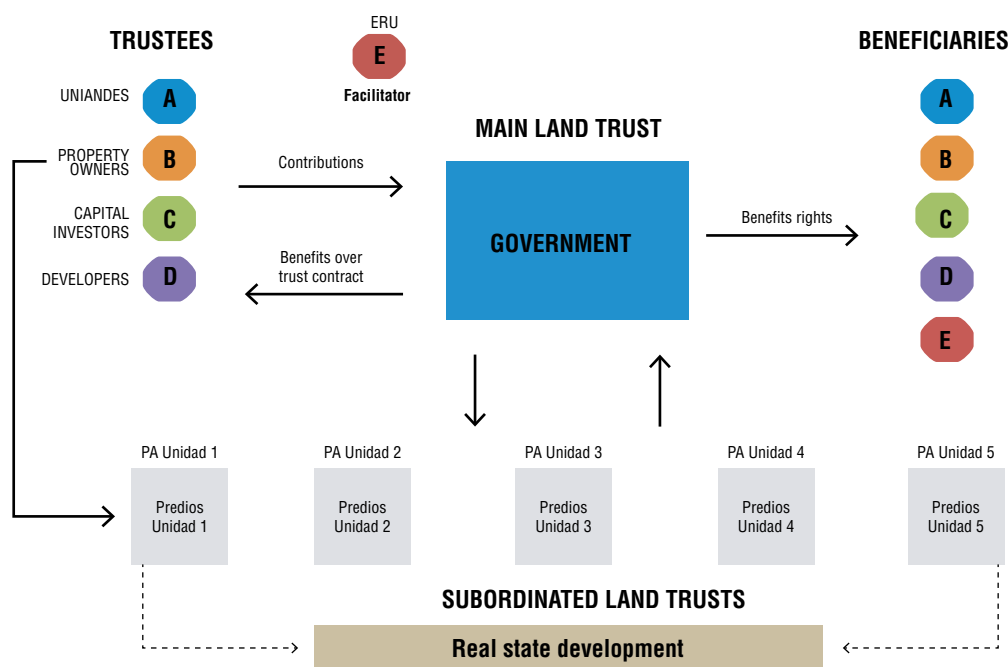
UAU	Approximate private area (cadastral 2013 in square meters)	Current block number	Approximate number of single detached houses, apartments, and lots
UAU_01	6,332	13	15
UAU_02	13,864	4	224
UAU_03	8,717	26	49
UAU_04	12,773	24, 25	64
UAU_05	11,019	2, 12, 13, 38, 39	130
<b>Total</b>	<b>52,705</b>		

Source: Universidad de los Andes (2014).

The legal mechanism that will be used in the unidades de actuación urbanística will be a commercial trust scheme through which a principal land trust and five land trusts subordinate to it are constituted to carry out the inclusion of the lots of an equal number of unidades de actuación (see Figure 8). The landowners, the project promoter, and the investors will all participate in this scheme, as well as the city government through the ERU.

The trusteeship scheme permits the participating owners to become partners in the project and share its profits. The basic remuneration framework for the land readjustment scheme is based on the currently constructed area. In the project formulation stage, it became evident that one of the main concerns of the owners and apartment dwellers was with the possible decrease in the size of their constructed area. For them, and despite the fact that there would be an increase in the value of their properties to compensate for the decrease in area, this situation was not appealing, because they did not want to modify their available private space.

Figure 8. Land Trust Scheme



Source: By the author based on Alianza Fiduciaria documents.

Although the property owners in condominiums did not hold a decisive percentage of the land (7 per cent), they are the majority in terms of the number of owners representing 53 per cent of the total. This situation, coupled with the need to make the offer of permanence in the area attractive to the greatest number of owners, led to the area based readjustment scheme, as illustrated in Table 7.

It is important to note that this area-based land readjustment scheme was the result of two circumstances that became clear during the formulation process. On one hand, there was a need to attract apartment owners to participate in the project. On the other hand, controversies and lawsuits could lead to changes in the definition of current market values of properties. Through the discussion with property owners, the scheme was changing from a value-based approach to area-based scheme. Obviously it was feasible after many financial tests and because of the proposed densification.

- Establish rules for the nomination and election of the different representatives who will be part of the different bodies within the structure; and
- Establish the rules for decision making during the development of the project.

As a result of this exercise, on October 1st, 2014 <sup>5</sup> the city government gave its final approval for the project. With this approval, it defined the basic rules of the project, specifying the duties and rights of the parties. Furthermore, the urban design of the project to be carried was also approved, including the streets, sidewalks, parks and plazas, the public equipment, and the city blocks.

The specific decree stipulated that the location of the replacement housing units could be in any one of the UAUs of the project. In addition, the parties commit themselves to continue the social programs that seek to support the different

Table 8. Land readjustment criteria

Current property type	Exchange criteria	Exchange ratio	New unit type (use)
Apartments	Built area (m2)	1 square meter of new constructed area for 1 square meter of current constructed area.	Apartments (residential)
Houses	Built area (m2)	1 square meter of new constructed area for 1 square meter of current constructed area.	Apartments (residential or business in commercial zone)
	Unbuilt area (m2).	0.5 to 0.7 square meter of the newly built area for 1 square meter of current area (depending on size and location).	Business units in commercial zone
Plots	Surface area (m2)	0.5 to 0.7 square meter of the newly built area for 1 square meter of current area (depending on size and location).	Business units in commercial zone

Source: Pinilla (2014).

The project is committed to the participation and involvement of diverse actors. It requires that owners and occupants of the area, the university, the city government and the investors create both informal and formal institutions for building consensus and making decisions. To facilitate and implement these principles, a governance proposal has been designed to determine how the different interest groups and actors will interrelate and communicate with each other. It is based on the creation of diverse workshops, each one with different representatives and objectives, as well as specific assigned functions. This proposal is still under consultation; but it is expected to function officially after the partial plan has been adopted.

The proposal by the university requires the creation of a governance structure that will fulfill the following purposes:

- Serve as support and bridge for participation, communication and exchange of information among the different actors;
- Create formal bodies in charge of supervising the project with representatives from different interest groups, including the promoter of the project (Los Andes University), the owners of the real estate that forms part of the partial plan, the capital investors, and the city government.

communities of the zone (the programs have different objectives: some promote entrepreneurship and productivity, while others provide support for the elderly or services for children). It was established that the project will provide legal counselling if the inhabitants require it, especially in cases where there are situations of informality or precariousness with respect to titles of ownership, in order to also protect the tenants and enable them to be treated in the same way as the owners.

On the one hand, it establishes that the replacement real estate units will have the same characteristics as those that are put up for sale. The constructed area of the current structures will be replaced meter-by-meter, while the area that has not yet been built will have a different modality. Finally, the owners will be offered preferential prices if they decide to acquire more meters or another real estate product.

On the other hand, the owners, the university and the city government must organize a government structure for decision-making in the project, with the participation of all the parties. The issuance of Decree 448 of 2014 -- on incentives for the owners for their participation in urban renewal processes -- was added to the approval of the plan. These regulations were clearly a complementary response to the demands of the community during the final process of consultation of the project. This included

<sup>5</sup> By means of District Decree 420 of 2014.; <http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=59572>

very sensitive topics that were not initially included in the approval of the project, such as the possibility of freezing the socioeconomic stratification of the units of replacement housing for 10 years, as a measure for neutralizing possible increases in the costs of living for families that remain in the urban renewal zones. In relation to households that live in rental housing, if they meet the requirements, they will be able to receive district subsidies for buying housing units within the same project (up to 30 per cent of the subsidized housing units generated in the project will be able to be allocated to tenants).

One of the lessons the university has learned from the process of formulating this partial plan, with respect to participation in urban renewal processes, has been of the importance of generating direct and accessible means of communication with the community to inform and draw the original owners closer with the advances of the partial plan. Since the creation of a monthly newspaper called "Directo Fenicia" in October of 2014 (Figure 10), a bond of trust and credibility has developed between the owners and the Progres Fenicia Project and the program. This has undoubtedly been a key mechanism not only for involving the owners and neighbors of the sector in the everyday happenings and the advances in the partial plan, but also for understanding and articulating the needs and expectations of the owners with respect to the proposals of the project.

Figure 9. Newspaper Covers from "Directo Fenicia" (2016)



Source: Progres Fenicia Program, 2016.

## Implementation of the first phase: Unidad de Actuación Urbanística No. 1.<sup>6</sup>

Based on the grounds and definitions established with the final approval of the Partial Plan towards the end of 2014, the university as promoter continued the process of dialogue and information with the community and interaction with the other actors from the city government in order to initiate the phase of implementation. At the beginning of September 2015, it officially requested the initiation of the administrative procedure of delimitation of the UAU1 of the project.

As result, in March 2016, the Bogota Mayor issued District Decree 146 of 2016, "By means of which the Unidad de Actuación Urbanística No. 1 of the Partial Plan for Urban Renewal of Triángulo de Fenicia is delimited and declared a matter of Priority Development." Therefore, the owners of the unit must agree the bases for their contribution and rules of readjustment, within a maximum time limit of six (6) months starting from May 10th, 2016.

Once this deadline has expired, and if in such case no agreement among all property owners has been reached, the promoter of the partial plan will have to inform the Empresa de Renovación y Desarrollo Urbano de Bogotá regarding the acceptance and agreement of the owners with respect to the execution of the UAU, in order to determine the applicable mechanism for acquiring the property units of reluctant owners and proceed with the processes of compulsory acquisition or administrative expropriation, in accordance with the provisions of Chapters VI and VII of Act 388 of 1997, in order to ensure the land readjustment of this unit. In both cases, the property units acquired will be able to form part of the managing body and will be incorporated into the trust scheme structured for the development of UAU1.

The declaration of priority development of this unit legitimizes the work carried out over the course of several years and recognizes the intention of developing this zone of the city through an integral Project that will benefit not only the city but also the owners. In this sense, the objective of the declaration of priority development is: (a) to determine the priority development or construction of property units that will form UAUs, according to the priorities established in the Partial Plan; and (b) to recognize the collective interest in the execution of UAU1, in order to prioritize and execute the negotiation with the original owners of the fifteen<sup>7</sup> property units of UAU1 (Figure 9a).

Los Andes University, as promoter in the terms defined by District Decree 420 of 2014, has made overtures to the owners of the different property units that make up UAU1 to encourage their involvement in developing the Partial Plan in accordance with the rules and criteria established in Articles 47 and 48 of the above-mentioned decree. In this way, the promoter and the owner(s) have maintained an agenda of meetings and conversations during the past few months in order to define and specify the conditions of linkage to the development of the Partial Plan.

Los Andes University also held meetings with the owners from the UAU1 of the Triángulo de Fenicia Partial Plan, in order to present and exchange views on the bases of action for this first unit (Figure 9b). During those general meetings, the University presented the scope of the bases of action, the distribution of uses and

<sup>6</sup> This section is based on a case study titled: Land Readjustment as a Means of Participation and Inclusion of Communities in Urban Renewal: The Experience of the Fenicia Project in Bogotá. The case study is part of the World Bank's materials on land readjustment and it is available on <https://oic.worldbank.org/content/land-readjustment-self-paced>

<sup>7</sup> The fifteen properties are numbered 1-7 and 13-20, as depicted in Figure 9a and referenced in Table 6.



areas for the unit, the management scheme and structure of government, the mechanisms for the linkage of owners, and conditions for the restitution of owners' contributions.

Figure 10a. Properties in UAU1



Source: Progresía Fenicia Program "Bases para la Actuación de la Unidad de Actuación Urbanística no. 1 Plan Parcial Triángulo de Fenicia," 2016.

As a result of the discussion process, the vast majority of owners (representing around 93 per cent of the area) have declared their intent to participate in the unit implementation and have already signed a special document in which they agree to commit themselves to moving forward and contributing their property to the trust scheme within the next several months.

Due to those cases, and taking into account the deadline for the final agreement, the University has initiated conversations with the local government agency (Empresa de Renovación Urbana) in charge of the use of expropriation in cases of reluctance to participate in the land readjustment. To proceed with expropriation with respect to the reluctant owners, so that those properties can be contributed to the trust scheme, it will be necessary to have a signed agreement between this agency and the University. In this context, the use of expropriation clearly will be a tool to avoid blocking the process due to a minority of reluctant land owners. It will legitimize the use of this compulsory mechanism and will serve as a means to guarantee the readjustment feasibility.

## Reflections

It is impossible to do a complete evaluation of this project because it has not yet been fully implemented. Whether the main objectives have been fulfilled and the participation and cooperation of different actors involved in the land readjustment process is still uncertain. Nevertheless, it is possible to reflect on the formulation phase of the process.

The first lesson is the importance of building trust and negotiation among diverse actors. Traditionally, in the Colombian context, it has been common for urban projects to be rigidly separated in their planning and management stages, and it is assumed that management should formally begin only with the approval of a partial plan and thus the negotiation and a quest for agreements with the owners involved. This experience has shown that negotiation and efforts to reach agreements among actors is fundamental in the design and formulation phase of a project. In this particular case the project actually underwent many adjustments and transformations as a result of the different agreements reached during the design and approval phase. Having approved a project without including all the issues and concerns that arose during the design and trust-building phase could seriously compromise its viability.

Second, land readjustment as a land management tool together with the involvement and participation of the owners in an urban project is a favorable scenario for motivating and promoting grassroots participation. In this scenario, participation is not perceived as something abstract, but rather involves very precise reasons and incentives for mobilizing local residents. However, it is also necessary to show that one cannot speak of a community with harmonious and common interests in urban context. What the Fenicia project has shown is that there are diverse interests and actors within the community that necessitate different scenarios of discussion and agreement.

Third, it is useful to have procedural documents designed to formalize agreements. These documents are instrumental in building trust and eliminating suspicions among the different actors. For the Fenicia project, both the signing of the letters of intent and good will and the agreements with the community represented by the "No se tomen las aguas" committee have helped increase transparency and involvement of diverse actors. The existence of these agreements and their public presentation has become a message of legitimacy for other actors. Although in this case these agreements do not represent the owners' commitment to the land readjustment scheme, they constitute a first step for consolidating trust and mutual interests.

Fourth, one of the key elements that facilitated finalization of the agreements with the community was the presence of technical support. In order to contrast, analyze, and understand in detail all the technical aspects of the university proposal, the committee hired an architect with knowledge of and experience in real estate development. Although the university had offered technical support for the proposal, its inputs were received with suspicion and distrust simply because it is the promoter. Technical information from an expert who was not connected to either the university or the city government facilitated understanding of the proposal and reduced suspicion.



Figure 9b. Meetings with the owners of the UAU1



Source: Progres Fenicia Program

Fifth, the risk that became apparent later in the process was the monopolization of the community representation and voice by a single actor or group of leaders. In this case, the “No se tomen las aguas” committee began vindicating its representation and role as the general spokesperson of the community. In spite of this fact, their most visible leaders belong to a single housing complex in the area. This situation shows the importance of the mediation of public actors capable of safeguarding the interests of those who were not represented at the negotiating table. In the end, the agreements represented a balanced view of diverse actors and did not aim to benefit disproportionately any single party.

Sixth, what is also evident in the process is that those who organized most quickly were the groups from the highest socioeconomic sectors. Although their discourse has always been inclusive, showing concern for the community in general, their priority has been to safeguard the interests of the privileged parties. Hence it is very important to have actors who can achieve a balance and advocate the interests and needs of the most vulnerable groups throughout the design process.

Seventh, the land readjustment proposal must be clear and well-structured regarding the distribution of costs and benefits. It must highlight the fact that benefit maximization of any specific groups could be at the expense of other less influence groups. Unequal sharing of benefits and costs would lead public protests that create bad publicity or even block project implementation.

Eighth, In this case land readjustment did not require as a precondition of a well-organized community with clearly defined structure. Although there was no cohesive community organization in the area at the beginning of the project, the process seems to have influenced new forms of organization and leadership that are conducive to land readjustment. It indicates that the process of designing and managing an urban project through land readjustment may actually help nurture strong organizations and leadership within a community.

Ninth, a major innovation of the Fenicia project is the creation of a governance structure for project implementation. Developing the process of formulation and agreement shows the need to improve and intensify community participation after the plan had been approved and entered into the implementation stage. The existence of formal bodies for direction with representation of all actors is a clear way to advance new forms of urban governance and to contribute to the creation of trust and consensus that are essential for land readjustment.

Finally, the presence of organizations that can reduce fear, resistance, and distrust of private landowners will create favorable conditions for cooperation between the public and private sectors. Traditionally the government and private interests initiate land readjustment. In the Fenicia case, there was suspicion among the community of the motives of these actors. For this reason, an organization such as a university was more suitable for engendering greater openness and reciprocity between stakeholders.

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Aerial view of tin roof town in rural Ethiopia @Shutterstock

## Chapter 3

# Land Readjustment for **Informal Settlement Upgrading** in **Addis Ababa, Ethiopia**

*Abebe Zeluel*

## Introduction

While cities are engines of innovation and economic growth, they can, if not managed properly, also become areas where unemployment, physical decay, and social exclusion occur. Many cities the world over, and especially in developing countries, were urbanized with little planning. Substandard building materials and technology were used to build houses, often leading to the development of informal settlements that have a low level of infrastructural services and poor housing conditions. For these reasons, many countries have initiated massive informal settlement upgrading programs. The redevelopment of informal settlements can not only improve local residents' livelihoods, but also – and especially in city centers – make better use of valuable and scarce land resources for high-density, mixed use development. In addition, urban revitalization can reduce the pressure on farmland conversion, thus balancing urban development with food security.

Addis Ababa emerged in 1886 as a military camp and later an urban center with no planning and a weak economic base. Most of its current problems stem from the uncoordinated development patterns of the past. Since the 2010s, the Municipality of Addis Ababa (the City) has tried to prepare different plans to facilitate urban expansion, relying on the plot-based construction strategy and local revitalization plan. Yet, the City has not succeeded in dealing with the problems of informal

settlements. In the 2000s, the City designed a slum upgrading strategy based on the ideas of land readjustment and implemented a pilot project in Lideta called Senegatera–Lideta Frdbat Renewal. This chapter discusses this land readjustment experience in Ethiopia.

The research for this chapter is drawn from primary and secondary information sources. The primary sources include: (1) site observations and project implementation documents; (2) focus group discussions with stakeholders; and (3) interviews and consultation with city officials and some former residents of the area. Since the author managed the project and was also in charge of evaluating its outcomes, the information presented relies heavily on his first-hand knowledge and experience with the pilot project. Secondary information such as project planning documents, evolution reports, maps of the site before and after land readjustment, and other government publications were used to crosscheck the consistency of the primary data. The chapter first presents the background information about the pilot project, followed by a detailed discussion of its design and implementation processes. It then concludes by presenting the lessons that policymakers and practitioners could consider when adopting land readjustment for informal settlement upgrading.

## Background

Ethiopia is located in the eastern part of Africa. By 2013, it had an estimated population of 86.6 million.<sup>1</sup> Through its history of over 3,000 years, it had several administrations including a monarchy with a partly centralized and partly federal system. Between 1974 and 1991, the country was under the control of a military, socialist regime. After this period, Ethiopia was reorganized under a federalist democratic system with nine regional states and two charter cities under the Federal Government. Most significantly, Ethiopia is currently shifting from central planning to a market economy.

One of the chartered cities is Addis Ababa, the capital of Ethiopia, of the Oromia regional government. The City is located in the central plateau with an average altitude of 2,500 meters above sea level and surrounded by mountains. Physically, Addis Ababa occupies an area of 522 square kilometers with an estimated population of 3 million people.

Addis Ababa headquarters several international organizations including the African Union, the Economic Commission for Africa, branch offices of several international organizations as well as over 90 embassies. Presently, it has been designated the capital of the African Union. Being the diplomatic capital of Africa, the city government has named its streets after each AU member country. The existence of these international and regional agencies has attracted the presence of other organizations along with diplomatic representatives from around the world.

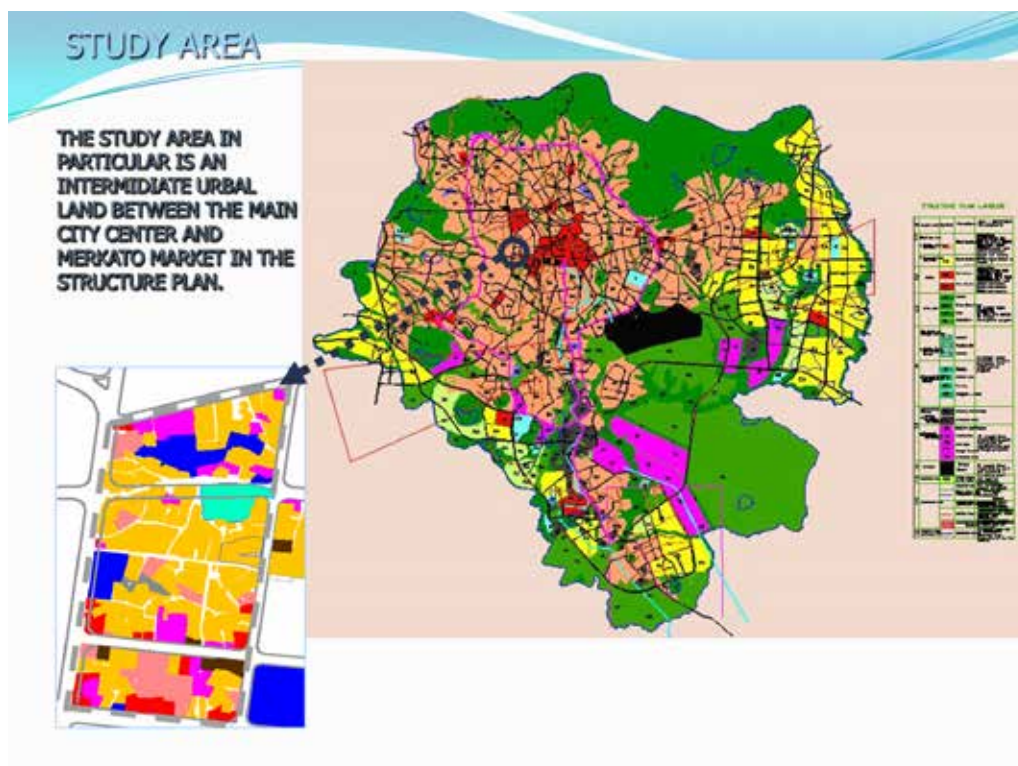
Addis Ababa's industrial, commercial, and tourist sectors have also captured the lion's share of national investment. Its real estate development accounts for 66.5 per cent of the national total. It is also the key entry and exit point for international tourists and the major transportation link between the different parts of the country.

Following the federal administration structure, Addis Ababa was designated one of the two chartered cities, given a regional status and named Region 14 Administration. This means that it has full autonomy and responsibility for planning its development. Under Article 49 of the constitution (sub-article 2), the residents of Addis Ababa have been given a full measure of self-government and its administration is directly responsible to the Federal Democratic Republic of Ethiopia. The city is further subdivided into 10 sub-regions and 116 Wards, with some decision-making power devolving to these levels of government under decentralization.

## Informal Settlements in Addis Ababa: The Lidata Case

To illustrate how informal settlements emerged during the development of Addis Ababa, we follow one case study: Lidata in Wedera 9. The settlement is located in the center of Addis Ababa (see Figure 1). According to the Addis Ababa Urban Planning and Information Institute's study, the site has an area of 26 hectares and about 1,343 households with 5,000 inhabitants. The total number of houses was 1,454, of which 323 and 1,094 were private and governmental units, respectively.

Figure 1. Location of Lidata



Source: AAUPII (2014)

<sup>1</sup> Central Statistics Authority, (2013), National Statistic Abstracts, Ethiopian Population Projection Report, July 2013, Addis Ababa.



The majority of houses in Lidata was more than 40 years old and built with traditional wood and mud with no basic services such as water, sewerage and electricity. The living conditions were overcrowded, with over five to eight persons living in one house with a 20-30m<sup>2</sup> floor space. The roads inside the neighborhood were very narrow and did not allow vehicular movement, including fire brigades. The site was a typical slum in Addis Ababa. According to the 2004 structural plan of the city, more than 2,000 hectares of its urban area (62 per cent) needed upgrading (see Figure 2).

*Figure 2. Conditions of the Lidata Informal Settlement before Land Readjustment*



Sources: Addis Ababa City Administration

## The causes

Lidata was one of the earliest settlements with no formal land ownership and development plan. When Addis Ababa was first established, land ownership was concentrated in the hands of a few landlords. Before 1974, most of the land was owned privately, with 5 per cent of the population in Addis Ababa owning 95 per cent of the privately owned land. Only 23.3 per cent of the households owned houses, 66.8 per cent of them were tenants and the rest 9.9 per cent shacks and similar structures.<sup>2</sup> The concentration of landownership in only a few hands meant that it was almost impossible for new migrants to access land. Owing to high demand of land for housing construction, informal land subdivision and building extensions were rampant. More importantly, housing was unaffordable for the poor, thereby leading to squatting of public and private land.

Without tenure security, housing investment was low. Because most houses were for rental purposes, people also constructed their houses using substandard materials. The area was developed with no detailed plan, and there was weak enforcement of building codes.

In 1975, almost 60-85 per cent of the formal settlements were nationalized. Ownership of urban land became public, and citizens were only granted the access to land for residential use. Rents for the nationalized housing units were set at half of the market rate and have been kept the same since then. New public institutions such as the Rental Housing Administration Agency and Urban Dwellers Associations were established to administer the nationalized housing units. During the housing reform, the government discovered that over 70 per cent of land and buildings in Addis Ababa were unplanned and without any formal title.<sup>3</sup> Almost all constructions were built without planning permission.

Forced migration due to the civil war from 1974 to 1991 and drought led to further expansion of informal settlements in Addis Ababa. Two decades of military rule and socialist experimentation could not solve the problems. Instead, poverty spread across the urban and rural areas. Despite the ideology of equal access to land for all citizens, urban land use rights were often acquired illegally. Corruption was rampant. All too often, the informal land market excluded the poorest of the poor and other vulnerable groups, as well as the middle- and lower-middle income classes.

In 1991, the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF) overthrew the military government. The new government immediately embarked on issuing policies and proclamations to facilitate the transition to a market economy. More significantly, the Federal Government retained the ownership of land but allocated the right to sell, sublet, and transfer through inheritance to citizens who were in need of residential land. In 1993, the EPRDF issued the Urban Land Lease Proclamation No. 80/1993 that formalized the public leasehold system in Ethiopia. Even with the reform, the revitalization of old urban areas remained difficult because of the complex land tenure arrangements and fragmented plot sizes and shapes. Thus, a solution for urban redevelopment was land readjustment or pooling to re-plan the neighborhood outlays and reconfigure parcel boundaries.

<sup>2</sup> Kebede, Abebe (2009), Synopsis of the Ethiopian Urban Land Reform Law, Addis Ababa (Unpublished paper).

<sup>3</sup> Ibid.



## Redevelopment prospects

After 1991, the government enacted a new constitution with many articles that promoted development and citizens' rights. Specifically Article 40 stipulates the right of the state to own rural and urban land and all natural resources. As mentioned earlier, all Ethiopians have the right to acquire, use, and dispose of property by means of sale or bequest or by other means of transfer, subject to the limitations prescribed by the law. Article 40 also gives the government the power to expropriate private property for public interest with just compensation. More importantly, Article 44 gives citizens who have been displaced or whose livelihoods have been adversely affected by state programs the right to commensurate monetary or alternative means of compensation. Despite the enabling legal framework, urban redevelopment was not given due consideration because of slow economic growth.

After the government's policy and organizational reforms in 2011, the economy experienced a rapid growth and transformation.<sup>4</sup> Ethiopia achieved significant and sustained progresses in both economic and social development and in building necessary physical infrastructure. Over the past decade, the country has recorded a double-digit economic growth rate (averaging at 11 per cent annually) and is rated one of the fastest growing non-oil exporting economies in the world. This growth has been propelled largely by huge public investments in social and economic infrastructure and by a relatively high growth rate in the agricultural sector.

Owing to the rapid economic growth, consensus was reached at the city level on the need for informal settlement upgrading. Although the government had the legal power to evict informal settlers, this coercive approach was slow and expensive. The government therefore decided to experiment with ideas of land readjustment. The remainder of this chapter describes how the project in Lidata was initiated and managed and summarizes its achievements and lessons.

## The Process

The Lidata project was initiated at the time when the ruling party suffered a loss in the 2005 election. Voters were dissatisfied with the lack of public participation and consideration of citizen concerns. Moreover, its urban policies were not pro-poor. Learning from this experience, the ruling party reformulated its policy and management approaches. Complaints raised by citizens and the weak performance of previous governmental efforts were taken into consideration to reinvent the redevelopment process. In 2008, the party regained the support of residents and was elected to lead Addis Ababa again.

Past urban development strategies were often formulated on an ad-hoc basis. In Ethiopia, cities have dual responsibilities in terms of land management—to manage the resources as the owner and to regulate land uses and the real estate market. Unfortunately there were insufficient checks and balances under this system. In 2009, the City decided to separate its role as the landowner from its regulatory functions. The Project Office for Land Development, Banking, and

Redevelopment was created to manage urban land redevelopment. Its tasks were to: (1) engage local communities in land redevelopment processes; (2) design the 2020 redevelopment vision for all key areas; and (3) ensure the powers of land supply and management were decentralized to the sub-city and Woreda (the lowest administrative unit) levels.

Lidata's redevelopment process was initiated when residents submitted a petition to the City. Lidata was not the only locality that submitted a petition; other areas such as Berberia Tera and Kirkos also submitted a similar request. Reasons for the City to choose Lidata as a pilot were: (1) its central location close to the main market, Merkato; (2) good connectivity between Lidata and other centers; (3) ease of upgrading local infrastructure; (4) urgency for redevelopment; and (5) low density and land fragmentation.

## Initiation

The objectives of the Lidata project were to: (1) bring sustainable socioeconomic transformation to the City; (2) implement a resident-centered redevelopment to improve their living conditions and broaden public participation; (3) conduct an equitable and fair property valuation and land and house allocation system to ensure suitable and scalable redevelopment process; (4) upgrade the standards of infrastructure and housing conditions; (5) establish a responsive land supply system to stabilize the property market; and (6) institutionalize a proper land resource management system.

To achieve these objectives, the centralized administrative structure was reorganized. Woreda, the lowest administrative unit, was responsible for land inventory, local level document verification, and community need identification. While the sub-city administration was in charge of redevelopment management, the municipality provided its overall guidance, coordination, and technical supports. More importantly, full acceptance and participation of the stakeholders became the basic direction of the redevelopment process. The benefits of redevelopment to the country, city, and residents were presented to all stakeholders to ensure public awareness of, support for, and commitment to the project. The project did not aim to fix urgent problems in the short run but to enhance the overall sustainable impacts on the environment and wellbeing of the future generation.<sup>5</sup>

## Planning

The redevelopment plan was done on three levels—the Local Development Plan (LDP), strategic plan, and action plan. The LDP focused on the physical situation, residents' capacity, preference study, and general land use. Based on the LDP, the strategic plan set objectives, evaluated the past redevelopment projects in the city, identified their weaknesses, and looked for best practices to meet the community's demands. The action plan defined the timing of activities and responsible organs and provided details of the strategic plan.

<sup>4</sup> Ministry of Finance and Economic, Development, (2012), Ethiopia MDGs Report, Addis Ababa: Ethiopia.

<sup>5</sup> Land Development, Banking and Urban Redevelopment Project Office, (2012).

Through a survey, the target community was asked to express their views and preferences about the redevelopment project. About 81.4 per cent expressed their willingness to participate, and 15.2 per cent refused. The remaining 3.3 per cent did not respond. Those who were willing to participate in the redevelopment project were asked to express their housing preferences and financial capacity. The majority (43.7 per cent) of the respondents preferred a two-bedroom unit, and 32.2 per cent liked a one-bedroom unit. About 21 per cent wanted a three-bedroom apartment. Very few residents (only 1.4 per cent) expected to have villa type of housing.

The residents were also asked about their choice of temporary resettlement during the redevelopment period. The majority (79 per cent) expressed their willingness to temporarily settle in the publicly provided temporary shelters. Only 4.4 per cent would rent in other areas or live with their relatives in other areas temporarily. Fifty-three per cent of the participating households indicated that their major source of money/capital for purchasing the apartment unit was savings, while 25 per cent said that they would borrow from banks. Some households (6.1 per cent) would seek remittance assistance from their overseas relatives.

As shown in Table 1, land was budgeted for different uses during the planning process. Approximately 34.8 per cent of the land area was allocated for resettling house owners from other neighborhoods (26.7 per cent) and tenants who lived in housing units provided by the Housing Development and Management Agency of Addis Ababa (8.1 per cent). Thirty per cent of the land was allocated for public roads, and 2.7 per cent for recreational and green areas. There were also 61 plots with a total area of 5.1 hectares (19.6 per cent) reserved for cost recovery. These land plots would be sold to private developers for mixed use, rental property development. The City received 10.7 per cent of the land for administrative uses and social services. Last, but not least, 2.3 per cent of the land was for resettling local participating residents who preferred to remain in the same neighborhood.

Table 1. Land Allocation for the Lidata Project

Proposed land use	Area in Hectare	Per centage
Mixed use, rental property development (reserved land for cost recovery)	5.1	19.6
Relocation site for private residential development	0.6	2.3
Reserved land for new apartment housing	2.1	8.1
Types A and E apartment housing	7.0	26.7
Administrative and social service facilities	2.8	10.7
Recreation and green area	0.7	2.7
Other (such as roads)	7.8	29.9
<b>Total</b>	<b>26.1</b>	<b>100</b>

## Community Organizing and Participation

As part of the LDP, a projected image of the redevelopment site was created and presented to the community and developers for discussion (see Figure 3). Visualizing the future look of the area was an important tool to motivate the stakeholders. Since the residents initiated the project, the project managers did not expect that convincing them would be controversial. Yet the discussions with various stakeholders were nothing but smooth. Some professionals supported sticking to their limited responsibilities of land measurement and valuation to avoid risks and controversies. Some community organizers were concerned about disrupting the strong social ties in the area. More significantly, among the sub-city leaders, there were only few committed to the project because of their concerns about potential negative impacts on the upcoming election. The Kebele leaders were members of the community and thus afraid of confronting the dissenting residents.

Within the community, those who were unfamiliar with the planning process said that the plan was opaque and lacked public involvement. Some community members also speculated that the redevelopment proposal was to benefit foreign investors. These concerns and skepticism were not expressed during formal public meetings. Instead concerned residents discussed these issues with their leaders in churches, mosques, and other community gathering places. Poor households also raised affordability issues related to paying higher rents for the apartments at some public meetings. The land readjustment proposal was also misinterpreted as the government's motive to grab lands and sell them to highest bidders.

To change this negativity, the community was subdivided into focus groups based on needs, gender, age, and tenure status. Separate meetings were held with these focus groups to discuss common issues and to elect representatives for each group. Elected representatives helped facilitate the communication between the community and the project managers. In the general community meetings, the representatives exchanged views on conflicting issues and then tried to come to a compromise (see Figure 4). They formed a committee to review relevant laws, international practices, and the past redevelopment initiatives of the city. They also came up with an alternative plan that reflected the preferences of the residents. At times, these focus group leaders became champions of the proposed project.

Figure 3. Projected View of the Redevelopment Project in Lidata



Source: AA Urban Plan and Information Institute

Figure 4. Community Meeting



Source: Addis Ababa City Administration files

With frequent public discussions and focus group meetings, the government redevelopment plan became clearer to the stakeholders. Project managers were also able to understand the demands and concerns of the community. At the start of the discussion, those who were interested in redevelopment were silent in order to not be in conflict with their neighbors. Overtime, they began to express their support and tried to convince the others. These interactions among neighbors were very important for reaching agreements. They also helped the project managers set the project objectives and direction and clarified the roles of different actors.

In the end, the neighborhood committee and the City signed a memorandum of understanding that specified the boundaries of the redevelopment area, project objectives, implementation strategies, and the roles of the community as well as different local administrations. Details of the action plan included:

- To create reliable information about land ownership, claims, and valuation;
- To organize an appeal system for dispute resolution;

- To clear the site and transfer it to the redevelopment agency;
- To help unemployed youths, women, and the elderly to find job;
- To facilitate affordable housing finance with the involvement of nongovernmental organizations;
- To design and implement a strategy for helping dwellers who were not qualified as either tenants or owners in the neighborhood;
- To provide the committee with office space and salaries; and
- To consult with the community whenever the action plan was amended.

Members of the committee also received training on how to gather documents and information from affected households, how to verify these documents, and how to handle complaints and resolve conflicts.

## Data Collection/Validation and Resettlement Decision

At this stage of the project, everyone on the site was asked to present their claim documents and express their preferences about the options provided. Data and documents were gathered using the standard approach, and videos and photographs of each property were taken for future reference. If a claimant sought compensation after the house was demolished, the videos and photographs would be used to settle the claim. These visual documents helped verify the owner's claims and avoid mistakes of the data collectors.

After the committee verified the data and documents, the information was encoded in the computerized system for valuation. Results were posted in visible areas for public reaction. Those who disagreed with the results were asked to present their complaints to the committee, and neighbors were encouraged to give their opinion. All claims and opinions were checked, and feedback was provided through the performance audit system designed for the project.

Upon the resolution of all conflicting claims, the residents were asked to decide on their resettlement options. For formal and informal housing occupants, they could:

- receive an on-site readjusted plot of a smaller size to be developed by them;
- organize themselves into a cooperative and construct on a combined plot apartment units for the cooperative members;
- receive on-site public housing (an apartment unit) with the rent-to-buy option;

- receive off-site public housing (an apartment unit) with the rent-to-buy option; or
- receive an off-site relocation plot to be developed by them.

For public housing tenants, they could:

- receive on-site public housing (again an apartment unit) with the rent-to-buy option;
- receive an off-site public housing unit with the rent-to-buy option; or
- rent a public housing unit in another location without any option to buy.

For owners of commercial buildings, they could:

- receive an on-site readjusted plot of a smaller size to be developed by them; or
- receive an off-site relocation plot of a larger size to be developed by them.

For tenants of public commercial properties, they could:

- organize an association and construct commercial buildings on the readjusted plot (the plot size was about 25m<sup>2</sup> for each tenant); or
- rent another public business premise in a different location.

Among 1,100 informal dwellers, 1,093 families (over 99 per cent) decided to obtain another land plot outside the project area. Some of them were the original residents who showed interest in participating in land readjustment but later changed their minds. This might be due to problems associated with the transitional housing arrangements, the better location of the off-site housing option, or their lack of confidence in the government's ability to finish the project in a timely manner. In the end, only seven families were willing to accept the on-site housing arrangement.

Only 81 out of 323 private building owners preferred receiving a land plot in the original location. Depending on the interests of the owners who opted for relocation, the government aimed to move them together as a group. Land plots reassignments were done through a lottery system.

There were 766 public tenants and 44 private house owners who were willing to rent the on-site apartment units with the option to buy after 20 years of occupancy. Another 166 public tenants opted for off-site apartments. Again the housing assignments were conducted through a lottery system.



Room sharing is very common in Ethiopia not only because of the scarcity of housing but also because of social bonds; therefore 153 room-sharing families were given the chance to jointly buy an apartment unit. This was done for an equity reason, and to expedite the process. The families sharing rooms with no formal documentation of ownership were treated as formal owners. In addition, 200 poor families headed by elderly women were granted a housing payment credit or business startup capital through the collaboration between the Network of Ethiopian Women's Association (NEWA), Addis Credit, and Saving Micro Finance. Eighty-six business tenants were organized into two associations and given land leases of 25 square meters per person at affordable leasehold charges.

## Site Clearance and Redevelopment

The site clearance process was managed by the dedicated steering committee that was able to complete the task in a timely manner. Building owners were given the right to demolish the structure themselves and reuse or sell usable materials. Public buildings were sold to organized youths in the area to destroy and sell the recyclable materials in the market. No government forces were used throughout the entire process.

*Figure 5a and b. Lidata under Construction*



The construction commenced immediately after the site was cleared. This prompt action was vital for projecting a positive image and showing the strong commitment of the City. Similar to the site clearance, the process was managed by the steering committee. A consultant affiliated with the Roads Authority of the City was hired to develop an integrated infrastructure plan and communal action plan. The construction was fast compared to past projects that took two to eight years. When the project evaluation was conducted after one and a half years, about 90 per cent of the construction was completed.

## Evaluation

Among the key positive outcomes, the land readjustment scheme increased housing supply by over 2,300 units (see Figure 5a). The rent-to-buy system was also vital for redistributing wealth and empowering the poor. During the redevelopment process, employment opportunities were also created in the construction sector. As indicated in Table 1, the project also achieved a well-balanced land use with adaptive and responsive adjustments to all stakeholders' demands of land for public and private housing and commercial development as well as public roads and open space (see Figure 5b).



Source: Abebe Zeluel

Although the Land Development Banking and Redevelopment Project Office was the leading agency in the project, other stakeholders played important roles in addressing issues related to community organizing and dispute resolution. The process intended to be pro-poor with the assurance that all residents which qualified for the project, rich and poor, received a plot of not less than 75 square meters. More importantly, the project was implemented peacefully. None of the resident complaints went to the formal tribunal. Instead, disputes were resolved at the administration level with the involvement of community representatives. According to a survey, more than 50 per cent of the respondents rated the process good or better, and 96 per cent of them supported the redevelopment objectives.<sup>6</sup>

Table 2. The Public Rating of the Redevelopment Process

Aspects of the redevelopment	Positive rating (in per centage)
Site selection and study	88
Community participation	73
Housing allocation	63
Time given for clearing the site	60
Relocation plot allocation	57
Support given to the Community	53

Source: Abebe, Mathews and Demeke

Land acquisition costs were recovered easily by leasing a small portion of the reserved land. The acquisition cost of 136 million Birr was recovered by leasing 3.5 hectares (Less than 15%) of the reserved land at an average leasing price of 5,000 Birr per square meter.

There were areas in which the city could have done even better. It should have played a leading role (instead of relying on NGOs) in designing and implementing the income generation program to mitigate income and job loss caused by the redevelopment project. To be more accommodating to the residents' demands, it could have also been more flexible in the arrangements and discrepancy in planning design and implementation. When the community opposed the idea of transitional housing arrangements, the project managers should have divided the site clearing and redevelopment into multiple phases rather than moving all residents out from the site at the same time. The government also did not provide private developers with assistance in financing and construction inputs, leading to delays in the project. Some private development proposals were approved without considering their impacts on local traffic and infrastructure. The redevelopment integration was managed in an ad hoc way, which should have been done in an institutionalized manner with sufficient legal backing. The government also promised to provide residents with a one-stop center to handle matters related to the project. Unfortunately this promise was not fulfilled, hurting the credibility of the administration. Although the residents initiated the redevelopment project, the time required to organize the community was much longer than what the government originally estimated. Unequal access to data and information also led to land speculation.

<sup>6</sup> Matthews A., Demeke H. and Abebe Z., (2013), Housing Development and Redevelopment in Addis Ababa, Addis Ababa (unpublished Amharic version).

As of July 2014, the project is almost completed, and some residents have already moved into their new homes. Because of its participatory process and fast implementation, many residents who we interviewed are happy with the living and working environments created by the redevelopment project.

## Key Lessons

1. The land readjustment project was not isolated from the overall political and economic environment. The level of openness to innovative ideas was critical for introducing this option to the stakeholders. The presence of political will and commitment to changes were also vital.
2. Undertaking a preliminary study of the target site was vital for understanding the interests of the community and designing options to match these interests.
3. It was important to have all involved parties to sign the memorandum of understanding (MOU) after the community had reached a consensus. Fulfilling the terms of the MOU also helped build trust relations and legalize the process.
4. The relatively smooth and efficient operations of the project were due largely to community acceptance of the project. Proper participation, democratic handling of issues, and consensus building were all key ingredients for generating this acceptance.
5. Community preferences expressed in the initial study changed as the project proceeded. Thus it was important to maintain flexibility by providing residents with options other than in-situ resettlement to accommodate their changing family structure and financial situation.
6. For the purposes of learning and scaling up, discussions at all forums and events should be recorded in detail.
7. Land readjustment is very important in terms of preserving the social ties and benefiting the residents with the new change. Moreover, excluding slum dwellers from the redevelopment process by assuming that they are all poor and unable to afford the new planning requirements is not always correct. For example, 25 per cent of the building owners and all business operators of this project were willing and able to construct new homes and commercial areas that respected the new planning requirements of the site.
8. When the goal of the city administration is development, not profiting from buying and selling land, the land readjustment process may not need to take much land from previous occupants to cover the cost. Thus, in the Lidata project, the acquisition cost of 136 million Birr was recovered by only leasing 3.5 hectares of land (less than 15 per cent of the total reserved land) with an average lease value of 5,000 Birr per square meter.
9. For the redevelopment of Lidata—a poor neighborhood—it was important to design and implement income generating programs with the participation of other NGOs to minimize any potential job or income loss for the affected families.
10. Both private and public development in the site should be guided by proper urban planning with well-integrated infrastructure investment plan and plotting scheme.
11. As mentioned earlier, an ad-hoc steering committee was formed to manage the project in the Lidata case. For future projects, it is imperative to institutionalize this organizational structure.
12. As illustrated by this case, in countries where the financial and construction sectors are still developing, the government should provide private developers with assistance to incentivize private investment and expedite the project.
13. It was useful to document the process, interim achievements, and the satisfaction level of the community for on-going monitoring and evaluation of the project.
14. In public consultation, organizing the community into different focus groups according to their specific needs and interests helped identify diverse community demands.
15. Commitments of the political and community leaders and their sense of ownership of the process were crucial for the success of the project.

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Adivasi shahid flyover bridge at Nagpur city Maharashtra India @Shutterstock

## Chapter 4

# Land Readjustment for Slum Redevelopment: Nagpur, India

Brian English

As economic liberalization and rapid urbanization unfolded over the past two decades in India, so did the rise of poverty and slum conditions in cities. India's urban population grew from 217 million in 1991 to 377 million in 2011 and an estimated 93 million people now live in urban slums, about 25 percent of the country's urban population.<sup>1</sup> By 2030, urban populations are projected to swell to 590 million and the slum population is expected to grow faster than overall urbanization rates in some cities.<sup>2</sup>

The rise of slums in India, and elsewhere in the world, reflect a number of failures: of governing institutions, dysfunctional markets, lack of political will, and policies and practices of exclusion. They also represent communities where families have sought opportunities for economic betterment in urban economics. Ananya Roy explores slums as terrains of habitation, livelihood, self-organization and politics, and populations seeking a substantive citizenship and material basis for survival.<sup>3</sup>

The concepts, perceptions and definitions of what constitutes a "slum" vary around the world. In India, states define these parameters in their Slum Acts based on socio-economic conditions and physical characteristics: usually a cluster of

hutments with dilapidated and infirm structures having common toilet facilities or none at all, suffering from lack of basic amenities, inadequate arrangements for drainage and other services.<sup>4</sup> Within any given slum community, however, individual households make various levels of investments in their homes, and thus housing conditions differ for each individual household within an area. For decades, various government and non-government programs have sought to facilitate and accelerate this process of upgrading for families living in slums.

Within this context, this chapter discusses the value and functionality of land readjustment as a tool within slum redevelopment in India through a case study in Nagpur, India. The project was completed under the Jawaharlal Nehru National Urban Renewal Mission (JnNURM), the largest urban development program in India's history, focused on housing and basic services for the urban poor. JnNURM and its successor program Rajiv Awas Yojana (RAY), which sets the ambitious agenda of creating "slum-free cities", discussed later in this chapter, is a national opportunity to recast the relationship between state and slum residents, and create more inclusive planning processes.<sup>5</sup>

<sup>1</sup> Government of India, (2011), Report of the Committee on Slum Statistics/Census.

<sup>2</sup> Sankhe, Shirish, et al. (2010), India's Urban Awakening: Building Inclusive Cities, Sustaining Economic Growth, McKinsey Global Institute.

<sup>3</sup> Roy, Ananya. (2011), "Slumdog Cities: Rethinking Subaltern Urbanism," International Journal of Urban and Regional Research 35, 2.

<sup>4</sup> Ministry of Housing and Urban poverty Alleviation, (2012), Performance Audit on Jawaharlal Nehru National Urban Renewal Mission, Report No. 15 of 2012-13 for the period ended March 2012.

<sup>5</sup> Roy, Ananya. (2014), "Slum-Free Cities of the Asian Century: Postcolonial Government and the Project of Inclusive Growth", .Singapore Journal of Tropical Geography 35.

The case study in this chapter illustrates how this opportunity for “inclusive planning” might be operationalized through one tool of housing development, land readjustment. Through its design and implementation, land readjustment provides an opportunity for neighboring residents and intermediary institutions—i.e. civil society organizations—to build civic engagement with each other and with local governing authorities. This chapter examines in detail the stakeholders and processes that make land readjustment participatory and inclusive. It also highlights factors that could impede the lengthy process of building governance.

In the slum community of Jattarodi in Nagpur, India, home to 271 households, the local government partnered with an international NGO to implement a housing project using support from JnNURM. The project utilized land readjustment to move the families from single story houses to three-floor apartment buildings in the same location. This case study is unique amongst JnNURM housing projects because a process evaluation was conducted during its implementation that examined the ways in which community members participated in the project. A third party independent evaluator, hired by Global Communities, an international NGO, carried out the evaluation. They conducted three focus group discussions and 12 in depth interviews with residents living in Jattarodi. In depth interviews were also conducted with NGO staff and government officials involved in the project. Information like this has not been captured in other JnNURM projects and therefore offers a unique set of insights.

## Evolving Policies and Stakeholders for Slum Upgrading and Redevelopment in India

To contextualize the Nagpur land readjustment case study, it is important to understand the evolution of government responses to slums in India, including the most recent objectives presented by JnNURM. The Government of India (GoI) has gradually recognized the importance of slum upgrading and redevelopment in its policies regarding urban governance. Three significant forces have influenced this recognition: 1) legal cases brought against the government; 2) government reforms to promote “local self-governance,” normally referred to as decentralization; and 3) formal recognition of the role of informal economies and informal settlements in urban economic growth and productivity, particularly as cities now produce more than 60 percent of the country’s GDP.<sup>6</sup>

In 1985 the Supreme Court ruled, under what has become known as the ‘Pavement Dwellers Case’, that “action of the government authorities in demolishing the slum clusters without ensuring relocation of its poor residents (“Urban Poor”) is in total violation of their fundamental right to shelter enshrined in right to life under Article 21 of the Constitution”.<sup>7</sup> This was a milestone within Indian law and policy that established a precedent for greater justification before any slum dwellers could be evicted. It also set in motion a gradual recognition within government policy of slums as contributors to the urban economy. The draft National Slum Policy, in 2001, recognized that slums are an integral part of urban areas and contribute significantly to their economy both through their labor market contributions and informal production activities. This policy endorsed upgrading and improvement of

all slums and it did not advocate for slum clearance except under strict resettlement and rehabilitation guidelines.

In 1992, the 74th Amendment to the Indian Constitution was enacted, which decentralized urban development authorities to enable “local self-government.” This Amendment was made in response to weakening “urban local bodies” in many States that had become ineffective and cited as “unable to perform as vibrant democratic units of self-government.” In many cases they had failed to hold regular elections and there was inadequate devolution of powers and functions. The 74th Amendment (1992) authorized the establishment of wards and citizen committees to participate in city government and planning. It also authorized representation for the traditionally marginalized populations such as Scheduled Castes, Scheduled Tribes and women in the composition of municipal authorities. This was followed by several state-level urban governance reforms. However, actual decentralization of planning authority has been slow to take root largely because the capacity of local governments has taken time to build and take on these new responsibilities.

In 2005, the GoI launched the JnNURM both as a tool to continue government reforms and to respond to the growing infrastructure gaps in the wake of rapid economic growth and urbanization. JnNURM was designed to fast track development of infrastructure in a select group of 63 cities<sup>8</sup> and to continue fostering greater local self-government. JnNURM had two sub-missions, one focused on urban infrastructure and governance, which was administered by the Ministry of Urban Development, and one focused on Basic Services for the Urban Poor (BSUP) administered by the Ministry of Housing and Urban Poverty Alleviation. The BSUP sub-mission sought to provide the urban poor with security of tenure at affordable prices, improved housing, water supply and sanitation, and extension of existing universal government services such as education, healthcare and social security to slum residents and the urban poor.

JnNURM has been the most ambitious urban program ever implemented in India with US \$12.5 billion in financial support from the central government in its first year, which leveraged additional matching contributions from cities and states. After seven years of implementation, most of the projects prepared by local governments and approved for implementation, had not been completed. An audit of JnNURM in 2012 found that of the 1,600,000 housing units approved under JnNURM, only 418,000 units (26 percent) were completed by 2011. Of those completed, only 221,000 units (53 percent) were occupied.<sup>9</sup> The audit cited the following primary reasons for the delays in completing the projects: 1) delays in acquiring land; 2) deficiencies in preparation of projects; and 3) non-identification of beneficiaries which increased the risk of ineligible beneficiaries getting the benefits.

In 2012, JnNURM was extended for two years until 2014 to allow sanctioned projects to be completed. Meanwhile, in 2009, a new national program called Rajiv Awas Yojana (RAY) was announced which expanded the focus of the slum improvement program from individual projects to citywide strategies. RAY was officially launched in 2013 and is scheduled to continue through 2022. Preliminary funds became available for cities to conduct preparatory activities, such as citywide slum surveys, in the 2009.

<sup>6</sup> Buckley, R., Singh, M., and Kalarickal, J., (2007), “Strategizing Slum Improvement in India: A Method to Monitor and Refocus Slum Development Programs,” Global Urban Development 3.

<sup>7</sup> Olga Tellis & Ors. v Bombay Municipal Corporation, (1985).

<sup>8</sup> Cities were selected based on the following: 1) cities with 4 million plus population as per 2001 census; 2) Cities with 1 million plus but less than 4 million population as per 2001 census; 3) Selected Cities (State Capitals and other cities of religious/historic and tourist importance).

<sup>9</sup> Ministry of Housing and Urban poverty Alleviation, (2012), Performance Audit on Jawaharlal Nehru National Urban Renewal Mission, Report No. 15 of 2012-13 for the period ended March 2012.

Despite the increased attention and action by the government of India at all levels to address slums, their growth has far outpaced the impact of interventions undertaken to date. A technical group commissioned by the Ministry of Housing and Urban Poverty Alleviation in 2012 estimated the housing shortage in urban areas to be 26.5 million units with 98 percent of this related to low-income groups.

## The Rise of Civil Society Organizations in Indian Cities

As government decentralization unfolded over the past few decades, community-based organizations (CBOs) and non-governmental organizations (NGOs) have also become increasingly active in participating in city government and planning, including for slum communities. These groups organize slum communities, fill gaps in government services for these communities, and advocate for greater inclusion and policy changes at the local and national level. Some also increasingly provide technical support to local governments as they implement new policies and programs. Some better-known Indian organizations working nationally on these issues include the Society for the Promotion of Area Resources, National Slum Dwellers Federation, and Mahila Milan. Within any given city, there are also a rising number of local entities taking shape to work in this space also.

The Gol's guidelines for implementing JnNURM and RAY now promote the involvement of NGOs and CBOs in all processes of project planning and implementation, from community surveys to dialogues about development models. For example, it suggests that cities "[i]dentify and engage Lead NGO/CBOs to guide and anchor community mobilization for the purpose of slum survey of the city. These Lead NGOs/CBOs should also be associated in slum survey operations and dialogues for preparation of slum level redevelopment plans."

Global Communities, an international NGO headquartered in the United States, has been working in India since 2003 on slum upgrading programs and supporting local NGOs and CBOs in developing their capacity to address these issues. In 2007, they launched a program called Slum Communities Achieving Livable Environments with Urban Partners (SCALE-UP) in India and Ghana with funding from the Bill and Melinda Gates Foundation (BMGF). That same year, BMGF had launched a special initiative to see how they could improve urban poverty and slums around the world. SCALE-UP sought to improve slum conditions and the livelihoods of slum residents by strengthening the capacity of local NGOs, CBOs, and social enterprises to design and implement slum upgrading projects. SCALE-UP also sought to ensure that local governments engage with the urban poor in planning and implementing programs.

The program was built on the premise that NGOs and local intermediaries play an important role in bridging the gap between government programs and their intended beneficiaries. Indeed, history has shown that NGOs and community based organizations can play an important role in catalyzing new partnerships and solutions by filling gaps in information, trust, and technical skills between stakeholders and across sectors.

## Nagpur, The Geographic Center of India

Nagpur, India is the largest city in Central India and the third most populous city in the state of Maharashtra. The city lies at the geographic center of the country but this location has not been an economic advantage for the city until recently when plans for a multi-modal logistics hub began taking root. The city has also begun to experience rapid industrial growth that is accelerating economic growth in the region. The city has long been an important administration center in India where the annual winter sessions of the Maharashtra state assembly "Vidhan Sabha" are held each year.

According to a survey conducted by Global Communities' in 2010, approximately 36 percent of Nagpur's population lives in 446 slums across the city. Nagpur has the 4th highest percentage of slum population after Mumbai, Faridabad and Meerut. The slums of Nagpur are home to 858,983 people in 141,000 households. Among 446 slums in Nagpur, 287 are "notified" (legally recognized) slums, and 159 are "non-notified" slums. This is an important distinction because notified slums are formally recognized by the local government, and the government therefore has an obligation to provide them with minimum basic access to services, like community water taps and toilet facilities. Notified slums are also eligible for other government improvement programs. Notifying a slum provides the local governments with the legal basis to provide services and utilities to communities, particularly those on private lands. The process of notifying a slum can be politically driven and often revolves around the original date of settlement. Local authorities are hesitant to notify slums because they fear it will encourage other populations to migrate to the city and occupy land illegally.

The average monthly income per household across the Nagpur's slums is US\$50 (3,000 rupees), which is considered low income. About 99,000 families in Nagpur's slums are registered as Below Poverty Line (BPL). The BPL is often described as a starvation line rather than a true measure of poverty since it is based on the ability of a household to maintain a basic caloric intake of grains, not a set of goods and services. The majority of residents living in slums are Scheduled Caste (61 percent) and Other Backward Castes (25 percent). These are official terms used by the Gol to classify castes that are historically disadvantaged and recognized in the Constitution of India.

## Forming the Development Partnership for Housing Redevelopment

Nagpur began exploring potential housing projects in the city's slums in 2007 as one of the 63 cities included under JnNURM. During this same period, Global Communities began meeting with city governments across India to identify possible partnerships. The Nagpur Municipal Corporation (NMC) and the city's Slum Rehabilitation Authority (SRA) welcomed the support of Global Communities because of the technical expertise they could bring to the planning process in addition to the community mobilization role they could facilitate. Together, they signed a Memorandum of Understanding that defined the terms of their partnership and responsibilities of each entity.



SRA was formed in 1992 by the Maharashtra state government to plan and implement financially viable housing and infrastructure programs for slum dwellers. As such, SRA had experience implementing housing projects through public private partnerships and in capturing land value increments for financing housing and infrastructure investments. This was important because JnNURM required that local governments contribute 10 percent of the housing project costs. Land readjustment, therefore, became a tool through which to raise their contribution.

SRA was made the nodal agency to plan and implement the JnNURM projects. The Municipal Commissioner of NMC is the Chief Executive Officer of SRA. This arrangement supported the integrated planning and implementation of JnNURM projects within the city administration. As a pre-condition for seeking funding from JnNURM, the local government must complete a City Development Plan and then prepare Detailed Project Reports (DPRs) for specific projects. These DPRs are then approved by the state and central governments, which include Maharashtra Housing and Development Association and the central government's Housing and Urban Development Cooperation. SRA, like many city agencies participating in JnNURM across India, lacked the experience and expertise in preparing DPRs. Global Communities therefore facilitated the preparation of the DPRs with SRA as a capacity building exercise for SRA staff. During this process, Global Communities also sensitized SRA staff on aspects of community participation and community mobilization.

Engaging slum communities in housing projects has been a stumbling block for many programs in India and examples abound of how limited community engagement has prevented community acceptance of housing solutions.<sup>10</sup> It has also prevented local governments from mobilizing the resources of residents themselves to invest in and maintain solutions.

## Surveying the City Slums

Global Communities conducted a citywide slum survey at the inception of the program to identify slum pockets across the city where JnNURM housing projects could be developed. Figure 1 shows the identified 446 slums across the city. The population in these slums has grown significantly since the last slum survey in 1997 from 365,215 to 858,983 in 2008, which now constitute 36 percent of Nagpur's total population of 2,420,000. Table 1 shows the land ownership pattern of Nagpur's 446 slums:<sup>11</sup>

Table 1. Land Ownership in Nagpur

Land Ownership of Slums	% of Slums
Private lands	17
Nagpur Municipal Corporation, Nagpur Improvement Trust, Revenue Department and Indian Railways	14
Other government lands	19
Mixed ownership including government, industrial and private lands	50

Source: NMC, 2008

## Selecting the Project Community

The citywide slum survey provided the data that Global Communities and SRA needed to identify a series of slum typologies across the city and options for improving housing and services for each type. This exercise ultimately led to the development of a Citywide Slum Free Action Plan called for under RAY. However, at this inception phase, projects were identified on a slum-by-slum basis based on their feasibility, which looked at land ownership, cost, compliance with the City Development Plan and other factors. Global Communities and SRA identified five neighborhoods where 1,561 dwelling units could be redeveloped in the same location.

A large slum extending 1.9 hectares called Jattarodi (see Figure 2) with 1,242 people living in 279 households (average family size of 4.45 per house) was selected because it met the following criteria:

1. The slum was in the residential zone ("yellow belt") in the Development Plan of the city and could therefore be redeveloped on the same site.
2. The housing quality was 89 percent kutchra (houses made with makeshift, temporary materials like mud, straw, or masonry without mortar) and semi-pucca (houses made with a mix of sturdy materials, like reinforced concrete frames, and temporary materials) and only 11 percent were pucca (houses built of solid and sturdy materials). Therefore the interest of the residents in the proposed housing scheme was expected to be high (see Figure 3).
3. Almost 78 percent of the current houses were less than 250 square feet. Therefore the likelihood that they would be interested in moving to bigger houses (269 square feet) under the scheme was expected to be high.
4. The land ownership of this slum was of Nagpur Improvement Trust (NIT), a government entity, therefore getting "No Objection Certificate" for implementing the scheme was easier.
5. During a citywide slum survey conducted in this community, 69 percent of the community said they would be interested in the housing program offered under JnNURM.

<sup>10</sup> Patel, Arjun, (2014), Lesson learnt from the Slum up-gradation under JnNURM Scheme: Empirical evidences in Surat city of Western India, Paper presented at the conference in 'The 2014 World Bank Land and Poverty Conference', Washington DC held during March 24 – 27, 2014 at World Bank headquarters.

<sup>11</sup> Nagpur Municipal Corporation, (2008), Slum Atlas.

Figure 1. Slum pockets surveyed in Nagpur

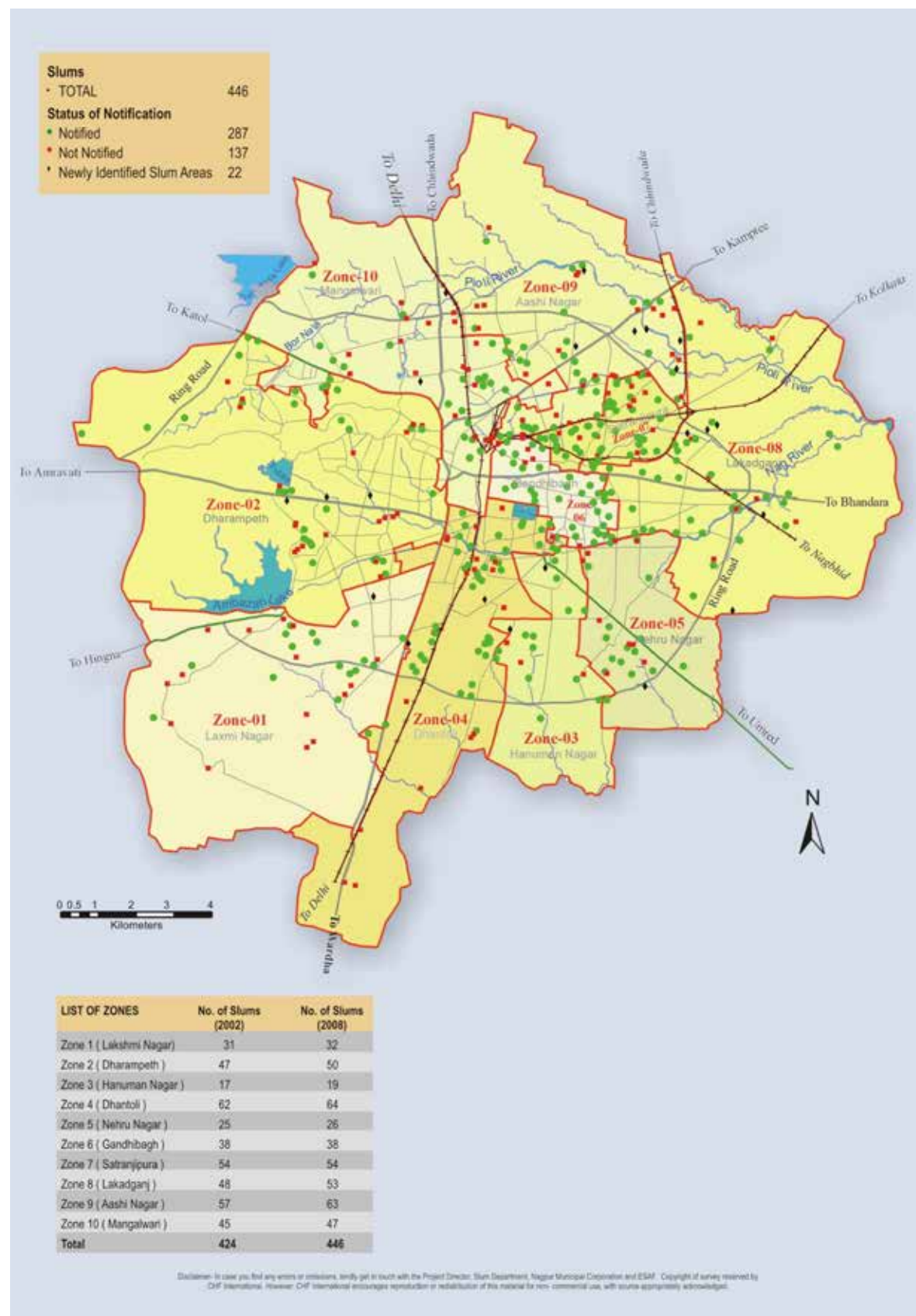




Figure 2. Jattarodi housing layout before project



Source: SRA, 2008

Figure 3. Jattarodi Housing Conditions Prior to The Project



Source: Global Communities

The JnNURM and SRA guidelines also required that a slum can only be eligible for a housing scheme if it came into existence before 1995 so as not to incentivize additional land incursions. Families living in the slum community must also establish that they are owners and residents of their dwelling in the slum by providing documented proof and an affidavit that they do not own another house in the municipal limits. The Jattarodi community and its residents met these criteria.

Jattarodi is located in the southwest constituency of Nagpur and got its name because “Jatts” (a community from Haryana) originally settled there along the railway track near the mill, which is now closed. Today there are no “Jatts” living in the slum, but the name Jattarodi remains.

Eighty-six percent of the households were receiving tax bills, of which 76 percent were paying the taxes. Rental houses accounted for 11 percent of all units, and community members owned the other 89 percent. Fifty-four percent of the men in this slum were engaged in manual labor for income and 7.5 percent were rickshaw pullers. Thirteen percent of the women worked as housemaids. Saving habits were casual, as only 34 percent of the people saved on regular basis.

## Community Consultation and Project Design

With the project community identified, SRA and Global Communities conducted a household survey to collect socio-economic data about the community. While collecting the data, the surveyors introduced the housing program to the families and sought their interest in participating in the program.

The slum residents were initially skeptical of the intentions of the surveyors and misunderstood the NGO as an extension of the government. Many households therefore did not respond to the surveyors initially. Past interactions between many slum communities and government authorities were often fraught with negative experiences. Their illegal land occupation also makes them naturally cautious of interacting with government authorities.

Global Communities decided to modify their strategy for engaging the community in the housing project by initiating activities that would first build trust with the residents. They initially started a children’s club in Jattarodi, but parents became apprehensive and stopped sending their children. Then they established “resource centers” in the community that organized women into self-help groups and taught them skills that could enhance their income. This gained traction in the community, and many women became fully engaged in making various products, from brooms to bags, which earned them additional income. Saving groups were also formed amongst the resident to help them save for their portion of the housing contribution, which was 35,000 Rupees (US \$700), which accounted for 10 percent of the total cost of each dwelling unit. Global Communities also organized cultural programs in the community to help build rapport amongst the residents and with the project staff. This process took about three months.

Another significant step was to bring government officials, including the Commissioner, into the community so they could dialogue about the housing project. This helped the community see that the government was serious about the project. Many such meetings were facilitated throughout the project.

After rapport was built with the community, Global Communities could then begin talking more seriously about the housing options. As shown in Figure 4, Global Communities architectural staff hosted many community meetings to explain the parameters of what the JnNURM housing program and sought input from the residents on design preferences. The most significant design constraint was that JnNURM projects only provided funding for 269 square feet of carpet area (or net floor area) in each apartment – carpet area is the area enclosed in the walls, excluding the thickness of the walls. Outcomes of each iteration of the housing design discussions was presented as scale models and drawings to the community and to SRA to seek their inputs. Dozens of meetings were held over a two- to three-month period. In total, three official housing options were presented to the community.

Figure 4. Residents in Jattarodi Discuss Housing Project with NGO Staff



Source: Global Communities

## Design Option 1: Duplex Design

The residents accepted the proposed duplex design illustrated in Figure 5 because it provided opportunity for incremental expansion of their homes. The duplex plan allowed for terraces where additional rooms could be constructed and where livelihood activities could be conducted. Many households in this neighborhood, particularly women, engaged in home-based economic activities that required a working space.



Figure 5. Outlay Based on Duplex Housing Design



Source: SRA, 2008

The Municipal Commissioner also initially viewed this option as a workable model. However, SRA staff engineers rejected it because the Floor Space Index (FSI) was too low and the likely future utilization of FSI was also low. The total permissible FSI was 2.5 of which 0.5 was utilized. There was no land freed up through this layout to sell for cross-subsidy purposes. The total cost per dwelling of 269 square foot in size, including infrastructure investment, was 4.5 lakhs (approximately US\$9,000).

## Option 2: Four-Story Apartments

The four-story apartment (see Figure 6) provided a staggered layout and terraces, which could be used for livelihood activities. But this design restricted incremental housing and was therefore least acceptable to the residents. They were also

not interested in living higher than ground level because a significant amount of household activities required direct access to the street. By moving up a floor, their access to outdoor space would be restricted. This design was less costly than the other options, at 4 lakhs per apartment unit of the same size compared to 4.5 lakhs for other layout designs (US\$8,000 compared to US \$9,000). SRA was in favor of this for its financial viability.

The total permissible FSI was 2.5 of which 2.14 was utilized. The remaining FSI of 0.36 could be sold as Transferable Development Rights (TDR), and SRA's building costs could be cross-subsidized. The remaining 0.3 hectares freed up by this layout could also be sold in the open market.

Figure 6. Outlay Based on Four-story Apartment Housing Design



Source: SRA, 2008

### Option 3: Three-story apartments

Figure 7 shows the three-story design option that provided a good balance between the duplex and the four-story staggered housing design. All the families in the cluster would share the common terrace on the roof, and it was possible to create an individual balcony for each dwelling unit, which served as a small terrace. This satisfied the families' interest in having an outdoor space and was therefore acceptable to the community.

No modification to the development control regulations was required under this design. The total permissible FSI was 2.5, of which 1.8 was utilized. The remaining FSI of 0.70 could be sold as TDR to cross-subsidize SRA's costs. Besides, the undeveloped area of 0.40 hectares could be sold in the open market for commercial development. The total cost per dwelling unit, including infrastructure, was 4.5 lakhs (approximately US\$9,000).

Figure 7. Outlay Based on Three-story Apartment Housing Design



Source: SRA, 2008



## Final Design, Consent, and Financing

Figure 8: Jattarodi residents discussing housing designs



Source: Global Communities

After many meetings, the majority of the community and SRA agreed on the three-story structure. The residents were able to make suggestions on how to fully utilize the space by reducing the bathroom size to create more living space (see Figure 8). The architects were also able to adjust the carpet area to 274 square feet and stay within the budget.

Selecting the final housing model was not the most difficult debate within the project. Instead, the project faced resistance from three families that lived in houses with significantly more than 274 square feet of living space and who also had large families. This was the most significant limitation of the JnNURM program when seeking consensus on the design.

Even amongst the families that agreed to the project and had no complaints about the apartment sizes, some of them feared that the government might sell their land to private developers instead of building the promised houses for them. They therefore requested tenure rights to the land they occupied instead of receiving new apartments. With land tenure some families felt they would have the security they needed to invest in their homes.

Other concerns by families in the community included requests for additional housing units to accommodate their growing family, in particular their children who were married and living jointly with their parents. These requests were not accommodated since housing units under the project were only provided to replace existing housing units.

Global Communities documented the residents' consent to participate in the project by taking their signatures and thumbprints. Families were then issued photo identity cards to ensure their entitlement in the program and to prevent switching beneficiaries. Global Communities gained consent from eight of the 11 households, which constituted a majority. Three families opposed the project primarily because the new apartment units were smaller than their existing houses. The resolution of this dispute will be discussed below.

The funding for JnNURM housing projects was divided between the central government (50 percent), state government (30 percent), NMC (10 percent), and housing residents (10 percent). Under JnNURM, the funding allotted for each dwelling unit was 350,000 Rupees (US \$7,000), and the beneficiary is required to contribute 35,000 Rupees (US \$700). The entire project cost for 279 dwelling units, including infrastructure investment, was US\$2,273,793.

To raise funds for NMC's portion of the total project costs, it sought to cross-subsidize the project by selling the vacated land made available through land readjustment (or consolidation), and also by selling the balance of unutilized FSI as TDR. Only 45 of the 279 housing units had been completed thus far, and therefore the land has not yet been vacated for sale.

## Sanctioning the Housing Project

Upon the completion of the housing design with the consent from the majority of the community, SRA sought approval from the state and central governments for the Detailed Project Report (DPR). Key components of the DPR include:

1. Updating Plain Table Survey (PTS);
2. Relating PTS with socio-economic survey;
3. Approval of beneficiary list from the authority;
4. Intensive community consultation on preferred design options;
5. Review of Development Control Regulations governing housing and infrastructure design;
6. Preparation of Technical Details (estimates, structural designs, working drawings etc.);
7. Approval of land use layout plan from Town Planning department;



8. No Objection Certificate for use of land from Land Owner and Fire department;
9. Approval from the state-level review committee (HUDCO, MHADA);
10. Approval from review committee in Ministry of Housing and Urban Poverty; and
11. Preparation of tender documents and approval for bidders.

The process of getting the DPR approved was delayed many times and took almost one year to complete. There were two primary reasons for the delay. First, there were frequent changes of Municipal Commissioners in Nagpur, with three new commissioners in a two-year period. This is a common occurrence across India that Municipal Commissioners are shifted frequently. With each change, the Commissioner had to be briefed and convinced of the project, until finally getting project approval. The new commissioners and their staff were often reluctant to sign the DPRs because they were unfamiliar with the project and processes and were wary of taking on new responsibilities. Second, during legislative assembly elections, sanctioning of all government projects was suspended because the Indian Election Commissions “Model Code of Conduct” was enforced. This is intended to prevent politicians from announcing new projects to sway voters.

Once the DPR was approved, SRA and Global Communities focused on using Jattarodi as a laboratory for learning about community mobilization, inter-departmental coordination, and continuous debate over project design and implementation. They were interested in scaling up the idea to a citywide slum upgrading program, which RAY would eventually request cities to undertake starting in 2011.

## Transitional Shelters

The entire Jattarodi housing project was divided into smaller housing clusters to make it manageable from a project management perspective. An initial cluster of 11 households was selected as a Model Apartment, which would demonstrate to the rest of the community what the apartments would look like. The team decided that the model unit would be built for a cluster of adjacent households that lived in the smallest dwelling units (less than the allotted 274 square feet of the new housing) in the community. They anticipated that the resistance from these families would be low based on their small existing house size and the families’ commitment to the project.

Originally, SRA proposed shifting the families to rental units while the new housing was under construction. Yet the families opposed this proposal because they did not want to be moved away from their place of work or away from where their children went to school. With Global Communities’ help, the community proposed to SRA that it would construct temporary shelters on a vacant lot adjacent to current houses. SRA agreed, and the transitional shelters were built and assigned to households on a rotating basis when their apartments were being constructed. The total cost of each transitional shelter unit was approximately US\$1,500. With multiple families using these shelters, the cost was deemed reasonable.

In May 2009, the transitional shelters were constructed adjacent to Jattarodi. The first 11 families scheduled to receive the model apartment units were asked to move into the temporary shelters and then demolish their previous dwelling units and sell any scrapped materials. During focus group discussions with the first cluster, some residents said that after seeing the transitional houses being built, they knew the project was real and decided to demolish their homes. However, many residents expressed uncertainty and fear and found it hard to move to a temporary shelter and demolish their house. The staff from Global Communities and SRA was at the site to facilitate this transition.

## Community Opposition and Dissent

There were three families that refused to move to the transitional shelters. They were not satisfied with the size of the new apartments since their existing units were almost 500 square feet. Global Communities tried repeatedly to convince these families that the quality of the housing and utilities would be better even though the new space would be smaller. Eventually, over a couple weeks, with the help of other community members, they succeeded in convincing two of the three opposing families to vacate their houses. The last family continued to resist the project, despite the repeated negotiation efforts of Global Communities and SRA. Because of the opposition from a single household, the project was delayed. The other families became impatient and started to put pressure on the Municipal Commissioner and SRA officials to commence the construction of the apartments immediately.

The local member of the Legislative Assembly (LA) and elected ward members of the NMC also got involved in the dispute and stalled the project. Global Communities then facilitated additional meetings with SRA, members of LA and the ward, and the community. All stakeholders decided that construction should start without any further delay. The local member of LA promised the group that he would convince the remaining family to participate in the housing project, but his efforts also failed.

After multiple attempts, SRA concluded that with the consensus from the super majority of the involved families, it should proceed with the project for the benefit of the community. SRA posted an eviction notice on the opposing family’s home and asked them to move to the transitional shelter within 15 days.

## Formation of Housing Cooperative and Apartment Allotment

As families were waiting for their houses to be constructed, Global Communities began organizing a “Cooperative Housing Society” to which SRA could transfer the land. The Cooperative Housing Society was registered with the government, and Global Communities began organizing many meetings with the residents to explain their roles and responsibilities of the cooperative and to elect the president, treasurer, and other officials. They also helped them establish savings plan for the cooperative.

The construction of the first apartment building began in August 2009. Residents in the transitional shelters waited eagerly for the construction work to progress. Throughout the construction period, residents stood by the site and observed the progress.

Finally, eight months after moving into the transit shelter, the apartment was completed (see Figure 9). It was difficult for the people to contain their happiness. There was a flurry of last minute tie-ups with electricity and water meter connections and other details. Once everything was in place, on September 6, 2010 the residents were allotted their houses. The apartment units were distributed through a lottery conducted by senior officers of SRA and NMC in the presence of all the residents and the Global Communities team (see Figure 10). Residents were generally happy with their selection. Yet a few families exchanged their allotted apartments voluntarily with the permission from SRA.

Figure 9. Completed Apartment Units



Figure 10. Apartment Lottery in Jattarodi



Sources: Global Communities

Despite having the allotment letters, the residents were not given the possession of their apartments until November 1, 2010. Various excuses were given regarding bureaucratic procedural delays, such as the registration of the housing cooperative and the land transfer from Nagpur Improvement Trust to SRA. This tested the patience of the residents. By this time, they were living in the transitional houses for more than one year. With the apartments physically ready for moving in, it was difficult for Global Communities to convince the residents to wait longer. All the residents united and sent a memorandum to the Municipal Commissioner and met with the Secretary of SRA, demanding that the apartments be put in their possession immediately. Finally, at a grand event on November 1, 2010, during the famous Diwali festival (the festival of lights), the residents were given physical possession of their homes.

After the first cluster of 11 dwelling units was completed and handed over to the residents, orientation programs were provided to the families on space utilization, utility allocation, maintenance of the common areas, timely loan repayment, and the functioning of the housing cooperative.

Post-construction interviews with the residents captured a range of experiences that the participating families had undergone throughout the process. There were hopes and fears for the future, trust and mistrust of outside stakeholders, changes in community relationships and family structure, and conflict and reconciliation within the community. The significance of these new apartments touched many lives. A female resident explained, "Now, our friends and relatives pay more respect to us." Another woman said, "Now people call me, 'Lady owner of the flat.' I feel proud. This was the greatest impact of the housing scheme on me." Another resident explained, "The new flat gives [us] security. The old house was a hut and could have been demolished at any time. Now, I am [a] house owner. This is the biggest change I [have] felt." Examples of improved community cohesion were also observed as residents came together to address common issues. For example, the residents organized themselves to obtain a loan for building a compound wall around the parking spaces within their new apartment building.

## Lessons From Jattarodi - Participation, Governance, and Decision Making

Four major factors influenced the formal and informal institutions for inclusive decision-making in the Jattarodi project: 1) JnNURM rules and guidelines, 2) NMC and SRA administrative leadership, 3) intermediary NGOs, and 4) collective action by the community.

JnNURM incentivized local governments to extend services to slum communities and thereby bring them into the formal systems of governance. In this respect, Jattarodi is now a formalized and legalized neighborhood that was previously informal or extralegal – more than 80 percent of the residents paid taxes but did not have formal land tenure. The rules and guidelines of JnNURM introduce and encourage "community participation" in any projects, but how this process is engendered is left to the discretion of the local administration. Some have criticized this saying that JnNURM "equates participation with financial contributions to new infrastructure investments."

Within the local government administration, the most senior leadership of the NMC and SRA set the tone and environment regarding the inclusiveness of the planning process around the Jattarodi housing project, but they did not issue any formal rules. At the onset of the Jattarodi project, there was an explicit attempt to make the process inclusive by the NMC Commissioner at the time, and by Global Communities who joined the project with their objective of “engaging the voice of the poor in the planning process.” The initial municipal Commissioner was widely respected and visited the slum community without hesitation. He also took an active role in overseeing project coordination meetings between various departments and stakeholders. Before the project was formally approved though, he was promoted to a more senior post in the State Government and was replaced by a new Commissioner who was less decisive and engaged in the project. Since Commissioners have ultimate approving authority on most decisions, this slowed the pace of the program and muted the outreach by the SRA staff. It also impacted the level of risk that SRA was willing to take to meet the interests of the community.

The primary responsibilities for engaging the community in the project, however, rested on the NGO local staff. They introduced the project to the community on behalf of SRA and then established the mechanisms and process for community participation. JnNURM established some of the rules and parameters of the housing program. For example, JnNURM established how the program was funded and restrictions on the allowable housing space of 269 square feet. However, many elements of the housing program including the housing design, layout, and schedule were open to inputs from the residents.

The collective efficacy of the community grew over time and demonstrated many times how it was able to hold local authorities accountable. They were able to convince the Commissioner that they should construct temporary transitional shelters rather than put them in rental apartments. When the construction was delayed, the community organized themselves and put pressure on the Commissioner and SRA staff to get the project moving again. When the dissenting households held up the project, they also demonstrated collective engagement. The locally elected members of the ward and LA also played active roles in the process of the housing program and in building civil society and democracy.

## Trust is Hard Won and Easily Lost

In communities that have had a history of difficult encounters with the local government, trust is hard won and easily lost. It should be recognized that these communities are in transition and that they normally will confront mixed emotions during the redevelopment process such as hope and fear, trust and mistrust, waiting and action, support and dissent, cooperation and conflict. It is the role of the intermediary institutions and public agencies to be conscious of these transitions and help mitigate extremes.

Keeping projects on schedule is one important way of building trust and commitment from the community. Delays do the opposite. The Jattarodi project is filled with examples of how delays in implementing the project introduced fear and mistrust to the relationship between the community and the government. Inter-departmental coordination should be geared up before programs are implemented, and the role of each stakeholder should be clearly specified. This will support flexibility amongst

the agencies involved and speed up decision-making that can keep projects on schedule.

Delays in implementing housing projects can also complicate the programs because communities are continuously changing with the passage of time. Families in any given community experience marriages, births, deaths, accidents, graduations, and other changes over time that impact a family and their plans for their futures. This was the case in Jattarodi - the major concern for families was how the new apartments would impact their evolving family, both positively and negatively. One resident explained, “Now, we are living in [a] good house and hope that living in a flat may get good match for [our] daughters.”

## Politics, Participation and Individual Determinism

The political system and party politics are often an unpredictable variable that can help or hinder the efforts of inclusive development depending on time and place. Therefore, part of the context within which community participation is expressed, heard, and heeded –or not—is out of the control of the intermediary NGOs or community. One response to this dilemma is helping communities organize to hold government officials and NGOs accountable. The Jattarodi project provides many examples of how the community organized themselves to hold SRA accountable for project delays and other aspects.

The Jattarodi project also demonstrates that there is no single voice of the poor—people’s views and priorities vary just as they do in a middle or upper class community. Some individuals have strong will, others go along with expectations of others. Not all variation is due to project design, context, strategy, intent, funding or the capacity of the NGO. The character and willpower of the various individuals is a strong residual factor that impacts the dynamics of neighborhood and project participation.

Facilitating participatory and inclusive planning processes, like those in Jattarodi, can seem cumbersome to individuals and public officials who are not familiar with the open dialogue processes. In the end, however, many SRA staff observed how it brought the community together. For example, it was visible that Jattarodi residents formed new relationships with each other when banned together and sought to hold SRA accountable for various aspects of the project. Also when they got involved in convincing the three opposing families to join the project, they became more engaged as active agents in advancing the project. Ultimately, this helped create a sense of ownership amongst those involved.

## No One-Size-Fits-All Solution

Varying levels of household investment in homes complicates a one-size-fits-all solution. Programs need to define flexible guidelines on these aspects. The JnNURM limits on providing apartment of 269 square feet was a significant constraint on the Jattarodi project that needs to be made more flexible if such projects are to be scaled and replicated in other locations.

Interviews with the government officials revealed that they also felt constrained by the program and that its design failed them in many respects. One senior SRA official explained, “The product is one but people’s aspirations are so varied – it can only work with the flexible schemes.” During interviews with the senior officials at SRA, they spoke about each community member by name. One official reflected, “When I see [the evicted family] now in any meeting, I always feel that we failed to address his problem – we still need to find a solution for him.”

Senior officials had many other reflections that revealed some valuable lessons throughout the Jattarodi project. For example, one explained, “[NGO’s] constant dialogue with the community gave us so many insights” and “I realized that many things people were saying turned out to be right at the end. It was good support [the NGOs], and we listened.” But then he reflected, “This could not have happened in the government way of working.” In other words, his institution is not designed for extensive community dialogue.

## Participation is not an end in itself

People—and particularly poor people—are busy with pressing needs in their lives and do not want to be called to endless, meaningless meetings. The experience in Jattarodi shows that they wanted to be:

- Informed fully about what is being planned that might affect them, their homes, and their communities;
- Consulted about issues that matter to them—not the color of the walls but where they will be relocated, what kind of apartment they will get, and how the decisions are determined.
- Included by having the important meetings called at times and locations convenient for them—and having transportation and childcare provided, if necessary.
- Treated with respect in the public realm, in the community, workplace, and home.

Citizen participation is a waste of time when: 1) it is tokenism and the decisions open for community input are trivial, or 2) it is ritualized and does not affect decisions.

## Community Surveys: Getting to Know You

The community should be involved from the inception in carrying out socio-economic surveys of their neighborhoods. It is the first opportunity to build relationships between the community and outside agencies and within the community itself. Involving the residents in the socio-economic survey is also an opportunity to improve the accuracy and transparency of the survey. Local leaders from the slums should be also involved in verifying the data collected. Once the data is collected, it should be shared with the community for their feedback. An SRA official explained, “We need exact data, local people should be involved and agree that this is authentic data; otherwise unnecessary delays happen.”

## Scaling Up to a Slum Free City Strategy

In 2013, the GoI extended JnNURM through a program called RAY that promotes a more ambitious agenda by broadening the agenda of cities’ from project-focused slum upgrading programs to the citywide “Slum Free City Action Plans.”

In the preparatory phase of RAY began in March 2010, each city was required to prepare a plan of action to make its area slum-free. This is an aspiration objective indeed, however Roy points out that RAY marks a decisive turn in India urban policymaking, “one in which the governance of spaces and populations of urban poverty is a priority”, and where slums are given centrality in the making of urban futures.<sup>12</sup>

Based on the SRA experience in implementing the Jattarodi project and other housing projects in the city, Global Communities supported NMC to develop an Action Plan for Slum Free Nagpur. A citywide plan like this had never been created in Nagpur or any other city until then. Later, national dialogues began to commence on the topic as cities sought to learn from each other. In 2011, for example, Global Communities and the Center for Environmental Planning and Technology organized a national workshop on Slum Free City Plans with the Ministry of Housing and Poverty Alleviation and National Institute of Urban Affairs. In similar meetings, cities categorized slums in their cities and related them to different strategies for improvement.

In Nagpur, 95 of 446 slum communities could be redeveloped on site. These slums, like much of the slums in India, are on government land, making its conversion within reason. According to a National Sample Survey Office report, around 57 percent of slums are on public lands, owned mostly by local and state governments. In launching RAY, Kumari Selja, Minister of Housing and Urban Poverty Alleviation, asked, “How do we create a process by which the poor can convert capital from the extra-legal to the legal sphere and in so doing, contribute to the GDP at the bottom of the pyramid?”<sup>13</sup> Land readjustment may be a tool for both the city and slum residents to capture land value.

<sup>12</sup> Roy, Ananya, (2014), “Slum-Free Cities of the Asian Century: Postcolonial Government and the Project of Inclusive Growth,” *Singapore Journal of Tropical Geography* 35, p 136.

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modern office buildings and condominium in Bangkok city downtown @Shutterstock

## Chapter 5

# Revisiting Land Sharing in Bangkok, Thailand: **The Sengki Case**

*Kittima Leeruttanawisut and Paul Rabé*

The technique of land sharing originated in Bangkok, Thailand during the 1970s and 1980s as an innovative way to resolve land conflicts between legal landowners and informal settlers or “squatters”. The approach involves the partitioning of a parcel of contested land so that both parties are accommodated. Through a land sharing agreement, the landowner regains access to a larger portion of the original parcel, free of squatters, so that he or she can develop the land. At the same time the informal settlers can stay on or near their present site, on another portion of the land, under improved conditions involving legal tenure and (in most cases) newly built housing.

“Sengki” is considered by many to be one of the most important and successful cases of land sharing in Bangkok’s early history. It is also one of the better-documented cases: the National Housing Authority of Thailand (NHA), Thai housing advocates, UN-Habitat (then UNCHS), UNDP and the Netherlands Habitat Committee followed the negotiation process over many years and lauded its success. In 1991 the Under-Secretary General of UNCHS even awarded the NHA with a Habitat Scroll of Honor for its role in Sengki, “in recognition of developing innovative land tenure systems and financial mechanisms to facilitate adequate shelter for low-income groups.”

Almost twenty-five years later, there is a resurgence of interest in the Bangkok land sharing and wider slum upgrading experience, with housing scholars and activists re-examining which instruments have the potential to be “scaled up” as mechanisms to resolve the ongoing land conflicts in Asian cities. In this context, the experience of Sengki is once again attracting much attention. This article explores whether – approximately 25 years later – the Sengki land sharing agreement has indeed represented an “adequate shelter” solution for low-income households. Specifically, the authors investigate two questions: Have the financial and land tenure mechanisms in the Sengki land sharing agreement proved sustainable; and what has happened to the original residents of the Sengki informal settlement?

## The Bangkok Context

Bangkok is the economic and political center of Thailand, and it is also the main destination for internal migrants from the much poorer provinces, particularly the Northern and Northeastern regions. They come to seek employment in the Bangkok region but do not always intend to stay for long periods. There is a considerable circular migration between Bangkok and the provinces because of the cheap and

generally reliable transport system. Some migrants find work in the formal sector, but many come to work in the very large urban informal sector. Many migrants who come to Bangkok are unable to buy or rent formal housing and are forced to live in informal settlements on private or public land.

During the past several decades, many settlements in Bangkok tended to be land-rental settlements, whereby the landowner allows families to occupy the land on a temporary basis at a nominal rent. Some (public) landowners cannot allow families to rent their land, but nevertheless turn a blind eye; those settlements could be called “squatter settlements”. The word commonly used in Bangkok for these two types of settlements is “slum”, but since it has a negative connotation, the authorities now call them “crowded communities” or “urban poor communities”.

Between 1987 and 1997 the Thai economy underwent a period of rapid expansion. Money was abundantly available for investment, especially in real estate. The construction of roads and bridges opened up access to new land for development. As land prices increased sharply, many Bangkok slums came under an acute threat of eviction. Because government efforts to improve low-income housing conditions proved inadequate, communities involved needed to mobilize outside support to help them resist eviction pressure. Such outside support typically involved moral support but also financial and technical assistance from NGOs as well as high-

level political support, where available.<sup>1</sup> In some cases involving land sharing, communities, moral, financial and technical assistance also came from the National Housing Authority (NHA)—both from the NHA as an institution but also from NHA staff members in their private capacity.<sup>2</sup> They found land sharing to be a convenient instrument to help the communities under the pressure of eviction: the approach promised a “win-win” solution to land conflicts (enabling commercial development while helping poor households to gain access to legal tenure and new housing) that did not antagonize the public authorities. This was important, for the authorities (which included government agencies, the military, and senior government and military officials in their personal capacity) proved instrumental in putting pressure on public and private landowners to find an accommodation with the squatters on their land.

Between the late-1970s and late-1990s, seven land sharing (see Figure 1) agreements were negotiated across Bangkok, in a range of different settlements, six of which were located on public land. The outcomes varied greatly from case to case, depending on the size of the community, the configuration of the land parcels in question, the urgency of the development pressure in each case, and the public institutions and private individuals involved. Table 1 summarizes the main results of the seven land sharing agreements during this time.

Table 1. Land sharing projects in Bangkok during 1970s-1980s

Name	Number of households before land sharing	Plot size(rai) (1 Rai =0.16 ha)	Land ownership	Negotiation period	Outcome	Involving organization	Ratio of land for the informal settlers	Numbers of households after land sharing
Rama-IV	1900	53	CPB	1977-1981	Eight-story buildings (20-year leasehold)	NGOs& Thai Army &NHA	35.0%	914
Wat Lad Bua Kaw	300	10	private	1978-1983	Self-help housing (freehold)	NHA& Thai Army	20.0%	63
Manangkasila	>400	10	Treasury Department	1979-1982	Raw-houses (leasehold)	NHA & credit union cooperative	42.5%	197
KlongToey 70-Rai	2500	70	PAT	1982-1985	Self-help housing, flats (leasehold)	NHA &NGOs	NA	NA
Sengki	216*	15.7	KPB	1982-1992	Shop house &self help housing (freehold)	NHA	53.3%	141
Sam Yod	300	7.5	CPB	1982-present	10-floor flats (leasehold)	NHA& NGOs	18.0%	34 families (accommodated)
Pai Sing To	347	NA	CPB	1989-1997 (relocated)	26-floor apartment & 7-floor commercial building (30 -years leasehold)	-	NA	347

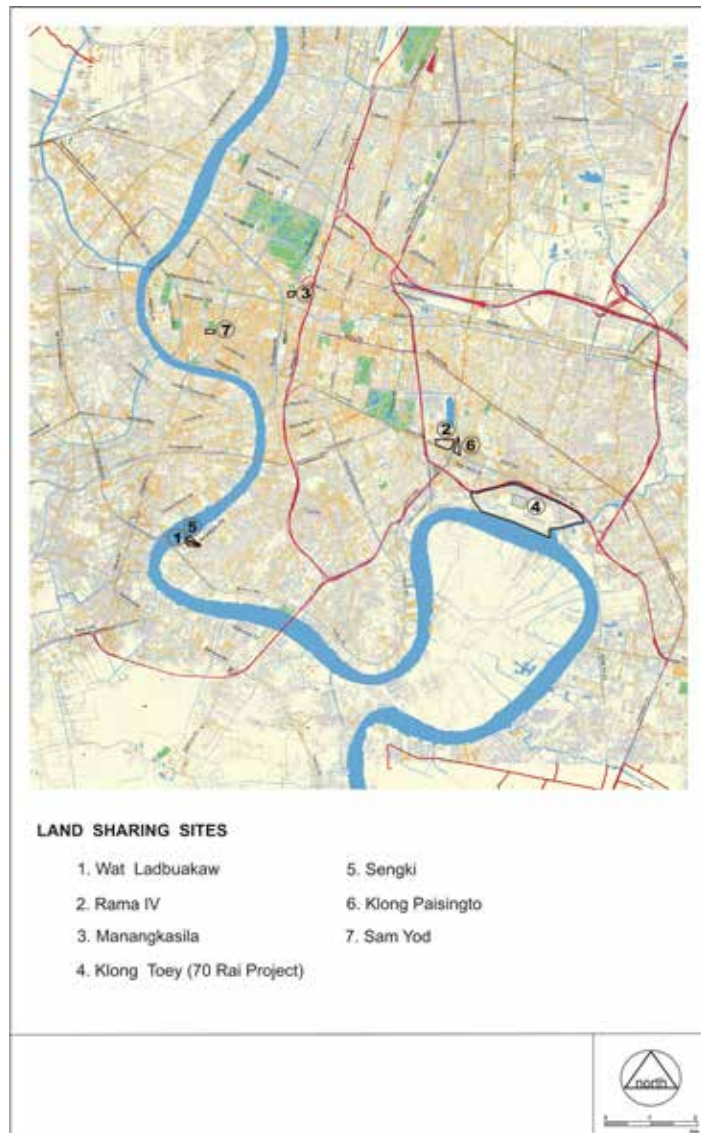
Source: K. Leeruttanawisut and P. Rabé (2002-3).

<sup>1</sup> Yap, Kioe-Sheng and Prachumporn Panroj Islam, (1989), “Land Sharing as a Low-Income Housing Policy,” Habitat International, 13, 123.

<sup>2</sup> Based on conversations between the authors and NHA officials (2002-2003).



Figure 1. Land sharing projects in Bangkok during 1970s- 1980s



Source: K. Leeruttanawisut and P. Rabé, 2002-3.

## A Brief History of Sengki Settlement

Sengki was originally a poor settlement of over 200 households, established in the late-19th century in Soi Chareankrung 78<sup>3</sup> on the both sides of land between the Chao Praya River and Chareankrung Road, one of the oldest roads in Bangkok (Figure 2). Before the construction of the Krungthep Bridge, the area used to be a landing stage for the ferry at the end of the Soi. The households in Sengki were composed of Chinese families who worked as laborers in the rice mill in the settlement and the Thai families who worked in the surrounding orchards. The name “Sengki” came from the rice mill.

Up until the early 1930s, the land that the Sengki households occupied belonged to close relatives of His Majesty the King of Thailand. The residents in Sengki rented the land from the Royal Property Bureau (now the Crown's Property Bureau, CPB), while the King's Property Bureau (KPB) was responsible for the administration and management of the plot. The total land area encompassed 25,080 square meters, and the households in Sengki occupied almost half of the land (11,012 square meters), while the rest was rented by the Thai Danu Bank for its warehouse (10,376 square meters) and by the owner of the sawmill (3,692 square meters).<sup>4</sup>

The rental rate in Sengki varied from Baht 0.75 (US\$0.03) per square meter per month for the land along the main road to Baht 0.50 (US\$0.02) per square meters per month for the land inside the Soi. After the abolition of the absolute monarchy in 1932, the land was officially transferred to the King's Property Bureau (KPB). However, the rental rate was never changed.

## Factors Leading Up to Land Sharing

On 16 April 1978, a fire started in Wat Ladbuakaw, an adjacent low-income community to the Sengki project site and one of seven Bangkok land sharing settlements. The fire destroyed 80 per cent of the community, including the sawmill next to the warehouse, and only the front part of the community remained. It was never clear whether the fire was caused by natural circumstances or an arson intended to remove the informal settlers by force.

In any case, the consequence of the fire was that the lease contracts of the Sengki residents were terminated, except for those houses located outside the destroyed area. However, all residents returned to the settlement, and the community expanded in a haphazard fashion when new squatters came to the area. Land tenure became more complicated with the arrival of the newcomers. Conditions deteriorated because of the absence of land tenure, and the newcomers invested only marginally in their homes. At the same time, land values increased rapidly in the surrounding area, and the KPB began considering redevelopment. Community leaders wrote a letter to the Mother and Sister of the King and submitted numerous petitions to the Royal Family to request the right to stay, but to no avail.

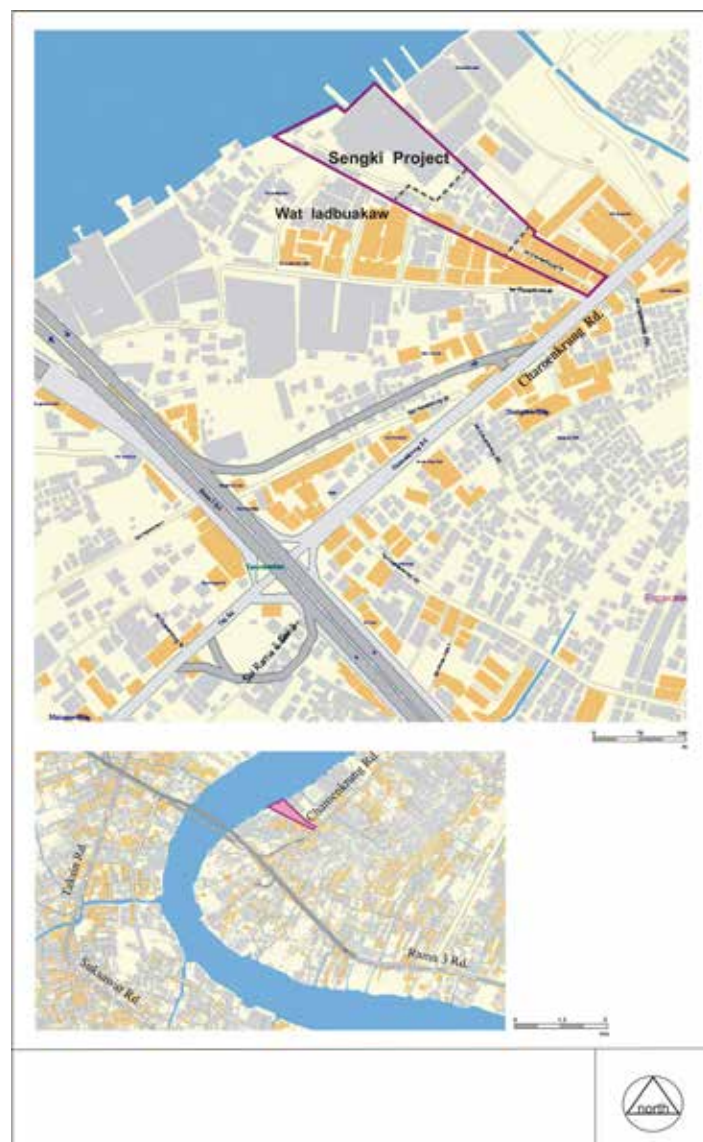
In 1982 the nearby community, Wat Ladbuakaw, succeeded in avoiding eviction through the land sharing agreement with its landowner after mediation by the NHA. The event influenced the households in Sengki, and they therefore requested a similar strategy. The Center for Housing and Human Settlement Studies (CHHSS) of the NHA conducted a study on the feasibility of applying land sharing in Sengki, and found high potential for its application to this site.

<sup>3</sup> Soi means a narrow strip of land, or lane, in Thai.

<sup>4</sup> Yap, Kioe-Sheng and Angel, S., (1992), “Land Sharing: the Sengki Project,” In *Low-Income Housing in Bangkok: a Review of Some Housing Sub-Markets*, edited by Kioe-Sheng Yap. Bangkok, Thailand: Asian Institute of Technology.



Figure 2. Location of Sengki



Source: K. Leeruttanawisut and P. Rabé, 2002-3.

## The Land Sharing Process in Sengki

In early 1984 the KPB offered to sell 4,280 square meters of the site to the 85 former land renters who were made homeless by the fire at the price of Baht 625 per square meter while the market price was about Baht 2,000 per square meters resulting in plots of 40 square meters.<sup>5</sup> However, the residents and the NHA refused, as the latter wanted to re-house all current residents, not just the former land renters. It had identified at least 129 households that needed to be re-housed; the community claimed that there were 141 households. The community also wanted bigger plots.

In 1986 the KPB eventually agreed to sell 6,032 square meters for a price of Baht 4,427,000 or Baht 734 per square meter. This was a higher price than that first offered to the former land renters, but still well below the market value of Baht 2,000 per square meter. The huge discount was due to the KPB's intention to help poor residents. The KPB insisted that it would deal with one group representing the entire community rather than individual households and that it would sell the entire piece of land in a single transaction.<sup>6</sup> The NHA advised and assisted the residents to form the Sengki Housing Cooperative as a community savings fund to buy and subdivide the land and to act as the community's legal representative. That same year households in Sengki formed the Cooperative to undertake legal transactions, resale the land, and collect monthly repayments from individual households.

An agreement on the payment was reached by the NHA and KPB in February 1987: it stipulated that the community would pay 20 per cent of the total land price as a down payment while the remaining 80 per cent plus a 9.75 per cent interest charge would be paid over a period of 60 months, at Baht 74,813 per month. Yet the NHA and committee decided to charge the residents at 13.5 per cent—the regular rate that the NHA would charge to all housing projects.<sup>7</sup> The land purchase agreement was finalized between the Cooperative and the KPB by May 1987. There was a revolving fund of three million Baht from the Netherlands Habitat Committee through the NHA that acted as a repayment guarantee for the bank. The KPB also sold plots of land that had not been destroyed by the fire directly to some of the renters who had decided to stay outside the land sharing agreement. These renters had to pay a market price but could buy much larger plots than if they joined the land sharing scheme.

Table 2 shows the land use allocation in the Sengki project. At the time when the land sharing project was initiated, there was no master and detailed plans to guide the site design and land uses. This approach might have led to scattered urban development in the long run.

Table 2. Land Use Allocation

	Area (sq. m.)	% of total area
Land sold to Sengki housing cooperative	6,032	24.0
Land sold to sawmill owner (at Baht 2,000 per square meter)	3,692	14.7
Land sold to other tenants (at Baht 2,000 per square meter)	1,656	6.6
Land rented by the Thai Danu Bank for a warehouse	10,376	41.4
Land available for commercial development	1600	6.4
Main road	1724	6.9
<b>Total</b>	<b>25,080</b>	<b>100.0</b>

Source: Yap and Angel (1992).

<sup>5</sup> Ibid, 54.

<sup>6</sup> Ibid, 55.

<sup>7</sup> Ibid, 63.

## Selection of Eligible Households and Plot Allocation

Before the fire, the Sengki community was composed of two main categories of people – households who had formal rental contracts with the KPB and those who sub-leased from the formal renters. After the fire, the situation became more complicated, with five additional (and sometimes overlapping) categories of residents: households who were affected by the fire and those who were not; households who stayed in Sengki and those who left; and newcomers who arrived in Sengki after the fire. Table 3 summarizes the sizes of these groups.

Table 3. Status of Households in Sengki

A. Original land renters (residing in Sengki before the fire)	Number of families
1. Land-renters not affected by fire	20
2. Land-renters affected by fire	65+
a. Still living in Sengki	55
b. Left Sengki but still own a house in Sengki	10
c. Left Sengki entirely	?
B. Residents without a rental contract with the KPB before the fire and newcomers after fire	
1. Sub-leases of the land	35
2. Squatters	5
3. Other	7
<b>Total A+B</b>	<b>132</b>

Source: Yap and Angel (1992).

The KPB, NHA, and community committee argued among themselves about which groups of people were eligible for new plots of land in the land sharing agreement. Eventually, the NHA and the committee agreed to give every household at least one plot except two known drug dealers.<sup>8</sup> The selection of eligible households was based on two priorities. The first priority was the households who were currently staying in Sengki and who lived there before the fire. The second priority was the large families of more than ten members. The selection of the households and plot allocation was decided by Sengki community leaders in collaboration with the NHA and the office of Yanawa district. However, the final decision was often left to the community leaders. Initially, the NHA prepared 126 plots to accommodate 126 households. There were 125 plots of 45 square meters and one plot of 22 square meters. However, the layout had to be adjusted because more and more households came from outside to claim the right to obtain a plot.

Each household was offered a plot more or less in the same location they occupied before the fire, on the condition that other households agreed with the allocation decision. If there were two or more households needing a particular plot, there would be a lottery between them to decide the outcome.

In the end, nine plots were not claimed by their intended households because the beneficiaries could not afford to lease (and eventually buy) the land, or were unhappy with the plot size. They moved out voluntarily, and there was no documentation about compensation. Many households in Sengki were not poor and might want to stay with relatives who lived outside. For the households who subleased their land from the formal renters, they were not entitled to any compensation from the KPB. The Cooperative took those plots back and resold them at the market price to generate revenue. Some households offered to buy those plots at the same price that the Cooperative sold to the households; however, the committee leader denied these offers, which later resulted in a court case that the community leader won. The community leader mentioned the following:

*“Some households who wanted those plots and wanted to buy at lower than the market price are my relatives. They thought that we got the land with the subsidy so we could sell them at a discounted price. But I thought that we could sell these plots to generate revenue for the Cooperative. So they went to the court. Finally I won but until now they never talked to me again”*

Eventually, the NHA subdivided the land into 4 zones, with 148 plots (see Table 4 and Figure 4). The final number was higher than the original 125 plots to accommodate new comers. The price of the plots was dependent on their location in each zone. Thus in zone A, plots nearest to Charoenkrung Road cost Baht 1,000 per square meter. The second-row plots cost Baht 995 per square meter, and the last-row plots cost Baht 775 per square meter. Most of the households in Zone A had to pay Baht 10,000 for the down payment.

In Zone B and C the land price and down payment were varied by block. In Zone B the price ranged from Baht 757 to 850 per square meter, and the down payment ranged from Baht 4,000 to 16,000 according to the plot size. In Zone C the prices ranged from Baht 625 to 700 per square meter while every household had to pay Baht 5,000 for down payment. For Zone D there was a flat rate of 625 per square meter. Every household had to pay Baht 3,640 for access to the plot, except the households who obtained bigger plots had to pay more according to the plot size (Table 4).

The community leaders and NHA staff decided to use a cross-subsidy system to calculate the land price because they thought that it would be good for households who obtained a better location to subsidize those households who obtained worse locations, with poor access to the main road.

<sup>8</sup> Ibid.

Table 4. Average Plot Price and Down Payment

Zone	Average plot price (Bt.)	Price (Bt./sq.m.)	Down payment (Bt.)	Monthly Installment (Bt)
A	43,925	775-1,000	10,000	625-850
B	38,200	725-825	8,000-16,000	645-745
C	30,640	625-700	5,000	590-665
D	15,320	625	2,500	295

Source: Sengki housing cooperative (1997) and the NHA (1991)

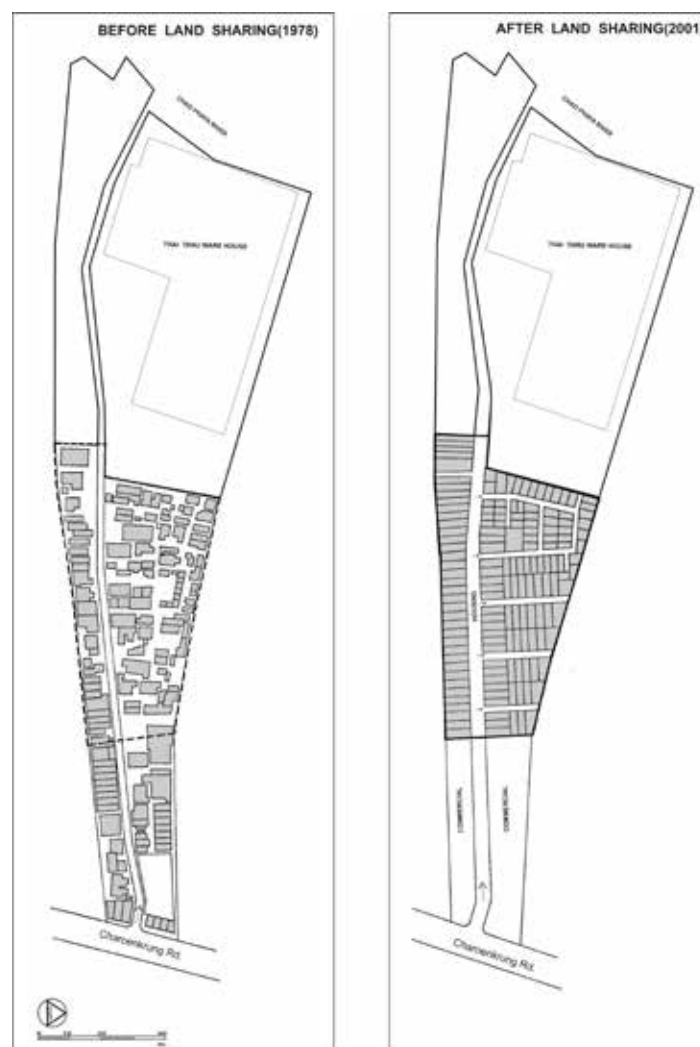
### Project Financing and Land Purchase

As mentioned earlier, the NHA and community committee charged the households an interest rate of 13.5 per cent per year to protect the fund against defaults by the households. The NHA and community committee allowed the households to pay their down payment in 3 installments. By 1987 the total loan amount for the down payments had been repaid.

About three million Baht (US\$120,000) were offered to the Sengki Housing Cooperative by the Netherlands Habitat Committee through the NHA as a revolving guarantee fund for the residents. About 2.8 million Baht were used to guarantee the loan borrowed from a Bangkok bank, and the rest was used for the construction of a community center. In October 1988 the Sengki Housing Cooperative purchased the land from the KPB for 1.3 million Baht. The Sengki Housing Cooperative opened an account at a commercial bank: this enabled members to deposit payments directly into the Cooperative's account. For many members, this represented their first exposure to commercial banking.

During the repayment period, some households faced difficulties repaying their monthly installments. Therefore, the Sengki Housing Cooperative agreed to collect small sums of Baht 5 to Baht 10 per day or Baht 20 per week from these households to facilitate payments of their installment when they were due. Households who had not paid three consecutive installments would lose their right to obtain a plot. Nonetheless, some households, especially those with small plots, had already transferred their plot informally because they decided that they could not afford to pay the monthly loan repayments. All in all, the total cost of the project was close to 45.9 million Baht, and subsidies from various organizations made the project possible (Table 5).

Figure 3. Plot Allocation Before and After Land Sharing



Source : NHA (1997)

Table 5. Total Expenditure involved in Sengki Project

Item	Amount (Baht)	Sources	
		From residents	Outside resources
Land	4,340,750*	100%	-
Infrastructure	3,003,000		100% (BMA& NHA)
Installation of water supply and household electricity	592,000	100%	-
Housing construction	36,612,200	100%	
Community center construction	1,128,707	7.6%	92.4 (UNDP& Netherlands Habitat Committee & MP's fund)
Administrative fee on land purchase	170,440	100%	-
Total	45,847,097	91.2%	8.8%

\* excluding the land for community center

Source: NHA (1991).

## Housing and Community Center Construction

After the plots had been allocated, there were 3 types of houses: 1) three-story reinforced concrete core houses with a shared terrace; 2) houses that households built themselves on full-sized plots; and 3) houses built by households themselves on half-sized plots. The choice depended on not only households' preferences, but also on housing affordability. At the beginning, the plots did not meet the minimum building standards of the Bangkok Metropolis Administration; therefore, the Land Department could not issue the title deeds to owners. However, the NHA decided to continue with the project. The land titles were finally issued after some negotiations between the NHA and the Yanawa District Authority.

The home construction began in early 1991. It was different from other housing projects because new houses were constructed in a fully built area. Therefore, the plan was constructed section by section to allow the flexibility needed for households to remain on the site until they were ready to move. The first three sections comprised 37 units with terrace style, three-story reinforced concrete houses whose cost was about Baht 430,000 per unit. For the remaining home constructions, the Cooperative relocated some households and demolished their houses to allow a plot survey before building more units. For infrastructure, the Bangkok Metropolitan Authority constructed a 6-meter main street to replace the 2-meter road. The NHA was responsible for building the minor streets. The Metropolitan Electricity Authority and Water Work Authority provided the electricity and water supplies.

The Sengki Community Center saw the success of the project as the result of cooperation of many actors and donors involved in supporting the idea that people needed a center to operate as a nucleus for long-term housing development. The total cost of the center was about 1.1 Million Baht (US\$44,000), with land purchased by households. The Netherlands Habitat Committee and Bangkok Member of Parliament's fund donated about 92.4 per cent of total construction cost, and the Cooperative borrowed money from the revolving fund to pay for the remaining cost. The construction of the Center began in July 1990 and was completed in August

1991. Presently, the Center is used for community activities, childcare, and as the office of the Cooperative.

## The Actors

There were many actors involved in the Sengki housing project. The most important were the households. Without the participation of the residents, this project could not have been viable. The households played an important role as the core decision makers and the main actors in every stage. Before the creation of the cooperative, there were temporary committees who worked on individual activities such as plot selection, price determination for different plots, and the representation of various interests. After the cooperative was set up, the committee was elected to work as the legal representative to develop procedure and manage all implementation activities. The community leader who lived there for long time and had a slightly higher income than other households was very active and also played an important role in trying to organize community participation and helping the households who could not afford to repay the loan.

Without the willingness of the landowner, the KPB, to share the land, the Sengki land sharing project would not have been possible. The KPB greatly facilitated the project by enabling the households to buy the plots at an affordable price and to remain on the same site. The NHA played the role of the middle person between the households and the KPB in negotiating for the land. It also assisted in preparing alternatives for problem solving, providing trainings, calculating project cost, and designing the plots. The other organizations involved in different stages included: (1) the Yanawa District Authority that regularly helped coordinate the civil works; (2) the Department of Cooperative Promotion that acted as a consultant in forming the Sengki Housing Cooperative; (3) UNCHS that promoted the project for the International Year for the Shelter for the Homeless throughout the world; (4) UNDP that provided supports for project implementation; and (5) the Netherlands Habitat Committee that facilitated revolving guarantee funds. Table 6 summarizes the roles and importance of these stakeholders.



Table 6. Key Project Actors

Implementation Stages	Main project actors				
	Community organization Cooperative	NHA	District Authority	Dept of Coop. Promotion	Others
1. Survey of the community (covering number of households and location of dwellings)	●	●	•		
2. Survey of residents' housing and land tenure rights	●	●	•		
3. Negotiation for land sharing proportion and price	●	●			KPB •
4. Plot design, site planning and identification of price zone	●	●			
5. Plot allocation	●	●	•		
6. Saving for down payment	●	•			Bank •
7. Setting up of community housing cooperative	●	●		●	
8. Signing of land sharing contract	●	•		•	KPB ●
9. Loan from Guarantee fund for land purchase	●	●		•	Financial institutes ●
10. Repayment for land purchase	●	•		•	Financial institutes •
11. House type consideration and approval for construction	●	●	●		
12. House construction	●	•	•		
13. Community center construction	●	•	•		Financial institutes ●
14. Infrastructure construction & installation	●	•	•		Infra organization •

Source: NHA (1997)

Notes: 1. Size of dots indicates degree of involvement in each step (the larger the dot, the larger the responsibility of each actor).

2. Financial Institutions refer to UNDP, Netherlands Habitat Committee, and MP's fund

## Revisiting Sengki in 2013

In order to evaluate the impacts of the land sharing project after two decades, the authors<sup>9</sup> revisited Sengki in 2013 and conducted a small community survey, followed by in-depth interviews with the key informants such as the community leader, the chairman and secretary of the Housing Cooperative, former staff of the NHA, and some available households.

The survey found that many small plots were sold, particularly in Zone D, and some households had been able to obtain more than one plot, either during the plot allocation or subsequently by purchasing a neighboring plot from a household that had decided to leave. Therefore, some houses have been built on two or even three or five plots. Some of these large houses have been divided into apartments for rent. In contrast, some plots have two separate houses on them. Almost 15 plots out of the original 148 plots (10 per cent) remain empty, as stated in Table 7.

Table 7. Number of Plots and Structures in Sengki in 2013

Plot development	Number of plots	Number of structures
House on ½ plot	3.5	7
House on one plot	100	100
House on two plots	16	8
House on three plots (warehouse)	3	1
House on five plots (worker house)	5	1
Apartment building on two plot	6	3
Vacant plot (one plot)	14	-
Vacant plot (1/2 plot)	1	-
<b>Total</b>	<b>148</b>	<b>120</b>

Source: K. Leeruttanawisut (2013).

<sup>9</sup> Fieldwork was conducted by K. Leeruttanawisut.

After two decades, Sengki has developed from a temporary settlement of many shacks without building permits into a neighborhood with a middle-income atmosphere. Roads, water supply, and electricity have been provided to the neighborhood (Figure 4). Many houses are constructed using permanent materials. Over 70 per cent of the buildings are multi-story houses, and 16.3 per cent are detached housing units. There are three small rental apartments, one warehouse built on three plots, and a worker's dormitory built on five plots. More than half of the houses have three stories; and 28.1 per cent have two stories. The remaining houses have four stories. There is only one single-story home. Figure 4 provides a visual impression of the physical evolution of Sengki over a period of more than 20 years, from a largely informal settlement to an established middle-income neighborhood.

Figure 4. Sengki in 1990 and 2013



1990



2013

The average floor area of houses is 159.5 square meters, with a maximum of 555 square meters and a minimum of 36 square meters. The majority of the houses (71.9 per cent) are built of concrete; 15.6 per cent used both wood and concrete; and the rest are made of wood. Every house has electricity and water supply. Of the properties surveyed, just over 47.5 per cent were lived in (37.5 per cent occupied by owners and 10 per cent by tenants). The remaining units were either vacant (47.5 per cent), for sale (1.7 per cent), or of "mixed" tenure including to the cooperative ownership or other forms of tenure that could not be classified due to the lack of information (3.3 per cent) (see Table 8).

Table 8. Housing Tenure and Use

	Number	Percentage
Rental house /apartment	12	10.0
Owned land and house	45	37.5
Others	4	3.3
On sale	2	1.7
Vacant	57	47.5
<b>Total</b>	<b>120</b>	<b>100.0</b>

Source: By the authors.

Many plots had changed hands, especially the small plots, either during the land sharing process or after the agreement was reached. According to the Secretary of the Sengki Housing Cooperative, "Many households, especially the renters and squatters, started to transfer their plot to another party informally either when they knew that they would get the right to obtain it or after the agreement was reached. Some of them also thought that they could not afford to repay the loan. Some of them said that renting or squatting on the land was much cheaper or even costless for them. Others preferred renting rather owning the house, because they might move to other places or return to their hometown. Some residents borrowed money from a money lender who advised them to obtain the plot and use it as a repayment. The poorest in the community were the first ones to leave.

## Finding the Original Households

In 2013 original households could be categorized as follows:

- **Those who got the right but never occupied the plot**

The original total number of households in Sengki was 132. By 1988 the NHA had allocated 148 plots to qualified households that wanted to stay. Yet not all these plots were occupied in 1988. In addition, some households might have claimed a plot and might have been allotted a plot by the NHA in Sengki, but never took possession (or they took possession but never occupied) the plot.

There is very little information about the people who were in this category. Some information could be obtained from the community leader, chairman, and secretary of the Sengki Housing Cooperative, and from households who

bought their plots. The main reasons seem to be that: (a) these households were not interested in land sharing; (b) there was an uncertainty about the result of negotiation; (c) they needed money to pay for other living expenses or debts; (d) they were aware of their inability to repay the loan from the Sengki Housing Cooperative for purchasing the plot; and (e) some might prefer renting rather owning their accommodations.

- **Those who had the right to obtain a plot and stay but lost or sold their plot.**

There are three reasons for the departures of some households.<sup>10</sup> First their incapability to repay the loan to Sengki Housing Cooperative for the purchase of the land could be a prime reason. Second some original residents might need immediate cash to cover other expenses or debts. As a respondent from one of our interviews explained, “I bought this plot from the former owner. He needed money urgently because he always gambled. When he lost, he needed the money to pay the money lender.” Third some wanted to return to their original province.

- **Those who stayed in Sengki as renters.**

There were original households who stayed in Sengki as renters. One of those still owns a plot but could not build a house, so she rents a house in Sengki. Another respondent from our interview explained, “I have a land title in Sengki but could not build the house because I could not afford it. It has been more than 20 years since I got the land, but still I cannot build a house here. I rent a house and look at my plot across my rental house and hope that I can build my house in one day.”

- **Those who did not stay but still own the plot and rent it out.**

Some households left Sengki but did not return their plot or sell it. They rent out their plot to other people and live somewhere else. These residents who are absent from Sengki have not necessarily experienced deterioration in their housing situation. They might have found alternative formal or informal accommodation in Bangkok or returned to their hometown. An interviewee said, “The owner of the plot next to me has a house in Thonburi. When the NHA removed her house to clear the land, she moved to that house and never came back. She however keeps the plot and comes to check it from time to time.”

According to the chairman of Sengki Housing Cooperative, “The owner built the house and stayed almost 5 years. After that, her son got a job in other province. So she followed her son and rented this house out. She comes here every month to collect her rental fee.”

- **Those who stayed in Sengki, but faced difficulties building a good house.**

There was an expectation that once a poor household had security of land tenure, they would be able to use the title as collateral to obtain a loan from the financial institute and start housing investment. Nevertheless, the

situation in Sengki was more complicated than expected. Some were unable to obtain a loan; others could not borrow from the bank but could acquire a loan from a friend or relative. Others tried to use only the land title as collateral; but it was not enough. Another interviewee explained, “Initially we got the big plot in Zone B; but the costs of the plot and construction was too high for our family. So we exchanged plot and moved to zone D because we could afford it. We built our house on very small plot.

After ten years, my neighbor wanted to sell her plot and move out, because it was difficult to access her house at the end of the Soi. I wanted to buy it to extend our house so I tried to borrow the money from the bank; but the bank did not accept my loan application because I did not have stable income as a food seller in the market. Besides the plot was not located next to the main road. Therefore, the bank decided that I did not pass its criteria. Then my neighbor sold her house to an outsider for renting. I still stay in the small house and cannot improve it.”

- **Those who stayed in Sengki and own more than one plot**

There were nine households who owned more than one plot. Some of them bought the plot during the land sharing negotiation. Others bought the extra plots after the agreement. The former chairman of Housing Cooperative said, “I bought an extra plot that is next to my home because the owner did not like living here. He said that the plot was too small especially when he had a car. He sold this plot to me and moved to a bigger house on the next Soi. My son and I extended our homes, and now I live with my son’s family.” In Sengki, two families own more than four plots. One of them is a moneylender, and another got money from his son-in-law who is a foreigner to buy the additional plots.

## The Newcomers

There are three types of newcomers: (1) those who bought a plot with or without a house and live here; (2) those who bought a plot but live somewhere else; and (3) those who rent a house.

- **Owners who bought a plot with or without a house and live here**

Many newcomers bought the plot in Sengki because they had friends or relatives in the community who informed them of an opportunity to buy a plot. Some of them are not real newcomers because they lived here before. A respondent said, “I bought this plot because my family lived here. She told me that the former owner of this plot wanted to sell it and move to her hometown. I bought it because I wanted to live with my family, and the location is very good because it is in the city center with a very reasonable selling price.”

- **Owners who bought a plot but live somewhere else**

As explained by another respondent, “For the owner of the warehouse who obtained five plots, his mother lived here and got one plot. She always told him when some households wanted to sell the plot. He started buying plots

<sup>10</sup> It is difficult to determine the reason why they left. Not only is the information secondhand, but the decision could also be a complicated weighing of pros and cons.

and built a dormitory for his workers on these plots. At present, he owns not only five plots but also 2 plots on the opposite side. He recently sold a plot to another household.

#### • Renters

There are three small apartment lots in Sengki. An owner purchased the plot next to his brother's house and built a small apartment building on the combined lot. The family lives on the first floor and rents the second and third floors to other families. There are also many houses rented out on a small plot in Zone D. An interviewee who is a tenant said, "I rent the house here because it is located in the city center and near my workplace. It is also cheaper compared to other houses nearby." The ongoing presence of tenants and rental accommodation in Sengki, even after land sharing and an intensive period of settlement upgrading, indicates the pervasive need of affordable housing for low-income families. Housing solutions in a city like Bangkok must be flexible. The urban poor continue to be attracted to areas such as Sengki where the government offers them an opportunity for relatively low-cost (although higher cost than before upgrading) and low-threshold housing solutions, including short-term, informal rental not bound by any contracts and other regulations.

## Conclusion: Assessing the Outcome of the Sengki Land Sharing Project

The performance of the Sengki land sharing project can be considered from multiple perspectives and dimensions, as summarized in the sub-headings below.

On the one hand, the project was historic, as it helped to launch land sharing as an approach that is worthwhile to replicate to help low-income communities under eviction pressures to upgrade their housing, land tenure, and services. The project also demonstrated that political will could be found in Bangkok at the time—among public, non-government and private actors across the city—to assist such low-income communities to improve their housing rights.

On the other hand, while Sengki undoubtedly created a good opportunity for a majority of residents to own land securely for the first time, the land sharing case in Sengki may not necessarily have been the best solution for the poorest families. As in most other upgrading projects, Sengki ended up displacing many of the poorest, most of who were tenants. The latter either could not stay in Sengki because of the higher living costs that the project entailed. Or they preferred to move on either back to their hometowns in the provinces or to another place in the city where renting would remain cheap. For a third group of the poorest families, the land sharing project resulted in secure new plots of land, but after they got their plots, these families sold these plots and went their own way. In a free market economy, the poor tend to be the first to leave even they have an opportunity to own the plot.

## The Security of Tenure Dimension

One of the main objectives of the project—from the point of view of the original residents as well as their supporters—was to provide security of tenure to the established community on site. To a large extent, this objective has been met through the Sengki land sharing agreement: in early 2014, 57 per cent of the original families still owned plots in Sengki. Some of them could obtain more than one plot, either during the original land sharing negotiation, or after the project finished. But although over half of the original households still owned their plots, not all of them stayed in Sengki. Some of them still keep their plot and rent it out to earn extra income. Many of the plots that ended up being sold were located in Zone D, probably because the small plots in zone D were obtained by the poorest households in the community (see Figure 5 and Table 9).

Table 9. Tenants in Sengki (original or newcomer households)

Zone	Original		Newcomer		Unknown		Empty		Total	
	N	%	N	%	N	%	N	%	N	%
A	18	52.9	14	41.2	2	5.9	-	-	34	100.0
B	9	37.5	7	29.2	3	12.5	5	28.3	24	100.0
B,C	-	-	1	100.0	-	-	-	-	1	100.0
C	14	50.0	5	17.9	8	28.6	1	3.6	28	100.0
D	15	31.3	22	45.8	2	4.2	9	18.8	48	100.0
Total	56	41.5	49	36.3	15	11.1	15	11.1	135	100.0

Source: K. Leeruttanawisut, 2013

From the perspective of the original families still living on site, the Sengki project is a great success. As one of the interviewees (one of the erstwhile squatters) mentioned, "For me, Sengki is a successful project because we had land and a house at (almost) the same location. We did not have to move far away. I know the project took a long time to reach an agreement. It also required my participation. We were lucky that the community leader and cooperative committee were really willing to solve the problem even though there were some conflicts. ... I am very happy to live here with my family and will not sell the plot because it represents our victory." Moreover, from the point of view of the urban poor, Sengki also created a low-cost rental housing stock in a desirable central location.

From the perspective of the NHA, a key institutional supporter of the Sengki project, land sharing in Sengki was an innovative mechanism to deal with the housing problem for the urban poor. Unfortunately, after the project, the involvement of the NHA was limited to occasional visits. They knew that the poor started selling the plots but could not control the situation. Some recipients preferred money rather than land. According to another former staff member of the NHA, although land sharing was imperfect, some poor families got the right to obtain a plot at the same location. Moreover, land sharing enabled an informal settlement to be legalized, with improved services and secure tenure. This scheme also generated the perception that the government housing agencies and the communities could solve the low-income housing problem by working together.



Figure 5. The Owners of Land Plot in Sengki (Original and Newcomer) in 2013



#### 4) Tenant

SENGKI COMMUNITY'S MAP

## The Community Dimension

A noteworthy aspect of the Sengki land sharing scheme was that it represented one of the first cases of community organization among the urban poor in Thailand around housing finance (savings and loans), through the establishment of the Housing Cooperative. The Cooperative demonstrated that the poor could organize themselves, form successful savings groups, and be reliable consumers of small-scale housing loans. Thus, the Housing Cooperative, while fulfilling an important role as a vehicle for housing finance in Sengki, at the same time also played a vital role in cementing community organization and solidarity. Moreover, the Housing Cooperative has proved to be a success: the study found that after two decades, almost 97 per cent of the households completed their loan repayments. Only two of the original households did not finish paying back their loans to the Cooperative.

The loans that the households had to repay to the Cooperative represented the main connection between the household and the community. When households finished the repayment of their debt, they could remain as Cooperative members only if they wanted to. Because most households had fully repaid their debt, the major function of the Housing Cooperative has been the community center. Many newcomers who bought their plot from the original households are not members of the Cooperative. The community leader who we interviewed said, “At the beginning, almost everyone faced the same issue. We were very worried about being evicted. So we organized our community as a Cooperative. I was selected as a leader to negotiate with KPB...But still there were some families, especially renters and poorer neighbors, who did not want to participate because they were busy earning their daily income. They also did not believe in the land sharing scheme. I therefore tried to encourage them to join us and helped the poor who could not repay the loan by paying on their behalf sometimes. However, after we got the land and allocated it to every household, some of them did not want it because they could not afford it or found better alternatives.”

## Sengki as a Precedent for Subsequent Urban Poor Community Programs

The Sengki Housing Cooperative was the first Housing Cooperative in Thailand and a model for the subsequent Baan Mangkhong program in Thailand—a new low-income housing program launched by the Community Organization Development Institute (CODI) in 2005.

Under the Baan Mankhong program, CODI encourages the urban poor to organize savings-and-loan groups, develop these groups into community-based organizations, and use the strength of the community to design and implement housing projects. To support the individual communities in their projects, community-based organizations develop into citywide networks, which in turn create partnerships with local governments, civil society groups, and academics to find solutions for the housing problems of the urban poor. Baan Mankhong does not just improve housing but aims to empower people. It wants the urban poor to gain the capacity “to negotiate their way through the hazards of the global market economy”.<sup>11</sup>

A community will negotiate with the landowner to gain security of land tenure by trying to buy or to share the land it occupies. If this is impossible, a community will sign a long-term or short-term lease, or buy or lease land nearby and seek a Baan Mankhong mortgage loan from the CODI. Once land tenure is secure, the community and CODI start to improve or rebuild the houses and install infrastructure. The land in Baan Mankhong is collectively owned or leased; it does not belong to the individual family. If one of the poor families wants to sell its share of landownership, it has to sell it back to the community. The collective ownership ends when the loans have been fully paid back in 15 years. There are some Baan Mankhong projects (not all) that build apartments called “central houses” for renters and squatters.

## The Power Dimension

Finally, an even more essential criterion on which to assess the project may be that of power. This includes whether the original households were empowered to stay in Sengki and improve their housing situation, or how many households were given the opportunity or power to make their own choices about whether to leave the settlement in search of a better alternative.<sup>12</sup> From this perspective, the case of Sengki shows that most residents of the old informal settlement were able to become actors in their own housing development, thanks to the collaboration between Thai housing activists, government agencies, and their international partners. For residents who left the settlement voluntarily after land sharing, the project might have empowered them to sell their new plots at higher prices and to move to other preferred location. While this behavior was not encouraged by the project—as it aimed to keep original residents on site—it nevertheless represented a form of empowerment for local residents to make their own housing decision.

From the community perspective, power dynamics in the Sengki land sharing agreement represented a “double edged sword” for the community. While the land sharing agreement gave previously powerless “squatters” newfound powers of secure tenure, market power (to sell their plots at a higher price if they wished) and voice (through participation in the outcome of the agreement) this “power” also led many of the poorer households to decide to exit the community. In the short term, newfound market power gave some of the poorer families a direct incentive to sell their plots and move elsewhere (see also the sub-heading on “The Security of Tenure Dimension”). Though this may have represented a victory for themselves as individuals, it acted to fragment the community fabric that existed before the land sharing agreement. The newfound “power to exit” has fundamentally altered the structure of the community. The Secretary of the Sengki Housing Cooperative confirmed this when he mentioned that social interactions in Sengki have changed. In the past neighbors knew each other. Yet nowadays, they do not know the newcomers who have come and gone, and there are fewer interactions within the community.

<sup>11</sup> Yap, Kioe-Sheng, (2014), “Housing as a Social Welfare Issue,” In *Housing East Asia: Socio-economic and Demographic Challenge*, edited by Doling, J. and Ronald, R. UK: Palgrave Macmillan.

<sup>12</sup> See Rabé, Paul, (2014), *From ‘Squatters’ to Citizens? Slum Dwellers, Developers, Land Sharing and Power in Phnom Penh, Cambodia*. Saarbrücken, Germany: Scholars’ Press, for a discussion of the different forms of “power” and agency in land sharing in the Cambodian context, based on Albert Hirschman’s original typology of exit, voice, and loyalty.

On another level the study found that a significant minority of residents – poorer tenants in particular – ended up leaving the settlement involuntarily because they were worried about the negotiation's outcome and the future burden of repaying the loan to the Housing Cooperation. In all likelihood these tenants did not leave of their own free will but were forced out for economic reasons and due to their difficult legal position. For these families, the project resulted not in newfound power but in a confirmation of their (legal and economic) powerlessness.

The Sengki land sharing agreement therefore led to a number of well-known pitfalls for poor urban communities. The signing of a formal agreement and the upgrading of housing and land rights in a hot property market in practice benefited the better off households of the settlement by raising costs of living and providing a monetary incentive to sell off newly formalized plots and introducing costs of participation, privileging ownership tenure and reducing the scope for short-term rental. In the longer term, this polarized the community as residents became less equal (particularly with regard to the distinction between owners and tenants).

All in all, one housing approach cannot be considered as a universal model for a whole city or country. There are advantages and disadvantages, and a land sharing scheme is no exception. It may take a long time to negotiate and implement land sharing, and all the poor may not get the benefit from the project. Yet the Sengki experience shows that a large group of the poor were able to obtain security of tenure. There is no “blueprint” for success, however, the negotiation and design process for a land sharing agreement will differ from case to case and its overall success will depend to a large extent on the support of a network of public, private, and community partners.

## Abbreviations

BMA:	Bangkok Metropolitan Administration
CODI:	The Community Organization Development Institute
CPB:	The Crown Property Bureau
KPB:	The King Property Bureau
PAT:	The Port Authority of Thailand
NHA:	The National Housing Authority of Thailand

## Exchange Rate

The Thai Baht was pegged to US Dollar at US\$ = Thai Baht 25 until 2 July, 1997, when the financial crisis erupted. It lost value to reach US\$ = Thai Baht 54 in January, 1998, but gradually revalued to US\$ = Thai Baht 39 in January, 2005 and to US\$ = Thai Baht 32 in December, 2011 source :[www.federalreserve.gov](http://www.federalreserve.gov).

**In 2014 1 US\$ = 31.66 Thai Baht**

*Source: Bank of Thailand*

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## Chapter 6

# Could Land Readjustment be **Participatory and Inclusive** in Turkey?

*Sevkiye Sence Turk*

The purpose of this chapter is to analyze land readjustment (LR) and its varied outcomes in Turkey from a perspective of land governance, and to discuss the procedures that could make the processes “participatory” and “inclusive.” In general, LR is a development or redevelopment process that interests a community and the public, thus it requires a balance between communal and individual needs. However, LR can be considered an individual transaction because it readjusts property rights. What makes LR different from expropriation is that the property rights of existing owners are protected, albeit the size, shape, location and ownership structure of the property (or parcel) is changed at the end of the process. With participatory and inclusive governance, consensus can be reached regarding the types of interferences with the property structure. This chapter argues that Turkey has five aspects that make it a good laboratory to experiment with participatory and inclusive LR.

First, publicly initiated LR projects have been implemented in Turkey since the second half of the 19th century. Yet local governments conducted these projects without seeking the consent of landowners. As I will explain later, it is important that LR in this country will be conducted in a participatory and inclusive manner. Second,

although the current legislation allows for the implementation of LR in built-up or developing areas, it is frequently used in new development areas of cities. In many instances, because the calculation of landowner contributions and benefits is in terms of land area, not value, this has generated many controversies. Implementing a participatory and inclusive procedure for settling disputes is critical for future LR projects in Turkey. Third, local governments—municipalities and provincial administrations—and landowners have a significant amount of knowledge and experience with LR. Since 2008, some parts of the central government such as the Mass Housing Authority (TOKI) and the Ministry of Environment and Urbanization have been granted the authority to use LR for large-scale housing projects in renewal areas, which include irregular and informal settlements and newly developing areas. These stakeholders have considerable experience with LR. Fourth, Turkey has many academic studies and debates about LR. Most debates focus on LR efforts and efficiency.<sup>1</sup>

This professional knowledge could help facilitate social discourse on opening up the LR processes to all stakeholders. Fifth, landowners who are not satisfied with LR can file lawsuits for their annulment,<sup>2</sup> and administrative courts can decide

<sup>1</sup> See Turk, S., (2005), “Land readjustment: an examination of its application in Turkey,” *Cities* 22 (1), 29-42; Turk, S., (2007), “An analysis on the efficient applicability of the land readjustment (LR) method in Turkey,” *Habitat International*, 31, 53-64; Turk, S., (2008), “An Examination for Efficient Applicability of the Land Readjustment Method at the International Context,” *Journal of Planning Literature* 2, 3 (February 2008), 229-242; Uzun, B., Çete, M. and Palancıoğlu, M., (2010), “Legalizing and upgrading illegal settlements in Turkey,” *Habitat International* 34, 204-09; Çete, M., (2010), “Turkish Land Readjustment: Good Practice in Urban Development”, *Journal of Urban Planning and Development*, 136, No. 4, pp. 373-380.

<sup>2</sup> See Biyik, C., Atasoy, M., Demir, O., (1999), An evaluation of results of cases filed in Superior Court related to land readjustment; Atasoy, M., Demir, O., Uzun, B., Nisanci, R., (2002), Reasons for Annulment Cases in LRs in Turkey and Solutions; Turk, S., Turk, C., (2011), “The annulment of land readjustment projects: an analysis for Turkey,” *Town Planning Review* 82.6, 687-708.



on annulment of LR projects. When administrative courts decide on annulment, LR could be seriously interrupted. This could be avoided by incorporating public participation and inclusiveness into the system. All these factors indicate that it is the right time to consider whether LR in Turkey could be made more open and fair.

This chapter is organized as follows. First, LR is analyzed from the governance perspective. Second, I examine the basic features of LR practices in Turkey, the level of public participation, and the constraints on making LR inclusive. Third, I evaluate the possibilities of reforming LR in Turkey.

## Making LR participatory and inclusive

LR can be analyzed from two perspectives. The first perspective involves the assessment of public participation and inclusiveness as two different but mutually complementary processes. The second perspective involves an analysis of the inclusiveness of the outcomes. LR models vary from one country to another.<sup>3</sup> It has been used in different contexts and in pursuit of a wide variety of purposes. Whatever the purposes are, LR entails four basic components:

- project initiation,
- planning decisions,
- land re-subdivision and implementation, and
- benefit distribution.

Table 1 shows that each of these components has a separate decision-making process. The extent to which a LR process is participatory and inclusive depends on how these decision-making mechanisms are designed and conducted. Thus, it is useful to indicate the critical points of public engagement for each of these components.

### Project initiation

Land Readjustment can be initiated by private landowners (or cooperatives), municipalities, or a national government.<sup>4</sup> In some countries where publicly initiated LR projects are implemented, decisions may be made directly by local governments without asking for the consent of landowners. In such cases, the process is handled as an administrative matter. In such LR schemes, the public authorities select the

readjustment areas without consulting the affected landowners who only hear about the projects after the public announcement. Nevertheless, in Japan, where the consent of landowners is not required for public LR projects, local governments are seldom willing to go ahead with any proposed projects unless they are supported by a super majority (usually 80 percent) of the landowners. The community's veto power over undesired projects is strong.<sup>5</sup> Also in India, obtaining the support of landowners as well as public announcements and personal meetings are important before the government initiates a LR project. The acceptance of a LR proposal by more than half of the landowners at the initial stage means that the implementation and completion of LR cannot be stopped.<sup>6</sup>

In privately initiated LR projects, the main condition is to ensure a unanimous consensus among all landowners, or else, the project cannot proceed further. However, reaching a full consensus by all landowners on a private LR project is not always possible, because of the lack of mutual trust and communication or the reluctance of landowners to act collectively.<sup>7</sup> In some private LR projects, the 'free-rider' problem occurs. Some landowners may try to benefit from the financial outcomes generated by the project without paying for the costs. In some countries, the government imposes specific legal rules to mediate this problem by disallowing a few dissenting landowners from blocking the project after the super majority of the landowners has agreed to participate in LR.<sup>8</sup> In Taiwan, for instance, 50 percent of the landowners should legally give their consent for the commencement of a LR project.<sup>9</sup> In Nepal, the legal requirement for the commencement of a LR project was initially 50 percent, which was then changed to 75 percent.<sup>10</sup> This veto power enables landowners to evaluate LR proposals collectively and to reject them if the anticipated costs outweigh the benefits.<sup>11</sup> Most importantly, this empowers landowners (and sometimes, renters) to take control over the redevelopment of their neighborhood, thereby enhancing the incentive of all affected stakeholders to participate in policy decision-making.

### Planning decisions

Planning decisions may affect LR directly.<sup>12</sup> In some countries, LR is used as an administrative tool to implement local plans. In this context, the processes of local plans and LR are separate; but LR should be conducted in compliance with existing local plans. In other words, local planning decisions should be made prior to the commencement of LR projects. Approved planning decisions constitute a significant input for LR. Other countries, however, have integrated LR into their planning processes.<sup>13</sup> In such cases, planning authorities, landowners, and representatives of the private sector will participate in the deliberative decision-making processes to ensure fairness in planning decisions and evaluate LR proposals.

<sup>3</sup> See Larsson, G., (1993), *Land Readjustment: A Modern Approach to Urbanization*, Avebury, England; Hong, Y. H., Needham, B. (ed) (2007), *Analyzing Land Readjustment: Economics, Law, and Collective Action*, Lincoln Institute, Cambridge, Massachusetts; Turk, S., (2008), "An Examination for Efficient Applicability of the Land Readjustment Method at the International Context," *Journal of Planning Literature* 2, 3 (February 2008), 229-242; Yilmaz, A., Çada, V., Demir, H. (2015), "An evaluation framework for land readjustment practices," *Land Use Policy*, 44, 153-168.

<sup>4</sup> Larsson, G., (1993), *Land Readjustment: A Modern Approach to Urbanization*, Avebury, England; Turk, S., (2008), "An Examination for Efficient Applicability of the Land Readjustment Method at the International Context," *Journal of Planning Literature* 2, 3 (February 2008), 229-242.

<sup>5</sup> Sorensen, A., (2007), "Consensus, persuasion, and opposition: Organizing Land Readjustment in Japan," In, *Analyzing land readjustment: Economics, law, and collective action*, edited by Yu-Hung Hong and B. Needham, Lincoln Institute of Land Policy, Cambridge, Massachusetts.

<sup>6</sup> Ballaney, S., (2010), *Supply of land for development: Land readjustment experience in Gujarat, India*, unpublished report.

<sup>7</sup> Hong, Y. H., (2007), "Assembling land for urban development: Issues and Opportunities" In, *Analyzing land readjustment: Economics, law, and collective action*, edited by Yu-Hung Hong and B. Needham, Lincoln Institute of Land Policy, Cambridge, Massachusetts, 3-36.

<sup>8</sup> Ibid.

<sup>9</sup> Lin, T. C., (2005), "Land assembly in a fragmented land market through land readjustment," *Land Use Policy* 22: 95-102.

<sup>10</sup> Karki, T. K., (2003), "Implementation experiences of land pooling projects in Katmandu Valley," *Habitat International*, 28 (1), 67-88.

<sup>11</sup> Hong, Y. H., (2007), "Assembling land for urban development: Issues and Opportunities" In, *Analyzing land readjustment: Economics, law, and collective action*, edited by Yu-Hung Hong and B. Needham, Lincoln Institute of Land Policy, Cambridge, Massachusetts, 3-36.

<sup>12</sup> Vitanen, K., (2002), *The Finnish Urban Land Readjustment Procedure in an International Context: What Can Be Learned Commonly*, Lincoln Institute of Land Policy Conference, Tools for Land Management and Development: Land Readjustment, March 21-22, Cambridge, Massachusetts.





## Land re-subdivision and implementation

The land re-subdivision and implementation phase in LR projects involves technical knowledge and calculations. A re-subdivision plan is prepared that includes the design of the serviced urban plots to be returned to the landowners in accordance with their land contribution. Such a re-subdivision plan also includes areas designated for local infrastructure such as roads, kindergartens, schools, etc. In some countries, land areas may be reserved for sale to meet the financing requirements of LR. In models where the infrastructure and building costs are included in the calculation of owners' land contribution, the plan will comprise the location of roads, sewage systems, and power lines as well as their estimated costs.

Another important issue considered in this phase is the amount of land contribution collected from the landowners. In some countries, the land contribution percentage (or ratio) is legally set and applied equally to all landowners, thus requiring no public consultation.<sup>14</sup> In countries where the law does not predetermine the land contribution percentage, landowners can express their opinions on the level of land contribution. For example, in India, public hearings are made after the determination of land contribution percentages.<sup>15</sup>

## Benefit Distribution

Benefit distribution is the most critical phase of LR in terms of ensuring fairness and equality.<sup>16</sup> In this stage, distribution criteria are quite important. In general there are two approaches. First, some countries use the area-based (or land-to-land swap) models to reallocate serviced urban plots back to landowners. Landowners normally dislike this approach because it may give landowners plots different from their original location and of joint ownership if the area of the plot is smaller than the minimum size set by the law. In the value-based approach, landowners may challenge the determination of property values before and after LR. Fair negotiations between landowners and project organizers on land-area redistribution or value assessment could ease these problems. How to make these negotiations participatory and inclusive depend on the country contexts.

## Making outcomes of LR inclusive

Making the decision-making processes of LR participatory and inclusive is not enough. The project outcomes ought to benefit all key stakeholders including, but not limited to, renters, landowners, different levels of government, and developers. LR projects should ensure that low- and medium-income households can remain on their plots and that they can afford to stay in the neighborhood after redevelopment. If a low-income family receives a land plot that is too small for constructing a house in accordance with the building codes, it may have two options. First it may

purchase an adjunct plot to form a larger site for construction. Yet low-income households normally cannot afford to do so.

Second, the owner may sell the land plot to her neighbor. This option however will lead to displacement. Similarly, landowners who receive jointly owned plots might be exposed to the risk of losing their land if their co-owners want to buy them out. More importantly low-income households may not have the financial means to build their home on the received plot. All these challenges make it difficult for the less affluent families to stay on their plot after LR.

Low- and medium-income groups may have a better chance to benefit from LR projects that include social housing. Although LR projects do increase the overall supply of housing land in urban areas to meet of the market demand, LR projects do not always increase the land supply for social housing.<sup>17</sup> Hence in some instances, LR organizers might sell the reserved areas to a housing agency at below market value to produce social housing. This method has been used in South Korea.<sup>18</sup> Alternatively, housing agencies could buy land before LR to allow them to receive a share of serviced plots after the project. However, the entrance of public agencies into LR projects depends on the willingness of existing landowners to sell their lands. In Japan, this method has lowered land costs of social housing.<sup>19</sup>

Another approach is to reserve land through LR for social housing purposes. In Gujarat, India, 2 to 3 percent of the total project areas is allocated to social housing for low-income groups. The cost of social housing is met by the financial surplus generated by selling the reserved areas. LR projects in Valencia, Spain designate 10 percent of all new apartment units for selling or renting to qualified low-income families at below market value.<sup>20</sup>

## Legal past of LR in Turkey

Many legal resources relating to LR in Turkey came into force since the second half of the 19th century. Table 2 summarizes these legal provisions, which can be examined in three parts. The first part is related to the implementation of the detailed local plans in the formal market. The aim of LR here is to: (1) implement detailed local plans, (2) create the serviced urban plots in appropriate size and shape, and (3) provide local services and infrastructure for urban residents.

In Turkey, the 'single-plot-single-building' approach is typically for the development of urban areas. In this approach, each landowner builds his or her own building on their plot after LR. In Turkey, the land contribution percentage for LR and its content are clearly set in legal sources. In time, changes have become a more focused and discussed in the legal arrangements. While a 1933 law designated the contribution percentage to be 15 percent, this was increased to 40 percent in 2003. Moreover, the purposes of land contribution have been broadened.

<sup>13</sup> Ibid.

<sup>14</sup> Turk, S., Turk, C., (2011), "The annulment of land readjustment projects: an analysis for Turkey," *Town Planning Review* 82.6, 687-708.

<sup>15</sup> Mathur, S., (2013), "Self- Financing urbanization: Insights from the use of Town Planning Schemes in Ahmedabad, India," *Cities* 31(1), 308-316; Mathur, S., (2013), "Use of land pooling and reconstitution for urban development: Experiences from Gujarat, India," *Habitat International*, 38, 199-206.

<sup>16</sup> Yilmaz, A., Ça da ,V., Demir, H. (2015), "An evaluation framework for land readjustment practices," *Land Use Policy*, 44, 153-168.

<sup>17</sup> Archer, R. W., (1999), "The potential of land pooling/readjustment to provide land for low-cost housing in developing countries," In: Payne G. (Ed), *Making common ground: public-private partnerships in land for housing*. Intermediate Technology Publications, London, 113-133.

<sup>18</sup> Doebele, W.A., (1982), *Land Readjustment*, Lexington Books, Lexington.

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In the beginning, while the contributed land was mainly for roads or squares, the designated purposes have now been expanded to include parks, car parking, playgrounds, green areas, religious buildings, police stations, and elementary and secondary schools. In 2016, with Law no. 6704, watercourses and the ways in which access control except for the highway were also added. These changes have been made in response to the increased need for urban services and infrastructure, the local government's inadequate funds for expropriation, or the time delays in the expropriation procedure.<sup>21</sup>

Table 2. Legal sources related to LR in time

	Date
Legal sources related to using of LR in the formal market	
The Building Regulations of 1848	1848
Road and Building Regulations of 1864	1864
The Building Law of 1882	1882
Law No. 642	1925
Law No. 1663	1930
Building and Roads Law, No. 2290	1933
The Reconstruction Law, No. 6785	1956
the Reconstruction Law, No. 3194	1985
Law No. 5006	2003
Law No. 6704	2016
Legal sources related to using of LR in the informal market	
The Amnesty Law , No. 2981	1983
The Amnesty Law, No. 3290	1984
The Amnesty Law, No. 3366	1986
Legal sources related to using of LR for large scale housing projects in renewal areas where include irregular and informal settlements and in newly developing areas	
Law No. 5366	2005
Law No. 5393 ( Article 73)	2005
Circular (General Directorate of Land Registry and Cadastre)No. 20	2008
Law No. 5998	2010
Decree Law No. 648	2011
Law No. 6306	2012

Sources: Turk, 2005; Turk 2007; Turk, 2013.

The second part is the use of LR in the informal market. Turkey's rapid urbanization and massive migration from rural to urban areas during its industrialization period led to the development of informal settlements. The government used two approaches to handling squatters. The first approach was to demolish the informal houses.<sup>22</sup> However, the failure of the central and local governments to supply affordable plots and/or housing units for migrants, as well as economic inadequacies, legal gaps, and delays in planning further caused the expansion of informal settlements. Thus, the demolition approach failed.

The second approach was to legalize (or regularize) the informal settlements through the amnesty laws enacted at the beginning of the 1980s (Law Nos. 2981/3290/3366). During the legalization process, squatters received title allocation documents (tapu tahsis belgesi) after their land claims were found to be legitimate. Although these documents are not legally binding, they provide an official recognition of the use rights of informal settlers. To obtain a legal title, land occupants must come up with a development plan for improvement (or upgrading). The plan must include the unification of affected parcels and a re-subdivision scheme to create new plots of maximum 400 square meters for the construction of four-story apartment buildings. This planning objective is achieved through LR. The main aim of LR in this instance is to re-parcel land by taking into consideration de facto subdivisions and uses in the area and build local infrastructure. The significant difference between LR in the informal and formal markets is in the interference in the structure of the property. In the informal market, joint ownership can be converted to individual (separate) ownership during the distribution phase. Moreover, in the distribution stage, adjustments<sup>23</sup> can be made in cash, not in the form of land.

The third part is related to large-scale housing projects in renewal districts that include informal settlements and newly developing areas. By 2003 significant powers were delegated to the Mass Housing Authority (TOKİ) as a central government unit to manage large-scale housing projects.<sup>24</sup> Similar powers were given to the Ministry of Environment and Urbanization in 2011. These central government agencies could use LR for large-scale housing projects in the renewal areas or newly developing areas. The main aim of using LR is to produce serviced urban plots suitable for large-scale housing projects and to construct local public facilities and infrastructure. Mostly, this type of LR is used in big cities such as Istanbul and Ankara. The land development process on the urban plots that are produced through this type of LR is different from the single-plot-single-building approach that is known typically for the development of urban areas in Turkey. Here, TOKİ and large developers are in charge of the land development process, constructing high-rise apartment buildings.

Tenure structures are more complicated in the urban renewal areas than those in the newly developing neighborhoods. There are de jure ownerships, de facto use rights, and occupiers who have no de jure ownership. Generally, TOKİ gives newly built flats to landowners who surrounded their land plots for the LR project. Landowners need to pay additional money to TOKİ if the value of their surrounded plot falls short of the price of the new flat. This exchange method does not apply to de facto owners, occupiers, or tenants. Instead they will be relocated to a different area. Usually de facto owners and occupants are given an affordable housing unit situated outside the project area. In addition, they are compensated for the demolition of their existing houses. Tenants are the most aggrieved among those groups because they receive no payment at all. In some cases, they are relocated to other neighborhoods with the option of purchasing an affordable housing unit. Although the repayment periods for the mortgage loan to buy the housing unit is usually long, many poor households suffer from serious payment problems.

<sup>20</sup> Muñoz Gielen, D., Korthals-Altes, W. K., (2007), "Lessons from Valencia: Separating infrastructure provision from land ownership," *Town Planning Review* 78, 1, 61-79.

<sup>21</sup> Turk, S. S., (2004), "The applicability of land acquisition methods for the provision of serviced residential land in the Turkish Case," *International Development Planning Review (IDPR)*, 26 (2), 2004, 141-166.

<sup>22</sup> Keles, R., (2006), "Kentleşme Politikası" (Urbanization policy), *İmge Kitabevi*, Ankara, (in Turkish); Uzun, B., Çete, M. and Palancıoğlu, M., (2010), "Legalizing and upgrading illegal settlements in Turkey," *Habitat International* 34, 204-09.

<sup>23</sup> Adjustments occur in cases when a parcel taken by the landowner after distribution is bigger or smaller than the area that landowner must take theoretically (Turk 2008, 238).

<sup>24</sup> Geray, C., (2007), "Toplumsal konut yönetimi ve TOKİ'nin tutum ve yöneltilerindeki son değişimler (Social housing policy and the latest changes in policy of TOKİ)" In: A. Mengi, (Ed.), *Kent ve Planlama (City and Planning)*, İstanbul, İmge Yayınevi, pp. 283-353 (in Turkish); Turk, S., Korthals-Altes, W.K., (2010), "Institutional capacities in the land development for housing on greenfield sites in Istanbul," *Habitat International* 34(2), 183-195.

Among the aforementioned ways of using LR, it is mostly used for the implementation of detailed local plans in the formal market in Turkey. LR for legalizing informal settlements was frequently used between 1980 and 1990 (Amnesty Laws No. 2981/3290/3366). However, this type of LR is no longer practiced in Turkey. A 2012 law—Regeneration Law of Areas under Disaster Risk (Law No: 6306)—abolished the Amnesty Laws. Thus, LR for large-scale housing projects in renewal areas came into play. However, these practices are still very limited.

## Main features of LR in Turkey

A large number of LR projects have been implemented in Turkey. For example, in 2013, within only one year, 3,127 LR projects were implemented.<sup>25</sup> Large municipalities are the main implementers of LR projects, with 60.7 percent of all projects implemented by municipalities with a population of over 300,000. LR in smaller cities (less than 10,000 residents) accounts for only 23.8 percent.<sup>26</sup> LR in Turkey has the following characteristics. First, the LR process is closely related to the detailed local plans. Specifically, it is part of an administrative procedure to implement detailed local plans. The development of LR projects by municipalities is based on self-evaluated needs and within the scope of self-developed policies. It is a result of the Reconstruction Law No. 3194 and of the regulation related to LR. For this reason, the municipalities are required to prepare 5-year implementation programs within three months after their detailed local plans go into effect.<sup>27</sup>

Second, the legal structure of LR is founded on the area-based approach. Contributions and benefits are determined in terms of land area, not land value. This makes LR more successful in new urban developing areas or relatively homogenous areas. This approach is less successful when it is applied to completely or partially built-up areas because the joint ownership structure of plots can occur after LR.

Third, the percentage of land contribution and its usage are clearly set in legal sources in Turkey. The maximum contribution percentage is 40 percent. This ratio is applied generally to each plot in all LR projects. As per the article of the law related to LR and related regulations, the contribution percentage within the project area is calculated based on dividing the amount of land utilized for public services by the total number of cadastral parcels in the project area. In time, there have been controversies involved in such a high contribution percentage, and this has been the subject of litigation. The Constitution Court's decision dated 22 November 1963 is quite important. The Court indicated that the contribution percentage was construed as an "expropriation action without compensation"; thus, this article was annulled, and the use of LR was blocked until an amendment was made to Law No. 1605

in 1972, introducing the concept of "Contribution Percentage for Public Areas." It accepted the contribution percentage as an increase in value arising from LR and prescribed the provision that this land contribution would be used to build roads, squares, parks, parking spaces, nurseries, green areas, etc. This provision has been an important justification for the land contribution percentage.

Fourth, the provision of land contribution for infrastructure and public service areas does not include the responsibility for financing the construction. The construction of public infrastructure will be carried out after LR and is the duty of municipalities. LR only makes land available for local infrastructure and public facilities but does not provide funds to cover the construction cost.

Fifth, since 2008, municipalities and central government agencies have conducted many urban LR projects. While local governments (or some central government units) may have their own technical staff to prepare their LR projects, they may tender or contract out the tasks to private surveying companies. The specifications of the tender are prepared by the municipality according to the rules set forth in the Public Procurement Law No. 2886.

## Is LR in Turkey participatory and inclusive?

During the project initiation stage, decisions on LR projects are made directly by local governments without seeking landowner consent. In other words, local governments treat LR as an administrative tool to implement detailed local plans. In addition, they develop LR projects to satisfy the needs of specific development status in relevant urban areas. As mentioned before, they are obliged to prepare a 5-year implementation program to implement their detailed local plan within 3 months after the local plan has been established. However, one-third of the municipalities have no implementation programs.<sup>28</sup> There is no legal sanction to penalize municipalities that do not fulfill their responsibilities for preparing these implementation programs. As a result, some municipalities have avoided the LR process required to implement their detailed local plans.<sup>29</sup> According to the development regulations, municipalities should allocate adequate land as LR areas for the building of residential properties. Furthermore, there is no legal provision to ensure that municipalities will conduct feasibility studies to determine suitable LR areas. Although the designation of an LR area and the commencement of the project require the approval of the municipal committee<sup>30</sup>, they are not required to publicize their decisions. Affected landowners can only learn about the project informally. Hence the initiation of LR in Turkey is not participatory.

<sup>25</sup> General Directorate of Land Registry and Cadastre, (2013), Annual report, Ankara (in Turkish).

<sup>26</sup> Turk, S. S., (2004), "The applicability of land acquisition methods for the provision of serviced residential land in the Turkish Case," *International Development Planning Review (IDPR)*, 26 (2), 2004, 141-166.

<sup>27</sup> Turk, S., (2005.), "Land readjustment: an examination of its application in Turkey," *Cities* 22 (1), 29-42; Turk, S., (2007), "An analysis on the efficient applicability of the land readjustment (LR) method in Turkey," *Habitat International*, 31, 53-64.

<sup>28</sup> Turk, S. S., (2004), "The applicability of land acquisition methods for the provision of serviced residential land in the Turkish Case," *International Development Planning Review (IDPR)*, 26 (2), 2004, 141-166.

<sup>29</sup> Turk, S., (2007), "An analysis on the efficient applicability of the land readjustment (LR) method in Turkey," *Habitat International*, 31, 53-64.

<sup>30</sup> Municipal committee consists of seven members; Major, three members to be elected each year from among the members of the municipal council, three members to be nominated each year by the Mayor from among the heads of units and among the chief of financial services.

The planning and LR processes in Turkey are separate administrative procedures. Yet LR follows closely the detailed local plans. In Turkey, the urban planning system is a top-down process dominated by the central and local governments.<sup>31</sup> In the legal procedure, detailed local plans prepared by local governments or the private sector and approved by the administration are posted on public notice boards for a one-month consultation. Landowners or other involved parties may object to these plans within a specified period. They can file a lawsuit against the administration, asking the courts to annul the planning decisions.<sup>32</sup> Landowners who miss the consultation period must wait for the finalization of the LR plan before they can file a lawsuit against both the planning and LR decisions.<sup>33</sup> As can be seen, participatory and inclusive mechanisms are not adequately included in the legal procedure. However, in recent years, some local governments have experimented with participatory planning practices that engage all stakeholders as partners in the decision-making processes. Besides, Regulation on Spatial Plan Making that came into force in 2014 brought some rules on provision of participation in the preparation of local spatial plans. Yet these practices are still in their infancy stage.<sup>34</sup>

The land re-subdivision phase in LR projects involves technical knowledge and calculations. A re-subdivision plan will be prepared according to a detailed local plan that considers plot designs. If the serviced urban plots are not clearly delineated, the contractor will have the full discretion to carry out the project on behalf of the agency in charge of LR. The percentage of land contribution, which constitutes a critical issue at this phase, is calculated as per the relevant regulations. As discussed before, this land contribution percentage is the ratio between the amount of land needed for public services and the total land area involved in the LR project based on government cadastral data.<sup>35</sup> Technical data and calculations in the re-subdivision and implementation stage are not reviewed or monitored by experts. There is no public oversight of these calculations. As a whole, the land re-subdivision and implementation phases of the LR process in Turkey are neither participatory nor inclusive.

The distribution of serviced urban plots back to the participating landowners is one of the most controversial phases of LR. A major problem may arise in this phase. When the area of the plot granted to the landowner is smaller than an urban plot (as defined by the legal sources or local detailed plans), they will have to combine their plot with the adjacent plot and jointly own the combined site with their neighbor who they may not know. Legal proceedings may start to eliminate joint ownership; but the co-owner who has stronger economic power may buy out the weaker party to take possession of the entire plot. Under this situation, some small landowners may face the risk of losing their plots and relocation at the end of the LR process.

## Outcomes of the current LR practices

In Turkey, LR projects approved by the municipal or provincial committee are publicized for a period of one month. Upon the examination and resolution of objections raised during this period, the project will be submitted to the cadastral office for technical review and then to the land register office for registration. The landowners who are not satisfied with the decision may file lawsuits at the administrative courts for annulment of the project. According to the statistics maintained by the Ministry of Justice General Directorate, the total number of lawsuits related to planning and LR decisions was 9,086 in 2012. The administrative courts annulled 28 percent of them (2,572 cases).<sup>36</sup>

The application of partial or total annulment decisions given by the administrative jurisdiction regarding LR projects can lead to two outcomes. First, the decision does not change the land contribution percentage.<sup>37</sup> Since the entire LR project will not be affected and the problem is of a small scale, there will be no long delay in the development process. Second, the decision will change the contribution percentage. This situation requires a new LR proposal and a reversion to the previous cadastral records of the urban plots (ibid). Since the entire LR area will be affected, delay in the development process can be long. Within one month after annulment decisions by the administrative jurisdiction, transactions for reversion to previous cadastral parcels must begin. Yet such changes are uncommon.

## Constraints affecting participation and inclusiveness

Public participation and inclusiveness of LR in Turkey are affected by a number of constraints. First, projects are implemented without asking for the consent of landowners. The public administration is vested with all the power in both the design and implementation of LR. Privately initiated LR projects are rare, because the landowners must pay for the project costs.<sup>38</sup> No organizational structures such as cooperatives, unions, corporations, etc. for implementing LR have been defined and established in the legislation.

Second, cadastral plots in urban areas are generally small in size and jointly owned due to the inheritance system. This situation increases the number of plots and the number of landowners in LR projects. As per the Turkish Civil Code, transactions on jointly owned properties require the consent of all co-owners. This requirement makes it even more rare that LR projects will be participatory and inclusive, because

<sup>31</sup> Unal, Y., (2015), "Türk şehir Planlama Hukukunun Dünü-Bugünü 1985-2015 (Past, Present of Turkish Planning Law)," İstanbul, Yetkin Kitabevi (in Turkish).

<sup>32</sup> Bal, E., (2004), "The role of decisions of administrative jurisdiction in urban planning process: İzmir Case (dari Yargı Kararlarının şehir Planlama Süreci içindeki Rolü: İzmir Örneği)", (unpublished Msc Thesis), Institute of Science and Technology, İzmir University (in Turkish).

<sup>33</sup> Canbazoglu, K., Ayaydin, D., (2011), "Judicial review of local plans (İmar planlarının yargısal denetimi 1)", TBB Dergisi, 93, 239-281 (in Turkish).

<sup>34</sup> See Ataöv, A., (2007), "Democracy to become reality: Participatory planning through action research," Habitat International, 31 (3-4), 333-344; Ataöv, A., Kahraman, Z. E. H., (2009), "Constructing collaborative processes through experimental learning: Participatory planning in Kaymaklı, Turkey," Habitat International, 33 (4), 378-386; Taş, M., Taş, N., Cahantimur, A., (2009), "A participatory governance model for the sustainable development of Cumalıkızık, a heritage site in Turkey," Environment and Urbanization 21, 1, 161-184.

<sup>35</sup> Turk, S., (2005.), "Land readjustment: an examination of its application in Turkey," Cities 22 (1), 29-42.

<sup>36</sup> Ministry of Justice General Directorate, (2012), Ministry of Justice General Directorate of Judicial Record and Statistics, Ankara. Pub. No. 7 (in Turkish)

<sup>37</sup> Turk, C., and Turk, S., (2006), Hukukîve Teknik Boyuttan İle Araziye Arsa Düzenlemesi (LR with Legal and Technical Dimension), Beta Yayınevi, 2006, ISBN 975-295-560-6 (in Turkish).

<sup>38</sup> Çete, M., (2010), "Turkish Land Readjustment: Good Practice in Urban Development," Journal of Urban Planning and Development, 136, No. 4, pp. 373-380.

all joint owners of each plot must participate in the decision-making process. Another problem related to landownership is the outdated addresses on title deeds that make it difficult for the administration to contact the owners. Besides, some properties of deceased landowners were not inherited by legal successors, thus requiring a prolonged property rights clearance before the administration can assemble these plots for LR.

Third, the requirement of participatory and inclusive processes is not included in the legislation. The participation mechanisms are not stated sufficiently in the legal sources of urban planning. The emerging participatory planning approach has not been institutionalized.

Fourth, the number of technical staff (surveyor engineers and urban planners) employed by the municipalities in Turkey is small. The technical staff only accounts for 13 percent of the total municipal personnel.<sup>39</sup> There are no specialized departments within municipalities for designing and operating LR. Moreover, the capacity of the technical staff for implementing participatory and inclusive mechanisms is limited.

Fifth, municipalities usually award LR projects to the private sector by way of bidding. Specialization or experience in implementing LR is usually not included in the bidding terms, nor is there the requirement of participatory and inclusive mechanisms for decision making.

Sixth, landowners have a negative sentiment toward LR in Turkey. According to survey results, the majority of municipalities (67.3 percent) stated that landowners are against LR.<sup>40</sup> Close to 80 percent of these municipalities believe that landowners develop negative attitudes toward land contribution for public use. According to 83 percent of these municipalities, landowners believe that “they will be given a serviced urban plot other than their cadastral plots after LR.” However, 70 percent of the landowners are concerned that “the urban plot received would be jointly owned.”

The survey also revealed that opposition to LR by landowners is most intense at the distribution stage. According to landowners in 61.6 percent of municipalities surveyed, the reason for opposing LR is the lack of consideration of the ‘equivalence factor’ between readjusted and original plot, because Turkey uses the area-based LR. Landowners in 75 percent of the municipalities also stated that either “they are not pleased with the location of the urban plot obtained in LR” or “the plot given is jointly owned with others.” Prejudice against LR projects can be an important reason for their annulment. These results are not surprising because landowners have strong sentimental attachment to their land. They respect their own family’s inheritance and belief that owning land could improve their economic security.

## Prospects for making LR participatory and inclusive in Turkey

The participatory and inclusive mechanisms in the four main phases (project initiation, planning decisions, land re-subdivision and implementation, and

distribution) of LR in Turkey are quite ineffective. It could be argued that the current approach can expedite project implementation. However, these LR practices do not produce equitable results for landowners.<sup>41</sup> There are two ways to make LR in Turkey participatory and inclusive. First, the government needs to reform the current regulatory framework to remedy the following deficiencies including: (1) lack of participatory features in the planning system and LR project initiation phase; (2) insufficient technical review in land re-subdivision and implementation; and (3) no deliberative decision-making processes or public announcements in the distribution stage. Each of these problems deserves careful consideration.

The initial phase of the LR process should be made more open to the public. This can be achieved by public announcements. Although hearings and notices cannot be seen as meaningful deliberations, this may increase the legitimacy of LR managed by local governments. At the minimum, landowners should have the right to object to the proposed LR project during the legal period of announcements.

The planning process in Turkey should also be made participatory apart from the LR process. In particular, the deliberative decision-making processes should be integrated into the planning system. The 2013 Taksim Gezi Park protests revealed the danger of not having any deliberative decision-making mechanisms. During the protests, the main objection was to change the land use from a public area into a shopping mall without asking for citizen inputs. Organizing public meetings and citizen advisory boards could have created important communication channels to interact with and engage concerned citizens in planning decisions.

The re-subdivision and implementation phase that contains technical data and calculations is not reviewed or monitored by experts. The only review is done by local governments at the end of the LR process. The technical capacity of local governments may be insufficient to perform this task. Hence, the government should establish a board or committee that is composed of experts from different fields of specialization and can act independently of local governments to check the land re-subdivision and to oversee the implementation. The organization and working principles of this board or committee may be regulated by the law. Landowners may submit their objections to this board or committee. The board or committee may then check the LR projects in terms of compliance with the legal and technical requirements. In case of any non-conformity, the contractor acting on behalf of the administration may be granted a term extension to correct the oversight.

The alternative is to strengthen the capacity of technical staffs in local governments, the private sector, and landowners. Some specialized units for managing LR should be established within local governments. The number of technical staff should be increased along with the implementation of some capacity building programs that provide training in communication skills and consensus building. The strengthening of the private sector (construction) depends on qualification requirements and competence provisions in tendering specifications. At present, local governments overlook the quality and competency in LR bids. Therefore, mistakes are inevitable. Databases of best practices should be built and shared with the public and private sectors. Landowners’ surveillance of contractors’ performance could also be possible if they learn the LR process. Landowners should get accurate information

<sup>39</sup> General Directorate of Local Governments, (2009), Annual report, Ankara (in Turkish).

<sup>40</sup> Turk, S. S., (2004), “The applicability of land acquisition methods for the provision of serviced residential land in the Turkish Case,” International Development Planning Review (IDPR), 26 (2), 2004, 141-166; Turk, S. S. and Unal, Y., (2004), “The adverse prejudice against land readjustment method (arazi ve arsa düzenlemesi metoduna ilişkin olumsuz önyargı)”, İtûdîrgisi/a, 1, 111-119 (in Turkish).

<sup>41</sup> Çete, M., (2010), “Turkish Land Readjustment: Good Practice in Urban Development,” Journal of Urban Planning and Development, 136, No. 4, 377.



about LR, so as to recognize their rights and obligations. Getting information informally could lead to disinformation and prejudice against LR.

## Prospects for making outcomes of LR inclusive

As mentioned earlier, LR is widely used in both formal and informal areas in Turkey. The question here is how to increase the ability of LR to produce affordable housing for low-income families. This objective may be achieved in four ways. First, local governments could use LR to produce more small serviced urban plots whose sale prices are affordable for the urban poor. These small plots may allow the low-income group to enter into the land market and to use self-help strategies to carry out land improvements as their incomes rise.<sup>42</sup> A gradual change in land ownership after LR can be seen in time. For example, Aydemir found that the turnover rates of the small urban plots range from 48 to 72 percent in a 25-year period in three case studies, demonstrating that the original owners who are in the low-income group have stayed in the area.<sup>43</sup>

Second, social housing areas could be designated in a detailed local plan, and then a share of the land contribution by landowners for LR could be dedicated to finance affordable housing construction. However, this approach would involve an increase in the contribution percentage, which is already high from a landowner's perspective. An increase in the contribution percentage beyond 40 percent may decrease landowner support for LR.

Third, social housing and commodity housing areas can be differentiated as two different land uses in detailed local plans. The value of a plot for social housing will be lower than the value of a plot for commodity housing. In the distribution stage, this value difference will be taken into consideration. Such a value-based approach is at odds with the current LR system in Turkey, which is based on an area-based approach. Hence this proposal would involve a change in the legal system and the mindset of all stakeholders.

Fourth, TOKİ could participate in LR projects as a landowner. In this option, TOKİ would use its financial scope to capture the land value for the benefit of social housing. The Tuzla Aydınlı Project in Tuzla, Istanbul can be presented as a successful example of this type of LR. The Tuzla district is a newly developing area on the Asian side of Istanbul, developing into one of the most industrialized areas in the beginning of the 1980s. The project area is situated near the Sabiha Gökçen Airport. Before LR, the area was used as cropland. Tenure structure in the project area is de jure ownerships. A large part of the land in the area belongs to the Treasury (60 percent), which was then transferred to the TOKİ. Before LR, there were 24 cadastral parcels in the project area and the average size was about 18,016 square meters. After LR, 32 large urban plots in accordance with the requirements of social housing were produced. TOKİ has taken over these plots for the construction of social housing since 2008 and built 984 social housing units. At present, a large part of the housing has been finished (Figure 1, Table 3). However, TOKİ's housing programmes are not always affordable to lower and middle-income groups.<sup>44</sup>

Figure 1. Before and After LR in Aydınlı Project



Cadastral parcels before LR



Serviced urban plots after LR

Source: Tuzla Municipality, 2011.

<sup>42</sup> Turk, S., Korthals Altes, W.K., (2010), "Institutional capacities in the land development for housing on greenfield sites in Istanbul," *Habitat International* 34(2), 183-195.

<sup>43</sup> Aydemir, S., (2012), "LR projects in areas with illegal subdivisions and their results: Ata ehir Case (Kayden ağı Mahallen Müstakıl Kullanım Durumunda Olan Alanlarda İslah mar Planı ve Sonuçları: Ata ehir Örne i)", Unpublished Msc Thesis, Institute of Science and Technology, İTÜ (in Turkish).

<sup>44</sup> Turk, S., Korthals Altes, W.K., (2010), "Institutional capacities in the land development for housing on greenfield sites in Istanbul," *Habitat International* 34(2), 183-195.

Table 3. Project area after LR in Aydınlı Project

CATEGORY	AFTER LR	
	AREA (m2)	PERCENTAGE (%)
Total of cadastral parcels	406,586.83	100
Total of serviced urban plots	244,023.56	60
Public service areas supplied by Contribution Percentage	162,563.27	40
Roads	58,573.298	14.4
Squares	-	-
Green areas	40,150.28	9.9
Car parks	-	-
Children's playgrounds	-	-
Elementary and secondary education areas	54,755.65	13.5
Police stations	-	-
Religious building area	9,084.04	2.2
Number of cadastral parcels before LR	24	
Number of serviced urban plots after LR	32	
Average cadastral plot size before LR	18,015.97	
Average serviced urban plot size after LR	7625.74	

Source: Tuzla Municipality, 2011.

## General evaluation and conclusions

Many towns and cities are struggling with proper responses to rapid urbanization and are unable to provide their residents with affordable shelter, social services and public infrastructure. These challenges have led to an increase in unplanned urban sprawl, the prevalence of slums, and an often poorly planned provision for public space, all of which negatively impact living conditions, economic growth, prosperity, and environmental sustainability.<sup>45</sup> LR could have significant potential to help resolve some of these problems in both developed and developing countries. LR projects involve multilateral and complex interactions among stakeholders. It is a process that interests a community and the public. It also reconfigures property boundaries within a designated neighborhood. Given the importance of its operations, LR should be participatory and have inclusive outcomes.

Turkey has a long history of using LR, and many LR projects have been implemented. The Turkish people use LR in three different ways. First, they use LR for implementing detailed local plans in formal urban areas. Second, they apply LR to the informal areas. Third, they develop large-scale housing projects in renewal areas with informal settlements and in newly developing areas through LR. Each of these instances has different purposes, and their outcomes also differ. However, whatever the purposes are, their processes suffer from the same problems of inadequate public participation and inclusiveness. However, it cannot be said that these problems are unique to LR. The Turkish planning system overall lacks public participation. Although some local governments are experimenting with participatory urban planning, these practices have not yet been institutionalized. Law is a necessary but insufficient factor for facilitating participatory and inclusive decision-making mechanisms. In particular, the importance of participatory and inclusive mechanisms has to be recognized by all stakeholders. Another important thing is that LR projects should ensure that existing landowners are not displaced and that low-income groups can afford to live on the plots produced by LR.

The long project duration is one of the main drawbacks when participatory and inclusive mechanisms are incorporated into both public and private LR. In India, the average duration of LR projects is about 3 to 4 years<sup>46</sup> and 3 to 5 years in Nepal.<sup>47</sup> However, it is known that the duration of comprehensive urban development projects can be much longer. In Turkey, the LR process can be completed within relatively shorter time compared to other developing countries. The duration of LR changes depending on the size of the project, but the average length is about one year. This situation originates from three main factors. First, the construction of infrastructure is not included in the LR process. Second, the planning and LR processes are independent of, but at the same time following, each other. In other words, a detailed local plan has already been prepared at the commencement of the LR project. Third, a public announcement is made at the end of the LR process, which is the only opportunity for landowners to voice their objections.

Accelerated LR projects can have significant advantages when considering the urbanization and population growth of developing countries. However, when an LR process is completed within a shorter timeframe, it can also mean that the participatory and inclusive mechanisms are ignored. In Turkey, although LR can be completed within a year, landowners are likely to litigate for the annulment of such projects. LR could be seriously interrupted when administrative courts decide for annulment and order the execution of its annulment decisions. This could be avoided by incorporating public participation and inclusiveness into the system. Indeed public participation could prolong LR projects; yet Turkish policymakers should keep in mind that the time lost due to an annulment could be much longer than that lost by investing in public participation/

<sup>45</sup> UN-Habitat, (2013), Participatory and Inclusive Land Readjustment Approach (PILaR), UN-Habitat, Nairobi.

<sup>46</sup> Ballaney, S., (2010), Supply of land for development: Land readjustment experience in Gujarat, India, unpublished report.

<sup>47</sup> Karki, T. K., (2003), "Implementation experiences of land pooling projects in Katmandu Valley," Habitat International, 28 (1), 67-88; Karki, T. K., (2004), "Challenges of managing a government town planning office in Nepal: a planner's experience," Environment and Urbanization 16 (2), 223-233.

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## Chapter 7

# Land Pooling in **Thimphu, Bhutan**

*Geley Norbu*

Bhutan is increasingly known to the outside world as a Shangri-La of peace, a country that has achieved happiness. Visitors come to Bhutan to experience happiness. “Yet, Bhutan is not a country that has achieved happiness,” explained the Prime Minister J.Y. Thinley to the students of Thimphu College when he shared the nation’s dream.<sup>1</sup> He asserted, “Like many developing and poor countries in the world, Bhutan has many challenges, aspirations and limitations. But where we differ from other countries, rich or poor, industrialized and developing, is that we are a country in serious pursuit of happiness”.

Thimphu, the capital city of Bhutan, envisions the city as “the best of what the country can be”. Despite efforts to improve, the city has been grappling with a number of issues. Significant rural to urban migration has led to population increase, land fragmentation, and ad-hoc development. The already inadequate urban infrastructure and services are overwhelmed by increased demand. The peri-urban and sub-urban areas are characterized by haphazard developments that constrain proper planning and add to urban challenges. The planning, administration, and management of the city is entrusted to the Thimphu Thromde (municipality), which is also working under immense constraints given limited legal frameworks and a weak institutional setup.

The urban area of Thimphu was expanded from 8 to 26 square kilometers in 1999. The first comprehensive master plan was prepared in 2000 and was approved by

the Cabinet in 2003 (see Figure 1). Before its approval, the 2002-2027 Thimphu Structure Plan (TSP) went through at least 19 rigorous public consultation meetings with various stakeholders including land and property owners. The implementation of the TSP required the preparation of Local Area Plans (LAP) which would show the details of infrastructure networks and other amenities. Accordingly, 12 LAPs were prepared for the extended areas using the land pooling technique. Each LAP encompasses an area of about one square kilometer that is expected to accommodate a population of around 12,000 people with all the convenient services and amenities accessible within walking distance. As of 2016, these LAPs were at various stages of implementation.

This chapter presents the process of planning, public consultation, implementation, and the challenges that the planners faced while implementing urban development plans through the application of land pooling. It also discusses the dilemmas faced by the municipality in this process. It then takes a closer look at the land pooling experience through the example of the Lungtenphu LAP. The Lungtenphu case was selected because it is the first LAP implemented and has several lessons to offer (refer to the key map in Figure 2). The case study delves deeply into the intent and focus of planning interventions and also reflects on the difficult experiences to draw out helpful lessons. The chapter concludes with observations and lessons followed by a discussion on reflective learning about what could have been done differently.

<sup>1</sup> Bhutan Observer, (2011), “PM shares nation’s dream with college,” November 25.



## The Thimphu Structure Plan (TSP)

Prior to the preparation of the TSP and the drafting of subsequent LAPs, the government acquired lands from farmers for the development of urban centers and public facilities. This involved the creation of regular plots that were then serviced and allotted to the business community. As time passed, this process was criticized and contested by the property owners citing the reasons listed below:

- The compensation offered by the government was unfair because it was always less than the prevailing market value.
- The lands were acquired from farmers and were allotted as serviced plots to the business community based on production of business licenses.
- The educated, rich, and powerful were advantaged in their access to information.
- The planning process was not transparent. Only a few planners/engineers, district commissioners, ministers and government officials had the knowledge and access to vital information related to land and development plans.
- Plans were prepared in a top-down fashion, and there were hardly any public consultations. The few public consultations initiated by the government were under-representative and seen as mere tokenism.
- A few people owning a vast expanse of land kept their land idle for speculative purposes, leading to distortions in the land and housing markets.
- Urban life was deteriorating due to lack of and/or limited funding sources for infrastructure investment.
- All too often, development plans were prepared in haste by the consultants without a complete understanding of the reality on the ground. Appraisals were also prepared quickly, and their recommendations were normally ignored.

In light of these inadequacies, the government introduced land pooling as an alternative tool for urban development. Simultaneously, during the preparation of the master plan for Thimphu, the government initiated rigorous public consultations and detailed assessments of the socio-cultural, traditional, and environmental aspects of the localities. The TSP alone went through more than 19 public meetings before its approval by the Council of Cabinet Ministers in February 2003. Moreover, this does not include the numerous meetings with the various governmental and utility agencies and the numerous public consultations for the LAPs (see Table 1 and Appendix A).

The most important aspect of Thimphu's experience was the introduction of land pooling to help reduce the cost of implementing the LAPs. It is important to note that land pooling did not have legal legitimacy until the passing of the Local Government Act of 2009 which defines land pooling as "a planning technique to redefine ownership of land in such a way that: (1) the shape and configuration of plots is more appropriate for urban structures and uses, and (2) the size of all plots is reduced by an agreed proportion to create sufficient public and planned provision of roads, infrastructure, social facilities, open space and reserve plots."

The landowners within the land pooling area contributed between 15 to 30 per cent of their land for the construction of roads, footpaths, open spaces, schools, neighborhood nodes and other public amenities. This arrangement provided land for local infrastructure development without resorting to eminent domain to acquire private land. The Thimphu Municipality was responsible for building the infrastructure, which was financed mostly through loans from the World Bank and Asian Development Bank.



Table 1. Summary of the status of LAPs as of December 2010

SI no	Name of LAP	Total LAP Area (acre)	Area under ADB/WB project (acre)	Total no of plots	Total no of landowners	No of plots under ADB/ WB project area	LP % Contribution	Agreement to LP (%)	No. of public consultations before approval	Plan approval year
1	Serbithang LAP	316	NA	34	15	NA	15	NA	5	2004
2	Babesa LAP	258.2	184.9	351	274	380	27.5	96	12	2005
3	Simtokha LAP	125	89.5	481	230	230	29	100	8	2004
4	Lungtenphu LAP	602	134.2	420	271	420	28.9	100	12	2004
5	Changbangdu LAP	344	84.5	247	151	247	27.5	97	7	2007
6	Core Area	242	NA	404	440	NA	0	NA	2	2003
7	Langjophakha LAP	109	42.4	121	122	121	25	95	6	2007
8	Hejo-Sling LAP	321	132.048	306	155	169	29.5	90	2	2008
9	Jongshina LAP*	293	151.297	306	269	306	29.5	80	2	2008
10	Taba LAP*	261	260.76	354	352	354	28.5	82	11	2005
11	Dechencholing LAP	93	91.44	220	152	179	25	100	7	2005
12	Changzamto LAP	27		126	127		25	No records	3	2001
<b>Total</b>	<b>2991.2</b>		<b>3370</b>	<b>2558</b>				<b>41</b>		

Notes: The TSP alone has gone through 19 public consultations that are not included here. Besides numerous meetings held even after the plan approval and consultations with government and utility agencies are also not included in this table.

Source: Thimphu Thromde (2011).

After the completion of the LAPs for Thimphu, other towns in Southern Bhutan such as Damphu, Gelephu, and Samchi followed suit. By 2004 Thimphu completed the planning of twelve LAPs that are currently at various stages of implementation. All of these LAPs are equally unique and worthy of discussion independently. The following section analyzes the Lungtenphu LAP followed by a general discussion of the other LAPs.

## Plan preparation, consultation and approval

Ever since the preparation of the TSP and LAPs were announced in 2000, public consultations were a continuous process. Consultations with individuals were also initiated where the community/property owners were allowed to visit and consult with planners on specified working days. This continued until 2006. Owing to this consultation process, the few planners and city staff had to put in extra efforts to make the plans as inclusive as possible. Over 50 per cent of the daily staff hours were involved in public consultations and site visits to explain to the landowners the plan, land pooling, proposed plot location, and facilities, etc. In addition, a minimum of 20 to 30 landowners visited the municipality everyday (see Figures 3 and 4).

Although they were announced through the media and local representatives (tshogpas), most public meetings/consultations were initially attended by only a handful of property owners. Public consultation was mainly done through open house discussions and with local representatives elected by property owners with legal titles. The LAPs were revised and updated after receiving comments during the public meetings. The comments made by the public ranged from requests related to the reduction of land pooling contribution ratio, shifting of plots, the reduction of roads and open spaces, and the location and shape of plots. These inputs were recorded in minutes and incorporated into the plan. Numerous presentations and discussions with the public were done prior to the preparation of the final draft.

After the public consultation process and approval of the LAPs by the majority of property owners, the proposals were deliberated at the City Committee Meetings for an official endorsement. As of June 2013, 12 LAPs were approved (See Table 1). At present, six LAPs are under infrastructure implementation with loans from the World Bank and Asian Development Bank (ADB). The remaining LAPs do not have any committed budget at the moment.

*Figures 3 and 4. Public meetings and discussions**At the school auditorium**Source: By the author.**Inside the municipal office*

## Infrastructure Investment

The role of the World Bank and ADB was to assist the municipality in implementing the approved plans. In order to avoid unforeseen confrontations and complications, the donors preferred 100 per cent agreement with land pooling from the landowners. This helped the government push forth its agenda and ensured that the cabinet approved the Land Pooling Rules in 2009. At the municipal level, it encouraged city officials to conduct more public meetings and build trust with their local constituency. The result was a relatively smooth implementation of the land pooling projects since 2010. The only major hurdle during the early stages of planning in 2003 and 2004 was the lawsuit (public interest litigation) against the government by a group of landowners.

The six LAPs funded by the loans from the ADB and World Bank had to fulfill several conditions prior to the construction of infrastructure.<sup>2</sup> The basic outputs required were:

- a. A social and economic survey of the households and the impact report;
- b. A resettlement action plan (RAP); and
- c. An environmental impact assessment (EIA).

Other important activities that needed to be completed prior to tendering the civil works were:

- d. Distribution of compensation to those affected by the demolition of temporary structures and fruit trees and to the elderly and

handicapped, etc. They were identified during the household survey and socioeconomic studies;

- e. The re-parceling and handing-over of the new plots to individual landowners;
- f. The issuance of titles to owners that reflect the net area after land pooling; and
- g. The resolution of all complaints and grievances from the property owners and tenants. Although tenants did not participate in the plan preparation stage, their concerns were taken into account during the implementation phase. This would not have happened if the government did not adopt the resettlement policies of the donor agencies.

Only after the completion of the above tasks could the civil works begin; however, in some LAPs the civil works and some of the above activities moved hand in hand. Once contractors had bid, and the civil works were awarded, the role of the municipality was to monitor the project and review minor aspects of the plan that required modifications throughout the actual implementation.

Due to immense pressure from the property owners to release land for development, the Thimphu Municipality was left with no alternatives but to proceed with the implementation of the LAPs that did not have the financial support from the World Bank and ADB. Although these LAPs did not have 100 per cent agreement to land pooling, the municipality moved ahead with implementation after the majority (more than 75 per cent) of property owners signed the agreement. The areas with the highest number of people agreeing to land pooling were truncated and prioritized for implementation.

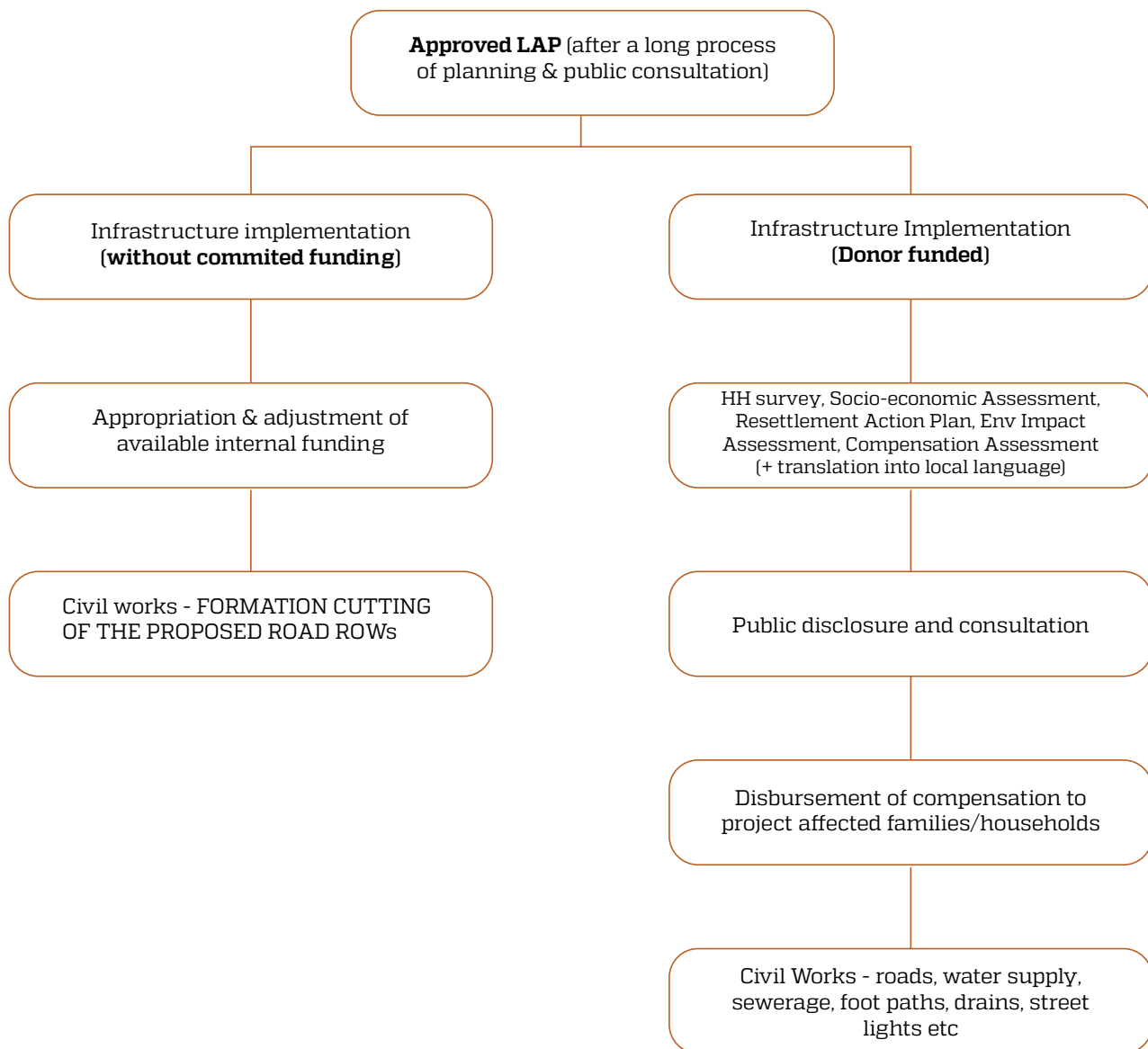
<sup>2</sup> The six LAPs under implementation are: Lungtenphu LAP, Simtokha LAP, Babesa LAP, Changbangdu LAP, Dechencholing LAP and Langjophakha LAP.

The first task of the municipality was to demarcate the right of ways (ROW). The excavators or backhoe machines owned by the municipality were then deployed to do the road formation cutting to secure the ROWs and to avoid future complications and/or encroachments. Any grievance was resolved on the ground by negotiating and engaging the peoples' representatives and urban planners. Often times, the mayor visited the site to mediate and resolve conflicts. This strategy proved successful, and many property owners applauded the municipality.

The implementation of these LAPs started in early 2010. By early 2011 more than 20 kilometers of road were built in four LAPs. In 2014 about 90 per cent of the

planned ROWs were secured, and most plots have access to at least a rough road. The main task for the municipality was to find the funds to complete these roads and provide other basic infrastructure such as water supply, sewerage, drains, and street lighting. The resolution of any disputes in this process went hand in hand with the actual implementation of the civil works.

The two different land pooling implementation process can be explained by the chart shown below.



## Challenges

Among the main difficulties faced by the municipality, three clearly stood out. Firstly, even after twelve years of planning and implementation, the city officials still encountered people who claimed that they were never consulted. Yet from the city's perspective (based on the records of meeting minutes, list of attendance during public meetings, and media announcements), substantial efforts were made towards public consultation. For example, there were 19 open house discussions of the TSP. The Lungtenphu, Babesa, and Taba LAPs went through more than 12 public meetings, not including the numerous site visits (see Table 1). Endless notices and announcements were broadcast through the media. Plans were printed and published in the newspapers and also made available online. Comments were solicited and necessary amendments made to the plans.

Often times the individuals who complained were the ones who seemed to take advantage of the new officials in the municipal office. There was also poor record keeping and accountability. The rich and powerful and those who owned huge parcels were usually unhappy with land pooling because they stood to lose more land compared to those with small parcels. Moreover, they had resources and networks to continue their fight and prolong the implementation. These people were usually well settled and not in a hurry to invest in their undeveloped land. In the meantime, the middle- and low-income households suffered because of the increased construction costs, speculative land prices, and housing shortage, all of which were the byproducts of the delayed implementation.

The municipality recently became more aggressive and litigated a case with an influential landowner, who, despite having signed the land pooling agreement in the past, was unwilling to part with his land contribution. The district court ruled in favor of the municipality, but the High Court reversed this ruling. At the time of the writing of this chapter, the case is with the Supreme Court. Whatever the result may be, these litigations have taken time and delayed the implementation. Therefore, the municipality is now attempting to reduce such litigations by holding numerous meetings and consultations with the public.

The second challenge is that even to this day, some people still adamantly refuse to participate in land pooling, because they claim to have sufficient water, road services, electricity, and sanitation. The municipal officials have encountered a handful of such people who want the plan to be revisited and revised. The municipality is not in favor of completely revising the plan because it took a long time to prepare the plan, consult with the public, and seek approvals from various agencies. However it attempts to resolve the issue through various strategies.

One strategy is to study the possibility of doing a minor exercise in the plan without disturbing the overall intent of the master plan. In this case alternatives are worked out whereby the landowner makes the land pooling contribution as a mix of monetary payment and land contribution. For example, if the land pooling contribution is 30 per cent, the landowner will contribute 20 per cent in the form of land and the remaining 10 per cent is monetary terms. This alternative is readily accepted by many dissenting landowners who are happy to make payment at the government-approved rates (which are very low compared to the market rates.) However, this option is available only to parcels that are developed and serviced prior to the land pooling initiative.

Another strategy is to organize additional meetings to explain the benefits of land pooling to the dissenting landowners. All landowners have to contribute a portion of their land for the benefit of the entire community. Thus, the majority consensus has to prevail. Whether a parcel already has infrastructure or not, everybody will benefit from the new planned development. The active participation of local representatives in dealing with dissenting landowners works well because the public tends to listen to them more than local officials.

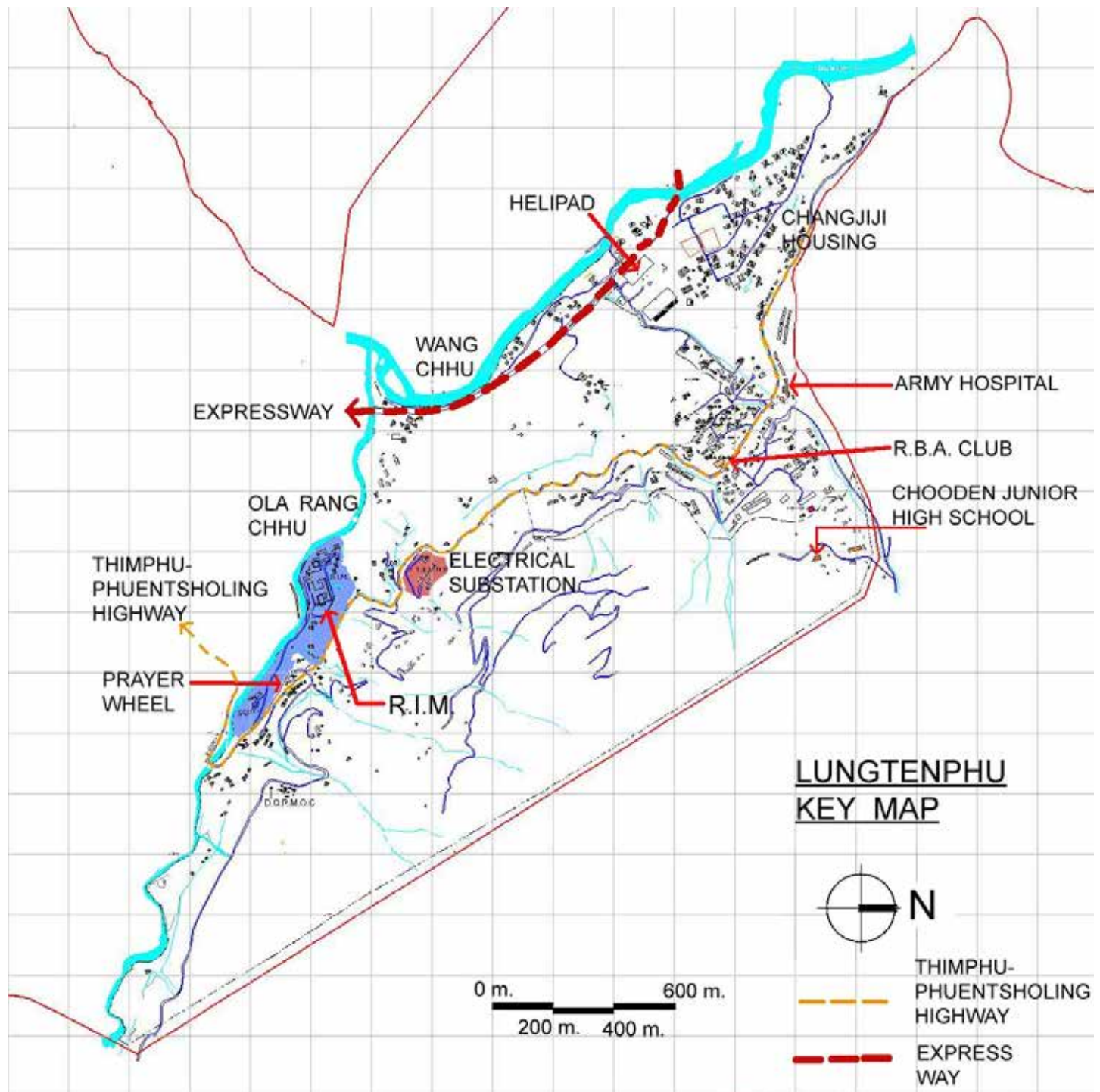
The third and most important challenge is the administration and management of land. The establishment of the National Land Commission Secretariat (NLCS) after the passing of the Land Act 2007 centralized the powers of administering and managing land of the entire country in the hands of a single agency. This has caused administrative and bureaucratic delays in rendering services related to land and property transactions, as well as the issuance of titles, site plan preparations, land conflict resolutions, and implementation. Other agencies, local authorities, and the public at large have also experienced problems caused by this centralization. Although the parliament was slated to review the Land Act in 2012, it did not happen. However, centralization of authority also has its own advantages for a small and landlocked nation like Bhutan.

## The Case of Lungtenphu

Lungtenphu encompasses an area of 243.5 hectares to the eastern side of Wang Chhu River and extends to the slopes of Simtokha. The southern boundary of Lungtenphu is defined by the Ola Rong Chhu stream. The road passing through the Royal Bhutan Army area completes the boundary on the northern side. The eastern boundary is up to the municipal border (see Figures 5 and 6).



Figure 5. Lungtenphu



Source: Department of Urban Development and Housing (2002).

Figure 6. Lungtenphu as seen from Changbangdu



Source: By the author.

Prior to land pooling, paddy fields were the predominant land use in Lungtenphu. The details of the land use pattern (prior to planning) are shown in the Table 2.

Table 2. Land Use Pattern in 2000

Land Use	Area (Hectares)	Per centage to Total Area
Agriculture	37.0	15.2
Institutional	7.1	2.90
Orchard	22.8	9.30
Residential	17.0	7.00
Vacant	14.3	5.90
Roads	4.7	1.90
River and water bodies	0.2	0.10
Forest and other area	140.5	57.70
<b>Total</b>	<b>243.5</b>	<b>100.0</b>

Source: Department of Urban Development and Housing (2002).

In 2000 the population of Lungtenphu was estimated to be in the range of 1,571 persons, based on the ground verification of 91 dwelling units. The overall population density was very low, with most of the inhabitants concentrated near the highway and expressway, as well as the R.B.A. camp (housing for the army). There were also sparse clusters of houses in the lower area of Lungtenphu near Ola Rong Chhu and the Helipad. Almost all the residential buildings were of permanent nature with temporary structures for garages, water tanks, or storage sheds.

The overwhelming majority of the houses were one- or two-story, single-family detached homes. Apartment houses were a recent phenomenon and small in number. They were mostly near the Expressway and the Phuentsholing Highway

due to easy accessibility. Government public housing did not exist in Lungtenphu. In terms of landownership, Table 3 describes the private and government ownership of land, as recorded in the cadastral map of Lungtenphu.

Table 3. Land Ownership Pattern prior to planning intervention

Ownership	Area (square meter)	Per cent of Total
Government ownership	126,954.1	5.2
Private ownership (7.18 Ha. of land already been developed)	566,670.0	23.3
Right of way	47,608.7	1.9
Water bodies	2,044.7	0.1
Others (Government Ownership— mostly steep and barren)	1,691,999.4	69.5
<b>Total LAP Area</b>	<b>2,435,276.9</b>	<b>100.00</b>

Source: Cadastral Map provided by the Survey of Bhutan (2001).

Because rural administration transferred the Lungtenphu area to the Thimphu Municipality in 2000, little of the area's development was carried out under the purview of the Municipality until recently, resulting in improper subdivisions, setbacks, and ad-hoc development.

Most residential plots had ground coverage of less than 40 per cent. Only the plots with apartment buildings had ground coverage exceeding 40 per cent. It was common to find cattle sheds, garages and other temporary structures within the residential premises. Most traditional houses were three stories while most recent houses had two stories. Considerable parts of the plot areas were paved or surfaced for driveways and parking in recent structures, but not in older houses.

Prior to the planning intervention, Lungtenphu had only about 6.1 kilometers of surfaced roads and 2.9 kilometers of unsurfaced roads, including both private and public roads. It was connected with other cities by the Phuentsholing Highway, which was the only primary road traversing Lungtenphu and the only surfaced, all-weather road in Lungtenphu besides a few private access roads. There was a city bus service catering to the population of Lungtenphu, but it was available only once in the morning and twice in the evening during the weekdays. During weekends and holidays, it ran once in the morning, afternoon, and evening.

The alignment of the Expressway (under construction in 2000) was parallel to the Wang Chhu river. At the time of the planning process, work was in progress for the leveling of the surface, while the compaction of earth was being completed. The Expressway was very close to the traditional settlement. Although institutional areas had private parking for visitors, there were no public parking places in Lungtenphu. Not all residences allocated areas for parking within their premises, and it was common to see vehicles parked on the Thimphu-Phuentsholing Highway, particularly at nighttime.

The army hospital was the only hospital in the area, and no smaller dispensaries or basic health units were present. The Chhoden Junior High School was located in Lungtenphu, but at a long walking distance. The only recreational space in Lungtenphu was the RBA's football field, which fell outside the Lungtenphu Local Area boundary. There were no other playgrounds, parks, or gardens. However, there were some recreational facilities in the R.I.M. campus like the football field, basketball court, and auditorium. Yet they were not accessible to the public.

There were no commercial complexes, community shopping centers, or shops. There were only general stores and a few bars with restaurants scattered along the Thimphu-Phuentsholing Highway. A couple of shops were located on the road leading up to the R.I.M. campus to fulfill the day-to-day shopping needs of local residents.

There were no commercial buildings in Lungtenphu. In fact, the service sector, on the whole, was just emerging in Bhutan. The R.I.M. campus and the National Mushroom Centre were the two major non-residential buildings. The paddy fields and orchards were seasonal work areas. There was a police check point and a small postal facility in the R.I.M. campus. There was no fire station or public library in Lungtenphu.

The potable water supply system in the Lungtenphu local area was drawn from two small sources. One was from the sedimentation tank in upper Lungtenphu and the other in Simtokha. Residents not served by these schemes depended on natural streams and springs for their drinking water. For agricultural purposes, the main water source was a small channel flowing parallel along the lower portion of the Phuentsholing Highway, which had its source in the hilltops. The second alternative was the Ola Rong Chhu in south and a small stream flowing along RBA compound in the north.

The local area did not form part of the city sewerage management network, and houses employed 'septic tank-soak pit' systems. Private septic tanks were made mandatory only in 1997. Nevertheless, a relatively high level of hygiene was maintained and open sewerage flow was uncommon. Lungtenphu had an

inadequate solid waste collection and management system, because it was not a part of the city's system. There were no litterbins or garbage enclosures and no scheduled solid waste collection by the Municipality.

Roads served as storm water drains in most of the area, which resulted in deterioration of the road surfaces. There was a main power substation in the Lungtenphu local area, part of an overhead network system for power distribution. Many households in the area were not connected to telephone lines, but those with connections were served by the overhead network. There were no TV lines in the local area, although some households used individual satellite dish antennae. Finally, there were no streetlights in Lungtenphu, because it was not a part of the municipal area.

## Planning Intervention

The Lungtenphu LAP went through a maximum number of public consultations, which explains why the municipality achieved 100 per cent agreement from the public and was the first plan to be implemented. However, the journey was not without difficulties. The Lungtenphu LAP encompasses a total of 420 plots owned by 271 landowners. The LAP was prepared with an overall aim to facilitate the implementation of TSP proposals at the local level. The plan attempted to achieve the following objectives:

- To respect the topography when designing the road layout and the area's morphology;
- To facilitate a development pattern that could accommodate the area's share of population;
- To promote, preserve, and enhance the few clusters of "traditional villages" in the locality to act as focal points and heritage sites;
- To plan the "neighborhood node" as the major focal point in the development that would help provide basic services and amenities within walking distance;
- To connect the "traditional villages" and heritage structures through a network of open spaces;
- To design a network of pedestrian linkages, apart from the vehicular access, to ensure a direct link to the neighborhood node at a walkable distance;
- To reconfigure land subdivision for the construction of urban infrastructure and services;
- To provide all plots with a road network for accessibility enhancement; and
- To protect the environment and green areas (see Figure 7).

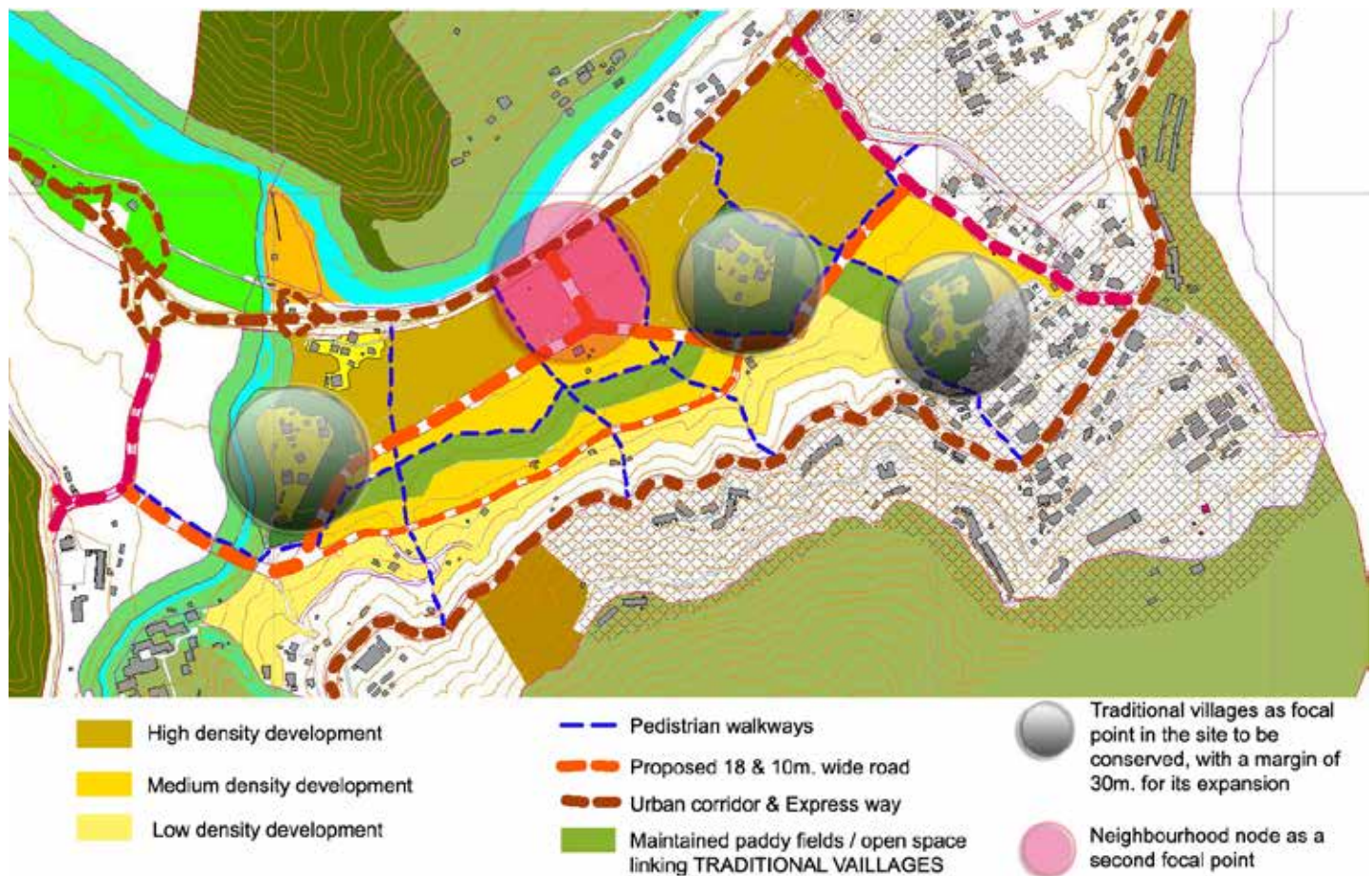


A major focus of the Lungtenphu LAP was to reconfigure the existing developable land in such a manner that each landowner would retain their original land parcel but with proper access to amenities and services. By reconfiguring the layout of land, the plots were made regular in size and shape to allow for efficient development (see Figure 8). This was essential because prior to becoming part of the municipality, the lands were subdivided and sold in a fragmented manner, with no provision for the inclusion of modern infrastructure. The reconfiguration of plots involved designing a new layout for the entire area with regular plot sizes and access roads. This permitted the provision of adequate storm water drainage and the laying of underground infrastructure. The process was carried out in a consultative manner. Land and property owners were kept informed of the process of land acquisition, restructuring, and redistribution. The new plots were “reissued” to participating landowners after deducting areas from their parcel for road widening and extension, public open spaces, and other amenities.

Besides the accommodation of the future population, appropriate distribution also governed the reconfiguration of land, as shown in Table 4. Out of the total private land area (49.5 hectares), 28.9 per cent (14.3 hectares) was allocated for public roads and protected zones. In reality, the total land area required for these purposes was 26.7 hectares; therefore, some government-owned land was used to cover the shortfalls. The land pooling contribution of 28.9 per cent was deducted from respective private plots with the remaining lands returned to the landowners. Plots of single ownership smaller than 400 square meters were amalgamated to form a buildable plot. Where there was an occupied structure on a plot, that same plot, minus the land contribution, was returned to the original owner.

In a few cases, an alternative plot was allotted in a nearby location. Due to ground conditions and existing structures, some landowners retained more than 71.1 per cent of the original plot area. In these cases, the landowners paid a development

Figure 7. Conceptual Diagram for the Development of Lungtenphu Area



Source: Department of Urban Development and Housing (2002).

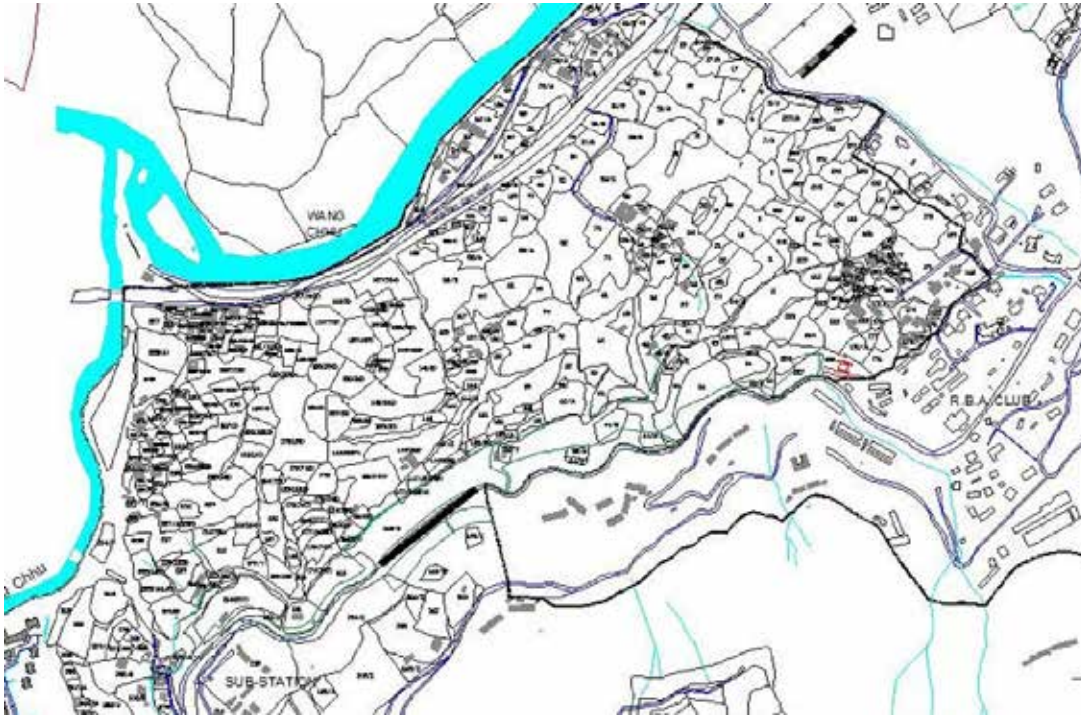
In this process, land values increased, and property prices went up. Generally, the landowners ended up with a smaller property but of much higher value. Where an individual property was too small to deduct a proportion of the land, a betterment charge was levied on the landowner to cover his/her share of the improvement costs of the neighborhood.

tax (also called betterment charges) to bring their amount of contribution to the standard level. In cases where original owners received less than 71.1 per cent of their original plot, they received cash compensation.



Figure 8. Cadastral Maps Showing Plot Layout Before and After Land Pooling

*Before*



*After*



Source: Department of Urban Development and Housing (2002)

Table 4. Types of Land and Areas for Land Pooling

Sr.No	Types of land	Area (In hectares)	Percentage of total Existing private land taken up for land pooling
1	Total existing private land in the land pooling scheme	49.5	100.0
2	Total land required to be pooled (for roads, footpaths, drains, neighborhood node, schools and other public amenities)	26.7	53.9
3	Total Government land (in between cadastral boundary) used for amenities	0.7	1.4
4	Other Government land used for pooling (for service plots, open space, part of Environment Enhancement zone along Ola Rang Chhu)	11.7	23.6
5	Actual total private land pooled for amenities area (for roads, footpaths, drains, neighborhood node, schools and other public amenities)	14.3	28.9

Note: Please refer the section explained below to understand the calculation of the land pooling per centage contribution

Source: Department of Urban Development and Housing (2002).

## Public Consultations

Lungtenphu LAP went through numerous public consultations. Although the municipality achieved a 100-per cent agreement from the landowners, the journey was not smooth. On April 18, 2002 the Ministry of Communications and the Municipality convened the 4th open house discussion where 75 people (including the public representatives) attended. The concept of land pooling and the draft plan were explained, and the discussions were lively and participatory. It was during this meeting that the public vehemently opposed the idea of retaining a large expanse of land for urban agriculture in the south of Thimphu (Babesa). The authorities succumbed to the public pressure. At that time, neither the Ministry of Agriculture nor the National Environment Commission supported the idea of land pooling, and the Municipality was fighting a losing battle.

In the same month, April, 2002, a small group of landowners filed the first public litigation in the High Court of Bhutan. On January 13, 2003 the court ruled that land pooling was illegal and stated, "A Bhutanese citizen shall have the right to own property and shall not be deprived of one's property arbitrarily except for public interest and on payment of compensation in accordance with the due process and provisions of the laws".<sup>3</sup> The legal provisions referred to the Bhutan Municipal Act 1999 and the Land Act 1979. Both acts allowed the government to acquire land for the planned development of the Municipality and for the benefit of the public, but required that compensation be paid according to fixed government rates.

The government did not intend to resort to the much dreaded and complicated land acquisition process and was convinced that land pooling was the new solution to financing urban development. Under the provision of the Land Act and the Municipal Act, it could have easily acquired the land and gone ahead with urban development, but the question was: who would benefit in the end? Neither the government nor the landowners would benefit from this approach. The government then began to conduct numerous public meetings and explained the public benefits of land pooling. These explanations and associated maps were widely circulated in the media. Comments were solicited. A public consultation unit was also established whereby every landowner was free to visit the planning office and discuss land pooling with the planners.<sup>4</sup> These initiatives helped educate the public; some of the people who went to the court even became staunch supporters of land pooling (see Appendix A for a chronological list of the public consultation process).

The planned infrastructure within the Lungtenphu LAP was fully implemented with financial support from the ADB. Infrastructure such as roads, footpaths, water supply, sewerage, drains and service ducts were put in place at a cost of about Nu. 250 million (US\$4.2 million). Its implementation began in 2009. Figures 9 and 10 portray the transformation of the area.

<sup>3</sup> Kuensel, (2003), "No land pooling says high court," January 17, 2003.

<sup>4</sup> Ibid.



Figure 9. Transformation of Lungtenphu from 2009 to 2013.



Source: Google Map (2013).

Figure 10. Lungtenphu Before and After Redevelopment



*Before*

Source: By the author.



*After*

## LESSONS AND REFLECTIONS

The first and an important lesson to note is the trust building process throughout the planning and implementation phase. When land pooling was initially introduced in the 12 LAPs of Thimphu, there was strong resistance from the public. Several people even dragged the government to court. This was primarily due to a lack of trust in the government. Thimphu had a history of using eminent domain to acquire private land for urban development. The property owners of Thimphu had to give away their land for the construction of the expressway, sewer lines, sewer treatment plant, Changji housing project, schools, etc. The landowners were reminded of the bitter past. The limited awareness and dissemination of information to the public also led people to be suspicious of the government's intention. This in turn was attributable to the lack of capacity and knowledge in the bureaucracy. In 2007 the entire country had less than ten professional urban planners. Additionally, there had not been any actual examples of land pooling in Bhutan.

The case of land pooling in Thimphu was an example of learning by doing. It was an exercise where every stakeholder was working together amidst an atmosphere of suspicion and constraints on building trust between the government and citizens. Trust is not a given thing. It needs to be built and nurtured. It needs to be earned. Keeping the project on schedule will help engender trust. Currently about 12 LAPs are at various stages of implementation where a supermajority of landowners voluntarily signed agreements with the Municipality.

Second, land pooling in Thimphu was also a process of building neighborly and friendly relations among people. The process helped build a foundation of strong democratic principles – participation, collaboration, responsibility, transparency, accountability and enriching the culture and tradition through interactions during public consultations and meetings. The numerous public consultations and meetings followed by several site visits and one-on-one discussions helped the Municipality build a culture of good governance that was almost nonexistent during the inception of land pooling in 2000.

Third, Bhutan did not have any legislation that would guide or legitimize the planning functions of the government. The only legislation that existed at the time of preparing the TSP was the Municipal Act of 1999, which was deficient in guiding the planning process. This Act was repealed by the Thromde Act 2005, which was further repealed by the Local Government Act in 2007 and 2009. In 2014, the parliament had slated the Act for another amendment. This Local Government Act also deals more with the administration and management of the local governments but is insufficient to guide the plan making process. The Land Pooling Rules were approved only in 2009, but by then, 12 LAPs were already approved for implementation. Thus to avoid delaying the planning process, it is necessary to have legislation that would help legitimize the planning actions of the government. Although there was some resistance in the beginning, the government was able to push its agenda forward due to a successful campaign to convince the public of the benefits of land pooling.

Fourth, despite the lack of any legal framework and the High Court ruling against land pooling, Thimphu went ahead with the project. Leadership played a crucial role, supported by enthusiastic consultants, government officials, and community

representatives. The then Deputy Minister was thoroughly convinced of the benefits of land pooling, and he led the team of government planners and city managers in conducting numerous public meetings, consultations, and open house discussions. This effort slowly took roots and helped convince the public, so much so that even some of those who took the government to court became staunch supporters of land pooling. Convincing the opponents and a few influential figures in the locality helped the government convince the general public. The public often listens to their local leaders more than the government officials. Moreover, in the Thimphu case, court rulings were superceded when a supermajority of the landowners agreed to go ahead with the plan. This is surely a unique case of the dynamics between law and popular preference.

Fifth, because of the centralization of the land administrative and management power, implementation of the LAPs was further delayed. These delays were caused by the prolonged bureaucratic procedures of surveying, transfer of plots, issuance of new titles, and the lack of trust in the local government. The central land agency often conducted independent surveys without the knowledge of the local authorities and created new problems. Sometimes an entire plan had to be redone. For example, in the case of the Langjophakha LAP, a complete re-planning and revision was necessary, due to excessive regulatory land issues. Decentralization of the powers of land administration and management to local authorities may expedite the implementation of land pooling.

Sixth, it is important to have qualified and trained people to work on land pooling. Regular trainings for staff dealing with land pooling are needed. If land pooling is to be treated as a trust building process and a relationship builder at local, neighborhood, community, and individual levels, people working for this process need to be motivated. The simplest form of motivation that does not cost much is proper appreciation and recognition of the work done by the government officials.

Seventh, it is important to form a dedicated team to work on land pooling. Thimphu's LAPs suffered from the lack of a devoted multidisciplinary team from the very beginning, resulting in the delay of implementation. At the minimum, the core team may comprise a dedicated local project manager (preferably a planner), an urban planner, a legal officer, a survey team, and a few representatives of the landowners.

Eighth, conducting as many public meetings as possible helps people become aware of the benefits of land pooling. Although it is quite taxing for the staff and the general public, it will ultimately pay off. Public meetings held during the weekends generate more attendance from the property owners because most people do not have to go to work then. It is also advisable to use different mass media (Television, radio, national and local newspaper, panel discussions on Television, Internet and open house discussions) to educate the public about land pooling. Numerous site visits with meetings at local government offices and face-to-face discussions with landowners are also very useful for information dissemination and education.

Ninth, it is always easier to deal with fewer landowners. It is advisable to divide the area into subsections for implementation purposes with the truncated areas (usually an area having full support) identified as a top priority for implementation. When the property owners of the remaining or adjoining areas see the physical improvements, they will be willing to go along with the proposal (or at least give it a



second thought). However, in the process of negotiation it is advisable not to make many commitments or compromises that deviate from the main objectives of the master plan. The master plan needs to be followed carefully. Land pooling is not just about creating plots accessible to roads and other infrastructure but also a tool to implement the master plan.

Tenth, because people have a tendency to change their mind from time to time, it is advisable to get their agreement signed as soon as they agree. However, they should be given time to think and make their own decision. The agreement should be designed with as much details as possible to avoid future complications. Seeking advice on this format from a legal professional is advisable. With people who do not agree, it is advisable to try other techniques such as discussing with their spouse and other family members, or seek the help of the community leaders. Holding as many meetings as possible, explaining the plan, and reminding the people about the larger public interest are never a waste.

Eleventh, electing local representatives/leaders (apart from council members) who represent the land and property owners of a locality also goes a long way in helping convince people and aids the implementation process. Oftentimes local leaders do a better job of convincing property owners than the planners. However, such representatives/leaders should be reputable and possess high morale, integrity, and respect. In case of Thimphu, at least three representatives were elected from each LAP. It is also advisable to compensate these representatives for their (voluntary) service because it gives them financial incentive to put in their efforts.

Twelfth, Thimphu suffered from bad record keeping, especially with regard to public meetings, media coverage, and the signed land pooling agreement forms submitted by the landowners. It was unacceptable that landowners had to sign the land pooling agreement more than twice, simply because the city officials had either lost or misplaced the earlier signed form. This indicated to the participating owners that the public officials were not serious, which further affected the level of trust and confidence in managing the project. A further hindrance to the process resulted when a few property owners took advantage of such a complacent system by denying their previous agreements with the city. Fortunately, most of these inconsistencies happened in the past. Presently, the process has become much easier and faster because of improvements in record keeping and management.

Thirteenth, although it will entail tremendous time and effort to persuade every landowner, it is advisable to get a unanimous agreement from all of them. Even one individual can and may drag the authorities to the court and prolong the implementation process. Although in the case of Thimphu, the rule required consensus from a three-fourths majority, the municipality worked hard to achieve 100 per cent agreement in many LAPs. In case this is impossible, the few who adamantly disagree with the plan may be left out of the project in the interest of the majority. They may however continue to reap the benefits of the project without

contributing to the investment. The government may have to study how to indirectly get everyone to contribute fairly to the community efforts. Achieving 100 per cent agreement is especially important when the project is funded by donor agencies that are concerned about litigation complications.

Fourteenth, the municipality may also explore ways to capture the land value increments generated by land pooling for financing social housing and other pro-poor initiatives. This is important especially in the case of Thimphu because the land pooling projects have not been inclusive of the poor, renters, and underprivileged residents. Self-financing the project, if possible, will offer several benefits, the most important of which is the community's sense of ownership.

Fifteenth, it is also very important to have clear and an updated cadastral maps and land information to facilitate land pooling. Inaccurate information will lead to delay and bring in legal complications at some point in the planning and implementation processes. In the case of Thimphu, one of the delays was caused by the mismatch in the land records of actual situations on the ground.

Sixteenth, although public consultation is an endless process, it is always advisable to aggressively engage the public at all stages of planning and implementation. Such initiatives offer numerous intangible benefits that help build trust, community vitality, and good governance. Planning and implementation of land pooling projects need a sustained patience, perseverance, and persuasion.

Seventeenth, it is important to remember that building and nurturing trust begins from small, seemingly insignificant or casual activities such as conducting physical, social, and economic surveys. Therefore, people engaged in these activities will need to be trained on customer care and public relations.

Eighteenth, while participation is important, it could prove counterproductive if it is not inclusive. In the case of Thimphu, propertied groups dominated public participation. Although all concerned residents were invited to the meetings and discussions, it was rare for the tenants and non-propertied residents to participate in these events. However, their inclusiveness (especially the tenants and those who did not own land) was brought into the picture only at the time of implementation. Based on the World Bank's resettlement policy, households who did not have a direct stake in the project were provided appropriate assistance in terms of relocation allowance and demolition compensation. This government action came as a surprise to the people. However, it is recommended that they should be included in public participation in the future projects.

All the above points should be incorporated into a detailed, yet flexible, guideline for land pooling. The guideline should specify what should be done at the inception, planning, and implementation stages. Such a guideline will be immensely helpful for all stakeholders to engage in the discussion of land pooling.

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Aerial view of Jaipur, India @Shutterstock

## Chapter 8

# Land Readjustment in Western India: New Conditions and Challenges for the 21<sup>st</sup> Century

*Sai Balakrishnan*

The past ten years has been a decade of land wars in newly liberalized India.<sup>1</sup> Seventy percent of infrastructure projects in India are delayed by land acquisition problems. Stable, long-standing governments have been toppled partly due to public furor over land acquisition.<sup>2</sup> The violent protests against forced land acquisition - which have been made visible by media coverage - have forced the Central Government to amend its antiquated eminent domain legislation, the 1894 Land Acquisition Act.<sup>3</sup>

Like India, other rapidly urbanizing countries in the global south are mired in similar land conflicts. The main challenge facing these countries is that a major source of land for accommodating new urban growth is agricultural land in the right locations, i.e. agricultural land around the peripheries of large cities and along infrastructure corridors. The term 'prepared' is used to include the four steps involved in making agricultural land ready for urban land use: i) the land conversion process from agricultural to non-agricultural, ii) the incorporation process which

includes the converted land in the city's Master Plan, thereby incorporating it within the city's jurisdictional boundaries for service provision, iii) the consolidation process of assembling fragmented plots to regularly sized ones suitable for urban development, iv) the building permit process that ensures that the new buildings comply to safe planning standards.

Agricultural land can be 'prepared' for urban expansion in one of two conventional ways: through the state mechanism of eminent domain/compulsory purchase/land acquisition (as it is called in India) or through the market exchange. As evident from the ongoing land protests in different countries, governments are faced with the grave political risk of losing legitimacy when they exercise eminent domain. The market mechanism poses a different type of risk. India and most developing countries face the endemic problem of poor land records and unclear land titles.

<sup>1</sup> The Central Government of India officially announced its economic liberalization policy in 1991.

<sup>2</sup> In the 2009 state assembly elections, the incumbents in the states of Uttar Pradesh and West Bengal – the Bahujan Samajwadi Party (BSP) and the Communist Party of India (Marxist) CPI(M) respectively – were routed out of power. Part of the public dissatisfaction arose from the conflicts that erupted during the BSP and CPI(M) political tenure over the compulsory acquisition of agricultural land for the building of the Yamuna Expressway in Uttar Pradesh and that of the Tata Nano factory in West Bengal.

<sup>3</sup> The amended Land Acquisition Act is now called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (LARRA). After the LARRA came into force in 2013, strong opposition by industry and some state governments have resulted in the promulgation of three ordinances for amending the Act. In June 2015, the Modi government introduced the 2015 LARR Amendment Bill that significantly amended some of the new LARRA clauses, including the consent clause that was added to the 2013 Act which stipulates that any land acquisition of more than 100 acres where the state acquires land on behalf of the private sector requires the approval of at least 80 percent of landowners. The bill was passed by the Lok Sabha (Lower House) but as at 2015, was stuck in the Rajya Sabha (Upper House).



Most agricultural lands have encumbrances, such as mortgage claims and restrictions on the alienability of agricultural lands (generally instituted to protect agrarian landowners from speculative transactions on their land). The wide variety of encumbrances on agricultural land makes direct land transactions between a private sector buyer and the agrarian landowners a risky proposition for the private buyer. Contrary to popular wisdom that the private sector prefers minimal state involvement, India's firms prefer state mediation in land transactions because when land is acquired by the state and transferred to the private sector, the transferred land is declared free of encumbrances. Since both the pure state and pure market mechanisms have significant risks associated with them, there is an urgent need for alternative modes of urban land preparation.

This chapter focuses on land readjustment in the western region of the state of Maharashtra. In land readjustment, readjusted, serviced lands are returned to individual landowners; the Maharashtra case is a variant where landowners retain ownership not in the form of the physical asset of land but as pro rata members of a shareholding company. The case that is highlighted is Magarpatta Township, located on the fringes of the city of Pune. Here, a group of agrarian landowners voluntarily pooled their fragmented agricultural lands, formed shareholding companies with equity membership restricted to agrarian landowners and are now leasing these consolidated urban lands to industrialists and property developers. The Magarpatta case is used to inductively revisit some of the main building blocks of land readjustment, namely i) community attributes, ii) financing and iii) project initiation and management. In this chapter, by situating land readjustment within a longer historical view, it is argued that much of the land readjustment scholarship was published in the 1970s and the political-economic context of the early twenty-first century is vastly different from that of the 1970s. The changed context challenges some of the background conditions that were thought necessary for the 1970s-era of land readjustment. This chapter poses the question of if and how land readjustment in the contemporary context of rapidly urbanizing countries can be used to ameliorate existing regional disparities in land markets.

## 1. Land readjustment: From the 1970s to Now

In the past few decades, researchers and policy-makers have been experimenting with unorthodox, hybrid methods of urban land preparation that lie somewhere between the pure state (eminent domain) and pure market approaches. One such method that has received some attention is that of land readjustment.<sup>4</sup> This method is based on the principle of a "property rights exchange" - the land readjustment agency (which could be a public or private agency) assembles fragmented agricultural lands in a particular area, it deducts a certain percentage of the land for public infrastructure or for sale to cover the cost of local infrastructure, and re-allocates the remaining lands to the original landowners in proportion to the size of landholdings given up.

Land readjustment has distinct advantages over the pure state and pure market models of urban land preparation. First, the existing landowners capture the land value increments. This is a positive shift away from the state and market-led processes, where state agencies and private developers capture land value increments respectively. Second, landowners are not displaced from their lands. Monetary land compensations rarely consider social ties and psychological attachments to place. When used to consolidate peri-urban land, land readjustment enables agrarian landowners to benefit from the new urban developments without relocating to another place. Third, the monetary compensation for eminent domain or the price of land in voluntary market exchange is determined by the location of the plot of land: land that is closer to infrastructure fetches a higher price than those plots at a further distance. In the distribution of benefits from land readjustment, all agrarian landowners within the project boundary benefit equally from the urban and infrastructural developments, irrespective of the location of their agricultural plots, because the final land value of the reassembled plot is adjusted to equalize locational advantages and disadvantages.

Land readjustment received some attention from academics and practitioners in the 1970s and 1980s.<sup>5</sup> This earlier era of land readjustment focused primarily on the experiences of industrialized countries, mainly those of Australia, Germany, Taiwan, Japan and South Korea, though some studies did venture into the transferability of this land management tool to Asian countries like Thailand. Over the past decade, there has been renewed attention in this land management tool, but now in the context of rapidly urbanizing countries in the global south. The violent backlash against eminent domain and the gridlock that results from voluntary market exchange may explain this resurgent interest in land readjustment. But, the new millennium is a different historical moment from the 1970s: most countries have liberalized their economies (or at least certain sectors of their economies) leading to complex global interdependencies<sup>6</sup>, there has been a demographic shift to the 'urban age' and more than half the world's population now lives in cities, and urban growth is increasingly spilling beyond city boundaries into new urban configurations like mega-regions and inter-urban corridors.<sup>7</sup>

In light of these changes, this paper focuses on three basic building blocks of land readjustment – community attributes, financing, and project initiation and management – and interrogates how the new generation of 21st century land readjustment projects is different from its earlier iterations. The new political economy of urbanization poses unprecedented challenges: a key challenge for rapidly urbanizing countries like India is the new institutions needed to open up fresh supplies of serviced urban land to meet the demands of frenzied urban growth, but without displacing and further marginalizing vulnerable and excluded groups in the process. Some of the basic assumptions around land readjustment have to be questioned and adapted if land readjustment is to take a pro-poor perspective in facilitating an urban transition.

<sup>4</sup> See Hong, Y. H., and Needham, B. (Eds.), (2007), *Analyzing Land Readjustment: Economics, Law, and Collection Action*, Lincoln Institute, Cambridge, Massachusetts; Ballaney, S., and Bimal P., (2009), "Using the 'Development Plan—Town Planning Scheme' Mechanism to Appropriate Land and Build Urban Infrastructure," In S. Mohanty, R. Sarkar & A. Pandey (Eds) (2009), *India Infrastructure Report 2009*, New Delhi: Oxford University Press.

<sup>5</sup> Doebele, W. A., (Eds.), (1982), *Land readjustment: A different approach to financing urbanization*, Lexington, MA: Lexington Books; Archer, R. W., (1989), "Transferring the urban land pooling/readjustment technique to the developing countries of Asia," *Third World Planning Review* 11.

<sup>6</sup> Pistor, K., (2011), "The Emergence of a Transnational Real Estate Market: Comments on Olivier De Schutter's *The Green Rush*," *Harvard International Law Journal* 52.

<sup>7</sup> Burdett, R. and Deyan S. (Eds.), (2006), *The Endless City: The Urban Age Project* by the London School of Economics and Deutsche Bank's Alfred Herrhausen Society, London: Phaidon; UN-HABITAT, (2010), *State of the world's cities 2010/2011: Bridging the urban divide*, Earthscan/James & James.

## i) Community attributes

Since one of the core tenets of land readjustment is the non-coercive consent of landowners, it is essentially an exercise in collection action: how can land readjustment be designed with the right incentives such that the majority of landowners willingly cooperate with one another and with the implementing agency? The rich literature on collective action has explored the variables that explain why individuals, instead of getting trapped in parochial self-interests, prisoners' dilemmas and the tragedy of the commons, choose to cooperate with one another towards collectively optimal outcomes. The key variable that emerges in these studies is that of trust.

Studies carried out on governing the commons have argued against the assumption of rational individuals bent on maximizing their self-interest, and pointed instead to many successful cases of social groups working together and getting things done collectively.<sup>8</sup> The successful communities that were studied had cultivated trust and norms of reciprocity through repeated interactions with one another over extended periods of time. Social capital – the trust, norms, and networks built up over time – was also identified as the reason for the more successful economic performance of northern Italy compared to the south.<sup>9</sup> It was further added that these attributes of successfully organized groups are often a function of size: fostering collection action among small groups is easier and entails lower transaction costs.<sup>10</sup> The earlier literature on land readjustment assumed that one of the key background conditions that made land readjustment an important planning instrument in countries like Japan and South Korea is their culture: these countries were fortunate to have a culture of harmonious, consensual decision-making where individual preferences are subordinate to the collective interest. The myth of the harmonious Japanese has since been convincingly dispelled by showing that Japan's planning culture of strong individual property rights, and not the lack of it, is the reason for increased local government reliance on land readjustment for consolidating and servicing land.<sup>11</sup>

Besides the strong binding constraint of path dependency (are regions that are not fortunate enough to have cultivated this rich stock of trust and social capital stuck then in an inescapable trajectory?), in some of the regions that were studied are more and more difficult to come by in today's complex, globalizing cities. The most intense resource conflicts today are unfolding in urban setting that are made up of heterogeneous and highly mobile social groups that have come together in uncomfortable spatial propinquity over a short, accelerated period of time. The challenge for the new generation of land readjustment projects, then, is how to get strangers and individuals/social groups that are distrustful of one another to work together; how to foster collective action in areas that lack past histories of it; and how to do this expeditiously in rapidly urbanizing contexts.

## ii) Financing

The earlier literature on land readjustment highlighted the self-financing aspect of these projects as one of their major appeals.<sup>12</sup> Land readjustment is effectively a form of betterment taxation that imposes minimal public finance burdens on fiscally strapped local governments: a share of the increase in land value pays for development costs. Landowners are amenable to participating in land readjustment projects because the net worth of their equity remains unchanged or in most case, increases: they receive smaller plots, of equal or often higher value. The careful design of land readjustment involves reaching a compromise between the public agency implementing the land readjustment project and the private landowners: public agencies would prefer a larger share of the newly assembled land to be reserved for public purposes, such as infrastructure and low-income housing; private landowners would prefer to retain a larger share of the reassembled land to maximize their individual gains.

The new generation of land readjustment, however, is set within a different political-economic context and throws up new financial trade-offs. Across the global south, we are witnessing a new price regime for appropriately located agricultural land. Agricultural land, which was a protected resource, is now being commodified and financialized in these newly liberalizing context.<sup>13</sup> Certain appropriately located agricultural land in India, for instance, have registered astronomical price hikes of up to 100 times.<sup>14</sup> The new financial question for land readjustment is not how to make these projects self-financing: soaring peri-urban land values far outstrip the costs of infrastructure provision. The question is how to arrive at regional arrangements for sharing the skyrocketing land value increments across different prosperous and impoverished regions.

## iii) Project initiation and management

The land readjustment projects of the earlier era were primarily initiated in one of three ways: by landowners, local governments, or public corporations/authorities (Doebele, 1982; Sorenson, 2000). Each of these project initiators may not be the most appropriate institutional actor for the current generation of land readjustment.

As stated above, the sites of the most rapid urban growth and resource conflicts in rapidly urbanizing countries in Asia and Africa are megacities and peri-urban regions with diverse mixes of social groups. The high discount rates and low levels of trust render the costs of negotiation prohibitively high and few landowners have the incentives to initiate land readjustment projects under these conditions.

<sup>8</sup> Ostrom, E., (1990), *Governing the commons: The evolution of institutions for collective action*, Cambridge University Press.

<sup>9</sup> Putnam, R., Leonardi R., and Raffaella N., (1994), *Making Democracy Work: Civic Traditions in Modern Italy*, Princeton: Princeton University Press.

<sup>10</sup> Olson, M., (1971), *The Logic of Collective Action: Public Goods and the Theory of Groups*, Cambridge, MA: Harvard University Press.

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<sup>13</sup> Sanjoy Chakravorty, (2013), *The price of land: acquisition, conflict, consequence*, New Delhi: Oxford University Press.

<sup>14</sup> Rajshekhkar, M., (2013), "Great rural land rush: 3 to 100-fold rise in farm land prices may not bode well," *Economic Times*, 12 November.

Local governments were key actors in the earlier era of land readjustment projects in industrialized countries. The past two decades has seen an explosion in urban growth outside city boundaries, particularly in countries in Asia and Africa. UN-HABITAT has highlighted the growing trend of mega-regions, urban corridors and city-regions as the “shape of things to come”.<sup>15</sup>

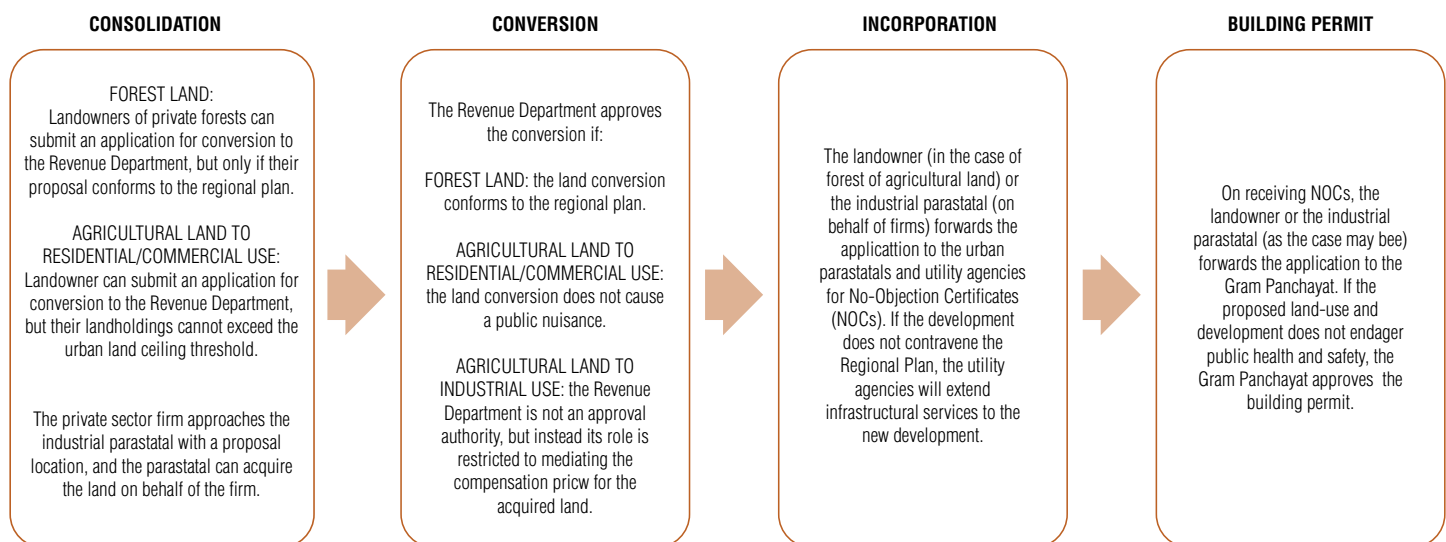
The paradox is that as cities agglomerate into larger and larger urban conurbations, the wave of decentralization reforms are devolving political, administrative and fiscal decision-making to local governments. Since the scale of urban growth is much larger than the jurisdictional boundaries of individual cities and villages, individual local governments lack the capabilities to govern these peri-urban land processes. Local governments by themselves are unlikely actors to initiate land readjustment in peri-urban regions. The mismatch between the legally defined jurisdiction of local governments and the spatial footprint of contemporary urbanization then requires new mediating organizations that can effectively and legitimately regulate land readjustment.

The heterogeneous nature of urban communities, the translocal spatial footprint of contemporary urbanization, and the strong public backlash against undemocratic public corporations means that the institutional actors that planned and implemented the earlier era of land readjustment projects either lack the capacity or the legitimate authority to manage contemporary peri-urban land readjustment projects. The next section starts with an overview of the institutional actors involved in urban land preparation in India, followed by an exposition of the Magarpatta cases.

## 2. Land Readjustment in Western Maharashtra, India

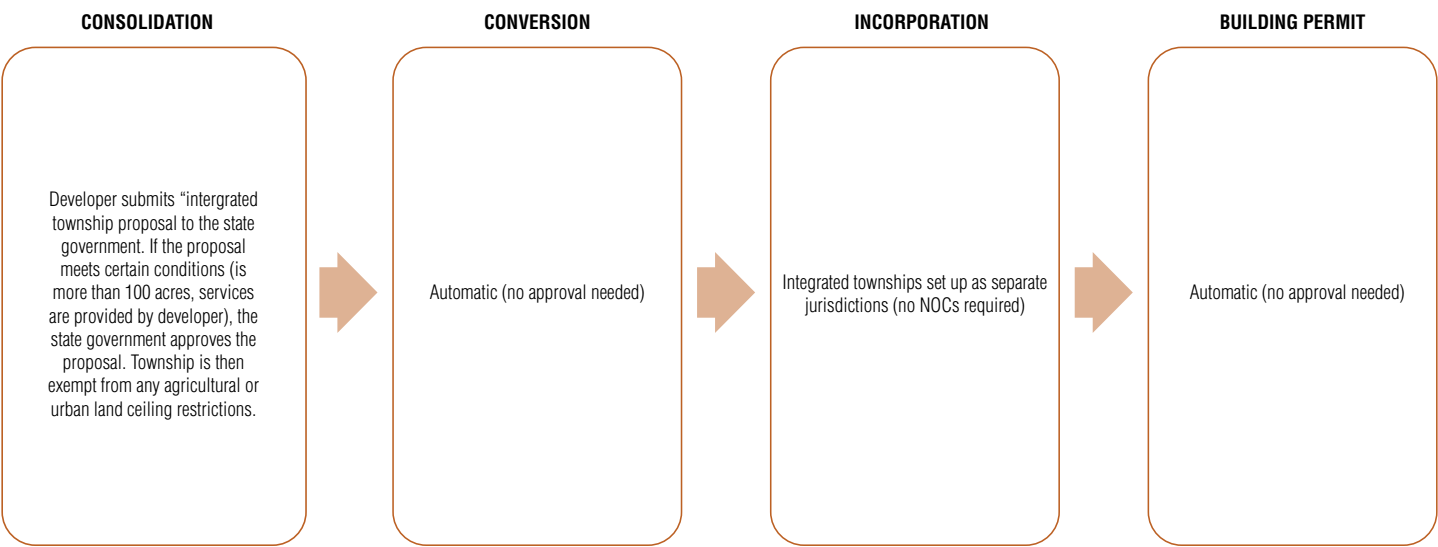
Before delving into the case study, the institutional actors and the planning process involved in urban land preparation should be noted. The public institutions involved in agricultural land consolidation are the parastatals, the Revenue Department and the Gram Panchayat (rural local government). Urban land use in most Indian states is regulated by parastatals, which are special-purpose governments that, unlike general-purpose governments, have more of a market orientation in their financial discretion, internal organizational flexibility, and levels of citizen participation and accountability. Revenue Departments were initially set up in the late 19th century during colonial rule to extract taxes from agricultural lands, which were a significant source of colonial revenue. After Independence, agricultural land continued to be under the jurisdiction of Revenue Departments and any conversion of agricultural land into non-agricultural uses requires the permission of the Revenue Department. The conversion of agricultural land to urban land, then, involves both of these institutions, i.e. the overlapping jurisdiction of land conversion brings together two institutions that are otherwise distinct in their executive functions of managing urban and rural land separately. After these two institutions have approved the land conversion, the application is forwarded to the Gram Panchayat, which has the final say on approving the building permit for the application. After liberalization, both the Central and state governments have initiated new laws to expedite the preparation of agricultural land to urban uses. One of these new laws is the Integrated Township Policy. After completing the Magarpatta township, the protagonist in Magarpatta's land readjustment helped design the Integrated Township Policy so as to facilitate the expedited preparation of other agricultural land into urban real estate developments. The diagrams below show the degree of streamlining of the Integrated Township Policy.

Figure 1. Land preparation pre-liberalization



<sup>15</sup> UN-Habitat, (2010), State of the world's cities 2010/2011: Bridging the urban divide, Earthscan/James & James.

Figure 2. Land preparation post-liberalization – Integrated Township Policy



MAGARPATTA TOWNSHIP

"Recitals of a legendary past: What started as a project to help farmers gain the full benefit of their land use has today spun into a dream for thousands who set out in search of a better life. Urban cities of Maharashtra faced the problem of unauthorized constructions and haphazard development. Pune city was also a patch of unplanned layouts that was destined to be a marionette in the hands of wealthy industrialists. Until 120 farmers of Magarpatta came together with a dream to create a new way of life. They pooled in their ancestral lands held by them for over 300 years and proposed the idea of 'Magarpatta City' – an innovative township - to the Pune Municipal Corporation and the Government of Maharashtra."

The above quote is from Magarpatta's marketing brochure "The Story of Magarpatta – The pride of Pune City," with the aspirational subtitle "Life as it should be..." The completed and functional 400-acre Magarpatta City is a higher-income enclave of apartments, row houses, bungalows, food courts, information-technology (IT) complexes, school, and 120 acres of gardens and lawns.

Figure 3. Sugarcane fields around the Magarpatta township waiting to be developed





Figure 4. View from within the Magarpatta township



The Magarpatta model of land consolidation has received unreserved acclaim as “inclusive capitalism” and a “unique model of a company of farmers”.<sup>16</sup> Prominent policy-makers have hailed Magarpatta as “a shining example of how urban areas can expand to accommodate the needs of urbanisation without hurting the interests of rural landowners through forced or unfair acquisition”.<sup>17</sup> Others look to Magarpatta as the harbinger of a different planning model of “government-approved New Towns,” which could provide a solution to the one of the country’s biggest challenges of unplanned urbanization.<sup>18</sup> Some studies are more cautious in their celebration of Magarpatta, pointing instead to the vacuum in political leadership in India in managing urban development and the ability of some “urban stakeholders” in opportunistically forming ad-hoc coalitions to advance their own interests.<sup>19</sup>

This chapter takes a longer historical view of Magarpatta’s land readjustment. It traces the origins of Magarpatta to the region’s thriving history of sugar cooperatives in the 1950s to 1970s. It argues that agrarian elites articulated their interests from the 1950s to 1970s through the institutional form of sugar cooperatives. Within the new context of liberalized land markets and rapid urbanization, these sugar barons are diversifying from sugar cooperatives to shareholding companies in land. This chapter briefly outlines the process that led to the formation of the Magarpatta City, highlights the unique conditions that made it possible and examines whether this model of land consolidation is as equitable as the conventional narrative portrays it.

## Planning the Magarpatta City:

### A view from the ground

A block from the dense urban environment of Magarpatta’s apartments and IT complexes, vestiges of the 1990s landscape remain in the few sugarcane fields surrounding Magarpatta City. These sugarcane growers, like the Magarpatta ones, have ambitions to be developers, but they are holding on to their plots, waiting for land prices to soar higher before starting their residential and commercial developments. Before the 1990s, the Magarpatta City area was the site of fertile sugarcane fields. The largest landowning family in Hadapsar was the joint family of the Magars, a politically influential network whose most prominent member, Annasaheb Magar, had been a Member of Parliament for the Congress Party in the 1970s. During his political tenure, Annasaheb Magar channeled many development projects to his home constituency of Hadapsar, including the setting up of a cooperative sugar factory to benefit the local sugarcane growers. The 1980s saw a wave of urbanization-related changes sweep over the Hadapsar area. In 1982, the Pune Municipal Corporation’s Development Plan marked Hadapsar as a future urban zone, which meant that the Magars’ lands could be acquired in the future by the government under the Urban Land Ceiling and Regulation Act. This Act was legislated to redistribute urban lands — land beyond a certain threshold would be acquired by the government and used for public purposes, like housing for the

<sup>16</sup> India Knowledge at Wharton, (2010), The poor as stakeholders: Can ‘inclusive capitalism’ thrive in India? Accessed online on 4 January, 2010 at <http://knowledge.wharton.upenn.edu/india/article.cfm?articleid=4336>; Ganguli, R., (2008), “The Magarpatta Model of Land Acquisition,” Info Change News and Features.

<sup>17</sup> Nair, R., and Ahluwalia I., (2010), “Magarpatta: Building a city with rural–urban partnership,” The Financial Express, 26 May 2010.

<sup>18</sup> Joshi, R., (2009), “Integrated Townships as a Policy Response to Changing Supply and Demand Dynamics of Urban Growth,” In India Infrastructure Report 2009. New Delhi: Oxford University Press.

<sup>19</sup> Sami, N., (2012), “From farming to development: Urban coalitions in Pune, India,” International Journal of Urban and Regional Research 37.

urban poor. The Hadapsar area was also facing acute agricultural labor shortages, with the Dalit laborers who lived and worked on the sugarcane fields now finding alternative employment in Pune's informal economy. With the impending threat of land acquisition, rising land values and agricultural labor shortage, Annasaheb's nephew, Satish Magar, saw an opportunity in land development.

Satish Magar's family owned nearly 40% of the agricultural lands in the area. The other landowners – many of them also with the surname Magar, but not related to Satish Magar – had smaller landholdings of less than ten acres in size. All these landowners did belong to the same caste cluster of Maratha-Kunbis, an electorally strong constituency that makes up around 36 percent of the population in the state of Maharashtra and that, because of its numerical strength, sends the largest number of elected representatives to the state legislature. Market pressures on land were resulting in small landowners selling their agricultural lands to developers. Satish Magar, took the lead in convincing the other sugarcane landowners not to sell their lands to developers, and instead, to pool their fragmented landholdings, develop a township on the consolidated land, and enjoy the long-term benefits from their land assets as shareholders of the township company. The idea was that the landowners would form a new real estate company called the Magarpatta Township Development and Construction Company Ltd. Now implemented, the Magarpatta real estate company is owned by existing landowners, i.e. the company shares are divided proportionately among the landholding families. Further, the shares for each landholding family are divided equally among the adult members of the household, i.e. if a household has five adult members, the proportional shares for that household were equally allocated among the five members. This is one of the rare cases where even the women members of the household are recognized as landowners and benefit from landownership.

The erstwhile sugarcane growers owned the Magarpatta Township Development and Construction Company Ltd as shareholders, but the company was managed by a professional staff with Satish Magar as the Managing Director. In making the transition from sugarcane cultivation to real estate, the sugarcane growers faced daunting risks: the real estate company, for instance, may not do well, resulting in losses for the shareholders. For sugarcane growers who could earlier rely on their physical plot of land for cultivation both for the market as well as for the household, giving up their land for financial interests in a real estate company is fraught with risks. Satish Magar succeeded in convincing the landowners by drawing on the long histories of trust cultivated amongst the sugarcane growers and Annasaheb's family. Besides the social capital, Satish Magar also had strong political and economic networks needed for the setting up of a real estate company. Since no land acquisition was involved in the process, the project entailed no land costs. Satish Magar turned to the Housing Development and Finance Corporation (HDFC), one of the India's largest housing finance companies, for loans to meet the development costs of the township. Satish Magar's personal relationships with the Chairman of HDFC enabled him to get some much-needed financial advice on servicing the HDFC debt.

When Magarpatta City was ready with converted land and infrastructure provision, the cost of serviced, township land increased from INR<sup>20</sup> 100 in 1998 to INR 1000 in 2008. Thirty percent of the total development cost was earmarked as the cost of land at the current price, and paid to the shareholders. In this otherwise celebratory story of farmers' entrepreneurial success, the excluded are the landless labourers who worked on the Magars' sugarcane fields.

In this otherwise celebratory story of farmers' entrepreneurial success, the excluded are the landless labourers who worked on the Magars' sugarcane fields. Two kilometres from the Magarpatta Township is an informal settlement [basti] that is home to around 134 families. These basti residents belong to a mix of Mali and Dhangar caste groups, i.e. they do not share caste privileges with the Maratha-Kunbi political coalition. These residents worked as laborers on the lands of the small sugarcane growers of Hadapsar in the 1970s and 1980s. Most of these laborers migrated to Pune from surrounding drought-prone villages in the late 1960s. During the 1980s and 1990s, many of these basti residents used to work on the Magars' fields. However, with the formation of the Magarpatta real estate company, the disparity between the marginal sugarcane growers and the basti residents has widened. The smallest Magar landowner who gave up 0.12 acres of land for the township, for instance, now owns two apartments in the township, worth around USD 35,000, and receives dividends from the township shares. The basti landless laborers continue to eke out a marginal and insecure living, in no way benefiting from the affluent urban development in their neighborhood. In short, a marginal plot of land, however small it may be, marked the difference between the company shareholders and the informal residents.

### Magarpatta: Too unique to replicate

The Magarpatta agrarian region has a unique set of background conditions that are not easy to come by in the agrarian countryside. These conditions include a consolidated pattern of land ownership, a past history of collective action and savvy local leadership.

**Consolidated pattern of land ownership:** As pointed out earlier, Satish Magar's joint family owns 40 percent of the land in the Magarpatta area. The other Magar landowners, who are not related to Satish Magar, own smaller plots of land that vary from two to five hectares in size. Though these landholdings are small, their owners have clear title deeds to their land. This clarity in land titles enabled the Magarpatta company not only to divide its shares proportionately among the landholding families, but to also divide the shares for each landholding family equally among the adult members of the household, i.e. if a household has five adult members, the proportional shares for that household were equally allocated among the five members. This is one of the rare cases where even the women members of the household are recognized as landowners and benefit from landownership. But, the pattern of land ownership in the Magarpatta area is not representative of landownership in other parts of the country. An endemic problem in India's agrarian countryside is lack of clarity over land titles. The intergenerational transfer of land to all male children has led to a high degree of land fragmentation.

<sup>20</sup> As of 29 May 2014, 1 US\$ = INR 59

For instance, in the Khed region which is located less than forty kilometers from the Magarpatta Township, landownership is highly fragmented and fractionated. The Khed region has small two-acre plots that are held in joint ownership by more than 100 landowners.<sup>21</sup> Nearly 30 to 60 percent of the agricultural land in these Khed villages are in family dispute and are locked in litigation.<sup>22</sup> In the absence of conditions like a single joint family that owns large tracts of land, fairly consolidated land ownership and clear land titles, it is difficult to expect fragmented landowners in other parts of the country to voluntarily take the initiative to pool their agricultural lands and initiate land readjustment. As Sorenson reminds us from earlier Japanese experience, active external mediation, often state mediation, becomes necessary to foster collective action amongst fragmented and heterogeneous social groups.

**Past history of collective action:** The Magarpatta landowners were no strangers to collective action. Since the 1960s, these sugarcane growers had interacted with one another as members of the sugar cooperative set up by Annasaheb Magar. Satish Magar leveraged these trust relations that had been cultivated through the past sugar cooperative experience to bring the landowners together to form the Magarpatta township.

**Politically connected local leadership:** Few agrarian landowners have the political, social, and economic capital that Satish Magar had to pull off an ambitious experiment like Magarpatta. Satish Magar's close connections with top state-level politicians from the Nationalist Congress Party (NCP) enabled him to get key legal exemptions from existing land regulations. The NCP was in power in the early 1990s when India has a highly prohibitive agricultural land conversion regime, which is partly a vestige of the colonial era when agricultural land taxes were a significant source of government revenue, but also a product of the socialist years when policies were put in place to curb "speculation and profiteering from land" (Ravindra et al., 1997). The Urban Land Ceiling and Regulation Act (ULCRA), for instance, prevented single landowners from consolidating urban land beyond a certain acreage. The Maharashtra Land Revenue Act prohibited non-agriculturalists from purchasing agricultural land. These regulations prevented sugar elites like Satish Magar from becoming real estate developers. Satish Magar's close political connections with top state-level politicians enabled him to get exemptions from both of these land regulations. More recently, these legal exemptions have been formalized into the state government's Integrated Township Policy for which the chief architect is none other than Satish Magar himself. Any urban development larger than 100 acres can apply to be an integrated township. The benefits of being a township include exemptions from otherwise restrictive agricultural land conversion regulations. It is this enabling piece of legislation that allows Satish Magar to replicate the Magarpatta success in other sugar cooperative regions, including Nanded.

## Lessons from Magarpatta

The concluding section moves beyond the question of how replicable is the Magarpatta case to that of how desirable is such a replication? I also use the Magarpatta case to inductively revisit some of the building blocks of land readjustment - community attributes, financing and project initiation and management - introduced at the start of the chapter.

## Community Attributes: The Advantages of Heterogeneity

It is not surprising that in the midst of a decade of contentious and violent land acquisitions, the Magarpatta case has received much positive attention from academics and policy-makers because agrarian landowners, sans coercion or even "instigation" (Hong, 2007), come together in a voluntary land readjustment exercise. Magarpatta has many of the initial conditions of a successful land readjustment project: "boundaries and titles of properties are clear; parcels are relatively large, so only a few landowners need to be dealt with; values per unit are relatively equal, that is, land is generally flat and of the same quality" (Doebele, 1982).

Here, I sound a cautionary note on these favorable initial conditions that lead to speedy and easy-to-implement land readjustment projects. Not only are these conditions - identified by Doebele, Ostrom and others - difficult to come by in contemporary, conflict-ridden, heterogeneous contexts; they may also lead to exclusionary distributional outcomes.

The main protagonist and beneficiary in the Magarpatta township is Satish Magar's joint family. Till the 1970s, agrarian elites like the Magar family materially and politically controlled these areas through the institutional forms of the sugar cooperatives. The 1980s saw a rapid rise in the demand for urban land and the attendant astronomical increases in the price of urban land. Agrarian elites like Satish Magar's family seized the opportunity to diversify from one commodity to another: from sugar to land. Satish Magar could have developed the township himself by purchasing the land of the small and marginal sugarcane growers. Instead, he chose to develop the area not only with benefits for his family but for the wider agrarian landed constituency. But the key point to underscore is that when existing elites take the lead in initiating land readjustment, the outcome can be a reproduction of existing social hierarchies, in the case of India, caste/class hierarchies. In the Magarpatta township, the most enfranchised groups continue to be the agrarian elites, smaller agrarian landowners belonging to the same caste like the other Magar landowners who are not related to Satish Magar's family remain under the patronage of the dominant landowning class, and the most disfranchised groups who were excluded from the sugar cooperatives - the landless laborers who worked on the Magars' sugarcane fields - continue to be excluded from the benefits of land readjustment.

As India's land markets are getting restructured, regions with heterogeneous social groups hold more promise in disrupting existing hierarchies and opening up possibilities for new land-based social relations. Also crucial is the initial condition of the existing agrarian property regime. Land readjustment could well lead to new social hierarchies if marginalized groups hold private property rights to their land. Conversely, in agrarian regions with high incidences of landless labor or where marginalized groups have sharecropping or other leasing arrangements with agrarian landowners, the model of land readjustment, as it is practiced in contemporary India where only land ownership and not occupancy claims are recognized, would only serve to exacerbate exclusion. In short, the initial condition of the property regime matters in shaping the terms of inclusion or exclusion in the process of readjusting land.

<sup>21</sup> Source: File with the details of landholdings for the SEZ project, compiled by the Maharashtra Industrial Development Corporation (MIDC). This file contains the names of the landowners, their land survey/title number and land acreage.

<sup>22</sup> Ibid

## Financing: Redistributing across uneven land markets

As pointed out in the introduction, the preparation of agricultural land for urban uses includes the following steps: i) conversion, ii) consolidation, iii) incorporation, and iv) building permits. In the Magarpatta case, these increases in land price are captured entirely by agrarian landowners. Each of these successive steps in urban land preparation – consolidation, conversion, incorporation and building permits – contributes to increases in land price.

The consolidation of fragmented plots into larger, more regularly dimensioned plots amenable for serviced, urban development increases their land value. Conversion from agricultural to urban land-use further increases land value, particularly in real estate markets like India where serviced urban land is scarce and in high demand. With incorporation, infrastructural services are extended into the new urban areas. Land values are positively affected by different types of urban infrastructure: studies, for instance, estimate that the introduction of sanitation infrastructure increases land value by 3.03 times, road infrastructure to increases of 2.58 times, and piped water supply to increases of 1.02 times.<sup>23</sup> In other words, the benefits of urban infrastructure are capitalized into the land values, leading to a multiplier effect in land value gains. Getting regulatory approval for conforming to building standards further increases land value. One of the justifications for building regulations is that they minimize transaction costs.<sup>24</sup> A building is, after all, a complex matrix of structural, mechanical and electrical systems, which can be dangerous if their quality and method of construction is unregulated. As laypersons, most consumers do not have the relevant information or technical know-how to ascertain the quality of the building they wish to purchase. Government regulations, then, on minimum building standards to ensure safety and public health removes the burden from consumers for assaying building quality. Buildings with the necessary approvals from the regulatory authorities – in this case, local governments – then fetch a higher price than those that do not adhere to government-prescribed building regulations.

In Hadapsar, for instance, after agricultural land was consolidated, converted, serviced and permitted for the new urban township, the land price shot up from 230,000 per hectare in 1996 to 807,292,500 in 2016, i.e. a land value increase of 62 per cent. The Magarpatta case is laudable because existing landowners, as opposed to new developers, captured the land value increment. But one could argue that these increases are largely due to trends like the demand for urban land and not due to the efforts of the individual landowner, and the public is entitled to share and benefit from some of the land value increment. Even if the state had to intervene with some land value capture instruments to capture some of these land value increases, urban experiments like Magarpatta Township do little to lessen socio-spatial inequalities. Landowners will be willing to participate in land readjustment schemes only if they derive profits from the new developments, but this is possible only in high-demand real estate markets. For instance, even if the local government in the Magarpatta case had been successful in capturing some of the land value increments and re-investing these increments in improving the public services within their political jurisdictions, it can worsen the socio-spatial inequality between

the valorized land markets within which these new urban developments are located and the devalorized land markets in which new privately-initiated developments will not come up in the absence of significant subsidies/incentives/actions by the state. In short, land readjustment as it is practiced in western Maharashtra misses the opportunity of using land value capture as an instrument of redistribution (Furtado, 2000; Fainstein, 2012).

## iii) Project initiation and management: New mediating organizations

Magarpatta is not an aberration in India's contemporary urban growth story. Instead, it represents a broader trend of the transition from an agricultural to urban economy in certain geographies of advantageously located large villages and census towns (large villages that are classified in the census as urban areas, but that continue to be governed as villages). Agriculture, the "mainstay" of village life, is no longer the main contributor to the rural economy: as of 2005, nearly 40 per cent of the rural population in half of India's states was engaged in non-agricultural work and the numbers have since been increasing.<sup>26</sup> This transition from an agrarian to urban economy will affect the lives and livelihoods of around 140 million residents who live in these peri-urban regions. How property rights are reallocated in peri-urban regions will have deep implications on India's urban future because the property institutions set in place now will have strong path dependencies and distributional implications.

An urgent question for land readjustment, and more broadly for urban land preparation, is an institutional one: in these interstitial peri-urban zones with their overlapping jurisdictional boundaries and their absence of a regional polity, what are the mediating organizations that are capable of resolving conflicts through allocating land value increments effectively and legitimately? Policy-makers cannot rely on self-organized communities to initiate land readjustment because, as evidenced in the Magarpatta case, voluntarily initiated LR projects are unique to come by, they can lead to a reproduction of existing land-based forms of control, and they can further exacerbate existing socio-spatial inequalities. The scale of these new urban developments defies the jurisdictional authority of existing local governments. Local democratic institutions have little control over what happens outside their political boundaries. Also, contrary to the policy prescriptions that these polycentric urban systems of disparate local governments cooperative with one another,<sup>27</sup> ground reality shows that it is inter-jurisdictional competition rather than cooperative that characterizes local government interactions. Across the world, examples of successful regional institutions are few and far between, resulting in growing "institutional voids" in these peri-urban regions that lack regional public authorities that can effectively and legitimately regulate land-use change.

For rapidly urbanizing India, it would be a mistake to leave land-use change to the market as this would only serve to widen existing inequalities across land markets. The urgent question is new regional imaginations and practices for democratic institutions that can allocate land value increments through revenue sharing arrangements that span across currently prosperous and impoverished regions.

<sup>23</sup> Peterson, G., (2008), "Unlocking Land Values to Finance Urban Infrastructure: Land-based Financing Options for Cities," Guidelines (PPIAF, World Bank) Note No. 40.

<sup>24</sup> Coase, R., (1960), "The Problem of Social Cost," *Journal of Law and Economics* 3.

<sup>25</sup> Gupta, D., (2005), "Whither the Indian village: culture and agriculture in 'rural' India," *Economic and Political Weekly*.

<sup>26</sup> Revi et al. (2011), *Urban India: Evidence 2011*. Bangalore, India: Indian Institute of Human Settlements.

<sup>27</sup> Ostrom, V., Tiebout, C., and Warren, R., (1961), "The Organization of Government in Metropolitan Areas: A Theoretical Inquiry," *In The American Political Science Review*, 55.



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Moscow City district and Moscow river @Shutterstock

## Chapter 9

# Land Pooling for **Multi-Child Families in Russia**

*Elena Korotkova*

The Russian variant of land readjustment deals with vacant lands inside or just beyond the city border. In 2011, federal law allowed municipal authorities to provide multi-child families with free land plots. The exact size of land plots, their location, and level of infrastructure provision were under the jurisdiction of the local administration. The first implementation experience of the law showed that the plots provided to the families were poorly located and needed an enormous amount of additional investment into infrastructure and construction of housing, etc. Moreover, the lack of financial resources pushed the families to sell their plots at low prices which meant that the objective of the law was not fulfilled. Consequently, the Federal Agency of Housing Construction Financing (AHCF) created the program of multi-child cooperatives.

According to the program, the local administration chooses at least 10 multi-child families who decide to participate in the multi-child cooperative. They are then provided with land plots situated near each other and organize a housing construction cooperative (HCC). The participating families contribute their plots to the HCC which in turn unifies them into a single large plot for the construction of a multi-story apartment building. The number of apartment units is at least equal to the number of the multi-child families who will get the ownership of the flats

for free. The remaining flats become rental units owned by the regional office of the AHCF. A private commercial mortgage loan finances the project managed by a special purpose vehicle (SPV) affiliated with the HCC. The land plot serves as collateral for a 20 to 25 year loan. The AHCF buys the mortgage certificate from the bank after it has granted the loan to the SPV. The SPV uses the income from renting the surplus flats to pay off the loan to the AHCF.

Although the local governments of the two pilot regions had approved the program, they did not implement it. One project was stopped by the regional elections and the subsequent change of the government staff whose priorities did not include the program. The administration of another region failed to choose the group of closely situated land plots because of high market demand for vacant urban land.

Nevertheless, as the first experience of land readjustment in modern Russian history, this program is quite interesting both for its land-pooling mechanism, which will be described in Section I, as well as for the functions and interrelations of its participants, which will be analyzed in Section II. Section III closes the chapter with concluding remarks.

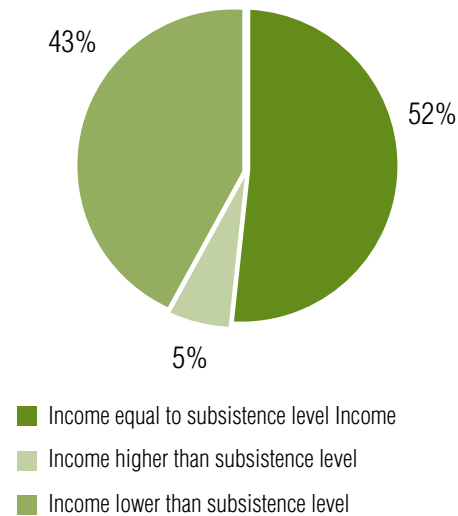
## LAND POOLING FOR MULTI-CHILD FAMILIES

### Housing Problem of Multi-Child Families

Although private ownership of housing was implemented in 1991, and the housing market has since grown considerably, the existing accommodations only offer 13.3 to 30 sq. m. per person of living space with no possibility for improving their housing conditions. Relevant federal programs and projects aim to stimulate both the supply and demand for housing. Potential consumers are supported mainly by allowances, subsidies, and discounted mortgage programs that are organized, financed, and managed by the federal finance structures. For example, there are programs for young teachers, scientists and soldiers, among others. One of the recent programs, organized by AHCF, is devoted to supporting multi-child families who are one of the population groups with the least amount of social protection.

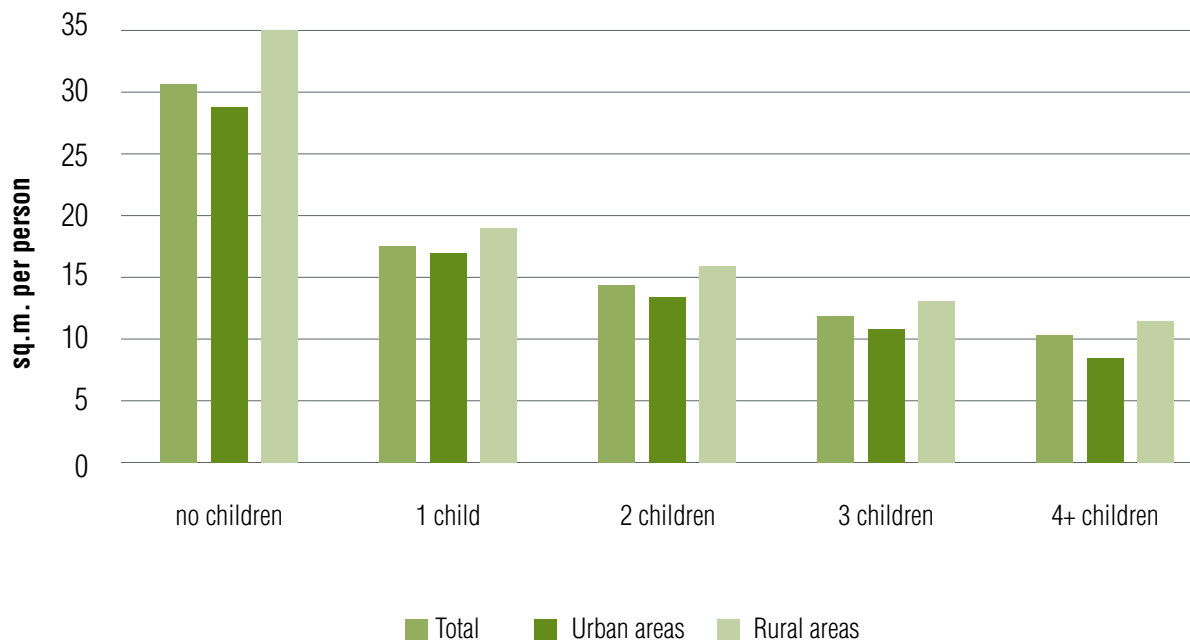
Although currently multi-child families have support through subsidies for facility payments (at the discount of 30 per cent) and other payment reductions, the improvement of housing conditions was for a long time an unaffordable goal for many of families (see Figures 1 and 2).

Figure 1. Month income per capita of multi-child families in Russia related to subsistence level (5688 RUB – \$183), 2010.



Source: The Federal State Statistics Service (Rosstat), 2011.

Figure 2. Housing provision of the families in Russia, 2010.



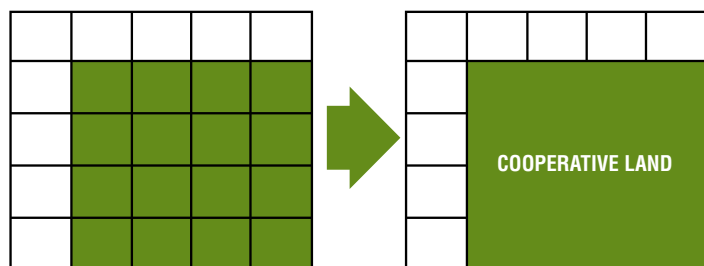
Source: The Federal State Statistics Service (Rosstat), 2011.

## Cooperative for Multi-Child Families

In June 2011, multi-child families were permitted to get land plots for individual housing construction for free. The location, size, level of infrastructure provision, and order of land allocation were (and still are) issues of regional and municipal legislations. In half a year, the results of the program were dramatic. First, by the end of 2013, not all the regions had implemented the relevant regional laws. Where this was done, the provided land plots were remotely located without any infrastructure. Moreover, the requirements for the families to be qualified for the program were extremely strict, and the installation of infrastructure as well as the construction of housing was too expensive for qualified families. Thus, they started to sell their new land plots at low prices. After the initial period, AHCF proposed a program called “Cooperative for multi-child families”. The main target of the program was to provide multi-child families with large, privately owned flats without making them spend money on housing construction.

According to the program, the free land plots owned by 10 or more families are united for the subsequent construction of a low-rise apartment house on the assembled land plot (see Figure 3). Russian Land Code allows the city to provide families with land plots that are municipally owned. The city master plan defines the possible locations of the future project. Another consideration for the location is the price of the land. As land rent and sale revenue are among the main fiscal resources of the local budgets, municipalities will not provide families with centrally located land plots.

Figure 3. Land-pooling for the multi-child cooperative.



Another challenge is that the AHCF's scheme supposes land readjustment only for privately owned land plots. Some regions provide families with leasehold rights for 49 years. They are eligible to privatize the land plot only in 3 years or after they build a house on the assigned lot. This scheme was implemented to prevent families from selling their land plots immediately. Consequently the leaseholders cannot participate in the AHCF's program, because they do not own their land. To solve this problem, the regional authorities need to amend the relevant legislation, although presently, no such amendments have been made.

Additionally, regional authorities need to choose an area inside the city border, or just beyond it, wherein land-use regulations permit the construction of both individual and low-rise residential buildings. According to Federal Law, multi-child families should be provided with land plots for the construction of individual homes. The low-rise building (no higher than 3 floors) can be built in place of individual homes once the municipality has chosen the plots supposed for provision to the multi-child families with “general” land use category. This category regulates the land resources that can be in demand in the future.

Another way of low-rise building construction instead of individual homes relates to the question of major/minor land-use regulation. According to the Land Law, all the land-use categories (except the “general” one) are comprised of major and minor land-use sub-categories. Therefore, for example, the land plot with major land-use sub-category “for shopping center” can have the minor Land-use sub- category “for public/social activity objective”. The owner can change the status of “major” and “minor” sub-categories only by official application to the local administration. Changing the land-use category is a long and expensive process even in cases where the authorities are interested. To do this, the land-use plan of the whole district should be revised and approved through public hearings which could take six to seven months. The procedure for changing the land-use categories is defined in the Federal Planning Code and cannot be changed or simplified by the local or regional authorities.

The general parameters of the future house should be defined based on the land-use regimes of the project area. According to Russian Planning Law, each residential land-use regime includes the description of the maximal and minimal allowable land plot size, minimal setbacks, maximal height and number of floors, and FAR parameters. Thus, by defining the project area, the local administration at the same time defines the basic characteristics of the future building – the number of floors, FAR, and consequently – the min and max number of flats in the house.

Since the realization of the project will necessitate the unification of the land plots, it is important that from the start, only adjoining plots are proposed to the interested participants. If the land plots are detached or situated in different parts of the city, the whole process will be lengthened due to the need to arrange the exchange of plots and to negotiate transaction agreements. After the set of the plots is defined, the local administration verifies the legal status of the plots and provides each of them with complete documentation and cadaster information. The next step is for the local administration to meet the infrastructure requirements. According to the Federal Law, multi-child families must be provided with land plots that are ready for residential construction. The problem is that infrastructure projects are financed by local budgets, which usually lack the funds to provide the necessary construction preparations. To overcome this difficulty, the local administration may apply for regional and federal subsidies by participating in an investment competition.

Through the local media, the local authorities announce the project and inform multi-child families about the order of participation and requirements. As families need to participate much more actively in the land-pooling and construction processes than in the case of standard land provision, care should be taken in selecting families to ensure that they are well-informed and are capable of forming a stable and workable group.



The number of possible participants can either be too small or too large. If the interested families are too few, it becomes very difficult to have an assembled land plot that is large enough for the construction of a multi-storey apartment. In this case, the construction needs to be postponed for a year while giving priority of choice of land to the first round participants. In case there are too many families, the local administration may not be able to get enough investment for infrastructure of the future house. Moreover, there can be less appropriate land plots inside the city border. In such case the families should be organized into the queue according to different factors and admitted to the project group by group.

Currently in most regions, families are offered only one plot. In case the family turns down the proposal, the land plot is offered to the next family. The process of choosing the families that are offered the plots is overseen by the administration and the results are recorded in an official document (Protocol of land choice), which is signed by all the future participants as well as the city major/regional governor.

Only after the land plots are chosen by the families and land rights are defined and fixed, is it possible to organize a housing construction cooperative (HCC) of the families. The entry fee of all the families is equivalent to the HCC registration fee.

### Housing Construction Cooperative and Land Plots Pooling

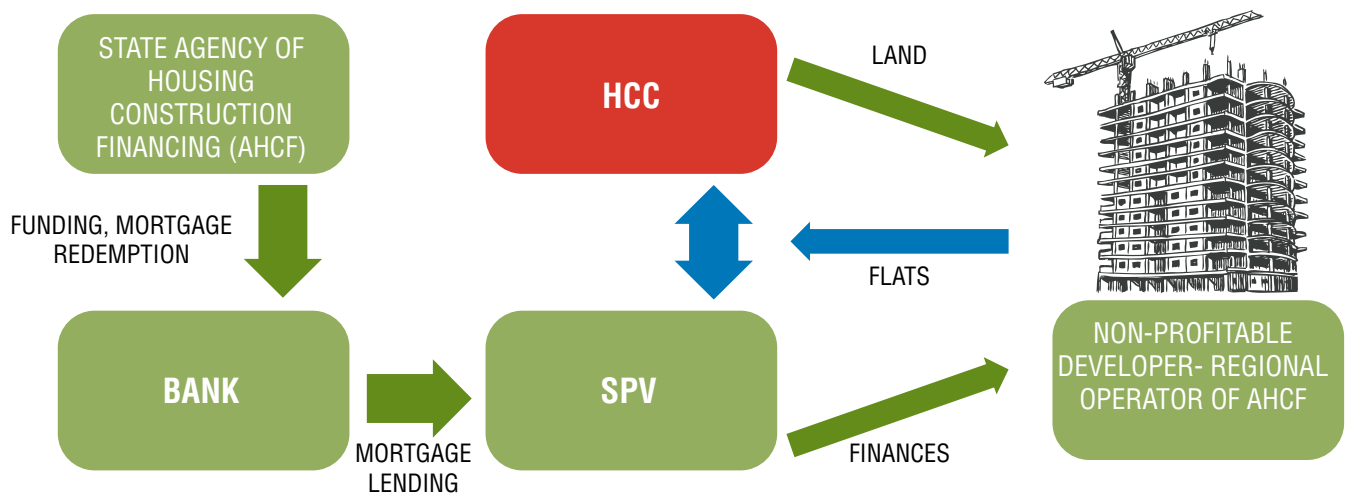
After the preparatory stage, all the families contribute their land plots to the HCC according to the statute. The HCC then registers its ownership of the land plots by applying to the Federal Service of State Registration, Cadaster and Cartography. According to the Land Code, when an individual or a corporation owns several adjoined land plots of the same land-use category, it is allowed to apply for the unification of them into one land plot. After a unification of the land plots, the

HCC exercises its legal right to change the land-use category (from individual housing to low-rise multi-flat housing) and redefine the maximum height of the residential building, the minimum space for roads and courtyard, and other physical dimensions of the house.

Since it is unlikely that there are some professional construction managers among the multi-child families that are chosen to participate, the HCC needs a real estate development company to implement the project. The HCC signs an agreement with the regional office of the AHCF that fulfills the roles of providing technical advice and managing the construction process. The duties of the regional office include: (1) organizing the necessary geological, geodesic, technical, and ecological research; (2) coordinating the design, technical admittance for the future facilities of the building, and the whole construction process; and (3) registering the building upon completion. Usually the regional offices of AHCF do not have their own construction capabilities; thus they are allowed to hire sub-contractors.

Some HCCs would face substantial difficulties in receiving a bank loan even though they may have a unified land plot as collateral. The main reasons for these difficulties are the bad experience of HCCs in Russia and the general distrust by the banks of the ability of ordinary citizens to form a reliable business entity. To handle this issue, the AHCF invented an SPV scheme. SPVs are new companies created by the regional office of AHCF specifically for the project. Currently SPVs without any collateral but created by the regional office of AHCF are perceived by the banks as more reliable than HCCs. In theory, this is viewed as a temporary solution. When banks and other credit organizations start to accept HCCs as credit-worthy customers, SPVs will no longer be needed. As illustrated by Figure 4, SPV as a project participant gets a mortgage loan from the bank, invests the money in the construction, and owns all the flats except the units returned to the participating families. The agreement with the SPV is signed after launching and publishing the construction permission of the project.

Figure 4. Common Scheme for Project Financing.



As the program is socially oriented and sensitive, the reputation of the bank is crucial. For this reason, the bank must be approved by the AHCF. Moreover it should be an experienced partner of the AHCF in mortgage lending, because the project financing scheme is not an ordinary one and requires a high level of knowledge from the bank. Since most Russian banks do not favor 20 to 25 year loans, they will sell the mortgages to the AHCF (as this is one of the main functions of the Agency).

Upon the completion of the construction and registration of the apartment building, the HCC and SPV will get their flats. The HCC will allocate the apartment units to participating families according to the order specified in the HCC statute. At the same time, the SPV will rent its flats and pay back the mortgage loan to the AHCF.

According to the Law, the responsibilities of the HCC are finished when the ownership of the flats is transferred to the families and the SPV. To maintain the apartment building and commons, the HCC will organize a meeting and put forward the decision to form a homeowners association, which will be, according to the Russian Federal Housing Law, responsible for house maintenance. As the SPV owns many flats, it becomes a member of the homeowner association holding the largest number of votes.

## ORGANISATIONAL AND ADMINISTRATIVE FRAMEWORK OF LAND3POOLING SCHEME

Although the overall scheme of the project is not complicated, there are a lot of details and organizational features that are important for successful implementation. The first experience of the program's implementation gave additional information about potential problems as well as possible solutions.

### Intergovernmental Cohesion within the Program

Despite the fact that the provision of multi-child family homes is a local-level issue, the realization of the AHCF program requires the participation of all three levels of government – federal, regional, and local. It can be described from two points of view – technical and political. The first one refers to the functional, formal responsibilities, and hierarchy between different government levels. The second is more complicated and less formal – the balance of political power between the participants.

As the program is still new the pilot regions should be chosen by the federal government and AHCF. There are two main factors. Despite the fact that the basic Federal Law about the land plots provision to the multi-child families was launched in 2011, not all the regions had implemented and enforced the relevant regional laws. Also some local/regional authorities are not eager to implement the project. While the Federal Law does not require very much activity from public officers, the successful realization of the AHCF's project is impossible without deep engagement of numerous officers and departments on both regional and local levels.

The administrative structure of the entire project includes different participants from all levels of government (see Table 1).

Table 1. Structure of the project participants.

FEDERAL	REGIONAL	LOCAL
Ministry of territorial development	Regional government	Local administration
AHCF	Regional office of the Federal Service of State Registration, Cadaster and Cartography	HCC
Federal-tier bank	Regional office of the AHCF Regional office of federal-tier bank/regional-tier bank	SPV Construction sub-contractors

The implementation of such a multi-level program also needs several administrative documents, which define the interrelations and responsibilities of involved parties. Table 6 shows the necessary documents before and during the implementation.

Table 2. Official documentation of the program

FEDERAL	REGIONAL	LOCAL
Federal Law about free land plots provision to multi-child families.	Regional Law about free land plots provision to multi-child families.	Local regulations of the land plots provision.
Recommendations to the regional and local program about multi-child cooperatives.	Regional program of multi-child cooperatives.	Local program of multi-child cooperatives.
Agreement of intent between the AHCF and regional and local governments about the multi-child cooperatives program implementation		Decree about the agent that is responsible for the program realization.
	Certificates of ownership of the land plots (for the multi-child families and later for the HCC).	Urban planning and land-use documentation for the land plots.
		Statute and technical documentation of the HCC.
	Agreement between the HCC and regional office of the AHCF about the duties of the technical advisors and managers of the construction process.	

First of all, it is necessary for the regional and local authorities to have laws that give effect to federal level legislation regarding the provision of land plots to multi-child families. The regional and local programs to refer multi-child families also need to be launched. They usually include the preliminary conditions of the multi-child cooperative program, lists of the projects which will be undertaken during a period of time (mostly 5 years), the expenditures and activities of regional and local authorities.

Secondly, there is the agreement between the AHCF and the regional and local authorities which contains the intentions of the latter with regards to the realization of the program. This documentation creates the partnership between AHCF and administrations.

Regarding the political side of the whole program, the role of the AHCF needs to be mentioned, as it is less technical than the others. Apart from choosing the pilot regions and being the author of the idea, the AHCF plays the role of mortgage agent only at the construction-financing stage. It prepares all the document samples and to some extent manages the collaboration among the participants during the project. But being a federal agency, it has less functional power compared to the regional office or regional/local administration. At the same time, its federal status enables it to speed up and resolve some difficult situations. Furthermore, there is a psychological effect to the AHCF's participation. Contribution of the federal-level agency to the project gives multi-child families the needed confidence about the quality and reliability of the program.

Also the high status of the AHCF gives the agency opportunity to collaborate directly with the governors and solve some management problems. With regard to the federal government, the agency is responsible for the pilot projects and this gives AHCF control and retains their interest in the project until the end of the construction phase. Later, after the mortgage bond for the non-families' flats is bought by the agency from the bank, its interest in the project changes to that of an ordinary bond-holder.

The same factor of "federal power" is relevant to the regional office of AHCF. The status of federal-level affiliated organization gives the regional offices additional importance and necessary weight while managing the construction and financing processes.

Another participant whose contribution is mostly affected by the political balance of power is the Federal Service of State Registration, Cadaster and Cartography (see Table 5). Speed and quality of the initial land plots registration, registration of the families' ownership for the land, HCC's ownership registration and land plots' unification among others, depend on the quality of interaction between the regional and local levels of administration and the Service. It has its own regional offices all over the country which collaborate with local and regional authorities as independent boards. In cases where all the named procedures are fulfilled in the ordinary way and at the ordinary speed (all of the pointed registration procedures last around 30 calendar days), another 3 months are added to the project's timeline. To speed up the process, local and regional authorities should have a constructive collaboration model with the Service and be able to apply for the accelerated process.

There are also several other political factors in the program which can significantly affect the quality, speed, and cohesion of the whole program. It is important to understand the dynamic and rhythm of bureaucratic work in the region and local administrations so as to be able to "catch the wave of activity". According to the political calendar in Russia, it is unreasonable to start a project or any interactions with the authorities in May or in December. The vacation period starts in May, while December is characterized by yearly reporting where all officials devote their attention to preparing the documents that will be sent to the federal ministries.

Another bad time to start the project is before the gubernatorial or mayoral election period. Nobody knows who will be the next governor or mayor, and if he or she will keep the same staff. In these situations, little attention is paid to the future projects or the likelihood of any collaboration.

Another political issue affecting intergovernmental cohesion is connected to the infrastructural subsidies for the maintenance of the land plots. There are three sources of infrastructure financing. First, cities have some resources for the creation of new infrastructure. Second, cities can apply for the regional subsidies or donations. These can be made through the special investment program devoted only to the multi-child families' provision with housing, or through the ongoing regional programs devoted to the development of housing -communal conditions. In both cases the proactive position of the city mayor and good relations between the local and regional authorities (major – governor, local government – regional government) are crucial.

Third, there may be federal subsidies. Yet it is hardly probable that municipalities can apply directly for federal subsidies unless they are among the largest cities in Russia or are hosting some federal-level event like the Olympic Games or APEC summit. Since 2007, most of the subsidies for housing infrastructure have been provided to the regions by the Federal Corporation for the reform of housing and community amenities. Despite the existence of certain fixed formal requirements, in practice the process of admitting is still largely based on personal connections. The final decision depends a lot on the level of the proactive interactions between the region's governor, regional and local administrations, the city mayor, and the federal government. Unfortunately, the provision of subsidies, their nature, and their amounts can be used as an instrument of political pressure against the regional and local authorities. That is why some regions can get financial support from the federal government easier than others.

## HCC and SPV – Creation, Functions, and Interactions

During the program implementation, there is little participation of the multi-child families. This can mostly be explained by the traditional passive attitude of citizens toward any new top-down projects. The key issue that cannot be resolved without families' input is their decision about participation in the project. The organization of the HCC is also based solely on the active engagement of the families. The speed and accuracy of this project mostly depends on the knowledge and experience of the participants. As there is only a small chance that families will do it successfully without any help and advice from the administration and the regional office of the AHCF, the relevant consulting supports will be provided to the participants.

According to the Federal Housing Law, the HCC is a volunteer unit of citizens who want to build and manage a multi-flat house. Its participants have to be the owners of the land plot. There cannot be fewer than 5 members in an HCC, and the number of apartments in the future building cannot be less than the number of members. The HCC as well as its statute are created by the resolution of the general meeting of founders. The model variant of the HCC statute is composed by the AHCF. The number of members is fixed and equal to the number of participating families. All participants contribute their land plots and get back the flats in the new building. The

HCC chooses its executive board and CEO among the members. The secretary of the HCC should be the manager from the regional AHCF office. The AHCF proposes to the families the preliminary version of the cooperative statute. According to the Russian Housing Law, families intending to organize an HCC are completely free to create their own statute and define the procedures, orders and sums according to their own collective opinion. At the same time the quality and content of the statute seriously impacts the whole project. That is why administration and the regional AHCF office provide consulting service to the families.

The participation of the families does not end after the creation of HCC and election of the executive board. Regarding work on the future building, it is necessary to involve the families in the design process, at least as far as their own apartments are concerned. As multi-child families are a special group of residents with demands such as quiet neighbors and large entrance halls (to keep baby-strollers there) as well as large courtyards safe for children, it is reasonable, and recommended by the AHCF, to combine all the multi-child families' apartments in one residential section.

Except the registration fees paid by the families, the HCC does not have any financial resources. At the same time the construction agreement with the SPV can be signed only after the local administration gives the development permission to the HCC (see Figure 5). All the expenses related to the design and preparatory work and public service connections must be covered by the HCC or through short-term loans from the regional office of the AHCF. The HCC may also apply for regional/local subsidies, although the chances of success are minimal due to the shortage of funds. During the construction period it is important for the families to be in touch with the process. Based on the previous experience, the AHCF project stipulates at least the informing of the participants about the process. This increases the interest of the families in the project and obviously improves the quality of future house maintenance. There is only one potential risk of the project realization, connected to the families' involvement. According to the Russian Federal Housing Law, every member of HCC is free to revoke its membership and even get monetary

compensation equal to the estimate of its share at any moment. For the other members of the HCC, this means that they need to collect the necessary sum to pay compensation to the dropout families. Another possibility for the family wishing to withdraw from the HCC is to assign a right for the future flat to another non-HCC multi-child family. The AHCF strongly recommends including only multi-child families into the HCC, even in case of rights assignment. Next they need to re-divide their shares in the HCC. From this point of view, the selection of the families by the local administration and the preliminary inclusive and participatory interactions with the chosen families are extremely important.

Although the mechanism of SPV is well known in Russia, it is still illegal, as there is no law defining its status, requirements, and authority. Currently even large projects such as the Nord Stream, Blue Stream, renovation of airports, and construction of thermoelectric plants are partially financed by SPVs created by foreign banks and financial structures. The single way for project financing according to the existing Russian legislation is to create a closed joint-stock society and to list all the targets and functions of it in the statute. This scheme is recommended by the AHCF, although it is not the best from the point of possibly enlarging the list of targets and functions by the administration of the new company.

The project needs a special new company to fulfill: 1) the functions of the loan borrower and 2) the functions of the owner and manager of the non-families' flats (see Figure 6). The participation of the SPV is more technical until it becomes the owner of the flats. Because the company is new and does not have any assets that can be used as collateral, mortgage loans are requested by the AHCF or regional office and local administration. When the SPV becomes the leading participant of the project, it will own the largest part of the house and will be interested in the profitability of renting some apartments. The SPV should participate actively in the homeowner association and the maintenance of the new building. After the mortgage loan is paid back, SPV will start to profit. As it is created by the regional office of the AHCF, it will receive a share of the development profit.

Figure 5. The life cycle of HCC

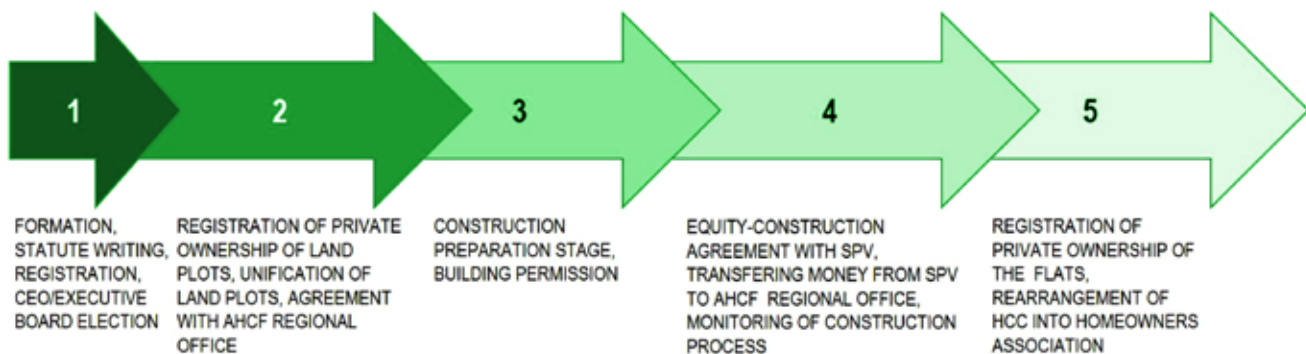
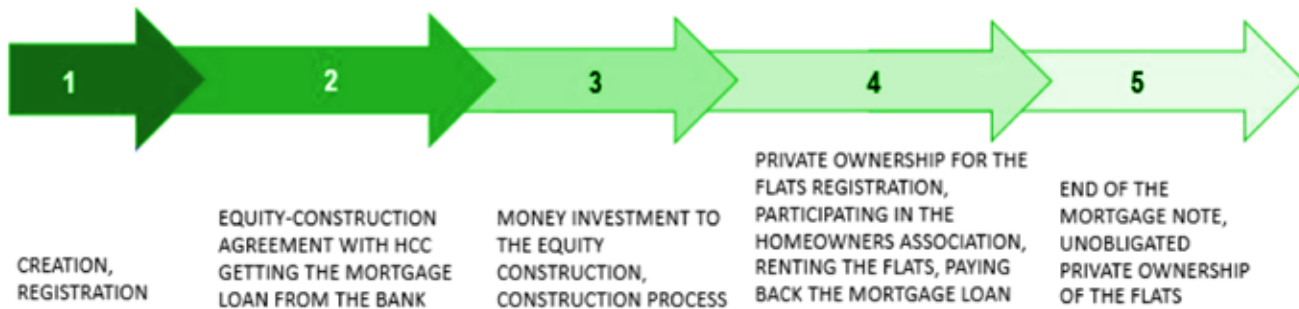




Figure 6. SPV's life cycle.



## Time Framework of the Land Pooling Program

As the program is devoted to the solution of the housing problem, the time factor is extremely important and unfortunately one of the most vulnerable. While creating the system of quality management for the project, the AHCF estimated that ideally the whole project could be realized in two years. Included in these calculations, the first official contacts between the AHCF and regional/local administration are taken as the starting moment. The end of the project is taken to be the rearrangement of the HCC into a homeowners association. At the same time the two first practical examples show that there are a lot of delays and risks in the project that are mostly beyond the families' control.

The first types of delays and risks are technical. As mentioned before, many land plots do not have proper registration. This situation is very probable in Russian cities where many municipal lands are still undivided and unregistered. Ineffective collaboration between different levels of government could also cause delay. Another common scenario of delay is the low-quality land plots chosen by local authorities for multi-child families, leading to constant decline by the families to the offer. Local authorities could in principle apply to the regional or county administrations for land with better location. Yet conditions and the length of such local-local or local-regional agreements are hardly controlled unless the governor or vice-governor of the region is personally managing the process – as their authority carries more weight than the local one. Besides land and property rights, registration normally takes three months to be completed. Finally, most banks are not interested giving mortgage loans to projects connected to HCCs, thus rendering the search and negotiation of project financing time consuming and uncertain.

The second type is related to financial risks. As mentioned earlier, regional or local administrations do not have enough money to fund infrastructure investment. They could add the project costs to the local or regional infrastructure budget. However, the required steps take time.

The third type of risks is related to the lack of interest in program implementation from the federal government, regional administrations, and local authorities. The Reason for government inaction may be due to low summer activities, end of the year reporting, or pre-election periods. There are ways to speed up the process,

though. For example, the agreement with AHCF and official program can be launched and signed in parallel with the process of land registration and family selection. Similarly, all the registrations can be fulfilled in 2 business days instead of 30. All these steps can save three to four months of project time.

At the same time there are steps that cannot be accelerated without dramatic decline in quality of the program. Unless the unified land plot is provided with necessary infrastructure and all the preparatory work are completed, it is impossible to start construction. Similarly, construction should be fulfilled carefully without any overleaping of stages.

## CURRENT RESULTS OF THE PROGRAM AND PERSPECTIVE OF DEVELOPMENT

The program was started in 2011 by the AHCF. During the first six months, the scheme and documentations were worked out. In parallel with the creation of documents, the regional offices of the AHCF organized several polls in different regions to investigate the level of interest of multi-child families in the program. Although the general reaction was positive, some distrust of the HCC and SPV was expressed. By the end of 2011, the first official agreement between the Irkutsk region administration and the regional office of the AHCF was signed. But just after the signing, the governor's elections started, and the program did not move forward. At the same time, multi-child families were provided with land plots, and some sold their land for discounted prices. Although the city had the vacant land plots and preliminary research of the multi-child families showed that the program will be in demand, the lack of political will among the regional and local administrative staff impeded a timely program implementation.

In 2012 the second agreement between the Novosibirsk regional administration and the regional office of the AHCF was signed. The region is traditionally active in collaboration with the AHCF and participating in the pilot projects. Despite this fact, the program was stopped while looking for land plots for the families. The lack of vacant land led the city administration to negotiate with the county administration for suitable land. That process is still going on, and no land plots have been chosen. In early 2013, the AHCF terminated the program because the two pilot projects

were unsuccessful. Yet in September 2013 the Prime Minister wanted to bring the multi-child family housing program back to the governmental agenda.

Given that political factors were major hindrances to both pilot projects, using the political capital of the federal government to encourage regional and local authorities to focus on the program will be critical. As the process involves different actors with different levels of power and roles, it is necessary to understand that political power is not in direct proportion to the role and administrative capability. The program will also create a huge amount of people, administrative staff, boards who are entering and leaving the process. Such a constant movement of powerful actors will not give any stability to the project. This is why it is necessary to have several basic structural documents (program and agreements) and several constant participants with defined responsibilities. In addition to these ideas, the participation of the federal government may create the much-needed "center of coordination" that could facilitate project management.

The effectiveness of the process also depends on personal factors. Especially important is the personality of the governor. The AHCF selected the regions for the pilot project based on its knowledge of the governors. Constructive and effective collaboration between the executive staff of all the participating organizations is also necessary. During the implementation, the head of the HCC should be able to call the AHCF to ask for help or consultation.

For the future life of the program (not as a pilot but as a basic one) it is extremely important to implement it completely in several pilot regions. Until the program is successfully actualized it is hard to attract regions to participate.

Of course, providing housing to multi-child families is not the only program on the government agenda. In parallel to it there are at least three other national priority projects, not to mention the numerous local programs and projects. In a resource-constrained environment, it is important to push for an integration of the multi-child program with other active programs or projects.

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9. Russian Regions. SocioBeconomic indicators. (2013) The Federal State Statistics Service. Official publication. [http://www.gks.ru/bgd/regl/b13\\_14p/Main.htm](http://www.gks.ru/bgd/regl/b13_14p/Main.htm)



An aerial photograph of a densely populated town in Angola, showing a vast expanse of colorful, low-rise buildings and houses. The town is situated in a valley, with a dirt road winding through the center. The background shows a hazy horizon under a clear sky. A vertical text on the right side of the image reads "Aerial view of a town with colorful houses in Angola @Shutterstock".

## Chapter 10

# Community Land Readjustment in Huambo, Angola

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After a protracted civil war, Angola has been reconstructing its social and physical infrastructure and developing new policies and legislation to address the chronic poverty that the majority of families still live in. The four decades of war were characterized by land expropriation, forced removals, resettlement, and massive internal displacement of rural and urban populations. Colonial land legislation had not been effectively reformed by the end of the war and the shifts in population left Angola with large informal urban settlements. With few legal tools and little in the way of financial and human resources to administer land, urban expansion was uncontrolled. Informal land transactions flourished.

Land has emerged as a critical point of potential conflict, as displaced persons have sought sites for their new homes or attempted to formalize the occupation of temporary sites that they had acquired during the war. Most of the settlement and housing-plot acquisition has been through the informal land market. Only a small percentage of settlers have acquired full legal title to the land they occupy. Lack of tenure security in the form of title seriously undermines the wellbeing of poor families and puts at risk their principal assets. Mass expropriation of land occupied by poor urban families with inadequate financial compensation is becoming a new feature of post-conflict urban development in Angola. Only titleholders are eligible to receive compensation when land is expropriated for public development projects.

It is estimated that even today fewer than 10 per cent of urban land transactions are registered, and therefore most of them have weak tenure security. There is a significant informal market for land in Angola. At least 61.3 per cent of transactions involve financial payments. Transactions are documented, proof that these are not completely informal. These transactions are considered secure and legitimate by the majority (85 per cent) of buyers; yet most transactions are legally insecure as only 6.8 per cent can be validated with officially recognized documents. The poor are at risk of losing their property (land and housing) as a result of demolitions and relocations.

It is necessary for all regions in Angola to search for experiences drawn from within the country or other nations that may be appropriate to the new reality. This chapter describes one such experience in the city of Huambo and discusses its applicability to the Angolan context. Land readjustment (LR) or land sharing is suggested as an appropriate tool in the context of Angola's current urban crisis. The chapter presents two cases in Huambo illustrating the introduction of LR, one successful and the other not, with the aim of learning from and adapting the approach in future public land and settlement policies in Angola.



The cases presented here demonstrate how LR was used in a participatory way to assemble land for planning new urban development in Huambo, Angola's second largest city. The projects were implemented at a time when important decentralization reforms were underway through the creation of municipal administrations that were assigned new powers for managing land to local governments. The first case study was completed before the reforms, at a time when provincial urban planning officers still had the authority of the state to legitimize the land transactions. The second pilot project was implemented after the publication of the decentralization reform law. Municipal administrators had been given the responsibility of managing land for housing but were inexperienced and did not have the authority to manage the financial aspects of the program.

## Angola's Post-Conflict Urban Challenges

Angola's four decades of conflict caused massive destruction of social and physical infrastructure and forced millions of people from their rural lands, which led to rapid urban population growth. Even after the end of the war in 2002, the urban population continues to grow. More than 60 per cent of Angolans now live in urban centres and more than half of this population is under 18 years of age.

With the end of the war in 2002, many decision-makers in Angola believed urban growth could be reversed and the population of cities would return to their pre-war levels. Nevertheless, due to a very young population and high birth rate, cities continue to expand rapidly. Many of the 4 million internally displaced people either remained in the cities or those who returned found their rural homes destroyed at the end of the war and returned once more to the city. It is estimated that Angola's housing shortfall exceeds 1 million units and that 65 per cent of existing housing lacks basic services and needs major upgrading.

The rural-to-urban migrants initially found it difficult to secure their livelihood, as unemployment and underemployment remains high in Angola's cities and towns. Poor migrants usually survived by trading in the informal market sector, and until today almost 50 per cent of urban families still depend on the informal sector for employment. A parallel problem for new migrants was securing shelter for their families. Urban administrators were overwhelmed by the influx of people displaced by the war and were unable to assist new migrants to secure housing or land where they could settle. Informal market mechanisms provided the backstop. More than 80 per cent of the urban population lives in areas without legal land tenure or access to basic services. More than 75 per cent of the urban population lives in unserved informal settlements or *musseques* (a Kimbundu word for "sandy soil").

A major constraint to the implementation of urban plans in the decade after the end of the war remains the poor management of land by the government and consequently poor security of tenure for the urban population.<sup>1</sup> Despite the affirmation by the government to control land, a vibrant real estate market exists, whether it is occupied formally or informally. A better understanding of the formal and informal regulations that govern the urban land markets is necessary for the process of developing a more rational urbanization process.

The total population of Angola in 2013 is probably in excess of 20 million, of whom approximately 4 million are internally displaced, most of which either resettled or returned to find their homes destroyed at the end of the war. This resulted in a massive demand for shelter as families tried to rebuild. Only a small percentage of displaced settlers have acquired full legal title to the land they occupy, in rural and urban districts alike. However, most have considered themselves free from threat due to the *laissez-faire* attitude engendered by a state administration that is unable to facilitate land registration. The rights of adverse possession, however, have been revoked by land legislation published in 2004. The urban poor are therefore left in a position of extreme vulnerability, with weak tenure rights over the land they occupy. Regulations published in 2007 effectively turned them into illegal occupiers.

For the first time since independence, a commercial real estate market is formalizing itself (an informal market has existed for years). The government has offered major land concessions to commercial developers, many of them international companies, to develop joint venture residential and industrial complexes, at first in Luanda, and more recently in provincial capitals such as Huambo. For the urban poor, with no access to banks or savings institutions, the acquisition of a housing plot and subsequent construction of a residence are the only means to accumulate any form of wealth. Thus, real estate, particularly housing plots in one of the urban centre *musseques* that are close to places of employment, has a high and increasing value.

In the process of urban economic development, the demand for residential plots in urban areas, combined with the upgrading of services, results in rising land values. In the natural process of gentrification of residential districts, the poor often trade off easy access to employment against financial gain by selling their plots close to the centre and migrating to the periphery where land is cheaper. The one-off profits can be substantial and tempting for poor families. Therefore, land and housing (particularly in good locations) represent accumulated wealth for the poor that can be sold and transformed into financial capital to cover a family emergency, or invested in a child's education or a business venture. The role of formal real-estate brokers is marginal in this process and, according to a 2011 study on urban land markets in Luanda, accounted for less than two per cent of transactions.<sup>2</sup>

Lack of legal title seriously undermines the wellbeing of poor families and puts their principal assets at risk. Mass expropriation of land occupied by poor urban families with inadequate financial compensation is becoming a new feature of post-conflict urban development in Angola. Between 2002 and 2006, an estimated 3,000 families (about 20,000 people) were forcibly removed.<sup>3</sup> Unless the government develops policies that recognize existing occupation rights, the displacement of the urban poor from land that they have lived and worked on for many years could produce civic conflict in the years to come. In June 2002, the government published a draft new land law and invited public debate and contributions from civil society—the first time that public consultation had been introduced into a legislative process. A grouping of civil society organizations called the *Rede de Terra* (or the Land Network) was formed to facilitate communities' articulation of ideas, concerns, and fears around the land issue. The formulation that eventually became law in 2004 included only a few of civil society's concerns and recommendations. The law laid out a three-year time frame within which informal land-occupiers were required to register and acquire formal title.

<sup>1</sup> Development Workshop, (2013), *Atlas da Provincia do Huambo*, Luanda: Development Workshop.

<sup>2</sup> Development Workshop, (2011), *Final Synthesis Report—The Case of ANGOLA: Strengthening Citizenship Through Upgrading Informal Settlements*, Luanda: World Bank.

<sup>3</sup> Cain, A., (2010), "Research and Practice as Advocacy Tools to Influence Angola's Land Policies," *Environment & Urbanization Journal* 22, 2, 505–522.

## Legal Environment

Angola inherited its legal framework from the Portuguese civil code that did not easily accommodate itself to African land tenure practice. During the decades before independence in 1975, large areas of land were appropriated for Portuguese settlement and incorporated into the colonial cadastre.

Angola's post-independence constitution affirmed the state to be the owner and manager of land.<sup>4</sup> Land laws of 1991 and 2004 both affirmed the authority of the state as the primary manager and owner of all land resources. They also both reaffirmed the colonial cadastre as the basis of land titling, therefore weakening traditional land claims of original Angolan land occupiers who were expropriated by the Portuguese colonial settlers. The new land law makes reference to urban planning in several articles, linking land rights to the existence of urban plans. In Article 15, the law says that land occupation and land rights are regulated through the norms inherent to the instruments of territorial and urban planning. Article 21 provides classifications of urban land, linking this to urban or equivalent plans, although "equivalent" is not defined. Article 36 says that private property rights can only be acquired on urban land that has been included in an urban plan or another instrument that is legally equivalent, and with the respective plot layout approved. Other forms of land rights mentioned in the law, such as surface rights or "precarious" (provisional occupation) rights, do not refer to urban plans as a prerequisite.<sup>5</sup>

The 2004 law removed all protection that the civil code had provided for occupation in good faith or user rights. Thanks to civil society advocacy, however, a window was left open for informal occupants of land to regularize their land claims and apply for legal title. The legal registration of their land is the only protection that occupiers have to protect themselves from future expropriation. The window closed again in 2007 with very few titles having been issued because provincial and municipal administrations had little capacity to administer and approve them. Under the legislation, full title for urban land could only be issued in fully urbanized and planned areas. Thanks as well to civil society advocacy, the concept of customary tenure was incorporated into the 2004 law, but this has not yet been regulated at the time of writing. Similarly, bylaws for the regularization of peri-urban land have still not been published.

## New Opportunities

Another important piece of legislation, the decentralization law, was published in 2007. It made domestic scale land management (up to 1,000 square meters) a municipal responsibility. The management of land by local levels of government is a key to the process of LR discussed in this chapter.

In 2008, the Angolan government adopted an ambitious policy intended to promote the construction of 1 million houses in four years. According to the President, the government would mobilize US\$50 billion from the state budget to finance this plan (at US\$50,000 per household). This 1-million-house goal aimed at eliminating most slum settlements was to be achieved through state initiatives and public-private partnerships.<sup>6</sup>

Institutionally, the Ministry of Urbanism and Housing was identified as the main entity responsible for the execution of this project.<sup>7</sup> The National Office for Reconstruction (GRN)<sup>8</sup> has also been involved in housing projects, notably in new urban centres. These include the Kilamba Kiaxi project launched in Luanda in 2008, which in the first phase, has constructed 20,000 apartment units as well as schools, shops, and other services. Also, about half the state reserves identified throughout the country in 2008 were allocated to the GRN.

In March 2009, the National Urbanism and Housing Program for the period 2009–12 was approved<sup>9</sup> and a national commission was installed to implement the program.<sup>10</sup> Instead of building 1 million houses through state initiatives and public-private partnerships, the government announced that 685,000 units would, in fact, have to be constructed through "self-help building" (*autoconstrução*). To facilitate self-help building, the state would offer plots of land at low prices, construction material at accessible prices, different models of houses for construction, as well as infrastructure and technical assistance on the ground. The government would construct only 115,000 houses, while 120,000 units would have to be constructed by the private sector and by 80,000 cooperatives.

At a press conference in January 2011, the state minister for civil affairs informed the public of the government's activities and plans regarding its housing program, with a number somehow different from those provided by public institutions on previous occasions. He stated that in the last months of 2010, government efforts were concentrated on taking initiatives to alter the civil code, land registry code, and notary code to make the processes regulated by these laws simpler and less formal. He announced that the housing program now foresaw the construction of 56 urban areas, 144,037 social houses, and 10,000 houses to be built through self-help building. As responsible institutions, he named the Ministry of Urbanism and Construction, the provincial government of Luanda, but also the GRN. Furthermore, 200,000 houses were to be built through public-private partnerships of which 120,000 were to be built by Sonangol (the state petroleum company) and 80,000 by the private sector. In terms of land, 420,000 plots of urban land with infrastructure were to be provided, of which 100,000 were to be delivered by Sonangol. Lastly, the promotion of social housing for 564,000 families, equivalent to 3.3 million people, was announced (*Jornal de Angola*, 18 January, 2011).

<sup>4</sup> Constitutional revisions in 1976 were founded on socialist models of public ownership with guarantees for the protection of private property and private business activity within limits set by the state. The constitution states that "land, which is by origin the property of the State, may be transferred to individuals or corporate bodies, with a view to rational and full use thereof, in accordance with the law." Law on the Amendment of the Constitution, Article 12, March 1991, p.6, <http://unpan1.un.org/intradoc/groups/public/documents/CAFRAD/UNPAN002502.pdf>

<sup>5</sup> Weber, B., (2007), *Can Participatory Planning Improve Sustainable Urban Development in Angola?*, Edinburgh: Heriot Watt University, School of the Built Environment.

<sup>6</sup> Government of Angola, (2008), p 73.

<sup>7</sup> This ministry has gone through various changes over the last few years. Starting as the Ministry of Urbanism and Environment in 2003, it was turned into the Ministry of Urbanism and Housing in 2008, while a separate Ministry of Environment was created. Currently, after the adoption of a new constitution in February of 2010, the Ministry of Urbanism and Housing and the Ministry of Public Works have been brought together to form the Ministry of Urbanism and Construction.

<sup>8</sup> The GRN was located within the presidency's military office and is effectively an extended arm of the presidency in the post-war reconstruction efforts. Of note for urban affairs in Angola, for example, the US\$3 billion credit from the Chinese Exim Bank, secured in 2005, came under control by this office, rather than the Ministry of Public Works and the Ministry of Urbanism and Environment.

<sup>9</sup> Resolution 20/09.

<sup>10</sup> Dispatch 9/09.

While the intentions of the new 2008 urban policy and newly launched programs were ambitious, the start-up was delayed due to the impact of the world economic recession, which hit Angola in 2009. The case studies from Huambo will show that in some provinces, in fact, very little was achieved before the target date of 2012.

## The Case Study Context—Huambo

The Case Study Municipality of Huambo has a population of over seven hundred thousand. Over the last 70 years the population of Huambo, Angola has probably multiplied by a factor of 25 (Figure 1) due to war displacement and migration from rural to urban areas. Most post-independence urban growth has been unregulated

expansion at the periphery of the city, leading to large and still growing informal settlements around an older urban core.

Huambo is the principal city in the central highlands and was the focus of much of the conflict during the war years between 1961 and 2002, during which time the central business district was heavily damaged. Today's large peri-urban areas consist mostly of adobe houses with zinc roofs and clusters of old tile-roofed houses, which are a legacy of colonial times. The density of these peri-urban areas varies, ranging from consolidated areas where plot boundaries are built up with high walls, to dispersed settlements where agriculture is still common. Many bairros (neighbourhoods) in Huambo cover a variety of peri-urban settlement types, and indeed sometimes a bairro includes urban and peri-urban areas (see Figure 2).

Figure 1. Huambo's Urban Growth 1940 – 2015

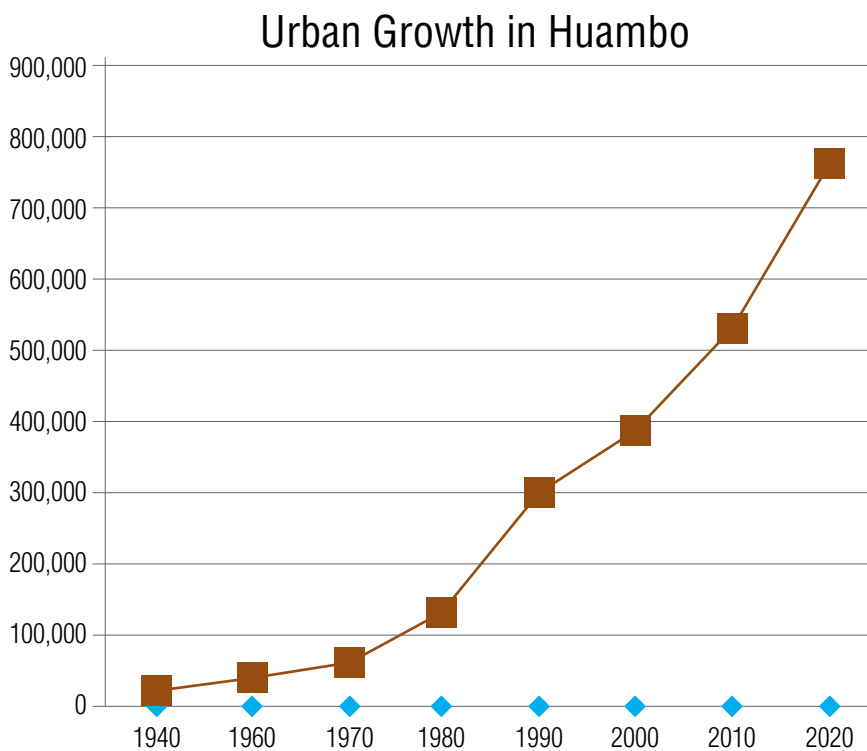


Figure 2. Map of Angola showing Huambo





In Huambo most urban growth is taking place at the periphery without any formal planning. The Huambo municipal administration had made provision for the distribution of land for self-help housing for those on a housing waiting list. However, landowners who lost their agricultural plots in the urbanization process were not compensated, nor were the housing areas provided with basic infrastructure, nor were the norms of urban planning respected. Conscious of these challenges, the local government administration invited Development Workshop (DW)<sup>11</sup> to coordinate the implementation of the two participatory urban planning projects in Huambo.

The first project demonstrated how the land readjustment model could reduce land conflicts by regularizing tenure status, thus incorporating an informal settlement into the formally planned urban part of the city. It showed how market mechanisms created land value that benefitted former occupants, new owner-builders, and the state, thereby providing the incentive to these parties to work together. It also demonstrated the crucial role of social mobilization by DW and the need for government buy-in to secure the success of the project.

Very good communications skills in the local languages and a deep understanding of cultural and social norms were important assets of DW's Angolan team that led the process of convincing land occupants to participate in the project. Initial resistance by land occupiers was overcome eventually with warnings that existing occupants risked losing their land without compensation if the government were to take over and implement a traditional compulsory acquisition process.

Existing land-occupiers, whose land would be affected in the readjustment process, were registered and their land boundaries mapped using hand-held GPS and GIS software. A compensation process was developed which foresaw that each landowner would receive plots in the newly urbanized area in accordance with the size of the land he or she lost, as a form of LR. The overall distribution, which will be discussed in detail later, was crucial in this case.

- 30 per cent of the land was reserved for infrastructure, including roads;
- 35 per cent for redistribution to original local land occupants; and
- 35 per cent for sale with the objective of covering basic infrastructure costs.

Under the auspices of the provincial government, all owners of the redistributed parcels (including previous land occupants and new residents) were issued with "provisional tenure licenses" (*licença de arrematação*) and given two-year renewable leases before having the right to apply for a full land title.

Huambo's first LR project contributed to creating a socially diverse bairro with a population consisting of different income groups, ranging from the poor to the middle class. No conflict was noted between social classes or ethnic groups who occupied the bairro. The inclusion of the poor was achieved through compensation process with the allocation of redeveloped land parcels rather than a monetary compensation.

After the success of the pilot project the Huambo municipal administration asked DW to implement a second project. The same overall approach was used, initiating a process of registering and mapping of the developed, informal area and implementing a readjustment scheme at the periphery of the peri-urban area. The second case, however, demonstrated that the project did not generate sufficient resources to sustain itself, because it lost the essential ingredient of financial control and the opportunity to take advantage of the blooming land market to create value.

We conclude that a major effort must be invested in building the capacity of municipalities in managing land and in other responsibilities that they must now assume. Municipalities must also be given the possibility to generate their own financial resources through transaction fees and taxes. Income from the regularization of land tenure can be one of the ways that municipalities can sustain themselves in the future, at least until all informal land has been converted, after which time new forms of value capture will need to be devised.

This chapter argues that despite a rather challenging environment, LR in Angola has the potential to become an important tool for urban planning. It shows that, while there is still no legal framework for LR and a very limited culture of participation in urban planning processes, growing land markets and the cooperation between land occupants and public and private investors can make LR a viable option for local governments.

## Piloting Land Readjustment in Huambo

In 2006, Development Workshop (DW) responded to a request for help from the Huambo provincial government, which was struggling with the response to the high number of requests for housing sites. DW, which has been involved in land and urban research and advocacy in Angola since 1981, proposed to assist the government in testing a strategy of LR. DW had partnered with the Angolan government in implementing aspects of the Habitat agenda, since their participation in UN-Habitat's Urban Summit in Istanbul in 1996. DW proposed to test a strategy of LR through several pilot demonstration projects.

LR provides a win-win mechanism for all involved parties to regularize peri-urban settlements, providing sustainable infrastructure and access to services, while at the same time strengthening the rights of tenure and protection of assets of the poor. It also provides local government with an opportunity to capture some of the added land value as cities grow.

LR is a land-assembly concept with the general objective of facilitating the development and redevelopment of real estate. It has been used to redraw the boundaries of rural land in order to make farms more efficient, and can be applied for pooling urban properties for redevelopment schemes and assembling land for new developments in the urban periphery. For municipalities it is "a process whereby a public authority assembles numerous small parcels of raw land without paying monetary compensation to the owners, services and subdivides the land for urban use, returns most of the resulting building sites to the original owners in proportion to the value of their land contributions, and sells the remaining sites to recover all public costs".<sup>12</sup>

<sup>11</sup> Development Workshop is a human settlement NGO that has been working in Angola since 1981 on the invitation of the Angolan Government.

<sup>12</sup> Doebele, W.A., (1982), *Land Readjustment: A different Approach to Financing Urbanization*, Massachusetts: Lexington Books. UNHabitat, (1992), *Multilingual Glossary of Human Settlements Terms*, Land pooling definition, after Doebele 1982., p. 74.

DW realized that not all the preconditions for successful LR existed in Huambo in 2006. Experience has shown that without a vibrant land market, there is little incentive for developers and landowners to participate in a LR scheme. According to Doebele, a “robust and rising” land market is one of the important, but not sufficient, preconditions for a LR scheme to succeed. Land markets need to be functional and inclusive of existing informal-land occupants and claimants in order to maximize the socioeconomic benefit for the majority, and not only focus development in urban areas in the formal private sector. Focusing urban development and its benefits on a small elite or a narrow middle-income group at the expense of the much larger lower-income groups leads to greater social and economic exclusion from development opportunities.

Efficient and equitable land markets that are open for all citizens to access are important for well-functioning cities (Development Workshop 2011 p14). Dysfunctional land markets caused by poor land-development and management policies (including poor urban planning, slow provision of infrastructure and services, poor land-information systems, cumbersome and slow land-transaction procedures, as well as under-regulation of private land development) lead to unplanned development of land in the urban periphery. Distortions in the land market often lead to speculation, which can drive prices above the productive value of the land, causing a bubble in the land and property market. Land speculation occurs when the demand for land, at the present time or in the near future, outstrips the supply. Where prices of land and property are overpriced, financial institutions which lent money to speculators find themselves unable to recover their loans and end up with bad debts. If land and property markets are not properly regulated, they can contribute considerably to the collapse of capital markets, and cause unemployment in the labour markets.<sup>13</sup>

DW's research has demonstrated that during the decade after the end of the civil war, thriving land markets have come to exist in Angola; however, they are largely unregulated, and informal real estate transactions are the norm).<sup>14</sup> It was therefore agreed that the pilot projects would be adapted to the local reality and be closely monitored with the aim of learning lessons that could guide future policy and practice.

The most visible urban planning activities developed by the administration in Huambo were the assembly, planning, and redistribution of land in mostly peripheral areas. This form of land-use planning for self-help housing has provided the most important supply of legal land in the city. Land assembly is mostly done without compensation and redistribution is based on waiting lists kept at the municipal office, where citizens can lodge their requests for a parcel. Demand tends to be much greater than supply, and a serious backlog still exists. Planning processes were mostly ineffective and ad hoc, and most of the urban expansion is happening through the informal land market without any formal planning at all. In most cases, land transactions are taking place between seller and buyer only (including witnesses to generally verbal agreements) without the involvement of any local authority.<sup>15</sup>

Two pilot LR projects were implemented over a three-year period in the Province of Huambo. The projects were implemented during 2006–08 when important decentralization reforms were underway through the creation of municipal administrations that were assigned new powers for managing land. In Huambo's post-war context of generally low levels of trust, confidence in the government had to be created through a community mobilization approach that was transparent and invested time in communicating the LR approach through meetings and personal contacts. Having the key local leaders on the side of the project is a necessary first step. A lot of time was spent in explaining the project to landholders, who came from different social backgrounds and often found it difficult to understand such a different approach, and were highly suspicious of any threat related to their land occupation.

The first case study was completed before the 2007 reforms, when provincial urban planning officers still had authority. The second project was implemented after the publication of the decentralization reform law, which gave municipal administrators responsibility for managing land. Both projects started with the mapping, registering, and demarcation of land implemented in the peri-urban areas with existing housing. The main objective for this component was to create a land registry of the current occupants and to facilitate the land-rights regularization process of the occupants. The project team demarcated the existing land holdings of all 134 households over several months. For the demarcation, the team used printouts of recent, high-resolution satellite images. The registered plot boundaries were then digitized using GIS software. Based on this land registry, the team prepared the land-rights documents that were agreed upon by the management group in a previous meeting. These documents, the “allocation licenses” (*licenças de arrematação*), are an existing form of intermediary land-right document that is used for obtaining the construction license and surface or property titles. The licenses were allocated giving priority to the original occupants and after that the housing waiting lists approved by the Huambo municipal and provincial governments. A total of 420 allocation licenses were prepared with technical assistance from DW's team and then submitted to the provincial directorate of urbanism and environment where they were signed by the provincial director and then distributed to the new (and old) owners.

## Case Study 1: Bairro Fátima

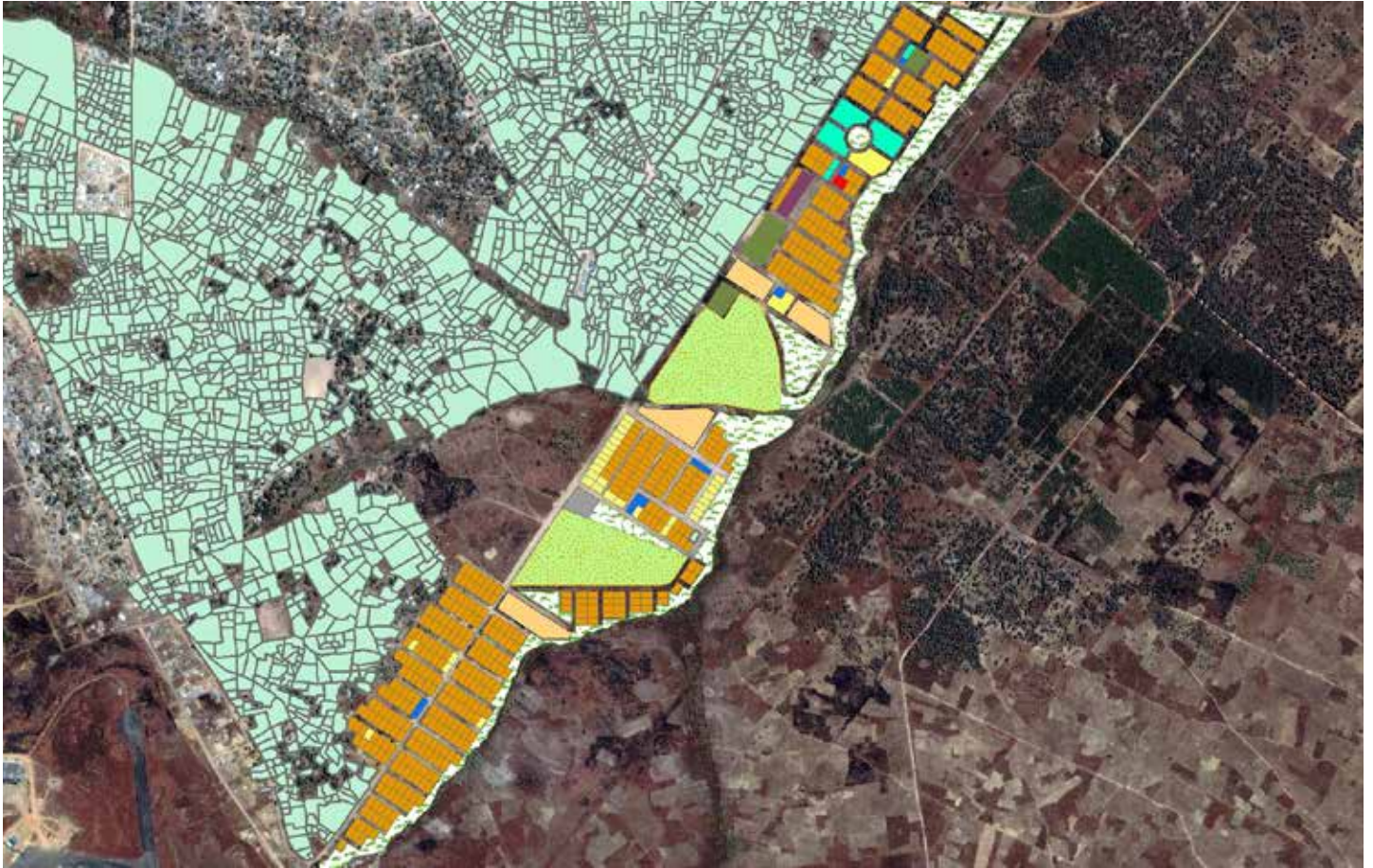
The site for the first project, Bairro Fátima, was selected in a peripheral area of one of Huambo's most rapidly growing informal settlements (see Figure 3). DW's staff and local government officials jointly prepared the project's concept and proposal. Field visits were conducted and a basic topographical survey prepared. DW was chosen as the leading technical agent, coordinating the implementation of the project. A team of DW staff participated in an intensive period of training on planning and LR at the Centre for Environmental and Human Settlements (CEHS) in the Edinburgh, Scotland in October 2005.

<sup>13</sup> UNESCAP, (2011).

<sup>14</sup> Development Workshop, (2012), Angolan Urban Land Policies, Strengthening Citizenship through Upgrading Informal Settlements, World Bank Land Conference, April 26–28, 2012, Washington, D.C. [http://www.landandpoverty.com/agenda/pdfs/ppt/cain\\_powerpoint.pdf](http://www.landandpoverty.com/agenda/pdfs/ppt/cain_powerpoint.pdf)

<sup>15</sup> This fact has been stated on several occasions by the soba (traditional chief) of Bairro Fátima in the course of the Bairro Fátima pilot project.

Figure 3. Bairro Fátima Pilot Land Readjustment Project



Note: The portion of the site in yellow color was newly acquired land.

The LR methodology employed in both projects was similar. The following stages were followed:

1. Creation of multi-stakeholder management group with provincial government, traditional leaders, local administration, and NGO. DW had worked in Huambo for over 15 years and gained the confidence of both government and civil society. DW proposed the structure and functions for the management group in consultation with the provincial urban planning office. The Provincial Government formally invited the members to join.
2. Mobilizing community support by explaining the objectives of the project first to the local leaders and then to the population in general. The community mobilization process began with meetings to explain the objectives of the project. The process of convincing landowners to participate in the project was extremely time consuming and often difficult. Dozens of meetings were held and a great deal of time was spent with individuals, explaining repeatedly how the project would be implemented and how each participant would benefit from it. Very good communications skills in the local language and a deep understanding of cultural and social habits were important assets of the DW locally recruited team that led this process. DW was the only NGO to have worked in Huambo since the war years and had built strong trust relationships with all of the stakeholders. In rare cases land-occupiers' resistance could be overcome by reminding them that they risked losing their land, without compensation, if a consensus was not found.
3. Baseline study to create a household census and community diagnostic. This process revealed local traditional governance structures and existing infrastructure. Participatory methods such as involving community members themselves in the enumeration deepened the community mobilization process and provided a basis for the future (readjustment) plan.



4. Registry of existing landowners and boundaries. Using a hand-held GPS and GIS software, DW staff met with all landowners on a bairro-by-bairro basis with adjacent neighbours present to demarcate property boundaries. Few cases of overlapping or conflicting claims were found demonstrating the success of the earlier social mobilisation work. When conflicting claims were encountered, the boundary negotiations were conducted on the ground, and the lines of consensus were captured and mapped with a GPS.
5. Development of a physical readjustment plan by DW architects/planners. The management group and local administrator presented the plan to a group of local residents. The infrastructure and road allocation was pre-determined in the local by-laws and the remaining land was simply divided equally. Based on experience gained from the pilot project, it was hoped that a more scientific land allocation proportioning could be built after more experience had been gained. It called for:
  - 30 per cent of the land to be reserved for infrastructure and roads;
  - 35 per cent for redistribution to local landowners; and
  - 35 per cent for public plot sale with income to cover basic infrastructure costs.
6. Definition of rights was granted by the provincial government, and the site layout plan was implemented. New and old land occupants received occupation licenses and entered the land registry/cadastre being developed by the Huambo administration (see Figure 4). Government officials marked the new property boundaries with wooden pegs, optical instruments, and measuring tape. Plots were numbered (see Figure 5).

Figure 4. Demarcating new property boundaries.



Figure 5. Licences Presented to Land occupants



7. Redistribution of parcels with titles in proportion to previous size of land ownership and sale of remaining 152 parcels. Half of all landowners received only one parcel. The remainder received between two and six. A total of 225 plots were released onto the market. To determine the number of parcels for each compensated owner, ArcView was used to calculate the surface of the mapped agricultural plots. This number was then captured in a spreadsheet program to create a database of registered previous occupants. The urban plots to be distributed were 15 meters by 25 meters (375 square meters)—a plot area specified in local by-laws. The rounding off of parcel numbers inevitably benefited some and prejudiced others, but the project staff could not identify other practical approaches. The calculations were accepted by all of the stakeholders.
8. Implementation of basic infrastructure. With the funds acquired by the sale of the public land parcels, boreholes, water-points, road, and service lines were installed.

Recall that after reserving 30 per cent of land for infrastructure and 35 per cent for redistribution to local land occupants, the project sold the remaining 35 per cent of the plots to private individuals and families who had registered themselves on the government's housing waiting list. With the funds acquired from the sale of land parcels, investments were made in layout planning, clearing roadways, and installing boreholes for drinking water.

The Bairro Fátima project had an observable impact on the local land market. The project's plot price for land distributed by the public administration was US\$500. This allowed access to 152 families on the public waiting list, mainly young people of the lower-middle class. Informal market land prices in Huambo's peri-urban areas usually range from US\$700 to US\$7,000, depending on plot location. The previous land occupants who became newly documented landowners benefitted from these rising land prices. On the other hand, the under-priced land meant that the local government failed to maximize their potential to capture the true value of



the land. The sale of the parcels generated about US\$80,000 that was invested in road improvements and land demarcation costs. The project changed the land market dynamics principally in the neighbourhoods close to the project site, but the demand for house plots was so great in Huambo municipality that the release of 225 new units on to the market did not negatively affect land values. However by giving secure land tenure, much more value was added to land in these bairros, which had previously been considered to be informal musseques settlements.

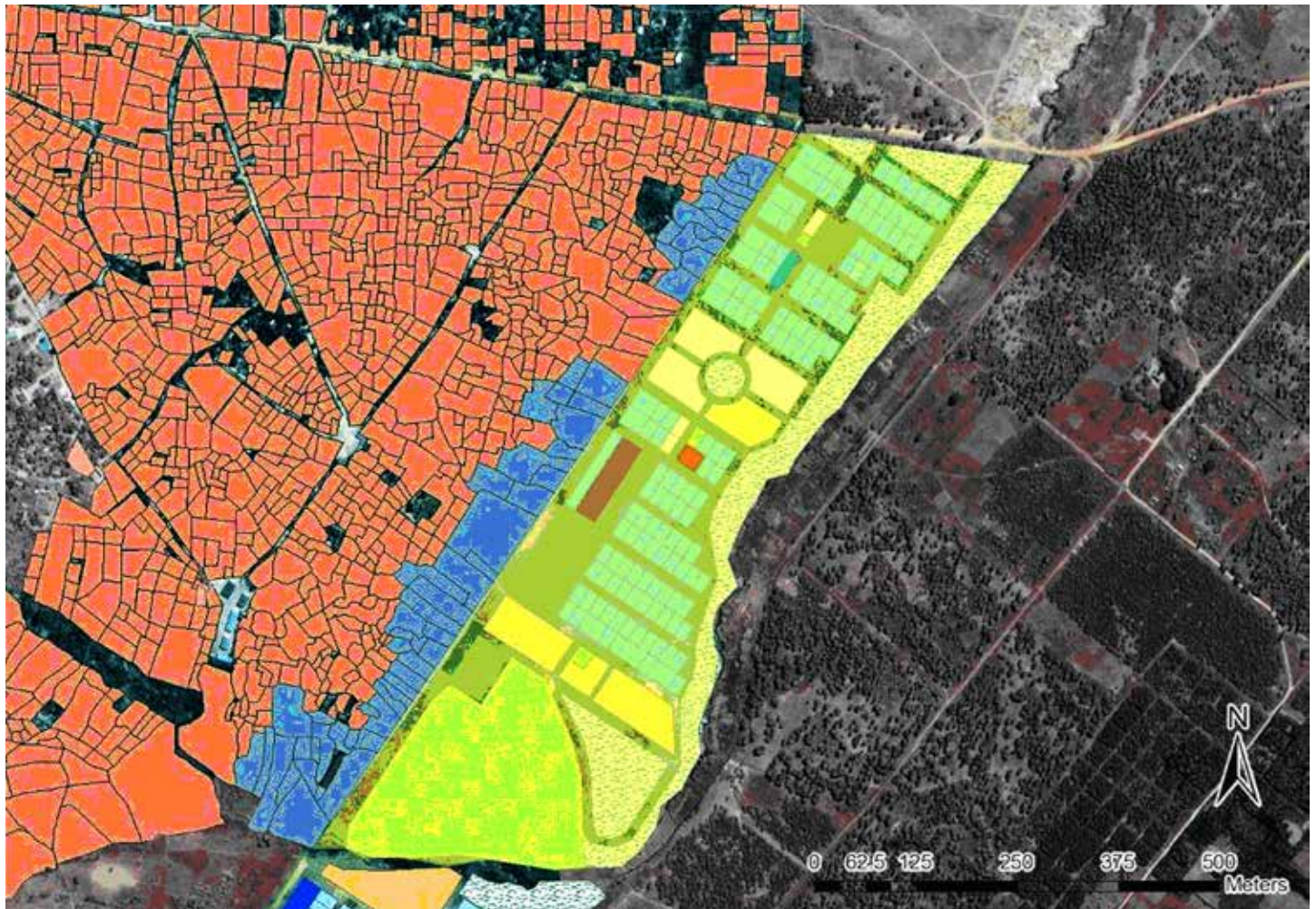
## Case Study 2: Bairro Camussamba

New legislation on decentralization published in 2007 took local land management authority out of the hands of provincial governments and transferred it to the municipal administration. The decentralization legislation passed that year introduced a number of important reforms, including transforming municipalities into budget-management units and laid the framework for local administrations

to set up public utilities, make development plans, and introduce local taxes and service fees.<sup>16</sup> However, a serious flaw in the decentralization law obliged all income raised locally by the municipal administrations from taxes and fees to revert to the central government's account. The only local investment funds made available to municipalities were allocated through the central government's annual budgets. Municipal authorities therefore had no incentive to create surpluses because locally generated income was not left for them to manage locally.

The new municipal administrations were comparatively weak and inexperienced in managing their new responsibilities and the management committee, set up to oversee the Bairro Camussamba pilot project (see Figure 6), now lacked the authority of the provincial government. The management committee could no longer control the sale of the land parcels distributed through the pilot project. Instead, the municipal administration distributed the parcels for free to individuals who were on the municipality's long waiting list for land for housing. Without cost-recovery, there were no funds to invest in basic infrastructure.

Figure 6. Bairro Camussamba Pilot Land Readjustment Project



<sup>16</sup> The decentralization reform legislation was often contradictory, including regulations indicating that funds generated by municipalities locally had to be transferred to the state's central budget. Civil society was dissatisfied that the law did not introduce local elections, instead setting up appointed Consultative Councils (CACs).

The management committee, in the absence of funds, tried to pay for services in kind. For example, the bulldozer owner was compensated with two parcels of land. In 2014, five years after the start date of the Bairro Camussamba LR project, no infrastructure has been implemented in the area.

## Role of the Private Sector and Civil Society

While the LR management group played an important role in making decisions during the implementation of the project, the participation of government institutions in implementing activities has been weak. Similar observations can be made in other planning processes in Huambo, as mentioned earlier. Underlying this weak participation is a lack of skilled staff and proper equipment in most institutions and, in some cases, a lack of clearly defined responsibilities.

Equally, there were few professional associations in Huambo with a focus on urban planning aside from DW. As observed in both pilot projects, private-sector participation was limited to the private sale of some of the land plots created by the project and the employment of some civil construction contractors to build infrastructure. The case studies demonstrate the importance of having an experienced, professional program implementation partner with strong local community experience and a relationship of trust with local government entities. This could be an NGO, academic, local private sector institution or a local government department able to, at times, take on the role of mediator between stakeholders.

In this context, the successful implementation of the project (from a technical viewpoint) depended almost exclusively on the technical capacity of the leading agency, in this case, DW, with the responsibility to implement all steps of the project drawing on its own personnel and resources. However, if LR is to be an effective tool for urban development in Angola, the lessons from these case-studies need to be understood by urban policy makers with the enactment of facilitating legislation, allowing for land value capture and its reinvestment by municipalities. The capacity of local government to plan and manage such projects on a much larger scale must be developed. To this end, DW has been invited by the Ministry responsible for local Government to transfer these case studies into training materials that are now offered at the National Local Government Training Institute (IFAL).<sup>17</sup>

## Implementing LR without a Specific Legal Framework

The two pilot project case studies in Huambo showed that it is possible to do LR in the absence of enabling legislation. For Huambo, the creation of a management group made up of key decision-makers proved to be an efficient mechanism. Having the mandate of the local government authority, and including recognized traditional leaders as well as senior municipal and provincial representatives, this management group guided the project through the maze of formal and informal local governance issues. The group managed the political side of the project, allowing the leading agency to concentrate on the technical aspects.

Exhibited by the case studies in Huambo, three main factors helped the management group to effectively engage in their tasks:

- All members of the management group participated in the participatory planning training workshop prior to the project's launch and were engaged in the conception of the projects. Throughout the project, DW regularly briefed them on technical aspects.
- All members of the management group received a monthly subsidy.
- The management group at all stages felt as though it was the owner of the process, meaning that the members of the management group could present the case studies as an effort made by their departments, thus contributing to their reputation and professional standing among the local government structures.

## Comparing Findings and Assessing Impacts of LR in Huambo

The two case studies presented are Angola's first-ever experience of LR. The Fátima project was perceived to be successful by all participants in the process, as evidenced by the families who acquired secure land tenure and who financially benefited from the increased value of their land and income gained from the sale of the plots created through the process of readjustment. Fátima demonstrated how the LR model could reduce land conflicts through a process of negotiation and mapping of boundaries and regularizing tenure status. The sub-division and registry of plots by the government was a primary factor that unlocked land value. This land redevelopment increased market value that benefitted former occupants, new owner-builders, financial intermediaries, and the state. It also demonstrated the crucial role of social mobilization and the need for government buy-in to secure the success of the project.

It showed that through the creation of local structures, such as a management group, and the support of local levels of government, LR can be implemented in the absence of a specific legal framework.<sup>18</sup> And while the mobilization of the community and landowners was extremely difficult and time-consuming, the projects nevertheless managed to enrol the participation of most land occupiers. The creation of an infrastructure fund was another valuable lesson, unfortunately one that was not applied in the second project.

The Camussamba case study illustrated several important issues. It demonstrated that without the essential ingredient of financial control and the opportunity to use the land market to create value, the project did not generate sufficient resources to sustain itself. While the decentralization of decision-making regarding land management is laudable, administrative decision-making is not sufficient if fiscal authority is not also decentralized. The devolution of responsibility for land administration was not accompanied by appropriate training to build the necessary administrative capacity.

<sup>17</sup> The first national training course given by DW was launched in May 2013 at IFAL for 40 municipal administrators from 15 different provinces. Subsequent courses have been given to the technical staff of a number of municipalities in Huambo, Bie, and Benguela provinces.

<sup>18</sup> LR is not regulated within Angola's Land or Urban Planning Laws nor under Provincial or Municipal by-laws. In the two Huambo cases, the authority to implement the pilot projects was taken under the mandates of the Provincial Urban Planning Institute (INOTU) and the Municipal Administration, respectively.

The issuing of land titles is an activity that historically and in most countries is open to rent-seeking practices if not strictly regulated and open to public scrutiny. The issuing of free title is a particularly high-risk activity. “Municipalization” in Angola has been promoted as a policy for improving financial efficiency of and downloading resource mobilization to local levels, with the aim of building financially sustainable municipal services and infrastructure. Land regularization and subsequent titling is an effective way of generating income for these services if the state is able to recover a portion of the increased value by charging a fee for registering the land. The mapping of that land is the first step toward creating a cadastre, which can eventually form the basis of a tax system, which in turn can provide municipalities with a sustainable income stream to maintain basic services and infrastructure.

The Camussamba project was launched shortly after the publication of the new decentralization law. The project was constrained by the fact that the municipal administration failed to take up opportunities that the new law had opened up. The new law gave them the responsibility to manage land at a domestic/housing scale but also gave them the rights to levy fees for local services and collect fees. However the need for local income to revert to the central state treasury with little hope that funds would return to the municipal budget was a disincentive to generate income.

Later developments in Huambo, however, have demonstrated that the local administration has learned from both past successes and failures. A newly appointed administrator of Huambo commissioned Angola’s first post-war municipal cadastre using participatory mapping techniques like the social tenure domain model (STDM)<sup>19</sup> techniques that mapped and registered land claimants’ formal and informal evidence of occupation, including testimonies of traditional leaders (sobas) and witness of neighbours. The project is underway at the time of writing.

In the pilot projects, the calculations for redistribution and capturing of land value increments were not based on any land-value study, but on an estimate. Thirty per cent of the pooled land was used for infrastructure and, of the remaining 70 per cent, half was redistributed to previous land-occupants and half sold, with funds reinvested into basic infrastructure. While former occupants gave up significant portions of their original holdings, each received a number of plots in relationship to the size of their previous occupancies. All of the new plots were registered and part of the planned sub-division. The secure tenure status of the new plots added significant value to the land and all former occupants benefited financially from the LR process. Most former occupants gained plots that they were able to sell on the market and used the profit to build their new houses or invest in livelihood activities, often both.

Without a doubt, one important factor contributing to the relatively successful completion of the pilot projects was the vibrant land market that facilitated the immediate sale of the land parcels for the creation of the infrastructure fund. The infrastructure fund was jointly managed by the leading agency and one member of the management group. It proved that such arrangements can be made without a legal or institutional framework for this purpose.

The fact that urban development projects can both self-finance and create secure tenure rights for informal land occupants is probably the most powerful argument for replicating the pilot projects. The economic aspect has obvious appeal to government institutions. Given budget constraints under which many municipal administrations operate, this provides a valid and interesting approach to manage urban expansion and improve conditions of slums.

While the authors are strong proponents of Angola’s administrative decentralization program, they conclude that the devolution of land-management responsibilities to newly appointed municipal administrations that did not have sufficient financial authority to capture and deploy income from the increased value of land they developed led to the failure of the Camussamba pilot project. It became evident that a major effort must be invested in building the capacity of municipalities in managing land and other responsibilities that they must now assume, such as the supply of basic services including water and sanitation. Municipalities must be given the possibility to generate and retain their own sources of revenue through transaction fees and taxes. Income from the regularization of land tenure may be one of the ways that municipalities can sustain themselves in the future.

## Landholder Participation

In the absence of legislation that would compel minority dissenters to pool their land, the leading agency had to rely solely on persuasion. In Fátima, this approach worked well; in Camussamba many landowners could not be persuaded to participate without the weight of stakeholder consensus from the majority. The alternative, being Government expropriation of land, weighed heavily in achieving their eventual buy-in.

The two case studies showed that implementing LR based only on voluntary participation is extremely time-consuming and might fail in certain instances. In the case of evolving legislation, a mechanism for managing the self-interest of the minority while yielding to the common good and desires of the majority of the residents could be justified, without risking abuse by local authorities and coercion from commercial developers.

However, to agree on the LR aspect of the process is only one aspect of participation. The new landowners should preferably be involved in all subsequent steps of the LR including the upgrading of the basic service infrastructure and the issue of achieving full surface tenure or freehold land rights that can only be granted when the project site is completely urbanized. The participatory approach further helped avoid conflicts as they are observed in areas where government lets development projects to assemble land without compensation. This is arguably one of the most important aspects of the pilot projects.

This chapter shows some of the challenges the two projects faced and how they were overcome, or could have been overcome. Valuable lessons have been employed when preparing new, similar projects. We hoped that the innovative work being done in collaboration with municipal and provincial authorities and the local communities in Huambo will provide good-practice lessons for Angolan planners, administrators, and public policy makers.

<sup>19</sup> STDM is a pro-poor land information system capturing the bundle of rights related to tenure security. The municipal administration of Huambo with DW’s assistance is piloting the building of a land cadastre using open-source software called Open-Title.



## Conclusions

Despite a rather challenging environment, LR in Angola has the potential to develop into an important tool for urban planning. Angola inherited a limited culture of participation in urban planning practice and weak local governance. The evolving land markets and strong private sector interest can make LR a viable option for under-resourced local governments to undertake informal settlement upgrading projects. There is a need to develop a legal framework for LR and the promotion of land markets that benefit the poor.

Weak regulation, administrative capacity, as well as the informal nature of Angola's land markets directly affect the urban environment and the quality of life of cities such as Huambo. Efficient and equitable land markets are a prerequisite to well-functioning cities. However, post-war Angolan cities suffer from land-market distortions caused by poor land development and management policies, including the slow provision of infrastructure and services, poor land information systems, cumbersome and slow land transaction procedures. All urban dwellers, especially those who had migrated to the cities during the conflict, need access

to land for residential and income-generating purposes. The practice of LR and its incorporation into formal planning processes could be a way of regularizing informal land transactions.

The current land legislation will need to be revised to accommodate the principle of occupation in good faith. Bylaws and regulations will need to define the proofs that can be used to validate this occupation and the procedures that will be used to register these claims. Once these rights of occupation are defined legally, mechanisms will also need to be established to adjudicate conflicting claims. The strengthening of municipal courts in order for them to deal with local land claims will also be essential.

The Huambo LR case studies presented here demonstrate that de facto recognition of the good faith occupation rights of existing land owners-occupiers is fundamental to the functioning of an inclusive land market. The recognition of occupants' rights allows them to benefit economically, along with all the other actors in the market at the time of legalization and regularization of tenure.



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## Chapter 11

# Land Readjustment as **Reconstruction** Strategy in Chile

*Isabel Brain and Pía Mora*

Land Readjustment (LR) in Chile was intended to reinforce the reconstruction process following the devastating earthquake (8.8 Richter scale) and tsunami in February 2010. The damage struck the most populated areas of the country where 75 percent of the population lives. The destruction of infrastructure, productive industry, and housing were massive. In the housing sector in particular, 220,000 housing units were deemed in need of reconstruction subsidies. In this scenario LR was proposed as a strategy that would improve the capacity of the country to address this challenge.

The Chilean government, through the Ministry of Housing and Urban Development (MHUD), launched a National Reconstruction Plan (NRP) a month after the disaster. The NRP included two main components. First, a housing component, based on the allocation of subsidies as a function of household income (the lower the income, the higher the subsidy). Different from the regular housing policy in Chile, the NRP allowed the housing subsidy to be used in situ for those who owned the land and preferred to remain in the same location. Second, an urban component, based on the design of Reconstruction Master Plans (RMP) aimed at guiding the reconstruction at the city scale, including preventive actions against future disasters, acting as a nonbinding guideline for rebuilding cities.

Under this scenario, the LR proposal in Chile aimed to provide better options for three aspects not comprehensively covered by the NRP.

(1) the middle-income households affected by the earthquake, for which LR could help them maximize their chances to improve their housing solutions; (2) the intermediate urban scale neighborhoods, this is, larger than each site but smaller than the city as a whole; and (3) the participation of local communities that aimed to formulate collective solutions for reconstruction.

The LR process in Chile underwent multiple phases, from sharing the idea and benefits of LR with national and local authorities through dissemination and training activities, to direct work with households affected by the natural disaster through demonstration projects designed to validate the value and benefits of LR for post-disaster reconstruction purpose.

As a result of this process, the NRP adopted the principles proposed by the demonstration projects. A new line of work called “Urban Densification and Renovation Program” was added to the NRP that focused on consolidated areas



of cities suitable for redevelopment, offering a wide range of housing solutions to households affected by the disaster. Yet, the participation of the community, in particular landowners willing to reconstruct on their own sites, never became a central pillar of the reconstruction process.

This chapter describes the process of introducing LR as a useful tool for reconstruction purposes in Chile and provides an analysis of the elements that facilitated and obstructed its inclusion as a participatory reconstruction mechanism.

## Chile After The Natural Disaster

Given that the attempt of implementation of LR took place in a moment of emergency, aimed at collaborating with the reconstruction effort, there are some key aspects of the context of implementation that are important to take into consideration to understand the scopes and limits of its introduction in Chile.

## Sizing the disaster

On February 27, 2010 a strong earthquake (8.8 Richter scale) and tsunami struck Chile. The core of the earthquake occurred at the center of the country where 75 percent of the population lives (12.5 million people). The destruction spread along 630 kilometers of the Chilean coastline and central valleys. One out of three houses was totally destroyed (See Figure 14.1). Furthermore, 1,554 kilometers of roadways, 210 bridges, 4,538 schools (one out of three schools), 75 percent of the health facilities of the country (40 hospitals), two ports, 28 fishermen coves, eight airports, and aerodromes were damaged or totally destroyed (MINVU, 2013).

Figure 1. Housing Damages from the Earthquake and Tsunami in Chile, 2010.

## 27F 2010: EARTHQUAKE AND TSUNAMI

### Magnitude of the Disaster

Date:	Magnitude:	Affected Population:
February <b>27<sup>th</sup></b> 2010 <b>3:34 AM</b>	<b>8.8</b> Degrees Earth- quake in Richter scale, followed by a series of tsunamis	<b>12,800,000</b>  Habitants, equivalent to the <b>75 %</b> of Chile's population

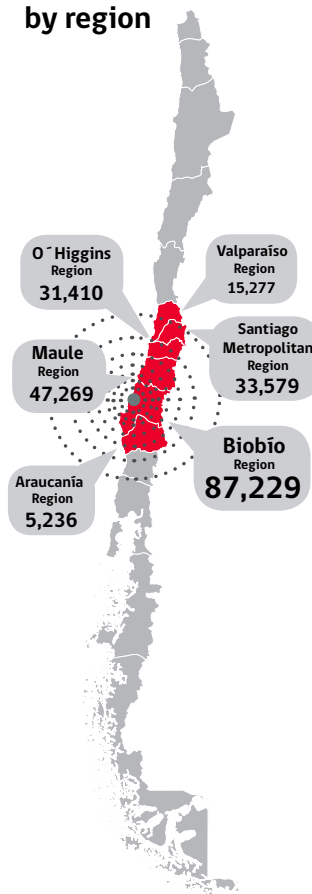


### Affected Area:

The disaster affected six regions of central and southern Chile, devastating an area of more than **630 kilometers** along the Chilean coastline and central valleys



### Damaged houses by region



AAs illustrated in Figure 14.1, the great majority of the cities affected by the earthquake and tsunami were middle and small-scale cities, five cities with more than 100,000 inhabitants; 45 cities with over 5,000 inhabitants; and over 900 small towns and villages (MINVU, 2013). The population affected was primarily of middle and middle-low income.

The urban landscape was primarily defined by traditional buildings characterized by continuous facades made out of adobe built on large sites (500 to 1,000 square meters or more). Middle-low income households generally inhabited these units. These cities also had in the periphery large-scale social housing developments (basic brick apartments built with high standards in terms of safety) and precarious housing units inhabited by low-income households. Some middle-scale cities had an incipient housing market targeting new middle-income households, providing either single-family units in peripheral areas of the city or multifamily condominiums located in the city centers.

## Reconstruction Institutional Framework

At the national level, a Reconstruction Committee to oversee the reconstruction process was established.<sup>1</sup> This committee distributed the responsibilities among different Ministries. For instance, the Ministry of Education was in charge of the reconstruction of the damaged schools. The Ministry of Public Works would rebuild large infrastructure such as highways and bridges, and the Ministry of Housing and Urban Development (MHUD) would address the urban and housing reconstruction issues.

After a quick diagnosis, the MHUD<sup>2</sup> elaborated a National Reconstruction Plan (NRP). The NRP was designed to maintain a continuity with the national housing policy, which is structured in the allocation of housing vouchers. The amount of subsidy allocated by MHUD varies depending on household income, ranging from 8 to 10 percent of the value of the housing for middle-income households to 94 percent of the housing value for very low-income households (Gonzales, 2002).

Like many other national policies in Chile, the housing policy implementation relies significantly on the private sector. Private developers would buy the land, develop the housing projects, and trying to capture as much housing voucher holders as possible. Municipalities do not play a role in the housing provision nor have a voice in the location of the social housing.

## Features of The National Reconstruction Plan (NRP)

The NRP had an urban and a housing component. The urban component focused on designing Reconstruction Masters Plans (RMP) for cities damaged by the natural disaster, aimed at guiding the reconstruction process, including prevention and mitigation against future natural disasters. The RMPs were non-binding and had no real leverage to change local zoning policy, hence, the execution of their guidelines depended on the good will of local firms to donate funds to build infrastructure and on the capability of local governments to mobilize resources.

The housing component was based upon the allocation of subsidies to households affected by the earthquake, and helping them with the relocation when needed.<sup>3</sup> In continuity with the regular housing policy, the subsidy amount varied depending on households' income. The sole innovation was the possibility given to landowners to rebuild on their own sites, accessing to a higher subsidy to restore the facades of their houses if their housing units were located in areas with historical value. Tenants and shared-households were mostly re-located in new housing units in the cities' outskirts.

The housing component of the NRP was structured upon four criteria. First, landowners with property rights in rule, will be allowed to rebuild or repair their houses in situ. Second, households would exercise their preferences by choosing their reconstruction solution. Third, the allocation of resources would be based on households' income. The assumption was that, even though the disaster affected the entire population, the capacity for recovery varied depending on the socioeconomic status of the affected households. Fourth, the housing market and developers would provide the solutions, while the government will provide the funding (housing vouchers) and set the rules.

The NRP emphasis was posed on individual housing solutions rather than a collective approach. In other words, individuals or households were the main targets rather than communities and/or places.

## Introducing LR as Part of The Reconstruction Strategies

ProUrbana Program,<sup>4</sup> part of a university think tank in Chile led the LR implementation in Chile. ProUrbana's main purpose was to introduce LR to public authorities and affected households as a potential reconstruction tool that could facilitate and improve the solutions offered by NRP.

<sup>1</sup> At the time when the natural disaster hit the country, a political transition in the administration was taking place. The newly elected President took office two weeks after the earthquake. His presidential campaign was based on the idea of efficiency, and for this reason he was committed to reconstructing the country before the end of his administration (2010 - 2014). Reconstruction represented an opportunity to demonstrate the capacity and competence of his administration to address the challenges of recovering from the disaster.

<sup>2</sup> The Ministry of Housing and Urbanism (MINVU for its acronym in Spanish), founded in 1965, is the entity in charge of designing policies and programs and determining the annual budget needed to assume its functions. MINVU has regional branches—Regional Ministerial Secretariats (SEREMIs) and Housing and Urban Services (SERVIUs). While SEREMI's role is to plan, evaluate and control, the SERVIUs ones focuses on execution. Municipalities have no relevant role either in designing or in implementing these centrally established policies/programs. Their main responsibilities are: establishing local zoning plans, issuing building permits, and verifying the proper application of construction standards.

<sup>3</sup> For more details see Appendix A.

<sup>4</sup> ProUrbana is part of the Center of Public Policy from the Catholic University in Chile. This program, originally supported by the Lincoln Institute of Land Policy, was founded in 2004, and its goal is to improve the discussion and design of urban and land policies in Chile. In the particular context of the national catastrophe, ProUrbana decided to contribute to MHUD's reconstruction strategy and of course, to help the most affected population.

## Why LR?

The earthquake and tsunami posed immense challenges, particularly in the housing and urban sectors. For every injured person or damaged house there was a specific preference that had to be taken into consideration when thinking of possible reconstruction solutions; whereas for other sectors such as large infrastructure, rebuilding a damaged bridge or a hospital, the process was simpler because preferences were more homogenous.

Given the complexity of the challenge, the NRP failed to pay attention to three important factors that could jeopardize the quality of the reconstruction process. First it underestimated the extent of support needed by the middle-income population. Public resources for reconstruction were distributed based on socioeconomic vulnerability,<sup>5</sup> but the problem was that tenants did not have the chance to stay where they reside, generally in the city center. This undermined the social mixture of neighborhoods, which was one of the hallmarks in many areas affected by the disaster. Most of the neighborhoods affected were composed by two groups of residents.

- The new middle-income group formed by those who had recently overcome poverty. In Chile poverty decreased from 38.4 percent in 1990 to 20.5 percent in 2000, and according to the last measurement, it dropped further to 14.4 percent in 2011 (UNDP, 2011). These households are highly vulnerable of falling back into poverty due to income shocks, as clearly is the case of an earthquake and/or tsunami destroying their houses.
- The traditional middle-income group who lived in houses with high heritage value generally located in the city center. The social status and quality of life of these households depended significantly on their housing units. In many cases their houses also represented a source of income as subletting bedrooms was a common practice. These traditional buildings also constituted one of the main attractions in many of the small cities of Chile due to their colonial architecture.

Second, the NRP strategies didn't consider the intermediate urban scale. This approach required adding a land policy perspective. The government's approach to reconstruct the damaged areas was quite narrow in this sense, focusing mainly at the individual level (households/sites affected) and not the neighborhood level. Moreover, from the standpoint of the private sector, the assumption that they would provide the housing solutions was somewhat unrealistic considering that many cities affected were small localities that did not have a competitive building sector willing to develop small projects, and even less interest when these were single units scattered across localities.

The solution offered by the NRP for the middle-income group basically relied on two options. Landowners had either the chance of selling their sites and then using the funds to buy a house outside their neighborhood, or, alternatively, if they decided to stay put, they could apply for the government's housing reconstruction subsidy. The first option would have had the negative effect of destroying the residents' social capital, whereas the second option would significantly decrease their living standard, because the size of their homes could drop from 100 or even 300 square meters to only 45 square meters. The uncoordinated reconstruction efforts taken by each household had the risk of jeopardizing complete neighborhoods. Therefore, it was crucial to offer a better solution to residents of these areas and to broaden the logic of individual solutions.

However, it is also important to acknowledge that attempting to restore houses and neighborhoods exactly as they were before the disaster, which was the aspiration of many residents, was unrealistic. Most of the damaged houses were built 100 years ago with techniques that were not resilient to heavy earthquakes as frequently happens in Chile.

Hence, an intermediate solution better than the basic reconstruction subsidy offered by the government as well as the impractical idea of restoring the same old houses was needed. In other words, the reconstruction policy had to go beyond a housing solution by adding a land perspective, which required the active participation of residents to form collective action. A better solution was possible only if the community was able to appreciate the benefits of organizing themselves.

Finally, the third problem of NRP was the fact that the notion of participation was quite simple and shallow as it was bounded to the possibility of choosing among a given set of housing typologies exhibited in special housing fairs set up in different cities (Figure 14.2). As the NRP defined it,

*"Citizen Participation and the Possibility to Choose: Beneficiaries choose the housing that best meets their characteristics and needs, in the understanding that housing is a family's greatest investment and that a housing subsidy is the largest Government subsidy that they receive in their lifetimes" (MINVU 2010: 19).*

All the support coming from the MHUD was assigned individually to affected households. The incentives for people to collaborate with their neighbors to seek a better solution for everyone did not exist. It was in this context that LR offered a good alternative to cope with the challenges of reconstruction. Through LR, the options for the affected population could be widened, and their preferences better considered.

<sup>5</sup> NRP's resources distribution assumptions were the following: (1) middle-high and high-income households should not receive support from NRP as this group has the capacity to recover from the losses on their own; (2) middle and middle-low income households should receive some support from NRP. This group generally does not have much savings. Though they own their lands that could be sold to buy another house or, in case households preferred to stay, they had the chance to apply to the reconstruction housing subsidies that match their socioeconomic status; and (3) low-income households should receive a significant support from NRP. They had the possibility to obtain a reconstruction subsidy to buy a new house or to repair their damaged home. The housing subsidy covered the original (or sometimes the current market) value of the houses that these families had before the earthquake and tsunami.

Figure 14.2. Samples of reconstruction housing typologies in a housing fair



Source: MINVU (2013)<sup>6</sup>

Under this scenario LR offered the possibility to optimize their reconstruction solution, particularly to the large proportion of affected population that owned their land. Landowners had the chance to use their land as capital (equity) for reconstructing their houses and neighborhoods. It also allowed them to scale up the solutions through the densification of some areas, thus offering solutions to a wider range of people with different socioeconomic backgrounds (including displaced non-landowners) and, in this way, embracing the original social mixture of the urban areas affected by the natural disaster.

Including LR as part of the NRP was a feasible strategy given that it did not require to introduce great changes to the subsidies scheme designed by the MHUD to reconstruct cities and houses; rather it had the potential to accelerate the pace of reconstruction by bringing together projects that generated solutions for both landowners and non-landowners. However, the idea of including LR as a reconstruction strategy meant adding more elements of community participation that were not considered in the NRP.

## The Process

LR was unknown in Chile until it was presented as an alternative for the urban and housing reconstruction. The process herein described had different phases or steps that were necessary both to present the benefits of LR for reconstruction purposes and to introduce the concept, design and implementation mechanisms.

The steps followed were first a dissemination strategy to make LR known by the decision makers in charge of reconstruction and also the academics and professionals working in the field of urban and housing policies. The purpose was to spread the idea and reach as much people as possible. The second step was to design demonstration projects to show how LR would work in specific communities (See Figure 14.3 for all the different stages of the process).

ProUrbana organized two activities aimed at triggering the interest in LR among public officials and practitioners: an open seminar and a closed workshop with MHUD's team in charge of the NRP were organized. In spite of the high interest in knowing about LR, MHUD officials response after the dissemination activities was weak. The most common reaction was that LR was not suitable for Chile. The idea of having landowners collaborating and participating in a reconstruction joint venture with their neighbors was thought to be unrealistic.

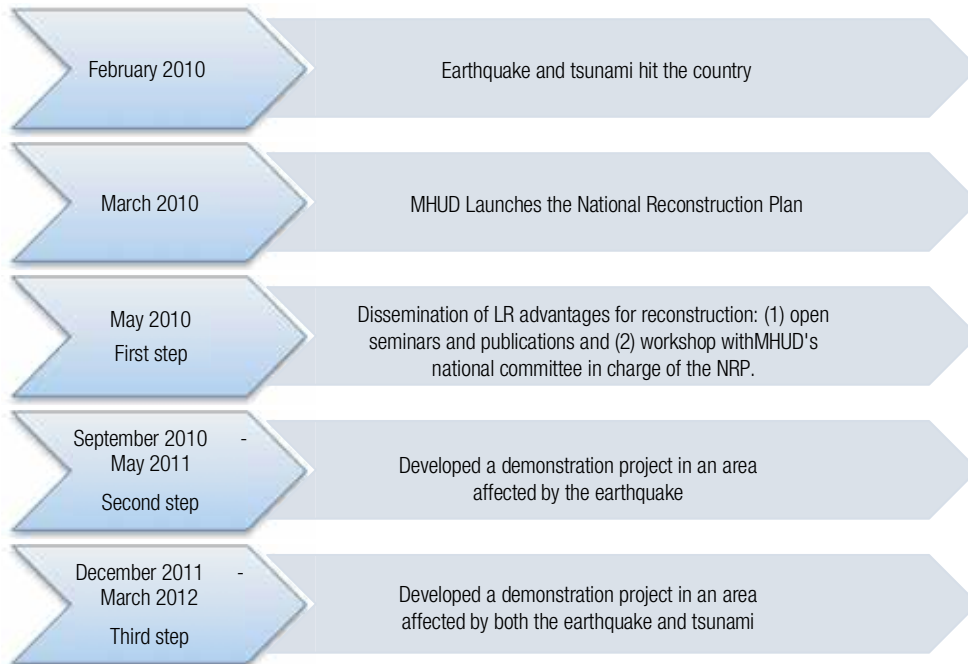
Despite this setback, ProUrbana decided to develop demonstration projects to illustrate the mechanism and benefits of LR. The Lincoln Institute of Land Policy sponsored this activity.

The first pilot project was designed for Las Heras neighborhood. This neighborhood is located in the city of Talca's downtown. The second project was designed for a coastline neighborhood in the city of Constitución. Both cities located in Maule Region.

<sup>6</sup> More details on housing typologies offered in: [http://www.serviu7.cl/catalogo/Catalogo\\_Viviendas\\_Tipo.pdf](http://www.serviu7.cl/catalogo/Catalogo_Viviendas_Tipo.pdf)



Figure 14.3. Timeline of Introducing the LR: Steps and Strategy



Source: By the Authors.

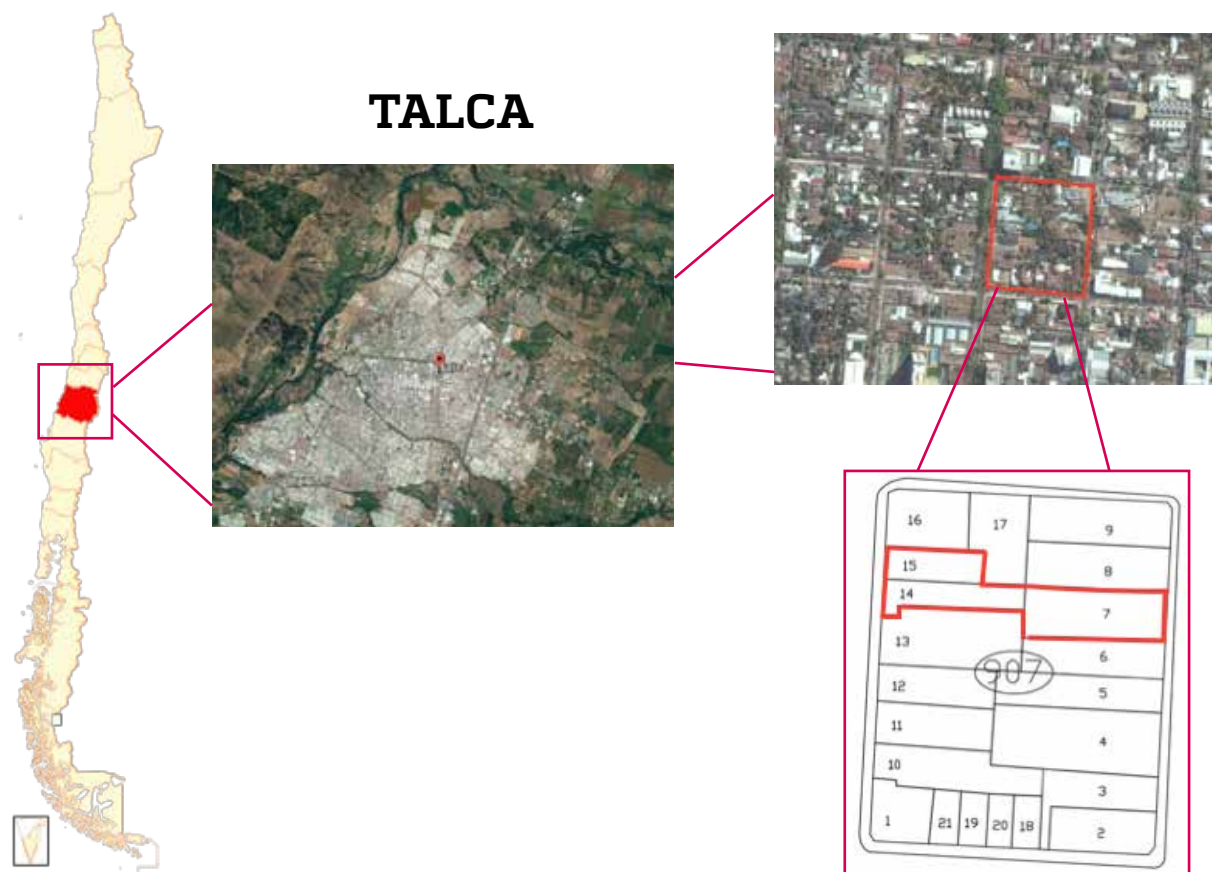
## Two Demonstration Projects

### Las Heras

Las Heras represented a quite common case of massive destruction due to the earthquake (Figure 14.4), though it was not affected by the subsequent tsunami. This neighborhood urban landscape was mostly compounded by typical Chilean housing: large houses (ranging between 150–300 square meters) and large sites (ranging between 500 – 1000 square meters). These houses were built with traditional adobe techniques, clay tiles roofs, and wooden structures. Before the earthquake, some of the sites had been subdivided and occupied by relatives of the owners or sold to new residents. For that reason, at the time of reconstruction there were not only many unsolved property rights problems, but also fragmented sites of various sizes and shapes.

One of the main features of Las Heras neighborhood was that it offered a great combination of a peaceful residential atmosphere with a very good location close to all the city amenities and services. The city's Master Plan contributed to increase Las Heras property value, as the heights and densities allowed were very high. These two elements made the neighborhood attractive for real estate developers. Indeed, after the earthquake, developers quickly started making offers to Las Heras' residents to buy their properties, which initiated a process of speculation.

Figure 14.4. Las Heras Neighborhood, Talca City, Maule Region



Source: Google maps and ProUrbana UC (2011).

Figure 14.5. Housing Damage in Las Heras after the Earthquake in Chile, 2010



Source: ProUrbana UC (2010)

Worth mentioning that Las Heras was a socially mixed area with a high level of trust among residents. This community social fabric was threatened by the real estate dynamic, which complicated the future recovery of the neighborhood. Additionally, local residents suffered from different types and or degrees of damages (see Figure 14.5), some of them lost everything whereas others had to repair their houses, so they started to take decisions individually. Some residents were worried about the risk of house price depreciation caused by uncoordinated redevelopment.

All the aforementioned elements of Las Heras made it an interesting neighborhood to develop a LR pilot to encourage local residents to optimize the reconstruction of their homes and the neighborhood as a whole. To achieve this goal, residents (mainly middle-income households) had to acknowledge the impossibility of rebuilding their houses in the exactly as they were before the earthquake. More importantly, they had to overcome the culture of risk avoidance and distrust. ProUrbana offered to Las Heras' residents to design a reconstruction proposal based on the LR principles. The idea was to convince the residents to using their land as a financial resource to fund the reconstruction of their own houses would enable them to get a much better housing solution. The process implied that neighboring landowners would have to merge their sites to develop a middle-low density housing project that will include mixed-income housing units. The expected result was that landowners would obtain a house that had, at least, the same value of land they put into the project.

The LR project ProUrbana proposed was able to offer to residents larger housing units of better quality compared to what they would obtain if only using the government housing subsidy. The only drawback was that Las Heras' residents owned quite small sites. Thus the tradeoff in order to preserve the value of their property (in average, 2 to 4 times higher than the amount of the reconstruction subsidy) was to accept living with higher density they were used to.

The strategy had two phases. The first was to design a pilot project that represented the preferences of Las Heras' residents. For this purpose, we conducted a survey to collect this information, which included the residents' socioeconomic characteristics, the basic features of their sites and houses, the extent of the damage, land value and the tenancy situation.

ProUrbana, hired DUPLA, an architectural and planning firm, to design the pilot image.<sup>7</sup> This firm had the benefit of being involved both in the development of Talca's RMP and also in proposing a reconstruction solution for continuous facade that was the most common type of housing in *Las Heras*. In parallel, meetings were organized with the local government authorities and the regional divisions of the MHUD. Meetings with real estate developers were also arranged, as it was necessary to find local partners who would be willing to develop a reconstruction project in which the residents played an active role.

The head of the NRP signed a document stating that MHUD supported the project and that landowners who were willing to participated in the LR reconstruction project could still receive their reconstruction voucher.

The main ally in the neighborhood was the head of Las Heras community council that was very interested in LR. Three meetings were organized with the residents in Las Heras' community center. Invitations by mail or personal delivery, together with the distribution of flyers, were the dissemination strategies. The purpose of these workshops was to trigger the interest of residents and encourage them to talk to their neighbors about the LR proposal. In these meetings, we shared the results of the survey with the residents, introduced the organizations involved in the project, and explained the main ideas of LR.

Although a large number of residents showed up to these workshops, the participatory process lacked the real engagement of the residents. The notion of participation did not go beyond listening to neighbors' perceptions and preferences. Even though ProUrbana extended invitations to public institutions, developers, and other NGOs, no formal partnership with local actors was formed.

The first phase of the project ended with a pilot image presented in a workshop to the community. With the image, residents who initially had difficulties understanding the logic behind LR finally understood its potential benefits. Three groups of residents showed interest in a proposal to combine their sites with their neighbors' sites.

The second phase of the project built upon the results of the first phase. The objective was to formulate a detailed pilot project. After some feasibility studies, a project was designed based on three sites owned by a group of residents (see Table 14.1). The design of the pilot project considered the preferences of these landowners, together with an economic and legal analysis.

Table 1. The Three Sites for The LR Pilot Project

Landowners	Site size (m2)	Value per m2	Site value	Site value + House Value	Units landowner will receive back as compensation
1	900	\$176	\$158,400	\$158,400	2
2	442	\$176	\$77,792	\$88,000*	1
3	442	\$176	\$77,792	\$77,792	1

\*This site had a house over it, which would have to be demolished in order to develop the project.

Source: ProUrbana UC (2011)

<sup>7</sup> www.dupla.cl

Figure 14.6. Project image for the three sites after Land Readjustment (Las Heras, Talca)



Source: DUPLA and ProUrbana UC (2011)

Four economic scenarios were estimated, with different numbers of social housing, ranging from less to more mixed-use projects.<sup>8</sup> Finally, the preferred scenario was a medium density project with a well-balanced consideration of social integration, landowners' compensation, and real estate profit (see Figure 14.6). The project would create 35 housing units out of which 29 were apartments (of 50 and 55 square meters) and 6 single detached houses of 80 square meters; 8 affordable units<sup>9</sup> (24 percent) priced under US\$ 44,000; and a rate of return on investment of 10.9 percent.

In terms of the legal feasibility, the project was aligned with the local Master Plan requirements. It also included affordable housing that would enable capturing the reconstruction housing vouchers allocated by MHUD. The merged land would be transferred to the developer who would pay back to the participating landowners with units within the project.

The project captured the attention not only of Las Heras' residents but also of MHUD officials. Despite the fact that the project was not implemented<sup>10</sup>, the NRP generated a new line of work focused on the criteria proposed by the pilot project: middle-low density projects including a wide range of housing typologies with different values ranging from affordable units for middle-income households to social housing for low and very-low income households. The way in which the NRP integrated the idea was by defining areas in different cities that were suitable for redevelopment and densification. For these areas, MHUD tendered the development of middle-low density buildings that had to include housing units for middle, middle-low, and low-income households.<sup>11</sup> The units built in these projects were eligible for a higher housing subsidy compared to the regular reconstruction subsidy, which worked as a great incentive for developers. In fact, just in Talca (mainly in Las Heras neighborhood) at least 10 of these projects have been developed. The LR project design generated for Las Heras (Figure 14.6) was used by MHUD as an example for developers to follow.

<sup>8</sup> One assumption behind the development of the project was that the maximization of affordable units must be considered in the context of a medium density project.

<sup>9</sup> Three units would be completely subsidized, and the remaining five would be partially subsidized.

<sup>10</sup> An unresolved tenancy problem of one of the properties blocked the further development of the project.

<sup>11</sup> Very-low income households were not included.



## Lessons and challenges

The Las Heras case represented the first attempt of developing a LR project in Chile. Our knowledge of LR and approaches to engaging the community and local authorities were developed during the process. Even though ProUrbana's team studied the LR literature and received the support and advice from international experts, some key things were learned during the implementation. One of the most important lessons was the use of images to transmit the idea of LR to potential landowners. Presenting generic densification projects inspired by LR was not enough. The use of images adjusted to concrete sites was needed to help people visualize the advantages and disadvantages of this reconstruction tool.

Further, there is no doubt that the survey was very useful for the team to know the general characteristics of the residents of the area and also about their willingness to participate in a LR scheme. However, residents were tired of providing information to too many institutions after the earthquake.<sup>12</sup> Harnessing secondary data from the government and doing some interviews could have been faster and less invasive. This could have been complemented by involving local leaders from the beginning who could have gathered and shared information from and for selected sites. This would have provided greater legitimacy to the proposal as well.

Another important lesson is the relevance of local agencies, that could have played a more active role if they had been involved from the beginning. However, it was also important to have maintained a close contact with the central reconstruction authority. Our communication with officials in charge of NRP enabled them to realize the lack of a neighborhood approach to reconstruction.

The initial academic approach had to do with the profile of the Lincoln Institute of Land Policy that sponsored the pilot project and ProUrbana's trajectory. The know-how of both institutions is based primarily on policy design and evaluation rather than implementation.

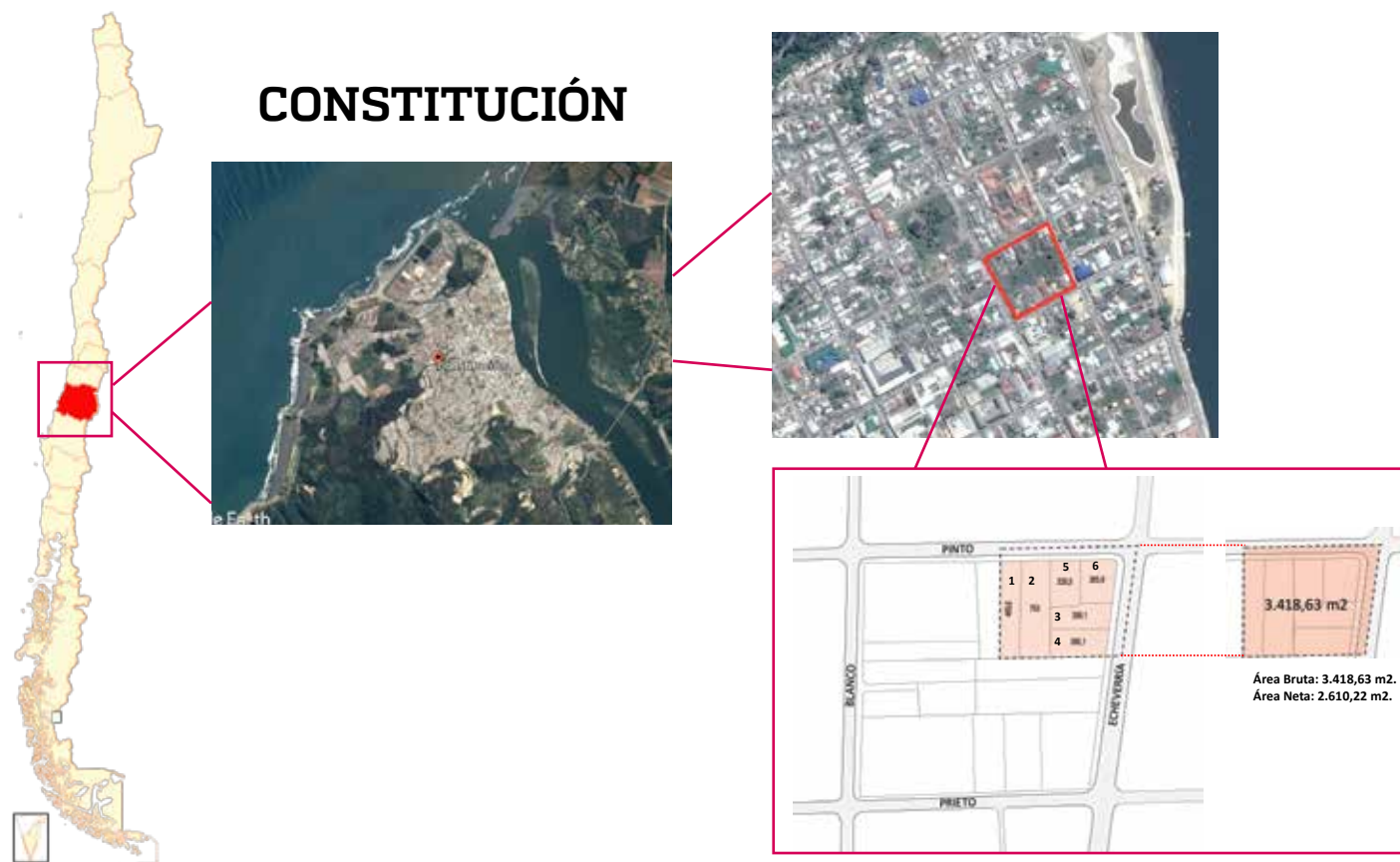
Finally, in a context of emergency and uncertainty as it is after a natural disaster, it may not be a good idea to highlight an idea or proposal as innovative. People want proved solutions and to feel confident on what is going to happen rather than embarking on a new venture.

## Constitución

After the Las Heras initiative, the head of the NRP showed great interest in developing a LR project in Constitución, a coastal town located in the Maule region that was deeply affected by the earthquake and tsunami (see Figure 14.7). In this second case, the MHUD took the initiative to develop a LR pilot project and asked ProUrbana team to lead the process. The reconstruction process in some of the areas in this city was stagnant, mainly because landowners who owned large sites were not doing much to rebuild their houses. Hence, the idea of proactively approach these landowners to propose them a type of redevelopment of their properties that will add value to their properties began to make sense to the reconstruction authorities.

<sup>12</sup> Almost every public and private entity working in reconstruction applied surveys after the disaster to establish a diagnosis of the situation, which not always meant concrete help for residents

Figure 14.7. Constitución, Maule Region



Source: Google maps and ProUrbana UC (2012)

Constitución is a small town of around 55,587 inhabitants. Even before the disaster, the poverty rate was 22 percent, which is higher than the national average (14.5 percent). It is located in the south shore of the Maule river and surrounded by hills and forests.

Constitución was one of the cities most affected by the tsunami, which left 60 dead and over 300 people missing. Around 50 percent of the city was destroyed, and 3,659 residents were enlisted to get a housing reconstruction subsidy. The coastline, a socially mixed neighborhood, was completely devastated.

A Reconstruction Master Plan (RMP) was developed for Constitución that encompassed both a mitigation park and a new waterfront, among other infrastructure.<sup>13</sup> These projects required the resettlement of affected landowners and other informal occupants who lived in that area, most of whom were relocated to temporary public 'villas'.

Even though Maule was one of the two regions that received the largest amount of reconstruction public funds and grants, the damages in Constitución (especially its coastal area) were almost completely unresolved. Similar to Las Heras, there were problems associated with the reconstruction strategy:

- The housing solutions offered did not conform to the affected landowners' preferences and their sites as well as the neighborhood potential.
- Although the RMP included a high density and mixed land use in the waterfront, the government housing solutions were far from that standard. Instead the government was only providing residential solutions (see Figure 14.8).
- Because of environmental concerns, expropriated homeowners could not return to their original waterfront neighborhood. Moreover, non-owners of the second and third lines from the waterfront could not stay in the same areas because of the lack of in-situ housing solutions for them.
- No participatory strategy was set up to seek a collective solution in this area.

<sup>13</sup> This plan was financed by ARAUCO, which is one of the main firms in the region, and designed by ARUP and ELEMENTAL, two well-known architectural and planning offices.

Similar to Las Heras proposal, ProUrbana suggested a medium density, mixed-income housing development project, using a participatory approach. The main idea supporting the proposal was that landowners working together would generate a better solution compared to solving the problem individually. This project was meant to provide a solution for landowners and also households who needed to be relocated in new housing while maximizing the neighborhood's redevelopment potential. Again, landowners participating in the LR scheme would receive back a house with the same value of the land that they put into the project.

However, the strategy followed in Constitución was very different from the one implemented in Las Heras. It was a bottom-up strategy. Community representatives and local authorities played an active role in the initiative from the very beginning; and an image of the project to facilitate the understanding and involvement of residents was developed early on. The initial image was modified after the meetings with landowners.

*Figure 14.8. Difference between Constitución's Master Plan for the waterfront (first photo) and the actual reconstruction housing solutions offered built with the housing reconstruction subsidy (second photo)*



Source: PRES Constitución (2010) and ProUrbana UC (2012).



After visiting the future mitigation park area, three potential cases for developing the LR project along the coastline were identified.<sup>14</sup> Information from selected landowners and occupants was collected to adjust the preliminary proposal, which would be disseminated later.

Two local agents were hired to support the work with the community. One of them was a community leader. The other key player was a social worker from a local NGO who had a deep knowledge of the housing policy and the NRP. Both were hired to facilitate the project development, who provided valuable information about residents and their sites, as well as conditions demanded by interested landowners for participating in the project. In addition, they helped disseminate the LR scheme in general and the specific LR proposal for Constitución. Considering that ProUrbana is based in Santiago (five hours from Constitución), the support from local allies who operated as a bridge between the community and ProUrbana team was very important.

The early participation of the MHUD's authorities (at the central and regional level) and their commitment to the idea were critical. They gave formal and informal guarantees to the affected residents that the project was supported by the MHUD (including guaranteeing vouchers for those who agreed to be part of the project). The MHUD officials assured the residents that there was no economic or business

interest behind the initiative. This last point was essential because there was distrust between the various stakeholders due to the high land speculation triggered after the natural disaster. The MHUD facilitated a quick access to land titling information as well as meetings with landowners. Finally, the head of the NRP agreed to meet local developers who could take on the challenges of developing the project.

After the fieldwork, ProUrbana adjusted the pilot image based on the real measures and shapes of the selected sites, focusing in one of the three possible cases (the case which had the higher chance to succeed). The new image presented in focus group meetings with the community and landowners was critical to transmit the LR idea, and to capture the attention of relevant stakeholders. Their observations and concerns were incorporated into the original design. Then the final version was presented to a large local real estate developer that was expected to implement the project.

Following the Master Plan, a medium density project of 19 housing units was designed (see Figure 14.9 and Table 14.2). The proposal also included a tsunami-resilient scheme to meet the requirements of new construction regulations. The project would include housing units for middle and middle-low families, individual courtyards or terraces for some houses, a common area, green areas, and parking spaces, reaching 22 percent of land coverage.

Figure 14.9. Project image for the site after Land Readjustment (Constitución)



Source: DUPLA and ProUrbana UC (2012)

<sup>14</sup> The strategy of selecting three potential cases was to attract real estate developers by presenting multiple development opportunities—not just one case—along the coastline. Besides if they had decided to go along with various projects, the positive urban impact of the intervention would have been larger.



Table 14.2: Sites considered in the LR pilot project (Constitución)

Landowners	Site size (m2)	Value per m2	Site value	Does the landowner want to stay or sell the land?
1	496	\$132	\$61,987	Stay
2	703	\$132	\$92,796	Sell
3	356.1	\$132	\$47,005	Stay
4	380.1	\$132	\$50,173	Stay
5	335.5	\$132	\$44,286	Sell
6	385.9	\$132	\$50,939	Sell

Source: ProUrbana UC (2012)

The project was well received by all landowners with the exception of the landowner from site 2, who finally refused to sell. The plot of the dissenting landowner had a strategic location within the sites. The owner wanted to rebuild her house back to the original form, despite not having enough resources to do so. Landowners who wanted to sell their land did not organize to attempt to convince her to change her mind.

## Lessons and challenges

In this second pilot, we applied the lessons from the first pilot to the project design and implementation including:

- Creating a concrete and flexible design image to engage the community and the landowners;
- Involving local allies earlier on;
- Optimizing and targeting data collection; and
- Deepening the collaboration with central authorities.

Hiring local leaders to work on the project was a good decision. It allowed the project to move faster, have more local insights, and gain legitimacy. Moreover, the sponsorship and support of public authorities responsible for implementing the NRP gave a practical and urgent character to the second pilot project. Getting the central authority's commitment to financing part of the LR project was important as well. Unlike Las Heras neighborhood where the MHUD simply promised residents their reconstruction vouchers, they were offered subsidies for joining the LR initiative. Unfortunately the real estate developers did not consider there was enough demand from middle-income households for a project of such characteristics.

The LR pilot proposed in Constitución was developed two years after the earthquake and tsunami. This was a critical delay considering the pace of the NRP's implementation. Although people were very curious about the idea of LR, in the end most of them had made their decision to sell their land. The selling prices were incompatible with the amounts that the LR project modeled under the different scenarios. However, it must be said that the estimated financial benefits of our proposal were conservative. Probably, the valuation of the new units (and therefore landowner's compensations) could have been projected higher than we did.

## Final Reflection on the Chilean Experiences

Even though none of the two pilots were implemented, two valuable outcomes can be identified in the Chilean attempts to use a LR scheme for post-disaster reconstruction purpose. First, the NRP adopted some of the principles proposed by the LR pilot projects. A new line of work called the Urban Densification Program was adopted and focused on the intermediate urban scale in consolidated areas of affected cities suitable for redevelopment. Further, in order to stimulate the development of middle-low density projects, a new special voucher was designed. This strategy more adequately conciliated the housing scale with the planning tools. At the same time, this new program became an opportunity for affected households who did not own sites in central areas. Twenty-six projects of this type have been developed in five cities, reaching 2,726 housing units.

Second, throughout the two-year process of introducing LR, public servants, NGOs and the academic sector learned about this mechanism. For the team in charge of the project, the attempt to implement LR was a learning process too. The more experience gained, the better were the strategies developed.

It must be said that greater supports from international and national allies should have been useful. In particular, a support that could serve the purpose of strengthening the capacity to work with the local community would have been extremely helpful. Even though the Chilean case shows that the feasibility of a LR project (from an economic, legal and social perspective) does not need to rely on a specific regulatory framework, the role of the public sector proved to be essential. A special incentive to stimulate collective action among neighbors or support for a demonstration project from the public sector would have generated the much-needed confidence from landowners and developers to adopt LR.

Regarding the lessons from introducing LR mechanism and expanding the community participation in public policy making in the context of natural disaster recovery, there are five important lessons learnt.

First, timing is key to ensure community participation. In a post-disaster context, people are anxious to have a prompt solution. Therefore in order to have the landowners' interest and avoid speculation, it is important to start organizing the community as soon as possible. It is strategic to avoid burdening the affected population with data collection. This situation was especially clear in Las Heras case. The idea of surveying each household in this particular instance was not the best strategy to start with, because many similar surveys had already been taken. It would have been better to involve local leaders from the very beginning, directly communicating with the affected households about their reconstruction alternatives, and presenting the main guidelines of the LR proposal based on a real scenario (specific sites in the area) and getting the residents' inputs.

Second, empowering landowners is crucial to enhance and strengthen land governance. Providing early information to affected local communities about their options and assets such as land and social network and the possibility of using them as a leverage is key.

Third, the use of images greatly facilitated the process of explaining LR. Ideally, using the interested residents' sites as examples can make the explanation of the mechanism easier.

Fourth, the different levels of damages experienced by residents of an area as well as of landowners' characteristics (e.g. socioeconomic background) can either obstruct or facilitate the LR implementation. When there is disparity in the level

of damage and households' features, it is difficult to negotiate and align interests among residents. In the Las Heras case, severely damaged traditional adobe houses coexisted with barely affected modern houses and condominiums, rendering the collaboration of residents facing different situations very difficult. Conversely, when landowners were sharing the same condition, aligning their interest and thus proposing to merge their land was easier.

The way in which the National Reconstruction Plan was set up in Chile hindered any kind of collaborative action. Thus LR presented an alternative for stakeholders to either work with well-organized communities or stimulate collaboration among neighbors. The very process of implementing LR serves the purpose of generating a sense community.

Finally, presenting LR as an innovation; as something absolutely new, was not the best way to introduce the idea in Chile. It created more pressure on both NRP's team and landowners. When a country is facing the enormous challenge posed by a natural disaster, the idea of innovation may create more uncertainty. LR should have been introduced as a useful tool based on simple and known principles that facilitate the process of reconstruction while strengthening community collaboration and mutual support. Setting up a special LR unit within the government to propagate the method both within the bureaucracy and beyond may help achieve these goals.

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## Appendix A. Principal characteristics of National Reconstruction Plan

<b>Budget</b>	<b>US\$2,717,740.65</b>
<b>General Plan Assumptions</b>	<ol style="list-style-type: none"> <li>1. Appreciation and protection of existent communities, their social ties and heritage</li> <li>2. Speed and efficiency</li> <li>3. Consider the specific features of the area and its natural risks</li> <li>4. Provide legal and formal housing solutions to victims of the earthquake and tsunami</li> </ol>
<b>Components, corresponding actions, tools and programs</b>	<ol style="list-style-type: none"> <li>1. <b>Housing Program</b> <ol style="list-style-type: none"> <li>1.1 Demand oriented vouchers to repair damaged houses*</li> <li>1.2 Demand-oriented vouchers to build on-site houses (prefabricated or not) mediated by a management entity (EGIS)*</li> <li>1.3 Demand-oriented vouchers to acquire prefabricated houses to be on-site s without the mediation of a management entity (EGIS)*/***</li> <li>1.4 Demand-oriented vouchers to build a house in new plots or to acquire an already built house</li> <li>1.5 Demand-oriented vouchers for assisted repairing or construction**/***</li> </ol> </li> <li>2. <b>'Villages'</b> <ol style="list-style-type: none"> <li>2.1 Public Condominiums' Repairing Social Program</li> <li>2.2 Relocating families who resided in risky areas or in severely damaged Public Condominiums into Assistance Program 'Villages' (temporary settlements established by the government) till a new definitive solution was built</li> <li>2.3 Relocating families who resided in risky places or in severely damaged Public Condominiums through demand-oriented subsidies for renting till a new definitive solution was built</li> </ol> </li> <li>3. <b>Territorial, Urban Program vouchers applicable in heritage areas*</b> <ol style="list-style-type: none"> <li>3.3 Heritage Recovery through demand-oriented vouchers</li> <li>3.1 Updating Zoning Plans considering risk studies and urban heritage</li> <li>3.2 Elaborating Master Plans</li> <li>3.4 Supply-oriented vouchers to stimulate densification in central areas of medium-size cities***</li> <li>3.5 Demand-oriented vouchers to build tsunami-resilient houses in coastal towns /***</li> </ol> </li> </ol>

Source: Own elaboration based on MINVU 2010, MINVU 2012 and ProUrbana 2012.

\*Specially tailored for owners (neither renters nor sharers)

\*\*Specially tailored for rural inhabitants

\*\*\*Not considered in the Plan's original design.







# GLOBAL EXPERIENCES IN LAND READJUSTMENT

Urban Legal Case Studies: Volume 7

*Global Experiences in Land Readjustment* is a valuable source of information and ideas on the implementation of land readjustment. It offers experiences from developing countries and countries with economies in transition. Its primary purpose is to demonstrate that land readjustment is a practical and useful tool for addressing a variety of spatial and development challenges in a range of contexts. It aims to assist those who are already interested in land readjustment as a possible solution to the challenges they face.

This book will help countries, especially those in the Global South, to identify and explore choices, and their likely impacts, and, as a result, improve the quality and durability of project outcomes. It may also be useful in implementing urbanisation policy, as it provides examples of the resources and institutional capacities required to deliver different types of project.

Notably, this book does not aim at giving the perfect formula for a successful land readjustment or even that land readjustment is a magic bullet for the challenges of urbanisation. Nonetheless, it does establish land readjustment as one of the most flexible tools available to all countries to bring citizens, planners and governments at all levels together with the aim of making ordered urbanisation at scale possible.

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