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Prague, Czech Republic, R.R. - Frédéric le Bourhis SG/DICOM/IE4, MEEDDAT

Land in Urban Areas

There are several signs that the issue of urban land in developing countries is once again central to the international agenda. The problem of land has therefore become a major strategic issue for many donors. France is part of this trend, as witnessed by the recent publication of the White Paper by the French players involved in development aid brought together within the “Land and Development” committee. Many partner countries, not only in Africa, but also in the other continents are engaging in ambitious land reforms in response to strong domestic demand for land securitization and the occasionally severe crises that affect land systems.

Half the world’s population now lives in cities, and this population growth is causing increased pressure on land, particularly because the processes of urban sprawl and slum growth are still generally uncontrolled. In addition to urban areas, suburban zones are now also becoming targets for speculation. The financialization of land and property markets and the growing tendency to consider land as a financial asset reveal the combination of social, demographic and economic mechanisms which are at work in urban areas.

Formulating land policies that contribute to economic development and civil tranquillity constitutes a vital issue. This is why the search for a social consensus with local validation of rights must be at

the heart of our strategies. It is essential for us to pay specific attention to land, how it has changed and the strategies involved in order to understand the urban challenges of the next thirty years during which time the consumption of urban space will increase at least as rapidly as the urban population and more rapidly if economic growth continues. Engaging in land reform, based on a vision of what it means to live together, is a vital part of the State’s action. It must make it possible to engage in sustainable urban development, which is the major challenge for “urban land delivery”.

The professional association “AdP Villes en Développement” wished to contribute to the ideas that are developing in this area by allowing experts, including many AdP members, to explore its theoretical and legal bases and consider operational aspects of planning and investment. An overview of the situation in the North and in the South, case studies and theoretical analysis enabled the many participants in the study day on urban land which was held on Friday 5 September 2008 at the CNAM (Conservatoire national des arts et métiers) to gain an understanding of the scale of the problem. We would like to thank the organizers, the speakers and the participants for their involvement which made a success of the day. ■

Land and development¹

Jean-Louis Guigou, chief representative of the Institut for Economic Forecasting in the Mediterranean Region (IPEMed)

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It seemed thoroughly appropriate to ask Jean-Louis Guigou to speak on this topic in view the fact that he must now be able to stand back from his former role at the DATAR (a French regional policy agency), and will necessarily have gained from his new professional involvement with the Mediterranean. Mr Guigou spoke about theories of land.

Referring to such thinkers and philosophers as Marx, Walras or Alfred Marshall, he examined the issue of land, asking the following question: “do 19th century theories about land still hold in the context of current policies, particularly in Third World countries?” He presented his ideas by referring to six ideas.

First idea: the theories of Marx and Walras

Let us begin by highlighting the astonishing convergence between the theories of these two authors. The first, Marx, the father of communism and collectivism, appeared in “Das Kapital” in 1867, and the theory of Walras was published in 1880 as the “Mathematical Theory of the Price of Land and its Repurchase by the State” How surprising it is to see them agreeing!

They both state virtually the same thing, but reach opposite conclusions: “consider national income and its three components, wages and added value, which breaks down into two sub-components: rent and profit. The sum of wages, rent and profit constitutes the totality of national income”. Both writers state that “we cannot reduce wages too much because workers need

to buy what capital and industry produce”. At the time they were writing, wages accounted for 70% of national income. The figure today is 62%.

Let us now consider the other two components; rent and profit. Walras, who supported profit, showed mathematically that in the very long term, and because we cannot create new land and the population is growing, the price of land will tend towards infinity. If rent increases, profit falls. If profit falls, capitalism dies!

It is here that the lessons of the two authors draw start to diverge. For Marx: “the more rent there is the less profit there will be”. He was therefore in favour of private property in a market economy system... He differed from Walras who, in order to preserve capitalism and profit, proposed, in a market economy, the repurchase of land by the State. Capitalism is incompatible with the nationalization of land, but requires it. Walras went even further, also stating. As taxes on work and capital are unjust, because they attack the income from work and capital, the State will receive revenue and no longer tax work and capital by harnessing the rent from land. And the more rent increases, as it must tend to-

wards infinity, there must be an increase in the income from land accruing to the State (or to local and regional authorities in the case of a decentralized system).

We thus arrive at the paradox that a capitalist is in favour of the nationalization of land and a communist is for the privatization of land... both in the context of a market economy!

Second idea: Alfred Marshall's theory

Alfred Marshall (1890) made two fundamental contributions in this area: first the ideas of “economies of agglomeration” and “external economies” and second the description of the British system in which the right of ownership is separated from the right of use, i.e. “freehold” and “leasehold”.

External economies are the economies made by a firm that do not result from a decision on its part. Examples are the quality of labour, the quality of the environment, the proximity of universities, research, and safety. Local elected officials generate external economies by collecting taxes and creating an environment. Land prices are very closely linked to external economies. It would be quite legitimate for local and regional authorities to recover its production of ex-

ternal economies from land rent.

Alfred Marshall also observed that the British freehold and leasehold system that came into being roughly between 1560 and 1580 made a separation between the ownership of land and the right of use with leases being signed for a maximum duration of 999 years. The aristocracy owns the land and signs the leases for a certain duration. At the end of the lease the property reverts to the landowner. This system is compatible with the theories of land of both Walras and Marx.

Third idea: the evaporation of the traditional tax bases

In developed countries, the traditional tax bases, income and added value, have a tendency to evaporate and be displaced. Local authorities are therefore faced with a tax base that becomes progressively smaller. This compels them to rediscover land taxation.

Fourth idea: the need to redefine the right of ownership.

The dispersion of the right of individual ownership in France, which was an outcome of the revolution of 1789, was a very bad development as it was contrary to economics. The French behave as property owners and are contented with an economic system in which the State plays a major role...

Fifth idea: the communalization of land

A study carried out for the OECD by Jean-Louis Guig-

ou and Thierry Leroy has shown that in Sweden and the Netherlands between 85 and 90% of land has been communalized. In this case, the local and regional authorities control land and therefore land use and the income from land rent. This is a necessary development.

Sixth idea: land ownership in Arab and Muslim countries

The sixth question is that of land ownership in Arab and Muslim countries. A working hypothesis, which needs to be proved, is that while a high proportion of property in these countries is still undivided and collective

(habous), this situation, far from being a disadvantage, should be an advantage.

While developed countries must move towards the communalization of land, if Muslim countries have collective property they could make the transition directly to the communalization

of land and collective land management without passing through a stage of private ownership. ■

1. *An account by Pierre Lave, Editor in Chief of "Villes en Développement" of the speech given by Jean-Louis Guigou.*

Changing the land model

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The insecurity as regards property which reigns in many countries of the South has generated a large volume of grey literature. Its cause is generally identified as a lack of technical and administrative resources. Euphemistically, problems of "governance" are also blamed, because of an unwillingness to talk more straightforwardly about the chronic corruption that is almost universally present and which could be said to be an integral part of the system, as one cannot be understood without the other.

In the last forty years, a tremendous amount of international aid has been swallowed up by the technical modernization of land management in these countries, without mentioning the national resources which have been wasted on hopeless projects instigated by misguided international technical aid.

Surely it is reasonable to think that if so much effort has led to nothing, or almost nothing, it must have been directed in the wrong way and we need to change our model?

Historically, the developed world has created two opposing land models. One applies in old countries and the other in new countries.

In the old countries Europe, land systems are the result of gradual "bottom-up" change from de facto ownership to legal ownership; a slow transformation of non-

transferable possessions into mutable property. Historians such as Marc Bloch have clearly shown the long process which on one hand transformed the serf who was compelled to do his master's bidding into a peasant who was free to leave by selling his tenure, while on the other hand the lord who controlled the land and those on it had to limit his claims to the collection of a fixed tax and a number of fairly symbolic privileges.

New countries such as North America or Australia, whose foundation entailed the removal of the native populations from the land, obviously developed with a quite different land model. Here, it was the colonial power and the Independent State that replaced it which took over the land and made it over or sold it to the new colonists. The railroad's conquest of the West was

largely financed by the free allocation of large swathes of land taken from the Indians as work on the railroad progressed. Even today, the American government owns much more land than any European government.

The Torrens system, which was developed 150 years ago in Australia, merely rationalized the management of this "top-down" creation of property¹ in order to avoid the rather chaotic type of development that had taken place initially under the American system where the proof of transfer was poorly established (signs of this are present to this day making it necessary to have assistance from a lawyer in order to sell a piece of land). It is this system which served as a model for all the land rights implemented at the end of the nineteenth century and until 1914 by all the colonial powers includ-

ing Great Britain and Russia (in central Asia) as well as France, Belgium, Germany, Portugal and Spain (particularly in Africa). The system essentially remained in place after independence as it placed the new national administrations in a strong position when they needed to decide who owned land and who did not. We should add that this situation also suited development aid bodies as it was in full harmony with the American ideology that prevailed within them, and enabled experts to adopt a technical approach (the computerization of land registries was expected to put everything right) without becoming involved in local legal and political issues.

Changing the land model in the old countries of the South does not only involve a conceptual revolution - admitting that in site of existing neo-colonial positive law the country is inhabited and all the space in it is already owned, or if not appropriated. It also involves abandoning the simplistic ideal of "absolute ownership"² which maintains that each piece of land should have a single owner (whether a single individual or a grouping).



Belgrade, Serbia
R.R.

In fact, land ownership is an illusion (or at least a simplification). One does not own a piece of land in the same way one owns a hat or a tractor. There is no country in which the owners have complete freedom on their land. At the very least, the nation is always placed above the land owner (in the case of France, readers may refer to the opening article in the Urban Planning Code which states that “the land is the common heritage of the entire nation” and other countries use concepts such as eminent property for example). This has been very well understood by China which has created private property in the form of temporary then unlimited leases, without needing to impinge on the taboo of “socialist property”: what difference is there between a city that charges rent for land and one that taxes private land?

Owning a piece of land is not the same thing as owning a thing. It means that

one has some rights within a space, but the same owner does not necessarily have all the rights within the space in question.

We should bear in mind that in France until the Revolution the “direct ownership” of the lord was superior to the peasant’s “useful ownership”. It should be noted that in England (which had no similar revolution) freehold is still superior to leasehold, in the same way that in a forest in Aquitaine the right to hunt was purchased through a notary at a price which generally exceeded that of the land on which hunting took place. We should also bear in mind that in Western Europe, the ownership of agricultural land long remained a seasonal right giving way in winter to common use. We should not forget that until 1889, grazing rights took precedence over growing rights in local calendars. All this is rather complex, but it has not prevented the establishment of a precise legal situation

with the drafting of customary rules. The situation is even more complex in large modern cities where a very large number of different laws are superimposed (divided ownership of the subsoil, building leases, sales of businesses, payment for the land with a gift of part of the completed project, land associations, payment for the right to encroach on public land, etc.).

Are the legal superimpositions that we can see in the African countryside really any more complex? Why continue to recognize and securitize modern customary ownership which, by the nature of things is forced to develop outside the law in the cities of the South³? We need to move away from the criminal oversimplicity of old colonial law which makes it necessary to choose between a farmer and a stockowner, a land chief and a farmer, collective and individual rights, etc. generating a conflict in each case, or leave the own-

ers (those we would refer to in Europe as the “owner”) without rights or protection to suffer the arbitrary actions of those with power and the administration. Surely it is unbearable to see some administrations (in Madagascar, Soudan, Cameroon, Kazakhstan, Cambodia, etc.) sell tens of thousands of hectares with their occupants to Korean, Chinese or Saudi groups, without those affected even knowing and without protests from any quarter? ■

¹ In contrast to the “bottom-up creation of land” as practiced in the old European countries. See “La gestation de la propriété”; J. Comby, in “Droits de propriété et environnement”, Dalloz, 1997

² See “L’impossible propriété absolue”, J. Comby in “Un droit inviolable et sacré”, Adef, 1991

³ See, « Sécuriser la propriété coutumière moderne sans cadastre », J. Comby, World Bank Symposium, Washington, May 2007

Ensuring enough land is delivered to satisfy needs

The lessons from Abidjan

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In Abidjan, the creation since the 1960s of developments with unserviced plots has absorbed a major part of the increase in population and avoided the proliferation of slums.

The forecast doubling in the size of the cities of developing countries in the next 15 to 20 years means that within this time-scale the cities in question will have to house an additional population equal to its current population and create as much urbanized space as has been done since the cities were founded.

This urban growth represents a challenge for these countries where the majority of urban dwellers do not, and will not in the time-scale in question, have an income which allows them to live in a dwelling that is built on land that is serviced to minimum international standards.

As national and local economies are unable to provide services in the zones where growth is taking place, the aim is to deliver a massive amount of land, even if – due to a lack of resources – the provision of services must be delayed. The main thing is for the location and configuration of the developments to permit it at a later date, as resources become available.

In Abidjan, during the years of economic prosperity between 1970 and 1985, the government delivered a large number of:

- serviced plots: more than 700 hectares and almost

15,000 serviced plots with facilities, - developments which although lacking services were regularly organized and staked out with plots which were sold at a so-called administrative price that was well below their market value.

Far more unserviced than fully serviced plots were delivered, in spite of the considerable resources allocated to the latter.

The existence of the two land delivery systems demanded preliminary negotiations with the representatives of the customary communities. The State, which alone had powers to “clear” customary land, re-integrated it within its property after allocating a number of “compensatory” plots to the villagers. The idea was for the allocation of building plots to provide entitled customary landowners with property income to make up for their lost income from farming.

During this period, “spontaneous districts” did spring up, but these accounted for a small proportion of urban expansion, as the customary landowners, who played an active role in implementing land policy, policed their land.

The economic crisis of the mid-1980s led to the State’s withdrawal from the housing sector and the growth of

private initiatives.

The *Compte des Terrains Urbains*, a fund which was set up in 1987, received moneys from the free sale of a stock of serviced plots left by the SETU in order to finance the improvement of new plots with the resulting profits.

The commercial failure of these operations led the State to pass an act in 1997 that created land improvement concessions in order to revive formal land delivery by the private sector. It thus set up the Land Management Agency whose role was to build up reserves of land and make them available to the planning concessionaries. The performance of this Agency was inconclusive: it did not negotiate the purchase of customary land under good terms and very soon its resources were withdrawn.

During this time, unserviced developments continued to be delivered.

However, the balance of power has changed. Urban growth has meant that land has become a limited good for which the different social classes compete. The customary owners, aware that their heritage is being eroded, are demanding more and more from the negotiations. The State’s power has been eroded. The administration is less frequently re-

sponsible for developments, and the delivery of land in villages has gradually become a major sector of production.

Official production of serviced plots was responsible for high quality but small-scale supply. In addition to this production, for a long time the Administration, followed by village communities, regularly sold a large number of unserviced plots which were merely marked out. These plots were able to absorb in a fairly orderly manner a considerable proportion of the additional population and avoid the proliferation of slums.

At the outset, none of these “developments” had water, electricity or drainage. But the fact that the plots were arranged in a regular manner meant that concessionaries were able to serve them as soon as they identified a clientele.

The separation of land delivery in the strict sense of the term (unserviced developments) from the provision of infrastructure and social facilities has therefore proven its validity and efficiency. It limits the effects of social segregation by opening up legal access to land to households which cannot purchase a serviced plot before building a house. It does not delay the provision of urban services, which is normally managed by service companies, concessionaries or social administrations...

Of course, every household would like to own a “decent” dwelling on good land, with adequate services with a clearly guaranteed status. But for all those who are unable to afford a house that meets standards, having even a modest dwelling necessarily takes priority over the other components of housing.

The idea of getting public companies to officially create developments with minimal or variable services has never been put into practice. There are two obstacles in its way:

- pressure from purchasers – who are never very poor households (especially in terms of connections) – for full facilities to be provided rapidly,
- the difficulty involved in specifying technically acceptable partial services

(drinking water without drainage? Drinking water before electricity? Roadways?).

The principle of the “gradual provision of services” therefore means that initially the plot must be completely

unserved, i.e. a complete separation between the delivery of land and the provision of services. ■



Photo satellite Ikonos

Treichville, construction of a simple but ordered development has permitted gradual service provision and even some rehabilitation operations possible - R.R.

Urban planning and land policy in Europe

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In Europe, although the population is remaining constant, urban development is characterized by rapid suburbanization which increases the social disparities between districts. Today, city centres require major investment to bring about urban regeneration, while in the outskirts the scarcity of land is hampering development.

In 2007, the 27-member European Union counted 493 million inhabitants, i.e. 8 % of the world’s population. At a global scale, we can describe it as a highly urbanized peninsula with a high population density. Within this space, urban planning, regional planning and land policies are implemented by each country’s

democratic institutions and independent legal systems which guarantee the property rights of citizens. Over the years, the protection of property rights and the control exercised over the actions of the public authorities have increased, in particular through the actions of the European Court of Justice. The technical basis

that permits this right to be exercised under satisfactory conditions is a land registry which has existed for a long time in most countries in the European Union. This registry has been updated and modernized in Western Europe, and in Eastern Europe too since the 1990s, and is furthermore being computerized and georeferenced.

The priority urban issues

With regard to the central issue of sustainable urban development which is shared by the whole planet, the relevant European texts such as the fourth report on the Social and Economic Cohesion of the European Union of May 2007, the State of European Cities of May 2007 or the April 2006 report of the European Environment Agency are unambiguous. They state that although only a third of the cities in the European Union underwent marked growth between 1996 and 2001, they are undergoing rapid sub-

urbanization that is related to changes in lifestyle and modes of consumption, the need for more living space per person, and the explosion in car use (particularly in Eastern Europe).

This rapid spatial expansion that has taken place against the background of a lack of overall population growth is accompanied by an increase in the social disparities between districts: poverty is becoming concentrated in the cities, in central zones and/or the districts that contain the large apartment blocks that were built in the 1960 and 70s.

City centres require major investment in order to regenerate abandoned zones by building quality housing, maintain business activities, strengthen transport networks (especially public transport) and improve public services. In the outskirts, land must be made available in areas with good access, natural equilibria and environments must be preserved, and forms of urbanization must be implemented that save land whose scarcity is hampering the development of large conurbations.

Urban planning and land policy instruments

In response to this state of affairs, many countries, particularly in Western Europe, have enshrined ambitious principles in the urban legislation which local authorities must comply with when drawing up urban planning documents and implementing land and planning policies.

It is nevertheless clear that the attainment of these goals depends primarily on the local authorities in partnership with the private sector and in close consultation with the population. It is therefore not surprising that the European Union has put forward the concept

of integrated urban development in the Leipzig Charter which the member States signed in May 2007 and which stresses the complementary nature of the various players (the public sector, the private sector, the State, the local authorities and civil society).

The role of land policy is essential in order to assist city centres through urban renewal and organize development in the outskirts. It requires the simultaneous use of three important instruments :

- land law to regulate and control land use

In this area, the transfer of experience to the countries of the East is essential both because of history which makes these countries view any planning activity with suspicion, but also because of the severity of the problems they are facing. The mere fact that today those living in the new EU Member States in the East have half the per capita living space of those in the West will generate very large land requirements in the future which urban planning will have to satisfy as well as possible.

- direct action by the public authorities as a purchaser and seller of land, and an initiator and partner for planning

A distinction is made between public land policy that aims to make urbanization projects possible or protect spaces with reference to goals as regards heritage, the environment or risk prevention and more operational involvement which aims to improve or provide facilities in these spaces with a view to regeneration, urban renewal or new urbanization. While the first type of action is in principle a response to strictly public goals, the second has a dual nature that is economic

and commercial (creating and selling ground rents on a local market for building land) and that reflects the general interest (creating public spaces in the framework of a high quality urban project, financing public facilities...). operational planning in order to improve or re-use land, has in general increasingly been conducted on the initiative of private investors since the early 1980s in Western Europe and since the 1990s in Eastern Europe.

- the financial and fiscal instruments that apply either to the property that is owned or on its sale

Potentially, such taxation meets a number of goals, in particular that of providing fiscal resources for local authorities. Unfortunately, in general, those goals that are related to urban issues such as putting land on the market while encouraging urbanization, financing facilities and infrastructure, favouring urbanization of one type or in one location, are frequently perceived as being of secondary importance.

Moreover, in the context of the eternal debate surrounding the beneficiaries of the capital gains arising from urbanization, nations have traditionally been very protective of landowners which

encourages speculation and deters them from putting the necessary land on the market. In all European countries apart from Denmark, the taxes in this area are characterized by low yield and a failure to offer real incentives to landowners to urbanize as in general they are based on cadastral values that are far below those of the real market.

To conclude, in spite of the diversity of the situations that apply in the European Union, controlled urban development which conserves natural resources and active public policy that promotes the renewal of urban centres require the public and private sectors to implement active and coordinated urban and land policies.

Beyond the major goals that have been stated by the Union and its Member States, the key to success lies in the ability of local authorities to drive the necessary changes.

We must call on the European Union to increase the exchange of experience between cities and urban planners, in particular between the East and West as is already taking place via the expert networks it has set up (URBACT, TAEIX), and to include the legislation of the Member States within its jurisdiction. ■

Plodiv, Bulgari- R.R.



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News on cooperation

ISTED

Transport Economics Summer School Lyon, France - 29 June to 24 July 2009

Transport Economics at the Service of Development in Africa. Based on its experience of conducting studies and research in developing countries, the Transport Economics Laboratory (LET), has, since 1991, organized a Transport Economics Summer School as part of the activities of the SITRASS network.

The aim of this summer school is to bring order to and update existing knowledge and experience in the area of Transport Economics.

Training will focus on land transport and be based on an understanding of analysis tools, concrete case studies and research results. It will also include lectures and technical visits to public bodies and firms in the transport sector.

It is essentially intended for senior executives and decision-makers working in Sub-Saharan Africa, civil servants working for ministries of transport, public works and infrastructure, local authorities, the heads and managers of urban and inter-urban public transport companies and of freight transport companies, teachers and researchers working in Universities and engineering schools as well as consultants.

Teachers: high level experts from international bodies (World Bank, EU, French Development Agency) lecturers, researchers and professionals with recognized expertise in transport economics and knowledge of Africa.

The organization of tuition: Introductory lectures: development economics, structural adjustment policy, transport applications of general economics, transport economics and web-based tools, research and library technology for transport.

Teaching module: transport planning and tools, methods for evaluating transport policies, data production and processing, the management and operation of transport firms, integrated road safety policy in Africa.

Lectures: financing transport projects, the SSATP programme (World Bank), regional transport policy, multi-modal transport in Africa, project monitoring and appraisal.

Technical visits.

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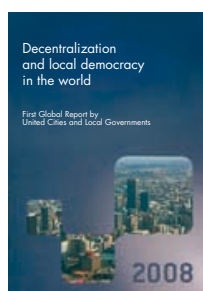
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Publications



Decentralization and local democracy in the world.

United Cities and Local Governments
2008, 345 p.

This first global report of United Cities and Local Governments, presents the recent changes that have affected local governments in different parts of the world. The report analyzes the trends in order to understand them and foresee future developments. It shows that the relationship between central governments and local authorities is changing, as the role played by local authorities in the development of general policies.

Languages : French - English
www.cities-localgovernments.org/gold/gold_report.asp



Gouvernance foncière et sécurisation des droits dans les pays du Sud : Livre blanc des acteurs français de la Coopération.

édition MAE, September 2008.

This White Paper on French Development Aid expresses the views that are in accordance with the Paris Declaration and the history of each country, international development aid must support land policies that are or have been the subject of national debate and a process of negotiation involving the relevant players from the private or public sectors and associations. The support in question must help to promote democratic and fair land governance.

It is downloadable from the following
website:
www.foncier-developpement.org



La coopération décentralisée des collectivités territoriales

Pierre LAYE, Territorial édition, January
2009, 230 p.

69 euros.
This book takes stock of the development practices of local authorities in the current legal context. This second edition takes account of the changes that have taken place in the last three years and the new policies introduced by France and the European Union with regard to development aid. This book is intended to assist local authorities in the North, but may also be informative for partners in the South.

Contact : www.territorial.fr