Land Readjustment:
Some legal and policy challenges from a cross-national perspective

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Land Readjustment: The classic idea
LR is still rare across the globe. Rare among advanced economies.

But – even a good sleep has some challenges and bad dreams
How do countries handle development without LR?

Private land assembly through market forces
Land assembly with some incentives
Public preemption powers ("right of first refusal")
Land banking
Land expropriation
A brief history

Roots in Frankfurt, early 20th Century
Germany – transferred to Japan, Israel
Japan – transferred to several Asian countries and Latin America. Big “export trade” in the 1980s

Attempt to introduce in UK early 20th century failed
Very preliminary ideas in Florida – failed
Today – UN Habitat concerted effort
terminology

• Germany – umlegung
• Japan - Kukaku Seiri
• Spain, Israel – Reparcelacion, reparation
• Portugal – Periquacioa

Other terms: replotting, pooling, consolidation (beyond rural to rural)
The “classic” basics

1. A line is drawn around an area that merits readjustment (usually undeveloped or sparsely built up).
2. [A landowners’ association is established. Optional!!]
3. All existing properties are assessed for their value under the existing planning, zoning, subdivision...
4. The share of each owner out of the total value of the entire area is calculated. This is the “equitable share”
5. The entire existing subdivision is made legally irrelevant
6. A new plan is prepared with new land uses. Usually the new uses are of higher market value than the old uses and densities.
7. Land for public services is deducted from the “mass”.
8. Each owner is allocated a new plot according to their equitable share in the new value of the entire marketable property mass
9. Under most systems, a considerable windfall usually remains to the owners – and no one owner suffers a decline while the others gain. Even if the use remains unchanged, there is usually a land-value increase.
10. [Government or a developer builds the infrastructure, financed by some of the windfall value]
11. Government may capture more of the windfall via a tax.
Town extension in Germany

Source: Larsson 1993
Japan: The Tokyo Underground
Nishiyama 1986

Before

Line shows the boundary of each landowner. Small, irregular shape without urban service.

After
Israel: Redevelopment of an old low-rise housing area with small plots into high density housing and public facilities

City of Petah Tiqva (Tel Aviv conurbation)
The “balancing tables” look similar in any language....
Policy Variables and Legal Challenges

With examples from
Spain
Portugal
Germany
Israel
Japan (literature only)

Underlying variables:
degree of litigiousness of the society
Degree of “maturity” of the valuation / appraisal profession
1. The (unresolved) relationship with expropriation

- Basic rationale: “alternative to expropriation”

Germany – ironic twist in Constitutional Court decision (based on Davy 2007)
Spain – no public financing input is permitted because then legally classified as expropriation.
Israel – Frequent litigation on whether the land taken for public use must be limited to uses allowed for expropriation. Test: Was this “voluntary” or not.
2. Criteria for allocation: what is “fair”?

- land area?

- Land value before and after (development rights, location, other property rules)?

- Both?

- Not clear (Portugal) – locally determined
3. Which body is authorized to decide

Voluntary or imposed is NOT a dichotomy

Spain – most comprehensive, graded rules:

a) Landonwers association – at least 51% of land area. If prove can reach this – MUST revert back to this format

b) If cannot reach that, and at least 25% agree, local government can do a tender for external developer. [In Valencia, no agreement necessary]

c) If complex ownerships or urgency – government body may act directly. Litigation – may have to revert
3- between voluntary and imposed - continued

- In Germany and Israel: Legal distinction between voluntary (all agree) and mandatory (not all agree).
- But in practice, the vast majority are ostensibly mandatory but in fact, owners agree.
- Taxes are less if imposed.
- In Japanese and similar models – threshold percentage must agree. (pressure over those who refuse? Japanese research on conflicts)
4. “contributions” exacted for public purposes

- What range of public services? Only “classic” linear services or also public-social buildings?
- Also affordable housing?
- Only land or also construction?
- May some land be sold by the public authority at market prices?
- No clear rules in the legislation (Portugal)?

- What amount of land / development rights?
5. Relationship with “downzoning”

• May LR be carried out only when there is a “value uplift engine” operating?
• How about environmental set-asides, climate change?
Challenges for future urbanism and environment

- The Habitat III Challenges:
  - Urban regeneration!! Built up areas
  - Fuzziness of public and private divisions
  - Mixed use
  - Mixed operators
  - Environment and climate change
Thanks!

• All my publications can be downloaded for free from my web site