Re-inventing Land Readjustment: Implications for Eminent Domain, Public-Private Partnership, and Land Governance

Mansha CHEN and Yu-Hung HONG, USA

Key words: land readjustment, eminent domain, public-private partnership, land governance

SUMMARY

Land readjustment has been conventionally perceived as merely a tool to assemble adjacent land plots from different owners for efficient land redevelopment. Surprisingly recent applications of this land tool in developing countries have, to certain extent, shown its potential for minimizing the use of eminent domain or government compulsory purchase, facilitating public-private partnership, and encouraging good land governance. Based on actual cases from the developing world and emerging economies including Angola, Bhutan, China, Colombia, Egypt, Ethiopia, India, Indonesia, Thailand, Turkey, and Vietnam, we will discuss how supporting legislation, organized community, collaboration between the public and private sectors, and trust relationship among stakeholders were gradually institutionalized in accordance with experiences learned from land readjustment experiments. These phenomena are quite different from the traditional argument that the above-mentioned institutional environments must exist prior to adopting this land tool. Although the cases that we examined are neither exhaustive nor randomly selected, they help raise important questions about whether or not land readjustment could be used to build viable institutions and governance for managing land development. The rethinking of the possibilities and limitations of land readjustment could open the door for more application of this approach in developing countries than it has been deployed in the past.

1 This paper is based on the World Bank Land Readjustment e-learning course developed by the authors. Course can be accessed via the World Bank Open Learning Campus at: https://olc.worldbank.org/content/land-readjustment-self-paced
Re-inventing Land Readjustment: Implications for Eminent Domain, Public-Private Partnership, and Land Governance

Mansha CHEN, China and Yu-Hung HONG, USA

1. INTRODUCTION

Land readjustment has been conventionally perceived as merely a tool to assemble adjacent land plots from different owners for efficient land redevelopment. Surprisingly recent applications of this land tool in developing countries have, to certain extent, shown its potential for minimizing the use of eminent domain or government compulsory purchase, facilitating public-private partnership, and encouraging good land governance. Based on actual cases from the developing world and emerging economies including Angola, Bhutan, China, Colombia, Egypt, Ethiopia, India, Indonesia, Thailand, Turkey, and Vietnam, we will discuss how supporting legislation, organized community, collaboration between the public and private sectors, and trust relationship among stakeholders were gradually institutionalized in accordance with experiences learned from land readjustment experiments. These phenomena are quite different from the traditional argument that the above-mentioned institutional environments must exist prior to adopting this land tool. Although the cases that we examined are neither exhaustive nor randomly selected, they help raise important questions about whether or not land readjustment could be used to build viable institutions and governance for managing land development. The rethinking of the possibilities and limitations of land readjustment could open the door for more application of this approach in developing countries than it has been deployed in the past.

2. MYTH AND REALITIES

Based on the experiences of conducting land readjustment in developed countries, scholars and analysts alike have proposed a set of preconditions for adopting this land tool. Since these preconditions play some role in determining the adoptability of land readjustment in industrialized nations, many analysts consider it impossible to apply similar techniques in developing countries because these conditions do not exist. However, as we will explain later, none of the preconditions for land readjustment are fixed naturally such that developing nations will never be able to develop them in their countries. In this section, we will analyze these arguments, separating the myths from the realities. This will help us provide better suggestions for adopting land readjustment in some developing countries.

It is essential to state at the onset that our observations are based on the research on recent land readjustment, pooling, or sharing practices and experiments in several countries including Angola, Bhutan, China, Colombia, Egypt, Ethiopia, India, Indonesia, Thailand, Turkey, and Vietnam. There are certainly many other experiences around the world; however, we cannot cover them all here. Thus, we would like to limit our arguments to these selected countries and avoid any generalizations.

2 Detailed case studies can be found in the World Bank Land Readjustment e-learning course: https://olc.worldbank.org/content/land-readjustment-self-paced
2.1 Myth No. 1

2.1.1 Is a land readjustment legislation needed to implement the tool?

Many scholars and analysts alike have argued that countries need land readjustment legislation prior to adopting this approach. A prime reason is to empower an implementing agency to legally take land from dissenting landowners when the supermajority of their neighbors has agreed to participate, in order to avoid holdout.

In principle, having some legal rules to guide the operations of land readjustment is a good idea. Yet the procedure for establishing new laws in most developing countries is very long and politically driven. Legislators are often unwilling to take the risk of formalizing rules for a new practice that has no precedent in their countries. The potential complications and risks of proposing a special law for land readjustment have deterred many developing countries from experimenting with the idea.

Interestingly, we learned from the selected land-readjustment experiences in developing countries that not having special legislation did not hinder implementation of the idea. Examples include Angola, Bhutan, China, Ethiopia and Vietnam. In testing the transferability of land readjustment to their country, project initiators did not try to work with their legislators to establish a special law first. Instead, they started with some pilot projects and then gradually institutionalized the locally generated experiences into some semi-formal rules as more experiments were conducted in different regions of their country. They also did not try to adopt a land readjustment law based on other countries’ experiences. Rather, they learned from their own practices and then came up with enforceable legislation to scale up the application of land readjustment.

In dealing with dissenting landowners, officials in these countries did not resort to their power of eminent domain. Rather they worked hard to convince all landowners either to partake in the project or to transfer their properties to the implementing agency with compensation. In Angola and China, project organizers used eminent domain only as a threat to motivate dissenting landowners to come to the bargaining table. In Bhutan, local officials who were in charge of land pooling in Thimphu worked tirelessly to have unanimous agreement from landowners before they went forward with their land-pooling proposal (Box 1).

Although these land readjustment experiences were not governed by law, these countries were able to transfer their knowledge learned from experimenting with land readjustment to more systematic formal rules and eventually institutionalized these experimental experiences into laws. These laws founded on domestic actual experiences are most effective in guiding local practices.
In fact, having a pre-existing law does not seem to help the design and implementation of land readjustment if the legal provisions do not reflect the realities on the ground. Some countries have specified in their legislation the landowners’ obligation of contributing a part of their landholding to accommodate the public infrastructure construction in their neighborhood. The intention is to make the amount of land contribution explicit to affected parties, thereby lowering the negotiation costs. For instance, the Egyptian government has stated in its Building Law that landowners could be asked to give up as much as 20 percent of their land to make space available for the construction of public roads and other necessary facilities. Landowners may also have to pay a betterment levy to cover the related construction costs of public goods. Both India and Turkey (Box 2) have similar provisions to delimit contributions from landowners.

Contrary to the original intent of these legal rules, they add constraints and complications to the negotiation between the government and landowners. In some cases, because the supply of infrastructure has lagged far behind demand, municipalities may need landowners to contribute a high percentage of their landholding to build the necessary road network and facilities to serve the increasing population growth. Limiting landowners’ contributions to an arbitrary percentage without any consideration of varying local contexts has created inefficiency. On one hand, places with rapid growth are unable to get the amount of land needed to upgrade their provision of public services. On the other hand, officials in areas that are under less development pressure may take more land from owners than they need, leading to resistance from landowners and failure to implement the proposed project. Ideally, the land contribution ratio for land readjustment should not be pre-determined by the law. Instead it should be the outcome of repeated discussions and negotiations between landowners and an
implementing agency. It should take into account factors such as local preferences, level of public infrastructure and amenities, specific land and housing market conditions, as well as the proportion of development costs the project intends to recover. There is no “one-size-fits-all” land contribution ratio.

**Box 2: Land Readjustment in Turkey**

Public land readjustment projects have been implemented in Turkey since the second half of the 19th century to deal with inadequate infrastructure and informal settlements. Many legal resources related to land readjustment were established during the time of rapid urbanization to implement detailed local plans, create serviced urban plots of appropriate size and shape, and provide local services and infrastructure for urban residents.

To make land space available for these public undertakings, a 1933 law was established to designate the land contribution by owners to be 15 percent of their landholdings. This was later increased to 40 percent in 2003, because the purposes for using contributed land have been broadened from roads and squares to parks, car parking spaces, playgrounds, green areas, religious buildings, police stations, and elementary and secondary schools. The percentage of land contribution and its usage are clearly set in the law. Although these legal rules may minimize uncertainties in some cases, they add rigidity to the negotiation between landowners and the government when these parties are willing to increase or decrease land contribution according to varying local preferences for public service levels.


We are not implying that establishing legal rules for guiding the experimentation and adoption of land readjustment is not useful. Laws always play a critical role in institutionalizing workable practices on the ground and help scale up land readjustment when the approach has proven suitable for a country. The key message for developing countries is to maintain a certain degree of flexibility with the rule of law when land readjustment is still going through its experimental stage.

2.1.2 How legislation could be conducive to land readjustment experiments?

Based on our examination of the selected cases, we propose possible features of helpful legislation that supports enabling land readjustment in developing countries.

First, it will be useful if there is a constitutional provision that recognizes land, and land value increments created by public actions, as social assets. This constitutional order can set the expectation of private landowners that their enjoyment of property rights entails obligations to fulfill the social functions of land. Put simply, when land is needed for public purposes, private landowners must surrender their land for such undertaking with just compensation. This is universally true around the world. The difference is the extent to which these public-private property rights relations are articulated in the law. For examples, the Brazilian City Statute and Colombian Law 388 have specified clearly, among other things, the social functions of land and the equitable distribution of benefits and costs of urban development. Establishing similar legislations in countries where public officials are considering adopting
land readjustment could set the stage for the government to negotiate with private landowners for land contributions to pay for public infrastructure investments. That said, we do not imply that countries where similar constitutional provisions do not exist should amend their constitutions without careful consideration. In most countries, a constitutional amendment is normally a very serious undertaking that entails a very long time period for implementation. We recommend experimenting with these ideas incrementally first, and then convincing legislators to change the laws if necessary.

Second, in connection with the social functions of land, it will also be useful if there is a law that gives all citizens the right to access to affordable land and housing. The equal right to shelter, like the rights to education and free speech, is considered a basic human right that can give legitimacy to the government to ask landowners to share their wealth with the society for assisting the low-income groups. The project-based redistributive function of land ownership provided by land readjustment can help prevent political and social instability caused by unequal distribution of land-based wealth. More importantly, this law can set a guideline for government takings of private property for public benefit only. That said, it is important to consider also the fiscal implications of giving all citizens the right to access to affordable land and housing. Governments should try to balance the policy goals of helping the poor to obtain affordable housing with the need to maintain fiscal health.

Another rule that can help achieve the goals of land readjustment is the legal requirement for seeking the consent of the supermajority of affected landowners or occupants to approve the land readjustment proposal. A unique feature of land readjustment is its participatory mechanism for policy decisionmaking. Unfortunately, when adopting land readjustment, many countries have overlooked this special feature. As a result, communities have lost their chances to learn how to make decisions collectively. Land readjustment projects that lack the consent of affected owners are more coercive and controversial. Having a law that mandates the implementing agency to obtain the consent of the supermajority of landowners to approve the proposal would avoid this problem. There is no universal threshold for the supermajority requirement. The percentage should be determined based on local contexts and with adequate public consultations.

More importantly, if a group of landowners or the local community organizes land readjustment as a site-level intervention, the effort must be guided by updated national, regional, and local urban planning legislations to ensure that similar micro-level efforts can add up into a coherent whole. Enforceable detailed plans that are designed based on an updated master plan and national and regional development strategies are indispensable for coordinating land readjustment projects. If these planning functions are not well-developed at the moment, land readjustment projects should be at least guided by a generally agreed upon vision of land use in and around cities.

### 2.2 Myth No. 2.

#### 2.2.1 Is a clear delineation of registered property rights necessary?

Another myth about land readjustment is that it requires a clear delineation of property rights. Some practitioners believe that without knowing the ownership of land, the implementing agency will be unable to ascertain who has the right to participate in land exchanges. In
reality, clearly defined property rights are not always present in developing countries. Current land users might have occupied land informally or do not register their land to avoid high registration costs or the time-consuming bureaucratic procedure. Many practitioners in the global south have all too often dismissed the potential of land readjustment based on this reason.

We did not find that unclear delineation of property rights was a major hindrance to adopting land readjustment in Angola (Box 3), Ethiopia, and Thailand. These cases were all related to the upgrading of informal settlements. The self-settlers in some of these cases were driven to squat on public or private lands due to involuntary displacements caused by wars and sectarian conflicts or by their inability to find affordable land and housing in urban areas.

Governments in these cases recognized administratively the existence of the informal neighborhoods as part of their jurisdictions. Informal settlers then verified their occupancy rights based on the knowledge of local representatives and leaders or testimonies from their neighbors. The officially acknowledged and publicly certified occupancy rights immediately protected informal settlers from forced eviction and entitled them to participate in land readjustment if they chose to do so. Recognition of occupancy rights is gaining a lot of momentum nowadays and is generally done without any formal law. Instead, it builds on customary practices and is mostly dealt with at the municipal level.

---

**Box 3: Land Readjustment in Angola**

In post-war Angola, land has emerged as a critical point of conflict when involuntarily displaced people have sought sites in emerging cities for their new homes or sought to formalize their informal occupations during the civil war. Their lack of tenure security undermines the well-being of the poor and threatens them with mass expropriation. Land readjustment was used to mediate these conflicts in Angola despite its limited culture of participation in urban planning practice and weak local governance.

There are at least two well-documented land readjustment projects in Hyambo—Bairro Fátima and Bairro Camussamba. The key characteristic of both projects was the *de facto* recognition of the occupancy rights of existing self-settlers. In both 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 percent of the pooled land was used for infrastructure. Of the remaining 70 percent, half was redistributed to previous land-occupants and half sold, with funds reinvested into basic infrastructure.

Bairro Fátima was perceived to be successful, by all stakeholders, in incorporating the informal settlements into the formally planned part of the city, as well as benefiting the occupants because the value of their landholdings increased. It also demonstrated the crucial role played by a local NGO—Development Workshop—in building bridges between the land occupants and the government, convincing the former to participate in the project and securing the backing of the latter.

Source: Cain, Weber, and Festo. 2013
Certainly, these processes could only happen under a “flexible” property rights regime. A rigid property law that only recognizes the rights of formal landowners could marginalize the landless in any land readjustment initiatives. Because only the persons who hold title to the land can participate in the project, formal or informal renters and occupants will be excluded from the decision-making process. These parties are normally the most vulnerable and represent the poorest of the poor who could not afford formal housing and must rent shelter from informal landlords. These marginalized groups will be displaced when their informal neighborhoods are upgraded. Some redevelopment initiatives of urban villages in China are illustrative of this serious problem (Box 4).

**Box 4: Land Readjustment in China**

China is experiencing the largest scale of urbanization. Guangdong Province became the site of a national experiment with land readjustment, particularly around innovative institutional arrangements to provide local governments with more flexibility and power to determine the distribution of benefits from land redevelopment. Some of the redevelopment initiatives were led by the village collective and managed by the collective’s members, such as Lie De village in Guangzhou. In Lie De, the city government subsidized the project by waiving the collection of the land conversion fee. The collective utilized the revenue generated from auctioning part of its land for commercial uses to pay for the redevelopment costs. Villagers who participated in the project were resettled within the same neighborhood and given extra apartment units to rent out to outsiders to generate income for improving their livelihood. In addition, the village also reserved a piece of land to build a hotel complex that will also generate income for the collective members.

Higher intensity of land use and an improved living environment raised land values 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. Villagers welcomed this price hike, but the increase in rental costs became a nightmare for the migrant population. The demolition of the village and its resettlement with modern and pricy apartment buildings meant that the low-cost housing in which the migrant population resided along with the social networks for communication and mutual assistance were completely destroyed.

Source: Lin and Li, 2014.

2.2.2 What are helpful property rights perspectives?

To avoid the problems indicated above, what would be the helpful legal perspectives on property rights that could facilitate the application of land readjustment?

We suggest instituting a flexible legal framework that recognizes the diverse land tenure arrangements and property claims of all residents, regardless of whether they are renters or property owners. The law should not just acknowledge and protect registered freehold rights, but should also recognize formal and informal occupancy and leasehold rights. Self-settlers or renters who have resided in a neighborhood should be entitled to legal protection from
forced eviction. If relocation is inevitable due to redevelopment, occupants and tenants should have the right to claim proper compensation.

All these changes in perspectives on property relations do not have to be covered in some major constitutional amendments. Instead, they could be adopted by a government decree or executive order. Good examples of how this approach works are found in the temporary administrative recognition of informal settlements by many governments in Latin American countries and Thailand (Box 5) — which gradually led to the granting of fee simple or long-term leasehold rights through land readjustment (or sharing).

**Box 5: Land Sharing in Thailand**

The most often used land-readjustment-like method that is tailored for informal settlement upgrading is land sharing. 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. The approach involves the partitioning of a parcel of contested land so that the landowner regains access to a large portion of the original parcel, free of squatters, for redevelopment. At the same time, the informal settlers can stay on or near their present site on another portion of the land, with improved housing and local services and legal tenure.

The Sengki project is considered to be one of the most important and successful cases of land sharing in Bangkok. Sengki is an urban poor community that was upgraded in a participatory manner in partnership with the National Housing Authority of Thailand in the early 1990s. Up until the early 1930s, the land in Sengki that the poor occupied belonged to close relatives of His Majesty, the King of Thailand. The residents rented the land from the Royal Property Bureau (now the Crown’s Property Bureau) at below-market rates. In early 1984, the agency that managed the royal property offered to sell a portion of the land to existing residents, and an agreement was reached in 1987. A cooperative was formed to negotiate with the managing agency and the National Housing Authority and was in charge of collecting payments from participating residents and overseeing the implementation of the project.

Source: Leeruttanawisut, 2014.

2.3 Myth No. 3.

2.3.1 Does land readjustment need a vibrant real estate market?

It is generally true that land readjustment needs a vibrant real estate market to be implementable, because one of its objectives is to mobilize land value increments generated by land redevelopment to finance infrastructure investment and neighborhood improvements. If a project is carried out in a slow real estate market where the demand for land and housing is weak, land value may not increase enough to provide sufficient incentive for landowners and occupants to partake in the project or to cover the redevelopment costs. Certainly, if cost recovery is not the primary objective, this matter is less important.

The fundamental operation of land readjustment is to incentivize landowners and occupants to exchange a piece of un-serviced land for another serviced plot of higher value, albeit smaller
in size. The increase in land value after land readjustment must be sufficient to compensate residents for their loss of land area during the exchange. Thus, a vibrant real estate market will help encourage residents to participate in land readjustment.

That said, there are situations in which a vibrant land market may discourage landowners from partaking in land readjustment projects. This happens mainly in industrialized countries where landowners find selling land to private developers at a high price is more profitable and less risky than participating in land readjustment. Hence, once again, the validity of the argument will depend on the context.

Although it is true that most land readjustment projects need a vibrant real estate market to succeed, this condition does not always benefit the poor. This is especially problematic when the landless are not included in sharing the benefits of land readjustment. If generating high enough financial benefits for participating owners is the dominating goal, there will be little incentive for the municipalities, the implementing agency, and other stakeholders to keep land prices affordable. If there is no social program to protect the urban poor, housing could become unaffordable for low- or even middle-income households. Poor neighborhoods that offer a safe-haven to the poor will be gentrified, making affordable housing increasingly less available. An overheated housing market may also create investment bubbles, threatening the stability of the entire economy. These problems have occurred in Thailand, China, Egypt, Turkey, and India. That said, if land readjustment could be done at scale, it might increase the overall supply of serviced land for residential development.

To maintain housing affordability and lower the chance of gentrification, the government could mandate land readjustment projects to reserve a certain portion of the serviced land for affordable housing. Alternatively, if the implementing agency will build apartment units for existing landowners in return for their land contribution, the government could ask the agency to sell or rent a certain percentage of the housing units to the poor at below market value. This way, the renters and other vulnerable groups will not be priced out from the neighborhood after land readjustment.

Certainly, implementing these proposals does not always occur without complications. First, they may require the government to subsidize the project or to grant an extra density bonus to the developer to build housing units that will be sold or rented below costs. The financial burden of providing affordable housing to the poor should not fall entirely on the shoulder of landowners in the targeted area, because it is the responsibility of the entire population. Second, the process of identifying the right persons who are qualified for the assistance is not trivial. Some people who do not truly need help may take advantage of the system. Third, mixed income housing development may not be attractive to would-be homebuyers, thereby lowering the selling prices for the market-rate units. Hence, to make this proposal work, the mindset of the more affluent segments of the population needs to be changed, and the construction materials for the affordable housing units should not be of lower quality simply because they are built for the poor. Both approaches could minimize the chance of segregation.

2.3.2 How to make market work for the poor?
The market is a powerful institution for solving urbanization issues. Yet, it will not automatically help us achieve social goals without proper designs. To make the market work for the poor, we need to ensure that all stakeholders are market informed. There should not be a single interest group that monopolizes the access to the market or its information.

Besides, all market participants, especially the poor, need to understand the financial risks of real estate investment. Property prices are cyclical in the short run. There is no guarantee that investing one’s lifetime savings in real property is the best way to store wealth. A possible strategy to allow the poor to accumulate equity, and at the same time to protect them from the investment risks, is to form a housing cooperative, if the local context permits. For example, in Sengki, Thailand, landowners and occupants shared their land for redevelopment, and the informal settlers did not receive a title to the serviced land from the implementing agency immediately after land sharing. Instead, they became members of a cooperative which acted as their legal representative to collectively obtain loan from a bank to purchase the land from the landlord. And in turn, residents paid monthly repayment to the cooperative over five years. This arrangement allowed the poor households with limited financial resources to participate in land sharing while, at the same time, it precluded beneficiaries from cashing in their land hastily, which would possibly have led to massive market displacement and gentrification of the neighborhood.

More importantly, real estate investment is complex and involves a large sum of capital. Investors, rich and poor, need advice from the professionals. Hence, it is also important to have the government or another reputable entity oversee the integrity and qualification of real estate brokers. They should act as neutral parties to lower the transaction costs of buying and selling real assets. In Britain, estate surveyors are licensed property management professionals whose qualifications and conduct are monitored by the Royal Institution of Chartered Surveyors. It is also important to ensure that services provided by certified real estate brokers are accessible to the poor.

2.4 Myth No. 4.

2.4.1 Does the community need to be well organized and have experience of participatory planning?

As discussed before, land readjustment generally requires the consent of the supermajority of the landowners (or land users in cases of informal settlements) who must work together to design, implement, and supervise the project. Many practitioners are concerned about the potentially huge negotiation costs involved in situations where affected parties have little trust in each other and do not have any past experience of collective action. Thus, some of them have concluded that members of the community must trust each other as well as the government (or the project initiator) and have experience with participatory planning to render the adoption of land readjustment viable.

In the developing country cases that we examined, none of the communities displayed pre-existing trust-based relationships prior to the introduction of land readjustment, except the Angolan cases. In Angola, Development Workshop, a non-governmental organization, worked with local communities for many years, even during the wartime, thus gaining tremendous trust and respect from residents.
Project initiators in other examined cases did not pick their sites for implementing land readjustment based on the level of trust and cohesiveness of the affected communities. In Bhutan, for instance, landowners were concerned about their self-interest as much as any other landowners in other parts of the world. It was only after public officials had spent years of effort to convince every single landowner of the necessity of balancing self-interest with the community’s needs that they were willing to participate in the land readjustment project. In Ethiopia, city officials of Addis Ababa organized countless meetings to solicit inputs from affected slum dwellers before designing their land readjustment project. Based on the opinions gathered from public meetings, they formulated multiple housing options from which residents could select in reaction to the government proposal to redevelop their neighborhood.

What these cases have shown is that land readjustment can be adopted in both organized and non-organized neighborhoods. Indeed more time and efforts will be needed to introduce land readjustment to a community where neighbors do not know each other well. However, that is true for all instruments if we take the proposal of building local governance as one of the key development goals. In fact, a well-organized community should not be viewed as a precondition for adopting land readjustment. Rather, implementing agencies should view community organizing as a key objective of land readjustment and develop neighborhood spirit and collective action through its process.

In terms of organizing effort, it is true that communities with homogenous interests may take less time to organize. Yet, tailoring organizing programs towards homogenous groups could also run the risk of marginalizing the minority and the poor. For example, most land readjustment projects examined here included mostly landowners in the decision-making process. In the Chinese case, only the villagers who were members of the collective that owned the land could share the benefits of redevelopment. As a result, renters’ interests were being ignored. Similar problems occurred in the two projects in Magarpatta and Khed, India where the interests of the landless and lower caste were not considered when formulating the method of allocating the redevelopment benefits.

2.4.2 How should communities be organized?

Given that neighborhood mobilization is a key feature of land readjustment, how should communities be organized?

There are at least three principles. First, implementing agencies should ensure community participation throughout all phases of the project. The conventional public participation approach is to consult with the affected community at the inception and the end of the project. Past experiences with this approach have shown that this may be insufficient to help the community generate a sense of ownership of the project, creating a feeling that the consultations are merely token efforts. This happened in Colombia (Box 6), and the Fenicia project in Bogotá aimed to correct this problem. The initiator, which was the Los Andes University, had engaged local communities and other stakeholders in all key decisions throughout the entire planning process. This was to ensure that all concerns about the project, and related opposition to the project, were resolved before the implementation stage. There were numerous examples in the past where developers received the government’s approval of
the design of a project but only found out later that they could not implement the plan due to strong public resistance. In Indonesia, the reconstruction of the Gampong Lambung, Banda Aceh after the 2004 Tsunami was a voluntary, community-initiated effort. The community led by the village leader rejected initial help from donors to build housing and instead engaged all the surviving residents to collectively plan and rebuild their community through a participatory land readjustment process.

Second, implementing agencies must set explicit standards of public participation that are sensitive to local contexts. They include, but are not limited to, who should participate, how often the participants should meet and for what purposes, and what conflict resolution mechanisms should be put in place to deal with disagreements. As shown from the cases, community participation will only be meaningful if participants feel that issues discussed at the meetings are significant to them and their families and that their opinions will make a difference in the final decision. Community members will find public meetings burdensome if the gatherings are not well-organized and are dominated by special interest groups. In some situations, separate focus group sessions with minority groups, such as women, youths, and other ethnic minorities—who may be hesitant to speak out in public—could be more effective than a big meeting to collect their opinions. It is also important to be sensitive to the cultural

<table>
<thead>
<tr>
<th>Box 6: Land Readjustment in Colombia</th>
</tr>
</thead>
<tbody>
<tr>
<td>The <em>Triángulo de Fenicia</em> is an urban renewal project in downtown Bogotá within the immediate vicinity of Los Andes University. The project was approved in October 2014 and is still being implemented.</td>
</tr>
<tr>
<td>Taking advantage of the fact that the 2003 revision of the Bogotá Land Use Plan (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. However, the initial partial plan proposal was not involved consultation or participation with the community. By 2010, public resentment of the project was growing, and a social movement organized to defend the land in the city center from urban renewal with no consideration for resident communities gained ground in public discussions. In the end, all private initiatives regarding partial plans for renewal were blocked in their processes of formulation and approval.</td>
</tr>
<tr>
<td>It was at this moment that an unprecedented process took place within the university. Oscar Pardo, a professor of the business school argued that 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 integration of neighborhood inhabitants as well. With his leadership, a process of raising awareness and negotiations began with those responsible for the initiative. By the end of 2010, Pardo obtained the endorsement of the university authority 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. The University team started to form bonds of trust with the local neighborhood, conducted an extensive census of the community, and organized participatory urban design workshops to define a collective vision of urban transformation for the zone.</td>
</tr>
</tbody>
</table>
differences in expressing disagreements. Not all cultures encourage citizens to confront their neighbors publicly when disagreements emerge. Hence, there should be some informal and anonymous channels for members to voice their opinions privately. Again there is no one-size-fits-all strategy for systematizing public engagement in land readjustment projects.

Third, if a community has not been organized in the past, it may be useful to set up small income-generating activities to attract members to interact and get to know each other. These activities could be a small handicraft workshop that brings together female members to manufacture some small sellable products that could help them earn extra income. More importantly, it provides a great opportunity for them to associate with each other, building trust in their relations with one another. Similar community activities such as training workshops or sport competitions could facilitate community organization.

2.5 Myth No. 5.

2.5.1 Do stakeholders must already trust each other?

Some analysts have suggested that land readjustment is not viable if stakeholders do not have pre-existing trust in each other. This perception is derived from observations of land readjustment practices in Germany, Japan, and South Korea where citizens have great confidence in the capacity and integrity of their government. They also trust their social, legal, and political systems to prevent and punish fraudulent practices. Indeed it is important that landowners trust their implementing agencies and the system, because they are putting their wealth in the hands of other people who promise to return another piece of land of high value in the future. In many developing countries where the rule of law does not govern the nation, it is inconceivable that such property exchanges could take place.

Ironically, land readjustment has been adopted in many developing countries where there is a lack of trust between the government and citizens and between community members. In examining the case studies, there are always landowners who care about individual interests and do not always understand their social responsibilities. Some politicians and public officials care more about reelections and job security than their commitments to the society. Some private developers care more about profits and believe that affordable housing should solely be the responsibility of the public sector. In most cases, there may be no overlapping interests that motivate these parties to work together. Thus, it is important to realistically assess and understand the motivations of the parties who engage in collective action to make the win-win outcomes of land readjustment possible.

2.5.2 How to build trust?

If we can agree that trust-based relationships require a long-term investment from the interacting parties, the key question is how to build trust.

Our case studies showed that it is important to find a reputable and neutral broker to initiate the project. If the project is proposed by a government that landowners or informal settlers do not trust, it will require a lot of work to change the perception of the residents before any meaningful negotiations can be carried out. These neutral brokers could be local academic institutions such as the Los Andes University in Bogota, international and local NGOs such as
Development Workshop in Angola, or international development agencies such as the World Bank in Vietnam, who could use their financial and technical support to incentivize the cooperation from different stakeholders.

Because a single stakeholder cannot achieve the redevelopment goals alone, the prime function of the neutral broker is to identify mutual interests for involved parties, assign responsibilities to different stakeholders, mediate conflicts, and nurture parties’ commitments to their duties. To do that, the broker must maintain a reputation of impartiality in order to gain the trust and respect of all stakeholders. By directing and shaping the interactions among stakeholders, the broker will be able to create substantive dialogues and facilitate collective decisions and actions among these parties. With repeated cooperation and positive reinforcement, trust-based relationships will emerge.

3. PRE-CONDITIONS

It’s important that the conditions discussed above are examined carefully to tailor the operation of land readjustment to the local contexts. Although there’s no one-size-fits-all land readjustment, our case studies have shown some commonalities important to successfully adopting land readjustment.

First, it is generally believed that land readjustment is most appropriate for situations in which affected landowners or land occupants have motivation to stay in the neighborhood. Because they do not plan to move, due to either their attachment to the community or proximity to their workplace, the idea of property swapping will enable them to return to the same neighborhood. If residents prefer to move to somewhere else and start a new life, purchasing property through voluntary market exchanges or government acquisition may be a more direct alternative. That said, there have been many land readjustment projects in which absentee landowners were the majority of the interested parties. Under these situations, the negotiation of land readjustment will follow a very different direction, because these landowners are mainly interested in maximizing the capital gains on their real assets.

Second, it is generally true that financial assistance or bridge loans provided by the government or international development agencies (such as the World Bank, the Asian Development Bank and UN-Habitat) through central authorities can help facilitate land readjustment, even though part of the project costs can be recovered from land sale.

Third, government’s credible commitment to land readjustment is critical for its successful adoption. This is especially true in the case of Bhutan, Thailand, Ethiopia and Vietnam where the government was actively promoting the project. This prerequisite is undoubtedly true not only for land readjustment but for all policy experiments. Without the government's long-term support, no policy experiments could survive inevitable setbacks during their trial period. If government commitment is absent, international development agencies could act as honest brokers to facilitate cooperation among stakeholders.

4. CONCLUSION: TOWARDS A GOVERNANCE-CENTERED APPROACH

As can be seen from earlier discussions, we are suggesting a different focus for conducting land readjustment. We are not suggesting a major shift away from perfecting the technical
aspects of this land tool. Instead, we want to propose expanding the professional focuses to a governance-centered approach that emphasizes the following three factors.

First, land readjustment is a consensus-building mechanism. Given the lack of data and technical expertise in most developing countries, it will be hard to calculate accurately a land exchange formula. That said, land readjustment could still be implemented if the stakeholders can agree upon a generally acceptable arrangement for land swapping. Hence negotiation and consensus building are the operations that actually drive the project, not the scientific estimation of land values before and after land readjustment.

Second, land readjustment should be founded on the idea of creating win-win outcomes for all involved parties. Again, this relates closely to the possibility of building a governance structure that will allow all parties to have a share of the gains; and at the same time, no single party will reap the entire redevelopment benefits. Land readjustment is not a winner-takes-all scenario.

Last, but not least, the above two factors require developing reciprocity and the perception of fairness, both of which are fundamental for engendering the collective action required for land readjustment. Most people will be unwilling to cooperate if others do not reciprocate their collaborative efforts. To encourage reciprocity, collaborative gestures must be perceived as fair. Because contexts are different, the perception of fairness has to be established through open discussions and mutual understanding. This leads us back to the idea of governance—that is, to design open and inclusive decision-making procedures so that no stakeholders would feel that they were left out from the decision on how to allocate the costs and benefits of land development.

REFERENCES


______. 2008. Sharing vs. Eminent Domain. Communities and Banking 19, 1: 3-5.


Lin, George C. S. and Li, Xun. 2014. An unpublished manuscript for a book project supported by UN-Habitat.


BIOGRAPHICAL NOTES

Mansha Chen is Urban Specialist at the World Bank. She works mainly on capacity building for local governments on urban planning and land management. She has developed a series of global learning programs, including Sustainable Urban Land Use Planning, Integrated Urban Transport Planning, Upgrading Urban Informal Settlements, Land Readjustment, Land Market Assessment, Transit-Oriented Development (under development), and Land-based Financing (under development). She is currently supporting land readjustment pilot project in Vietnam. She holds ME/BE in Urban Planning and a BA in Economics. Prior to joining the World Bank, she was an urban planner in the Chinese Academy of Urban Planning and Design under the Ministry of Housing and Urban Rural Development.

Yu-Hung Hong is the founding Director of the Samuel Tak Lee MIT Real Estate Entrepreneurship Laboratory that promotes social responsibility among entrepreneurs and academics in the real estate profession worldwide, with a particular focus on China. He is also the founder and Executive Director of Land Governance Laboratory where he studies the use of land tools to facilitate open and inclusive decision-making processes for land resource allocation in developing countries. Dr. Hong teaches urban public finance at Massachusetts Institute of Technology (MIT) where he earned his Ph.D. in Urban Development and Masters in City Planning from the Department of Urban Studies and Planning. His research focuses on property rights and obligations, land readjustment, and local public finance. Specifically, he is interested in investigating how land value increments created by public investment and community collaboration could be shared equitably among key stakeholders and be used for financing local infrastructure and durable shelters for the poor.

CONTACTS

Mansha Chen
World Bank
1818 H Street NW, MC4-414
Washington, DC 20433
USA
Tel. +1 202 473 9546
Email: mchen2@worldbank.org

Yu-Hung Hong
Samuel Tak Lee MIT Real Estate Entrepreneurship Laboratory
Massachusetts Institute of Technology
105 Massachusetts Avenue
Samuel Tak Lee Building, Room 9-425
Cambridge, MA 02139
USA
Tel. +1 617 253 8950
Email: yhong@mit.edu
Website: https://stl.mit.edu