Urban Land Policy Issues and Opportunities

Volume I

World Bank Staff Working Paper No. 283

May 1978

Prepared by: Harold B. Dunkerley
Alan A. Walters
John M. Courtney
William A. Doebele (consultant)
Donald C. Shoup (consultant)
Malcolm D. Rivkin (consultant)
Urban Projects Department

WORLD BANK

World Bank Staff Working Paper No. 283

May 1978

URBAN LAND POLICY ISSUES AND OPPORTUNITIES - VOLUME 1

This paper brings together a general overview of urban land issues affecting developing countries and five supporting papers on individual aspects. They are the products of a program to review urban land issues directed by Harold B. Dunkerley, Senior Adviser of the Urban Projects Department.

There are three papers in each volume. In Volume 1, the introductory overview paper provides a general context for consideration of urban land issues, with particular attention to those which most directly impinge on the preparation and implementation of projects and programs in which the World Bank is involved. The first of the supporting papers deals with problems encountered in calculating the economic valuation of land on the basis of opportunity cost. The second supporting paper provides a thorough discussion of different types of urban land tenure in relation to objectives of equity and efficiency.

In Volume 2, the initial paper deals with measures to influence the allocation of surplus values created in the development of urban land, including various forms of land taxation and government acquisition and development of land. The other two supporting papers in this volume deal with other forms of regulation of land use, the general limitations to which they are subject, and the characteristics of individual regulatory tools.

Prepared by:

Harold B. Dunkerley
Alan A. Walters
John M. Courtney
William A. Doebele (consultant)
Donald C. Shoup (consultant)
Malcolm D. Rivkin (consultant)
Urban Projects Department

PREFACE

This and a companion volume bring together a general overview of some of the most important urban land issues now affecting developing countries and a series of supporting papers on individual aspects. The introductory overview paper has been designed to provide a context, or perspective, for consideration of those urban land issues which most clearly impinge on the preparation and implementation of projects and programs in which the World Bank is involved. The analysis should, however, be of interest to a much wider audience than those directly involved in these urban projects and programs. At issue are a variety of aspects which, as the recent UN Habitat Conference showed, are of almost universal concern. These issues include the rapidity of rises in urban land prices, the potential and problems of capturing publicly created land values, and various developmental problems inherent in ownership and land use rights.

The first of the supporting papers deals with problems encountered in calculating the economic valuation of land based on the opportunity cost of using land for one purpose rather than another. The discussion in the overview paper of the underlying relationships behind shifts in the levels of urban land prices in response to growth in incomes, population and the provision of services is here given a more rigorous mathematical treatment. The second supporting paper provides perhaps the most thorough discussion available of different types of urban land tenure in relation to objectives of equity and efficiency. A third paper deals with measures to influence the allocation of surplus values created in the development of urban land, including various forms of land taxation and government acquisition and development of land. Finally, two papers deal with other forms of regulation of land use, the general limitations to which they are subject, and the characteristics of individual regulatory tools.

The program as a whole was directed by Harold B. Dunkerley, Senior Adviser of the Urban Projects Department, who also wrote the overview paper. He was assisted by Douglas H. Keare, Chief of the Urban and Regional Economics Division, Development Economics Department, and by Suzanne Henneman, who conducted a special survey of actual experience of land problems in urban project work. Alan A. Walters, William A. Doebele, Donald C. Shoup, Malcolm D. Rivkin and John M. Courtney contributed the supporting papers. Acknowledgment is also due to many colleagues in the Bank, particularly Orville F. Grimes, Johannes F. Linn, Callisto E. Madavo, Rakesh Mohan, Maurice Mould, Anthony J. Pellegrini and Bertrand M. Renaud, who helped review earlier drafts of these papers, and whose constructive suggestions have been largely incorporated in the present texts.

Warren C. Baum
Vice President
Central Projects Staff

TABLE OF CONTENTS

VOLUME 1

VOLUME 2

URBAN LAND POLICY ISSUES AND OPPORTUNITIES -

AN OVERVIEW

Harold B. Dunkerley
Urban Projects Department

TABLE OF CONTENTS

TABLE OF CONTENTS (Continued) Page No.

URBAN LAND POLICY ISSUES AND OPPORTUNITIES - AN OVERVIEW

SUMMARY

1. The great and growing interest of developing countries in problems of supply, price and allocation of urban land reflects the unprecedented growth of their towns and cities--and consequently in the demand for urban land. Well within the lifetime of most persons being born today, the majority of the population of developing countries are likely to be urban; already two-thirds of the population of Latin America live in urban areas.

2. The quality of life of this urban population--where they live, where they work, their possibilities for recreation, and the environment which surrounds them--will depend in no small measure on the systems used for the acquisition, allocation and servicing of urban land. Fiscal questions of using land value more widely as a basis for charging, whether by general land taxes, special levies on land benefitting from public projects, or via public ownership of urban land, are also highly relevant since the quantity of urban services is largely dependent on the revenues that can be raised from beneficiaries.

3. The Bank is inevitably involved in urban land issues through the impact on the design and implementation of the projects it supports of land ownership, land use regulation and land taxation. Conversely, the Bank is involved, consciously or unconsciously, through the impact that Bank-supported projects have on the supply of urbanized land, the physical pattern of urban expansion and the charging mechanisms for public services.

4. The wide variety of aspects of urban land which raise implementation issues reflects the fact that urban land is necessarily involved in most urban activities. The serious difficulties encountered in resolving the issues stem primarily from the fact that land rights are deeply embedded in the social and legal structure--which is another way of saying that they are particularly difficult to deal with if a short time frame is imposed. Some of the issues have general policy implications, such as the approach to the alleviation of poverty; other have a narrower technical focus such as the methodological problems of measurement of costs and benefits, or consistency of treatment of land values in the preparation of projects.

5. Because of the inherent complexity of the subject, the great number of relevant aspects, and the wide variations between countries and sectors, this initial report is in the nature of a general survey of the subject. The intention has been to provide a framework for consideration of issues of importance in the preparation and implementation of urbanization projects and programs in developing countries such as those in which the World Bank is involved. Recommendations are made for further and deeper analysis of individual aspects where this seems indicated.

6. As a general perspective for the issues subsequently discussed, and because it has become the focus of so much attention, it is important to examine why market values of urban land may rise significantly faster than the general price level. The basic reason is the rapid expansion in urban populations and in real incomes which create higher economic values for land already within the urban boundaries, or about to be incorporated. Wherever access is improved real economic values increase.

7. In developing countries, failure to expand public services in line with the growing demand for them--even at charges fully reflecting costs of supply--greatly accentuates the shortage of serviced land. Unwarranted service standards and monopolistic practices may create further "artificial" shortages. Land use regulations, whatever their rationale, also tend to limit supply and raise the value of the land available for the restricted uses. So do transfer charges which take a substantial fraction of the amount that buyers are prepared to pay and which may bear particularly heavily on poor buyers of very small lots.

8. In market economies, yields obtainable from private holding of urban land can be expected to relate closely to yields available from other types of investment. Both actual and anticipated income from the land are consequently taken into account in determining the market price. Market prices thus reflect in advance anticipated jumps in the annual income from land such as tend to occur during the transition from rural to initial urban use or when urban land use controls are eventually relaxed as a result of pressures for more intensive use.

9. The demand, and hence price level, for urban land will also be influenced by the extent and manner in which benefits from landholdings are taxed, by actions which alter the yields on alternative investments or which change the investment risks of holding land, and by practices which make credit more readily available for land as compared with other investments. Changes in these factors will quickly affect the general level of land prices and hence the rate of increase in land prices in the short run. This influence on rates of increase will, however, die out once changes are consolidated in revised anticipations, and the increase in land prices will then once more tend to revert to a rate that will provide a yield similar to that from comparable avenues of investment.

10. The actual rise in urban land prices can nevertheless give yields on land which for long periods exceed yields on alternative assets of comparable risk. Among possible contributory causes are underestimation of the speed of urban growth and the consequent benefits from holding urban land, reductions in effective tax rates on land as a result of inflation, and overestimation of the risks of forfeiture or of other political interventions reducing private benefits. To these influences must be added semimonopolistic local situations--including possibilities for influencing public agency decisions--which maintain yields from land development above those from otherwise comparable investments.

11. Urban land may by law or custom be given a nominal value. In such cases, the basic changes in economic value will tend to be reflected in the values given to the structures built on the land, or to rights to use the land, rather than in the price of land itself.

12. Within this context, the main issues dealt with in this report relate to six aspects of urban land: (1) tenure and land transfer mechanisms; (2) land valuation; (3) the capture of surplus values; (4) land use controls; (5) project financing of land costs; and (6) reconciling multiple objectives and finding the right policy mix.

Issues of Tenure and Transfer of Urban Land

13. The prevalent forms of land tenure in any area have a profound effect on physical urban patterns and their flexibility in adapting to the pressures of rapid growth. Land tenure systems exert a basic influence on urban population densitities and the ability of the poor to find adequate shelter. They may make expansion of the urban area difficult and raise transfer costs for urban land to levels that exclude poorer groups from the market. The tenure systems largely determine the ease or difficulty of land acquisition and land assembly for projects, and the costs and time required. The precise tenure arrangements chosen affect the attractiveness of the landholdings offered through projects such as industrial estates or site and services schemes. The potential for covering project costs or raising municipal revenues by land and property taxation is largely dependent on the existence of clear titles to landownership and to rights of land use. A highly skewed distribution of wealth may be promoted by the past and present tenure systems.

14. Tenure arrangements are of prime importance in projects directed to stimulating dwelling construction or improvement since they affect security of occupancy and hence the willingness of occupants to invest their efforts and savings in buildings on their plots. Tenure systems also influence the speed of land use response to growing urban pressures. The form and clarity of tenure also determine the collateral available for raising loans in conditions in which there are often few alternative types of collateral. Complex forms of tenure and, more generally, lack of clarity in ownership and user rights can pose serious problems not only for land transfers but also for land taxation. Whether project land is bought or sold outright or leased also affects cash flows for the project.

15. The Bank is particularly involved since opportunities to change tenure rights and clarify title tend to occur when infrastructure projects coincide with transitions in land use, as they often do. Such tenure changes often require the balancing of conflicting objectives such as security of tenure on one hand and flexibility in land use to accommodate urban expansion on the other.

16. In general, tenure issues appear to have received limited attention in project preparation except where direct allocation of project land is involved. Partly as a consequence variations in project practice regarding land tenure are to be found both between sectors and also at times between projects within the same sector. This suggests that

- where, prima facie, tenure aspects may be important, specific reference to the issues and solutions should be made in appraisal reports;

- a need exists for a limited research effort concerning practical difficulties encountered with certain types of communal tenure such as the development of "ejido" lands; and

- it may be desirable to introduce trial project components for clarification and registration of urban land titles.

17. Closely connected are problems concerning urban land acquisition in project implementation. Acquisition of urban land after the project has been finally decided upon may unduly limit the choice of location. Moreover, the later the acquisition, the greater the danger of having to pay for speculative increases in land prices and/or of costly implementation delays. Advance acquisition of project land, on the other hand, may involve premature decisions on location and considerable costs of landholding till project implementation.

18. In resolving this dilemma, there appears to be a strong preference in public sector projects to choose land already in public hands. The possibility of avoiding cash outlays for land purchases reinforces this tendency. For projects where precise location is unlikely to affect benefits significantly, such bias may not be of too great concern, though it is important to recognize that size of site as well as its location may be affected. For projects where location has greater importance for benefits, the consequences of possible bias favoring already held public land could be serious.

19. In view of the frequent importance of land acquisition in relation both to delays and to costs and benefits of projects, there seems need for

- a clearer identification of the issues involved in choice of project land between alternative sites;

- further review of actual experience of acquisition issues, such as the incidence of delays in preparation and implementation of projects in selected sectors; and

- a comparative study of the basis and timing of procedures in use for expropriation of land for public projects.

Issues of Land Valuation

20. Financial valuation of urban land poses a series of interrelated issues. Where the site is already in public hands, particularly if for an extended period, present financial value is often difficult to determine. The value of such land is frequently totally unaccounted in the cost, financing and balance sheet tables of projects--with consequent distortions in the presentation of the real asset position of the project. Further accounting complications arise when charges are made for sale of public-owned land as may occur in tourism, urbanization or industrial estate projects.

21. To ensure rough consistency between projects in treatment of financial costs of urban land, it seems necessary to distinguish cash statements from the overall financial analysis encompassing changes in asset values. The issues are however complex and further discussion and trial of new guidelines in the context of widely varying national practices seem desirable. The extension of project components to include assistance in public land inventories should also be given consideration in addition to help for cadastral surveys and general urban land registration.

22. The economic valuation of costs of project land is deceptively simple in theory but in practice poses serious issues for project analysis. "Opportunity cost," the generally accepted basis, is defined in terms of the most likely alternative use. Identification of this most likely use, however, depends on the specifics of individual locations as well as assessment of probable land use decision making. Problems of "externalities" affecting adjoining sites also arise in determining the opportunity cost of the most likely use. Correct economic costing may be even more important in the original choice of location and size of project site than for cost/benefit analysis of the final project design.

23. The practical problems of measurement are no less daunting in the economic valuation of benefits of projects as measured by the rise in value of project sites or neighboring land. In both cases anticipatory rises in values greatly complicate the task of determining the "without project" basis. Particular difficulties occur--as indeed also in the case of financial values--where land is nationalized or otherwise given a nominal value.

24. Variations in methodologies used to translate financial to economic values in the calculation of economic costs and benefits related to urban land can significantly influence the calculation of economic rates of return in some cases. In most cases, however, the effect may be marginal in relation to total project costs and benefits. Even in these cases, however, the possible influence on site selection must be a matter for concern.

25. Further testing could usefully be undertaken of the practical importance of variations in methods of calculating economic values for land in site selection and project benefit ratios. The danger of underestimation--or omission--of economic cost appears most likely where land has been provided "free" by the government. In this connection, a need also exists for trials of alternative methods of urban land valuation in the particular case of nationalized land where little guidance is presently available.

Issues Concerning the Capture of Surplus Values Created by Community Action

26. Capture by the government or public agencies of "unearned" increments in urban land values arising from public investments or from overall urban growth has a logic that is instinctively appealing. Theoretically, the taxing away of such surplus values, after allowing for adequate rewards to management, should not directly affect the price paid by purchasers and hence the allocative function of the market. However, the indirect effects on the supply of developed land have in practice to be taken into account.

27. Project preparation and implementation are involved in various ways. High urban land prices seriously constrain the scale of municipal projects; but the projects themselves, particularly infrastructure provision, may contribute to the high net cost of project land to the authorities if the surplus values created are not captured by the community. In such cases, moreover, large benefits may accrue to landholders--raising difficult policy issues on the propriety of supporting the projects. The existence of land or property taxes, or of more specific charges on the betterment produced by the project, may determine the replicability of projects.

28. Three broad types of instruments can be used for the capture of surplus values--charges for services, taxes on land, and public agency participation in land development. Charges for access to public services are a common form of retrieving a part of the surplus values created by such types of public investments as water and electricity supply, but not for others such as primary education. They are rarely related directly to the increase in value of the plots as a result of the access to services provided--or at all closely to the varying costs of providing different sites with the services. However, in cases where "rates" for provision of water and sewerage disposal are based on assessment of property values, the charges may in practice be more closely related to land values than to costs of provision of service.

29. In addition, or alternatively, part of the surplus value--or in theory even the whole--may be appropriated by land taxes. These are of two main types, taxes that apply to urban land or property in general, and special assessments of land judged to be within the zone of influence of benefits from individual projects. There are many practical difficulties to such "betterment levies," and experience in developing countries, particularly of special assessments, is very limited. However, as the example of the valorization tax in Bogota demonstrates, special assessments can be effective if sufficient care is taken.

30. What is common to the various forms of charges for access to public service and land taxes is that if they are fully anticipated they do not impose arbitrary burdens on landholders or owners. Their imposition will already have been taken into account in the current market price of the land. Similarly, if the surplus value has not yet been anticipated, the tax or charge can be announced without causing a significant reduction in present prices and hence losses to present holders. Where problems principally arise in capturing surplus values is from the introduction of new taxes and charges based on flows of surplus values that are already occurring or anticipated, and which are already reflected in current land prices. In these cases, as for any sudden tax or withdrawal of subsidies for a particular group that has come to regard its established position as a legal right, strong opposition is to be anticipated on grounds of unfair treatment.

31. One method to reduce opposition is to increase the charges or taxes on surplus values gradually year by year so as to limit the immediate fall in market values as the whole stream of reductions in future private benefits is discounted. Another is to announce levies beginning at a date sufficiently far in the future as to have a limited immediate impact. It is also to be noted that if an increase in taxation has already been discounted as part of the risk factor, failure to implement the increase will result in windfall gains.

32. The third group of instruments for capture of surplus values is through public acquisition of land or development rights. One method often advocated is public purchase at market value, whether by preemption or otherwise, of land within or on the periphery of urban areas. In this case, however, payment is in fact made for the present value given to the whole stream of anticipated future surplus values, net of expected taxes, as well as for the current use value. The only "capture" is of values sufficiently far in the future or so unanticipated as not to affect present price. The outlay and expertise required for large-scale public acquisition of urban land and subsequent management or disposal at prices that recoup the surplus value are moreover generally beyond the capacity of public authorities even in the more developed countries.

33. There are a number of alternatives to large-scale public acquisition of urban land for the purpose of capturing surplus values. A theoretically attractive variant is purchase of development rights only, so that the value of current use is excluded. While considerably cheaper than outright purchase, the procedural difficulaties are greater and the same basic limitations apply--that the current value of future surplus values has to be paid for. A more limited program of public purchase of land for development concentrated on strategically placed sites may hence be preferred though this involves obvious risks if anticipated development is deferred. Another alternative is "excess condemnation" of land bordering project land, for example land along the route of new highways, with the purpose of sale after completing the infrastructure. "Land readjustment" schemes--in which public authorities enter into partnership with private landowners in developing urban areas, receiving land in return for the services provided--may also provide an attractive alternative since no public cash outlay for land is involved.

34. In sectors where the principle of direct cost recovery is applied, charges for connections and/or use of services are the instruments commonly used for the cost recovery. Little attention seems to have been paid in project work, until recently at least, to the use of special assessments or more general betterment taxes based on surplus values for cost recovery. Nor has attention generally been paid to excess condemnation or other methods involving public ownership of neighboring land. No evidence was found of capturing additional surplus values over and above the level of project costs by such means, irrespective of the income group of the beneficiaries.

35. Closer attention than in the past to the potential for charges on surplus land values seems warranted in view of the close link between projects, land prices, and the generally acute shortage of municipal finance. The selection of a few projects in the urbanization and public utilities sectors for more intensive consideration of the practical possibilities of capturing surplus land values and the implications for public revenues and social equity could provide the basis for future policy.

Issues Posed by Land Use Controls

36. Land use controls affect, or are affected by, project implementation in at least four ways. Existing land use and building regulations may make the adoption of more appropriate standards difficult--even if these regulations are generally not strictly enforced. Second, institutional development and technical assistance for city studies and planning efforts associated with projects are directly related to the existence and effectiveness of land use controls. Third, the projects themselves may have important impacts on the patterns of land use that are not sufficiently taken into account in considering only the primary purposes of projects. Fourth, influences such as national programs for intercity highways may have overriding effects on urban patterns, swamping local land use controls and influencing considerably the benefits from urban projects.

37. Consideration of these and other aspects suggests the need to tailor land use regulations and planning more closely to what is feasible within the local agencies. The merits of public land acquisition and development as a method of land use control need to be viewed also in the context of municipal financial resource prospects.

38. The influence of its total urban lending in a number of cities now indicates the desirability of the Bank making more careful assessments of project impacts and a closer review of the technical assistance for urban studies, institutions and planning. Greater cooperation should be possible with other agencies in technical assistance for modernizing land use and building regulations, and ensuring that the costs associated with their use, or misuse, are fully assessed or understood. Assistance might be extended to such fields as urban land management.

Issues in Reconciling Multiple Objectives and Policies

39. Numerous objectives are to be found as the stated basis for urban land controls including ensuring an adequate supply of urban land, preserving amenities, promoting equity, fostering "balanced" growth, mobilization of resources and many more. Apart from being vague, these objectives often overlap and at times conflict.

40. Many of the policy instruments available can reinforce or weaken others in the attainment of the objectives. Charges on surplus values reduce pressures for devious manipulation of land use controls, but if too heavy may retard private investment in land development. Measures to increase security of tenure tend to conflict with others to promote adaptation of urban patterns to rapid urban expansion. Rent controls to protect the poor may end up as effective subsidies to the middle class. Urban plans may help formulate objectives more precisely, but also cause costly delays. National spatial or macroeconomic policies often conflict with what is being attempted at the local level.

41. Broadly speaking, land use controls are primarily related to efficiency in land use in terms of securing a balance of uses which is in some sense closer to the optimal; and land taxation or charging is primarily related to greater equity in income and wealth distribution. Instruments of either group, however, need to be considered in relation to more than one objective. Land use controls have strong social and political implications which influence the equity objectives; and land taxation can significantly affect the supply of land both overall and for particular uses.

42. It is unfortunately difficult to assess the major direct, let alone indirect, contributions of the various instruments toward the various objectives. This does not mean, however, that some indications of the general direction of benefits or disbenefits, and some idea of relative magnitudes of these cannot be derived, but rather that the measurements will inevitably be rough, and that risks will remain of overlooking important side effects. The need for corrective measures in the light of experience should hence be anticipated and adequate monitoring provided.

43. The overriding overall constraint imposed by the limited resources available indicates that the problem of conflicting goals and policies should be approached through programs for public investment linked with appropriate taxing and charging policies. In determining priorities, probably the greatest emphasis should be placed on measures to facilitate the supply of serviced urban land. An increase in the effective supply of urbanized land can greatly reduce the severity of the conflicts and issues to be solved and permit regulatory measures to work more successfully.

44. It is, however, very important also that the existing complex, and in large part, unworkable, framework of planning and regulatory controls be greatly simplified. An attempt to assess the possibilities and implications of such an approach might be based on an extension of existing research efforts and reviews of existing regulations with a view to proposing elimination or drastic simplification of those controls that are largely inoperative or obviously inappropriate.

I. INTRODUCTION

1. The regulation of urban land in the general interest of the community poses serious problems in all countries. The supply of land is limited and subject to many competing and conflicting uses. Dissatisfaction with the urban forms that are resulting from existing allocation processes is widespread. But it is in the developing countries that the problems are most severe. The basic reasons are familiar--the explosion in urban population, and the overall shortage of resources. Many of the towns and cities of the developing world are doubling in population and more than doubling in area within a decade. The shortage of capital to service the land with roads and public utilities is acute. The paucity of skilled manpower for policy direction and implementation is perhaps even more critical in the context of the rapidity of change, social as well as economic, that is occurring. Decisions on urban land tend to have long-lasting consequences as a result of the long life of the construction involved.

2. Sharply rising urban land prices were singled out at the U.N. Habitat Conference of 1976 as constituting the most serious of the many problems facing the developing countries in this urbanization process. But the rising prices are only symptoms, and attempts to forbid price increases without dealing with underlying causes or weighing the economic consequences of removing price signals can do more harm than good--as evidenced by the experience of many rent controls. The securing for the community of the rise in urban land values created by such community action as the provision of infrastructure or general urban growth, logical and equitable as it may appear, is also fraught with problems. Nor does the increasingly widely advocated public ownership of urban land, or detailed control of its allocation, of itself ensure efficient, equitable or harmonious urban land development patterns.

3. The Bank is necessarily involved in urban land issues. Its projects can, and often do, have a significant influence on the supply of and demand for urban land, and hence on land prices; and the availability and price of urban land affect project design and rates of return, both economic and financial. Land tenure, land planning institutions, land taxation and land procurement policies are involved in project design. Wider considerations relate to the promotion of more efficient urban spatial patterns and to the distribution of income and wealth between the rich and poor.

4. In the Urbanization Sector Paper of 1972 setting out a general policy framework for the work of the Bank, dwellings, urban transport and urban land were suggested as an interconnected trilogy of fields where policies and projects could have a leading influence on the improvement of urban conditions. Subsequent papers have dealt more fully with the issues presented by urban transport and the provision of dwellings. 1/ This paper explores some

---

1/ See Urbanization, Sector Working Paper, June 1972; Sites and Services Projects, World Bank Paper, April 1974; Housing, Sector Policy Paper, May 1975; Urban Transport, Sector Policy Paper, May 1975.

of the basic issues for urban land policy and the role of public inter intervention through land tenure institutions, land use regulation, land taxation and direct public participation in land markets, in resolving problems of effeciency, equity and public revenue.

5. Land problems are highly complex both in theory and in practice due to interdependencies, the specificity of locational advantages, transfer costs, and market imperfections of many types, not least corruption. Empirical information is grossly inadequate. Local conditions of geography, history, social and legal systems, and general economic policies are too diverse in their impact on land to permit easy generalizations. Nor can desirable urban patterns be readily defined; many value judgments are involved and made more difficult by ignorance of long-term impacts.

6. In the light of these serious difficulties, this report is of a more preliminary nature than others in the series. It attempts no more than an overview of the types of issues involved, with particular attention to those directly affecting Bank operations and to possible further action on more detailed aspects where this appears feasible as well as desirable. After a brief look at some salient characteristics of urban land relevant to the following discussion, subsequent chapters deal with individual groups of issues such as valuation problems and tenure alternatives. Some general conclusions are then drawn in a final chapter on the reconciliation of multiple objectives and instruments. The report is supplemented by five background papers on land valuation, on tenure, on land taxation and on land controls. These contain both a more comprehensive and a more detailed discussion of the issues, the policy and implementation instruments, and the gaps in knowledge, together with some suggested steps for improvement.

II. GENERAL PERSPECTIVES

7. After many generations of debate, the way in which urban land markets f.nction, the extent to which increases in land price exceed the costs of infrastructure and other development expenses, the relative strengths of the various components of demand for urban land and the elasticity of the supply, are still the subject of controversy. Unfortunately, the empirical basis for verification of the various theses put forward has been only marginally improved over the past few decades. A few of the major characteristics of the urban land market are here singled out for their relevance to the subsequent sections. A more rigorous analysis is given in the accompanying background paper. 1/

8. The unprecedented expansion of urban population now occurring throughout most of the developing world is resulting in a very rapid increase in the demand for urban land, particularly for productive activities, roadways, and dwellings. Land location is specific, each location is unique,

---

1/ The Value of Urban Land, Alan A. Walters.

existing urban plots cannot be reproduced. The rising demand for urban land tends in consequence to be reflected primarily in the conversion of rural land at the periphery of the existing built-up area. Subdivision of agricultural holdings and provision of road access is followed by extension of other services. This expansion in total urban area--many of the cities are more than doubling in area in a decade--is accompanied by increased economic values of the more central sites; their locational advantage is greatly increased by their enlarged access to the growing numbers and income of the overall population. As new rings of urban land are added, what was recently peripheral land will also gain in locational advantage, and the original central land will become still more valuable, though within limits eventually set by new competing centers of access and activity. Higher values in turn increase the pressures for economy in land use, so that part of the expansion in overall demand for urban land is reflected in increased density of activities on the more highly valued land of the central areas.

9. The basic pressures towards higher urban land values due to the increasing demands of rapid urban population growth are accentuated by a number of factors constraining the supply of urbanized land. Some constraints are physical--mountains, swamps or the sea for example. But probably more important in the present conditions of developing countries is the shortage of financial and implementation capacity to provide urban services on a scale sufficient to match the growth in numbers requiring services. These shortages are typically amplified by adoption of design standards that are unrealistically high in relation to the capacity of most of the population to pay for them. Unclear or contested ownership of land may also hold up the provision of services. In these circumstances not only do the numbers served fail to keep up with the growth of urban population, but charges are frequently levied at rates below costs of supplying the services. The net result is an aggravated shortage of serviced land, in the sense that persons would be prepared to pay the full costs of considerably more services than are made available--the more so if supplied at appropriately lower standards. Such serviced land as is available can hence command a premium; the user pays a high rent and the benefits go largely to the landowner.

10. The total supply of urban land, or supply for particular purposes, may also be constrained by excessive "holdouts" and other monopolistic practices, particularly in the absence of effective powers for expropriation. In some developing countries, the existence of a small colluding landholding class combined with the high demand arising from rapid urban expansion creates the conditions for such additional upward pressures on land prices to emerge. It is, however, difficult to ascertain how far practices of this nature exceed legitimate economic functions of holding land ready for more valuable economic outputs feasible only at a later period. 1/ Lengthy and costly processes of transfer of land including the establishment of title add to the delays and general constraints on the supply of land, and may bear particularly heavily on the supply of small plots through subdivisions for the poorer income groups.

1/ See G. Max Neutze in The Price of Land and Land Use Planning, OECD, Paris 1973 (pp. 14-15) for a discussion of some of the issues involved.

11. Land use controls also limit the supply of urban land available both in general and often for specific purposes--though this may have the effect of increasing the supply for other purposes. All communities at all times exercise some controls on urban land uses if only to reserve land for such public purposes as roadways, or to reduce such hazards as fire. Present day, controls necessitate preparation and submission of applications for specific approval of uses of new urban land, or new uses of existing urban land, with resulting costs and delays. Moreover, as discussed more fully in Chapter VI, land controls can be readily perverted from their stated purpose by politically powerful groups so as to reinforce the exclusive nature of certain neighborhoods by effectively denying residences to poorer groups of the community.

12. Summarizing so far, the rapid expansion of the towns and cities of the developing world increases the locational advantage of the land which is at any time within the urban boundaries and hence causes economic values to be increased. To this underlying trend is added a stickiness in the response of the supply of urban land to the rising demand stemming from constraints on the overall supply of land for urban purposes, from the tendency for the supply of urban services to fall behind demand during such periods of rapid urbanization, and from land use controls.

13. The increase in the economic value of land in and near urban areas which results is unlikely to follow a smooth path. For any site, there are certain points of transition in use, closely associated with infrastructure and other urban service projects, where jumps in value are likely to occur. Of these, the most important for the rapidly expanding cities in developing countries is the initial transfer from rural to urban use. Because of its importance this transition deserves some further comment.

14. The economic value of rural land at a distance of several miles from an urban center will be a multiple of the value of its net annual agricultural output (or rent), the multiple depending primarily on the general supply price of, or return on alternative uses of, capital. If, for instance, the annual income from a plot is $10 and the supply price of capital is 20%, the plot will be valued at around $50. As the town expands, some increase in the annual value of the agricultural output in the vicinity is likely with more intensive farming. Eventually as the town limits expand still further, and the farmland is subdivided into plots for urban use, the annual rental value--now for urban purposes--will jump sharply, say to $30, partly as a result of the infrastructure provided but also because of the scarcity values of serviced urban land. The capital value of the land in its new use will remain a multiple of the annual value; but annual value in urban use, and hence capital value, will generally be several times that of the previous rural value. The capital value will jump to $150 in the example given.

15. In anticipation of the increase in rent and capital values, market values of rural land near urban areas will in practice start to rise several years before the change in use. The time period over which this rise will occur and the rate of increase will depend both on the size of the expected

"unearned increment"--basically the rise in annual value net of any costs falling on the owner--and on the alternative avenues of investment of capital at comparable risk. The higher the level of real interest rates and the greater the risks associated with the land transaction, the shorter will be the time and the faster the rate of increase in the value of land during the adjustment period preceding the change in use.

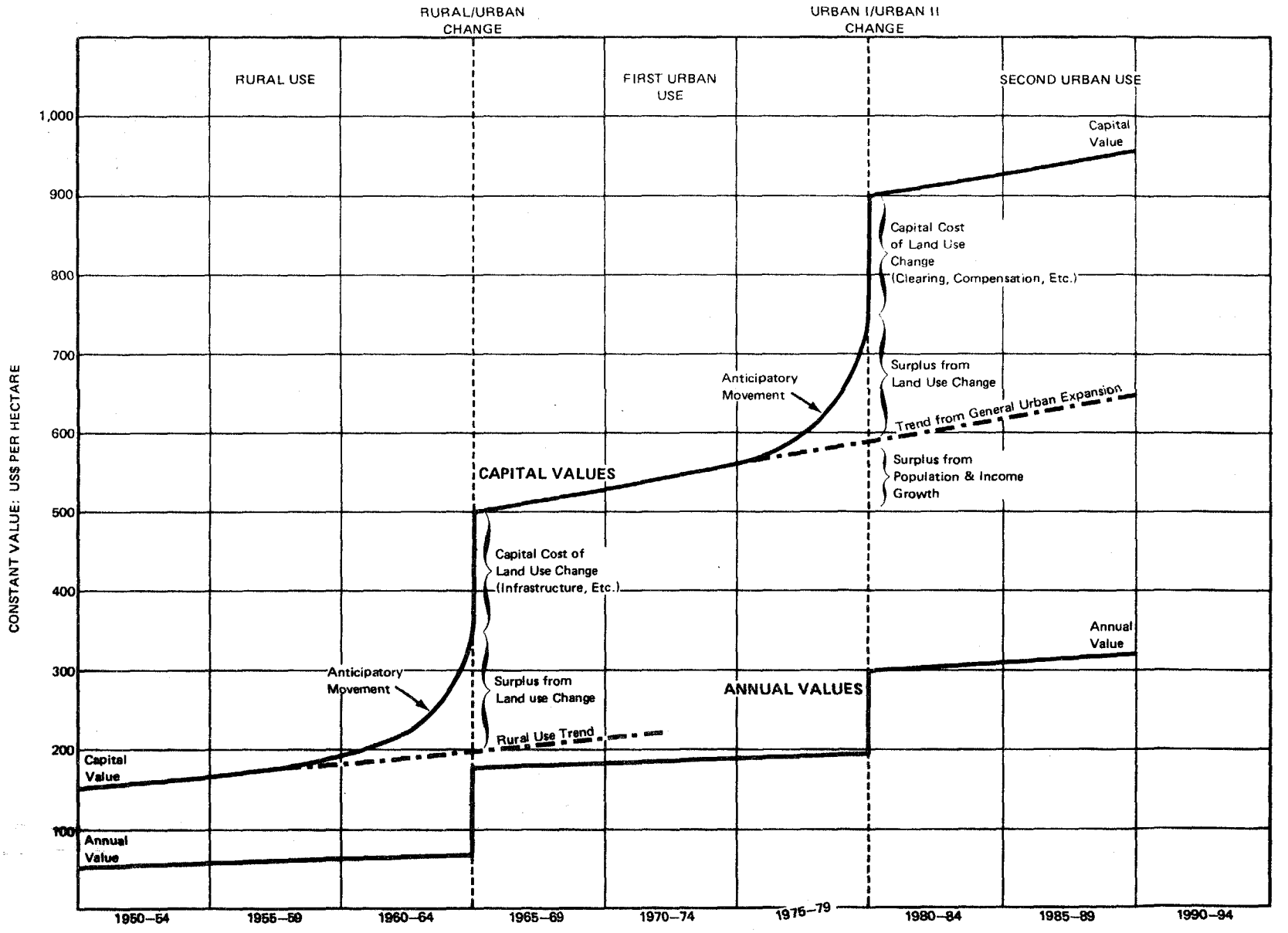
16. After the initial change from rural to urban use, the value of the now urban land will tend to rise more slowly as the city expands and the locational advantages of the plot gradually increase. At some later stage however another sharp jump in annual value and consequent capital value may occur, perhaps of several hundred percent. This may come about either because of new urban infrastructure such as a nearby bus terminal, or because of investments made possible by a change in land use restrictions permitting a much more valuable use, for example from residential to multistory office accommodations. A similar sequence will then occur of a sharp rise in advance of the change in use, becoming steeper as the time of change approaches. The sequence is illustrated in Diagram 1.

17. Three elements of this rise in value of land are noteworthy for subsequent discussion. One part of the rise derives from investments made at the time of land use change--including preparatory work, various costs of subdivision and investments in urban services (whether public or private), or the costs such as clearing the land and relocation costs of current occupiers involved in removing old urban uses to allow for the new ones. The second and third elements are not the result of such specific capital investments, but derive from the changing locational advantages as towns and cities expand and from changes in permitted uses. These two elements are generally classified as "socially created."

18. It is also important to note that market values, though fundamentally based on economic rents, are also dependent on the extent to which an acquirer of the land, or use of it, is entitled to the full economic rent. Some part of the economic rent may go to others as a result of rights of others to multiple uses of the land, or taxation. More precisely, it is on the one hand the expectation of the return from the land net of any expenses and the period over which the expectation applies and, on the other, the corresponding return expected from other investments, which together determine the amount an acquirer will be ready to pay.

19. Market values are in consequence affected by both existing and expected restrictions on use of land and by existing and expected rates of taxation of the economic value of output--including, in extreme cases, expropriation. Existing use restrictions, and taxes on output or rent, lower the present and prospective rents received and are automatically taken into account in lower market values. Expectations of higher future taxes will be discounted to produce lower present market values--the lower purchase price in effect being balanced by the greater liability for a future stream of taxes. Expectations of changes in restrictions on use may work either way in raising or lowering anticipated future returns.

CHANGES IN ANNUAL AND CAPITAL VALUES OF LAND WITH CHANGES IN LAND USE*



*Illustrative example with capital value three times annual value under stable conditions.
Excludes changes due to general inflationary trends.

World Bank – 18573

20. Market values are also affected on the demand side by the availability and cost of finance for acquisition of land and buildings, and by the availability and cost of other forms of readily marketable portfolio securities for the alternative investment of savings. Most developing countries lack a capital market which provides an easy and reliable avenue for the domestic investment of savings. Financial instruments are scarce and provisions for safeguarding holders' interests are weak. Interest on bank deposits regulated by the authorities is more frequently than not below the rate of inflation. By contrast, loans on the security of land can often be obtained at low or negative real rates of interest by persons with the requisite standing and collateral to participate in the limited total of banking loans. Accordingly, the institutional framework may tend to create a favored position for investment in readily marketable urban land creating an upward pressure on market values of land.

21. These various factors explain why urban land prices are high in the cities of developing countries, and why the rate of increase can be expected to exceed that of the general price level. 1/ However, if savers and asset holders had adequate knowledge and rational expectations, one would predict that the yield on holding land for conversion into urban, or between urban uses, would be constrained to closely approximate the yield on other comparable forms of investment. Competition among investors should ensure that the price of land with low current use value but high future returns, net of costs involved, is quickly adjusted upwards so that subsequent appreciation will be at roughly the yield in real terms obtainable on other investments after allowances for the liquidity characteristics and transaction and developmental costs.

22. The generally accepted view and some evidence, spotty though it is, suggest however that real values in or near most urban centers have in fact continued to rise at a rate providing net yields substantially in excess of market real interest rates. This may be caused either by factors that produce substantially greater returns to developers than from other investments--and to at least some speculators who buy land for later sale to developers--or to other factors influencing costs and comparability. Among the possible explanations for continuing high returns from holding and developing land are

- underanticipation of the growth of city populations, areas and incomes and hence of the benefits accruing to landholders from public expenditure and enhanced locational advantage. The "urban explosion" is relatively recent and still far from being fully comprehended. As a result land prices may not adjust immediately to the levels justified by the future potential, but instead show a rate of increase producing abnormally high yields;

1/ The pressures on land prices just described are in practice superimposed on those generated by the rise in the price level as a whole. Thus the overall rise in land prices may be very sharp reflecting general inflation plus the increases due to general urban expansion, infrastructure investments and "unearned" increments at times of land use change.

- similarly the perceived risks for individual holders of land awaiting future development, including confiscation, changing master plans, building code restrictions, delays in obtaining of permits, etc., may be greater than for the community as a whole but decline as the period involved lessens;

- the skills of developers may be in short supply;

- anticipation of high yields may themselves induce holdouts, causing higher prices to become self-fulfilling, possibly for long periods in the present conditions in developing countries; and

- market imperfections increasing the spread between the price of undeveloped and developed land--particularly the privileged position of "insiders" who can extract a larger yield and reduce risks as a result of connections with decision makers dealing with provision of services and/or land use controls.

On the other hand, the real costs of development by private developers may well be underestimated--and the "unearned" increase consequently overestimated. Part of the growth in land values and apparent yields may also reflect the high financial transfer or transaction costs involved in the process of changes in land use, including determination of title, taxes and payoffs to officials. The yield on alternative investments may also be greater than generally recognized.

23. It seems probable that a combination of these factors generally prevails but to a varying extent in different cities. It is also possible that the tendency of the news media to concentrate on cases of exceptional increases in market value may exaggerate the perceived upward movement. Certainly there is need for more evidence. However, where very rapid price rises and high profits do occur which clearly cannot be justified on the basis of private improvements to the land, there is an obvious case on equity grounds to capture more of the profits for the public purse--particularly if this can be accomplished without adversely affecting efficiency. 1/

24. More fundamental in the longer term, however, is to reduce the underlying causes of excessive land price levels in relation to costs, particularly the political and institutional constraints that contribute to the shortage of serviced urban land both in general and for particular uses.

1/ The fact that urban land prices can and do in some cases decline suddenly for a period--usually as a reflection of increased political risks--does not in any way justify failure to capture for the benefit of the community excess profits that contribute neither to efficiency nor to equity.

The high urban land prices and rents which derive from the scarcity of urbanized land in the sense already discussed effectively exclude large and growing segments of the poorer population of developing country cities from legal occupation of a minimum dwelling plot. The consequence, almost inevitably is illegal invasions of land, particularly public land, and illegal subdivision of unserviced private land. Over one-third of the population of many developing country cities is now housed in settlements of at least dubious legality.

25. Squatter settlements must indeed now be treated as a major social problem on a world scale--though their positive features should also be taken into account. Here it may be noted that even where, as often is the case, no public services are provided to the squatter settlements, some rudimentary services in the form of rough roads and ditches and rudimentary urban layout are generally provided by the squatters themselves or the illegal developer. Some system of extralegal tenure and sale of rights evolves. Rents for occupation are established in one form or another. This process occurs most markedly after the existing legal allocation system has decisively broken down and some security of occupancy evolves. However, the resulting physical layout, tenancy arrangements, service availability and general living standards remain far below those that appear realizable at less cost with a more rational approach to the provision of urban land and services for the dwellings of the poor.

III. TENURE AND TRANSFERS OF URBAN LAND

26. The prevalent forms of land tenure in any area have a profound effect on physical urban patterns and their flexibility in adapting to the pressures of rapid growth. Land tenure systems exert basic influence on urban population densities and the ability of the poor to find adequate shelter. They may make expansion of the urban area difficult and raise transfer costs to levels that exclude poorer groups from the market. The tenure systems largely determine the ease or difficulty of land acquisition and land assembly for projects. The precise tenure arrangements chosen affect the attractiveness of the landholdings offered through projects such as industrial estates or site and services schemes. The potential for covering project costs or raising municipal revenues by land and property taxation is largely dependent on the existence of clear titles to land ownership and to rights of land use. A highly skewed distribution of wealth may be promoted by the past and present tenure systems.

27. Yet for all the importance that attaches to land tenure in these and other respects, data on the form of landholdings, the influence of urban expansion, and the analytic framework for dealing with the issues involved have so far been largely lacking. This lacuna can be mainly attributed to the diversity and complexity of the many forms of tenure, and to their historical roots in cultural and religious as well as legal institutions. The difficulty of effecting changes in tenure systems over the short period--which is generally what is under consideration--has deflected interest in tenure as a longer-term policy tool.

28. Nevertheless, many of the issues, such as those concerning the acquisition of land for projects, or changes in tenure forms involved in the disposal of project land, simply cannot be avoided; decisions on them have to be taken in project preparation and implementation. The influence of tenure arrangements on the ability to raise local finance for projects is of no less immediate concern. Even issues conventionally considered as of longer term significance such as those affecting urban physical patterns also appear of immediate urgency in the context of the rapidity of urban growth in the developing world.

29. The very wide variety of land tenure forms, often overlapping and imprecise, that exists across the developing world defies easy classification according to basic characteristics. At one extreme are various types of tenure providing private ownership with almost exclusive rights of use and disposition such as are found in much of South America, where the underlying concepts are closely related to freehold tenure in North America and in several European countries with legal codes based on Roman law. At the opposite extreme are often ill-defined rights to limited tenure determined by tribal customs; or the precarious tenure following illegal invasions of public or privately-owned land in the squatter settlements. In between are systems based on concepts ranging from complete public ownership and control to Islamic religious concepts of non-alienation by chosen families, and an enormous range of customary, often overlapping but unrecorded, rights to limited use. Property rights can in fact be distributed through tenure systems to different parties in an almost infinite number of ways.

30. The accompanying background paper 1/ analyzes in much greater detail the major types of land tenure and their relation to objectives of efficiency, equity, compatibility with other policy instruments and feasibility. It is there pointed out that the precise legal form may be less important than how the tenure is perceived by site occupants, and theoretical advantages are in any case subject to practical limitations. Hence, many of the formal distinctions between freehold and leasehold for instance may become blurred in practice. A short lease that is by custom always renewed may provide greater security of tenure as perceived by the holder than a longer lease or freehold ownership that is subject to frequent and arbitrary exercise of public acquisition. The theoretical advantages of private ownership are marred by market imperfections. Public leases or ownership provide the opportunity for both more rational land uses and also abuses.

31. What is clear from even a cursory analysis is that no individual land tenure system can be expected to provide a general panacea for all the issues involved. Each form of tenure involves trade-offs between objectives such as security, flexibility and equity. Hence the need for compromise and for packages which combine tenure arrangements with other land use instruments. Nevertheless, certain issues stand out as of particular relevance to project implementation.

1/ Selected Issues in Urban Land Tenure, William A. Doebele.

Security of Tenure

32. The rapidity of urban growth, the lack of resources in general, and of public authority finance in particular, make it inevitable that the provision of adequate dwellings for a large part of the urban population of the developing countries can be solved only through mobilizing individual initiative. Progressive upgrading of basic dwellings and plots through investment of very small individual savings and the extensive use of self-help methods or small local enterprises is fundamental to this process.

33. Security of tenure appears to be a sine qua non for the stimulation of such initiative. The investment by plot holders in the building or improvement of their dwellings is largely conditional on their perception of the risk that their tenure will be contested or their investment lost by forced removal by private landlord or public action, without satisfactory compensation. For such projects as those for site and services or the upgrading of squatter settlements, the provision of rights to secure tenure is consequently a central consideration.

34. One of the major problems concerns the formalization of the existing situation in squatter settlements--the giving of titles where none existed before. In the process of regularizing the de facto situation, rights of existing legal owners, public or private, are extinguished. Not only does this give rise to questions of appropriate compensation; it also raises the issue of whether further illegal seizure of land will thereby be encouraged.

35. Fortunately such issues, though arousing great concern, are often less serious in practice than they appear in the abstract. Often the land involved is publicly owned and the grant of title can be regarded as a fully justifiable distribution of public assets to the poorer elements of the community. Eventually, the improvement of land and property values thereby stimulated will be reflected in a higher tax base and public revenue. The regularization of title may also be accompanied by the institution of charges for services. The pressure to invade other urban land is, moreover, likely to depend more on measures to provide an adequate supply of urbanized plots at reasonable service levels and costs, for example through site and services projects, than on the regularization of existing de facto holdings. 1/

Personal Mobility and Land Use Flexibility

36. Allocation of project land nevertheless raises complex problems of tenure that do not appear to have yet received the attention they deserve. In site and services or squatter upgrading projects, for example, several inherent dilemmas are involved so long as the availability of serviced sites

---

1/ See Sites and Services Projects, World Bank Paper. April 1974, p. 29, for a more extended treatment of this issue.

or upgraded areas remains very limited. In such conditions, it is often suggested that the ability of tenants to dispose of their tenure rights should be strictly limited both to exclude influential speculators and to protect tenants from other pressures. Requirements to sell back to the agency on moving are often imposed to try to ensure that the plots are not promptly acquired by higher income groups or moneylenders, or to ensure that benefits do not go directly to landlords who will promptly increase rents. Similar considerations relate to tenancy of serviced industrial sites.

37. Such limitations on tenure, to the extent--often limited--that they can be enforced, unfortunately also reduce the mobility of plot holders to move to other districts where employment opportunities for the family concerned may be greater--as well as involving considerable costs of salaries and skilled manpower in implementation. Various compromises are possible as, for example, by providing for increasing rights of tenancy culminating in rights to free disposition after a number of years. Compensation for investments made by the departing tenants is of obvious importance for mobility. The practical effects of such measures are, however, very difficult to assess in advance of implementation, or even afterwards.

38. Designing projects, including tenure arrangements, to facilitate changes in land use that are bound to be needed over time adds further complications. In the rapidly growing urban centers of developing countries it is natural and desirable for low density utilization of urban land to give way to higher densities, and for land uses to change quite rapidly with economic development and population growth. Both tenure arrangements and infrastructure provision in industrial estates projects, tourism projects and site and services or squatter settlement projects should be designed to facilitate these changes. Apart from the obvious difficulties of deciding on how far original plot layouts should provide for further subdivisions and a larger volume of services in the future, a dilemma is involved between the advantages of relatively short leases in facilitating changes in land use and the advantages of longer lease periods to provide security of tenure and stimulate savings and investment.

39. The relative strength of the opposing considerations for short or long tenure depends greatly on local conditions and the sector involved. In some cases, the importance of preserving flexibility will be paramount. Trends to smaller dwelling plot sizes, leading to expectation of further subdivision of plots or larger built area proportions, may for instance be too strong to neglect in deciding terms of leases in site and services projects. In other cases the importance and length of life of the investment--in industrial installations for example--may indicate the need for longer tenure rights.

Financing Implications of Tenure Form

40. The tenure forms prevailing may also have important implications for project cash requirements. Outright sale of rights approximating freehold will tend to produce the largest immediate cash flow to the agency disposing of the land and guard against the erosion of real values by inflation; likewise, outright purchase of site by a project agency maximizes its immediate cash requirements. Annual rents will conversely tend to involve the smallest immediate financial transfers one way or the other. Considerations of effects on cash flows may generally be subordinated to consideration of other advantages and disadvantages of alternative tenure arrangements more essential to the project purpose, such as security of occupancy. Exceptions occur where land costs are a high proportion of total project costs. In such cases, the availability of short-term cash inflows may strongly affect the replicability of the project and institution of a larger program.

41. The immobility of land, its permanence, value and locational uniqueness make it attractive as a tax base. The same attributes also make it extremely useful as collateral for loans. Both aspects are of particular importance in the conditions of developing countries. For both purposes, however, it is necessary for the ownership and extent of personal use rights to be clear, adequate in value in relation to the amounts of charges involved, and capable of foreclosure to cover debts. Different forms of tenure have varying characteristics in this respect. Leaseholds, particularly if the remaining life is short or subject to curtailment are, for example, generally much less acceptable as collateral than freeholds. Traditional forms of tenure based on tribal concepts pose great difficulties as a basis for the raising of finance.

42. The prevalence of tenure forms that do not permit easy determination of title is unfortunately widespread in the developing countries. In many cases, the "cloudiness" of titles is less attributable to the form of tenure than to the lack of adequate cadastral surveys and up-to-date registers of landholdings discussed below. In others, however, clearing of title involves a more or less radical change in tenure arrangements. In practice, such changes are often only feasible through the intermediary of an official expropriation procedure allowing for "quick take" and subsequent apportionment of compensation between the various claimants.

The Acquisition of Project Land

43. The acquisition of urban land for public projects poses a number of further operational issues relating both to the nature of tenure transfer involved and the timing of that transfer. These issues are common to both developed and developing countries. However, the problems are usually exacerbated in developing countries by the inadequate response of outmoded institutional frameworks to the pressures caused by rapid urban expansion.

44. Acquisition of land for project purposes in the open market at or near the time of project construction can mean that the available choice is much more restricted than at an earlier date due to intervening development of possible sites for less valuable uses. It is also likely that a considerably higher price will have to be paid since, as indicated in the last chapter, the new use value will already have been capitalized in the price. In addition, the costs involved should the start of the project be delayed provide considerable opportunities for hold-out practices to force higher prices, at least in the absence of effective measures for mandatory public acquisition. Where land has to be acquired on the market during the actual course of project implementation, such risks of holdouts are further increased. In one of the water supply projects examined, for example, refusal to sell a single property at the price bid by the authorities held up the joining of two segments of trunk pipelines for three years.

45. Against these arguments for early acquisition of the land needed for the project has to be set the considerable cost incurred in preempting public funds, usually very scarce, for advance land acquisition that could have been used for other purposes in the interim. 1/ Moreover, the best site in terms of location and also size may not be readily identifiable until an advanced stage of project preparation. Early choice may thus effectively imply a far from optimal location.

46. This dilemma in the timing of acquisition of project land is intensified the longer and the more difficult the legal process of transferring title, or by any other factor which increases the danger of delays to implementation--conditions which vary considerably from country to country. The dilemma is made more acute, the more important the precise choice of site is to the efficient functioning of the project, a characteristic that is usually sector-specific. The exact location for a telecommunications center is, for instance, likely to be less critical than for a link in a transport or utility network. There are hence considerably varying trade-offs between the risks of project delays and the costs incurred by advance acquisition of site--depending both on the risk of delays and the importance of a particular site in comparison to alternatives.

47. Most, but not all, countries have legislation permitting public "condemnation" of land required for public purposes. However, the extent to which such powers are used, the number of agencies that may be involved, the basis for compensation and the length of the procedures involved vary greatly. Sometimes the threat of instituting proceedings is sufficient to expedite acquisition through purchase. It is however probably true that in a majority of developing countries such legislation stands in need of fairly drastic revision if it is to serve the purpose of ensuring timely acquisition of land at reasonable cost for public projects during periods of rapid urban expansion.

1/ This problem is reduced to the extent that the land can be rented out during the interim period. However, the real costs, in terms of benefits lost from long-term holding of unused land in the "public patrimony" is rarely evaluated.

48. A serious complicating factor is the paucity, already referred to, of reliable cadastral surveys and up-to-date registers of titles. While the former can be fairly readily remedied for chosen sites, it clearly complicates the initial choice. The lack of reliable registration of titles is more serious. The highly complex forms of tenure in many developing countries, often involving disputed land use rights, frequently make it extremely difficult to determine who may be adversely affected by forced acquisition and to whom compensation should be paid. To avoid the consequent delays generally requires legal provisions for the settlement of disputes after transfer of rights to the public agency if they cannot be solved expeditiously in advance.

49. In practice, the problems of land acquisition in most countries place a premium on the choice of sites for public projects from land already in public possession if this is at all suitable. Administrative convenience and avoidance of immediate cash outlays on the one hand, combined with dangers of delays and high costs of new land acquisitions on the other, tend to limit the consideration of alternative sites not already in public hands. That there are dangers as well as advantages in such a situation is evident. Economic and social costs and benefits may be inadequately analyzed, particularly where the choice of public land sites is relatively restricted. Moreover, even where extensive tracts of urban land are in public hands, or where all land is nationalized, the choice of public sites may be effectively restricted by the "priority rights" held by different departments and agencies of government. As demonstrated in several socialist countries, it may be very difficult for one agency to acquire land held in surplus by another; so the choices immediately available for a given agency may still be very limited even though total public landholdings are extensive.

50. The size of land acquisitions required for projects can add further issues. Where large individual tracts are required, as for example for new ports and airports, site and services projects or industrial estates, the problems of assembly of the total site at a given date from a variety of current landholders often presents particular problems. Depending on the patterns of small and large landholdings, such projects may realistically be dependent on adequate power of public acquisition of land for expeditious implementation. Even when sufficient tracts of land can be acquired for an initial project without use of such powers, the replicability of the project in an extended program covering much larger areas may necessitate the exercise of condemnation procedures both on timing and cost considerations. The availability of such powers is therefore relevant to the rationale of the initial project. A further issue arises with regard to the extent of land acquisition for future expansion of the project. This point is referred to later in connection with the valuation of project land and its economic justification.

51. Finally, note should be taken of the issues arising from the displacement of existing uses in the course of land acquisition for projects. Port extension, road widening and many other types of projects may, for example, involve the displacement of squatter dwellings. Though not directly

connected with the main purpose of the project, the provision of alternative sites and structures adequately located for such displaced users needs consideration and may involve additional land acquisition beyond that needed for the project itself. Similarly, the release of land in resiting of facilities under a project may be an important consideration in choice between extension of an old site or substitution of a new one.

Current Practice

52. Current practice in the preparation and appraisal of projects in developing countries generally does not involve a thorough analysis of the relative advantages and disadvantages of alternative land tenure forms. Such aspects as the impacts of tenure arrangements on project financing or future urban flexibility are rarely touched. Some tenure issues tend, however, to be specifically dealt with almost as a routine in tourism, industrial estate, site and services, and upgrading projects. The importance of secure and acceptable rental, lease or purchase contracts as a precondition to private investment is, for example, generally recognized in the design of site allocation arrangements. Tenure regularization is a normal feature of urban shelter projects, often involving liberalizing of existing conditions for granting tenure. Lease and sale terms in industrial estate and tourism projects are designed to offer a range of options attractive to private investors whose participation is essential to project success. Generally, however, the indications are more that the problems are recognized than that the issues have been confidently resolved.

53. Current practice regarding acquisition of land for project sites seems generally to require the agency concerned to complete the land acquisition before negotiations for loan financing. Indeed, acquisition is often arranged before project appraisal even though this may delay submission of projects. Exceptions to advance acquisition sometimes occur where the project and land requirements are phased. In such cases, as in some site and services projects initial land acquisition is required to be completed for the first phase and assurances are obtained with regard to acquisition required for later phases.

54. Different procedures are used for easements for public utilities. It is rare for easements for water supply pipes for example--or land acquisition for this purpose--to be required in advance of project approval. The full reticulation of the system may not have been designed in detail at that time so that the precise location of the easements has yet to be determined. However, insofar as the networks are laid in existing public rights-of-way, as for example for tertiary water networks along streets, this does not appear to be a major problem. Land acquisition in advance of project presentation appears to be the rule for major installations.

55. Perhaps most striking is the indication that the great majority of public-financed projects in urban areas are built on land already in public possession before initial consideration of the project. While this raises a presumption of bias, it is difficult to assess how far the fact of public possession of the land has unduly affected site selection. As a rule, the issues concerning administrative and financial advantages of publicly-held land over new land acquisition are not discussed in project documents. The evidence does, however, suggest that this influence may be significant.

56. Where the project site acquisition has not been completed by the implementing agency either in whole or in part at the time of project approval, significant delays in implementation as a result of unforeseen difficulties in land acquisition are not infrequently encountered. This observation applies to a wide variety of countries and in fields as diverse as education, airport and shelter projects. Delays in implementation of public utility projects seem generally to be limited by the use of existing rights-of-way and by the procedures available for "quick-take" acquisition of land or easements.

57. New land acquired by the public authorities for projects is usually purchased on the open market. The evidence is not sufficient to assess the extent to which this approach involves higher costs than if the land had been acquired further in advance, though individual cases of payment for speculative increases have been quoted, particularly for tourism and urban roadway projects. In general, it appears that land acquisition is usually considered a matter for the local agency, and that price paid is accepted be central authorities and lenders as a datum in terms of inputs into the project unless very recent land price increases are considered as flagrant.

58. Secondary impacts of land acquisition for projects, particularly the destruction of the poorer types of dwellings, may not in the past have received the attention they deserve. More recent projects such as ports and urban roads in which the Bank has been involved indicate that these aspects are now receiving increasing attention.

Recommendations

59. It is probable that, for a majority of the projects supported by the Bank where the amount of land involved is relatively small and land costs are only a low proportion of total project costs, the issues discussed above, apart from those affecting project land acquisition, do not deserve much more extended treatment than already occurring, at least within the narrow context of the individual project. So long as tenure adequate for the economic viability of the project is secured, the other considerations may be secondary and safely relegated to a more cursory consideration, particularly if the land concerned is already in public ownership. However, where these conditions do not apply, and particularly in the case of site and services and other projects involving land disposal, the issues involved, though admittedly complex, appear to deserve more serious examination.

60. More generally, most large public projects in urban areas are implemented in connection with significant changes in land uses. Since it is at these moments of transition that changes in land tenure can most readily be instituted, the potential for promoting desirable changes in land tenure of a more general scope than those required for the specific project deserves consideration. This should involve the income and wealth redistributional effects of regularization of tenure and subsequent transfers of title and the particular problems of changing certain forms of communal land.

61. So far as land acquisition is concerned, the issues appear more serious even though it is evident that their importance varies considerably both between sectors and between countries. What seems most required at this stage is a greater awareness of the type of issues discussed above rather than an attempt to lay down rules applicable to all projects. In particular project appraisal reports should review the comparative advantages of the sites considered and basis for selection, and specifically the justificaton if public land is selected. The timing, method of acquisition and valuation of land not previously held by the public agency should also be discussed as well as the risks of delays to implementation where acquisition of land or easements has not been completed.

62. It is also suggested that pilot components for land registration and cadastral surveys be included in urban area projects in different regions over the next two or three years. These pilot components should provide the basis for an assessment of the usefulness of a wider application of the methodologies used. Ongoing research could also be expanded to cover a comparison of the merits of alternative public land acquisition methods and procedures. The impact of land transfer taxes, and of restrictions on rentals and sales are further areas where research could prove productive.

IV. EVALUATION OF URBAN LAND COSTS AND BENEFITS

63. The valuation of project land in balance sheet and financial flows analysis raises an important group of issues affecting such measures as profitability, asset value and local agency contributions to projects. A second group of issues concerns the economic valuation to be put on land inputs in project analysis. A third set of issues centers on the economic evaluation of project benefits as reflected in the values of project sites and neighboring land. The theoretical difficulties and practical problems of measurement are relevant not only to the calculation of rates of return but also to the appropriate intensity of land use and hence to the physical design of the projects. Further difficulties deriving from widely varying local accounting practices are involved in ensuring consistency in project presentation.

Financial Costs

64. Where the project site is purchased freehold for cash on the open market at the time of the project, the appropriate treatment in the financial accounting is relatively simple but not without problems. It is still necessary to ensure that all costs, including legal fees and the like, are included. Interest paid on funds borrowed for the land acquisition should, of course, figure in the cash outflows. Where the land acquired is significantly greater than that needed for the current project, it is necessary to make adjustments, or to report the excess as a separate component.

65. More debatable is the issue of revaluing the land in the balance sheet over the course of the project. Insofar as account is taken, at least in principle, of the effect of inflation of financial values of other components of the project, it is appropriate that this principle be applied also to the land component. Several subsidiary issues are involved, not least that revaluation is often contrary to local accounting practices. Similarly, where the project land is acquired leasehold, account should be taken of the declining asset value of the lease over the life of the project due to the shortening of the unexpired lease period. Again some technical issues are involved which hinder adoption of uniform procedures.

66. Where the land is acquired by the agency in advance of the project, or is provided without a cash transaction by another government agency, the financial treatment becomes more complex. If purchased by the agency on the market a short time before the project, the financial costs should include outgoings on interest and other interim costs. Where the period of acquisition is longer, however, the position is much less easy. Few countries maintain an adequate registry of landholdings by public agencies and few public departments maintain capital balance sheets including landholdings. Historic costs, where these can be ascertained, will require substantial updating to allow for intervening holding costs and/or increases in market value. Where the site is part of a substantially larger tract, the assignment of the total cost among the different parcels or plots may be difficult. Partial disposals under differing tenancy conditions may add awkward complications. In these circumstances, it will generally be more appropriate in practice to secure an independent valuation based on market prices of roughly similar sites. Unfortunately, such adjustments or alternative valuation bases are rarely common practice in the agencies concerned. Nevertheless, despite such difficulties it seems logical to include some estimate of the current rental value of the land withdrawn from the public land stock for the purpose of the financial valuation of the project. 1/

1/ Arbitrary decisions are also thereby avoided as to the time period within which a purchase of land is to be counted as a contribution to financing; or whether a purchase by the government and "free" transfer to an individual agency is to be excluded but a direct purchase by the agency included, etc. It may be noted that other withdrawals from stocks of, for example, construction equipment are customarily given a value and included in the accounts.

67. Much more difficult still is to decide what to do when all land has been nationalized and is treated in the accounts of the agencies concerned as having no financial--or for that matter, economic--value. Similar problems arise where land is appropriated for the project at substantially less than market value. This issue is unresolved and requires more detailed examination. The fact that the government has no cash outlay, or one substantially less than market value, should not obscure that a valuable asset, government land, is used--and withdrawn from other possible uses. Simply to take account of cash outlays of the agency can mean that the financial comparison between different projects becomes a misleading guide to relative profitability. For example, the inclusion of market rent on airport land (or interest on purchase price) in one case and exclusion of any charge for land in another similar airport project may make comparisons between them difficult; it can also strongly affect the landing charges calculated as necessary to ensure financial viability. 1/

68. The evaluation of the contribution of local agencies to the project will tend to differ significantly according to whether the value of the land required for the project and provided by them is included at market price, or alternatively, treated as of zero cost. Perhaps more important, the choice of location and size of the project site may be affected if the impact on the true asset value of the agency is obscured in the financial accounts.

Current Practice

69. Following local practice generally means that costs of project sites, or parts of them, already in the hands of the agencies concerned are often not recorded at all. In some cases an addendum line may be added to a financing table to indicate the value of a contribution of land already in the agency's or government's possession. Updating of historic costs or allowances for reduction of unexpired leasehold periods over time appears to be exceedingly rare. Partly as a consequence, land costs generally appear on present procedures as only a small item of total project costs--generally not exceeding 5% of total project costs, or 10% of physical components, excluding contingencies. However, for some sectors such as shelter and industrial estates, the costs of land that are included are routinely of the order of 10%-15% of total costs and exceed this level significantly in some cases.

70. The fact that land costs as at present accounted are low does not, however, mean that they are so low in reality. Still less does it mean that the land cost valuation is insignificant in influencing choice of site, size of site, or for decisions on recovery of costs. Moreover, even where the true financial value of the land contribution does not exceed 10% of total project costs, its inclusion or exclusion may appreciably affect the calculation of local contributions.

1/ Conversely, charging tenants for land which the authorities have donated in site and services projects can be readily justified on replicability and more general grounds, but will produce apparent surpluses for the agency which are not a realistic measure of profitability.

Recommendations

71. This is an area which appears to merit considerable further study by the financial analysts involved. A more detailed examination and discussion of the extent to which local accounting practices on financial costs of land should be adjusted for purposes of presentation of projects appears called for. Consideration of the extent to which national agencies should be encouraged to change their practices would also be involved. Such an examination should lead in due course to guidelines for the use of project financial analysts.

72. Lack of adequate registers of landholdings including details of acquisition and sales by individual agencies and for the public authorities as a whole, both national and local, is often a major constraint in determining appropriate financial values. For this reason, as well as for other project purposes, technical assistance in projects could well be extended on a trial basis to the improvement of public land inventories in cases of evident need and, where appropriate, in association with assistance for cadastral surveys and general land registration.

Economic Costs

73. The problems of evaluating the economic costs of inputs of land in urban projects are even more severe than those for establishing appropriate financial costs. New financial outlays on land can at least be measured with some accuracy; the estimate of economic cost almost always poses serious practical difficulties.

74. Theoretically, the relevant economic cost is the opportunity cost. This is defined as the outputs foregone from the land, net of contractual outgoings, that could be expected in its most likely alternatively use. 1/ The difficulties lie in assessing the alternative uses, the net outputs from that use judged most likely, and the appropriate rate for discounting the future streams of net outputs.

75. As indicated in the accompanying background paper, 2/ a theoretical and practical issue arises in determining whether the alternative use should or should not take into account the existence of the project under consideration. While the economic value of the land finally incorporated in the project should be based on the predicted value of the land without the project, the extent of the land reserved for the project should be decided in many cases by valuing the marginal increments in project land at their value with the project.

1/ The distinctions between "most likely alternative use," "best alternative use" or "expected value of the probability distribution of alternative uses," are here ignored as of less importance than other problems. See also para. 76.

2/ The Value of Urban Land, Alan A. Walters.

76. The problem of deciding the best alternative potential use has to be resolved in the context of the expected future restrictions on the use of the land as well as current development plans. In the rapidly changing political and social, as well as economic conditions of most developing countries, such prevision is particularly difficult. In considering the value of outputs from the alternative use, problems arise in evaluating any "externalities" involved, including the extent to which the alternative use may reduce or increase the value of adjoining properties. Problems of assessing the impacts on neighboring land are discussed in paras. 86-87 below in connection with assessment of land value benefits from the chosen project site. Fortunately, the dangers of faulty predictions concerning alternative uses are narrowed by the discounting of future outputs to obtain present values; outputs in the near future, which have much greater influence on present value than those for years far in the future, can generally be predicted with more accuracy.

77. In some circumstances present market value of the project land will provide a good basis for calculating its opportunity cost. Where, however, present market values are already capitalizing the expected net output from the proposed project and this value is substantially greater than for the most likely alternative use, this presumption cannot be made. It may in practice be more fruitful to look for guidance from the valuation of land elsewhere which is roughly similar in its advantages for the next-best alternative use. Rough adjustments can then be made for obvious differences. Moreover, market values reflect varying tax liabilities and may therefore differ substantially from values based on economic rents. Even where a free market in land exists, market values should generally be treated as no more than the starting point for calculation of economic costs of land.

78. Where land is nationalized or has an arbitrarily assigned accounting price, the calculation of opportunity costs presents particular problems. Widely differing criteria underlie national valuations and priorities for the use of land. The very concept of alienation of land is foreign to some communities--as it was indeed until historically recently in many of the now industrialized countries that emerged from feudal systems. In several countries such as Tanzania and Zambia, land is nationalized and/or transferred at a nominal or zero cost. In other cases, government holdings of land are so large as to dominate the market for land. Dispositions of such land are often made either at zero accounting value or at historic costs bearing little or no relationship to economic values. Moreover, the values that different communities place on urban land uses and the output therefrom--including for example open spaces and recreation--vary considerably so that it is difficult to base valuation on land use and output elsewhere.

79. The problem then becomes one of providing an estimate for the value of net outputs from the most likely alternative use of the project area, and choosing a suitable discounting procedure for expressing time preference, rather than one of taking or adjusting a market value. 1/ Unfortunately, socialist countries do not seem to have made much progress in developing planning prices for land. Planning imperatives rather than output foregone have been generally used. For want of any better approach, a world or local price valuation of output from the project land under alternative uses combined with a discount rate based on estimates of the opportunity cost of capital in the country may have to be used. However, the whole subject deserves much more study, particularly with regard to the interdependence of zoning, transport, and land values. Land values for dwellings, for instance, may be largely dependent on public decisions as to zoning as well as vice versa.

80. So far as the calculations of net present value (and cost/benefit ratios and IRR's) of projects are concerned, it is unlikely for most sectors that refinements in the calculation of economic costs of a given project site will prove a major influence on the outcome, though this cannot be excluded for individual projects and sectors where extensive use of land is involved. However, it needs to be emphasized that, as in the case of financial costs, variations in the methodology can have an important influence on the calculation of relative advantages of locations and the dimensions of the site; these in turn, at least in principle, can indirectly have a significant effect on net present values. Not enough is known to assess such indirect influences.

Current Practice

81. Actual practice in regard to developing country projects presented to the World Bank is highly varied. In some projects the economic costs of land are effectively ignored, at least in the presentation of such costs in the economic evaluations. This appears to be related to already existing public ownership and absence of financial outlays which, as already noted, may result in exclusions of land from the financial costs. In other cases, some attempt is made to calculate economic costs differing from financial costs or market prices. But no consistent practice is evident.

Recommendations

82. Existing textbooks and guides to practitioners on the methodology for economic analysis of projects, including discussion of shadow prices and social cost accounting, fail to deal adequately with the issues discussed above. To overcome this lacuna will probably require preparation of new sections dealing explicitly with the issues of economic costs of land. An assessment

---

1/ Where land is transferred at zero cost but a market price exists for buildings, the extent to which market values of buildings surpass their costs of construction including interest thereon may provide some indication of the rental value of the land.

of practical applicability of the guidelines developed should be made after a trial run in two or three countries with market economies. The particular problem of economic valuation of nationalized land may need more extensive consideration. The best approach may be to take two or three chosen projects in countries where land is nationalized (e.g., Tanzania, Zambia) and examine the implications of alternative methods of assessing opportunity costs of land for these specific projects.

Evaluation of Project Impacts on Land Values

83. Two main categories of land need to be considered in assessing project impacts on land values for purposes of calculating the economic benefits of the project--the project site itself and land in the immediate neighborhood. In theory, the value of land at some distance from the project may also be affected. The choice of a particular site for the project may, for example, lower the value of another site which had been considered a promising alternative. But except in cases where serious externalities such as noxious fumes, or discharges of effluents into rivers or sewers affecting fairly distant locations are involved, the impacts on urban land other than in the immediate vicinity of the project can generally be reasonably ignored.

84. In the majority of cases, the change in value of the project site as a result of the project can also generally be ignored in the evaluation of project benefits--though not in respect of site selection and dimension--since the benefits are already accounted for in the evaluation of project-produced outputs. To include also increases in project land values would involve double counting.

85. In cases such as site and services or industrial estate projects, project output is largely in the form of the services of the land and structures to their occupants. In these cases changes in the values of land--or of the plots plus dwellings or other structures--may be the clearest indication of the minimum valuation to be put on project benefits. 1/ More generally, increases in land values should be used as a proxy for site-specific benefits not otherwise measurable. Land value changes may also serve in the distribution weighting of benefits where this is of importance. Also where relocation of a facility is involved, as for example in some airport projects, it is of course necessary to take into account also the resulting values of vacated land.

86. The desirability of calculating the influence of the project on land values among project benefits occurs more frequently for surrounding land than for project sites. A sewerage scheme, an urban roadway, a metro station, for example, may raise local land rental values substantially because

---

1/ The new values may be imputed either from rents of similar dwellings or similarly serviced plots, or from the value of serviced land of similar plot size and locality.

of increased services and increased accessibility. 1/ Again, however, double counting must be avoided. If reductions in factor costs and the value of increased net output are in whole or in part reflected in the increased value of surrounding land, as in the case of highway construction, care must be taken not to include both the output, such as reduced transport costs, and the higher land values reflecting such output.

87. It seems, however, that customary measures of discounted benefits from the outputs of such projects often do not fully reflect the actual and potential project benefits as indicated by the increased value in neighboring land. 2/ If benefits are, for example, based directly on prices actually paid for services, some part of the total consumer's surplus created may be excluded; or some categories of beneficiaries may be missed because of difficulties of identification of the indirect benefits or indirect recipients. In airport projects the project may both produce output benefits in the form of transport services and induce other less frequently accounted benefits in industrial and commercial activities in the vicinity of the project. Tourism projects may similarly have considerable spillover effects on neighboring areas. In such cases the increased values of surrounding land, net of disbenefits in the form of any lowered land values, may be used as a proxy for benefits not otherwise accounted for. They may also better indicate the incidence on households and income groups for purposes of social analysis.

Current Practice

88. The use of changes in capital value of land or annual economic rent as a basis for socioeconomic benefit calculations is very rare. Only a few cases have been found of calculation of increases in value of project sites--largely squatter area upgrading projects. Generally, impacts of urban projects on neighboring land do not appear to be evaluated adequately nor, indeed, are even rough evaluations attempted. Exceptions are to be found in tourism projects which often include measures to control surrounding land use and reduce speculative land price increases.

1/ To some extent much more diffuse reductions in value, or reduced rate of increases in value, may result elsewhere, where development has not occurred. The extent of such wider repercussions and of zero sum changes in total urban values as a result of specific investments is a debated issue, though probably more relevant to the relatively static urban conditions of the developed countries than to the rapidly expanding urban areas of the developing countries (see also next footnote).

2/ It is to be noted that the increase in market land values may not cover the total benefits in the form of consumer's surplus created; some landholders might be prepared to pay more than the revised market value for the additional benefits.

89. One reason for the failure to use changes in land values in assessments of benefits is the difficulty encountered in separating the increases due to the project from those due to other causes. As has been pointed out earlier, land values may rise due to many factors, including overall urban expansion, private investment in infrastructure, general inflation, changes in zoning of permitted uses and changes in tax structures. More importantly, the impact of many of these influences, including the impacts of the actual project, will generally be capitalized into the value of the land well in advance of project implementation. The practical difficulties involved appear to explain why it is only in fairly extreme cases, such as the impact of a metro station on nearby land property values, that it is at all usual to find a detailed analysis made of land value changes. Much more often the surrogate of savings in user costs is preferred, though this too presents serious methodological and practical difficulties. 1/

90. The difficulties of estimating increments in land values should not, however, be exaggerated. Particularly in countries with many real estate brokers, such as Korea, knowledge of market prices of urban land is widespread. Moreover, the increase in value due to the project is often so great that small errors in preproject valuation have little effect on calculated rates of return. Very often, reasonable estimates can be made that are no more rough and yet more comprehensive as to benefits covered than the alternatives.

Recommendations

91. Because of the importance of the possible effects on neighboring land values and their relevance to the recovery of project costs and/or betterment--which is dealt with in the next chapter--a further examination in relation to the public utility sector appears warranted. It is recommended that consideration be given to preparing a paper outlining the theoretical basis and practical problems of estimating changes in neighboring land values as part of the calculation of project benefits, both economic and social. Such a paper would help indicate under what conditions, and what sectors, the effort involved may be justified by the improvement in economic analysis, and also indicate further steps desirable for project preparation and presentation.

1/ An examination has been made under Bank auspices of the possibility of using changes in rental value as a basis for evaluating the benefits of water supply projects. In view of the difficulties of separating out changes in site value due specifically to the water project from other influences, it was concluded that other methods for measuring benefits were to be preferred. See Estimation of the Economic Benefits of Water Supply and Sewerage Projects, Metropolitan and Regional Research Center, Syracuse University, October 1973. Also relevant are The Definition and Role of Marginal Cost in Public Utility Pricing: Problems of Application in the Water Supply Sector, Research Working Paper (RES 6), Energy, Water and Telecommunications Department, July 30, 1976; and Economic Evaluation of Public Utilities Projects, Department Guidelines Series (GAS 10), September 30, 1974. Insofar as public utility services provided have largely followed development of urban areas responding tardily to demand, the anticipated service levels will generally have been capitalized in the land price for some time before the project.

V. THE ALLOCATION OF SURPLUS URBAN LAND VALUES

92. The two most discussed groups of urban land issues, the control of urban land use and public capture of "unearned" increments in land values--or more succinctly "surplus values"--are closely connected. However, it is convenient to consider the surplus values issues first, while recognizing that a full evaluation of alternative approaches must also take into account the land control aspects discussed later. It should also be noted that while the capture of surplus values may not theoretically alter the total charges paid by purchasers or users of land, and hence the allocative function of the market, it may do so in many practical circumstances. The level of the charges on surplus values and how they are administered may also affect the overall supply of urban land. Finally, the overall framework of property and land taxes, referred to several times in this chapter, and dealt with at greater length in the accompanying background paper, 1/ needs to be considered.

93. It is important to clarify which of the several customary definitions of surplus values is to be used. Surplus value is here taken to be that part of the increase in urban land values over the time period under consideration that, after allowing for general inflation, is in excess of the increase attributable to capital invested in the land by private holders, (for example, privately financed infrastructure or clearing of sites) including a normal allowance for the holding costs, enterprise and risks involved. While not entirely satisfactory, this rough definition will suffice for the purposes of this paper. The surplus value may be considered as an increase in annual value, or rent, or as an increase in the corresponding capital value according to the context in which it is used. It is to be noted that the capitalized stream of increased values resulting from public projects such as roads and water supply is here included gross of any charges made for access to these services, the charges made being considered one of the instruments for the capture of the surplus value created.

94. The major sources of surplus urban land values in the sense used here are public infrastructure projects, the general growth in urban areas and incomes, "artificial" land shortages induced by monopolistic practices or failure to provide services for which a demand exists at costs of supply and, for particular plots, private investments made on neighboring plots. Recent international discussions have served to underline the widespread conviction that surplus values which are unearned in the sense of not being due to the savings of the private holder should accrue to the public since this surplus is primarily due to public investments or community development or monopolistic practices. 2/

1/ See Donald C. Shoup, Land Taxation and Government Participation in Urban Land Markets.

2/ See, for example, the report and recommendations of the UN Habitat Conference, Vancouver, 1976, A/CONF.70/15.

95. Project preparation and implementation are involved in various ways. High urban land prices are often a serious constraint in the initiation of municipal projects; but the projects themselves may contribute to the high net cost of project land to the authorities if the surplus values created are not captured by the community. In the far from exceptional case of failure to charge users for services provided, for example by urban roads, large benefits may accrue to adjoining landholders. In such cases, the propriety of supporting the project raises difficult policy issues. Replicability is also involved since the existence of land or property taxes, or more specific charges on the betterment produced by the project, may determine the degree of project cost recovery, both direct and indirect. The overall growth in urban land value as cities expand may also contribute significantly to municipal finance for projects through receipts from general property or land taxes.

Service Charges, Land Taxes and Public Participation in Land Development

96. Three broad types of instruments can be used for the capture of surplus values--charges for services, taxes on land, and public participation in land development. These three types are briefly discussed below before turning to consideration of their utilization in project work. In each case, it is necessary to consider how far the public authorities can preempt surplus values attached to privately held land without serious adverse effects on private incentives, on the supply of urban land or its allocation and, though this is not always considered, without serious inequities as between members of the same income group. 1/

97. Charges for access to public services are a common form of retrieving a part of the surplus values created by such types of public investments as water and electricity supply, but not for others such as primary education. Such charges may in principle cover the costs, less than the costs or more than the costs of providing access to the services--but the latter occurs very rarely in practice. 2/ However, lump-sum charges for access to services, while benefitting the cash flow of utility agencies, may also prove too heavy to bear in a single payment by poorer groups in the community. Partly for this reason, the charges for access, or connection charges, are frequently combined in a single tariff with charges for actual use covering also operating costs. Charges for access are rarely related directly to the increase in value of the plots resulting from the access provided--or at all closely to the varying costs of providing different sites with the services. However, where "rates" for provision of water and sewage disposal are based on assessment of property values, the charges may in practice more closely relate to land values than to costs of provision of service.

1/ Privately held land here includes publicly owned land leased to private holders at fixed rents. If the rent can be varied, the possibility exists, at least in principle, of raising rents to capture the surplus.

2/ This may happen in the case of charging long-run marginal costs when marginal costs are rising.

98. In addition, or alternatively, part of the surplus value--or in theory even the whole--may be appropriated by land taxes. These are of two main types, taxes that apply to the value of urban land, or property, in general; and "betterment levies" or special assessments based on increases in value of land or property judged to be within the zone of influence of benefits from individual projects. These taxes are described more fully in the accompanying background paper where their relative merits are assessed in terms of overall land policy objectives, rate structures and administrative feasibility. Here it may be noted that while a site valuation basis and charges on betterment are generally advocated for their theoretical advantages, there are many practical difficulties. Unfortunately, experience in developing countries, particularly of special assessments, is very limited.

99. What is common to the various forms of charges for access to public service and land taxes is that if they are fully anticipated they do not impose arbitrary burdens on landholders or owners. Their imposition will already have been taken into account in the current market price of the land. Similarly, if the surplus value has not yet been anticipated, the tax or charge can be announced without causing a significant reduction in present prices and hence losses to present holders. 1/

100. Where problems principally arise in capturing surplus values is from the introduction of new taxes and charges based on flows of surplus values that are already occurring or anticipated, and which are already reflected in current land prices. In these cases, as for any sudden tax or withdrawal of subsidies for a particular group that has come to regard its established position as a legal right, strong opposition is to be anticipated on grounds of unfair treatment. 2/

101. How can this opposition be reduced and equity roughly maintained as between holders of land and other groups of the population while increasing the public capture of surplus values? One method is to gradually increase the charges or taxes on surplus values year by year so as to limit the immediate fall in market values as the whole stream of reductions in future private benefits is discounted. It is also to be noted that if an increase in taxation has already been discounted as part of the risk factor, failure to implement the increase will result in windfall gains.

102. The third group of instruments for capture of surplus values is through public acquisition of land or development rights. One method often advocated is public purchase at market value, whether by preemption or otherwise of land in, or on the periphery of, urban areas. In this case, however, payment is in fact made for the present value given to the whole stream of anticipated future surplus values, net of expected taxes, as well as for the current use value. The only "capture" is of values sufficiently far in the future or so

---

1/ This is an extreme case in practice since information on project intentions is apt to leak; but market prices may not rise immediately to the full extent of the potential surplus value.

2/ It is also probable that consideration of the issues in developing countries has been unduly influenced by the conditions in more developed countries where urban expansion is slower and surplus values probably a smaller proportion of total values.

unanticipated as not to affect present price. The outlay and expertise required for large-scale public acquisition of urban land and subsequent management or disposal at prices that recoup the surplus value are moreover generally beyond the capacity of public authorities even in the more developed countries. To reduce the financial and administrative burdens, public acquisition may be focused on relatively small parcels of land, using powers to pay a "market price" based on similar urban land elsewhere, i.e., land without the benefits from the development project, the purchase being timed close to project developments expected to produce large surpluses.

103. Public purchase in the market of land some distance outside the urban periphery can also avoid some of the costs. Because of risks of future expropriation or other uncertainties concerning development over the extended time period involved, such land may often be purchased at close to present rural use value, or cheaply relative to its future surplus values. Even so, heavy holding costs including interest charges are likely to be involved while awaiting development. Another, theoretically attractive, variant is purchase of development rights only, so that the value of current use is excluded. While considerably cheaper than outright purchase, the procedural difficulties are greater and the same basic limitations apply--that the current value of future surplus values has to be paid for. 1/

104. One important potential way out of the basic dilemma might be to make known that, as from a certain date in the future, surplus values arising after that date will be appropriated. If the decision were to be made sufficiently in advance, say ten years or more, current market values should not be greatly affected; with the usual high discount rates prevailing, benefits so far in the future have little present value. Capture of surplus value currently reflected in market prices would then be left aside in favor of appropriation without payment of surplus value arising from some date in the future. Numerous modifications of this basic scheme appear possible.

The Recovery of Project Land Values

105. Both the value of land on which a project is situated, and the value of neighboring land need to be considered in project work in terms of capturing values created by the project. So far as the project site is concerned, the usual case is where the project agency retains holdings of land acquired for the project. A question then arises in the financial analysis as to what extent the agency should endeavor to recover the cost of project land over the life of the project as part of general cost recovery. 2/ Since the land is not destroyed by the project or generally worsened, the recovery of current rental values--or the leasehold value if equated with the life of the project--seems

---

1/ Various examples of success in use of such measures are to be found in the Nordic countries.

2/ See Chapter IV above for a discussion of the calculation of relevant land costs.

to be the appropriate base. In practice, however, land will normally represent only a minor part of total asset value, or of turnover, on which an adequate return is sought. It seems accordingly probable, though this has not been investigated in depth, that the choice between methods will not significantly affect cost recovery results for the project as a whole.

106. Other issues regarding project site values arise where the project land is sold or leased to users, as for example in industrial estates, site and services, or some tourism projects. It has then to be decided whether the objective should be limited to recovery of part or all of the costs of land and land development expenditures incurred, or extended also to any additional surplus values of the project land created by the project or, finally, to the full market value of the project site including any elements of surplus value that occur as a result of other influences such as general urban expansion. Questions of timing of cost recovery also arise.

107. In disposing of project land, it seems desirable that the capture of the full market value should be sought unless there are specific reasons to the contrary. Otherwise the pressures of demand are likely to mean that much of the surplus not so captured will be pocketed by individuals in a position to influence the allocation of the land. Without such a rule there may also be temptations to overdesign. Providing that the policy towards capture of market value has been made clear well in advance, inequities as between members of similar income groups due to landholding should be minimized. In calculating the return on the project, account should be taken of any increases in land tax revenues from the land disposed of, as well as those charges paid directly to the project agencies. Exceptions to the general principle may, however, be warranted when it is possible to devise schemes to ensure that the benefits from surplus values go to groups of individuals that it is desired to help on social grounds, such as the poorer groups in site and services schemes. 1/

108. Surplus values may also be drawn on for short-run promotional purposes as in some tourism projects. In such cases, it will probably still be desirable to ensure that full project costs are eventually covered, at least to an extent that ensures replicability.

The Capture of Increased Values of Neighboring Land

109. Where the project produces significant increases in the economic value of land other than that acquired for the project, a different set of considerations prevails with regard to covering total project costs and not only the land costs. In the case of some public utility projects, for instance,

---

1/ This may come about by charging market value for land disposed of for commercial uses or moderate to high income group dwellings while providing land for dwellings for poorer groups at below market value and/or below cost. The issue is analogous to those that arise on charging for say telephone connections in conditions of a large backlog of applications--how far should charges approximate what the market is willing to pay where this exceeds costs of supply? And if market value is adopted, should exceptions be made for special customers such as doctors or hospitals?

alternatives may exist for the recovery of total project costs by charges based either on costs of providing individual connections or increased accessibility, or on use of the facility (actual or expected), as well as by various alternative charges on the increase in land values.

110. Many issues are raised by the choice between the alternative charging systems. Charging by use has much to commend it, but may absolve from payment land which is left vacant even though it has been provided with access to services that increase its value from anticipated future use. Whether such cases should be dealt with by, for example, two-part tariffs, may depend on the existence of other taxes on vacant serviced land. Experience of taxes on surplus values through special assessments on benefitted land, such as the valorization tax of Bogota, is favorable if sufficient care has been taken in establishing the formula for assessing gains, for example by reference to plot sizes and shapes, distance from the facility, etc. 1/ The costs of providing services as varied as road construction, sewerage, urban renewal, parking lots, and preservation of historical areas have been effectively recovered by basing charges on a proportion of the estimated surplus values produced by the projects, even in the poorer quarters of the city. Clearly, the greater the excess of land values created over project cost, the easier the application of a land value betterment formula for recovery of costs; and this excess in turn is greatly affected by the degree of shortages of the service--or the excess of demand at charges sufficient to cover project costs. The issues involved are further discussed in the background paper. 2/

111. There is no conceptual reason why such betterment or valorization taxes should not be used to capture the full benefits of projects as reflected in the increased value of land and not only the project costs. There are, however, practical difficulties in determining sufficiently closely the before-project value and final after-project value. Both are hypothetical values rather than directly measurable market prices. Unless the betterment tax is already fully anticipated, the immediate before-project value is likely to contain a considerable element of the anticipated surplus value which needs to be eliminated from the basic data in calculating the surplus. The after-project value gross of the betterment charge--on which the betterment charge is levied--has to be calculated by estimating the charge that would leave the basic market value unchanged, except for non-project influences. 3/ It is unlikely, therefore, that the total surplus

---

1/ See W. Doebele with O. Grimes, Valorization Charges as a Method for Financing Urban Public Works: the Example of Bogota, Colombia, Working Paper No. 254, World Bank, March 1977.

2/ See also Valorization in Bogota, Colombia: Organization and Financing, Johannes F. Linn. Draft, October 1976.

3/ In principle, the betterment charge could also be used to capture the other elements of value increase from non-project influences. This, however, would introduce inequities as compared with land not affected by the project.

value arising from the project can be judged for each parcel of land with any certainty. A target appreciably less than the full surplus has in practice to be accepted if the dangers of overcharging of some individuals, and raising the prices and deterring development of the land concerned, are to be avoided.

112. The public participation approach provides other ways of capturing the surplus values of neighboring land induced by the project and at the same time to include come elements arising from socially created non-project influences. One such method is "excess condemnation" under which land is purchased contiguous to the project system at a controlled price often approximating current use value, and sold or leased after the project has been developed at the much higher current use value than prevailing. This is fundamentally the system which contributed greatly to the financing of the railways and the TVA in America. If it is known that the land affected will be acquired at its former use value so that anticipatory price rises are avoided, such an approach has much to commend it. However, even if anticipatory price rises are avoided, the raising of sufficient finance to pay the necessary compensation for land acquired may prove an intractable problem in practice if not in theory in many developing countries. Similarly, proposals for the government to acquire tracts of land to be developed either by the public authorities alone or in combination with private interests, capturing the increased values by subsequent sale tend to founder on the initial costs involved.

113. A potentially interesting variant for capturing surplus values produced by infrastructure projects is for the authorities to act as developer of basic services on behalf of a group of landowners, using the provision of basic facilities as inducement, but keeping a portion of the developed land as payment for the costs of providing the services. This variant, often called land readjustment, has been used with success in Korea and Japan and has the advantage of limiting the financial outlays required from the authorities to the costs of provision of the services--but the disadvantage of leaving the surplus over the project costs in the hands of the landowners in the form of the higher values of the land they retain. However, there appears no basic reason why the authorities should not retain land corresponding to a part of the remaining surplus after recuperation of infrastructure costs where the surplus is sufficiently high still to provide incentives to enter the scheme. These and other alternatives are considered in the background papers. 1/

General Considerations

114. One of the problems in applying measures for capture of surplus land values to individual projects is the disparity this may create in relation to the handling of other projects in the same urban area. There is hence an interest in considering such policies on at least a municipal level to preserve parity of treatment. The extent to which taxation measures or

---

1/ See Some Perspectives on Land Use Regulation and Control, Malcolm D. Rivkin; and Urban Land Use Regulation, John M. Courtney.

other charges, such as special assessments, are to be recommended for individual projects, and how far they should be extended beyond cost recovery to capture additional surplus value, must also depend on the level of other existing taxes on land and property and their impacts in practice on different income groups.

115. Interest in improving the lot of poorer income groups and in adequate funding of public agencies to permit replication of projects also points to the need to consider surplus value capture in the context of increasing overall tax revenues within the general tax structure. Revenues from land are often a large percentage of local revenues. In this connection, it is often useful to distinguish between general land taxes aimed at capturing surplus values arising from basic trends of overall urban expansion, and special betterment taxes aimed at capturing sudden increases in values as a result of individual projects or changes in land use regulations. The former category should result in a fairly steady and expanding flow of revenues, the latter will depend on the success achieved in programming the revenue from projects and collections.

116. The form of tax liability is also important. Annual charges to capture the flow of benefits as they occur will depress the market price to the extent of the discounted future liabilities to the tax. This may, for example, facilitate the acquisition of dwelling plots by poorer persons without ready access to credit. Lump-sum taxes of capital gains falling on the existing holder will tend to have relatively little effect on the market price paid by a subsequent purchaser or may in some circumstances increase it. Capital gains taxes on death of owner, or on transfer of property can have other important impacts on the timing of release of land for development.

117. While these aspects are far too complex and the issues too numerous for extended treatment here--despite the importance of land tax policy to the local financing of projects--there is one feature relevant to consideration of almost all such taxes. This feature is the difficulty of accurate assessment of liability not only in terms of calculation of valuation changes but also in the determination of beneficial owners or holders. The importance of adequate cadastral surveys and registration of titles has already been referred to. The effectiveness and acceptability of taxes on surplus value may be highly dependent on the avoidance of inequities due to inadequate preparation and records. Fortunately, this is an area where new methods such as aerial photography combined with computer techniques of numerical and graphical identification and assessment can facilitate improvements.

Current Practice

118. Experience of a wide variety of public projects in developing countries indicates a generally conservative approach in the sense that the objectives of cost or benefit recovery are usually limited to the recovery of direct financial project costs with, in some cases, an additional

contribution toward costs of system expansion. Deliberate attempts to secure for the public any significant surplus values in excess of the overall project costs are extremely rare. More limited cases do occur, however, of charging market prices for specific parcels of project land, for example, commercial sites within site and services projects, the surplus over costs for such parcels being used to defray some of the costs otherwise falling on the dwelling plots for low-income groups.

119. Nor does investigation of alternative methods of cost recovery in individual public utilities projects to the conventional systems of connection and user charges appear to be widespread. The more conventional methods are considered to be adequate and less time-consuming. 1/ Possible use of valorization taxes to recover project costs appears to be neglected except in Colombia where this technique is well established. Excess condemnation to recover costs and/or capturing surplus values is even rarer. The impact of various types of cost recovery, including charges on increased land values, on income distribution and municipal finance has, however, received limited attention in some recent urbanization and water supply projects.

Recommendations

120. The theoretical and practical advantages and disadvantages of a wide variety of alternative charging measures present a large area for consideration. Various Bank research papers have tackled particular aspects of the problem. 2/ However, given the acute shortage of public finance in developing countries, and the increased emphasis on fairer distribution of income and wealth, the

---

1/ As indicated, for example, in an internal World Bank paper, Economic Evaluation and Financing of Sewerage Projects,(GAS 13), EWT, February 18, 1977, pg. 10.

2/ Including studies of land value impacts of water supply projects (Roy Bahl, Jeremy Warford, and Steven S. Cohen, Estimation of the Economic Benefits of Water Supply and Sewerage Projects, Metropolitan and Regional Research Center, Syracuse University, Syracuse, N.Y., October 1973); case studies of urban land taxation and controls in Colombia, Korea and Sweden (Valorization Charges as a Method of Financing Urban Public Works: the Example of Bogota, Colombia, William A. Doebele with Orville F. Grimes, Jr., World Bank Working Paper No. 254, March 1977; Land Policy in Seoul and Gwangju, Korea, with Special Reference to Land Readjustment, William A. Doebele, Draft, May 1976; and A Commentary on Urban Land Policy in Sweden, William A. Doebele, Draft, 1974; all prepared under RPO 670-98); ongoing studies of property taxation and municipal finance (case studies of eight cities by Johannes Linn (ECDRB) and Roy Bahl (Syracuse), and Comparing and Evaluating the Use of Urban Property Taxes in LDCs, Roy Bahl, Occasional Paper No. 32, Metropolitan Studies Program, The Maxwell School, Syracuse University, Syracuse, N.Y., 1977, all prepared under RPO-270); and studies of shadow prices and project evaluation such as those of West Africa (Bela Balassa, RPO 670-87).

issues have not received the degree of consideration that appears warranted. The main sufferers from this relative neglect are those who are most lacking accessibility to public services--services which they could afford if appropriate service levels were instituted and more municipal finance or other methods of financing were developed--in other words, the urban poor.

121. This situation indicates the desirability of specific consideration in project appraisal of the potential for capture of surplus land values and the implications for public revenues. In this connection, the desirability of including excess condemnation, "land readjustment" or other "land banking" type land acquisition as a project component should be considered where this appears potentially relevant and feasible.

122. Some of the operational issues involved in alternative methods of charging to recover capital and operating costs and the prospects for charging for additional elements of surplus land values could be derived from experience in individual public utility sectors. However, an enlargement of such a review to cover implementation problems of types of charging not yet seriously attempted will be required if a general project approach to the capture of surplus values is to be prepared. In such a review the relative effectiveness of different techniques under varying conditions should be considered from equity as well as efficiency aspects, including income distribution considerations, as also, the requirements for adequate evaluation under practical project conditions.

VI. THE CONTROL OF URBAN LAND USE

123. Paralleling the widespread concern for public capture of the "unearned" increment of urban land values is concern for adequate controls to ensure that uses of urban land are not contrary to the general interest of the community. It is clearly beyond the scope of this paper to detail the relative merits of the multitude of different land use controls. The evaluation of their implications for public interest and private initiative must in any case depend heavily on local conditions. The accompanying background papers outline the major types of land use controls, their characteristics and some of the wider implications of their use. This chapter concentrates on specific issues that land use controls raise for project implementation and other Bank operations.

The Rationale for Land Use Controls

124. As already noted in Chapter II, all communities at all times have imposed some controls on land use for the general benefit of their settlements. One reason is that land is needed for public uses such as roadways, hospitals and schools, or for open spaces and "green-belts." The provision of land for such purposes may be achieved by prohibitions on other uses or by intervention to secure land for public use. In most cities, public agencies are effective owners of, or directly control, large tracts of urban land for present or anticipated public use.

125. Planning regulations are, in practice, also required for purposes of fire prevention and public safety and health, and to ensure a modicum of order and efficiency in the extension of public services. Without some standards for land subdivision and building, market forces will often produce urban patterns which are costly in the provision of public services but which cannot be readily related to each of the individuals involved. Individual development tends to reinforce monocentric urban patterns--particularly prone to congestion; public assembly of land and concerted infrastructure development may be needed to stimulate a more efficient corridor growth or multicenter pattern.

126. As seen from another aspect, land use controls largely derive from the indispensability of land for dwellings, production activities, social services and communications. Because these uses interact, the precise use to which any plot is put affects the locational advantage, and hence the value, of surrounding plots in many ways both direct and indirect. Significant differences between private and social interest can occur as a result of these interactions or "externalities" which for practical or political reasons cannot be readily offset by compensating charges. 1/ The case of industrial or commercial use of a plot increasing the value of surrounding plots for similar or complementary productive functions, and in some cases lowering the value for residential purposes, is well known. Less discussed are such interrelationships as the attraction created by the locations of wealthy homeowners to others of the same income group thereby raising surrounding land values; or the prohibition of commercial use in one area lowering land values in that area but raising values in alternative commercial locations.

127. The market mechanism will tend to allocate land to the highest bidder. But because of these "externalities," the unfettered use of the land by the highest bidder may well not be considered as the most advantageous use from the social point of view which, it may be noted, encompasses not only the present but also future generations. Practical experience, indeed, indicates that a market for land by itself does not ensure that the selected uses will be either the most economically efficient or the most generally desired--whether on aesthetic or equity grounds. Regulations to limit urban land use so as to avoid unwanted and uncompensated interference with neighboring land, or to safeguard historic sites for posterity, are indeed common to almost all countries. In the light of the many reasons for public regulation of urban land, it is not surprising that a purely market system of urban development probably exists nowhere.

1/ Theoretically, many but not all of the "externalities" involved in a free market system without controls could be rectified by appropriate private agreements and taxes. The practical difficulties, the hardships that would be involved for present landholders or poorer income groups, however, severely limit the practical applicability of the theoretical findings.

General Limitations

128. The development of towns and the exercise of land use controls have historically been closely related. The wide variety of urban land use control systems now prevailing reflects the varied development of social systems and ethics. In consequence, what is appropriate and what will work to the best public advantage in one city can generally not be transferred with the same results to another city even within the same country, let alone another country. The importance of the historical and physical context may explain why the fairly comprehensive compendium of forms of land control actually practiced in different parts of the world that is now available 1/ has not been matched by evaluations of their effectiveness or reasons for success or failure.

129. It is nevertheless evident that both market systems and public controls have serious deficiencies in practice--and that to some extent each can be considered as a reaction or compensation for the perceived shortcomings of the other. While absence of appropriate public controls permits development of inefficient urban patterns and land use practices generally considered antisocial, supression of land markets tends in practice to remove signals useful for efficient allocation of land and to stifle private development initiatives. Other information required for efficient decision making is rarely adequate, particularly in the rapidly growing and changing towns of the developing countries. A major problem with urban land controls moreover is the ease with which they can be subverted to serve the interests of politically influential groups--producing inefficiencies and inequities. In other words, the question becomes one of how to limit the deleterious effects of land use controls while preventing, correcting or offsetting the shortcomings of the market forces.

130. In considering the various instruments available, it needs to be remembered not only that the interaction between market forces and goverment regulations and activities is complex but also that the market for land is fragmented into a number of submarkets for the different types of land which are not easily substituted for one another. Residential, commercial, and industrial property pose widely differing problems, as do vacant lots and built ones. These properties are moreover held for a variety of reasons--for use as a factor of production, for investment, and as a component of housing services. 2/ Likewise, government regulation and intervention

---

1/ See in particular UN Department of Economic and Social Affairs, Urban Land Policies and Land Use Control Measures, six regional volumes (1973); Global Summary (1975).

2/ For more discussion of the nature of the market for land, see William A. Doebele, Selected Issues in Urban Land Tenure.

serve overlapping and sometimes conflicting objectives, such as efficiency in the provision of public utilities, the prevention of adverse impacts from particular plot uses, or the achievement of preconceived urban patterns. Because of the multiplicity of markets, instruments and objectives the fashioning of an improved set of controls and regulations has in practice to take account of a wide variety of interactions between them.

131. One further general point deserves emphasis since, though obvious and important, it is often neglected in practice. The efficiency of controls on urban land in terms of their effective implementation depends not only on the institutional capacity and the political will to carry them out but also on the strength of the countervailing pressures with which they are confronted. Density controls, for instance, may not be implementable despite strong legal sanctions and enforcement agencies if the supply of urbanized land is tightly constrained while population expands rapidly.

132. Closely connected is the varying influence of natural locational advantage in relation to planning controls in determining the economic value of land use. Some urban locations have clear "natural" advantage over others for certain uses as a result of geography and communications networks; the inherent advantages are much less pronounced for others. The development of two areas of quite similar locational attributes for very different standards of housing, for instance, often appears due to fortuitous historical reasons. In other words, planning and other regulatory controls may be able readily to influence housing location between a variety of sites without great economic consequences. In such cases the designated uses and standards are largely instrumental in determining the relative value of the plot concerned. In other cases such as industry and commerce, the inherent advantage of one site over another in relation to communications, inputs and markets, may be much more significant, and influence by planning decisions may be more difficult and impose higher economic costs.

133. One consequence is the need to look not only at the immediate applicability of land controls but also at their longer-run implications in relation to supply and demand for the type of land to which they refer. The issues raised are of great practical importance. Regulatory measures may slow the rate at which urban land is supplied and hence increase countervailing pressures to subvert these controls. Conversely, measures to increase the supply of urbanized land both overall and of particular qualities in particular locations, may create the conditions in which land controls can be made effective.

134. More generally, since the pressures for land are high and administrative implementation capacities low, it is to be expected that controls in cities of developing countries involving strong restrictions on land use will tend to be circumvented. This increases the need to consider packages of controls and investment policies and programs which are consistent with the real prospects for implementation rather than to concentrate on individual measures of direct land use control.

135. In this context, two broad categories of controls on the use of land can usefully be distinguished. The first category comprises plans, rules and regulations which set a framework within which the activities affecting urban land use must take place. The second category comprises those activities in which public authorities act directly to determine land use, such as development of land by public agencies. While public projects might be expected to conform closely to the framework of plans and public regulations established by the authorities, public agencies often fail to conform or else stimulate changes in the framework specifically to accommodate the projects. Even in socialist countries with nationalized land, the operational agencies in fact compete for urban land. Accordingly, such agencies have to be considered as exercising an independent, and often strong influence on land use in much the same way as do large private developers.

The Framework of Plans and Regulations

136. A wide variety of planning systems, zoning ordinances, building and bylaw regulations, permits and inspections, fines and other penalties exist in most of the large towns and cities of the developing countries, and some of them even in the smallest. What they have in common, with rare exceptions, is limited implementation in practice. This is not to say they have no effect on land use; but such impact as they have is frequently much less than stipulated. Residual advantages may then be outweighed by the direct costs and other disbenefits involved.

137. Almost all towns of any size have land use plans varying from simple large-scale maps setting out broad categories of desired land uses to highly detailed master plans for some fixed date in the future for which land uses and densities are carefully related to transport and public utility services. Sophisticated long-term land use plans are, however, rarely followed--even less than in the developed countries. Incorrectly estimated growth patterns, political pressures to substitute different land uses and failure to provide the indicated public services within the indicated plan period are among the interrelated common causes for the poor record of such planning efforts. In the dynamic context of developing country cities, including rapidly changing economic and social structures, it is to be doubted whether the future can, even theoretically, be gauged with sufficient precision to endow such master plans with much meaning.

138. Nevertheless, the master plans do generally have some direct influences on land use, for example on the location of some significant public investments. They also exert indirect influences through changed expectations of the direction of future urban expansion, not least through the discussions and publicity entailed in their preparation. Unfortunately, land use plans of this type may also have serious negative effects in causing delays and unproductive expenditures in the process of securing permitted exceptions from the plans, or spurious attestations of conformity.

139. Much the same is true of zoning ordinances and bylaws regulations which set out in greater detail permitted densities and forbidden uses, as well as such detailed specifications as plot sizes and the relations of built space to plot size. Such ordinances, often borrowed with little adjustment from already outdated Western models, ignore the local realities of the pressures of rapid urban expansion and the limited administrative capacity, but do nevertheless exercise some influence. For example, some provision for open spaces and community buildings may be secured in private development schemes that would not otherwise have been provided, even if not to the full extent ordained in the regulations.

140. Unfortunately, this type of regulation also creates problems of serious delays and corruption. The rights to developed land are intrinsically very valuable and the bureaucrats generally poorly paid. Even where urban land is nationalized and the state plays a large role in construction, it is still necessary in practice to leave much of the detail of urban land use to the local level and individual initiative. Compliance with land use regulations is by no means an automatic consequence of public ownership of land.

141. Perhaps nowhere, however, is the distance between precept and practice greater than in the detailed regulation of standards of materials and construction laid down in building codes. Often, as in the case of zoning ordinances, these codes have been derived from similar codes used in the cities of the developed world. They are generally out of date in relation to new materials and methods. They also tend to be inappropriate in relation to the use of local materials and, above all, to the standards that can be afforded by all but the relatively rich. Though widely ignored, and in any case unenforceable with the staff available, they may nevertheless prove a stumbling block in the way of adoption of more appropriate standards, not least in publicly financed projects such as those in which the Bank is involved, where formal variation from official standards can less readily be condoned.

142. Fortunately, there are some indications of new attitudes towards land use planning and regulation in the light of the increasingly obvious shortcomings of the conventional approaches. Emphasis is turning away from the older types of "master plans" towards a more flexible approach under the aegis of municipal coordination offices of one kind or another--often metropolitan or regional authorities in the case of the larger cities--that relate planning and implementation more closely. Development budgets and operating expenditures of the main public agencies can then be considered against the background of overall resource constraints and outlines of alternative future urban growth patterns. In terms of intent, if not yet widely in practice, the longer-term urban planning is becoming more indicative, or "structural," with greater focus on "critical areas." Most important is the recognition of planning as a continuous process, all programs being subject to periodic review on the basis of actual accomplishments and changing requirements. Such an approach is a far cry from the detailed capital budgeting

exercises now being initiated in some cities of the developed countries. Nevertheless, greater appreciation of the practical limitations of staffing and enforcement does seem very gradually to be producing a more pragmatic approach to the solving of multiple objectives with the very limited means available.

Direct Intervention by Public Authorities

143. The most direct way for public control of urban land use is for public agencies to take over the task of supplying land for specific purposes. The usual cases are public agencies' acquisition of land for specific purposes such as roadways, schools, hospitals, or parks. Some other methods that are also used have already been noted earlier in relation to the capture of surplus values. They include advance purchase for subsequent resale with or without the addition of infrastructure, excess condemnation, and land readjustment schemes. 1/ In these cases, the two interests of land use control and capture of surplus values are largely parallel. This, however, is not necessarily so. Land uses promoted by implementing agencies for open spaces, for example, may create a lower base for collection of surplus values than other uses deemed less socially desirable.

144. The processes of public acquisition of land may augment or reduce the effective supply of urbanized land. This depends on the time taken in acquisition and assembly of sites, the time taken for development, how fast and for what purposes the land is released, and the restrictions placed on other suppliers of urbanized land. The situation is complex and cases can be found where public intervention through purchase and disposal of land has successfully increased the supply of urban land and lowered prices--as in some Nordic countries--and other cases where contrary results seem to have emerged. While direct public participation in the supply and development of land has the potential to be the most effective method for public control of land use, whether the potential can be realized in practice is strongly dependent on the institutional framework provided.

145. Of particular interest is the direct intervention of public agencies in the supply of urbanized land for dwellings of the poorer groups of the community. Such intervention may be either negative or positive. The demolition of squatter settlements is an all too common example of the former, and the acquisition and development of specific areas for site and services schemes an example of the latter. Clearly, projects for providing site services or the upgrading of squatter settlements must be concerned with the general policies prevailing with respect to squatter eradication at other sites. Difficult choices are bound to arise where some eradication appears desirable in the context of overall plans for spatial development.

146. More generally, except where the public authorities are already in possession of considerable reserves of urban land, the process of public acquisition for subsequent disposal for controlled uses requires very large

---

1/ See Chapter V.

financial resources unless limited to few sites relative to the overall land development occurring. Retention of control over future land uses by renting or leasing the land once it is developed rather than outright sale may further increase the financial resources required. It is rare for the authorities of developing countries to have a high borrowing potential available for such purposes. Even where government agencies already hold large tracts of urban land, as in India and many countries of the African continent, the capacities of local authorities for implementation of land use control by this method are limited.

147. The basic features to be sought in government land development are well expressed by Neutze as follows: 1/

> "(a) land should be purchased without development rights, compulsorily if necessary, and disposed of with those rights specified, and development required within a specified time;
>
> (b) enough resources should be available so that the government can set the price in the market, and supply enough developed land to maintain the price established, and
>
> (c) price should be set to [at least] cover acquisition costs and the cost of development.
>
> Such a programme can keep the price of new land down by increasing the supply, can remove market stresses on land use planning, and allow the government to cover the cost of local services, using revenue from developed land, without the price becoming unacceptably high. After the government has developed the land it can enforce land use controls more readily, 'borrow' the cost of some services from private developers, collect a share of postdevelopment land value increments, and organise redevelopment more readily and economically, if it leases developed sites rather than selling the freehold. The important characteristics of such leasehold tenure are the conditions attached to the lease and frequent revision of the rent."

148. A lesser degree of land use control on sites not passing through public ownership, and one which can in principle be readily adopted to reinforce other measures, can be exercised through the provision or extension of public utilities and improvements to access. Although rarely used, the public authorities have potentially strong powers of persuasion available in the provision or withholding of roadway, water, sewer, telephone, and electricity connections and the like. The potential is strongest at the time of trunk-line installation and later in the provision or extension of distribution networks. The surprising lack of conscious use of this means of influencing

---

1/ Op. cit., p. 3.

land use seems to be attributable to the tendency for infrastructure to be provided only in response to strong demands that have already accumulated, and to some extent to the autonomous nature of many public utility agencies which may encourage lack of coordination with local planning bodies.

Other Influences on Urban Land Use

149. Among government actions, it is not however the policies, regulations and urban infrastructure investments specifically directed at controlling urban land use that necessarily have the greatest influence on urban land use. The primary influences on urban sprawl in the United States in the Fifties and Sixties, for instance, were probably the interstate highway program, developed in part for defense purposes, and the policies of the Veterans' Administration in regard to housing loans to the families of ex-servicemen. 1/

150. In developing countries, national programs such as those for intercity transport and communications can likewise have a profound influence not only on the location of urban extension areas--particularly around the entry points of highways--but also in facilitating the expansion of smaller urban areas along their course. Such countries as Turkey, Brazil and Thailand and indeed many others, bear evidence to the strength of such influences. Within cities, the provision of certain types of major transport installations, such as bridges or subways does not merely respond to demand but also tends to produce large changes in land use--whatever the existing land use plans may indicate. The subway in Mexico City or the Bosporus Bridge in Istanbul provide ready examples of the overriding pressures that such investments can create.

151. Such impacts of public investments on surrounding land use are all too often largely inadvertent. It is rare for the impacts of even such obviously important projects as bridges, or ports and airports, on existing land use controls outside the project area to be thoroughly investigated. Complementary measures called for to support or offset these impacts are customarily provided only tardily if at all, and at higher cost than if the impacts had been taken into account in the original project design.

152. Clearly, compatibility should be sought between national spatial planning, regional planning and urban planning on the one hand, and government activities not directly aimed at influencing urban form, but in fact strongly doing so, on the other. Yet this has been achieved in few even of the developed countries with any marked degree of success. In the developing countries the practical possibility of such reconciliation is lessened by the shortage of professional skills and by the urgency of taking action to cope with the rapid pace of development.

1/ See Malcolm D. Rivkin, Some Perspectives on Land Use Regulation and Control. It could be that, in the Seventies, the most powerful constraint in U.S. urban expansion is provided by the Environmental Protection Act, working through the regulations on sewage disposal.

Current Practice

153. The Bank is inevitably involved in urban land regulation issues. On the one hand, land use controls, including urban plans, land use restrictions and building regulations can have considerable influence on project design. The pattern of urban development itself strongly affects the cost of providing urban services. On the other hand, the projects that the Bank supports in urban areas, and particularly infrastructure projects, can have a great influence, whether conscious or unconscious, on the supply of urbanized land and patterns of urban development. Infrastructure projects may follow and consolidate patterns of land use that have already emerged; or they may exercise a leading role either in developing new urban extension areas or by strongly affecting existing urban land uses. The size of Bank investments in many urban areas is now of a sufficient magnitude that the collective impact on spatial development is no longer marginal.

154. The difficulties involved in acquiescing to, or obtaining changes in, land use regulations in the course of project preparation and implementation are usually handled in a pragmatic ad hoc manner, often by obtaining special exemptions. Nevertheless, in numerous instances considerable delays to projects occur in the process of convincing the officials involved of the appropriateness of, for example, more economical building standards, or in obtaining the requisite changes in legislation or ordinances.

155. A general review of the existing regulations, or even a more limited objective such as the revision of building codes for the city as a whole, is understandably not considered an obvious component for an individual project. Only in rare cases--the reconstruction project following the Managua earthquake is an example--is technical assistance for such purposes included. In some cases involving industrial estates, the emphasis has been more on ensuring the implementation of existing regulations curtailing industrial locations in residential areas.

156. More common is the inclusion in project financing of studies of urban development and technical assistance for municipal planning organizations. The emphasis here is on institutional reforms and the development of local capabilities for integrating decision making and financing of projects. It has to be recognized, however, that the methodologies involved, and in particular the methods for dealing with the great uncertainties of the future inherent in dynamic urban development, have not yet been developed to a satisfactory degree. Operational research on land use regulation of site and services and urban extension areas is more straightforward and progress is being made in relating project costs of low-level services to alternative layouts and land use ratios. The analysis has not yet been extended to such relationships as those between density controls of various types and design standards for the provision of infrastructure.

157. As for the wider land use changes caused by major infrastructure and other urbanization projects, the evidence, or rather lack of it, suggests that the issues involved are generally ignored. Exceptions occur in tourism, where controls to diminish land speculation and preserve the amenities of surrounding areas are involved. Airport projects also are increasingly concerned with approach areas and with the implications of future expansions. However, even these cases represent only limited extensions to the narrow project-oriented frame of reference. Impacts on overall urban patterns, even in such obvious cases as ports or airports, and the potential leading role of infrastructure construction such as water mains, generally appear to be regarded as the concern of local planning authorities and outside the terms of reference of specific project evaluation.

Recommendations

158. The greatest need, as for many other aspects discussed earlier, seems to be for increased awareness of the issues involved by the project staff. Simply stated, the wider impacts of projects on urban land use as well as narrow operational problems of land use should be considered--and such consideration should be reflected in project documents to facilitate appropriate review.

159. It is apparent that changes in local land use regulations to increase their relevance to local conditions would be of benefit to project preparation and implementation. It is less clear whether this should be a matter in which financing agencies such as the Bank should be directly involved or whether the stimulation of technical assistance in this field by other agencies is feasible and to be preferred. It is accordingly suggested that discussions be held among interested agencies and national authorities on the possibilities for extending technical assistance for appropriate modernization of land use controls and regulations and for public land management. Experience could usefully be gained in the interim in the context of a few individual projects particularly where there is involvement in several projects in the same city. Operations research on resolving conflicts between provision of low-cost services and land use regulations should also be continued and extended to more general considerations of density controls and the design of infrastructure.

160. Similar considerations apply to assistance for the development of local planning institutions and capabilities. Direct involvement appears desirable in respect of many individual projects and even more where several projects in the same city are involved in a wider support program. This is because the purpose of many projects in urban areas is less the execution of the individual project than the development of capabilities to develop a large-scale on-going program. This capability in turn is closely linked to the adequacy of the planning process, including the budgeting of municipal investment activities. The attainment of this wider objective of projects in urban areas necessarily involves close

examination of, and usually provision for strengthening, the planning and budgeting institutions concerned. However, given the difficulties encountered in this field, the experience of past assistance to urban studies and planning institutions should be reviewed to provide a better basis for types of assistance likely to prove most effective and the back-up capabilities and supervision time required. A greater research effort also seems required in developing appropriate methodologies for reviewing investment programs for urban areas in the context of socioeconomic objectives, financial resources, thresholds of changes in unit costs and alternative strategies for influencing and improving urban patterns.

VII. THE RECONCILIATION OF MULTIPLE OBJECTIVES AND INSTRUMENTS

161. The many issues concerning urban land come together when advice is sought by developing country authorities on how to handle the problems of urban growth. Even were it desirable, the Bank could hardly avoid these broader problems of urban development. The urban land issues raised by individual Bank projects--and even more by the total of Bank projects in an individual city--inevitably tend to involve discussions of the wider aspects of urban expansion. As will be evident from the earlier discussion, a variety of objectives and a multiplicity of policy instruments are involved, without any clear methodology being available to reconcile them in terms of an optimal solution for even a limited number of the objectives and instruments.

162. Local conditions, including the background of social and legal institutions, strongly affect the urban land policies adopted and the effectiveness of land use regulations. Even in the developed world, where population pressure is much less, resources far greater, and the capacity for planning and implementation much larger, the appropriate mix of urban land policies and instruments remains highly controversial. In the prevailing conditions in developing countries, a pragmatic incremental approach is even more indicated with emphasis on promoting programs for reasonably clear improvements to manifestly unsatisfactory conditions. This limited approach should, however, be combined with a program of institution building and research on development of methodologies and policy responses that reflect the limited resources and quickly changing conditions of the developing countries. Some of the issues involved are explored in this chapter.

163. The objectives which are generally put forward for urban land policies can be summarized in the following:

- the provision of an appropriate supply of urbanized land for urban productive activities, including provision of basic urban services, and for dwellings, community and recreational activities;

- the promotion of urban spatial patterns that minimize waste of resources relative to benefits, both economic and social, in the dynamic setting of rapid urban expansion;

-- the achievement of greater equity in wealth and income including access by low-income families to shelter; and

-- the promotion of a spatial balance of population and their activities at regional and national levels consistent with general national priorities.

These objectives are not clearly defined, however important the motivating power behind them may be. They overlap. The achievement of efficiency in a socioeconomic sense, for instance, largely implies a relative improvement in the conditions of the poorer income groups.

164. The objectives are, moreover, closely linked by the stringent limitations on the resources available to the towns and cities of developing countries. As a consequence, the mobilization of resources to achieve the objectives becomes almost an objective in itself. It is indeed through the overall programs of public investment and policies for taxation and charging for services, including longer term implications for recurring costs and revenues, that the circularity of the interrelationships between objectives can probably be most effectively breached.

165. As indicated earlier, many of the instruments--including in this term both projects and regulatory or charging policies--can either reinforce or conflict with each other in the attainment of the objectives. Charges on surplus values reduce pressures for devious manipulation of land use controls, but if too heavy may retard private investment in land development. Measures to increase security of tenure tend to conflict with others to promote the flexibility required for adaptation of urban patterns to the dynamic conditions of very rapid urban expansion. Rent controls to protect the poor may end up as effective subsidies to the middle class. Plans may help formulate objectives more precisely, but also cause delays and increase costs in implementing projects for achieving them. National spatial or macroeconomic policies often conflict with what is being attempted at the local level.

166. Broadly speaking, land use controls (direct and indirect) are primarily related to efficiency in land use in terms of securing a balance of uses which is in some sense closer to the optimal; and land taxation or charging is primarily related to greater equity in income and wealth distribution. Instruments of either group, however, need to be considered in relation to more than one objective. Land use controls have strong social and political implications which influence the equity objectives; and land taxation can significantly affect the supply of land both overall and for particular uses.

167. It is unfortunately difficult to assess the major direct, let alone indirect, contributions of the various instruments toward the various objectives. In many cases, given the complexity of land tenure and local land market restrictions, it is in practice not possible to identify the

ultimate beneficiaries or their relative shares. The likely degree of effectiveness of application of regulations has to be estimated with wide degrees of possible error. This does not mean, however, that some indications of the general direction of benefits or disbenefits and some idea of relative magnitudes cannot be derived but rather that the measurements will inevitably be rough, and that risks will remain of overlooking important side effects.

168. Above all, however, consideration of the inherent conflicts in the use of the various instruments emphasizes the overriding importance of increasing the total quantity of urban land available to accommodate the urban population explosion. Only if this is done is there hope for a rapid alleviation of the greatest deficiency of both market and state systems of urban land allocation--that allocations tend to be heavily biased to a favored few whether distinguished by wealth or influence. It is the rationing element of the systems, whether achieved by price or decree, that tends to produce the greatest anomalies and inequities. With larger supplies of urbanized land, less regulation can achieve greater success in attaining the objectives, including not only social aims but also greater efficiency, such as urban layouts that economize on the costs of providing public services.

Simplification of Regulatory Frameworks and Improved Public Land Management

169. These various considerations point to the need for establishing not only simplified general frameworks of infrastructure planning and regulatory controls within which the private sector and individual public service agencies can operate effectively, but also to the desirability of a strong monitoring function. Monitoring is required to ensure that wider considerations are not simply overlooked in major programs, and to correct or compensate for abuses and other repercussions that have not been, and probably in large measure cannot be, adequately anticipated.

170. Establishing a framework of appropriate regulations is not of course easy and needs to be based solidly on a realistic appraisal of institutional capacity and possibilities for improvement. An integral part of such an appraisal, however, should be a review of existing regulations with a view to elimination, or drastic simplification, of many that are inoperative or obviously inappropriate, and concentration on those most effective in restraining incompatible urban developments. This seems feasible. Establishing a monitoring process is likewise difficult. It runs the risk of diffusion of effort in overambitious information-gathering and lack of focus on analysis of movements in critical indicators.

171. There is also an evident need for a closer look at the totality of the public holdings of urban land and their management in terms of the sequential development of individual sites, the interrelationships between different sites, and public project requirements both near-term and in the longer term future. The management of public land development as a function exceeding and encompassing the interests of individual municipal departments

is often barely recognized. The interdependence of different public land sites is also frequently ignored, though any large private developer knows that in maximizing overall land values he needs to take into account the effect that his development activities in one part may have on another, particularly the mix of high-density development and open spaces. The establishment of accounts of physical holdings of public land, separating those already earmarked for projects, and relating holdings to future requirements indicated by a structural planning process and to costs of holding land and resource availabilities represents a further field where the management process could be greatly improved. All such activities, as also the land tax system, could benefit from the development of groups of appraisers with greater expertise than usually encountered.

Recommendations

172. It is recommended that much more consideration be given to establishment of minimum effective levels of urban land planning, land use controls, land management, and monitoring requirements under different local conditions. Technical assistance requirements in this field could well be identified in urban project appraisal work.

173. The Bank is already undertaking fairly comprehensive city studies in a number of cities where several Bank projects are programmed. In this connection, the practical obstacles being encountered in expanding the supply of serviced land both overall and for particular purposes would seem to deserve particular attention, including the functioning of land markets and the costs of land transfers for different income groups.

174. Much could be learned by a pilot investigation in one city of the complex of regulations and institutions directed toward control of land use with a view to recommendations for simplifying and making the regulations more appropriate to local conditions and suggesting institutional reforms. If possible this investigation should be supplemented by a similar study for the same city on land taxes and their relation to land use regulation; and by another on minimum monitoring requirements relating to the impact of projects and of changes in regulations and policies.

THE VALUE OF URBAN LAND

Professor Alan A. Walters
Urban Projects Department

TABLE OF CONTENTS

A PROLOGUE

The Rise in the Value of Land

Levels and Rates of Change

i. It is widely asserted that the price of land is "too high" and "has risen (or is rising) too rapidly" in LDCs. In the context of these statements, one would normally understand that the complaints are directed against urban land or perhaps land about to be brought in to the urban area. They are not normally applied to land in rural areas which are likely to remain long in pastoral use.

ii. The complaint is usually the joint one that prices of land are too high and have risen too rapidly. These are two quite distinct allegations--one about the level of land prices relative to the level of other prices, and one about the rate of appreciation of land relative to the rate of appreciation of other goods or assets. Logically, both propositions cannot hold true for all periods of time--and for a long enough time span one must be false. If for example the rate of increase of land prices were to be always higher than all other prices, and at present the level of land prices were judged to be too high, then necessarily at some point in the past the level of land prices must have been too low relative to other prices. Clearly it is difficult to carry these two allegations simultaneously; and so in order to clear the ground, discussion is restricted to the proposition that land prices have been rising too rapidly.

iii. The rise in the price of land, although in much non-professional discussion discussed in absolute terms, is normally considered relative to the rise in the general level of prices. Thus it is contended that land has risen at too fast a rate relative to the rate of inflation as measured in the general price level. (Of course, the general price level may be interpreted in many ways; for the purpose of this note, it will be restricted to the price index of the value added in the domestic economy.)

Average as Base

iv. Additional difficulties arise because of the specificity of land. Each plot is different. Presumably, the assertions apply to some sort of average plot of land. But it is clear that if one retains the same boundaries of a city and if that city is growing, the assertion that average land prices are increasing rapidly is neither surprising nor very interesting. Such increases are necessary for the efficient allocation of space. Presumably, therefore, one must define the average to cover all the expanding built-up area. (And there are

numerous difficulties in defining such boundaries which we leave aside.) Such an average price for the growing urban area cannot be said by definition to be obviously increasing at a rapid rate. Clearly, the expansion of the city will bring in low priced land on the periphery which will have the effect of modifying the increase of price within the existing boundaries.

Asset Price as Standard

v. With this average price definition, however, we must clearly ask about the appropriate standard with respect to which the price of land is rising. As we suggested above, the obvious standard is the general price level. But since land is an asset, it seems more sensible to use the price of other assets as a standard, rather than the prices of flows of consumer goods and services. The choice of the asset holder (the saver) is between holding his wealth in the form of land or in some other asset such as bonds, or real capital. Each form of asset has an expected rate of return consisting of an income (which may be zero or even negative) and at expected appreciation of the price (which may be a depreciation!). Given that there is freedom to purchase land and other assets there is no reason why the expected yields on land should differ substantially from the expected returns on other assets. 1/

vi. If one assumes that average expectations are justified, then the rapid rise in the price of land relative to the price of other assets may be a consequence of the fact that it has a lower yield than other assets. The more rapid price appreciation relative to other assets simply makes up for the lower income flow. (It appears, however, that such an explanation is however probably unable to account for the allegation of a very rapid escalation of land prices. At most, it would account for some 15 percent per annum.) Events, however, may turn out quite differently from average expectation. The land price rise may not have been generally anticipated. 2/ Although this may be the explanation for rapid increases in certain short periods of time, it clearly cannot be applied to the

---

1/ Note that if one cannot freely purchase land on the open market at the quoted price, then that price has little or no meaning and should not be compared with other prices where such rights exist.

2/ The reader may find it difficult to credit this proposition in view of the fact that allegations of rapidly escalating prices of land appear to have always been around.

long run; people do profit by learning from history.[1/] One suspects that over the long run, the average price of land has not risen dramatically, although the price in many cities which have active land markets may indeed have risen at very high rates. The dispersion around the average may be substantial; this possibility is explored in 6 below.

Land (Unserviced) as a Standard

vii. It may be alleged, however, that the increase in the price of urban land should be judged relative to the price of a particular asset—namely relative to the price of non-urban land. This at least appears to be the implicit presumption in some discussions. However, non-urban land is not homogeneous and is, of course, affected by the spread of the city. One must resort again to averages of one sort or another.

viii. The first natural comparison is the rate of increase of the average price of urban land relative to the rate of inflation of average price of agricultural land. This gives what might be thought to be the appropriate comparison of developed against undeveloped land. The main objection to such a comparison is that urban land usually includes services such as water, sewerage, electricity and roads, and that the value of urban land will reflect the relative scarcities of these facilities. And even unserviced urban land will have prices that reflect the likelihood of services being installed. The effect of servicing land on the path of land prices is a subject that we examine at length later in this paper.

The Income (or Wealth) of the Poor as a Standard

ix. A final standard of comparison for the rise of land prices is the rate of growth of the income or wealth of the poor. Much of the concern about the expense of urban land arises from the supposition that the urban poor cannot afford to buy a plot of land and so are encouraged illegally to squat. This comparison seems, however, to be inappropriate. There is no reason why the acquisition of land as an asset should be in the interests of the poor. In particular, if as argued above, the rate of return on land is low because of the expectation of a rapid appreciation in price, it may well be in the interests of the poor to hold other higher yielding assets, such as stock in trade, and to rent living space. There is certainly no presumption that it is best for the urban poor to own their plots.

x. Perhaps the most useful comparison is, therefore, not with the price of land but with the escalating rental values of dwellings occupied by the poor. Of course, land is only one of the inputs into the provision

---

1/ Again the dramatic fall in land prices and urban real estate generally in 1974-75 brought about near catastrophic losses to many institutions and people. One suspects that it had a considerable effect in revising expectations.

of rental shelter for the poor—and shelter or accommodation is the final service which affects their material standard of living. In assessing the impact of higher land prices on the urban poor, one must assess the extent to which they can substitute other things, such as plentiful labor and capital for land to provide "low-cost" shelter (such as multi-story dwellings).1/

xi. Thus a comparison between the price of some standardized (but not with fixed land input) equivalent unit of shelter and the incomes of the poor is the ultimate measure of the effects on material well-being. The increase in the price of land will affect this price of shelter but, of course,much less than proportionately.2/

Statistics and Selectivity

xii. So far as one can discover, there have been no carefully designed statistical studies of the price of land that would shed light on the various measures discussed above. Nor is this surprising. Even in countries which have well-developed systems of data collection, such as the United States and Western Europe, the difficulties of definition, comparability and sequencing are daunting. In LDCs the statistical records are of a much lower quality than those in Western countries.

xiii. Yet the fact that the statistical bases for statements about the escalating land price are poor has not prevented the widespread propagation of the thesis of the rapid inflation of urban land prices. Proponents of the thesis have quite properly relied on direct observation and experience. Reports of the price at which land changes hands, the experience of the government in acquiring land at "fair market price" and the rapid increase

---

1/ Furthermore, the high price of land will induce the generation of intensive economic activity in urban areas--and will lead to extensive employment opportunities as firms substitute relatively cheap labor (and capital) for expensive land. The regulation of land use in city centers in the United Kingdom, has led to the destruction of enterprises and the severe reduction of employment in many cities and the generation of very high levels of unemployment.

2/ One important element in the cost of land for shelter for the urban poor is the frequently large and fixed transactions costs. Since these do not vary proportionately with the size of the plot, this means that the true market price for small plots is considerably higher than those reported for large plots. When considering the price or rent of small-scale shelter, these costs, consisting of legal fees, registration and search fees, as well as the ordinary hassle of red tape may be a considerable deterrent to subdivision and development. It might be supposed, however, that these costs would be proportionately smaller as the price of land (in the large) increases; to some extent this is true although fees generally rise over time.

of prices of buildings on certain select sites; all have been adduced as evidence of the speedy progression of land prices.1/ Such evidence, valuable though it is, must be examined and interpreted with care and reflection; appearances are often deceptive.

xiv. There is a natural selectivity in reports of land prices. Clearly land prices emerge only when a sale takes place, and so the more frequent the sales of particular types of land the more frequent the reports of prices. (Even if the reported "prices" of land are in fact based on assessments or appraisals, these too would be geared to actual transactions in land.) Furthermore, it seems likely that those plots of land which have often changed in use will be on the market more frequently than other sites. Consequently the evidence from direct observation will tend to be heavily weighted with such change-use prices, where, it will be observed, the rate of price increase is likely to be higher than on the average plot of land.

xv. Secondly, there is likely to be reportage bias. The news media and interested agencies and politicians are likely to select those stories where there has been a dramatic increase in the price of land and where some owner has enjoyed massive windfall gains. Stable or gradually increasing prices and small gains are not news and are unlikely to be useful as material for persuasive argument.

xvi. Thirdly, there is the existence bias. In some countries land has been nationalized by government with or without any compensation and so private sales were declared illegal. "Prices" in the form of capitalized rents may exist in one form or another, but the proscriptions on use make such "prices" of little or no use for comparative purposes. One cannot freely buy land at that price. Consequently, we have no observations of the price of land. If the private owners were completely expropriated, as in Cambodia, then to them, the value of land falls to zero. And if one is considering land as an asset on which a saver earns a rate of return, then this zero value is the appropriate "price" of land. But such a catastrophic fall in the price of land so expropriated does counterbalance the remarkable price increases of land in countries which have not experienced and now are thought unlikely to experience such events. Hence the very steep increases of price in countries such as Singapore which lived through earlier periods of considerable uncertainty until it emerged as a safe haven for investments in property. But although the threat was always latent, these are the countries that did not succumb to nationalization or complete expropriation. There are, of course, many observations of land prices available in such free-market countries. To judge the general trend of land prices, for the purpose of assessing

---

1/ Ed. John Wong, The Cities of Asia: A Study of Urban Solutions and Urban Finance, Singapore University Press 1975.

whether rates of return on land have been excessive from countries such as Singapore, Brazil, Mexico, etc., is as misleading as estimating the rate of return on horse-race betting ex post only from the odds on the winner. The greater the risk in investing in land then the higher the rate of return must be on the successful (and widely reported) cases.

xvii. Up to this point, the issues raised above suggest that the reporting bias is in the upward direction—that is to say land prices that have increased more than average are more likely to be the reported ones. On the other hand, there is an argument that the reporting bias may be offset to some extent by the increasing degree of monopoly power in land holdings. If monopoly power increases either by virtue of more concentration of ownership or by the fact that large landowners who hitherto owned rural tracts now find that a new city development has given them valuable monopoly rights on a plate, then such owners may find it in their interests to hold land off the market and wait for more profitable sales. This will tend not merely to give rise to a more rapid increase in the price of land but it will also reduce the incidence of sales of land with rapidly increasing values.

THE VALUE OF LAND

Introduction and Summary

1. The "cost" of land plays an important role in many decisions by both governments and private agents. In order to delineate the consequences of decisions to use land for specified purposes, one must measure costs in terms of the output of useful goods and services that would be forgone; this is then the true cost or opportunity cost of the land. Although easy to state, this principle of opportunity cost involves some conceptual and many practical puzzles. The conceptual problems arise usually from the fact that one must define precisely the course of action that is proposed, such as a particular investment project, and then examine the consequences of variations in land inputs to find the appropriate opportunity cost. The practical difficulties arise from the frequent absence of any natural and convenient way of measuring the loss of useful output.

2. Although the rent that the land commands on the market is sometimes a useful point of departure, in practice, rents are often regulated at customary or conventional levels rather than at market values. In countries where land is bought and sold, the capital value reflects the risks of losing the future rents—and so the private value may deviate below the true social value of the land. And in economies where no market transactions in land are allowed, one must have recourse to predicting directly what the output would have been in the postulated hypothetical circumstances.

3. Finally, this paper analyzes the reasons for the alleged rapid increase in the price of urban land in LDCs. This is due in part to the restrictions, both administrative and financial, on the supply of urban services, and in part to the high rate of return on risk capital.

Land Values and Costs

4. The critical attribute of land that distinguishes it from most other resources is that, with minor exceptions, it is non-reproducible. If land is extraordinarily valuable in the center of a city, one cannot devote resources to produce more of that valuable land; amount must be taken as given. The only recourse is to make different uses of the existing stock of land. Hence there is the desiderata that land should be employed in its most valuable use.

5. But there is the obvious problem of defining and measuring what is the most valuable use of a site. As a first approximation one would suggest that the most valuable use is that which results in the largest output of goods and services, net of inputs used, from that particular plot of land. If the land were owned by either private person or by the state, one might expect that one would use this test in a first attempt to find the best use.

6. It is, however, too myopic a criterion. For clearly the fact that a particular plot of land is employed in a specific use rather than another may affect many other surrounding areas. The location of a polluting factory, for example, may render land in the immediate neighborhood as unsuitable and of little value for residences. Thus a decision to locate a factory should take some account of the effects of taking not merely the land required—the on-site land—but it should also assess the consequences on the off-site land. These may be injurious or advantageous. For example, the construction of a highway may increase accessibility to a hinterland and so greatly increase the productivity of land either in existing or new uses.

7. The fact that changes in the use of a plot of land may involve significant and perhaps far-reaching off-site effects—some tangible and measurable, others not—has given rise to the peculiar problems of "externalities;" "neighborhood effects," "unearned increments of value," etc., which have been the bases of concern for land policy in many countries. Clearly any project should be judged not merely by its direct on-site effects, but also in terms of the myriad of off-site indirect effects. To measure these indirect off-site effects in market economies, one must ask how they are reflected in the price system and in socialist economies one must seek the means whereby they are transmitted in regulations and planning decisions. But first the concept of "cost of land" must be defined and explored.

The Opportunity Cost of Land

8. Most large public projects require land as a necessary input. Examples are the construction of highways, and many housing projects. The use of land in the project itself means that, in the calculation of the consequences of adopting the project, such land should be attributed a cost. The task of determining such a cost is a problem of valuation of land.

9. The simple principle is that the cost of land so absorbed is the opportunity cost. For an all-or-nothing project, this is defined as the stream of future outputs from that land, gross of taxes but net of contracted inputs, in its most likely (note not the most efficient) use without the project.1/

1/ Since this is a stream of future values, each of which is uncertain, one should calculate some function of the likelihoods multiplied by the associated future outputs; but this problem is deferred for the time being.

10. The first point to note about the opportunity cost is that it is a residual value, and so can be expressed only in terms of some numeraire such as money.1/ And since the opportunity cost occurs year after year, the money calculation will be dated for each year. The changes in the annual opportunity cost (or net output forgone) will be brought about by (1) changes in the price of the output of land relative to the general level of prices, (2) changes in the prices of inputs into land-oriented activity relative to the general level of prices, (3) changes in applied technology in land related industry, and (4) changes in the laws and regultions and other constraints on the use of land. These will reflect the variations in the productivity of land due to changes in preferences, changes in production and technology, and changes in the legal and regulatory environment.

11. The first three items on this list are part of the normal process of predicting the consequences of technology and tastes which are characteristic of all forms of economic activity. The only distinguishing feature of land in this context is the longevity of the asset—land is truly a non-depletable resource, whereas most other assets run out or wear out in a few years. But this virtual nonreproducibility and longevity also partly account for the distinguishing feature that legal and regulatory constraints and changes in such conditions are more important in determining the opportunity cost than with most other assets. Under a regime of private ownership, the law, for example, may prescribe for the use to which the land may be put, or more likely proscribe the illegal uses. Alternatively the use of the land may be determined by a central planning authority through the exercise of executive power, or by tribal custom and indigenous ritual. And changes in these laws, regulations or customs can considerably affect the opportunity cost.

12. This concept of opportunity cost is quite independent of the institutional structure of society. Whether land (or any other assets) are privately or publicly owned the conception of cost is the same. Of course the actual measure will vary according to the institutional structure since the proscriptions and opportunities will differ. For example, if a planning authority or a tribal taboo specifies that certain tracts of land shall be used exclusively in a single use (say for housing) and the quantity of land so designated greatly exceeds the amount actually used for housing, then the land used for additional housing will have an opportunity cost to near zero. The principle of opportunity cost is the same.

1/ "Bushel of corn minus labor" epitomizes the sort of calculation of the residual opportunity cost. An alternative commonly suggested in Marxist and socialist societies would be to work in terms of labor units; thus converting bushel of corn into labor units would give the opportunity cost in terms of labor units. Then the expression over time would be in terms of labor units at different dates in the future.

13. This example illustrates another common misconception. The opportunity cost is not the net output of the land in the next most efficient use—where one would normally interpret efficient in the sense of having the highest net output. Constraints may prevent such an arrangement. One must measure what will occur (or strictly what is likely to occur) in fact rather than what might occur under some idealized system.

Project Interaction and Opportunity Costs

14. In many of the projects such as those financed by the Bank, considerable land acquisitions are required. For example, new port facilities may require many acres of land. But the installation of the facilities does normally change the opportunity cost of land (ignoring for the time being the "one-use" planning restrictions referred to above) whether on-site for the project or off-site. Land which was an unusable swamp becomes highly productive when a port is constructed on its periphery. Thus there are two opportunity costs of land—one without the project and one with the project completed. The question arises: which is the appropriate opportunity cost for the land that is absorbed in the project?

15. At first sight, the answer seems obvious—clearly it is the without-project opportunity cost of the land. The community is giving up whatever net product the land would have produced in the absence of the project, and this is the opportunity cost of the land for the port.

16. This is the relevant cost for answering the question—usually the most important one in project evaluation—whether the project is worthwhile. This is an all-or-nothing question, or it may simply be one of location: either the port is to be erected at A or at B. In this question, the port is a specific package of investments involving specific commitments of land.

17. But there is a second problem to consider. Whether or not the port is worth building, does it have the right amount of land? There are many technologies which can be employed in port operation some of which will involve the use of a great deal of land whereas other technologies may use little land but rather larger amounts of capital.1/ The question now is how should land be assigned an opportunity cost in considering the different port complexes. Clearly the low without-project opportunity cost is not relevant to this decision: if that low without-project cost were to be used, the port would be too expensive and waste land. The relevant opportunity cost is the (high) "with-the-project" value. Land used up in the port complex would not be available for industry, commerce

---

1/ A common example is the use of multiple stacking of containers. Low vs. high-rise housing is another.

or housing—which would all tend to find it advantageous to be located near to the port.

18. In determining the optimum land required for the port, one should make the port "compete" with other "with-project" land uses. And for this purpose, the productivity of the land in its use in the port should be compared with the productivity in industry and housing when the port is installed.1/

19. It may seem paradoxical that one should require two radically different opportunity costs for what is the same tract of land being employed in a port. Although the question seems broadly the same in the two cases—whether to use a stretch of land for a port—there is in fact an essential difference. In the first place, we are considering the issue—port or no-port. This is an all or nothing proposition which is in the form of a lumpy piece of investment. In the second case, we are considering marginal increments of land to the port complex; we are adjusting on the margin between port use and other uses. Thus is the paradox lost.

20. In principle, one should first answer the second question before addressing the first. One should find the most efficient configuration of the port before asking whether it is worthwhile to build it. There are, however, many complicated interactions to be taken into account in order to estimate the opportunity cost of land when the port is in place. In practice, it is often convenient to reverse the order of the questions and answer the first question first. The issue on whether to build a port at all is usually clear cut enough to enable us to leave the finesse of the appropriate design of the port to later study. Only in a few critical cases will the issue of port or no-port be determined or influenced by the subtleties of its design.

1/ To avoid misunderstandings, it must be noted that there will be a difference in the with-project and without-project costs of the port land only if there is free entry into the port's hinterland from the larger area of the country. If, per contra, there were a fixed demand for industrial and housing land (with fixed proportions and no inward migration), the release of land from the port project will result in a high post-project rent being charged for that land but, since the total surplus value is fixed ex hypothesis, all other land will suffer a corresponding reduction in their rental values. The surplus created by the reduction in port size is then largely cancelled by the fall in other surpluses, and the without-project valuation of land is appropriate. However, this last extreme case of "restricted entry" should be very much an exception for projects that purport to promote development. Land is rarely a free good, unless restrictions make it so. Practical cases are unlikely to be near this extreme.

21. So far the problem has been concerned with finding the cost of the land absorbed by the port. But of course, as illustrated above, the port will give rise to substantial increases in the rents of plots of land that are in any way affected by the new accessibility. (It may also generate some reductions in rents of land surrounding superseded port facilities.) These increases in land value are undoubtedly part of the benefits of the project and are the mirror image of the decline in transport costs occasioned by the opening of the port.1/ Again, however, in deciding how much land to use for access roads or water reservoirs or any other land-using project, the appropriate cost is the high with-port value.

Institutional Conditions and the Price System

22. So far in this exposition, all the commentary applies to any economy whatever the form of its institutions. It applies to a communist centrally planned economy as well as to a capitalist free enterprise system; it applies to an African society that cannot grasp the concept of the alienation of land as well as the highly developed landlord-tenant systems in certain Asian cities; it applies to state, commune or cooperative ownership as well as to the private ownership and control. Marked differences will exist between communities in the relative importance that is ascribed to various land uses and the value of the outputs therefrom. But the principle of opportunity cost remains valid.

23. The critical problem is to estimate such opportunity costs, to find suitable empirical correlates for the net output each year and to discover a method of expressing the time preferences of people and communities.

24. Socialist Economies. For a centrally planned economy, there seems to be no rational alternative to the detailed calculation year by year of the potential net outputs either in money or in some other approved standard numeraire such as labor units. These dated values may then be converted to present values by employing the planning rate of discount for each period. These present values may then be used as accounting prices in the formulation of micro-plans for highways, enterprises and housing in the urban areas.

25. The complexity of such calculations is enormous. It involves forecasts of land use for many years ahead and the associated outputs and inputs with their planning values. Even where rigid planning uses

---

1/ These effects have been analyzed in some detail in A. A. Walters, The Economics of Road User Charges, World Bank Staff Occasional Paper No. 5, Johns Hopkins University Press, Baltimore, 1968, Chapter 5.

are enforced, they usually do not extend beyond a five-year horizon—and in most socialist economies, there is some flexibility built into the planning process.

26. It is not surprising to find that in almost all socialist LDCs there is no attempt to calculate the planning price for land. In practice the allocation of land to its various competing uses is made on the grounds of planning imperatives or rules of thumb and not on some calculation of the value of the land in its alternative uses. The planning process and the specification of land use is a practical application of the political process of socialism. The refinements with "planning prices" are not yet possible to apply in most socialist economies.

27. In project analysis in socialist LDCs the best that can be achieved is to obtain some estimate of what the land would be used for in the absence of the project. This information can be obtained only by close liaison with the planners both at the central level and in the local political cadres. Following the Little-Mirrlees or UNIDO guidelines, one would try to value the output foregone at world price, if there is a world market. However, for urban projects it is unlikely that such a convenient price will exist; conventional domestic prices may be the only ones available.

28. Free-market Economies. In some countries, property rights are well defined in the legal system. Contracts are freely entered into whereby property rights may be transferred from one person to another, and the state provides a framework of law which recognizes contracts and the right to redress if the contract is violated. The extreme version of this free-contract system is where the owner can employ the land in any activity he likes (provided that it be consistent with the law) and is entitled to the residual income therefrom. If the right to this residual is freely sold on the competitive market and if the time period over which this right is to be exercised is also specified in the contract (usually one year), then the price of that right will tend to equal the annual opportunity cost. This price is often referred to as the true or economic (annual) rent.

29. As distinct from the socialist cost-of-land concept, it is noted:

(i) that the economic rent emerges from the individual's assessment of the most privately advantageous use of that land and if he miscalculates then he will pay the costs of his wrong decision, so there is considerable incentive to get it right, and

(ii) the economic rent reflects the highest private productivity of land, and this in turn reflects the valuations of labor and other products on the markets.

30. Of course, the economic rent may differ from the opportunity cost because of mistakes due to the individual's assessment being wrong. But this is not the main complaint against the use of the economic rent. The usual indictment is that the prices of outputs and inputs that shape the economic rent do not reflect the social values of either resources or of outputs. They measure private profit and productivity rather than social values and aspirations. The deviations between social values and those values which would emerge in a free market are alleged to be large and significant. Whether they are or not is a matter of fact.1/

31. An important cause of the difference between market or economic rent and the opportunity cost is that differential taxes, subsidies or controls (quota restrictions, rationing, etc.) may be imposed by government. In most cases, taxes, restrictions and rationing are meant to serve primarily other goals (such as revenue raising) rather than nicely to measure what government deems to be the divergence between private and social cost. Similarly, institutional arrangements may inhibit or actually prevent the price of output and inputs into the land-using process reflecting their opportunity costs. In principle, the opportunity costs for each year could still be calculated from the market transactions by setting shadow prices and following the UNIDO Guidelines and Squire and van der Tak.

32. There is, however, one manifestation of social costs--urban highway congestion--that is particularly important in developing countries. The differences in the rental values of plots of land depend primarily on their accessibility by road. The costs of access consist largely of the private expenses that appear in the accounts of users of the urban highways. But it is well known that, unless a congestion levy is exacted from urban road users, the private costs of motoring

---

1/ See R. H. Coase, "The Problem of Social Costs", Jnl Law Econ 1961 and Steven Cheung, "Social Cost, Public Policies, and the Interpretation of Economic Behavior", Jnl Law Econ, 1976 and W. Baumol and W. E. Oates, The Theory of Environmental Policy, London, 1976. The main point that emerges from these studies is that, granted the government allows free contractual arrangements and abstracting from income distribution effects, there are surprisingly few cases where there is a marked divergence.

will be considerably less than the true social costs.[1/] The value of an accessible location will, therefore, be less than the true social value. Thus this important externality—highway congestion—suggests that the market will considerably underestimate the rental value of urban land; the greater the congestion the greater the underestimation of the value of accessibility.

33. So far the discussion has illuminated those reasons for believing that market rents will be less than the true value of land. Perhaps the main reason for supposing that market rents may be too high is the existence of monopolist land owners in certain LDCs. A monopolist (or cartelized group) may withhold land from developed urban uses in order to maintain the rents on his existing developed plots. Although in this case, the market value is indeed "too high" relative to what would occur in a competitive environment, the market value of the restricted quantity of developed land still does represent its true rental value. The landlord does obtain the true economic surplus of his plots of land; he merely ensures that the supply of such plots is so restricted that he earns a monopoly profit therefrom. But it does follow that the opportunity cost of the (restricted) developed plots will be considerably less than the market value. The monopolist landowner exploits the urban resident.

34. It is useful to have a nomenclature for the extent to which a landlord can acquire the true economic surplus generated by his property. We shall call it the appropriation ratio and it is defined as:

$$AR = \frac{\text{net rent received}}{\text{net surplus generated}}$$

The appropriation ratio will never knowingly exceed unity (unless there is extortion) and will presumably never be less than zero. The net rent received is therefore the product of the net surplus and the appropriation ratio. This is the actual appropriation ratio which holds for a given year. There is correspondingly a series of expected appropriation ratios which are thought to apply in future years, and these obviously have a crucial role in determining capital values.

Capitalization and Price of Land

35. So far, the discussion has been limited to contracts for outputs and land occupancy rights for specified short periods—a year is the usual interval. But owing to the longevity of land the rights may be alienable for much longer periods—in some legal environments in

---

1/ See A. A. Walters, Economics of Road User Charges, 1968. Note, however, that the backward bending case must be excepted in the argument that follows.

perpetuity. The value of ownership of stipulated rights in perpetuity—in short the price of the land—is the estimated present value of the expected future appropriations of rents.

36. The additional difficulties that arise, and will be discussed in turn, include:

(1) uncertainties about the net rent to be received, which in turn can be decomposed into uncertainties about the appropriation ratio and the net surplus generated and any interactions between them,

(2) uncertainties about the rate of inflation of the net value added of land compared with the rate of price increase of other "typical" baskets of goods and services, and

(3) uncertainties about the rate of interest for various term structures in future years.

37. Uncertainties about Net Rent. The net rental income, after tax, received by the landowner may be a money income, an income in kind, or the imputed income of an owner occupier and may vary between these over time. In forming expectations of what this will be in the future, the landowner may first estimate what the net surplus generated by the land is likely to be. He will take into account:

(a) any restrictions in the use to which his land may be put and any change in those restrictions, and

(b) changes in technology and the prices of output and inputs into the land-using process.

38. The latter are the typical variables which the producer and asset holder must always attempt to formulate views about. Nevertheless, some of the output of landed activity, such as housing services, may change drastically as a consequence of the change in the restrictions and the appropriation ratio.

39. Perhaps more than any other single factor, however, it is the expected changes in the appropriation ratio that affect the level and changes of land prices. While all assets are subject to some extent to changes in the appropriation ratio—probably cash held on deposit in numbered Swiss accounts is the only asset that has a 99.9 percent security rating—land is probably more subject to changes, sometimes amounting to the extreme of outright expropriation (i.e. AR=0), than other assets. Land is immovable, perpetual and visible and is more

directly subject to the government's control than most other assets. Furthermore, the expropriation or high and discriminatory taxation of the landowner, whether right or wrong, has been politically attractive to many governments. Consequently, one would expect that in countries where the AR is high, the expected expropriation ratios in the future would be considerably lower as the historical drift to land reform is anticipated.

40. All these factors suggest that the appropriation ratio of land would be lower than that for other assets. And in general, it will be lower the less politically stable the community or state. (It is rare for political instability and change to lead to a restoration of property rights to original owners.)

41. The main conclusion is that the price of land will, cet par, underestimate the true capitalized value of the surplus generated by future use of the land. The opportunity cost will be higher than the market value—and the mark up will depend on estimates of the future AR values. Furthermore, the AR and expected changes therein may interact with the actual use to which the land is put. For example, if it be expected that the State will nationalize, with low compensation, all undeveloped urban land (or introduce penalizing taxes thereon) the rush to put some building on plots will ensure that there is very little such vacant land left. At this genre, perhaps the most interesting example emerged in Steven Cheung's study of Hongkong where rent controls were applied to existing but not new residences; as one might expect, this resulted in substantial and wasteful new building and the destruction of many serviceable existing structures.

42. By affecting the AR the government may, subject to political and administrative constraints, reduce the price of land as low as it likes. For example, a 100 percent tax on income, including imputed income, from land in perpetuity will ensure that land is virtually valueless to the private taxpayer. Correspondingly in certain countries, ownership of land may be accompanied by tax breaks which amount essentially to subsidies (and so an AR exceeding unity); but there are probably few cases in LDCs. In certain LDCs perhaps the main reason for believing that market price may exceed capitalized opportunity cost is the existence of large land monopolies or cartels. In the absence of such monopolies, it is perhaps wise to regard the market price of land as the lower limit of the capitalized opportunity cost.

43. Uncertainties about Inflation. So far the assumption has been made that the general level of prices does not change and is not expected to change so that the money value of a contract approximates to its real value. If, however, the general level of prices in money terms is expected to rise, the money value of land will rise to reflect the fact that future surpluses will be expected to be worth more and more in terms of money. (In this sense, land is similar to an indexed

bond, and the price of land reflects this implicit indexing; the difference between them arises from the price adjustment process.) In many countries, the high price of land relative to the value of its current surplus reflects high expected inflation rates and the absence of a supply of any other inflation hedge (such as indexed bonds or assets denominated in foreign currency).

44. Again, however, one must be careful about what "other things" are being held constant in this valuation. Experience suggests that as an inflation gets under way it is most likely that the authorities will institute or more rigorously enforce price control and regulation.1/ In the inflationary surge of 1973/74, many developed countries and LDCs either pursued rent control policies or allowed the rent control legislation to have a more effective "bite." Thus a landowner who proposes to rent his property will take into account the likelihood of expropriation through such controls in an inflationary environment. Consequently the increment in the price of land due to inflationary expectations may be partially, even more than wholly, offset by the expected effects of controls.2/

45. Uncertainties about Interest Rates. The price of land will reflect the cost of finance (sometimes called the supply price of capital) and expectations about the cost of finance in the future. The cost of finance is closely related to the rate of interest—but in most LDCs there are institutional or governmental constraints on the capital markets that ensure that all interest rates are artificial and do not reflect the costs of capital. Nevertheless, there may be substantial expectations of changes in the costs of capital for each asset owner, either because of expected institutional changes or for political reasons. (It will be noted that there is no reason why the private cost of capital should reflect whatever the government or their planning agency may decide is the appropriate social rate of discount.)

46. Again, if the capital is specified in money terms, the cost will reflect the rate of inflation to be expected in future years. This is the corollary that the rate of yield on obligations stipulated in fixed money terms will reflect the anticipated inflation rate.

1/ For example, in the great German inflation from 1919-23, it was reported that, by virtue of rent control, only 0.4 percent of a family budget was spent on rent. See Constantino Bresciani-Turroni, Le Vicende del Marco Tedesco, Bicconi, 1931, p. 133.

2/ One may note, however, that the controls tend to be somewhat capricious both in the range of application and in their effects; see Cheung op cit.

47. In principle all streams of real claims, as distinct from nominal or money claims, will be capitalized in money terms to reflect the increase in prices. In most project work, the analysis is carried out in terms of constant prices, and one is confronted by the task of converting the capital value into an inflation-free figure. Various procedures are possible but none can really provide a convincing answer. The main candidates are:

(a) extrapolate past trends in inflation, choosing a price index as closely related as possible to the asset in question,

(b) use the difference between yields on indexed bonds and nominal bonds where these are issued (e.g. Brazil),

(c) use the forecasts in country reports for short term and extrapolate accordingly.

The uncertainties in all these procedures are considerable. Probably the best method is (b), but unfortunately there are few countries where indexed bonds are issued or have a free enough market to use the quotations as indicators of expected rates of inflation. Extrapolation of past trends is the one that must normally be used. But it would always be wise to take into account current policies that may modify, arrest or even reverse the trends of history. Even the most skilled economists using the most sophisticated techniques should attach a large degree of uncertainty to their forecasts—especially those of inflation.

Planning Restrictions in the "Free" Market

48. It is rare that even in the free market economies, such as Hongkong, there is complete freedom of contract with respect to land and real property. The law (or some extra-legal body) may specify the uses to which the land may be put, or it may stipulate that the land must be let to a sitting tenant at a specific rent. Some of these controls—such as those of zoning or of planning permission type—are rationalized on the argument that such constraints will maximize the total rental value of assets, which we may take to include nearby property. These controls artificially restrict the use of land so that a contrived scarcity is created for land in a particular use—particularly in industry or housing compared with agriculture.

49. It is usually claimed that such zoning arrangements, will ensure that the high scarcity values of industrial land, for example, do no more than reflect the external diseconomies such as pollution and visual disamenity of industrial plants compared with the pleasant externalities of the green fields of agricultural use. The high price that industry pays for its land is then merely a measure of the high disutilities that

it affords. Regrettably, however, and particularly for LDCs, this argument neglects the very important external economies of industry. Indeed, it is specifically recognized that industrial employment supplies very significant external training benefits both in particular skills and in general training. This is often acknowledged by governments in their subsidies to industry and training. Similar arguments may be advanced on residential zoning also.

50. But in any case, such studies of zoning and planning in practice as distinct from theory that have been carried out show that there is little if any correspondence between the externality rationalization suggested above and the facts of planning in practice.1/ Rarely does the rational calculation of externalities intrude on this form of planning. It is a political process and planning issues are normally decided in a political context in the political arena.

51. By whatever means and criteria zoning arrangements are made or planning permissions allocated, the fact is that they do affect the gap between the economic rent and the opportunity cost of land. The economic rent with industrial zoning may be very high, but if that land were not employed in industrial pursuits it would be devoted to farming; then the opportunity cost is the net output in agriculture. The appropriate valuation for project purposes is the opportunity cost of the net farm surpluses.2/

52. There is another more sophisticated argument for suggesting that the appropriate value is not the opportunity cost in agriculture but is, in fact, the market rent for the scarce industrial plot. For in order to secure the scarce and valuable zoning permissions, people will be induced to spend real resources in legal procedures to demonstrate "need" (or whatever other planning criteria are enforced) up to the point where the marginal cost of the procedures to secure zoning changes is equal to the marginal advantage in zoning so gained.3/ Then the appropriate value for the land in projects is the industrial value, since that tends to measure the opportunity cost in real terms.

1/ See for example the monumental work of Peter Hall and for the alternative approach Bernhard Siegan, Land Use Without Zoning, Lexington Mass. 1972.

2/ Note that this assumes that it is not possible to demonstrate that the net external costs of industry are equal to the zonal premium. If the externalities can be measured and shown to be substantial and equal to the zonal premium,then and then only will it be appropriate to use the artificially high economic rent for the land.

3/ If there is simply a transfer of money from the applicant to the authority (or some of the authority's servants) then there is no real cost; it might be thought to be a transfer payment to those who dispose of the propriety rights of the zoning ordinances. This would be so if the zoning rights were initially distributed independently of any individual's effort and behavior. But of course there would be a considerable incentive to use real resources to acquire such a profitable sinecure.

53. This principle of quantity control is very similar—but opposite—to the traditional systems of rent control. Such rent regulation or constraints may be achieved by law, by extra-legal tribunal or by some customary rights system. In many tenure arrangements there is an implicit acceptance of a status relationship associated with a certain security of tenure. A low rent may reflect a customary equity held by a de jure tenant; he will be in part a de facto landlord. The nominal rent is only a fraction of the true opportunity cost of that property, and the latter is the appropriate value for project evaluation.1/

The Increase in the Value of Land due to the Services Effect

54. It is commonly observed that there is a "shortage" of serviced land in the cities of LDCs. A shortage implies that, at the existing prices (or taxes or service charges) levied by the authorities, the demand for services exceeds the supply that the (monopolist) authorities are willing or able to make available. But the shortage of serviced land is reflected in the high price that such land will fetch in the open market. This price will exceed the sum of the price of unserviced land and the price of the services.

55. It will be noted that a "shortage" of urban services relates to an excess demand for those services at a certain price. Each landowner with raw land cannot simply pay the stipulated price and ensure that services be installed forthwith. The authorities must have some process of rationing the installation of such services—perhaps using the queuing system, but more likely employing other "administrative" measures to decide on the location of the next servicing investment.2/ The price charged for the provision of the services may be above the marginal cost of supplying them. Nevertheless if the authorities simply do not supply services to those who are willing to pay for them, the shortage will persist. And serviced land will still command a premium.

1/ Again, however, one may apply the argument used in the last but one paragraph. A valuable tenancy will have many people competing for it—and they will use up real resources in the process. Thus, if we measure the true economic rent including these real resources rather than the amount of money changing hands, it would be the appropriate opportunity cost. For a remarkable example, of the process, see Steven Cheung's monumental study of rent control in Hongkong (to appear).

2/ These methods of rationing, whether by queue or administrative measure, give rise to considerable external diseconomies of government behavior. They absorb resources which could have been put to more propitious use.

56. However, it is more likely that the authorities charge prices considerably below the cost of supplying the services. This will make the shortage worse (and so the premium on serviced land the greater) for two reasons. First, for a given supply of serviced land, the gap between its value on the market and the price paid for the services will be the greater. Secondly, the fact that the authorities have to provide subsidies for servicing will constrain the amount that can be financed. Lack of funds often appears among the proximate rationalization of the restricted urban services in LDCs. The subsidization of servicing will exacerbate the shortage and enhance the gains from the provision of services.

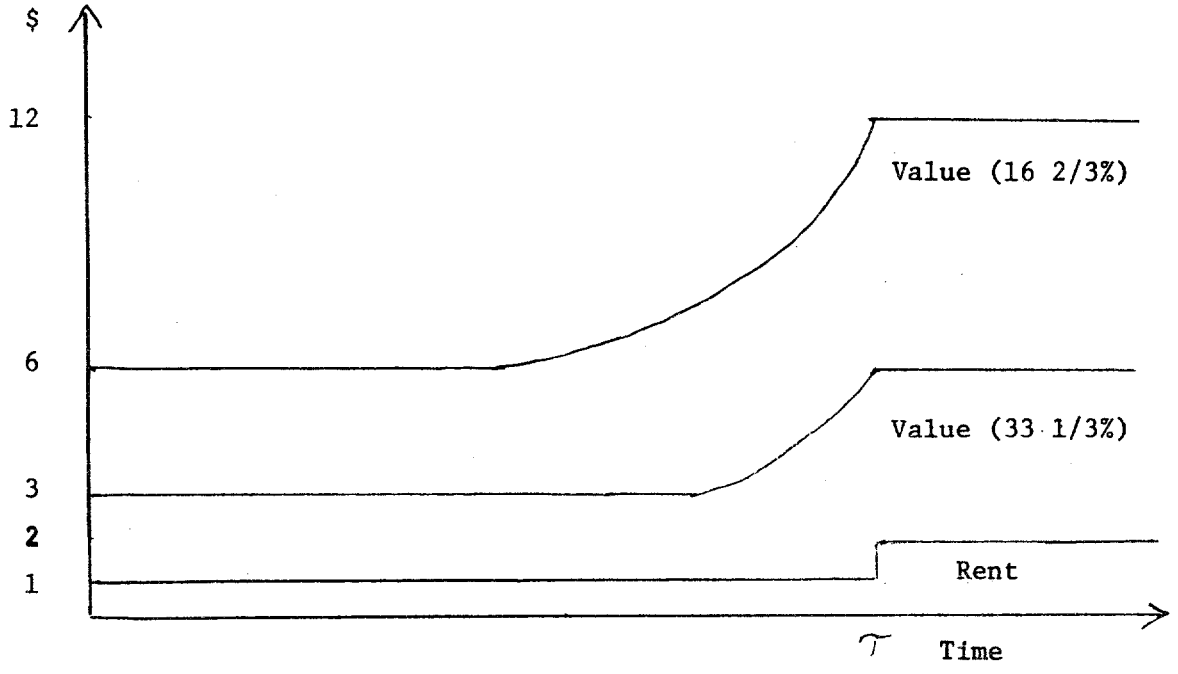
57. It might be supposed that there would be a sudden and very steep increase in the price of land on the occasion when it is provided with services. This would be the case only if the proposal were a bolt from the blue, completely unanticipated and unforeseen. But in practice, the process of urban development—and in particular the provision of services which lags far behind—is well anticipated. The date at which land will be eventually reached by the services will usually be known but certainly not exactly. If it were known with certainty, then the market would be aware also that the rental value of the plots would rise dramatically after the services are installed.

58. In a stable price environment, these prices and rents must be such that the annual rate of return on holding serviced land is equal to the rate of return on unserviced land. Consequently, the price of land will rise rapidly before the services are installed, since the landowner will get only the very low rent from the unserviced land. Thus the capital appreciation due to the rise in the price of land must be sufficiently steep to compensate him for the lack of any substantial income. After the services have been installed, however, the rental value of the land will rise suddenly and so the capital appreciation will cease; the price of serviced land will again be constant.

59. Consider a simple stylized situation where a plot of land is used for agricultural purposes and suppose that it has a constant rent of one dollar an acre in this use. At a certain time, however, it is known with certainty that services will be installed and the rental value of that plot, net of the payment for services, will rise to 2 dollars an acre, and in this stable price environment of this utopia, the value of 2 dollars per acre is expected to persist in perpetuity.

60. The capitalizaion factors for these income streams will be determined first by the degree of risk of expropriation, etc., and second by the rate of return and risk on alternative investments. If we suppose that the risk of expropriation is the same in agricultural and urban use, then the capitalization factors will be the same. Suppose that they are both 3, so that the rate of return on this investment is 33 percent, then

the rent and price per acre of this land may be plotted in figure 1, where the capital value has the parenthesized (33%) attached to show the appropriate path for that rate of return (and state of risk).*/ We have also shown a path of capital values when the rate of return is 16.67 percent (i.e. where the capitalization factor in steady state is 6).



61. Several results may be seen immediately; first, the value of land must be $3 per acre in the before steady state with a 33.3% rate of return and $6 per acre after the services are installed. Second, the anticipation of the increase in rent does not have an appreciable effect on capital values until a few years before the day of conversion (τ) when the capitalization factor is 3. The rate of discount (33.3%) of future earnings is so large that the effect on capital values is small until four or five years before the date of conversion. Thirdly, by contrast, the rate of growth of capital values (but not the absolute increment in values) is considerably slower for 16.67 percent compared with 33.33 percent. The general rule is that the higher the risk, the lower the capitalization factor, the higher the rate of

*/ The relationships are developed in Mathematical Note.

return, the more rapid and sudden is the rate of increase in the price of land.

62. There is a nice paradox. Any event or policy which reduces the capitalization factor—that is to say anything that reduces the price of land compared with its current use or rental value—will ensure that the rate of increase of land price in response to a new use will be correspondingly steeper and compressed in time.

63. There are, of course, many other implications. Clearly the knowledge of the date of development is not known with certainty. Some asset owners will find it profitable to spend money in acquiring knowledge—or perhaps foreknowledge—of the plots to be developed. Clearly the rate of return from knowledge of the timing of servicing plots is considerably greater in the lowly capitalized LDCs than in the Western Developed Countries. The sudden and sharp movement of values enables fortunes to be made quickly from correct knowledge. In LDCs with low capitalization factors—whatever the reason for those low values—there are likely to be peculiarly attractive opportunities for quick kills in capital gains from land; and this may be the rationalization for the widely expressed need to "control land speculation," etc.

64. A further variation on the general theme may be of some practical interest. It has been supposed that the risk factor in holding land is the same per acre whatever the size of the holding. Clearly this is often not true. The likelihood of expropriation or severe limitation on the rights of land may be much less acute for large landholders with established title than for smallholders and peasants with only customary rights.1/ Clearly, this will affect the rate of appreciation of the plot value. Once title is established and the element of uncertainty eliminated, the value of the land of peasants of squatters may shoot up at an accelerated pace. If we imagine that uncertainty about whether a particular piece of land is to be developed diminishes uniformly in time (for all potential holders), then this will be another reason for observing an unusually large increase in the price of land.

65. This rationalizes a very common observation of the rapidity of the rise in price of raw land that is considered ripe for development. In practice, however, one may observe even more rapid escalation of price than can be accounted for by this argument, and in other cases, there is a lower price increase. This dispersion is brought about, in part, by the fact that there is uncertainty and, in most cases, a certain apparent arbitrariness about the provision of services. Buying raw land in the expectation that it will become

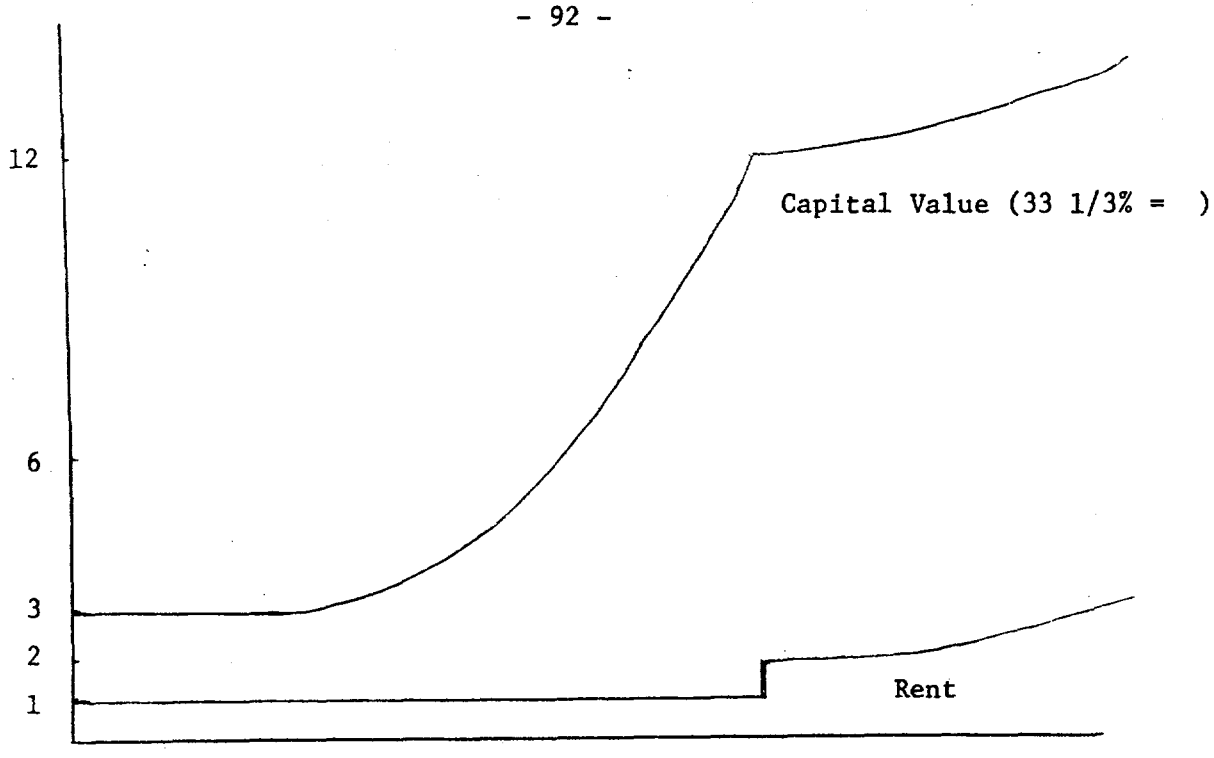
---

1/ In some societies, however, the opposite may be true.

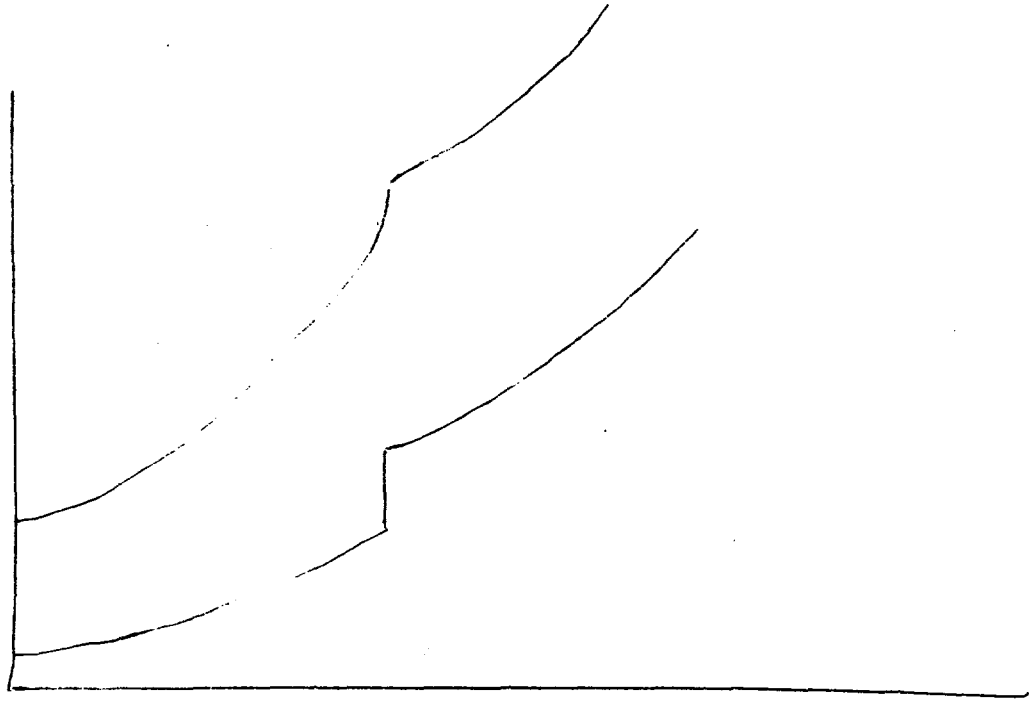
serviced is often a gamble. The winners enjoy very rapid escalation of price and the losers suffer an erosion of their values.

66. This stylized case discussed above may be given an air of verisimilitude appropriate for LDCs. First it is often suggested that the true real rental value of specified plots of urban land tends to increase over time, especially for cities that are growing at a rapid rate. (The underlying reasons for the rise in the true real rental values are complex; but fortunately they need not be analyzed in detail for the purposes of this study.) If the rental value in real terms of agricultural use is constant whereas the rental value of serviced land is expected to rise at a constant geometric rate (but less than the supply price of capital), then the absolute rise in price due to servicing will be greater than in the case of constant real rents for serviced plots. Suppose for example instead of the rent rising from $1 to $2, as in the above figure, it rises to $2 but thereafter increases at the compound rate of 15.56 percent per annum; then it is necessary that, if the cost of capital is 33.33 percent, the price of the newly serviced plot must rise to $12 instead of the $6 with the constant rental. However, with perfect foreknowledge, the rate of price increase will not be different. The appreciation of the value of the plot will begin earlier so that, by using the same rate of increase, it rises to twice the level, i.e. $12 compared with $6.

67. It might be conjectured that a similar effect would appear in an inflationary environment. It would—but with a very important difference. Under inflationary conditions the value of land in its agricultural use would tend to increase at roughly the same rate as that of the general price level. And if there were no geometric increase in the real rental of serviced land and if the only augmentation of the money rent were due to inflation, then one would not observe the extraordinary increase in the value of serviced land discussed in the previous paragraph. The net result of inflation would be to increase the capitalization factors. Thus if the rate of inflation is 20 percent per year and the cost of capital is 33.33 percent, the capitalization of current rent is not 3 but 7.5.



The case of increasing real rental for serviced land with no inflation.



Increasing money rental due to inflation (not to scale).

Land Values, Rents and Taxation

68. The basic principle which underlies all the foregoing results is that rates of return, whether realized through capital appreciation or rental income, will tend to be equal. Normally, they will not be very different from the supply prices (or cost) of capital, In a free market system, of course, these are private rates of return computed after tax obligations have been deducted and any net subsidies added—as can be seen in the case of the subsidized service effect discussed above.

69. Taxes on land may be divided into two types; first there are taxes on the rental income, and secondly taxes may be imposed on the capital value or capital appreciation. When the real rental stream is known with certainty, there is an exact equivalence between a tax on rents and a capital tax. Consider the simple stylized example of the section above, where in figure 1 the rent increases on becoming serviced from $1 to $2, and the capital value increases from $3 to $6. The authorities may either impose a tax of $1 on rents for serviced plots or they may levy a capital tax of $3 at the time that the services are installed. In the case of a rental tax, the price of land will continue at $3 even after it is serviced. In the case of the capital tax payable on servicing, the value of land will rise from $3 to $6—and after the tax is paid it will remain at $6 per plot. In both cases the rate of return, after tax, is still 33.33 percent.

70. Although formally the same in their incidence, the two types of taxes do have markedly different effects on capital values. The capital tax induces oscillations in the price of land which the rental tax avoids. In practice, this may be a crucial difference because of the variation in the cost of finance for different segments of the population. The lower income groups may find it difficult to provide the necessary collateral for raising loans whereas the wealthier members of the community will tend to have relatively cheap credit readily available. Similarly it may not be a matter of indifference to the government whether it receives $3 per plot once and for all, or $1 per annum in perpetuity. In general, one would expect the government to be able to borrow at a cost lower than the supply price of funds to the private sector. Consequently, the rental tax may be more valuable to government than the "equivalent" capital levy. (These and many other problems of taxation are pursued in background paper.)

The Portfolio and Savings Effects

71. The stipulation of private proprietary rights in land creates or perpetuates an important asset for the portfolios of the private sector. Policies of government concerned with either taking over those rights, severely circumscribing them or eliminating them entirely are bound to have some effects on portfolios, asset preferences and on

savings and incentives. At one extreme, the government may decide to nationalize the land and issue appropriate compensation in the form of cash made available by the Central Bank. (We leave aside the case of a corresponding government bond issue since markets for such long-term government paper are very rare in developing countries.) As the private sector attempts to adjust its portfolio, this would increase the price of the remaining assets which may be privately held. Furthermore, in the long run, there would be a marked increase in the general price level which would ensure that, by the depreciation of the currency, the financial cost of the rationalization program was borne by holders of cash balances. Clearly such an increase in the price level would have some effect on private savings and also on the disposition of residents to hold domestic financial assets; but these consequences although undoubtedly of great importance, are beyond the scope of this paper.

72. In many LDCs, land and real property serve as an acceptable and generally preferred collateral for loans and advances from financial institutions to the non-bank private sector. Severe circumscription of land rights or the nationalization of land, or threat of nationalization without placing a corresponding type of long-term marketable asset in the hands of the private sector, may severely affect the mobility of capital. In particular, the flow of industrial long-term capital in the private sector may be constrained by the lack of suitable collateral. Again, although this is a subject of great moment, to pursue the consequences would carry one far beyond the subject of this paper.

A Mathematical Note

1. First we need to explore the relationship between the capital value of an asset and the expected earning stream. Let the value of the asset at time t be V(t), the expected earnings in period t by y(t)—this is the net rent—and let the supply of price of capital (in the sense used by James Tobin1/) be ρ. Then the fundamental relationship of capitalized values is:

$$V(t_0) = \int_{t_0}^{\infty} e^{-\rho(t-t_0)} y(t)\, dt.$$

A particular solution, of well-known interest, is where the earning or rental stream is expected to expand at a constant rate λ, then the solution of the integral is:

$$V(t\ ) = \frac{y(t_0)}{\rho - \lambda} \qquad \text{where} \qquad \rho < \lambda < \rho$$

or in words:

The price of a plot	=	initial rental value / cost of capital less rate of growth of rental value

If the rental value is not expected to grow then the formula reduces to the normal capitalization equation where the reciprocal of the cost of capital is the number of years purchase of the plot.

2. In order to avoid misunderstandings, it must be emphasized that all these money measures are in nominal or current magnitudes. Thus the rate of inflation is absorbed into the calculation. Similarly, the supply price of capital (ρ) is the rate of return that the landowners require in order to absorb the existing stock of land into their portfolios. It is closely related to, but not the same as, the long term interest rate or the marginal efficiency of capital. The interest rate is the price of funds whereas the marginal efficiency of capital is concerned with the rate of return on a small increase in the capital stock. The supply price of capital is at all times equal to the rate of return on land.

1/ "A General Equilibrium Approach to Monetary Theory", Journal of Money Credit and Banking, 1969.

3. Differentiating $V(t_o)$ with respect to t_o, we obtain:

$$\frac{dV(t)}{dt} = -y(t) + \rho V(t)$$

where we have switched the notation to describe the limit of the integral as T rather than t_o. Re-arranging

$$\frac{1}{V(t)} \frac{dV(t)}{dt} = -\frac{y(t)}{V(t)} + \rho$$

Or in words:

rate of change of price of plot <u>plus</u> <u>current</u> rate of return = supply price of capital

The stable state situation emerges immediately from this equation by writing dV(t)/dt as zero; then the current rate of return is equal to the supply price of capital.

4. Probably for LDCs another extreme case is more useful and relevant. Suppose that the <u>current</u> return in agriculture is zero i.e. y(t)=0, but that the value of the land is not zero since it is confidently expected that at some future date the rental value of the land will rise substantially. Then the V(t) must move over time such that:

$$\frac{1}{V(t)} \frac{dV(t)}{dt} = \rho$$

This is quite consistent with common sense; it says that if there is no income currently received from the land then in order to induce people to hold it, the capital value must appreciate at the same rate determined by the supply price of capital.

5. In interpreting the equations in paragraph 3 above, one must be careful to note the sequence of events. If it becomes expected that at some future date the rental income from a plot will rise, this will affect both V and dV/dt. With the supply price of capital (ρ) fixed, the <u>rate</u> of increase of the price of land will move to exactly the same absolute extent, as the current yield: the latter sinking due to the increase in the price of the plot. This follows since:

rate of change of price of plot = supply price (cost) of capital <u>minus</u> <u>current income</u> / price of plot

Thus, calculating all rates and ratios in annual time units, we have the result that, with ρ constant at 1/3 and no change in price, the last term must also be equal to 1/3. But suppose that, due to anticipated higher

incomes in the future and so capital appreciation of the plot the current yield declines to 1/4, then we know that, at this capital value (i.e. at the 33.33 percent appreciation on the original capital value) the rate of inflation of land prices must be 1/12th or 8.3 percent.*

6. This one-to-one relationship between the current yield and the rate of increase of the price of the plot does depend on the assumption that the supply price of capital is not affected by the rate of inflation either of land or any other prices. The argument for this supposition is that it is determined by the willingness of portfolio holders to absorb the current stock of real assets in the private sector, and land is only a small fraction of total assets. However, there are good arguments which may be advanced to the contrary—and it remains a point to be investigated in practical circumstances.

---

* $\frac{1dV}{VdV} = \frac{1}{3} - \frac{1}{4} = \frac{1}{12}$, where $\rho = \frac{1}{3}$, $\frac{\text{current income}}{\text{price of plot}} = \frac{1}{4}$

SELECTED ISSUES IN URBAN LAND TENURE

Professor William A. Doebele
Harvard University

TABLE OF CONTENTS

TABLE OF CONTENTS (Continued) Page No.

TABLE OF CONTENTS (Continued) Page No.

TABLE OF CONTENTS (Continued) Page No.

ANNEXES

TABLE OF CONTENTS

ANNEXES (Continued) Page No.

SELECTED ISSUES IN URBAN LAND TENURE

I. INTRODUCTION

Importance of Land Tenure

1. Institutions for defining the rights of ownership and use of land ("tenure") have been a concern of every organized human society, and have frequently been interwoven with fundamental social structure and religious belief. 1/ Even in Western Europe, the idea of land as a commodity subject primarily to the market-oriented behavior of private individuals is a relatively recent historical phenomenon, arising only after the decline of feudalism. In spite of the general spread of European thought and institutions in the colonial period, there still persist in the world an enormous variety of views about the basic nature of tenure in land.

2. In all socio-economic classes in all countries, land tenure (or its lack) touches deep emotions. It can often play a critical role in one's sense of participation in a society, and in the investments of labor and capital likely to be made on any parcel. In most parts of Asia and Latin America, rural populations understand land ownership as the basic difference between perpetual dependence and marginality, and security and some degree of economic independence. These attitudes often persist through the process of urban migration.

3. Economically, tenure is closely related to the mortgage market, and the flows of a substantial portion of borrowed funds in most nations. Collectively, land and the structures upon it represent one of the largest single categories of capital investment.

4. For these and other related reasons, land tenure is a basic instrument of overall development policy, although it often performs an indirect and facilitating role rather than a direct and active one. The objectives of urban tenure policy must therefore be viewed in the setting of more general policies concerning urbanization itself, although at the same time (as will be discussed in this paper), tenure policy can itself exercise important influences on the nature and control of urbanization, and the allocation of urban land as a resource for economic and social development.

5. This report is not intended to cover these topics in complete detail, but to relate them to the issues most relevant to the Bank's lending operations. The Bank's involvement in tenure arises because land is a component of many projects and is of special importance where land absorbs a significant part of project costs, where project site value increments capture a large part of project benefits, or where project site development

---

1/ For a much more complete discussion of the nature of property ownership and tenure, see pp. 178-183, in Annex A.

generates substantial benefits (or losses) to adjacent property. Most projects in water supply, tourism, traffic and transportation, urban housing, sites and services, squatter upgrading and industrial estates involve land changing hands, and whenever this occurs, the question of tenure becomes an element in project design.

6. When Bank projects have such a scale as to transform large areas (as if often the case with major tourism projects), the question of the most appropriate tenure system for the new situation is often unavoidable. Similarly, Bank projects which involve basic improvements in urban infrastructure: roads, water or sewer systems, electricity, etc. may not only involve considerable amounts of land acquisition for their execution, but have marked impact on the values of surrounding property: increments (or in some cases decrements) which may lead to consideration of instruments--including those involving tenure--for recapture or compensation. Bank sponsorship of port improvements, industrial estates, or other forms of commercial activity also raises issues relating both to the acquisition of tenure prior to the project, and the most suitable arrangements for disposing of it after project completion. Like issues occur when the Bank engages in major sites and services or upgrading projects. In these operations, the Bank's interest is not limited to the project boundaries, but is also concerned with establishing a program and set of institutions which significantly enlarge the capacity of the host country to deal with its housing problems. When such is the case, the forms of tenure to be used become an important and integral part of the Bank's goals. While it is generally wise to follow existing tenure systems to the extent possible, sites and services and upgrading programs generally do not have historical antecedents in many countries, so that suitable traditional forms may simply not be available. Thus it becomes valuable for the Bank to understand (within the limitations of knowledge that exist) the relative advantages and disadvantages of the alternatives available.

The Dual Nature of Property in Land

7. Virtually all societies have recognized the dual nature of land as both a public and a private good. It has a public nature in that:

(1) It is permanent. It cannot--except very marginally--be created or destroyed. Since no generation can consume it, each has a moral duty to use it with a view to those who follow.

(2) It is one of the three classic elements of all production. In agricultural societies it was the most important source of goods. In urbanized societies, relationships are more complex, but productivity is still dependent on sufficient locations in appropriate relations to each other.

(3) Its value, particularly in cities, is created to a considerable degree by the social phenomenon of urbanization.

8. On the other hand, it has a private nature in that:

(1) There are deep psychological needs for the security that has traditionally been associated with ownership of land and a house.

(2) The complexity of urban land markets is so great that even the most centralized states, such as the Soviet Union and the People's Republic of China, have delegated certain areas of decision about land and its use to local and individual levels. 1/

(3) In developing countries, reasonable security of ownership (or at least of possession) has been able to evoke capital investments in housing ("brick-by-brick") which notably could not be mobilized by any other institutional device.

9. One way of stating the problem of "optimum land tenure system" may therefore be that it is in the task of finding tenure arrangements most capable of reconciling the tradeoffs inherent in these two contradictory natures as they evolve with time and degree of urbanization.

Purpose of This Paper

10. To discuss all aspects of land tenure in all countries and to evaluate them according to various policy criteria would obviously be an immense task, and far beyond the scope of this paper. Instead, the attempt here will be to give some indications of the way this subject can be approached, to give an intellectual framework, as it were, within which the Bank and local authorities can more fruitfully approach specific issues of tenure as they arise in particular contexts. The paper, therefore, is addressed to laying out a more disciplined and organized way of thinking about this rather unfamiliar subject.

11. The work will be organized in the following form:

Chapter II, immediately following, will deal with Some Special Characteristics of Land and Its Tenure, that is, some of the qualities of land and land tenure which distinguish it from other economic goods.

1/ Pragmatic descriptions of urban land allocation systems in socialist countries are rare. For an interesting recent account, see Thomas Reiner and Robert H. Wilson, "Planning and Decision-making in the Soviet City: Rent, Land and Urban Form Considerations," in Ian Hamilton and Tony French (eds.), The Socialist City (Chichester: Wiley; forthcoming, 1978). See also para. 96 below.

Chapter III will state the Policy Objectives against which various types of tenure will be compared. These include: Three different tests of Efficiency, namely, maximum productivity, responsiveness to rapid increases in demand, and responsiveness to major changes in urban form; the objective of Equity to all income groups; the objective of Compatibility with other policy instruments dealing with economic development and urban land use control; and finally, the objective of Continuity, that is, the avoidance of abrupt breaks with existing cultural and political systems. (It is not implied that all of these are of equal value in a given situation, but all are judged to be of sufficient importance to warrant discussion.)

Chapter III will also outline the major Types of Land Tenure to be tested, including various categories of private and public ownership; communal ownerships; divisions of tenure rights in space; division of tenure between "development rights" and "use rights"; and finally, small and large-scale tenure.

Chapter IV will be the chief analytical portion of the paper and consists of a matrix in which the Advances and Disadvantages of Each Form of Tenure will be Measured Against Policy Objectives (as set forth in Chapter III). Because of the matrix format, it is necessarily a rather long and detailed presentation.

Chapter V consists of a Summary of Chapter IV, arranged in the converse fashion: that is, Policy Objectives Measured Against Various Forms of Tenure. Thus, readers who do not wish to study the entire analysis may move directly from Chapter III to Chapter V (p. 78) without missing the major points being discussed.

Chapter VI suggests approaches to More Dynamic Concepts of Land Tenure, particularly the possibilities of various forms of public-private mixes.

Chapter VII lists a number of Specific Problem Areas Relevant to Bank Operations which do not have to do with tenure arrangements per se, but are very closely related to them, and frequently cause serious practical problems in the actual formulation and execution of Bank projects. Included are: the law of expropriation; cadastral surveys; recording systems; transfer taxes; regularization of title in established squatter settlements; room rental in sites and services projects; restrictions on sales in sites and services projects; and the importance of neighborhood organizations in relation to tenure.

Chapter VIII presents Comments on Land Tenure in Relation to World Bank Operations, including increased sensitivity to alternatives available and the importance of more systematic evaluation of experience in this field.

Chapter IX suggests eight categories of Further Investigations which are of a nature to be readily carried out within the Bank, and three categories which are best left to outside organizations or individuals.

(Please refer to the Table of Contents, above, for further detail, and exact locations of topics covered.)

12. While there is a considerable and growing body of literature on urban land use controls and related subjects in both the developed and developing countries, there has been very little attention given to tenure as a specific and independent variable. Not only has there been little study of the economic and social effects to be expected from various tenure arrangements, but even evaluations of projects which have involved important tenure components have tended to concentrate on other aspects of the project design. This paper will therefore have to work from a very thin base of well-documented material. (Some suggestions as to how this base could be extended will be made in Chapter IX.)

II. SOME SPECIAL CHARACTERISTICS OF LAND AND ITS TENURE

Differences in Frames of Reference Due to Culture

13. A professional trained in the European tradition is likely to think of land tenure as a set of rather tidy categories, available on a shelf, from which it is possible to draw to cope with a specific situation, after which a relationship will be created which is reasonably clear and familiar to the parties concerned. These assumptions are by no means valid in many developing countries, which are frequently characterized by systems of land tenure which are neither clear or commonly understood. To quote C.W. Rowling, for many years Nigerian Federal Advisor on Lands:

> [The traditional land tenure system is one in which]
>
> "...rights (of individuals) ramify into those of others, and into fields we may not suspect. Nor will they fit neatly into our own legal categories; indeed, these may be wholly irrelevant. By dealing with him and his rights in isolation we ignore those ramifications, and maybe, set in train, changes we neither intend, nor desire, and they will quite probably appear in a seemingly unrelated context. We may also create unnecessary difficulties in the way of changes or controls which we do desire, since we are likely to ignore weapons which lie to hand. The traffic is moreover two-way: while we mistake our methods, he may mistake our intentions and will certainly not apply our ordinances according to the "objects and reasons" we publish in the Gazette. In short, our motives are very little to the point: his interpretations of them and the probable effect of our measures upon his neighbours quite as much as himself are what matter. No sovereign guide to either exists, but the more detailed our knowledge of his tenure and social concepts, the better we hope of leaving undone

those things we ought not to have done, and of achieving success when doing those things which we ought to do." 1/

Confusion of Titles

14. In addition to this generic problem, the land registration and recording systems of many countries have been very primitive or non-existent. Thus, in many parts of Africa, in Indonesia, Iran, the City of Istanbul, and other areas in which the Bank operates, it is frequently almost impossible to determine the actual state of the title to a piece of land, it being so clouded with a variety of familial and societal claims, many of which may reach back for decades or even centuries, and which are founded on religion, tribal, customary, or inheritance principles, or rights of possession, none of which are recorded in written form with respect to the contemporary urban setting in which the land may now lie.

15. Among other things, such conditions make property taxation difficult. Because of this, some countries have been forced to tax only buildings because the state of land ownership is so uncertain. 2/

16. Thus a project which involves a significant amount of land may be forced to face a thorny and frustrating threshold problem of clearing title before the substantive program can be effectively addressed. Proposing and achieving equitable and expeditious mechanisms for removing such clouds on title may often pose serious questions of both a technical and substantive nature. (See further discussion in paras. 217-19 below.)

Tenure as a Legal Status and a State of Mind

17. While tenure is generally considered a legal category, it is, just as fundamentally, a matter of the state of mind of the persons concerned.

1/ Rowling, "Land Tenure Supplement," Journal of African Administration, October 1952. Quoted by Donatus C.I. Okpala, The Potentials and Perils of Public Urban Land Ownership and Management: A Case Study of The Lagos Executive Development Board (Nigeria) 1928-1972 (Ph.D. Dissertation, Cambridge, M.I.T., 1977), p. 82. Chapter II of this dissertation is an interesting description of the structure of land tenure in Nigeria.

2/ For example, in 1959 Ghana followed the recommendation of a U.N. advisor that a tax on the reproduction costs of buildings, less depreciation, was best adapted to the confused situation of property ownership, ill-defined property boundaries, and lack of a real estate market. The eastern states of Nigeria follow the same practice, as did Liberia until 1963. (Tanzania also taxes only buildings but this may be because land itself is there considered to be social property.) The general trend, however, is away from this system as soon as the recording process permits. For an excellent general review, see George E. Lent, "The Urban Property Tax in Developing Countries," Finanzarchiv 33:1 (1974), p. 45, and pp. 51-52 and 72.

Stated operationally, the critical element may not so much be the precise legal category involved as the perception of the occupant of his security in relation to the investment contemplated. Thus, in Africa, a renewable license to occupy may give enough feelings of security to persuade its holder to make substantial investment in residential construction on the site. In Latin America, a 25- or 40-year lease may not be regarded (given general political instability and other factors) as being sufficient to elicit a similar response. With respect to commercial uses: a three-year term for a stall in a market may seem to be a very long commitment, while a ten-year minimum term may be necessary for commercial activities requiring some form of simple structure. On the other hand, a 20-story commercial office building will obviously demand a very long leasehold or freehold tenure as a precondition. Similarly, in industrial areas, leases of ten years or less may be sufficient for light fabrication or assembly uses, but a steel mill would almost surely require a freehold.

18. In squatter areas in particular, the amount of investment in housing seems to be closely correlated with the perception of risk of removal, irrespective of the technicalities of legal title. (See paras. 59-71 below for further discussion of this point.)

19. Because it does involve mental attitudes, the calibration of appropriate tenure terms for projects is not an easy one. One operative proposal has been to set minimum terms, then "rachet" then upwards as necessary if investment response is not sufficient. This, however, may delay the project's getting quickly under way.

20. It is also possible to consider the use of different terms of tenure for different uses: residential; mixed residential-with-first-floor shop; stall commercial; "shed" commercial; office commercial; etc. The tradeoff, obviously, is that the costs of administration (on both sides) may offset the advantages of the "fine-tuning" thus achieved.

21. A related problem involves the time dimension. Due to the pressures of local custom, sites and services projects may have to begin with quite large lot sizes, say, 300 sq. meters. Some years later, as the urban area has spread, there may be heavy pressures to resubdivide into lots of, say, 150 sq. m. each. Ideally, initial tenure arrangements and building codes would take this potential into consideration, so that reassignment would be easy at a designated future date. (Similar issues can also arise with respect to industrial, commercial and tourism projects.) Again, administrative disadvantages, and the expense of enforcement must be weighed against benefits.

Dynamic Aspects of Land Use

22. Another pronounced characteristic of urban land in the large cities of developing nations is the dynamism of the forces (government and market) which act upon it: Squatters upgrade. Low-density residential districts formerly on the outskirts find themselves centrally located, and subject to pressures to accommodate more people. Once viable commercial streets become

clogged with traffic. Industries once safely on the periphery become major polluters as residences engulf them, etc. Under these conditions, flexibility and adaptability become factors of high importance in the tradeoff calculation: more so than in cities in the developed world, in which growth has traditionally been slower.

23. Thus, the productivity of land is not only a matter of establishing optimum outputs at the outset, but having tenure and other arrangements which will permit the use of the parcel to be readily adapted over time: unless this is done, a very appropriate use today can become quite inappropriate in ten years. Productivity therefore is a dynamic, not a static, concept. Care is required that arrangements which seem expeditious do not have long-run negative effects. 1/

24. Productivity defined as investment based on a sense of security (above) may be put into conflict with possible public interventions on behalf of changed urban needs, recapture of increments, or redistributive (equity) objectives, eliciting compromises such as those used in some sites and services projects, in which rights of occupation mature into full title slowly. In this way the occupant can be given a promise of security based upon the performance of certain obligations (such as a specified amount of construction, or the maintenance of regular payments for a given time), while a high measure of control still remains in the project's management.

Fungibility 2/

25. Another consideration of major importance is that land is a non-fungible commodity. Since one square meter is not the same as another square meter, assurance of an adequate supply of land for residential, commercial, industrial, institutional and other uses may be much more complex than assuring adequate supply of rice, beans or potatoes. Consideration must not only be given to the market as a whole, but to the specific characteristics and location of each major parcel, and the timing and density of its development, all of which affect its productive capacity. These factors are particularly difficult to formulate under the conditions of very rapid growth prevailing in the large cities of developing countries.

Tenure in Relation to Market and Land Use Controls

26. What happens to a given piece of urban land is a product of three basic forces: market, land use controls and form of tenure. One way of

---

1/ See further discussion in The Value of Urban Land, Alan A. Walters.

2/ "Fungibility" refers to the ability of one thing to be legally substituted for another. One unit of currency is perfectly fungible with another. One bushel of Grade A winter wheat is fungible. However, since every piece of land is unique (at least as to its location), it is generally considered in law, and economics, as a non-fungible good.

defining policy is that it is the function of finding the optimum balance of these three elements in a specific situation.

27. Market can be highly flexible but subject to important limitations: (i) once committed, buildings are often not easily convertible to new market presures, (ii) information is imperfect, (iii) an owner must depend on credit sources as well as his own decision to respond, and (iv) individual decisions are subject to unpredictable externalities, such as public decision with respect to transportation and infrastructure, the actions of adjoining landowners, etc. 1/

28. Land Use Controls tend often to be negative, pose serious enforcement problems (particularly in developing countries), and are hard to individualize to specific sites. Some forms of indirect land use controls, such as those involving credit or taxation policy, may be more positive in effect, but still lack the specificity possible through the mechanism of tenure. (The subject of land use controls is, however, the subject of a separate paper, 2/ and need not be discussed in detail here.)

29. Tenure controls, exercised through deed restrictions or lease provisions, are: (i) generally more powerful than land use controls since they are based on certain property (or "ownership") rights being held by the public body, so that violations may result in the property itself being transferred back to the public, whereas violations of land use controls normally only result in fines or other less drastic remedies; (ii) can be individualized, since the ownership retained can be varied in each case, while land use controls normally apply to general districts; and (iii) permit a wider range of responses to such policy matters as efficiency, equity and recapture of increments, since constitutional limitations on land use controls are frequently not applicable where the public has legitimately acquired a share of the ownership itself. Their disadvantages are: (i) to the degree that controls are individualized to each parcel, administrative complexity is greatly increased; (ii) temptations to graft and manipulation are greater, since the negotiations are individualized and hence less subject to public scrutiny than land use districts, which affect many landowners at the same time; and (iii) can be potentially more stifling to private initiative than land use control systems which do not interfere with basic ownership rights.

1/ A full description of the land market is beyond the scope of this paper. For a discussion with respect to housing, see Orville F. Grimes, Jr., Housing for Low-Income Families (Baltimore and London: Johns Hopkins Press, 1976) Chapter 4. See also other papers in this series, Alan A. Walters, The Value of Urban Land, and Land Taxation and Government Participation in Urban Land Markets, Donald C. Shoup.

2/ See Some Perspectives on Land Use Regulation and Control, Malcolm D. Rivkin.

(These somewhat abstract points will become clearer in the detailed discussions of the reactions among market, land use controls and tenure which will occur in the main body of the report.) 1/

The Importance of "Moments of Transition"

30. If one considers urban land policy strategically, it is clear that there are moments in the typical "cycle" of land utilization at which public interventions are much easier than at others, when market, land use controls and tenure options are in an "open-ended" and more fluid state. The first and most important of these is the moment of transformation of agricultural land into urban land (usually, but not always signalled by the division and sale of urban-sized lots). Normally, this is the moment the realization of the highest single increments in capital value, and the time when the land use and tenure are likely to be committed for many years to come. 2/

31. A second significant "Moment of Transition" occurs when major urban infrastructure: water system, sewers, a subway stop, etc., are installed or near the property. Market values and potential uses are again open to substantial change, and since the infrastructure is generally the work of some public agency, the possibilities of public intervention are correspondingly high.

32. A third "Moment of Transition" occurs when actual building is commenced. Obviously, this is once more a point at which major changes in market position occur, at which land use controls (zoning, building codes, etc.) are particularly critical, and at which intense calculations are being made as to probable permanence of occupation (that is, tenure.)

33. A fourth "Moment of Transition" occurs when there is a reassembly and reallocation of existing land or buildings through a process of redevelopment (which includes certain types of "Upgrading" projects). The same considerations discussed above are involved.

34. The importance of the "Moments of Transition" concept is that projects such as those supported by the Bank frequently involve just such transformations, and the strategic position at such time with respect to all three factors (market, land use controls, and tenure) is frequently a very strong one.

1/ "Market," "land use," and "tenure" forms of control can also be differentiated in that each has its own sorts of transaction costs. These will be considered in the discussion which follows.

2/ One important, and little considered, problem is the suitability of the forms of agricultural tenure around cities for conversion into urban areas. This subject will be touched on in paras. 47 and 91.

III. POLICY OBJECTIVES AND TYPES OF LAND TENURE

Policy Objectives

35. We now turn to a more careful discussion of tenure systems themselves by considering the policy criteria by which a given system might be judged. (The discussion is necessarily somewhat detailed as each of its main categories has differing advantages and disadvantages with regard to the several objectives being appraised. The main conclusions are brought together in Chapter V below.)

36. Efficiency: Does the system encourage a smoothly functioning land market that:

(a) Permits the maximum productivity of land as a resource for all uses at all places at all times; 1/

(b) Has it flexibility to be responsive to rapid increases in demand, which normally under modern conditions implies the ability to assemble land as needed for such demand; and

(c) Has it flexibility to be responsive to major changes in urban form, whether resulting from market forces, or the intervention of normative (i.e., governmental) policy.

37. Equity: Does the tenure system provide reasonable access to all groups (particularly those of low income) for land for housing, business and other needs? 2/

1/ A precise definition as to what constitutes "productivity" of land would require an extensive theoretical discussion, which is beyond the scope of this paper. Here we will use "productivity" in a non-technical sense: that is, whether the tenure system facilitates investment in uses and structures which will yield the highest income possible at that moment from that site (in the case of industrial, commercial or tourism activities), or produce the greatest amount of housing; in each case production being such as to increase the total amount of goods available to the society, and carried on in ways which are not damaging to the ability of others to make similar use of their land. (See Walters', The Value of Urban Land, cited para. 23 above, for a further comment on the concept of productivity in this context.

2/ An important aspect of "equity" is the ability of a tenure system to recapture increments in land value when it is socially desirable to do so. This aspect will not be covered in following discussion since it is a major subject of Shoup's Land Taxation and Government Participation in Urban Land Markets, cited para. 27 above.

38. Compatibility: Does the tenure system integrate well with other policy instruments dealing with economic development and urban land, such as national, provincial, and municipal planning, taxation, the management of public service systems, etc.?

39. Continuity: Does the tenure system avoid, to the extent possible, abrupt "breaks" with the cultural and political system which led to existing arrangements?

40. Of the four criteria just cited, numbers (1) and (2) are obviously of a different (and perhaps more fundamental) character than (3) and (4). For simplicity in the following discussion, however, all four will be considered, in sequence, in each case.

Types of Land Tenure

41. Viewed internationally, the subject "types of land tenure" is an enormous one, the full discussion of which would quite exceed the scope of this paper. In Anglo-American law alone one could easily list fifty well-recognized forms of rights over land, and the major legal systems of continental Europe have a similar array. This high degree of flexibility is, however, to some degree related to the commercialization of society, and in many developing countries the options may be far more limited. In Venezuela, for certain historical reasons, leases were even recently limited to five years (although with options to renew), a principle which severely restrains some policy alternatives. 1/ In African countries the persistence of tribal traditions often restricts alienability, or establishes different market prices for tribal versus non-tribal purchasers. 2/ In many British colonies a dual tenure system was established, in which "Crown lands" (generally the areas of colonial settlement, mines, ports, etc.) were governed by English law, while the "territorial reserves," that is, the remainder of the country (often 80-90%), continued to be governed by ancient tribal custom, which was frequently not only unwritten and ill-defined, but varied greatly from one tribal area to another. This mosaic of ownership concepts still exists, even in major urban areas, in a number of African nations. In Francophone Africa, tribal concepts have been modified by the Napoleonic Code, particularly Article 554, which states that ownership is "the right to absolutely free enjoyment and disposal of objects, provided that they are not in any way contrary to the laws or regulations," which is generally considered to give greater powers of control over land than English law,

---

1/ William Doebele, "Legal Issues in Regional Development," in Lloyd Rodwin and Associates, Planning Urban Growth and Regional Development (Cambridge: M.I.T. Press, 1969), pp. 292-3.

2/ See Donatus C.I. Okpala, dissertation, cited para. 13 above, especially Chapter II.

although the Article is obviously ambiguous and has received different interpretations in different countries. In the Middle East, and parts of Africa influenced by Islam, land ownership is defined by concepts codified in the Ottoman Land Law of 1858, which divides land ownership into four categories: mulk (private); miri (State); musha (tribal/collective); and waqf (charitable and religious). The latter category is a particularly significant one. Coming from the phrase mawquf lilah ("stopped" for God), waqf land is part of the endowment of such uses as mosques, hospitals, libraries, schools, and, on occasion, housing for indigent families. Although some countries (Iraq, Jordan, Lebanon and Syria) have ministries or departments for the review and administration of such lands, the State does not have the power to change their use. This can become a critical problem in urban areas, particularly if it is necessary to engage in urban redevelopment, or major public projects such as highways. 1/

42. Operationally, it is probably most helpful to use the historic Anglo-American concept, that property in land consists of a "bundle of rights," which can be distributed in an almost infinite number of ways to different parties (including, of course, public bodies). Painting with a broad brush, consideration can now be given to a simplified set of land tenure categories which appear most relevant to the needs of LDC's and interests of the Bank in this field.

Basic Proprietary Categories

43. Non-formalized, de facto tenure. This is the situation which exists when land is occupied and used without permission of its owner. It is described by various words in various languages, but is generically known as "squatting," and represents, as is well-known, a high proportion of the residentially occupied area of most major cities in LDC's. The security of possession afforded by this type of tenure varies greatly from country to country, and in some cases, even among provinces or cities within a single nation. In some countries, it has been national policy to discourage the occupation of both public and private lands by the most stringent means. In others, policy has been strict with respect to invasions of private land, but less so with respect to public property. In still others, policy has wavered, or evolved with the passage of time. 2/

1/ For a much more complete summary of tenure systems in various parts of the world, see U.N. Department of Economic and Social Affairs, Urban Land Policies and Land-Use Control Measures, Vol. VII, Global Review (prepared by Jerold Voss) (New York: U.N., 1975), paras. 263 to 325, attached as Annex A.

2/ The most careful study yet made showed that among the barrios of Caracas there appeared to be a natural tendency for increasing integration into the formal system over time. Kenneth Karst, Murray L. Schwartz and Audrey J. Schwartz, The Evolution of Law in the Barrios of Caracas (Los Angeles: University of California Press, Latin American Center, 1973).

44. De facto tenure is not, of course, a category recognized as such in the law (although some legislation, such as that in Peru, provides for its easy conversion into legal title under certain circumstances). Its economic value to the squatter depends in large measure on whether he has a high risk of removal (and loss of value of any structures), or low risk, which factors are, in turn, the result of the political and historical situation of the particular area involved. 1/ Therefore, although in the discussion below we will treat this as one "proprietary category" the reader is advised to keep in mind that it represents a very broad range of reality.

45. Private Freeholds. This is, of course, the familiar form in which a private individual or corporation owns "outright," and market forces dictate land use and disposition, except to the degree that public controls such as zoning, building codes, subdivision ordinances, etc., are applicable. It is worthwhile to note, however, the significant difference between freeholds held clear of debt, and those in which the individual or firm only has an "equitable interest," that is, is holding subject to a mortgage. While it is impossible to make international generalizations, in some LDCs a very considerable portion of apparently freehold tenure is in fact equitable ownership. While in most legal systems the mortgagor does not have significant powers with respect to the criteria in which we are interested (that is to say, the equity owner can do with the property very much as he likes so long as he does not impair its financial value to the mortgagor), there may be possibilities in this relationship which do relate to our criteria. The use of credit as an instrument of urban land use control is, however, beyond the scope of this paper.

46. Private Leaseholds. This refers to the situations in which a private owner leases to a private individual or firm for a given term of years, and possibly with restrictions on certain types of uses or activities. It includes that is commonly called the "rental market," and, is, of course, used for all categories of property (residential, commercial, industrial, institutional, etc.) [Rentals and leases from public bodies are called "public leaseholds"--see below.] 2/

47. Public Freeholds. This category applies when a public body is full owner of the land. In urban contexts, it generally refers to land directly used by the public, such as parks, roadways, sites of public buildings, etc. In a national context, it is common for the national government to own vast areas of the country in various kinds of forest, conservation,

---

1/ For an interesting and thorough study of the legal position of squatters in Brazil (as of 1967), see Stephen Conn, The Squatters' Rights of Favelados, CIDOC Cuaderno No. 32 (Cuernavaca (Mexico): Centro Intercultural de Documentation, 1969).

2/ There is also a theoretical classification of public bodies leasing from private owners, but this is such a rare occurance that it is disregarded in this paper.

mineral, recreation, or other types of reserves. These themselves may have special names, such as baldios in Latin America. In Mexico a very substantial portion of the country is in ejidos, a form of national ownership, but with clearly defined rights of occupancy and use by small farmers (ejidatarios). As urban areas spread into the countryside, these nationally owned areas, which were once considered completely rural, may take on great importance for orderly urban development. One problem, therefore, in many countries is to establish institutions which will permit the efficient transfer of public land from such categories into urban area, when it is appropriate to do so.

48. Another form of public freehold ownership of some importance is related to the construction of new capital cities, such as Canberra, Brasilia, Islamabad or Chandigarh, or New Towns, such as those in Great Britain. In such cases a public agency may acquire the total site, hold it during construction (at least of the infrastructure and major public buildings), then dispose of it in some way (for example, through public leasehold, discussed below) for further private development. 1/

49. Public Leaseholds. This refers to tenure created when a public body owning land leases or rents to a private individual or firm for a specified period of time. One of the most frequent proposals for tenure reform is that most developable urban land should be held in this type of tenure. There will be a further discussion of this subject in para. 104 to 129 below.

50. Communal Ownership (Tribal). Probably the oldest form of land tenure is tribal, in which the territory controlled by the tribe is not considered to be the personal property of any firm or family, but of the group as a whole, with the chief of tribal council allocating specific sites for housing and agriculture to individuals, and resolving any disputes which may arise. With the consolidation of tribes and clans into feudal domains and eventually nation-states, the idea persisted of the King being the universal landowner, granting specific rights to certain areas in exchange for certain duties to be performed for the Crown. While the overthrow of royal power and the commercialization of land radically changed this concept, its overtones still remain in the doctrine of "expropriation," and in modern arguments that all land ownership is a type of "stewardship" under which private persons must have due regard to the general rights of society. 2/ (This is also known as the "public trust" doctrine in some American states,

---

1/ Another kind of mixed private-public ownership was the "company town." This is a dying form of tenure almost everywhere in the world, and therefore will not be discussed in this paper.

2/ For one modern expression of this view, see Frederick Bosselman, David Callies and John Banta, The Taking Issue (Washington, D.C.: U.S. Government Printing Office, 1973).

and applies with particular strength to mineral, forest, water, and other resources which are of great importance to all society. The nationalization of all underground mineral rights in many LDC's is, of course, related to this concept.)

51. In many African cities, however, a more pressing problem is that tribal traditions have carried over into urban areas, particularly when members of one tribe have concentrated in a single section. In such cases, there are often strong pressures to alienate land only to other members of the tribe, at lower than market prices, and possibly subject to other tribally imposed controls. While tribal authority tends to erode, sometimes fairly rapidly, under urban conditions, these organizations, which are neither unassociated individuals, nor the State, still often have sufficient vitality to be considered in the formulation of effective policy, particularly for low-income groups.

52. Communal Ownership (Neighborhood). A small, but possibly growing phenomenon in LDC's is that of low-income neighborhoods "pooling" land ownership and giving control over alienability and price to some form of self-created neighborhood organization. Some of these, such as Barrio Policarpa in Bogota, have roots in sociologist ideology. 1/ Others appear to have been created as a defense against land speculation, particularly the phenomenon frequently observed in LDC's, of middle-income families buying into more attractive low-income housing areas, causing speculative pressures, and the eventual displacement of the poor. In still other cases, in which neighborhood organizations have been engaged in fierce struggles with public authorities over the installation of public services, resistance to displacement, or other causes, or have had to mobilize themselves against natural disasters, controls over tenure and land use have arisen as part of the community's perceived need for a highly unified organization in the face of what are viewed as external threats. Unfortunately, the literature on this phenomenon is not extensive. 2/

Divisions of Tenure Rights in Space

53. Thus far, the discussion has been of "Basic Proprietary Categories" as they may apply generally to given parcel. In urban areas, particularly

---

1/ Ethiopia has recently adopted a radical and universal form of collective ownership of all urban land and buildings. However, no authoritative accounts appear to exist as to how the system operates in practice.

2/ For one interesting set of case studies, see James L. Magaven, John Thomas and Myra Stewart, "Law, Urban Development, and the Urban Poor in Developing Countries," Washington University Law Quarterly, 1975, No. 1, pp. 45-111.

by "horizontal property," or condominiums, in which one has full ownership of a given horizontal portion of a building, and shared ownership in the common facilities, such as stairs, service system, garden, etc.

54. A variation of this is the idea of "air rights," in which ownership is divided by horizontal layers whether or not there is a building at the time of division. The late C.A. Doxiades, the famous Greek urbanist, believed that this concept could be the basis for a general solution to tenure problems in both developed and developing countries. In his proposal, private ownership would be limited to a space of 10 meters (33 feet) above ground, and 6.6 meters (20 feet) below ground. Above ten meters, ownership would be allocated by layers, with the first going to local public bodies, the next layer to regional public bodies, the next to the state, the next to the nation, and finally, the upper part of the air to be considered international. (He in fact uses 12 categories of division.) 1/ While this at first may seem to be a fanciful concept, the concept of private rights fading into "national airspace" is now well-accepted in all countries, and governments are now considering the idea of a Floor Area ratio of one being assumed on all land, but higher ratios being considered as public property, which could be obtained only by some form of purchase. 2/ (A concept obviously close to the emerging ideas of development rights transfer now under consideration in the United States and Puerto Rico.)

55. An even more important distinction is that between land and improvements (that is, all types of structures, or other changes which increase the original value of the land). In cases of squatting, for example, it is all-important to the squatter if, upon removal from the land, he will or will not be compensated for the improvements he has made. If, as in Venezuela, the law is relatively generous with respect to this question, there will be incentives

---

1/ C.A. Doxiades, The Great Urban Crimes We Permit by Law (Athens: The Lycabuttus Press, 1973). See especially pp. 25-30.

2/ "Floor Area Ratio" is the amount of floor area in a building in relation to the area of the site. An FAR of one on a lot of 200 square meters would permit a one-story house covering the entire site, a two-story house covering 50% of the site, a four-story house covering 25%. For practical purposes, it would in most cases result in two-story construction, or somewhat less than than the Doxiades proposal. For interesting discussions (in Portuguese) of current Brazilian thinking in this field, see Centro de Estudios e Pesquisas de Administracao Municipal (CEPAM), Secretaria de Estado dos Negocios do Interior do Estado de Sao Paulo, O Solo Criado (mimeo., 20 pp., Sept. 1975); "O Debate do Solo Criado," Veja (magazine) March 16, 1977, pp. 61-63; and "Em Busca de Ordem," Veja, April 13, 1977, pp. 73-74. (English summaries of the first two available from William Doebele, 509 Gund Hall, Harvard, Cambridge, Mass. 02138.)

to auto construction in squatter areas. 1/ If the law is strict, squatter areas are likely to be dominated by the minimal shelter investment possible. Similarly, in sites and services projects, it may be possible for the public body to retain significant rights in the land and infrastructure, if it is firmly established that full market compensation will be paid for all improvements if it becomes necessary to move any of the participating families. 2/

Division of Tenure Between "Development Rights" and "Use Rights"

56. "Use rights" have to do with the right to benefit from and to sell land or structures according to the use to which they are currently being put. "Development rights" have to do with the right to benefit from more intensive use of land or structures, by conversion to a more profitable use, increasing density, etc. Because "use" values are present, they can be readily capitalized into a specific value. Because "development" values necessarily deal with the future, their capital value depends on the rate of discount applied, which in turn is dependent on a number of calculations, including, in most cases, the stability and probable future policies of public land use controls, likelihood of new taxation, expropriation, etc.

57. Because of the fact that the value of development rights (particularly in urban areas) depends upon such things as governmental installation of infrastructure and transportation, and on population growth in that city, as well as the actions of adjacent landowners, it is frequently argued that much of development value is socially created and therefore more legitimately subject to public control than interferences with the value of use rights. A variation of this theme is that there can and should be public ownership of development rights while use rights remain private. (This concept will be discussed in para. 149-163 and para. 199-205 below.)

Small- and Large-Scale Tenure

58. Absent special statutes on land reform, the basic law of property makes no distinctions between the size of holdings. However, in real life, the quantitative difference can often become a qualitative one, particularly in conditions of rapid urbanization. On the one hand, massive amounts of land in the hands of a few owners at the periphery of a city can create an oligopolistic situation and excessively high prices. Conversely, most modern forms of urbanization can be most efficiently carried out when planning and infrastructure can be applied to relatively large parcels. Thus, the expense

---

1/ See Doebele, "Legal Issues in Regional Development," cited para. 41 above, pp. 288-290.

2/ One of the most ambitious improvement projects ever attempted is now going on in Caracas. It might be quite useful to have more information on the way this issue has been handled there.

and delay of land assembly can be a significant factor in the ability of both the private and public sector to supply new locations for all uses at the most reasonable prices. For these reasons the analysis of tenure in any given situation must include not only the formal legal categories, but a breakdown of the size of holdings and their locations. 1/

IV. ADVANTAGES AND DISADVANTAGES OF EACH FORM OF TENURE MEASURED AGAINST POLICY OBJECTIVES

Introduction

59. Private ownership of land is neither good or bad except as viewed as to its actual effects at a given time and under given circumstances. Public ownership is neither good or bad *per se* for the same reasons. Land tenure is seldom an isolated and indendent variable, but is typically part of a total package of policies about land use and urbanization which collectively have desirable or undesirable impacts. In this section, therefore, it will be necessary to deal in *tendencies* not verities. The experience of the last twenty years or so seems to show that certain forms of tenure tend to be associated with policies that led to certain consequences, but in few cases are these consequences the result of tenure alone, nor is it even possible to say that quite different results could have been obtained by holding the tenure policy constant, and modifying all the others. Nevertheless, tenure *does* have significant effects, and certain forms of tenure are more compatible with certain policy objectives than others. It is to this level that the following discussion will be addressed.

Non-formalized, de facto tenure

60. *Efficiency, Productivity*. Considered at a *micro* level, squatters make remarkably productive use of the land they occupy, frequently bringing into use areas on hillsides, in ravines, etc., that the private market had bypassed. As Perlman points out about the *favelas* of Rio, they often represent remarkable achievements in low-cost engineering.2/

1/ For a good general discussion of this and review of the small body of literature, see Hans-Dieter Evers, "Urban Expansion and Landownership in Underdeveloped Societies," *Urban Affairs Quarterly* 11:1 (September 1975), pp. 117-129. See especially p. 199 for a discussion of land division and reassembly in Seattle (Washington), and Upper Orchard Road, Singapore.

2/ Janice E. Perlman, *The Myth of Marginality* (Berkeley and Los Angeles: The University of California Press, 1976). See especially Chapters I and II.

61. Although there are few systematic studies, it has frequently been observed that investment in housing in non-formalized situations is directly related to what might be called the perception of security from non-removal. (See discussion in para. 17-18 above.) Since this category is characterized by lack of legal tenure the psychological security necessary to investment must arise from a calculation by each individual of the likelihood that his capital will be destroyed by an action of the legal owner. This calculation is, of course, a complex one, depending on such things as the pattern of police attitudes toward invasions, as evidenced from previous reactions; the size and degree of organization in the neighborhood, and hence possibility of effective resistance; the lenth of time the settlement has existed; etc. 1/ Official action to legalize tenure, as in the barrio of Las Colinas in Bogota, will lead to a rapid increase in the quality of housing in spite of inherent difficulties of the site.2/ The cycle of

---

1/ One of the few specific studies of this subject is that of Dr. J. van der Harst, Cost of Residing of Low Income Groups, Joint Research Project IV, for Urban Development and Slum Improvement, Karachi University, Government of Pakistan, and Free University Amsterdam, Government of the Netherlands, 1975. After testing 17 factors (tax collection; provision of electricity; plans for main gutter; paved roads; provision of community water tap; public street sweepers; long duration of settlement; good condition neighboring areas; authorities have mapped area; authorities have surveyed area; many standard or semi-standard dwellings present; active "anjumans" (community organizations); public latrines; public school; public hospital or dispensary; mail delivery; and gas service), the study concluded that the first six were the most significant "hope-giving" items. Investment was as follows:

Unauthorized settlement with	Rupees		
	1-1000	1001-3000	3001 or more
6 "hope-giving" elements:	9%	35%	56%
Water, and perhaps elec. and sweepers:	10%	63%	27%
No "hope-giving" elements	45%	46%	9%

Moreover, in the settlement with six "hope-giving" elements, 41% of the houses were "semi-pucca" (semi-standard) with plastered walls and an assessed duration of 25 years, while 11% were "pucca" with an assessed duration of 50 years, while almost none of either type was found in the unauthorized settlement without "hope-giving" elements. See pp. 129-140 and Appendix of work cited.

2/ Mauricio Solaun, William L. Flinn and Sidney Kronus, "Renovation of a Squatter Settlement in Colombia," Land Economics 50:2 (May 1974), pp. 152-162. The same effect has been noted in another barrio of Bogota in which secure tenure was given. "At El Carmen, on the outskirts of Bogota, residents have been granted permanent title, and three-fourths of the houses are one-or two-story red brick structures with tin roofs." Joan Nelson, Migrants, Urban Poverty and Instability in Developing Nations - Occasional Papers in International Affairs, No. 22. (Cambridge Mass.: Harvard University Center for International Affairs, September 1969), p. 56.

invasion, squatting, provisional shelter, legalization of tenure, and then increased housing investment is not, however, one which maximizes productivity, since it forces the squatter to endure months, possibly years, of uncertainty and lowered investment until his perception of security rises to a point which permits a shift of strategy from that of a temporary (and if necessary expendable) shelter to a house as permanent as his resources will permit.

62. Thus, an institutional system which would give such security from the beginning would encourage more immediate investment and more productive use of land for the purposes of housing. This does not mean that land need be given without cost or in a freehold form of tenure. It does mean that the occupant must perceive that he is in a system which, if he performs in certain reasonable ways (including, possibly, payments, or the systematic construction of a dwelling), he will not be removed from site, or, alternatively, that removal will involve prompt and equitable compensation for any investment he has lost. Tenure in this situation may therefore perhaps be most accurately described as a set of expectations with respect to non-removal. Legally and institutionally, there are many formulations by which this may be achieved depending on the circumstances of each case. To summarize, at the micro-level, the key element in productivity is not tenure in the sense of any specific narrow legal category, but the entire set of expectations existing, or which may be brought into existence by government policy.

63. The discussion thus far has spoken in terms of housing, which is the dominant land use in non-formal settlements. The same principles apply, however, to commercial and industrial activities when expectations concerning removal are uncertain. (An excellent study of this with respect to retail commercial activity in Chandigarh, India, has been done by Sarin.) 1/

64. While non-formal de facto tenure (in situations where there is some reasonable set of expectations regarding non-removal) can be ingeniously productive at the micro-level, from the perspective of macro-efficiency, they frequently may not be the best means for putting land in a rapidly growing urban area into its "highest and best use." Because low-income people in general require good accessibility to employment, there is a tendency for invasion to occur on land which has such accessiblity. (An interesting recent example occurred in the Federal District of Mexico, where the moving of a toll booth from the edge of Mexico City down the highway toward Cuernavaca--in order to accommodate a new military camp--almost immediately resulted in invasions along the new toll-free portion.) In Ciudad Guayana, Venezuela, in the new growth center of Bandar Abbas, Iran, and in other similar projects, this pattern can be the cause of potentially serious problems of relocation and resettlement, since it is precisely the areas along highways, at intersections, and near existing industrial and commercial centers that are frequently most suited to expanded industrial or commercial uses, or other

---

1/ Madhu Sarin, "Growth and Vitality of Nonplan Services in Chandigarh," Ekistics 249, August 1976, pp. 79-91, based on a longer study prepared for the Development Planning Unit, University College, London.

activities of a metropolitan-wide character. The Klong Toey controversy in Bangkok, and Tondo Foreshore in Manila are other examples of well-entrenched squatter settlements raising obstacles to port expansions which are regarded as critical to national economic development.

65. The obvious resolution of these two phenomenon is to create areas in which the propensity of low-income persons to ingenious and productive uses can be maximized, but in locations in which such activity is consistent with an urban or metropolitan plan protecting areas with special advantages for commercial, industrial, or other uses essential to the general population. Sites and services programs, and other projects which open areas for "progressive development," are, of course, based on just this policy. On the other hand, it is important that low-income persons not be moved to peripheral locations, as has been done in Lagos, Santiago de Chile, and Rio de Janeiro. In short, squatting must be recognized as having special access criteria, particularly with respect to squatters' interdependence with the transportation system. 1/ By the same token, the "value of land" acquired for sites and services projects must not be considered solely in terms of its own price, but the secondary costs it transfers to participants if transportation service is not adequate. 2/

66. Efficiency: Responsiveness to Rapid Increases in Demand. Almost by definition, squatting is a response to a rapid increase in the demand for residential land outstripping supply. On the other hand, because of its disadvantages both to the public authorities and (generally, but not always) to the persons concerned, it is not a very satisfactory solution to demand satisfaction, which, as mentioned above, can be better handled through sites and services or even less elaborate programs, which give some form of reasonably secure tenure in appropriate locations.

67. With respect to response to demand in another sense, non-formal settlements may rank fairly high. Many non-formal settlements quickly create rental sub-units within individual houses, thus increasing the total housing stock available, and, often, catering to an even lower income group than themselves who otherwise might not have housing at all. 3/ In the longer

---

1/ For fuller discussion see, George Beier, Anthony Chundhill, Michael Cohen and Bertrand Renaud, The Task Ahead for the Cities of the Developing Countries, World Bank Staff Working Paper No. 209, July 1975, pp. 40 and 62.

2/ For further discussion, see Walters, The Value of Urban Land, cited para. 23 above.

3/ George Vernaz, "Bogota's Pirate Settlements: An Opportunity for Metropolitan Development", (Ph.D. dissertation, University of California, Berkeley, June 1973). See especially p. 104. See also, William A. Doebele, "The Private Market and Low Income Urbanization in Developing Countries: the 'Pirate' Subdivisions of Bogota," American Journal of Comparative Law, 25(3), Summer 1977, pp. 531-64. See also para. 223 below.

run, Peter Ward's recent study in Mexico City demonstrates that areas initially non-formal will, over time, tend to build up to high densities, appropriate to their locational situation. 1/

68. Efficiency: Responsiveness to Major changes in Urban Form. As discussed in subsection (a) above, non-formal settlement are frequently one of the most serious obstacles to changes in urban form, and very large settlements can, in some cases both deflect the private market and/or government policy.

69. Equity. In a certain sense, the phenomenon of non-formal land occupation is the creation of greater de facto equity in allocation of urban land. 2/ Its indirect costs, however, can be high: for the low-income occupiers, who normally live in uncertainty for years; for legitimate property owners; for the city (which cannot rationally plan services); and for potential alternate users of the site (for whom clearance may become prohibitively difficult). Where circumstances permit the later "up-grading" or regularization of such settlements at reasonable costs a net gain in equity may be achieved. Ideally, however, the land allocation system should provide sites for migrants at reasonable prices and with reasonable security, at locations suited to their need for accessibility. Such a system would provide greater equity without the danger of the costs just listed, or the frequently complex task of upgrading a neighborhood which has been settled in such a haphazard way as to make the installation of services and regularization of titles extremely difficult. As pointed out above, sites and services is one attempt to achieve greater equity without incurring such secondary costs, although in some specific applications sites and services projects themselves involve other significant costs for both their occupants and those remaining in the settlements from which they have come. 3/

70. Compatibility with Other Public Policy Instruments. It is obviously difficult to coordinate any other type of public policy with nonformal, unregulated settlements. It is, however, possible to conceive of land use planning which would designate areas for informal settlement and direct new migrants to such locations, as is done by many sites and services projects now. 4/

1/ Peter Ward, "The Squatter Settlement as Slum or Housing Solution: Evidence from Mexico City," Land Economics 52:3 (August 1976). Ward's discussion may constitute an important contribution to the controversy as to whether sites and services are wasteful of land and infrastructure because of their initial low densities.

2/ There have been occasional alleged cases of middle income persons engaging in invasions for speculative or family-related reasons, but these are not typical.

3/ See, for example, Lisa R. Peattie and William A. Doebele, "Some Second Thoughts on Sites and Services," unpublished, January 1976.

4/ For a general discussion of public policy and informal settlements, see Grimes, Housing for Low-Income Families, cited para. 27 above.

71. Continuity. The phenomenon of non-formal occupation is, of course, a major break in the cultural traditions of all countries in which land has been subject to individual ownership. It is clear that squatters so regard it, and invade only when they feel all other means of obtaining sites are closed. In parts of Africa and other cultures in which land (because of its relative abundance) has been traditionally regarded as either a "free" or community good, urban squatting has not represented such a break in continuity, although some of its practical consequences may obviously be equally serious. 1/

Private Freeholds

72. Efficiency, Productivity. In theory, private ownership of urban land should, as with other commodities, lead to highly productive use. As is well-known, however, this does not occur because of the special characteristics of this market, particularly in developing countries. Without going into detail, the following major reasons may be outlined. 2/

73. The supply of urban land is very inelastic, since at any moment of time only a certain number of hectares in an urban area have services (roads, water, sewerage, electricity, fire and police protection, etc.). Adding to this supply requires the joint effort of the owner and a variety of public agencies. In virtually all countries, public agencies lack the financial institutions to assure a rapid and adequate flow of funds to provide new service (or "urban infrastructure") at the enormous rates demanded by the flood of migration. Thus, supply always falls further and further behind demand, and prices rise accordingly. 3/

1/ On the other hand, at least one study has shown that in Malawi, substantial investment in houses, shops and industries will take place in the absence of legal title, or even very clear evidence of government intentions, possible because of the African traditions with respect to tenure already discussed. See, H.C. Norwood, "Ndirande, A Squatter Colony in Malawi," Town Planning Review 43:2 (April 1972), pp. 135-150.

2/ This subject is also discussed by Walters, The Value of Urban Land, cited in para. 23 above; Shoup, Land Taxation and Government Participation in Urban Land Markets, cited para. 27 above; Grimes, Housing for Low-Income Families, cited para. 27 above, Chapter 8.

3/ Problems of inadequate supply of urban infrastructure, locational positions which give semi-monopolistic advantages, and lack of alternative investment opportunities do not solely occur, of course, when land tenure is in the form of private freehold. When freehold is the dominant mode, however, these factors intensify the effects described in this section.

74. Landowners themselves enjoy a semi-monopolistic position, since land at the edge of the city at any particular moment is unique in its locational advantage and desirability for the next stage of construction. (This is particularly true where, as in Latin America, peripheral land is in the form of haciendas or other large holdings of a single individual or family.)

75. Land prices are accelerating more rapidly than other prices in developing countries because of the lack of alternative investments. The market in industrial stocks in such countries is often weak and subject to manipulation. Bank deposits pay rates of interest which hardly keep up to inflation. The value of urban land, however, can almost never decline, and because of the first two reasons cited above, is almost sure to rise. Thus, there is always a ready flow of new capital into urban land. This, in turn, creates a self-fulfilling prophecy: As more investment capital flows into a limited resource, prices do rise, making it more attractive for futher investable capital. Such speculative booms are common in history--in the North American West, in Florida in the 1920's, etc. Historically, the "bubble" has often burst, wiping out investors, and restoring values to more reasonable levels. In developing countries, however, the flow of migrants has been so extra-ordinary, that there has never been pause in demand sufficient to cause such a rapid deflation. (In South Korea and Japan, urban land prices have from time to time stabilized, or even dropped very slightly, only to resume their upward trend in a few years.)

76. One commentator, after surveying existing studies, particularly those of the Georgetown area of Penang, Malaysia, and Buenos Aires, concluded that there is a distinction between "institutional" land transactions among land speculators and "terminal" transactions between the speculator and ultimate resident. He suggests that the existence of these two markets is a cause of overcrowding in city centers, working class slums, "leapfrogged" development, and the middle class being priced out of the land market. 1/

77. Arguments can be advanced that private market tendencies to "hold out" urban land in situations of high demand, and even land speculation, are, in the long run, economically productive and efficient allocation mechanisms. A discussion of the validity of this position is, however, beyond the scope of this paper. The existence of intense speculation in developing countries (as evidenced, for example, by the fact that central city land prices in developing countries are frequently higher than in developed ones) 2/, clearly does lead to short-range distortions in patterns of land use and construction (as compared to a system in which other forms of investment were more competitive), which are often taken by commentators (such as Evers) and governments to imply a less-than-optimal pattern of urban uses, and hence lowered productivity. 3/

1/ Hans-Dieter Evers, "Urban Expansion and Landownership in Underdeveloped Societies," Urban Affairs Quarterly 11:1 (September 1975), p. 121.

2/ Evers, ibid.

3/ A concern with both the economic and physical effects of urban land speculation was voiced by a number of governments at the Habitat Conference, U.N., Vancouver, 1976.

78. Efficiency, Responsiveness to Demand. In addition to the factors noted in the preceding subsection (paras. 72-77), the responsiveness of land markets and construction to increased demand is also related to the amount of access to credit possessed by individual owners, and to the degree that the capital and credit markets in developing countries are frequently limited and imperfect, responsiveness to demand is impeded.

79. Other institutional factors, such as zoning, subdivision regulations, building codes, and other similar requirements make it difficult for the market to respond to new demand, particularly from persons with low incomes, whether it be for commercial or industrial purposes, or for housing. Where pressures are great enough, these activities are, of course, conducted without necessary permissions, but this, in turn raises all of the issues already discussed in the preceding section.

80. In addition, the very permanence of buildings (or a given configuration of infrastructure on a parcel) makes response to rapid shifts in demands difficult. In rapidly growing cities, older areas (particularly near the center), become ill-adapted to current needs, yet cannot be altered without expensive redevelopment.

81. Efficiency, Responsiveness to Changes in Urban Form. With respect to changes in urban form affecting urban land, the private markets may have difficulty in responding to changes in urban form for the same reasons outlined in the subsection on productivity above (paras. 72-77). Moreover, the actions of any single individual are often inhibited by the "Prisoners' Dilemma," that is: although all would gain from concerted action, it is to the advantage of no one to make the first move. 1/ Moreover, major changes in urban form generally involve some form of restructuring the basic urban services (including transportation) affecting the area in question. Thus, the private market cannot effectively react without collaborative investment by the public sector. It is for these reasons that (i) urban redevelopment in almost all countries is carried out by public authorities, acting in some form of cooperation with private owners, and (ii) there is a growing sentiment that in rapidly changing cities peripheral land should also be brought into production with a much greater degree of public intervention than now exists in countries in which the private market is dominant. (Some of these proposals are discussed in subsequent parts of this paper.)

82. Equity. For historical reasons, it is clear that private freehold ownership of urban land is a primary source of economic inequity in many developing countries. This is, of course, not because freehold is itself either equitable or inequitable, but because present patterns of freehold ownership have evolved in such a way that they now block access of lower income groups to land for housing and business purposes. The solution to this problem is obviously not one of the format of tenure itself, but of the context which has caused land holding to be so unequally distributed.

1/ For the classic article on this subject, see Otto A. Davis and Andrew B. Whinston, "The Economics of Urban Renewal," Journal of Law and Contemporary Problems 26:1 (Winter 1961), pp. 105-117.

83. It is interesting to note that in 1976 India adopted sweeping legislation to deal with this problem while still maintaining a system based to a considerable degree on private ownership. The Urban Land (Ceiling and Regulation) Act, February 17, 1976, 1/ provided that ownership of vacant land in cities would be limited as follows:

In "A" "Urban agglomerations" (Delhi, Calcutta and Madras): 500 sq. meters;

In "B" "urban agglomerations" (Hyderabad, Poona and Kanpur): 1000 sq. meters;

In "C" "urban agglomerations" (smaller than "B"): 1500 sq. meters;

In "D" "urban agglomerations (smaller than "C"): 2000 sq. meters.

Every person owning vacant land in excess of such amounts (including combinations in various categories of urban agglomerations), must file a statement declaring location, value, etc. After hearing and other procedural steps, excess land shall have been considered acquired by the State government, with payment either based on a percentage of income or, if it has no income, according to a fixed per meter sum set for each category. (Twenty-five percent of payment to be in cash, and the remainder in twenty-year bonds at five percent interest.) Upon acquisition, the various State governments may dispose of such lands for industrial, commercial or residential purposes (including suitable restrictions) as are deemed to be for the common good, or be held as a reserve. The Act applies to eleven States and the Union territories, and permits other States to enact it if they wish. In addition to the provisions just mentioned, it also provides that no urban property with a building may be transferred during the next ten years without application to, and permission of, a "competent authority" (to be designated by each State government). Moreover, if permission to transfer is given, the State has a first option to purchase at a price agreed to by the owner and "competent authority," or determined under the provisions of the Land Acquisition Act of 1894. Similar provisions also apply to the transfer of vacant land still held in private ownership. Research at this time does not indicate whether the law's intent is to exercise a tight control over urban land markets, with State interventions being limited to a relatively few cases where the private transfer was deemed to be undesirable, or whether the intent is to achieve a systematic transfer of all important urban land and buildings into the hands of State governments over the next ten years. (States could have differing policies on these points under the law as written.)

1/ Published in the Gazette of India, No. 38, New Delhi, February 17, 1976.

84. **Returning to broader issues (outside India)**, an interesting point is whether, when land is being redistributed, or subsidized, for equity reasons, it should be given to lower income beneficiaries in freehold form. Distribution through freehold means a loss of government control, and hence, as above outlined, greater difficulties in future coordination with governmental policies. Economically, granting land in freehold may appear to deprive the government of the means of participating in future flows from the property. However, the following points must be considered:

(i) Freeholds are seldom paid for in lump sums, and the selling agency (either by itself, or through some public financing agency established for the purpose), must permit some method of down payment and installment buying. In this fashion the flows may not be markedly different from those flowing from leaseholds, although a point is finally reached when the payments cease (unlike leases, where income theoretically continues indefinitely);

(ii) This ultimate ending of income flows is, however, offset by the fact that there are normally lower defaults and arrearage payments under purchase plans (since the occupants feel they have more to lose);

(iii) A much smaller estate management staff is needed (an important point in developing countries in which trained personnel is scarce);

(iv) The politics of leasing tend to create "lock-in" effects, which make it difficult to raise rents later when the government is the landlord, no matter what the inflation rate or other objective factors may be (for further discussion, see para. 105-110, 117-118 and footnote, and 121 below); and

(v) Granting leaseholds at different moments of time creates "visible" inequities which have their own political consequences (see para. 123-124 below).

85. If freeholds are distributed on a subsidized basis for equity reasons, the costs may limit the total scope of the program, frustrating larger concepts of equity in the sense that a smaller proportion of the needy will be able to obtain a share of the benefits. On the other hand, freeholds do not by nature require greater subsidies than leaseholds. As mentioned above, through installment payments and other specific arrangements, the financial consequences to both the public agency and the beneficiaries can be made virtually identical. What <u>is</u> significant economically is that at some point,

when full freehold does pass to the recipient, he enjoys a different degree of control over use and income (in the long run) than any lessee. To this degree, he also enjoys greater security, and hence may, under certain conditions have incentives to undertake more productive uses and greater investment. (This is particularly true with respect to the phenomenon of disinvestment which characterizes the terminal years of leaseholds.) 1/ Whether these effects make a given society more or less "equitable" depends, of course, on the total context of a specific situation, and is not readily subject to generalization.

86. It is sometimes argued (for example, by the Australian Royal Commission, 1973), that since profits from commercial land are the result of the existence of the community, this type of land should be in a joint ownership which will permit the government to share directly in profitability. 2/ To the extent that the total system of transportation, land use controls, etc., does create extraordinary commercial opportunities at certain limited locations, a public policy which seeks to prevent (or at least equalize) excessive profits from government activity might support the Australian view. Industrial uses may, on occasion, be subject to the same effects, and therefore suggest a similar policy, but in general industrial locations are not subject to the same concentrations of publicly created profitability as are commercial.

87. Compatibility with Other Public Policy Instruments. Since freehold maximizes individual rights of ownership as against any interests of the public, it is prima facie less "manageable" and difficult to coordinate with other public policies than other tenure forms in which the public retains a residual property interest. On the other hand, a comprehensive system of land use controls coordinated with taxation devices (as exists in Sweden) can achieve a high degree of compatibility with other policies. Normally, however, such systems take considerable time to evolve. 3/

88. Continuity. In all developing countries in which freehold is an understood and traditional form of ownership, its use poses no difficulties. In certain developing countries in which tribal forms of land ownership are

---

1/ For a good discussion of this phenomenon, see R. W. Archer, "The Leasehold System of Urban Development: Land Tenure, Decision-Making and the Land Market in Urban Development and Land Use," Regional Studies, Vol. 8, pp. 225-238.

2/ Australian Commission of Inquiry into Land Tenures, First Report (Canberra: Australian Government Publishing Service, 1973), pp. 57-58, reproduced in Annex B attached.

3/ It has been suggested that Swedish evolution in this matter has been related to the very long dominance (until 1976) of the Social Democratic Party in national politics. See William A. Doebele, "A Commentary on Urban Land Policy in Sweden", internal IBRD paper, December 1974.

traditional, the shift to freehold concepts has been resisted, although tending to break down in urban areas. For those who have a strong ideological commitment to development through communal participation, freehold may be objected to on the grounds that it hinders the development of social unity and participation. 1/

Private Leaseholds

89. Leaseholds between private individuals are sufficiently similar to private freeholds as not to warrant extensive separate discussion. It is, however, important to note that the existence of the leasehold relation does give the government an additional "leverage point," as it were, which improves its position with respect to coordination of private land uses with other public policy. Rent control, for example, is obviously only effective when a substantial amount of the housing stock is rented. Whether or not such interventions increase productivity, responsiveness to demand, responsiveness to changes in urban form, equity, and continuity is greatly debated, and beyond the scope of the present paper.

Public Freeholds

90. Efficiency, Productivity. As noted in para. 47 above, most full public ownership of lands occurs in rural areas; or, in urban places, with respect to specific facilities such as parks, roadways, airports, sites for public buildings, etc. While it is obviously impossible to generalize, we assume for the purposes of this paper that most of such holdings are used with reasonable efficiency.

91. Some forms of government ownership of large amounts of lands near the peripheries of cities may cause problems if such ownership means that bureaucratic consents must be obtained before such property can be converted into urban uses. This is, however, regarded as a specialized problem beyond the scope of this paper. (Although in some contexts, such as Mexico, it may be a highly important one.).

92. Some places, such as Hong Kong, have held considerable portions of the total housing stock in public tenure, but the question of the "productivity" of large-scale public housing is also a specialized subject area, with its own literature, which need not be summarized here.

1/ For a questioning of Peruvian reforms giving freehold tenure to former squatters, see Diego Robles Rivas, "Development Alternatives for the Peruvian Barriada," in Guillermo Geisee and Jorge Hardoy (eds.), Regional and Urban Development Policies: A Latin American Perspective (Latin American Urban Research), Vol. II (Beverly Hills: Sage, 1972), pp. 229-237.

93. Certain cities of the work which have had large supplies of land in public ownership have allowed them to be used up, without taking full advantage of the opportunities that such ownership may have provided, and to that extent, the overly hasty disposal of public land may be considered an unproductive use. 1/ In other cases (for example, Sweden), public land ownership has been used as a vehicle to achieve both greater equity and efficiency in urbanization. This subject is, however, covered under the category of "Public Leaseholds," which follows. 2/

94. One form of public ownership which can be important, however, is the advance acquisition of sites for major urban projects. To the degree that such actions can substantially lower project costs, they do, of course, contribute to productivity. When such projects encompass a whole new capital city or New Town, the matter becomes more difficult, involving complex trade-offs between the costs of wholly new urban locations as opposed to the expansion of older areas, a matter beyond the scope of this paper. 3/

95. Another form of public ownership worth noting is so-called "excess condemnation," that is, the taking of the areas adjacent to public projects in order to recover for the government the "spill-over" increments in values resulting from the public expenditures, as well as to establish complete control over adjoining uses. This also has productivity effects, but since they are covered in another paper, they will not discussed here. 4/

96. Where, as in socialist countries, all land is nationalized, problems of productivity may arise because of the lack of pricing mechanism to determine optimum allocations, as in fact, did occur when Great Britain nationalized all "development rights" to real property in 1947. (This question is discussed further in paras. 151-4 below.) A similar issue may arise in Zambia where all freeholds have been converted into 100-year leaseholds, while structures and improvements remain freely transferable. 5/

1/ See Grimes, cited in para. 27 above, p. 97. For comments on Karachi, see Government of Pakistan, Final Report: The Karachi Development Plan 1974-1985, National Pilot Project No. 3, assisted by UNDP Project PAK/681/540, August 1974, p. 179.

2/ For further discussion of the Swedish experience as it applies to developing countries, see Doebele, cited para. 87 above.

3/ For one discussion of this issue, see Beier, et al. op. cit., p. 31.

4/ See Shoup, cited para. 27 above.

5/ For a summary of current Zambian law, see Ekistics 244, March 1976, p. 151. See also Urban Sector Survey: Republic of Zambia, Annex D, July 31, 1974 (World Bank report No. 490-ZA, Confidential). For a more general discussion of the problems of allocation of urban land resources under conditions of nationalization, see Reiner and Wilson, cited para. 8 above.

97. As mentioned above, in Sweden and the Netherlands, land is often assembled by public agencies, held until determined to be "ripe" for development, and then put onto the private market, either through leasehold or freehold, for actual development. The technique, often called "land banking" is thoroughly discussed elsewhere. 1/

98. Finally, public land ownership is sometimes used, as in South Korea, Taiwan and Japan, to assemble land, develop it, and sell it for private construction, with the public body retaining a part of the land for sale itself to recoup costs of urban infrastructure. This system may be an efficient one for causing urbanization, and is also discussed in another paper of this series. 2/

99. Efficiency, Responsiveness to Demand. In theory, tenure systems having a high degree of public ownership could be quite responsive to demand. The experience of such agencies as the Lagos Executive Development Board, which was charged with furnishing land for low-income housing and other necessary uses, indicates that they may be slow moving and relatively inefficient, especially when faced with budgetary uncertainties and the complexities of tribal ownership. 3/ If expropriation procedures are involved, responsiveness to demand can be very slow, unless there are legal provisions of "quick-taking" (see para. 212 below). On the other hand, governments with strong administrative capabilities, such as Israel, Singapore and Hong Kong have had excellent records in responding to new demands.

100. Efficiency, Responsiveness to Changes in Urban Form. The theoretical advantages of public ownership must be traded off against bureau-cratic disadvantages. However, very little research is available from which to draw general conclusions. In Brasilia and Chandigarh, once the 'grand design' had been established, it became very difficult for change to be made to accommodate informal settlements and commercial activities which are an integral part of urbanization at this scale in these countries. In Ciudad Guayana, the land-owning Corporacion de Guayana has been able to exert less detailed control because of the local political context, but the areas in which it has maintained ownership have been slow in developing, possibly due to rigidity in adhering to the original concepts. It is probably therefore reasonable to conclude that the adaptability of publicly owned lands is limited by the ability of bureaucracy to remain sensitive to changing social and economic needs.

1/ See Shoup, cited para. 27 above.

2/ Ibid.

3/ See Okpala, cited para. 13 above.

101. Equity. Public land ownership is often specifically established to increase the possibilities of more equitable distribution. Again, the problem is that little literature exists to document whether this occurs, or whether favoritism and corruption occur when public officials must manage such valuable assets. 1/

102. Compatibility. Again, the literature is thin. 2/ In spite of the potential for coordinating a public land agency with national, regional and municipal economic, social and physical planning, there have been tendencies in Lagos and Karachi for such agencies to act independently, although this has not been so much the case in Singapore and Hong Kong.

103. Continuiity. In most developing countries, a high degree of public land ownership is not traditional, and to this degree poses problems of continuity.

Public Leaseholds

104. Efficiency, Productivity. We now turn to the advantages and disadvantages of urban land in the form of leaseholds held by the public, but granted to private individuals or firms--a widely recommended form of tenure for developing countries. 3/ In theory, a system of leaseholds administered by a public authority in coordination with other policy regarding land use should result in high productivity. There are, however, substantial practical problems in achieving this end.

1/ Okpala's data indicate that some favoritism did operate in the Lagos Executive Development Board. Id. Ch. VII generally, and particularly Table 7.9 (p. 285).

2/ For two interesting recent publications, see Dalton Kehoe, David Morley, Stuart B. Proudfood, and Neal A. Roberts, (eds.) Public Land Ownership: Frameworks for Evaluation (Lexington, Mass.: Lexington Books, D.C. Heath & Co., 1976); and Neal A. Roberts (ed.), The Government as Land Developer, (Lexington Mass.: Lexington Books, D.C. Heath Co., 1977), including articles on the experience of six European nations with public land ownership.

3/ For a good discussion of its general advantages, see R.W. Archer, "The Leasehold System of Urban Development: Land Tenure, Decision-making and the Land Market in Urban Development and Land Use," first presented as a paper to the United Nations Seminar on Urban Land Policies and Land Use Control Measures held in Madrid in 1971, and reprinted in Regional Studies, Vol. 8, (Oxford: The Pergamon Press, 1974), pp. 225-238. Archer points out the system is used in Amsterdam, The Hague and other cities in the Netherlands, in Stockholm and other cities in Sweden, in Liverpool, Birmingham and a few other cities in Britain, in some cities in Germany and in Norway, in Israel, the Sudan, Kenya and Uganda, and in the city states of Hong Kong and Singapore, as well as in federal capital cities such as New Delhi and Canberra. (Id., p. 230).

105. Firstly, the administration of leases of public land requires a considerable level of sophistication. Particularly where the leasehold system is the dominant one in a given market, there is the loss of a private market as a means of establishing most appropriate use and level of rent. This has been a problem in Swedish cities, for example. 1/ While proposals have been made for auctioned leases and other devices to restore a market element, the problem is still a serious one.

106. Secondly, the administration of public leases requires a high degree of integrity in the bureaucracy. Since urban land is such a valuable commodity, and particular locations command semi-monopolistic market (and hence high income potentials) the temptations for corruption and favoritism are great. Even in honest administrations, there is a constant temptation to use favorable lease terms as a hidden subsidy to "deserving" groups or individuals. Even when these are justifiable in social or economic terms, they impede the ability of a government to calibrate what its actual subsidy system is at any given moment.

107. Thirdly, when leases have fixed rents during an inflationary period, the lessee has lessened incentives to keep the property in its most productive use. If leases, on the other hand, are tied to an inflation index, problems arise if the lessee's own income does not respond perfectly to inflationary pressures. This is, of course, particularly true when leases are used for dwellings, and income adjustments lag behind the inflation rate.

108. Fourthly, the productivity of leaseholds frequently depends on leases of sufficient length to permit the lessee to obtain credit for the construction most appropriate to the site. According to Archer: 2/

> "Leasehold will provide sufficient security of tenure to allow and encourage good building provided that the lease period is not less than the likely minimum economic life of the building and provided that the land rent is not greater than the market value of the site in its current use".

These periods, however, can be very long, and Archer himself recommends a range of 60 to 120 years, with a common leasehold being 99 years. 3/ Given the growth rate of cities today, such time periods become, for practical purposes, virtually the same as freeholds, unless the lease itself gives certain kinds of residual controls to the public lessor. However, the greater the degree of public intervention possible, the less attractive the lease may be as collateral for credit being given to the lessee.

109. In Sweden, the typical lease has been 60 years, and there is some experience (since 1903) with the productivity resulting. 4/

1/ Doebele, cited para. 87 above, Ch. IV.
2/ Archer, cited para. 45 above, p. 232.
3/ Id.
4/ For further discussion see para 121 below.

110. As leaseholds near the end of their term, their use as collateral becomes less and less acceptable, and simultaneously the lessee loses with respect to maintenance, which may have negative effects on restoring productivy in the next lease period.

111. The arguments just made are not intended to characterize leaseholds by public bodies as necessarily less productive than the results produced by other forms of land tenure. They do suggest that there are technical problems in the use of this form which are frequently glossed over by its proponents. (Other considerations of the same type will be discussed below.)

112. Possibly the most thorough and balance discussion of this entire issue is the Australian Commission of Inquiry into Land Tenures, First Report, November 1973. 1/ This document suggests that there should be public acquisition of all future development rights in land (a subject to be discussed below), administered through a system of development corporations. After a very careful examination of the advantages and disadvantages of leaseholds for residential purposes, the Report concludes there are substantial gains to be achieved by granting residential lands in fee simple. 2/ (Rather than attempting to recapitulate this argument here, it is reproduced as Annex C of this paper.)

113. On the other hand, the same Report suggests the very interesting idea that tenure to commercial enterprises (which apparently includes both industry and all forms of commercial land uses) should be a "shared leasehold," with shared income to the lessor and lessee. Specifically, all such leases would be "joint ventures," in which the lessor (the public body) would receive income attributable to its contribution, the land, while the lessee (commercial enterprise) would receive all income attributable to his buildings. (For specific details on the Commission's proposals, see Annex B. Also see further discussion in para. 159 below.)

114. While there are obvious administrative complexities in this proposal which would have to be worked out in detail prior to its application, it does open up the possibilities of a leasehold relationship which optimizes productivity to a greater degree than forms hitherto used. (If actually practiced in Australia, its performance should be carefully evaluated.)

115. With respect to sites and services projects, the Australian arguments suggest that the Bank should consider residential tenure policies which may be limited in a number of different ways (depending on the cultural context of the project) during the construction period, but which in all cases contain a definable date at which the participant will receive a fee simple title. (We emphasize that this is not being made as a firm recommendation at this time. We do suggest that it is one option worth careful thought as the Bank

---

1/ Canberra: Australian Government Publishing Service, 1974.

2/ Id., pp. 49-56.

moves toward policy positions in the land tenure field.) The "joint venture" idea is also one which seems worthy of consideration in those sites and services projects which have significant commercial or industrial land uses. "Upgrading" projects, while raising more complex issues of tenure than sites and services, might also benefit from evaluation in these terms.

116. Efficiency, Responsiveness to Demand. As noted above, in theory, public ownership combined with leaseholds can be quite responsive to demand. Indeed, it is striking that the lowest urban land values in Europe are enjoyed by the Netherlands and Sweden, the two countries in which public bodies furnish the basic supply. 1/ This effectiveness is, of course, dependent on the expropriation process, a problem of considerable importance in many developing countries (see para. 211 below). (In Sweden and Holland, many acquisitions are negotiated, but it is probably the residual power of expropriation, which can be less convenient for both sides, that lubricates the negotiated transactions.)

117. As implied, responsiveness to demand involves two elements: (a) the ability of the public body to increase its total "reserve" of land to be leased, which has just been touched on, and (b) its ability to give out leaseholds at a rate appropriate to satisfy the new demand. Its actual capacity to deal with the second point obviously depends on the first: income received from land distributions must be sufficient to "roll over" into new acquisitions so that there is an adequate inventory constantly available. Disposal by means of leaseholds can present serious cash-flow problems, since each year's rent is only a small fraction of total capital value, all of which may be needed to acquire replacement land for the inventory.

118 Obviously, this type of problem can be solved when a public body has been in the land acquisition and leasing business long enough and at a large enough scale that the total flow of rents is sufficient for such replacement purchases. Also, of course, if it is able to pay for new land in installments, the problem is greatly reduced. However, even in Sweden, the country (with Holland) having the longest experience with these matters, more and more municipalities are selling rather than leasing publicly acquired lands, in part because of the "cash-flow" problem. 2/ 3/

1/ See table comparing land values in selected cities in 1970; Haim Darin-Drabkin Land Policy and Urban Growth (Oxford: Pergamon Press, 1976).

2/ See Doebele, cited para. 87 above, pp. 65-67. As of February 1974, only about twenty of Sweden's 278 municipalities regularly used leasing, and about ten more used it selectively. Except for the largest cities, the trend in Sweden, as of 1974, was toward sales of public land reserves. Id, p. 167.

3/ Note that the "cash-flow" problem is a different issue from the question of the long-run "profitability" of leasing compared to selling. As pointed out elsewhere in this paper, the profitability of leasing residential land is almost always limited by political constraints. Where

119. Alternatively, a national financial institution can be established which will accept leaseholds as security for giving loans to capitalize new acquisition. (Sweden, indeed, has such an institution.) For developing countries, however, which would be just starting a public acquisition-leasing out system for urban land, such a financing institution might involve considerable risks (until an experience can be established), plus administrative overheads. On the other hand, it may be that this is just the sort of situation in which the technical and fiscal resources of the World Bank would be especially appropriate. Again, we emphasize that this is not a recommendation at this time, only the posing of a possibly significant issue.

120. Efficiency, Responsiveness to Changes in Urban Form. Again, in theory the use of leasehold puts a public authority in an excellent position to adapt to changes in urban form and land use patterns. As leases expire, the property can simply be released to a lessee who agrees to convert to the use most appropriate to the changed circumstances. In practice, as discussed above, public leaseholds tend to run for 60 years or more. Thus, their rhythm of renewal is far too slow for the changes in urban form which are today occurring, particularly in the developing countries. While it is, of course, difficult to generalize, one may say very roughly that the suitability of many structures and uses in the older parts of cities in developing countries will require major functional adaptions on a cycle closer to 20 years rather than 60. While obviously the opportunity to recapture land and reconstitute its use every 60 or 99 years is better than never being able to recover it at all, except by costly expropriation and redevelopment techniques, at the same time, two full generations is a long time to wait to be able to act, given the historically unique rate of change now occurring in almost all major cities of the developing world. (This is a point often not sufficiently considered in the literature advocating the leasehold system.)

121. An even more serious problem is that where 60-year residential leases have come up for renewal (as they have, for example, in Stockholm), a "lock-in" effect may occur. That is, people's feelings about their houses have become so intense, that the public body cannot, for political reasons, radically alter the existing situation, whether it has the legal power to do so or not. Thus, the original 1907 Swedish legislation called for 60-year leases of residential property and 26 to 100-year leases of industrial areas, at the end of which the municipality could, in theory, reclaim the land. In 1953, however, before the original leases were to come up in large numbers, the legislation was changed to provide for leaseholds of an "unlimited period,"

(continued)

such constraints do not apply to commercial or industrial leases, they may indeed have substantial profitability, particularly if they can be tied directly or indirectly to an inflation index. (One highly effective method for doing this is to make commercial rents a percentage of sales, a device commonly used for the owners of North American shopping centers.) See National Association of Homebuilders, Community Builders Handbook (Washington, D.C.: Urban Land Institute, 1968).

although the city was given the option of terminating at the end of 60 years if the land was needed for another purpose; otherwise the lease was to be renewed automatically for another 40 years. (In the case of non-residential land, the first lease is 80 years, and the second 20.) In 1967, legislation provided that rents (but not use) could be renegotiated every 20 years for residential property and every 10 years for non-residential. 1/ Thus, the possibilities of interventions for dramatic changes of use in response to demand are quite limited.

122. Given the difficulties that most developing countries have had in removing squatters in the face of the political repercussions of displacing large numbers of families, it is unlikely that the expiration of residential leases will, in actual fact, provide for opportunities for "costless" reallocation of the land concerned. Industrial and commercial uses might be easier to deal with from a political viewpoint, but from an economic one, since they often require more initial investment, they are assumed to need longer leaseholds (hence the 80-year term in Sweden), and the opportunities for reallocation are correspondingly academic for several generations.

123. Equity. At the time of the initial distribution of leaseholds, a public authority is in a position to be quite equitable, and indeed, to engage in cross-subsidies toward the lower income groups. "Land banking " in Sweden, indeed, began as a primitive form of sites and services, organized to divert poor Swedish families from emigrating to the free land in the American Midwest. 2/ However, many of the initial 60-year leases were set in fixed number of Kroner, with the result that by the 1960's the system became confused and inequitable. Thus, a standard 700 square meter lot, leased from the municipality in 1974 might carry a rent of Kr. 3500, while the same amount of land leased in 1968 would be Kr. 1500, and if obtained in 1915, only Kr. 180 3/ per year, or 1/19th the rental charge being paid by someone who received a lease in 1974. (Approximate exchange (1974): 4.40 Kr./US$1.)

124. Given that public authorities managing public housing projects in developing countries have often had great difficulties in adjusting rents upward over time (even to keep up with inflation), and that rent control has similarly seldom been realistically adjusted over time (Mexico City being one classic case, only recently partially corrected), it might be safe to generalize that the initial equity effects of public leaseholds tend to become locked into place, so that system may be said to become less equitable

---

1/ Doebele, cited para. 87, p. 10, as corrected by Mr. Peter Heimburger, Stockholm.

2/ It was called the "Own-Home" Movement. See Doebele, Sweden, id., pp. 8-9.

3/ Id., p. 59. Data from earlier work of Ann Louise Strong, "Land Banks In the Stockholm Region," Ms., Summer, 1974, p. 2-90-11.

to new entrants. Indeed, even where public authorities may have the political power to raise rents under leaseholds, equity problems still exist. For example, if the criterion is keeping up with some index of inflation, the adjustment will be unfair to those lessees whose incomes have also kept pace with inflation, but not to those who wages lag behind.

125. In this, as with other points, the argument is not that public ownership and leasehold is desirable or not, only that it--as with all devices--has both advantages and disadvantages to be taken into account before application.

126. Compatibility. It is obvious that public land ownership with leases given to private parties permits a high degree of coordination between general government policies with respect to development, and the appropriate use of land. Not only is it possible to allocate the leasehold in the first instance to the party whose plans are most consistent with overall development objectives, but the terms of the lease itself can impose restrictions on future uses which can be individualized and "fine-tuned" to a much greater degree than ordinary land use controls.

127. On the other hand, as discussed above, the public authority cannot retain too great a power to intervene, lest these terms interfere with the ability of the lessee to obtain necessary credit. There is therefore a tendency for rigidities to increase, the further away in time one moves from the initial negotiation.

128. Where the public land agency is local, conflicts with national policies can also take place. Thus, Roberts has pointed out that in Stockholm, leasehold terms on commercial and industrial land are used by municipalities to attract industries away from others to their own jurisdictions, for improvement of their tax bases. 1/ Okpala's work on the operations of the Lagos Executive Development Board (a public land acquisition and disposal agency) also show that independent public authorities tend to maximize their own interests, and only secondarily consider compatibility with larger city, regional, or national developmental goals. (Making this observation of deficiencies, however, does not imply that other mechanisms, such as freehold ownership, are necessarily better solutions to the compatibility problem.)

129. Continuity. Whether or not a system by which the public owns land and leases it to others is a break in the traditions of a particular country depends on its cultural history. In countries, such as in Latin America, in which the idea of private ownership of land has taken strong roots, there would clearly be a major break with tradition (although in a few countries, agrarian reform has shown the way). On the other hand, in African and Asian nations, in which tribal or other forms of public interest in land use allocations are still a strng element, the shift may be much easier.

1/ Id., pp. 61-63.

Communal Ownership: (Tribal):

130. Efficiency, Productivity. There are few studies of the productivity effects of tribal forms of ownership. Impressionistically, it would appear not to be well-adapted to urban conditions, and possibly tending toward lower density patterns than would otherwise occur. To the degree that allocations are made on the basis of family ties, and sales are limited to tribal members, an artificial market is created, which sterilizes the area concerned from normal investment, and hence, presumably "higher" and more intensive uses.1/

131. Efficiency, Responsiveness to Demand. Again, assuming in the absence of much literature, it would appear that tribally-governed land within a city would not respond to general demand, since it is limited to tribal members. If, however, a considerable amount of the migration is from tribal members, presumably considerable increases in density in the area would be tolerated to accommodate them, just as the extended family network has been a means of making high residential densities more acceptable than if outsiders were involved.

132. Efficiency, Responsiveness to Changes in Form. Since any major changes in land use, or sales of tribal land require the consent of the chief, the council, or in some cases, the entire membership of the tribal community, it is obviously difficult for such areas to respond to major changes in urban form. Okpala has traced how, in Lagos, the attempts of the Lagos Executive Development Board to make such changes were repeatedly thwarted by such customs, even though it had extensive powers of expropriation. (For a time, it was forced to carry out most of its activities by reclaiming marshes, etc., to minimize the number of such claims with which it would have to deal.) 1/

133. It is possible that in some circumstances tribal organization can expedite such changes as "upgrading" programs, but again, actual experience appears to be very limited.

134. Equity. In terms of equity, however, the tribal system may rank very high. Its tradition is one of allocation of land by need rather than by market and, as mentioned, by a system which may require that a lower-than-market price be chargd to tribal members. (Simultaneously, the area is protected from outside market forces driving up prices because sales to outsiders are banned.) Okpala's study gives the tribal form high marks on this score. 2/

135. Compatibility. To the degree that tribal units represent more or less autonomous "governmental " units within the urban fabric, their existence will impede the possibility of general coordination of development policy.

1/ Id., Ch. IV.

2/ Id., Ch. VIII.

136. Continuity. In countries where European-based forms of tenure predominate in urban areas, tribal tenure constitutes a separate system, obviously discontinuous with the commercialized system around it. As noted, the experience seems to be a gradual erosion of tribal control toward free alienability and the commercial market, but this process may take many years, depending on local conditions.

137. For rural migrants into areas controlled by tribal tenure considerations, the system represents continuity with customs with which they are familiar.

138. Operationally, government policies which attempt (as in the case of Lagos) to impose European concepts abruptly may encounter serious political and administrative problems. 1/

Communal Ownership: (Neighborhood)

139. Efficiency, Productivity. In communities in which land is regarded as communal property, productivity, if considered at the micro scale, is probably quite high. That is, the local council or other informal government is likely to allocate land and structures in a manner which is fairly efficient in terms of the local demand at any moment. Certainly no land will be held off the market for speculative purposes. On the other hand, such neighborhoods have probably had difficulties in obtaining credit from the conventional sources, and possibly even from government agencies, and to the degree that this reduces financial resources, the total amount of building (and putting land into most productive use) may be restricted. This characteristic may be more than offset, however, by the community's ability to mobilize working groups for mutual assistance in housing, and, possibly more important, to organize the availability of building materials at very low prices. 2/

140. At the macro level (that is, productivity judged from a city-wide perspective), such neighborhoods may be quite low in productivity, in that they may, as in the case of Barrio Policarpa, occupy land which arguably could be put to a more intensive use of benefit to the general public: in the case of Policarpa, enlargement of one of the major hospitals of Bogota.

141. Efficiency, Responsiveness to Demand. To the degree that such communities tend to regard themselves as beleaguered and subject to infiltration, there may be considerable control over new residents. (In Policarpa, for example, two references from persons known to the governing body are

---

1/ Id., Ch. III.

2/ As mentioned above, we know relatively little about such organizations since they are at political odds with the government, and are not disposed to reveal organizational details to outside investigators. The conclusions in this section are largely drawn from the information obtained by William Doebele about the Barrio Policarpa, in 1974.

required.) This is, of course, a limitation on responsiveness to increased demand, although when a person is accepted the community will undoubtedly use its resources to provide him or her an opportunity to construct minimal housing. At the macro level, it is probable that such communities are not as responsive generally to new demands as neighborhoods in which the market operates, although studies of communities such as Villa el Salvador, just south of Lima, Peru, might be very useful to discover if organizations of this type can also operate on a relatively "open" basis with respect to new demand.1/

142. Efficiency: Responsiveness to Changes in Urban Form. As mentioned above, to the degree that such neighborhoods or communities represent political enclaves, and operate outside the commercial market, it is unlikely that they will be responsive to changes in urban form, whether arising from government policy or market pressures.

143. Equity. In terms of the low income persons directly involved, the communal tenure system might well be one of the most equitable in terms of allocation by need rather than financial position (although documentation is thin). To the degree that it is a base of political pressures on the general system, it may also indirectly promote equitable governmental policies. However, this latter consideration is likely to be fairly slight, and in terms of the total urban population, such communal organizations are statistically almost insignificant.

144. Equity in participant selection in Bank projects, such as sites and services, is, however, a continuing problem, and further knowledge of the actual operation of such organizations may widen the tenure options available for a given project. Indeed, with respect to "upgrading" of older areas, some pooling of titles may be virtually indispensible, and communal forms may be more efficient than the costly and time-consuming process of public expropriation in order to award individual titles.

145. The Banco Nacional de Obras y Servicios Publicos ("Banobras") in Mexico has an interesting plan by which even very large moderate-income housing projects are held in a form of "trust," in which the participants are beneficiaries. While this very limited form of communal ownership does not confer many rights during the term of the mortgages (15 years), it does give the participants a sort of joint ownership at the end of that period, and it appears to be working reasonably well. 2/

1/ For an excellent discussion of the Peruvian experience in general, including some aspects of Villa el Salvador, see David Collier, Squatters and Oligarchs: Authoritarian Rule and Policy Change in Peru. Baltimore: Johns Hopkins University Press, 1976. This is one of the few serious longitudinal studies made of the relationship between national political parties and policies toward urban squatting, including interesting specific discussion of the tenure issue in Peru.

2/ See BANOBRAS, Programma Buena Vivienda, Conjunto Hnos. Serdan, Lomas de Sotelo, Mexico (1969), p. 69-70, and other publications in the "Programma Buena Vivienda" series.

146. Compatibility. As self-created informal governments normally engaged in fiercely defending their independence, such neighborhoods are obviously unlikely to fit in easily to the overall governmental economic, social or physical planning.

147. Continuity. Since most such organizations have created their own varieties of land tenure, and even recording systems, they have little continuity with existing instituions. On the other hand, where this form is regarded as being desirable policy, there probably exist, in most legal systems, types of common tenure which could be adapted for this purpose with high continuity to existing institutions. (As in the case of the adaptation of the law of trusts in Mexico, discussed in para. 145 and 220.)

Division of Tenure Rights in Space

148. This form of tenure, and some of its advantages and disadvantages, are described in para. 53-55 above. It is felt that its characteristics are sufficiently self-evident that a detailed evaluation by each criteria is unnecessary at this time.

Division of Tenure Between "Development Rights" and "Use Rights"

149. This concept is one of great policy interest, and deserves careful consideration. As outlined in para. 56 and 57 above, "use rights" are those rights which have to do with the value of land or structures according to its present actual use, while "development rights" have to do with with potential future uses. Future (generally more intensive or profitable) uses are normally made possible by the operation singly or in combination of the following four factors: (a) governmental action, such as the installation of water, sewer, or other services, extensions of transportation lines, change of zoning or other land use control mechanisms, etc.: 1/ (b) the general growth of urban population, which increases the locational advantages of many existing sites (for example, the central commercial district of a city of 100,000 will have a higher square meter value than the central district of a town of 10,000; (c) the actions of adjacent owners; and (d) the entrepreneurial efforts of the owner himself. As noted in para. 57 above, it is frequently argued that since development value is fundamentally a result of factors (a) and (b), with (c) and (d) merely responses to them, development rights should be the property of the State.

150. This proposition was, in fact, legislated in Britain in the Town and Country Planning Act of 1947, and a highly modified form is now being suggested for Australia. 2/ Under such system the use value of the property

---

1/ Obviously a more detailed analysis could be made of this point, but is considered outside the scope of the present paper. For a discussion of certain important aspects, see Walters, cited para. 23 above.

2/ See Report of Commission of Inquiry into Land Tenures, cited para. 86 above.

remains in private hands, but the government acquires "ownership" of all rights to develop. This means in practice that not only must the individual who wishes to develop his land further obtain a license to do so in terms of its not being contrary to the public interest (which is common in most countries), but he must also purchase the development values which the government agrees to sell to him. The theory is that (a) otherwise development values represent "windfall profits" to the owner, and (b) that since development values are generally realizable though some sort of government expenditure, charges for such rights will offset such costs, which are more appropriately borne by the individual whose property is to be benefitted than the general taxpayer, on whom the burden would otherwise fall. 1/ It is this system which we will evaluate in the following paragraphs.

151. Efficiency, Productivity. The productivity of this system of tenure can be seriously impaired by two factors: (a) it interposes a major and discretionary bureaucratic decision into a process which is otherwise direct and private; and (b) because of the elimination of the "entrepreneurial profit" in land development, it sharply reduces the incentives for development itself. Both of these elements did, in fact, come into play in Britain from 1947-1952 (when the system was in effect), resulting in what has been called a sort of "sit-down strike" in the land market.

152. Therefore, to achieve productivity when development rights are vested in the public, it would probably be necessary (a) to permit property owners to share in some portion of the development values (the original proposals in Britain had mentioned 20-25%); and (b) to have a highly efficient public decision-making process. The latter becomes difficult, however, since not only must the decision be made to permit or not permit development, but to set a price on the development value being transferred. This determination is hard enough when it can be referred to an external market, but as time passes, and all development values are set by public administrators, the system may become more and more arbitrary. 2/ The auctioning of rights in specific cases might be one solution, but is somewhat limited by the fact, noted before, that urban land is notably non-fungible, and there may be relative few bidders to develop a given parcel at a given moment.

153. The Australia proposals seek to avert this problem by placing development rights in state development corporations, which would, in effect, assemble land needed for development at use value, while private persons would carry out actual improvements after having paid for the land at its current value. These proposals seem to assume that if land is assembled and made ready for development, there will be no lack of bidders for the right

---

1/ Again we would caution the reader that we are dealing with an intricate subjects in a very cursory fashion. For a clear and comprehensive discussion, the Report of the Australian Commission, id., Sec. 1.1 to 4.44 (pp. 1-25) is recommended.

2/ See Reiner and Wilson, cited in para. 8 above.

to carry out the actual construction and operation of the new uses. Indeed, the general context of the Australian report is how to deal with new growth, although it specifically suggests that its system would work equally well in the redevelopment of existing cities. The essence of the scheme seems to be to deny individualistic and scattered development, and to concentrate it in areas to be marketed by the state development corporations when they perceive a need. Obviously, this will simplify, although, not, we believe, eliminate the problem of setting appropriate prices.

154. It has been pointed out that in Israel, where the state does own and market most of the urban land, there has been a tendency to use fixed prices, giving Tel Aviv a much more uniform density pattern than would be expected from a market situation. (On the other hand, private land has been developed to very high densities.) 1/

155. A related problem arises from the fact that giving administrators broad powers to establish the prices of development rights in a commodity as valuable as urban land is an invitation to favoritism and corruption. Auctions and other methods of publicizing and "ventilating" the procedures may ameliorate this problem, although it would undoubtedly be difficult to eliminate entirely under some conditions.

156. Efficiency, Responsiveness to Increased Demand. In theory, public control of all development rights could eliminate the "holdout" effects which are now widely believed to increase the price of urban land in developing countries. A reasonably informed public body could simply release development rights as demand developed, possibly even using cross-subsidies in the prices charged to provide increased supplies at lower prices to the low income segment of such demand. However, the other side of the coin is that property owners receive only use value for their property (assuming they do not get the 20-25% entrepreneurial "bonus" as discussed above), and therefore may be reluctant to participate. The alternative is forcible land assembly (or, as the Australians propose, to give the owner the option of cooperating or else expropriating), which is both politically and mechanically difficult in most countries. The British experience seems to indicate that when owners have been conditioned for centuries in a market which has included development value, it is difficult to adjust to a system in which this element is suddenly absent.

157. The public sale of development rights, if conducted at the "market value" of those rights (see discussion above), does not, of course, reduce final prices, since the private developer who buys the land at use value from its owner and pays the public body for its development value, will obviously pass on both costs to the consumer. The final price, therefore, will in theory be as high as the market, indeed, probably higher by reason of the additional time-cost to the developer in dealing with the public body as well as the private owners.

1/ Lecture by Morris Hill, Harvard Graduate School of Design, April 10, 1975. The whole Israel experience with public land ownership may well be worth further careful study.

158. In Australia, it is apparently hoped that the performance of the state development corporations as land assemblers (often a difficult task for the private developer) will make up for this, and in fact expedite the ability to respond to new demand.

159. One interesting aspect of the Australian plan is that while the final tenure to be given in residential developments will be freehold, in commercial and industrial areas there will be leaseholds in which profits will be shared, on the basis of how much of the investment producing the income is attributable to land (public) and how much to the private investment made on that land. One can readily see many mechanical problems in applying such a formula in a way which also takes into account the entrepreneurial skills of the private person concerned. Moreover, one might assume that such a limitation on profits might make the commercial sector less responsive under this system than under a market situation in which profits accrue totally to the entrepreneuer. (In the end, needed commercial and industrial facilities would be built, but there may be a threshold effect occurring.) 1/

160. Responsiveness to Changes in Urban Form. Public control of development rights would, in theory, at least, constitute an excellent method for the control of urban form in response to new needs, so long as the public body is initially allocating such rights. The issue in such a case would be the administrative efficiency of specific public bodies to keep themselves informed and flexible--characteristics not always dominant in bureaucratic behavior. Moreover, once development rights have been allocated for long terms (as would be necessary to assure investment), responsiveness to change becomes seriously diminished.

161. Equity. As touched upon above, public ownership of development rights could lead to programs of cross-subsidies which potentially could result in considerably lower land prices for projects for low-income groups. We know of no specific illustration of this, but it is quite common for public housing agencies in developing countries to undervalue land costs as a hidden subsidy when calculating the charges to be levied in such projects. (This is, of course, particularly true when the agency is using land which had been owned by the government previously.) One might reasonably expect a similar phenomenon under the system being discussed.

162. Compatibility. One of the great advantages of public control of all development rights is that it does permit very high coordination with economic, social and physical planning, assuming that there are reasonably good coordinative linkages between the planning bodies and the public agencies holding the development rights. Again, however, this effect is limited to original allocations, after which rigidities begin to occur. (Although to the degree that development rights are allocated only as needed, there may

---

1/ It is beyond the scope of this paper to do a detailed economic analysis of either the British or proposed Australian legislation.

be second and third distributions, at each point of which compatibility could again be considered. This is, however, a theoretical point, and there is little or no evidence of its having ever occurred in practice.)

163. Continuity. Public ownership of development rights clearly represents less of a break with traditional ownership patterns than full public ownership. On the other hand, in many urban areas, development value is by far the predominant proportion of total value of much of the land concerned, and to acquire it into public ownership will not be politically easy. On the other hand, this type of ownership is perfectly consistent with the general socialist outlooks in many developing countries, and may be operationally easier to achieve than attempting to bring all land into public hands.

V. SUMMARY OF POLICY OBJECTIVES MEASURED AGAINST VARIOUS FORMS OF TENURE

Introduction

164. The preceeding Chapter has laid out in some detail the advantages and disadvantages of each form of tenure according to each of the policy objectives set forth in Chapter III. Because of the length of the matrix thus created, it has been felt useful to present, in this Chapter, a summary of the major points of Chapter IV, this time analyzed in the converse fashion: that is, the advantages and disadvantages of the various forms of tenure in terms of the policy objectives to be maximized.

Objective 1(a): Efficiency in Terms of Maximum Productivity

165. In terms of this type of productivity, non-formalized, de facto tenure ranks high, in the sense that squatters are frequently able to make use of land passed over by the market, and, within the financial and technological limits constraining them, make maximum use of every resource invested. (60-63) 1/ At the urban scale, however, there are cases in which informal settlements have blocked the establishment of uses of possibly higher usefulness and productivity for the metropolitan population as a whole. (64-65).

166. Private freeholds and leaseholds have, under the assumptions of classical economics, incentives to productivity. However, imperfections in the land market in rapidly growing cities in developing countries may distort classical responses and result in wasteful patterns of land, particularly when strong speculative pressures are created by lack of alternative investment opportunities. (72-75) On the other hand, the productivity of public

---

1/ Numbers in parenthesis refer to fuller discussions in preceding paragraphs in Chapter IV.

ownership is highly dependent on the efficiency and financing of the public agency concerned, and there is considerable difference in the experience of various countries for this reason. (90-98).

167. Public leaseholds have considerable theoretical promise for productivity, but are again dependent on the quality of administration locally available. Moreover, long-term lessees may lose incentives to maximize productivity in times of continued inflation, in which rents may no longer reflect current market values. The productivity of leaseholds may also be adversely affected by problems of obtaining credit on a less-than-freehold interest, and disinvestment by lessees near the end of the leasehold term. (104-115)

168. Tribal-communal ownerships appear to maximize values other than "highest-and-best use" in its conventional economic definition, and in the urban context may be said to be of lower productivity for this reason. (130) Neighborhood-communal tenures are difficult to judge because of the paucity of documentation about them, but may have some of the maximizing and efficiency-of-resource-use of non-formal settlements. (139)

169. Division of ownership between development rights and use rights has theoretical advantages, but also injects more actors into the decision-making process, and is, moreover, heavily dependent on administrative capability of the government agencies involved. (151-155)

Objective 1(b): Efficiency in Terms of Responsiveness to Rapid Increases in Demand

170. Non-formalized, de facto tenure is a typical means by which increased low-income residential demand is met in developing countries, but not in a way which is generally optimal either to the squatters or the public authorities. (66) This sector, however, often has a high capability for producing rental sub-units (usually rooms) which may be an important addition to overall low-income housing supply. (67)

171. Responsiveness of private freeholds and leaseholds to rapidly increasing demand may be dependent on the degree to which imperfections in the market exist. In addition, land use controls, subdivision regulations, building codes, etc. may limit market responsiveness by prohibiting the construction of housing (and, at times, commercial and industrial buildings as well) suitable to the resources of the low-income population. (78-80) Public freeholds and leaseholds, however, are dependent on strong administration, and in high demand situations, questions such as adequate and dependable financing, and adequacy of powers of expropriation may become especially important. (99 and 116-119)

172. Tribal-communal ownership is, almost by definition, unlikely to be responsive to non-tribal demand, but is presumably responsive to tribal-specific demand. (131) Neighborhood-communal is very difficult to judge on this count; little documentation appears to exist. (141) Similarly, there is not enough experience with tenures divided between development rights and use

rights to know how responsive this sytem may be, although its increased complexity may be inherently hindering. (On the other hand, it is argued by an Australian report that increased ability to assemble will more than offset such costs.) (156-159)

Objective 1(c): Efficiency in Terms of Responsiveness to Major Changes in Urban Form

173. Non-formalized, de facto tenure settlements do respond to changes in urban form in the sense that a new highway or other infrastructure availability will often trigger such settlements in locations previously not so used. On the other hand, established squatter settlements are capable of deflecting market forces, and in some cases, government itself, from changes which would otherwise occur in urban form. (68)

174. Private freeholds and leaseholds on occasion respond to changes in urban form (as when a private owner demolishes a five-story building in a central district in order to erect a twenty-story one). In general, however, the private market often has difficulty in adapting to major changes in urban form due to such factors as: (i) the performance of buildings, (ii) problems of land assembly necesary to a more appropriate use, (iii) dependence on coordinated public infrastructure investment. For this reason urban redevelopment in most contries is attempted through public authorities working in some form of cooperation with the private sector. (81) Public freeholds are in theory less subject to such constraints, but experience in such publicly created cities as Brasilia, Chandighar and Islamabad indicate that commitment to a rigid planning-design concept may seriously inhibit responsiveness. (100) Public leaseholds are often subject to "lock-in" effects due to the common policy of granting long leases for all types of land uses. With respect to residential areas under publicly granted leases, strong political pressures may also hinder administrative response to changes in urban form. (120-122) In short, adaptablity of all forms of public intervention can be no better than the quality of civil service administering them.

175. Both tribal and neighborhood-communal forms of ownership are likely to be resistant to changes in urban form, although for different reasons. (132 and 142) Split development and use rights should permit a flexible means of allocating all types of uses as changes in urban form occur, making the important assumption of good administration. Once rights are allocated out to indivudals for development, however, lock-in effects obviously begin to occur. (160)

Objective 2: Equity

176. Non-formalized, de facto tenure is, by nature, a reallocation of resources toward the lower end of the income spectrum. It has, however, high indirect costs for occupiers, property owners and public authorities. Alternatives which can make this reallocation without such costs are obviously preferable. (Sites and services is one, but not the only possibility.) (69)

177. Private freeholds and leaseholds could in theory be the basis for either an equitable or inequitable system, but the reality of most developing countries is that they presently constitute major sources of inequalities in both economic and political power. (India has recently introduced major legislation to reallocate within a framework of limited private ownership.) (82-83) The equity effects of land being held in public freehold appears to be highly dependent on the integrity of the body administering it. In the case of public leaseholds, however, even exemplary civil servants (such as those in Sweden) have great difficulty in maintaining equity over time, and when political pressures (even through fully democratic channels) begin to take effect. (123-124)

178. Tribal-communal and neighborhood-communal tenures are assumed to be favorable to equity considerations, although documentation is thin, and in the cases of tribes, equitable judgments are, of course, limited to tribal members and not the urban population at large. (134 and 143-4)

179. Public ownership of development rights would in theory make cross-subsidies possible to increase equity, but actual experience is lacking. (161)

Objective 3: Compatibility with Other Policy Instruments for Economic and Urban Development

180. A fundamental characteristic of non-formal, de facto tenure is that it is not in accordance with existing legal and institutional norms, and thus is at odds with other policy instruments. (Whether or not the institutions causing such illegality are reasonable and necessary is, of course, a separate question.) A fundamental policy question in many countries may be to find methods for making such informal processes more compatible with other institutions and policy instruments. (70)

181. To the degree that private freeholds and leaseholds imply legal or constitutional limits on public regulation, the possibilities of compatibility may be to that degree restricted. On the other hand, countries like Sweden have demonstrated that a very high degree of coordinated public control can be exercised over property still technically in private owernship. Whether this is possible in countries which do not have Sweden's exceptional political stability must be considered an open question. (87)

182. The ability of a public land owner to coordinate with other public policies depends on the amount of internal coordination possible in the government concerned. National experience on this is mixed. (102) On the other hand, public leaseholds can in theory be coordinated at the time the original leases are given, but once negotiated may be difficult to adapt to changes in policy. (They have also on occasion been used to foster competitive purposes among units in a metropolitan area.) (126-8)

183. Since both tribes and neighborhood organizations tend to be independent political or semi-political entities outside the formal structure of governmental organization, compatibility of their policies with national or municipal ones may be a problem. (135 and 146)

184. Public ownership of development rights, like public leaseholds probably would have a high potential for compatibility and coordination with other public policy until allocated, after which the degree of commitment needed to produce the desired construction would limit future coordination as public policy evolved. (162)

Objective 4: Continuity with Existing Cultural and Political Arrangements

185. Virtually all studies indicate that, except for parts of Africa, non-formal de facto tenure is seen by squatters themselves as a condition to be entered only when all other alternatives are closed, and a severe break with a basic respect for private property. (71)

186. Private freeholds and leaseholds generally have a high degree of continuity with existing cultural and political arrangements, save in those countries where the bulk of the urban population is accustomed to tribal or other collective ownership, or where the government itself is strongly committed ideologically to collective ownership as the proper path to development. (88) Conversely, public ownership, public leaseholds, and public ownership of development rights would have higher continuity in the last mentioned countries, and less in others. (103, 158, 163)

187. Tribal-communal tenure is obviously continuous for rural migrants used to such a system while being quite discontinuous with whatever degree of private ownership and commercial land market was carried over from European influences. (136-138) Neighborhood ownership, by contrast, while possibly echoing cooperative principles often found in industrially less developed societies, is perhaps less likely to be familiar in detail. On the other hand, it is worth noting that most European tenure systems do have legal categories for handling many types of collective ownership, even though little used, and to that degree there may be said to be continuity (for example, the use of the "trust ownership" device in certain housing projects in Mexico.) (147)

Conclusion

188. In many developing countries existing systems of tenure are deficient in one or more of the following respects: (i) they do not result in the most efficient patterns of land use; (ii) they reinforce existing inequalities of wealth and opportunity; and (iii) they are "mechanically" ill-adapted to the needs of rapid urbanization because of cumbersome methods of registration and recording, clouded titles, transfer taxes, lack of adequate powers of expropriation for legitimate public needs, and other out-moded institutions left over from earlier periods, which generally are particularly burdensome to those with least incomes.

189. However, since land does have a dual private and public nature (see para. 7 - 9 above), some forms of radical change in the tenure system can result in fundamental tradeoffs, the effects of which must be carefully

considered. Many types of public interventions, for example, promise theoretical advantages in both efficiency and equity, but in practice may require very large and relatively high-level administrative skills which are beyond the current capability of many governments, particularly at the municipal level (even more so in medium and smaller cities. 1/ Thus, while deficiencies and inequitites of existing tenure arrangements are easy to observe, corrective public interventions may also initiate negative effects in high start-up costs in money, administrative time, litigation (since expropriation procedures are lengthy, and serious constitutional questions may be involved). Mixed public-private systems offer promise in countries where political sentiment has shifted or is shifting toward greater social control of wealth-producing assets. As in many other areas of economic development policy, there are no easy panaceas nor universally applicable recommendations.

190. Above all, it is worth remembering that land tenure has deep roots in national and ethnic cultures, and is reflected in an enormous variety of concepts (with both gross and subtle distinctions) among the nations of the developing world. Solutions which are not sensitive to this variety (which can frequently involve quite subtle distinctions) are unlikely to survive or ameliorate the problem at which they are aimed.

191. Given this situation, the categories used herein are properly viewed as rather roughshod and frequently uncomfortable attempts to organize an extraordinary variety into a useful conceptual framework. When it comes to actual translation into policy, however, it should never be forgotten that the national, or even local, context of each project, the institutional milieu in which it will be placed, and the exact nature of the parties with interest in its effective execution must have major effects on policy decisions concerning appropriate tenure arrangements.

192. Thus, while we have attempted here to explore systematically some of the considerations worth noting in devising or reforming tenure systems, the given cultural-economic-institutional ambience remains critical. The statements made in this Chapter (V), and that which preceded it (Chapter IV), have attempted some generalizations which may be helpful in thinking about this set of problems, but major pitfalls remains in the application. As the German proverb has it, "The Devil is in the details."

1/ One long-range strategy worth serious attention is investment in systematic training programs in connection with new tenure systems for specific projects and programs. While few texts exist in this field, and fewer persons qualified to give general instruction, documentation is growing as to which countries are enjoying relative success with various tenure options. Most governments and individual officials would probably be willing to cooperate in training of counterparts from other nations, which might involve in-service practical study-training in the practicing country, combined with start-up assistance by officials from the practicing country in the one innovating the program. [South Korean officials made a specific offer of this type with respect to their system of "Land Readjustment" (See William Doebele, "Land Policy in Seoul and Gwangju, Korea with Special Reference to Land Readjustment" Chapter II. Internal paper, World Bank, January 1976, revised May 1976).]

VI. TOWARD MORE DYNAMIC CONCEPTS OF LAND TENURE

Land Tenure as a Central Social Issue

193. There is no doubt that "urban land reform" is a rapidly rising item on the political agenda of many developing countries. It has become increasingly clear that the tenure systems currently in use in most parts of the world: (i) do not result in productive and efficient patterns of urban land use; and (ii) often reinforce inequities of wealth already existing.

194. As the above discussion indicates, there is no such thing as an optimal set of land tenure institutions. Tenure is a tool which must be adapted to the specific conditions and cultural traditions of each situation. It is, however, important to recognize that the effects of any decision about tenure at a given moment (such as the initiation of a major project) will have long-term impacts, and, indeed, will take on a dynamic of its own, as individuals and agencies begin to adjsut their behavior to the "rules of the game" it defines.

Breaking out of Rigid Categories: Public-private Tenure Mixes

195. Although it is conventional to think of land as being either publicly or privately owned, tenure has in fact been moving (in both developed and developing countries) to more complex forms of shared propriety interests. Just as most economies today are "mixed," so one may seek "the best of both worlds" in shared tenures. While there is not space to develop this concept in detail here, five categories might be identified as having unusual interest and as deserving more study than it has been possible to give in this report.

196. Public as Assembler, but not Owner of Land. Possibly one of the most interesting of the emerging "mixed" forms of tenure is when public intervention is aimed primarily at the large-scale assembly and servicing of land, but not as its long-term owner. The most sophisticated examples of this mix are the land readjustment processes which are used in South Korea, 1/ Taiwan, and to some extent, in Japan 2/ and the State of Western Australia. 3/

1/ Doebele, cited para. 189 above.

2/ For a summary of the Japanese experience, see City Bureau, Ministry of Construction and City Planning Association of Japan, City Planning in Japan, 1974, pp. 202-225.

3/ See R. W. Archer, Land Pooling for Planned Urban Development in Perth, Western Australia (Canberra: Metropolitan Research Trust, 1976).

197. To the degree that most Swedish municipalities now acquire and hold land, but sell it in freehold when it is ready for development, they are engaged in this function, and, indeed, some are now even limiting their advance acquisitions, intervening only to assemble and service just prior to sale for construction. 1/

198. Although these are regarded as highly promising and important approaches with a considerable range of applicability, they are not discussed in detail here since they are a principal part of a companion paper being written by Donald Shoup (Land Taxation and Government Participation in Urban Land Markets).

199. Advance Acquisition of Development Rights. As has been pointed out, there are appealing arguments for the proposition that development values are largely socially created, and therefore should have some degree of public ownership, in spite of the obvious administrative implications of putting such a resource into the public sector. On the other hand, in most countries, development values are so completely intermingled with the market value that attempts to move development rights into the public domain would be both costly and bitterly resisted, not only by the wealthy, but by most middle-income and even lower-income persons--in short, by all those who have high personal stakes in the ownership of real estate and its appreciation in value. 2/

200. One approach to this problem might be a system by which the initial acquisition was not of existing development rights, but only of development rights present at a date, say, seven to ten years in advance of the moment of transition. As with all other goods, values in land are discounted over time, and for development rights in certain types of urban land, the discount rate is fairly large, since the owner finds it hard to foresee what changes (including governmental interventions) will occur in future years. With such uncertainties, plus the high interest rates prevailing in most developing countries, a profit to be reaped a decade ahead will tend to have a very small present value. Thus the cost of acquisition of developments at this future date might be quite low: a small fraction of the costs of present rights. 3/

1/ Doebele, cited para. 87 above, pp. 65-68.

2/ Surveys of three "barrios piratas" in Bogota showed that even relatively low-income families see real estate appreciation as an investment opportunity as well as housing. Doebele, cited para. 67 above.

3/ On the other hand, it cannot be forgotten that governments in LDC's themselves might have quite high discounts for rights which will only have value in the future. While seven to ten years is a long time for a man and a very short time for a city, this fact may not be reflected in discount rates, because of the fiscally weak institutions involved. Moreover, where land is the principal form of long-term investment and has historically been constantly appreciating, its future value cannot always be assumed to be low.

201. Thus, if a national government decided that its municipalities could control excessive land speculation, recover some portion of increments in values resulting from public improvements and enlarge their ability to guide urban growth, it might establish a fund (based on its own borrowing rate at the time) from which municipalities could draw to acquire future development rights in areas known or planned to have intensive future development in the long term. For reasons suggested in the preceeding paragraph, the initial investment in such a policy need not be large (although it might be large enough to require national support because of the extremely limited municipal budgets in most developing countries). Its advantages might be to reduce somewhat the attractiveness of land as a speculative investment, permit greater control (when the development rights were allocated out at the appropriate moment), and would almost surely be self-financing in the long run (if effectively administered).

202. It would, of course, demand a degree of long-range planning, at least to the level of identification of areas of major growth potential in the time-frame selected. (Although it would not require a detailed 25-year "master plan" in its traditional sense.) Indeed, to the degree that developing countries are moving toward putting major urban infrastructure investments in their medium-term (five to ten year) economic plans, such identification becomes increasingly necessary even in the absence of any strategy with respect to development rights acquisition. (Or in an even more limited way, municipal capital budgeting should involve at least a five-year horizon, with certain types of long-range assumptions. 1/)

203. The major disadvantages of this approach are the same as any type of public ownership: in developing countries at the present time, administrative skills and integrity may be insufficient to manage assets of this value, as has been demonstrated in many countries where a municipality has, through some historical accident, been owner of an area which has come to have strategic importance in urban growth. In most cases, such land has simply been disposed of in the most convenient (or politically expedient) manner, with few attempts to use its potential to achieve the objectives outlined

---

1/ In a number of countries, the Constitution or legislation governing expropriation (even of development rights) requires that the expropriating agency have a specific public use in mind for the property taken. This might mean that a fairly specific master plan, for at least the seven-ten year period involved would have to be officially adopted, and be rather specific in its designations. Such planning is extremely difficult given the staff resources available in most cities, and may, in any case, be poor policy because of its rigidity in the face of rapidly changing conditions. This would be a major disadvantage of the proposal. Alternatively, the Constitution or other legislation controlling expropriation might be modified to permit the taking of development rights without such specific planning, but this, in turn, would be bitterly resisted by all property owners because of its broader implications for government power over private property and the possibilities of abuse.

above. Thus, any proposal (such as this) which contemplates enlarging public land ownership in any form, must face the question of administrative capacity, which if not present, can easily make the exercise counterproductive. On the other hand, this particular proposal, while it requires an early identification of probable critical areas, does give a seven-ten year period before actual allocations must begin, during which training programs and other administrative "tooling up" might occur. Both in costs 1/ and in having such an adjustment period, the approach may have advantages over a country plunging directly into "land banking," as is now being discussed in a number of developing nations.

204. As compared to "land banking" (that is, identifying critical areas and acquiring them immediately and with full title), the gradual acquisition of development rights over a more extended period is obviously less traumatic, particularly if one assumes a generally rising administrative capability. On the other hand, it does have the serious disadvantage, already discussed above, that any form of split ownership is an unfamiliar concept, and highly complex in requiring two calculations of value on land in which simple unitary "market" value might be difficult enough to establish.

205. We are therefore clearly dealing here with an idea which is no panacea, but possibly an approach which under certain circumstances in certain countries would have advantages over other alternatives now in more common currency. 2/ A spelling-out of its full economic and administrative implications is beyond the scope of this paper, but may be worthy of further study which would: (i) analyze what has actually occurred in known cases where municipalities have had such opportunities historically provided; (ii) analyze more carefully the likely savings compared to outright acquisitions for the same purpose (U.S. experience with development rights in areas with high development potential shows they are virtually equal to full market value, for obvious reasons); and (iii) specify the specific administrative capacity that might be required. If this could be done, pilot or experimental applications might be proposed in suitable local contexts to establish feasibility in the field.

1/ There is some confusion in the law of expropriation as to whether compensation should be paid on the basis of "what the owner loses" or "what the public body gains." Normally, however, this takes place in the opposite context: that is, where real estate is peculiarly valuable and irreplaceable to the owner, but not of such special value to the government. In such cases, the owner is sometimes granted extra damages, beyond "what the public body gets." It is, however, hard to imagine that any legal system would demand that more be paid than the owner lost, simply because the property would have exceptional value to the government.

2/ The idea of advance acquisition of development rights was suggested by Mr. Harold Dunkerley, Senior Adviser, Urban Projects.

206. Tenure in Improvements Compared to Tenure in Land. As noted in para. 55 above, it is possible to separate ownership of structures from ownership of the underlying land. Indeed, this is an important feature of the tenure systems widely used in the socialist countries of Eastern Europe, and recently adopted, in policy at least, by Zambia. 1/ The system has obvious advantages in that it will probably maximize incentives for private investment in structures, while giving the public a right to assert claims with respect to increments attributable to land values, or to change land uses as demand requires, subject to payment for values of any structures lost in the process.

207. Space does not permit the discussion of this mechanism here. It would, however, appear that under certain circumstances, such a "mixed" approach would have distinct merits for sites and services projects (particularly ones of large scale in which transfers of houses are almost impossible to police), and in the legitimization and upgrading of existing squatter settlements.

208. Neighborhood Ownerships. While very little is known about these, they do appear to be growing in popularity, and need to be reckoned with in tenure policy in developing countries. As has been suggested above, from the point of view of a government in power they may not always be an unmixed blessing, but they do possess great vitality for constructive programs at very low public cost, and can make complex and equitable decisions concerning tenure which it would be very difficult for any bureaucracy to match. Further study would certainly seem warranted (see para. 224 below).

209. New Australian, Indian and British Proposals. The most careful national reviews of tenure and land development policies in recent years have been by the Australian Commission of Inquiry into Land Tenures (1973), cited above, the British Community Land Act (Chapter 77) of 1975, and the Indian Urban Land (Ceiling and Regulation) Act of 1976. These all deal with public interventions in existing systems of tenures, and deserve more study than it has been possible to give in this report.

VII. SOME SPECIFIC PROBLEM AREAS RELEVANT TO BANK OPERATIONS

Introduction

210. We have thus far been discussing tenure in rather general terms. There are, however, seven quite specific problems concerning tenure which often affect Bank projects.

1/ See para. 96 above.

The Law of Expropriation

211. Many developing countries suffer from badly outdated expropriation legislation which makes expropriation so costly and time-consuming that it is, for many purposes, almost useless. Without reasonably efficient expropriation procedures, most of the tenure reforms discussed above are impractical. Even when most public acquisitions are in fact negotiated, an effective expropriation law is necessary as a "back-up" possibility to prevent owners from demanding excessive prices.

212. Central to effective expropriation procedures is a provision for "quick taking," that is, for giving the government access to the real estate concerned at once, while negotiations, and possibly litigation, continue as to its fair price. Model legislation for this purpose is now well-developed in the United States and most European countries, so the technical problems have been solved through mechanisms that are at once expeditious and at the same time fair to both owners and the public. The question in many developing countries is persuading governments of the importance of this item in the planning of legislative reforms, and securing the necessary political support.

213. "Adequate compensation" also poses questions when expropriation is to be applied on a large scale. The elimination of small businesses, for example, may involve greater losses than simply the value of physical assets. Similarly, the elderly and minority ethnic groups may have special costs of relocation. For the poor, increasing the journey to work as a result of displacement can be a critical matter, and should be included in the compensation process. Dividing compensation between lesses and lessors also poses difficult issues of equity. Once again, these are all matters which have been dealt with effectively in the codes of various countries. The problem is that most developing countries do not have the trained personnel and library facilities to seek out the legislation most appropriate to their own needs.

Cadastral Surveys

214. Many developing countries lack adequate basic surveys of property boundaries. This is due in part to the fact that methods of land surveying were in many countries quite primitive and inaccurate until modern times. In some places, land appeared to be abundant, and there was little concern with precision in boundaries. Moreover, colonial powers tended to survey and delineate only those portions of the country of immediate economic or military interest. With independence, many nations have lacked the technicians necessary to keep surveys up-to-date with rapid changes in both agricultural and urban land uses.

215. This may seem among the lower priority problems of developing countries, yet the absence of a reasonably accurate cadastral system makes all forms of urban land use control extremely difficult. Moreover, any effective system of land taxation and tenure policy is dependent on its existence.

216. Recent developments in aerial photogrammetry and computer storage of both numerical and graphic data have enormously facilitated and enlarged the techniques available for dealing with this problem, 1/ but serious bottlenecks in governmental willingness to commit resources and trained personnel have resulted in this still being a major problem in many places despite the technological possibilities.

Deficiencies in Recording Systems

217. Closely related to accurate information about ownership boundaries is the capability to record the ownership of parcels quickly and accurately. In many developing countries the recording systems, particularly in rapidly growing urban areas, are totally inadequate to modern demands. In some parts of the world, such as Africa, this condition has resulted from the traditional concept that land "belonged" to whomever wished to work it, or according to the informal decisions of the village council or chief. 2/ In others, such

---

1/ For a report on this subject, see William Porter, Wren McMains and William Doebele, "Land Information System for the Housing Organization, Iran" (Ref. IRA/73/023), Report of U.N. mission, October 1973.

2/ The results of the situation in some parts of Africa are vividly described by the Lloyd Commission on the Registration of Title to Land in Western Nigeria (Report to the Western Region Legislature, Sessional Paper No. 2 of 1962, para. 2), quoted by Okpala, cited para. 13 above, pp. 42-43: "The problems which arise from the uncertainty of title to land in the Region are too well known to need lengthy exposition. A man who wishes to purchase or lease and cannot find out who are the right people to convey it to him; many men buy their land twice from rival claimants, or from two sections of a family. Having acquired the land, a man is reluctant to develop it, being unsure of his rights to it. When he does take the plunge and build an imposing house or plant permanent crops, he finds that his lack of a secure title prevents him from readily selling the property or from mortgaging it to raise credit for further expansion of his business. Well known is the unscrupulous debtor who has cited his house as a security for a loan and who immediately defaults, claiming successfully that the building is on family land, and cannot therefore be attached for his debts. Once caught out, creditors are extremely reluctant to advance money to build a house on what seems likely to be family land as security. Creditors presume therefore that all land within the traditional built up areas of a town is family land until the contrary is shown. Another serious aspect of the problem is that valuable land lies unused because it is not clear, by customary law, who are the persons empowered to dispose of it. These issues have continuously been raised before the Minister of Lands and Labour by creditor organizations such as bans and building societies. A committee set up in Lagos to investigate the problems of the Nigerian businessman reported that his inability to raise credit was one of his foremost handicaps."

as Latin America, recording systems existed, but were geared to a more leisurely pace, and have been completely unable to keep up to the tempo of contemporary urban change. In still others, the culture or religion has established many forms of claims "by custom" which have never been put down in written form. While again at first glance these may seem to be relatively unimportant problems they can be quite critical to effective urban policies. Thus, in Djakarta, the Bank's Sites and Services projects may be one of the keys to the solution of the housing problem, yet this entire program was seriously delayed and is still impeded by the deficiencies of the Indonesian land recording system. In Iran, some 19 thousand million square meters, many of them in or near growing urban areas, are owned by the government, but lack of accurate cadastral and recording information prevents full use of this potentially enormously important national asset.

218. Neither tenure policy nor effective property taxation can be carried out in the absence of accurate recording of ownership.

219. The question of clouded titles has been greatly aggravated by the existence of large-scale squatting, and the question of the acquisition of rights by "adverse possession." As time passes, not only do the original squatters gain additional legitimacy by operation of law in many countries, but they themselves engage in numerous informal sales, leases, and occupancy agreements which become increasingly impossible to unscramble. Procedures for the rapid and equitable clearing of "clouded titles" is thus a precondition to any projects involving substantial amounts of urban land or the development of large-scale tourist facilities. 1/ One method which has been suggested by Professor Haar is the use of "title insurance," which would assign title to the most probable owners but provide insurance should any

---

1/ A recent example is Zihuatanejo, Mexico, in which FIBAZI (Fideicomiso de Bahia de Zihuatanejo) has spent some two years in converting the three major ejidos (collectively agricultural ownerships) into subdivisions and tenure suitable for the expected wave of touristic building. Of particular difficulty were the so-called "vecinados," persons to whom the ejidatarios had illegally sold rights of possession. Because of the length of their occupancy, FIBAZI did not feel it could displace them, but instead gave them the opportunity to "buy into" the project by sharing in the cost of the new infrastructure. By contrast, the Fideicomiso Ciudad Lazaro Cardenas, less than 100 km. away, recognized no rights of vecinados, and gave them no compensation irrespective of their length of occupancy. Source: William Doebele interviews with Arq. Javier Solorsano and Ing. Juan Bonilla, INFONATUR offices, Zihuatanejo, Sept. 9, 1976, and Ing. Anastasei Perez and Ing. Asoldo Hernandez, Fideicomiso Ciudad Lazaro Cardenas offices, Lazaro Cardenas, Sept. 10, 1976.

other claimants later appear. 1/ According to Haar, such a system is already in use in Singapore. Whatever the actual method used, the problem is a far more important one than is now generally recognized. Of particular importance is the development of mechanisms which will permit projects to move ahead quickly, allowing disputes among claimants to title to be settled later.

Transfer Taxes

220. Some developing countries apply heavy taxes at the moment that real property is transferred. These taxes can be seriously inequitable to the poor, whom normally have great difficulty in raising the necessary down payment, and cannot afford a second burden when their financial capacities are already stretched to the utmost. The result is that they are either locked out of a segment of the market to which they would othewise have access, or else they engage in illegal and unrecorded transfers. Both of these would appear to be undesirable results, and reflect on the desirability of this form of taxation. 2/

Regularization of Titles in Established Squatter Settlements

221. Increasing emphasis on "regularization" and "up-grading" of existing squatter settlements raises the question of the effect of legitimatizing titles in areas in which the initial occupation was illegal. The usual argument against such policy is that it encourages further invasions. Whether or not this is, in fact, the case, is beyond the scope of this paper. It is worthwhile to note, however, that one of the few careful studies of this process made (by Tomasz Sudra in the Netzahualcoyotl area of Mexico City) indicates that low-income squatters may not themselves want regularization of tenure. Not only does it open them to the added expense of property taxation, but, possibly more seriously, it invites investment in the area by middle-income families, who were formerly unwilling to invest while titles were uncertain. While this phenomenon may benefit some of the original settlers, who can sell out to the entering higher-income group, in the end it quickly raises values to a point where the area is no longer suitable for

---

1/ For full details, see Charles M. Haar, "A Program for Land Registration and Land Transfer in Indonesia," Ekistics, Vol. 41, No. 244 (March 1976), pp. 155-157. (See also staff reports in Bank files on the Djakarta Sites and Services Project.)

2/ In Mexico, the Banco Nacional de Obras and Servicios Publicos ("BANOBRAS") organizes its housing projects in the form of "trusts" (fideicomisos), to which occupants are given "Certificates of Participation." This device circumvents the Transfer Tax, which would otherwise approximately double the down payment necessary. This substantially enlarges the percentile of income groups such projects can serve. See BANOBRAS, cited para. 145 above, pp. 68-69, and other publications in the "Programa Buena Vivienda" series.

low-income settlement, and the persons affected move themselves and their housing problem to another area of the city. 1/ Moreover, there are real possibilities that the advantages of ownership will not flow to the local occupants but to absentee landlords. This phenomenon has already been concisely described in a previous World Bank Paper (Sites and Services Projects, April 1974, p. 29, attached as Annex D), and need not be repeated here.

222. The obvious conclusion is that this type of tenure reform should be approached with caution, and as full an understanding as possible of probable consequences.

Rental of Rooms in Sites and Service Projects

223. Many Sites and Services Projects financed by the Bank prohibit the rental of rooms in the houses constructed, particularly those in which participants are given less than freehold interests. This provision, normally insisted upon by the borrowing government to prevent the "commercialization" of the project, both decreases the total number of habitation units on the market and eliminates an important source of income to the participant to repay his project commitments. Moreover, it is probable that most of rental units created are for new migrants. 2/ It is possible that currently accepted practices are unnecessary and work hardships both on the participants in the projects, and those even lower on the economic scale who may find such rooms the cheapest form of housing accommodation available to them. On the other hand, some governments fear that uncontrolled production of rooms will lead to a decline in health standards, very high densities, and social problems that will return projects to the conditions which they have been designed to eliminate. Clearly a more careful examination of these factors is needed to determine if there are circumstances in which such restrictions are justifiable.

Restrictions on Sales in Sites and Services Projects

224. An equally significant problem is the restriction on transfer of freehold or leasehold titles (common in sites and services and other subsidized projects). The purpose of such restrictions is to keep the subsidy in the hands of the class to be benefitted, and who are normally chosen for the project only after an elaborate selection process. The policy may, however,

---

1/ See Thomasz Sudra, "Low Income Housing System in Mexico City" (Ph.D. dissertation, M.I.T., Cambridge, 1976.

2/ Studies in Bogota indicate that some 76% of new migration was accommodated outside the center of the city, much of it presumably in rooms in the low-income barrios piratas. About one-third of the families in such barrios (who would be roughly equivalent to the socio-economic groups benefitted in most Bank-financed projects), rented rooms, receiving about one-fifth of their income from this source. George Vernaz, "Bogota's Pirate Settlements" cited in para. 67, p. 104.

lower the productive use of land even in social terms by inhibiting its transfer to those who can use it more productively, and by preventing the realization of its money value by a poor owner/lessee for use as an input to other activities which may have greater economic or social value (e.g., converting a sites and services subsidy into capital for a small business providing employment to several persons.) Stated in another way, the public policy is that subsidies are given in a specific form and should not be translated into any other, in part because of the fear that poor persons are incapable of handling subsidies in the form of money, and will use it, not for productive investment, but on a frivolous or temporary extravagance.

225. The fact of the matter is that very little is known about this aspect of land tenure as it relates to the probable expenditure patterns of lower-income persons. Studies indicate that in general the poor are quite rational in their economic behavior, but there apppears to have been no careful evaluation of what in fact does occur when such transformations of subsidies occur. In Hong Kong housing projects, for example, it has long been known that a great deal of this type of technically illegal activity takes place, but, to this author's knowledge, there has not been a tracing-through of its consequences for total economic activity or redistribution of wealth. Similarly, in the so-called "Citizen's Apartments" program in South Korea it is well-established that the original grantees were quickly bought out by middle-class families in need of housing, but how the grantees used their new capital is unknown.

Operation and Importance of Neighborhood Organizations in Relation to Land Tenure

226. As has been mentioned above, forms of tenure involving neighborhood associations seem to be growing in popularity among low-income groups. As a first step in increasing understanding of this phenomenon, appropriate Bank missions might be requested to be alert to the existence of such groups. When interesting examples had been located, thought could be given to specific low-cost surveys to invetigate their operation according to relevant criteria of efficiency and equity.

VIII. TENURE AND WORLD BANK OPERATIONS

A Caveat Against Panaceas

227. As outlined in the Preface, this paper is intended to review the issues of land tenure as they relate to considerations likely to be present in Bank projects involving any significant amounts of land. Its aim has not been to suggest policy, but to survey some principal forms of tenure as they affect criteria in which the Bank has been traditionally interested.

228. It should be apparent from the above analysis that all systems of land tenure involve tradeoffs, and that none is either ideal or likely

to be universally more advantageous. It is, on the other hand, probably safe to predict that as the magnitudes of urban problems force themselves to the attention of governments, there will be a political willingness to engage in "urban land reform," probably by means of greater public interventions in what had hitherto been considered private transactions.

229. As has been noted in para. 30-33 above, public interventions can more readily occur at what we have called "Moments of Transition," and it is therefore on these that operational interest should be most concentrated. Since Bank financing is likely to coincide with one or more of such "moments," it is likely to be in a position of considerable influence in the discussions taking place at that time.

230. Until definite policy is established, the following are suggested for discussion as possible guidelines for Bank operations.

Some General Guidelines for Discussion

1. Bank sensitivity to the dynamics and long-run effects of tenure policies, rather than viewing them as immediate solutions to issues presented by specific projects

231. The officials of host governments frequently have a strong interest in the prompt negotiation of a Bank loan, and for this reason may tend to view the tenure issue in the light of short-range feasibility rather than long-range effects. Moreover, with the general lack of literature in this field, even well-trained officials have little knowledge to draw upon, and must therefore rely heavily on intuitive judgments. Since tenure is highly culture-bound, it may be difficult for Bank representatives to counter such proposals unless they are able to draw on a body of reasonably well-tested experience which will enlighten the consequences of the directions being suggested. In the absence of such, Bank representatives should, at least, be prepared themselves to think through the probably dynamics and long-range consequences of any tenure arrangements being proposed, and bring these to the attention of the host government.

2. Bank sensitivity to the range of tenure possibilities

232. A major objective of this paper has been to enlarge the Bank's framework of thinking with respect to the possibilities and implications of various tenure policies. Although only a "first-cut" at the understanding and analysis of a little-known subject, it, with the research suggested in the following section, is intended to establish a basis of knowledge about tenure alternatives that may assist operational missions, and permit them, in turn, to give informal advice to host governments. Perhaps the most important immediate consideration is that tenure decisions be put into a wider framework of alternatives than is now generally the case.

3. Systematic evaluation of tenure policy in all Bank projects

233. All industrial, utility, tourism, housing and other projects involving land should, as a matter of routine reporting, describe the tenure arrangements which have been made, together with the principal reasons for the choice. (This is not, apparently, always the case in the present reporting system.)

234. More important, provision should be made for a field evaluation of the effects, if any, of the tenure arrangements as part of general follow-up evaluation of project performance. Obviously, if a loan for a steel plant is accompanied by a freehold title to land, and the plant is actually built, the land tenure question will at that point be academic and of no further interest. By contrast, where a sites and service project involves an on-going program of land allocations over, say, a four- or five-year period, a semi-annual or annual field evaluation of the tenure policies adopted may be of considerable operational importance to subsequent stages. Similarly, tourism projects which contemplate land transfers to a variety of private and public entitles should be carefully monitored. In particular, where projects involve unusual land tenure problems (as may be the case, for example, in the conversion of ejido land to urban or touristic purposes in Mexico, special care should be taken in both the reporting and evaluation processes.

235. The term "field evaluation," as used here, means not simply a description of what has occurred, but an attempt, to the extent feasible, to trace the effect which the tenure arrangements have had on the motivations of those affected. As has been emphasized in para. 17 above, the ownership of land is a psychological as well as a legal matter, and for the Bank's purposes, it is this quality of tenure as a determinant of actions which may be most significant to the success of a project.

IX. SUGGESTIONS FOR FURTHER INVESTIGATION

Investigations Appropriate to the Bank Itself

236. Systematic Recording of Bank Experience. As outlined above, procedures should exist within the Bank whereby all missions dealing with tenure issues could either systematically report or be "debriefed" in a way that would permit a continual assessment of emerging trends in this field, and more important, the assembly of Bank experience in a form that would be readily available to subsequent missions. Since the field of land tenure is so lacking in literature, the Bank's own experience is probably as rich a collection of knowledge as exists. Mechanisms should exist whereby this experience could be more effectively assembled and disseminated than is now possible. (Perhaps centering this responsibility in one staff member would be desirable.)

237. Obviously, large parts of Bank negotiations with governments are confidential, and such information would have to be treated with discretion

and regard for the Bank's obligations to the governments with which it deals. Nevertheless, faute de mieux, the Bank's own activities are the most important generators of information on this subject, and it should be possible to have it effectively transmitted.

238. A significant secondary effect would be the sensitizing of Bank missions to the importance of tenure issues, leading to a more thoughtful consideration of them by borrowing governments.

239. Evaluation of "Regularization of Tenure" Programs: General. Some countries, most notably Peru, have used the regularization of squatter tenure as a major instrument of policy, and have adopted a variety of institutional arrangements to achieve this end. However, there do not appear to have been any systematic studies of the redistributional and other economic and social effects of this approach. A research mission to evaluate the Peruvian experience might be highly valuable, and could probably be carried out at relatively modest expense. 1/

240. Evaluation of "Regularization of Tenure:" Upgrading Projects. As a previous Bank report and Sudra have pointed out, "upgrading" projects which regularize title may be counterproductive in opening an area previously allocated to low-income housing to invasion by higher income groups, or exploitation by absentee landowners. Experience on this in selected countries could probably be assembled fairly quickly by minor additions to missions already going to such countries, or, in some cases, information already in the Bank's files or the minds of mission personnel who have dealt with this issue. In addition to Bank-supported projects, the city of Caracas is apparently carrying out one of the most ambitious "upgrading" schemes in the world, which may be worth evaluation. This again would seem to be a low cost/high payoff research area.

241. Clearing "Clouded" Titles. As has been suggested in para. 219 above, uncertainty of ownership can be a major impediment to the execution of projects. Possibly the most intense experience the Bank has had in this field has been in Jakarta. Possibly that experience should be reviewed and made easily available within the Bank, so that if a similar situation presents itself, some background will be available. More important, a brief research memorandum on the legal alternatives used by major nations to clear titles might be highly useful as a reference, since times does not generally permit such research to be done once a problem of this types surfaces in the field.

242. Alternative Cadastral and Recording Systems. As discussed above (para. 214-18), deficiencies in the cadastral and title recording systems of developing countries may at times adverserly affect Bank projects. Consideration should be given to the preparation of two technical "in-house" memoranda which would review the most efficient European and American systems now in use,

---

1/ Collier's work, cited para. 141 above, would provide an excellent foundation for such a study.

assess their cost and relative advantages for application in developing countries, and otherwise equip the Bank with the background information necessary to respond rapidly to problems of this sort. This work could be done by a consultant on contract, and should not involve travel (although it would involve interviews with Bank personnel and access to Bank files.)

243. Prohibition on Sales in Housing Projects. As outlined in para. 224-5, restrictions on transfers in sites and services or other housing projects imply that the public agency is better prepared to determine how a recipient uses government assistance than the person himself. This proposition may or may not be true (or may be true under some circumstances and not others), but cannot be evaluated until more is known about how lower income persons actually behave when such transfers take place and they convert into cash what had previously been government aid in the form of a specific good. The effort involved to "follow up" on the expenditure of funds so received would obviously require considerably more field work and therefore more cost than the topics previously mentioned. It would be therefore desirable if the Bank could pass this on to another research body. In the absence of this occurring, however, the topic is probably a sufficiently important one for the Bank to invest whatever may be necessary to at least acquire preliminary insights into this process. The policy issue is an important one.

244. Restrictions on Room Rentals in Housing Projects. As pointed out in para. 223 above, the renting of rooms appears to play two significant roles in many major cities in developing countries: (a) it provides a relatively stable source of income to lower income families, and (b) it supplies a major source of dwelling units to even lower income persons who do not have access to any other housing market. Restrictions in projects against such rentals may unnecessarily interfere with both of these desirable phenomena. In countries which have taken a census of housing, it is relatively easy to estimate the effects of a given project in these two areas. In countries which have not, estimates can be made only by analogy. In either case, it would appear worthwhile to prepare a technical report on this phenomenon from countries in which data is readily available. This could be done either as a staff assignment or by a consultant, probably largely from data already in Bank files or available from UN or other published sources. With such a report as a base, further information could be collected by the operational missions on relevant projects. In this way the Bank could quickly accumulate a statistical base from which to evaluate options when this policy issue is presented to future missions.

245. The "Psychology" of Tenure. It is not known, in any pragmatic way, how "much" tenure is needed to elicit maximum investment response (see para. 17-21 above). Numbers assigned by agencies of borrowing countries tend to be arbitrarily selected. For example, is a 25-year leasehold sufficiently "like freehold" to stimulate the same amount of productive capitalization? Would 10 years be sufficient in some cultures to have the same effect? In housing projects do benefitted families take tenure limitations seriously at all, or assume that if the government has put them into a project it cannot or will not take their site or house back without some specific misbehavior on their part?

246. By the same token are public agencies self-deceiving in believing that leaseholds or other limited forms of tenure can in fact be recovered to the agency, or even that rents can be substantially increased, if such policies in fact mean the displacement of substantial numbers of persons from their homes, whatever the legal instruments may read?

247. Using the existing network of Bank contacts and missions, the collection of information on this kind of issue could probably be accomplished at relatively small cost. Since such questions involve psychological elements, and cultural differences, definite answers cannot be expected. It would be wise, however, to assemble what can be readily found out, to indicate the most promising directions for policy.

Research Appropriate to Agencies Other than the Bank

248. The Operation of Land Markets. Very little is known about the operation of land markets *per se* in either developed or developing countries. Three aspects of this are of particular importance:

(i) The operation of the market by which agricultural land is converted into urban lots;

(ii) The operation of the market by which central areas of cities are reconverted (or not reconverted) to new uses as old structures and uses become outmoded; and

(iii) The effect on market operations of governmental tenure interests in land subject to urbanization pressures (e.g., the *ejido* question in Mexico--see para. 47).

249. All of these are regarded as beyond the scope of Bank investigation because of their cost and complexity (unless, of course, the Bank wishes to make a major research commitment). Actually, item (i) is now under active research by the Lincoln Institute of Land Policy of Cambridge, Mass., but only in the U.S. context. (At a later stage the Lincoln Institute may also undertake item (ii), but again primarily in terms of U.S. cities.)

250. The Consequences of Public Land Management. As has been pointed out above, there appears to be a growing body of opinion in developing countries that urban land should be publicly owned, with leaseholds to private individuals and firms. (This is essentially the system now practiced by Stockholm and certain other Swedish cities.) This and other forms of public ownerships: of development rights, of land but not structures, etc., all involve the central question: how efficient is public management of such a valuable resource likely to be? Except for a few studies of Sweden, the Netherlands, and the United Kingdom, and the recent theoretical study in Australia, very little is known on this point, and even the work on these nations gives slight attention to this specific issue. 1/

1/ The Government Land Developers, Neal Roberts (ed.) cited para. 102, may be an exception.

251. Analysis of Tenure in General: Expansion of This Work. As indicated in the Preface, this paper appears to be one of the first attempts to systematically consider urban tenure as a distinct subject matter. The gaps in our knowledge of this field should by this time be apparent to all readers. To develop this field would obviously require considerable research investment in a number of directions, most of them implicit in the preceding discussion.

252. There are, however, some countries in which tenure research would probably be especially fruitful. Among these are:

Australia (Canberra and effect of recent proposals)
India (1976 legislation limiting amount of urban land which may be owned by one person)
Israel (because of the amount of public ownership)
Korea ("Land Readjustment." Follow-up project already underway in Bank)
Norway (the so-called "Kristenstat Plan" for controlling speculative profits in subdivisions)
Netherlands (amount of public ownership, and conversion of farm land to urban uses)
Peru (large-scale regulation of squatter tenure)
Tanzania (effects of a high degree of socialization of property rights)
Zambia (effects of separation of ownership of land and improvements, and experience with major upgrading efforts) 1/

Associated with the substantive aspects of such studies should be assessments of transferability and training potential of each example. (See fuller discussion in footnote to para. 189).

Conclusions

253. Given the desperate scarcity of serviced lots and housing in all major cities in developing countries, participants in Bank-financed projects are normally ready to accept almost any form of tenure offered as being better than their current situation. This condition tends to conceal the need for confronting the issue of which firms of tenure are, in fact, most suited to the policy objectives of the Bank and which are counterproductive.

254. This report has attempted to summarize some of what is known, or could be asked about tenure in relation to Bank policy. It indicates that there are many areas in which information and documented experience is rate or non-existent. However, it also suggests that the World Bank may be in an especially favorable position to contribute to understanding of this area at relatively low cost, and with considerable potential benefit to the countries which are both its hosts and clients.

1/ For two existing reports see Richard Martin, "Lusaka Squatters are Licensed," Geographical Magazine, May 1976, pp. 475-477, and Callisto Madavo, "Uncontrolled Settlements," Finance and Development 13/1 (March 1976), pp.16-18.

X. WORKS CITED

Archer, R.W., Land Pooling for Planned Urban Development in Perth, Western Australia. Canberra: Metropolitan Research Trust, 1976.

_____. "The Leasehold System of Urban Development: Land Tenure, Decision-Making and the Land Market in Urban Development and Land Use." Regional Studies, Vol. 8, pp. 225-238.

Australian Commission of Inquiry into Land Tenures. First Report. Canberra: Australian Government Publishing Service, 1973.

Beier, George, Anthony Churchill, Michael Cohen, and Bertrand Renaud. The Task Ahead for the Cities of the Developing Countries. Staff Working Paper No. 209. World Bank, 1975.

Bosselman, Frederick, David Callies and John Banta, The Taking Issue. Washington, D. C: U.S. Government Printing Office, 1973.

Brazil. Centro de Estudios e Pesquisas de Administracao Municipal, Secretaria de Estado dos Negocios do Interior do Estado de Sao Paulo. O Solo Criado. Mimeo, September 1975.

_____. Veja (magazine). "O Debate do Solo Criado," March 16, 1977, pp.61-63; "Em Busca de Ordem," April 13, 1977, pp.73-74.

Collier, David. Squatters and Oligarchs: Authoritarian Rule and Policy Change in Peru. Baltimore: John Hopkins University Press, 1976.

Conn, Stephen. The Squatters' Rights of Favelados. CIDOC Cuaderno No. 32. Cuernavaca (Mexico): Centro Intercultural de Documentation, 1969.

Darin-Drabkin, Haim. Land Policy and Urban Growth. Oxford: Pergamon Press, 1976.

Davis, Otto A. and Andrew B. Whinston. "The Economics of Urban Renewal." Journal of Law and Contemporary Problems 26:1 (Winter 1961), pp. 105-117.

Doebele, William A. "Legal Issues in Regional Development." In Lloyd Rodwin and Associates, Planning Urban Growth and Regional Development. Cambridge: MIT Press, 1969.

_____. "A Commentary on Urban Land Policy in Sweden." Internal Paper. World Bank, December 1974.

_____. "Land Policy in Seoul and Gwangju, Korea, with Special Reference to Land Readjustment." Internal paper. World Bank, January 1976, rev. May 1976.

_____. "The Private Market and Low Income Urbanization in Developing Countries: The 'Pirate' Subdivisions of Bogota." Forthcoming in American Journal of Comparative Law, 25(3), Summer 1977, pp.531-564.

Doxiades, Constantine A. The Great Urban Crimes We Permit by Law. Athens: The Lycabuttus Press, 1973.

Evers, Hans-Dieter. "Urban Expansion and Landownership in Underdeveloped Societies." Urban Affairs Quarterly 11:1 (September 1975), pp.117-129.

Grimes, Orville F., Jr. Housing for Low-Income Families. Baltimore and London: Johns Hopkins Press, 1976.

Haar, Charles M. "A Program for Land Registration and Land Transfer in Indonesia." Ekistics, Vol. 41, No. 244 (March 1976), pp. 155-157.

Japan. City Bureau, Ministry of Construction and City Planning, Planning Association of Japan. City Planning in Japan, 1974.

Karst, Kenneth, Murray L. Schwartz and Audrey J. Schwarz. The Evolution of Law in the Barrios of Caracas. Los Angeles: University of California Press (Latin American Center), 1973.

Kehoe, Dalton, David Morley, Stuart B. Proudfoot, and Neal A. Roberts (eds.). Public Land Ownership: Frameworks for Evaluation. Lexington: Lexington Books, D.C. Heath and Co., 1976.

Lent, George E. "The Urban Property Tax in Developing Countries." Finanzarchiv, 33:1 (1974), pp.45-72.

Madavo, Callisto. "Uncontrolled Settlements." Finance and Development, 13/1 (March 1976), pp.16-18.

Magaven, James L., John Thomas and Myra Stewart. "Law, Urban Development, and the Urban Poor in Developing Countiies." Washington University Law Quarterly, 1975, No. 1, pp.45-111.

Martin, Richard. "Lusaka Squatters are Licensed." Geographical Magazine, May 1976, pp.475-477.

Mexico. Banco Nacional de Obras y Servicios Publicos. Conjunto Hros. Serdan, Lomas de Sotelo, Mexico. Programma Buena Vivienda, 1969.

National Association of Homebuilders, Community Builders Handbook. Washington, D.C.: Urban Land Institute, 1968.

Nelson, Joan. Migrants, Urban Poverty and Instability in Developing Nations. Occasional Papers in International Affairs, No. 22. Cambridge: Harvard University Center for International Affairs, 1969.

Norwood, H.C. "Ndirande, A Squatter Colony in Malawi." Town Planning Review 43:2 (April 1972), pp.135-150.

Okpala, Donatus C.I. "The Potentials and Perils of Public Urban Land Ownership and Management: A Case Study of the Lagos Executive Development Board (Nigeria) 1928-1972." Ph.D. dissertation. Cambridge: M.I.T., 1977.

Pakistan. Final Report: The Karachi Development Plan, 1974-1985. National Pilot Project No. 3, assisted by UNDP Project PAK/68/540. August 1974.

Peattie, Lisa R. and William A. Doebele. "Some Second Thoughts on Sites and Services." Unpublished Ms. January 1976.

Perlman, Janice E. The Myth of Marginality. Berkeley and Los Angeles: University of California Press, 1976.

Porter, William, Wren McMains and William A. Doebele. "Land Information System for the Housing Organization, Iran." Ref. IRA/73/023. Report of U.N. Mission, October 1973.

Reiner, Thomas and Robert H. Wilson. "Planning and Decision-making in the Soviet-City: Rent, Land and Urban Form Considerations." In Ian Hamilton and Tony French (eds.), The Socialist City. Chichester (England): Wiley, forthcoming, 1978.

Rivas, Diego Robles. "Development Alternatives for the Peruvian Barriada." In Guillermo Geisee and Jorge Hardoy (eds.), Regional and Urban Development Policies: A Latin American Perspective Latin American Urban Research, Vol.II. Beverly Hills: Sage, 1972.

Roberts, Neal A. (ed.). The Government as Land Developers. Lexington: Lexington Books, D.C. Heath & Co., 1977.

Solaun, Mauricio, William L. Flinn and Sidney Kronus. "Renovation of a Squatter Settlement in Colombia." Land Economics 50:2 (May 1974), pp.152-162.

Sudra, Thomasz. "Low Income Housing System in Mexico City." Ph.D. dissertation. Cambridge: M.I.T., 1976.

Strong, Ann Louise. "Land Banks in the Stockholm Region." Unpublished Ms., Summer 1974.

United Nations. Department of Economic and Social Affairs. Urban Land Policies.and Land-Use Control Measures. 6 regional volumes (1971) and Vol. 7: Global Summary (1975).

van der Harst, J. Cost of Residing of Low Income Groups. Joint Research Project IV for Urban Development and Slum Improvement. Karachi University, Government of Pakistan, and Free University Amsterdam, Government of the Netherlands, 1975.

Vernaz, George. "Bogota's Pirate Settlements: An Opportunity for Metropolitan Development." Ph.D. dissertation. Berkeley: University of California, 1973.

Ward, Peter. "The Squatter Settlement as Slum or Housing Solution: Evidence from Mexico City." Land Economics 52:3. (August 1976).

World Bank. Urban Sector Survey: Republic of Zambia (490-ZA - Confidential). July 31, 1974.

CONCEPT OF LAND OWNERSHIP AND REGIONAL VARIATIONS

From U.N. Dept. of Economic and Social Affairs, Urban Land Policies and Land-Use Control Measures, Vol. VII, Global Review (prepared by Jerrold Voss) N.Y.: U.N. 1975.

C. Land ownership patterns

1. The concept of land ownership

263. The description of land ownership entails the consideration of property in contrast to possession, and ownership versus property rights. The extent to which an individual has rights to land is related to its socio-economic context within which rights are defined and the accessibility to ownership is determined. It has been said that the concept of land ownership is dependent upon the means used by Governments to control it. 177/ For example, the extent to which Governments can expropriate land is a control mechanism that defines the concept of private ownership. In general, a variety of ownership concepts exists, ranging from individual to communal to public, and in some cases the ownership form is associated with the use that can be made of land. Also, the idea of ownership is related to land titles. Where the registration system is loose and obscure the exchange of land and the acquisition of large quantities of land or a group of parcels may be quite difficult. However, in recent years, there has been a growing concern that the concept of land ownership should emphasize the role of land as a natural resource, and that its use should benefit the whole of society. 178/

264. The concept of ownership has a number of different bases in law. A major distinction exists between those systems that separate property from possession and those that do not. The Western tradition of Napoleonic and English common law defines property separately from possession, with the latter considering rights in terms of what use may be made of the land. African tenure systems as a whole, do not make such a distinction, due to the basically communal organization of land ownership. Cultural traditions can determine both modes of ownership and the restrictions that exist on the use of land. For example, in some regions, such as the Middle East forms of ownership exist that restrict governmental control on land, because the form of ownership carries with it a perpetual land use. More commonly, however, the concept of land ownership relates to the rights held by the indivudual owner.

265. The allodial system of land ownership represents the basic concept used in Western nations. Rights to land remain with the individual

---

177/ H.Darin-Drabkin, "Control and planned development of urban land toward the development of urban land policies", paper presented at the Interregional Seminar on Urban Land Policies and Land-use Control Meassures, Madrid, 1-13 November 1971 (ESA/HBP/AC.5/6), paras.3 and 4.

178/ "Progress report of the Secretary-General; urban land policies ...", para. 28.

rather than with the Government. 179/ Land is defined as "the surface of the earth with everything on it, under it and over it", and property related to "enforceable rights in an asset", and real property is defined as "rights in land, that is, the physical land, buildings upon it, minerals underneath and sky above". 180/ The distinction between proprietorship and possession is similar to that between land and property, and in no place where the allodial system is applied does the owner retain full and uncontrolled rights to his land. A major right held by Government is that of eminent domain, and it provides the conditions under which the Government may take some or all of the property held by individuals or private groups. But it should be noted that just compensation and due process of law may be required for the constitutional use of this power. Various levels of Governments, from national to local, and some governmental agencies, may hold this power. The degree to which this and other powers of regulation can be exerted varies from country to country and within a given nation, and the actual use of these powers reflects the differing ways in which societies define ownership.

266. The Napoleonic Code is an example of the concept of an ownership system which is modified to include governmental powers. Article 554 considers ownership to be "the right to absolutely free enjoyment and disposal of objects, provided that they are not in any way contrary to the laws or regulations". 181/ Ownership is closely related to and is part of individual rights. This distinguishes the Napoleonic from the feudal conception of rights in terms of land use being held by the individual rather than ownership. Rights of land use are thus distinct from those of ownership. 182/

267. The African system of land ownership fuses the rights of the individual with those of the group. Individuals may possess rights to land, or what would be considered as property in the English system, but they do not own land as such. The distinction between property and possession does not appear in African jurisprudence, as it does in European. Ownership is "corporate" rather than "proprietary". Various intrusions of western culture, however, have introduced proprietary forms of ownership. 183/

268. These two definitions of the land ownership concept are modified in practice by their respective socio-economic contexts. In some instances, the traditional system of land ownership may perpetuate older modes to the detriment of those who desire social mobility. 184/ Yet, concepts may also

---

179/ Urban Land Policies and Land-use Control Measures: Volume VI. Northern America, para. 153.

180/ Ibid., para. 142

181/ Urban Land Policies and Land-use Control Measures: Volume III. Western Europe, p. 35.

182/ Ibid.

183/ Urban Land Policies and Land-use Control Measures: Volume I. Africa, para. 73

184/ Report of the Interregional Seminar ..., para. 41

evolve over time, responding to changes in socio-economic conditions. However, in general, changes in the concept of land ownership often lag behind societal changes 185/ and do not meet the needs of the population as a whole. 186/

269. The concept of land ownership has responded to the changing role of land in the socio-economic environment. For example, the concept was quite different in the time when people wandered about, surviving by means of hunting, from what it became when they eventually settled down and developed an agricultural economy. Later, with the advent of urbanization, the concept was again altered to encompass industrial and other urban uses and needs. 187/

270. Originally, land was conceived of as a communal concern; a good the rights of which could be ceded to the individual by society. In several areas of the world, this concept still exists, as in the Middle East and Africa. In the Middle East, Islamic traditions were codified in the Ottoman Land Law of 858. It designated four categories of land use that had evolved during the course of the Ottoman Empire: mulk, miri, waqf and musha. These correspond respectively with individual, State, preservation for charitable use, and collective forms of ownership. Although African concepts vary according to the society and the nature of the outside influences, they are generally based upon a collective designation of land use, and this is closely linked with ownership. 188/

271. With the establishment of States, property rights, in many instances reverted to the Government. Changes in the concept of land ownership related to the political evolution of society, the development of capitalism and, particularly, the growth of the middle class. 189/ In Europe, for example, ownership rights became an inherent part of the rights of the individual. This was in reaction to the feudal situation wherein the individual retained rights of land use but not ownership. With the coming of the Industrial Revolution and its consequent developments, needs arose which could only be met through collective actions. Such public works as roads, power stations, government buildings and efforts towards urban reconstruction and renewal, required some degree of governmental control of individual rights. Thus, although efforts have been made to ensure the rights of private ownership, these must not be in contradiction with community needs. 190/

185/ H. Darin-Drabkin, op. cit., para. 4.

186/ Report of the Interregional Seminar ..., para. 40.

187/ H. Darin-Drabkin, op. cit., paras. 6-8.

188/ Urban Land Policies and Land-use Control Measures: Volume I. Africa, para. 73; Urban Land Policies and Land-use Control Measures: Volume V. Middle East, para. 5

189/ H. Darin-Drabkin, op. cit., para. 7.

190/ Urban Land Policies and Land-use Control Measures: Volume III. Western Europe, p. 35.

272. The degree to which Governments exercise the control of land, by regulation or by retention of property rights, determines practically the way the concept of land ownership is defined. Governments may define ownership either constitutionally or legislatively, and by the powers they can use to acquire private land for public use, such as expropriation. The former may entail the designation of individual versus collective rights. In some countries, land is considered to be a societal good, the rights for which may be given in part to individuals. The constitutions of Chile and Indonesia define land as a natural resource and limit the rights of persons to use land. 191/ In the corporate system of land ownership that is found in Africa, the chief or his equivalent is viewed as a protective authority rather than an owner of the communally held property, and is the one who regulates land use. In this system, ownership and use are not held as being distinct. 192/ In the latter case, that of legislative powers, these limit the property rights held by the individual owner and the major governmental power that is retained in most nations is that of expropriation. The public acquisition of land is "one of the deciding factors which establishes how the social concept of land ownership is actually interpreted". 193/ In North America, the right of eminent domain allows governments (local, state, federal), to acquire private property for public purposes with compensation. This procedure can involve the procurement of some or all property rights, and can be forced by means of condemnation. Eminent domain is a major feature of English common law. 194/ The presence or absence of compensation, when land is appropriated for public purposes, has been cited as another factor reflecting the ways in which societies interpret the concept of land ownership. 195/ Generally, in those countries following this procedure, the need to pay compensation and the extent to which compensation is paid has evolved over time, largely based on court rulings. These concern the constitutionality of the procedure: who can exert it; for what use/purpose; and what, if any, compensation is necessary. In North America, a separate legal concept concerns the limitation or procurement of property rights without compensation. Under the police power, government can limit rights or uses when it is necessary to do so in order to preserve the health, safety, welfare, and/or morals of the public. Typically, however, government cannot take away all uses of the property without compensation under this power. A further issue concerning compensation deals with the question of payment for increases in value resulting from public investments. The countries of Chile, France, Japan, Mexico, the Republic of Korea, Spain and Sweden have passed legislation forbidding payment for such increases when compensating a private landowner for loss of property. The role of public authorities and improvements in the development of cities which increase land values also defines land ownership. 196/

191/ H. Darin-Drabkin, op. cit., para. 14.

192/ Economic Commission for Africa, op. cit., para. 43.

193/ H. Darin-Drabkin, op. cit., para. 25.

194/ Urban Land Policies and Land-use Control Measures: Volume VI. Northern America, para. 143.

195/ H. Darin-Drabkin, op. cit., para. 25.

196/ Ibid., para. 26.

273. Two other means of governmental control may exist that affect land ownership: taxation and escheat. The power of taxation states that the "government may charge the owners of real property a certain fee in accordance with a uniform rule in order to defray public expenses". 197/ Escheat is a power reserved by many Governments throughout the world, and means that "if the parties possessing legal title to land fail to hold it, the property reverts to the state". 198/

274. The actual practices of establishing ownership may be difficult in countries where registration systems are non-existent or titles are obscure. In Africa, for instance, registration systems have made possible fraudulent land exchanges as individual holdings may be registered while still under corporate ownership. Freeholds are appearing with growing frequency in urban areas, necessitating a complete system of title registration. "To be precise, 'corporate' land ownership, individualization of tenures and title registration can be easy bedfellows. But, to achieve this, a systematic survey of all types of landholdings in especially fast growing urban centers should be embarked upon as a 'national crusade'." 199/ The ability to specify ownership, then, may also be considered as a component of the land ownership concept.

275. Recently, the notion of land ownership has been undergoing change and is causing much concern. Property rights, in this context, would relate to the role land has had for society, rather than merely for the individual owner. Although a distinction has been made between ownership of land and the possession of property rights, the question remains as to who shall benefit from land use. The concept of land ownership may be viewed as encompassing those rights which the individual retains. In the case of urbanization, the problem has been the rigidity of property rights and their regulation by legal controls. They "...are not adaptable to the dynamics of urbanization and they have a pernicious influence on shaping the environment in human settlements, as they only respond to narrow profit motives of individual owners and disregard the needs of the environment and society as a whole". 200/ In many countries, the concept of land ownership is tempered by collective needs, and although in socialist or centrally controlled economies collective ownership may prevail, individual rights of land use are retained. Moreover, in market-based economies the public purpose of land is a consideration, wherein the State may "insure the right ... to limit private ownership rights of the individual if the land is

---

197/ Urban Land Policies and Land-use Control Measures: Volume VI. Northern America, para. 143.

198/ Ibid.

199/ Urban Land Policies and Land-use Control Measures: Volume I. Africa, para. 100.

200/ Report of the Interregional Seminar ..., para. 41.

needed for a public purpose". 201/ With the rapidity of urban development, the need has been recognized for the acquisition of land for the implementation of development plans, and that this is a legitimate public purpose. This trend indicates that such a concept of land ownership entailing its consideration as a natural resource is similar to the original concept of communal land ownership. 202/

2. Regional variations in land ownership

276. The concept of land ownership is variously defined, being influenced by cultural and socio-economic conditions. Perhaps of all, the English Land Law had the most influence throughout the world. Its basic tenets prevail among the Western nations, and have affected the concept of land ownership in other areas, particularly those that have experienced European colonization. Traditional notions of land ownership do exist in many of the developing nations, but these have been somewhat altered by the needs of an urbanizing society. On the other hand, Western concepts have also changed in response to urban demands. An examination of the variations in land ownership must be undertaken within the dichotomy between individual property rights and the consideration of land as a natural resource.

277. The basic characteristics of the concept of land ownership in Western Europe consist of private property rights and their tempering by government regulation, and the retention of rights. Clearly, there is a growing recognition that government intervention is necessary, but the need to respect private ownership is also realized. Individual land ownership has been a key consideration of the legal structure in Western Europe, and yet "the present-day consensus holds that society must and can exercise far-reaching control over the right to use land". 203/

278. The desire to preserve the rights of the individual landholder was derived as a reaction to the norms of feudal society, wherein those making actual use of the land were not given ownership privileges. This was encouraged by the growth of capitalism and the middle class, which led to an increased demand for property rights. With continued economic development, however, and the growth of settlements, came needs for land that could not be satisfied through the market. Such public purposes as roads, urban renewal, the provision of utilities, required the imposition of restrictions on private property rights. Individual land ownership continues to prevail in Western Europe, with the retention of certain rights by Governments. Expropriation has been a means by which land has been converted to public ownership. Its use, however, is limited to

---

201/ H. Darin-Drabkin, op. cit., para. 8.

202/ Ibid., para. 30.

203/ I. M. Ofori, op. cit., para. 47.

public purposes, and land is not taken without just compensation, for which legal procedures have been instituted. 204/ Property held by various levels of government includes rural lands that are not to be cultivated and urban lands not to be developed. Such lands include beaches, mountains, some forests, pastures and rivers, along with land for general public purposes, including parks, roads, and land containing governmental structures. Beyond such usage, however, the land is basically retained in private ownership, subject to regulation. 205/

279. In the United States of America, "ownership of land and property have been the bedrock articles of the American faith". 206/ Upon independence, the Governments of Canada and the United States of America acquired ownership of all land. Its distribution and/or sale to individuals was made conditional to the withholding of certain rights by the Government. Among these are eminent domain, the police power, taxation of property and escheat, all of which are held primarily by the separate states, provinces or certain agencies thereof. The only exception to this foundation in English common law is in the province of Quebec, where the legal basis for the regulation of ownership (given in a Civil Code and Code of Civil Procedure) is French. Just compensation is required for the exercise of eminent domain, as ruled by the United States Supreme Court in 1897, and in such provincial legislation as The Expropriation Act of Ontario, 1968-69. The latter delineates who has the final approval for expropriation (the minister in charge of its administration) and what other agencies may exercise this power, and it gives guidelines for the assessment of the amount to be paid as just compensation. 207/ The concept of land ownership extant in North America is similar to that which exists in Western Europe, due to their common legal backgrounds. Private ownership is prevalent in North America and may be defined within the context of those rights retained by the governmental bodies. The recent trend, as in Western Europe, has been towards the broadening of the concept of public purpose, so as to be able to deal with the problems of urban settlement.

280. In contrast to the situation in North America, the colonial patterns in Latin America have persisted not only in law but in the actual ownership of land. Ownership is concentrated among a few large landowners

---

204/ Ibid., para. 48.

205/ Urban Land Policies and Land-use Control Measures: Volume III. Western Europe, p. 37.

206/ R. C. Weaver, "National Land Policies - historic and emergent", UCLA Law Review (Los Angeles, California), vol. XII (1965), pp. 720-721.

207/ Urban Land Policies and Land-use Control Measures: Volume VI. Northern America, paras. 143, 145, 149 and 151.

and a number of charitable organizations. Although efforts are being made in a number of countries to increase state ownership of land, such as in Bolivia, Brazil and Chile, the amount held by States in the region, as a whole is declining. Only in Cuba has there been significant land reform. The present structure in Latin America has not restricted urban expansion, and in fact it has fostered speculation, particularly as land is used as a source of income.

281. In Latin America, then, ownership is primarily private, and is centred in a small group of wealthy landowners. Only where charitable groups possess large portions of land does the pattern deviate from this situation. One such organization is the Beneficencia de Cundimarca which holds major tracts of land between Bogota, Colombia, and the airport which serves that city. Such holdings by non-profit organizations do not appear to function as an obstacle to land development or speculation, for in the Bogota region farms are being platted for residential development. In Ecuador, "the ownership of most of the desirable land in Guayaquil is divided between an organization known as the Board of Benevolence (Junta de Beneficencia), and a reduced group of private owners". 208/ In Argentina, speculation is a major motivation for much of the private landholding, and there seems to be little concern or intention to develop much of this land. According to the report on Latin America, the concentration of ownership in the hands of a few has not blocked the growth of urban areas. But the desire to own land for purposes of speculation has affected the urban land market by creating extremely high land values. 209/

282. Changes in the concept of land ownership are being made in a number of countries excluding the comprehensive land reform instituted by Cuba. For example, Bolivia and Brazil have enacted reform laws whose purposes are to make compulsory the transfer of private land to the state, and in Chile a federal agency is empowered to buy land from private owners. The Corporation for Urban Development (CORMU) makes purchases which are transferred to the Housing Corporation (CORVI) for use in social programmes concerning housing. These acquisitions have been used to handle urban expansion as a matter of national policy. 210/ Only Cuba has made an effort to change traditional land ownership patterns. The National Urban Land Reform Law has the following four objectives: "(i) equivalization of urban society..., (ii) preventing the evil aspects of the social forces which guide urbanization, (iii) suppressing speculation..., (iv) minimizing the present unjust social differences brought about by past history". 211/ With the exception of Cuba, Latin America is characterized by large private land holdings, combined with lands owned by charitable organizations, and by extensive speculation.

208/ Urban Land Policies and Land-use Control Measures: Volume IV. Latin America, paras. 46 and 47.

209/ Ibid., para. 42.

210/ Ibid., para. 45.

211/ I. M. Ofori, op. cit., para. 30.

283. The concept of land ownership in Asia and the Far East, as in the Western nations, relates to the possession of rights by the individual and by the various levels of government. Although nations differ in the extent to which rights are held by the Government, virtually all contain provisions within their constitutions which allow for the regulation of land ownership. 212/ Many countries own considerable amounts of land but the effect of their ownership on urban settlements varies by the location of the holdings. Such properties may well be in rural and/or undeveloped areas, as in Afghanistan and Iran, and these do not influence greatly the urban land market. Elsewhere, Governments may exert considerable influence over the urban land market through extensive holdings in urban areas, such as in Hong Kong and Singapore.

284. Governments own the majority of the land in Afghanistan, Hong Kong, Iran, Sri Lanka and Singapore. The holdings in Afghanistan and Iran include all semi-arid, dry, grazing and forest lands. However, these are primarily located outside urban areas. On the other hand, most of the urban land is privately owned. The extent of State-owned land is significant in Sri Lanka where 12 million of a total of 16.5 million acres is "crown land". As in Afghanistan and Iran, however, the majority of the urban land is privately owned. In such countries as these although the extent of state ownership is considerable, it may have relatively little influence upon urbanization.

285. State holdings in Hong Kong and Singapore are considerable so that government ownership comprises a major portion of both the rural and urban land supply. Originally, all land in Singapore belonged to the State. But as time passes, parcels were given to individuals, either through a "statutory grant" or for direct freehold ownership. Most of the parcels held "privately" are actually on leases from the State for 999 years. Within the city of Singapore, 50 per cent of the land is either private freehold or held on 999-year leases from the State, approximately 25 per cent is held on the basis of leases that will expire by the year 2000, and the remaining 25 per cent is State-held. 213/

286. Government ownership of land is also characteristic of Hong Kong. Although there exists an historical precedent for individual freehold in the country, government ownership persists to the present. Prior to the Treaty of 1842, arrangements were made for the first sale of individually purchased lots at public auction, conditioned by the construction upon the site of a structure of value $HK 4,000. The British disapproved such a transfer and specified in the following year that no grants were to be made "either in perpetuity or for a greater length of time than may be

---

212/ Ibid., para. 33.

213/ Urban Land Policies and Land-use Control Measures: Volume II. Asia and the Far East, p. 58.

necessary to induce the tenants to erect substantial buildings". This system is in practice today. There is no freehold land in Hong Kong; all land, whether under lease or not, is owned by the State. The public auction is used as a means by which leases for residential, commercial and industrial sites are sold. While rights of use may be bought, ownership is retained by the State. 214/

287. Such a system contrasts with that found in such nations as the Philippines, the Republic of Korea and Thailand. In these countries, the concepts of private property and land ownership are emphasized. As in North America, the influences of modernization and urbanization are creating a need to increase governmental intervention into the land market. As a consequence these nations have developed land policies that foster extensive governmental involvement in land ownership. 215/ For example, although the public authorities have not explicitly intervened in the land market, efforts have been made to "rearrange" ownership patterns "....through the laws of comprehensive development planning". The degree to which the Government possesses or retains rights of ownership defines the concept of land ownership in Asia and the Far East. Particularly in those nations that were colonized by the British, the concept of crown-held land prevails to the present day. 216/ Where this is not the primary mode of ownership, individual rights are being tempered by societal needs.

288. The persistence of tradition has determined the structure of land ownership in the Middle East. The legal basis for ownership rests in the Ottoman Land Law of 1858. This piece of legislation represents the sum of all land practices that has developed in the Empire up to that time. The communal patterns of the Islamic tradition are expressed in the four categories of ownership: mulk, miri, waqf and musha. 217/

289. Private holdings are considered under the classification of mulk. This includes land that is owned individually, and the owner possesses full property rights. 218/

290. State ownership of land is delineated within the description of miri land. This includes the right of tassruf (usufruct). This right may be transferred by the usufructuary by means of sale, lease, mortgage or gift. The right may be inherited, so long as the holding is not divided. The property returns to the State in the absence of an heir. The State retains the right to regulate transfer and requires certification with each exchange. 219/

214/ Ibid., p. 59.

215/ H. Darin-Drabkin, op. cit., para. 22.

216/ I. M. Ofori; op. cit., paras. 32 and 33.

217/ Urban Land Policies and Land-use Control Measures: Volume V. Middle East, para. 5; H. Darin-Drabkin, op. cit., para. 5.

218/ H. Darin-Drabkin, op. cit., para. 5.

219/ Ibid.

291. A form of endowment peculiar to the Islamic concept is waqf. The term itself means "stop", and describes the restrictions made on use of the land. Its derivations are found within the document required for the designation of a parcel of land as waqf: Mawquf lilah - "stopped for God". The land was to be an endowment for such charitable uses as hospitals, libraries, mosques, schools and other such institutions, or for the housing of indigent families. The use of the land was given to persons or groups specified while the capital was given to God. The concept has been transformed in purpose to one of protecting property "from extravagant heirs or from an acquisitive State". 220/ Such land cannot be subdivided or "converted", but does remain within the family of the original owner. Once converted into waqf, the land cannot be repossessed. Although the Governments maintain either separate ministries (Iraq, Jordan) or departments (Lebanon, the Syrian Arab Republic) for the review and administration of waqf properties, they do not have the power to change the use made of such parcels. This has critical significance in urban areas, particularly for urban redevelopment or the provision of major public works, such as highways. 221/

292. Collective holdings are considered under musha. This concept refers back to tribal culture, wherein the available arable land was divided among the members of the group. Each held parcels in different locations, corresponding to variations in quality and size, and individual portions were reapportioned at intervals to maintain equality of holdings. This system has been retained to the present, although with some difficulty due to registration requirements, which designate permanent holdings for each member. This concept thus refers mainly to rural land. 222/

293. In contrast to the relative uniformity of traditional concepts of land ownership in the Middle East, the variety present in sub-Saharan Africa makes generalization difficult. Cultural variations are widespread, as are degrees of influence by foreign cultures, that have introduced Western and Islamic considerations into the concept of ownership. The general trend at present is to modify the corporate (communal) system to permit individual holdings, within the context of a system of title registration.

294. While variations in Africa are significant, many considerations of ownership refer to a corporate form, wherein a group or tribe administers the use of land. Alternative forms of ownership, notably proprietary, are the result of outside cultural influences and the demands of a modern urbanized economy. An important consideration is that the chief or family head who is the trustee of the common holdings does not have absolute control over their use or transfer. The community or family leader, rather, is

---

220/ Ibid.

221/ Ibid., paras. 5 and 7.

222/ Ibid., para. 5

the administrator of property, whose actions are subject to approval by the group. Within this context, it is important to recognize that the distinction between possession of land and property is not relevant in the African legal system, as it is in English jurisprudence. 223/

295. Governments seem to have a dual role, particularly in those areas south of the Sahara. The corporate form of ownership considers the role of traditional authorities at the local level. This consideration involves the heads of extended families and chiefs of rank below that of a national level. Their responsibilities involve control over the communal land and its distribution to new families and newcomers to the group, and their rights to the use of properties related to their specific families, as a family member. The chief/family head is the trustee of the land within the compound. The roles of chief and family head imply similar powers. The chief has the major task of allocating land to the various family heads. Families retain the lands until such time as they die out through loss of heirs or when they abandon the land. Between the lapsing of allocation and the redistribution of the land, it reverts back to the chief, by right, who holds the land for the group as a whole along with holdings such as unused, fallow and forest land, and land reserved for future use. Holdings are also used to penalize political and criminal offences, and lands are taken from users when they fail to pay tribute to the chief. Such a payment is seen as a claim to ownership. This may be somewhat analogous to the purchase price of land within the proprietary system. The intentional nonpayment of tribute is viewed as an expression of individual rather than corporate ownership. The chief also holds the power to re-allocate land in order to place it at its most full or profitable use. Adjudication is a further responsibility of the chief, concerning both internal disputes and problems referring to boundaries with other holdings. What is significant is that neither the chief nor the family head may alienate any part of the holdings without the consent of the ruling elders. The role of the family head is to distribute land to the various members of the family. 224/ One receives the right "to occupy and enjoy that land during good behaviour, but he does not become the owner of the land against the family and he cannot alienate without the consent of the family". 225/ To do so would result in forefeiture of the land. Throughout the administration of the lands, the family head is accountable to the senior members, as is the chief to his elders. No personal use may be made of the property. It cannot be used as collateral for a personal loan. "If family property is attached for his debts the creditors get nothing and the transaction is void", 226/ although if one is favourable to the family as a whole the transaction may be voidable, i.e.,

---

223/ Urban Land Policies and Land-use Control Measures: Volume I. Africa, para. 72.

224/ Economic Commission for Africa, op. cit., paras. 37, 38, 41 and 43.

225/ Ibid., para. 47.

226/ Ibid., para. 48.

not necessarily voided. The chief and the family head, with reference to property, play the role of trustees rather than owners. 227/

296. While the preceding description details the general characteristics of the corporate system of land ownership in Africa, regional, national and local variations exist. A major variation is found in North Africa, where the Islamic culture has had a significant influence. Variations found in sub-Saharan Africa relate to the influence of foreign cultures and the demands of modernization and urbanization.

297. The Islamic patterns that influence land ownership in North Africa have been generally described as "semi-feudal". Land ownership is dominated by a small group of landowners, including religious authorities and the State, local chiefs and other powers with some private landowners. The various modes of ownership are defined within the context of Islamic land law, which, in turn, has been modified to accommodate local african customs. This relationship is manifested in the large size of holdings belonging to the Islamic religious authorities in the context of land proprietorship and alienation. The religion promotes ownership by the religious authorities as a basic tenet. "Land is the property of Allah to whom sovereignty belongs". 228/ At the same time, the religion has had to accommodate modes of private ownership. These appear within the requirements of Islamic land law, which have, in turn, produced a "tripartite tenurial system" of land ownership. 229/

298. A number of property rights are designated under Islamic land law. "Land may be resold prior to seizure or possession by the first purchaser, including all trees, but excluding grains and crops unless specified." 230/ Ijara, the leasing of land, is considered to be, within this context, a contract of sale. Similarly, crops and structures are separate from the land, and as such, the lessor may trespass on the land. Such rental of land allows for construction upon it, but also compels the removal of structures upon return of the land at the request of the lessor. This procedure had precedent in sub-Saharan Africa in the early twentieth century. Land may be used as collateral, but with varying consequences. Under the tenets of the Hanafi and Shafli schools of law, the lender obtains the right to use the land, thus negating the possibility of a second mortgage. This is possible by special arrangement between the lender and the borrower, according to the Maliki school of law. Mortgaging is considered to be a provisional sale, so that the property is transferred to the lender in case of default. In such a situation the lender may again lease the property to the borrower

---

227/ Ibid., para. 46.

228/ Urban Land Policies and Land-use Control Measures: Volume I. Africa, para. 85.

229/ Ibid.

230/ Ibid.

and obtain rent, which may be viewed as interest on the loan. 231/ Through such means the church accommodates the individual use of land.

299. The extent to which such law is practised varies. In some areas the influence is indirect. The Islamic pattern of land inheritance may be followed within a family with either parent a Moslem. In other countries, such as Gambia and the United Republic of Tanzania Islamic land law has been explicitly legislated. What appears is a threefold system of land tenure. Religious land is considered under the classification of mabau. Such holdings cannot be alienated, but are leased out for use by individuals. Private freeholds are malik properties, while communal forms are arch lands. In terms of the actual distribution of ownership, 10 per cent of the freehold proprietors in Morocco possess 60 per cent of the arable land, leaving much of the rural population as sharecroppers. Prior to the revolution in Egypt 1 per cent of the landholders held 45 per cent of the land in agricultural use. 232/ It is the common opinion of citizens in these countries that private ownership has a lengthy precedent. 233/ The Islamic emphasis on religious ownership of land must filter through the local patterns of individual holdings in practice in North Africa.

300. Communal ownership of a traditionally African nature typifies the countries of East Africa. Several influences have moulded this pattern of ownership in the region. Migration of whole clans or subclans into the East African subregion, including Botswana, Lesotho and Swaziland, added groups which also practised communal ownership to those already present. Conquest placed large quantities of land under the singular ownership of landlords, as colonial governments and individual trading companies took possession of properties and disrupted traditional patterns, particularly in Botswana and Swaziland. A third influence has been the nationalization of lands in the United Republic of Tanzania. Beyond these variations, however, the typical pattern in East Africa is communal. 234/

301. Communal forms of ownership also describe the mode of land tenure in West and Central Africa. This form persists through outside influences and the internal demands for modernization. "Writings by African Legal Experts on land tenure state clearly that ownership of land in the accepted English sense is unknown." 235/ Local residents conceive of land ownership in terms of heredity: "land is owned by their forefathers, themselves and their children yet unborn". 236/ Pressures exist however, that have tended to promote individual tenure. The transition from a subsistence to a market economy of crop production encourages individual ownership, as does the pressure of a growing population. Technically illegal sales of land are being made of communal holdings to private parties. Such sales are illegal

---

231/ Ibid.

232/ Ibid., para. 86.

233/ Economic Commission for Africa, op. cit., para. 21

234/ Ibid., paras. 22-25 and 30.

235/ Ibid., para. 31

236/ Ibid., para. 32

owing to the absence of an institutionalized means for concluding such transactions. In the former Colony of Lagos and other developed areas of Nigeria, many persons hold individual parcels of land. Communal holdings continue to prevail, however, but may be reduced in the future with the demands of a modern economy. 237/

302. Three particular countries may be discussed in the context of sub-Saharan Africa: Nigeria, Uganda and Zambia. In Nigeria, the Yoruba tribe controls much of the land. Its holdings are considered within kingdoms (Obas), within the purview of subordinate rulers, and some smaller villages. Three general forms of tenure exist. Public lands include palaces, their grounds, public buildings, shrines, markets in cities and the rural areas encompassing royal farmland and sacred plots. The second entails communal ownership: land which is distributed to families and separate persons by the appropriate powers. Sales must be approved by such an authority, and use is protected while practised. "A land holder has no permanent rights in the land he uses." 238/ "Unallotted land" is the final classification. Such land remains in communal ownership while not under family or individual use. This system exists in Ghana as well. Such additional rights as alienation, distribution of unused land, and arbitration vary among tribes. Within this context, all land is under some form of ownership. 239/

303. The situation in Uganda illustrates the influence of colonial powers on local concepts of land ownership. While much of the land is under communal ownership, the patterns that have been derived since 1900 predominate throughout the country. The influence of the British is especially evident in the Buganda region of Uganda, and representative of the nature of colonial influence. "The former British colonies in Central and East Africa and several former French colonies have had their systems altered by legislation passed by colonial administrators and, in most instances, elements of proprietorship were introduced to provide a greater security." 240/ The Uganda Agreement of 1900 allotted 1003 square miles to the King of Buganda and 8,000 square miles to 1,000 chiefs and landowners, the latter under the control of the Legislative Assembly of the King of Buganda. Some 8,292 square miles were denoted as Crown or Trusteeship Lands by the Crown Lands Ordinance of 1903, "to be administered for the benefit of the Bagandas". 241/ The lands were to be leased to local residents for farming and non-residents for purposes other than farming. The Land Law of 1908 established the mode of tenure that is in practice today. Therein, a person may own lands of size not to exceed 30 acres without special permission from the governor. An

---

237/ Ibid., para. 31

238/ Urban Land Policies and Land-use Control Measures: Volume I. Africa, para. 76.

239/ Ibid., para. 78.

240/ Ibid., para. 79.

241/ Ibid., para. 80.

owner may transfer land by means of gift, sale or will to another citizen. A transfer or leasing of land to non-residents requires legislative sanction. The traditional rules of inheritance (succession) apply in the absence of a will designating the heirs to land property. This bill also ensured "the customary rights of the people to the use of roads, running water and springs". 242/ Colonial powers thus set legal precedents for the consideration of land ownership.

304. Zambia illustrates a further variation on the traditional conception of land ownership. According to the studies of C.M.N. White, individualized land tenures exist where the force of traditional authorities has not been exerted on an historical basis.

> "Among the Ngoni, Bemba, and Lungu tribes, the conception of a tribal group occupying a known geographical territory is the basis of intertribal land distribution and that willingness to live in the tribal territory itself gives a family the right to use part of the land without permission." 243/

Possession land would, as such, imply ownership to the extent that use is not under tribal control or administration. Such a system would be distinct from the allocative corporate system which is typical in the region. 244/

305. The basic ownership concept in Africa is communal. Its actual practice varies with cultural, demographic and economic influences. An example of the latter that may prevail throughout the cultural variations is the use of land for income. This appears among all classes of landowners, with the possible result that "customary land-holding practices are fast giving way to proprietorship as a more convenient tenure system". 245/ Generally, however, and particularly in rural areas, the corporate system continues to the most common form of land ownership in Africa.

3. The Impact of ownership patterns on urban development

Urban structure

306. Land ownership patterns are a major factor influencing urban growth and urban structure, because the concept of land ownership responds slowly to socio-economic changes. 246/ The previous discussion focused on

---

242/ Ibid.

243/ Ibid., para. 81

244/ Ibid., para. 72

245/ Ibid., para. 73

246/ H. Darin-Drabkin, op. cit., para. 4

the concept of land ownership and the possession of ownership rights. The degree to which a governmental body possesses or retains rights determines its ability to regulate development. The absence of regulation over land use may result in a set of unco-ordinated individual decisions which produce an urban structure which is not amenable to the needs of much of the urban population. 247/ Throughout this discussion, it should be understood that urban development may also influence ownership patterns. Nevertheless, ownership patterns can influence the density of development, the location of uses, the distribution of uses, and the general quality of urban life.

307. Ownership has been defined as the possession of rights, and the extent to which government or an equivalent co-ordinating group retains part or all of these rights. Thus, the effect of ownership patterns on urban structure relates to the ability of government to regulate the patterns of development. In many countries, the concept of "public purpose" has been expanded so as to encompass the implementation of urban development schemes. 248/ This definitional change permits governments to acquire land, obtaining ownership rights, for purposes of development, which in turn, influences urban form. Ideal for this purpose is the pattern of land ownership that appears in many of the socialist nations. 249/ In Eastern Europe, the Governments have acquired considerable amount of land, available for both rural and urban uses, above and beyond those currently in such usage. In these nations where private land ownership persists, various legal means appear for the expropriation of land for urban purposes. 250/ In such countries as Poland, "the traditional tools of taxation of land, setting up of protective zones, expropriation and the temporary taking over of land are widely practiced". 251/ With such considerable power and means available to the Government for the regulation and designation of land uses in urban areas, "the patterns of urban land ownership which have emerged in the socialist countries are ideal to solving the urban problem". 252/ Indeed, governmental actions could directly determine the urban structure. For example, in Cuba the purpose of recent land reform legislation has been the establishment of an ownership pattern that would subvert "the evil aspects of the social forces which guide urbanization". 253/

247/ J. P. Sah, op. cit., para. 4.

248/ H. Darin-Drabkin, op. cit., para. 24.

249/ J. P. Sah, op. cit., para. 25.

250/ I. M. Ofori, op. cit., paras. 40 and 41.

251/ Ibid., para. 41.

252/ Ibid., para. 42.

253/ Ibid., para. 30.

308. In contrast, the power of the government to control or direct the formation of urban structure is more restricted in those countries where there is a greater retention of ownership rights by the individual. In these cases governments influence development through the prosecution of some public purpose projects and through regulatory powers. Such powers as zoning, subdivision control and the more indirect tools, such as taxation, annexation and the provision of public services (the latter more relevant in the developed nations), influence not only the location of uses but also the form in which they occur. For example, a major problem encountered in many countries is sprawl, the wasteful consumption of urban land. Zoning and other means of land-use controls have encouraged this pattern of urban development by such restrictions as minimum lot sizes and set-back controls. The same methods have promoted single family housing at the expense of multiple family units, which represent a potentially more efficient use of land. Governments have, in this case, acted so as to promote the form of ownership, of single family units on large lots, by individual owners, which has produced a sprawling urban structure. It might be concluded, depending upon one's attitudes toward this development pattern, that the use of some regulatory measures have been counter-productive.

309. Governmental actions regarding the title registration of ownership can also affect urban structure. Squatting, which is a major urban problem in the developing nations, is a response to the shortage of available urban land. At least one reason why land is not on the market is the difficulty encountered in consummating land transactions, as in Africa, where the sale of a piece of property may take up to two months to complete. 254/ In such a situation, wherein ownership is not clearly indicated, migrants into cities may find land for residential use difficult to procure, forcing squatting patterns to appear, altering the urban structure into a pattern of excessive land consumption, while creating congestion and ill-serviced areas. The absence of a complete system of land registration makes exchange of property difficult, thwarting organized attempts to engage in large-scale urban development, and encourages squatter developments.

310. The issue of individual versus governmental rights of ownership ultimately reverts to the question of the fulfilment of the collective needs of society. Patterns of ownership, when this concept links proprietorship and land use, may reflect the unco-ordinated decisions of individuals seeking to maximize their own ends and disregarding externalities. The Interregional Seminar concluded that such a series of actions works to the detriment of society. When the exercise of regulatory powers is based on the preservation of individual rights, governmental action towards the achievement of a more desirable urban structure has little potential for success. The Seminar noted that:

254/ Urban Land Policies and Land-use Control Measures: Volume I. Africa, para. 57.

"The present mechanisms for guiding urban development, based on notions of private ownership rights coupled with the outmoded administrative structure and decision-making processes, are serious obstacles in formulating comprehensive policies and plans, and thus prevent the orderly expansion and development of human settlements." 255/

In contrast to the socialist system of ownership, a pattern which emphasizes individually held rights encourages the exercise of choice for personal gain. This sort of decision-making culminates in an urban structure which is dysfunctional in terms of meeting the collective requirements of an urbanizing society.

311. Traditional patterns of ownership have shaped urban structure, as in the Islamic countries where there is a virtual immobilization of city land. As such, land use cannot be changed, preventing such beneficial efforts as widening of streets, the development of parks and other forms of open space and the construction of large-scale housing projects. 256/ The existing structure has thus rigidified by the wide distribution of waqf properties. While land may not have been fragmented as a result of such a designation, it had, and has, "the undesirable effect of immobilizing urban land which has resulted in mixed and incompatible land uses, in almost all Middle Eastern cities". 257/

312. No documentation has been made on the effects that the patterns of ownership in Africa have had on its urban structure, but there is some speculation on the regulation of future urban development. 258/

313. For example, the very right of the State to take land, with payment of compensation, has "eliminated intense land speculation in most African cities". 259/ However, the problems brought on by prolonged litigation concerning unclear land titles negate the benefits of diminished land speculation. Such governmental powers have not had the effect of diminishing speculation in other regions, such as Latin America. Basically, the confusion concerning ownership of parcels and the structure that emanated from the imposition of proprietary ownership by colonial powers, have restricted the regulation, development and renewal of inner core areas and have fostered squatter settlements both inside and outside of cities.

255/ Report of the Interregional Seminar ..., para. 49.

256/ Urban Land Policies and Land-use Control Measures: Volume V. Middle East, para. 7.

257/ I. M. Ofori, op. cit., para. 35.

258/ Ibid., para. 27.

259/ Ibid.

314. A number of consequences are associated with ownership patterns, which are not necessarily unique to any given region. They include the ways in which land ownership can prevent the provision of adequate urban services, including housing, and, the disruptive effect that individual decisions can have on urban structure. When ownership decisions are not co-ordinated by some sort of land policy, a situation that exists in Asia and Far East, intense overcrowding results. In this situation, the poor cannot afford any mode of ownership, and are forced into the already insufficient supply of housing units. 260/ This is produced by individual decision-making and a pattern of ownership which limits and restricts the housing supply available to a significant portion of the population.

315. The effect of ownership patterns on urban structure has not been fully researched nor detailed, and yet it would appear that it has measurable impacts. The example of the Middle East illustrates how an ownership pattern can actually restrain development by determining the availability of land for urban expansion, while in Africa the conversion from communal to proprietary ownership may be beneficial to and encourage commercial and industrial development by making parcels mroe readily available for development. In any case, it seems clear that ownership patterns must be co-ordinated with public land development policies if the structure of cities is to work towards the public good, and not be merely the expression and fulfilment of the desires of a select group of individuals.

260/ Urban Land Policies and Land-use Control Measures: Volume II. Asia and the Far East, pp. 36 and 37.

ECONOMIC RENTS ON COMMERCIAL LEASEHOLD PROPERTIES

[Excerpted from Australian Commission of Inquiry into Land Tenures, First Report, November 1973 (Canberra: Australian Government Printing Office, 1974), pp. 57-58]

7.35 The Commission was therefore attracted by the suggestion which was made, in one or two submissions, for treating a commercial lease as a joint venture, in which the mutual interests of lessor and lessee during the lease term would be recognised by arrangements to share the income represented by the rental value of the whole property (land and buildings combined).

7.36 In the light of this concept, the total rental income could be seen as providing a return to the lessor on the capital invested in the land and to the lessee on the investment in improvements. The joint venture relationship would continue for the duration of the lease, but after development had been completed the market rental value of the property would be affected by economic factors such as inflation or recession and the growth of the community as well as by the income potential of the property itself. Until the joint venture relationship of lessor and lessee was terminated at the end of the lease term or by mutual agreement, they would have a common interest in the full rental value of the property as it changed over time. We therefore believe that the determination of economic site rents throughout the period of the lease should reflect this relationship.

7.37 Specifically what we propose is that the site (or ground) rent of the land should be determined at the beginning of the lease by auction, tender or negotiation in such a way as to ensure that at that time it represents the market rental value of the land in its undeveloped state. The rent so determined will represent an agreed annual payment by the lessee to the Development Corporation for the right to use the land for the designated purpose. After the lease agreement is signed, the lessee will proceed to construct the buildings which will be used to produce income. The land and buildings together will thus contribute to a market rental value, which we suggest should be distributed between the Development Corporation (as lessor) and lessee in proportion to their relative investment contributions. The contribution by the lessor will be measured by the site rent the lessee has offered for the use of the land. The lessee's contribution will be measured by the total market rental value less the site rent; this is the amount that may reasonably be attributed to the building investment. If it is accepted that the lease agreement and the existence of the building circumscribe the use of the land until the expiration of the lease, it follows that the lessor and the lessee have continuing interests in the property proportional to the ratio of (a) the initial site rent to (b) the initial market rental value net of the initial site rent.

RENTAL LEASEHOLD TENURE IN RELATION TO RESIDENTIAL LAND

[Excerpts from Australian Commission of Inquiry into Land Tenures, First Repor, November 1973 (Canberra: Australian Government Printing Service, 1974), pp. 49-55.]

Rental Leasehold Tenure in Relation to Residential Land

7.3 Because this issue is usually discussed principally in relation to the equitable effects of different forms of land tenure, we shall be concerned especially with equitable aspects of the proposal that land tenure arrangements in the Australian Capital Territory, the Northern Territory and the new metropolitan and regional growth centres should be based on a leasehold system in which provision is made for rents to be adjusted regularly in accordance with changes in the market value of land. The problem is literally one of the equity which landholders are to have in the value of their land. Because equitable considerations differ as between residential and non-residential land, we shall distinguish between these types of land use in examining the arguments for different forms of land tenure. Finally, it is necessary to distinguish between land which is made available, on either a leasehold or fee simple basis, for owner-occupied housing and land which is made available for rental housing. In particular, it is necessary to ensure that any advantages which are given, through the land tenure system, to owner occupiers are also given to tenants who, in most cases are likely to come from the lower income groups in the community.

7.4 The use of land for residential purposes differs from its use for other purposes in that it represents a form of final consumption by households. In the other cases, it is in the nature of an intermediate good, or a means of producing goods and services--such as food and clothing--which will be sold for later consumption. Shelter is a basic human need and the community, as well as the individual, has an interest in ensuring that citizens are accommodated in comfort, security and privacy.

7.5 The increase in land values that is associated with urban growth is only partly due to the general locational advantages which established properties gain over properties on the fringes of development as a result of population growth. It may also be a consequence of public investment, or of the efforts of individual landholders (or local communities) to improve their neighbourhoods, of of inflation generally.

7.6 There are strong arguments for concluding that changes in land values resulting from public investment should in principle accrue to the public sector, whether the investment takes the form of services to particular sites (such as water supply and sewerage) or major investment projects (such as freeways or public transport projects) which have the effect of conferring substantial locational advantages on particular sites. The identification of value changes is likely to be difficult but the techniques which we proposed in Chapter V (public acquisition or development orders which reserve unearned value increments for the Crown) should, we believe, facilitate the accomplishment of the foregoing principles.

7.7 Properties in a particular area may also increase in value because of the actions of local residents in improving their houses, landscaping and caring for their gardens and generally manifesting a pride of possession. Even a co-operative community spirit in a locality may contribute to the desirability of properties in that locality and thereby enhance their value. We do not consider increases in property values arising from the actions of residents to be unearned increments from the point of view of the residents of that locality and we therefore do not believe that society as a whole necessarily has a take in those increases. A tax on gains from this source would in effect tax pride in home ownership and community co-operation and would be especially difficult to justify in the absence of taxation on other forms of capital gains.

7.8 Finally, the increase in land values may be merely one aspect of a general inflationary increase in prices and, as such, more apparent than real insofar as any increase in the wealth or purchasing power of landowners is concerned. The case in equity for appropriating increases in land values which are associated with general price increases is by no means clear and is one we do not accept. Historical knowledge of and personal experience with inflation is a widespread phenomenon. Not only is the purchase of a home seen by many Australians as one of the best means of hedging against inflation; for most it is the only means. Although a home owner's equity increases as land values and prices increase, any gains in terms of higher monetary values cannot be realized by him unless his property is sold; even then the proceeds will normally be required to re-establish his home in a new location at current prices. Because any increases in land values incorporate changes in the value of money as well as gains in real wealth, we are of the view that, even in the absence of the other considerations to be discussed below, any public participation in the value increments resulting from growth and inflation must have regard to the effects of inflation on the money values of home owners' investment in their land.

7.9 We consider that it would be unjust to appropriate for the public sector the money gains revealed by the arithmetical differences between the values of residential land at two points of time, because such differences necessarily include factors representing the depreciation of the value of money and the efforts of individual citizens to improve their homes and neighbourhoods. But we also believe that there are more general arguments against public appropriation of value increments accruing to residential land. We now proceed to discuss these arguments in the context of the proposals, which were made by several submissions and witnesses, to use a rental leasehold system of land tenure as a means of appropriating the value increments.

7.10 Although the case for charging economic rent as a means of appropriating unearned increments is itself based on equity, we find the following arguments completely convincing as reasons why such action would, in practice, be inequitable in the senses in which we discussed the equity objectives of land policy in Paragraphs 2.5 and 2.7. In particular, we believe that the adoption of a leasehold rental system would increase

inequalities between rich and poor, and fail to treat similarly persons in similar circumstances, by:

(a) reacting adversely on the distribution of national wealth;

(b) absorbing a higher proportion of household income at the lower end of the income scale and imposing insecurity on all home owners on relatively low incomes;

(c) creating comparative injustice and insecurity for particular classes of income recipients, especially wage and salary earners, and for particular age groups, notably those in or approaching retirement;

(d) discriminating against households taking up land in the new growth centres and in favour of those who already own land in existing cities; and

(e) providing opportunities for political decisions which will have the effect both of giving windfall gains to particular groups of landholders and of destroying the stability of the land tenure system.

7.11 In the first place, the high incidence of home ownership in this country has been the chief factor responsible for the fact that Australia has one of the most even distributions of national wealth in the world. Any participation by the public sector in increasing residential property values would run counter to the objective of achieving a more equitable distribution of the national wealth. This is because, as we have already indicated, home ownership is one of the few forms of investment available to low income groups as a means of preserving the real value of their financial resources. Houses depreciate in value through wear and tear even though, simultaneously, their market values may change as a result of changes in the value of money. For most Australians, this leaves only the land component of their homes as a hedge against inflation.

7.12 Secondly, because land rents necessarily absorb a much higher proportion of household incomes at the lower end of the income scale, a rental leasehold system in which rents were regularly re-appraised would impose a much greater relative burden on those households. The average family unit is in no position to absorb increases in rent and, unlike business enterprises, it cannot pass on such increases through higher prices. The inevitable consequence of frequent rental re-appraisals would be to impart a grave sense of insecurity to the lives of all home owners on relatively low incomes. But rental adjustments would need to be frequent in order to achieve the objective of appropriating the value increments; long delays between rental revisions would not only result in a failure to capture unearned increments during the intervening intervals but, as Canberra experience has shown, would create problems of equity as between different lessees which must ultimately threaten the stability of the rental leasehold system.

7.13 The insecurity which is likely to be generated by frequent rental adjustments is of particular significance to households in which wage and salary earners have ceased active work, for example because of unemployment invalidity or retirement. Recipients of other incomes are likely to have the value of their incomes maintained in real terms even after they reach retirement age, but retired wage and salary earners would be faced with the prospect of having to meet escalating rents out of fixed money incomes. For many this could mean a danger that, just as they were looking forward to secure retirement, they would be forced out of their homes by excessive rents. But the hardship would not necessarily rest there because the equity in their properties would be restricted to the depreciated value of their houses, diminishing assets which could not by themselves constitute sufficient reserves to provide security in old age. The third major objection to a rental leasehold system is thus based on its comparative injustice to particular classes of income recipients, especially wage and salary earners, and to particular age groups, notably those in or approaching retirement.

7.14 In advocating economic rents under a leasehold system, most submissions and witnesses recognised that hardship would probably result to particular sections of the community. But it was argued that rents were not likely to escalate sharply and that, even if they did, hardship could be alleviated by the granting of appropriate concessions such as deferment or waiver of rent. In the light of recent history, the likelihood of continuing inflation and the inevitability of population growth during the remaining years of this century, we have no confidence in any predictions that land values (and therefore land rents) are likely to be stabilised. The suggestion that hardship be relieved through rental concessions we regard as unacceptable on both equity and administrative grounds. A system of land tenure which both creates hardship for those least able to afford it and at the same time seeks to alleviate the hardship through charitable concessions has, we believe, little to commend it and would not be acceptable to the Australian community.

7.15 Some proponents of a rental system of leasehold tenure argued that it is more important to provide financial assistance to young married couples when they establish their homes than to make provision for those who have reached the end of their working lives, and the substitution of rents for the payment of capital sums would be an effective way of achieving the first objective. We emphasise that we do not regard justice for the young and for the old as mutually exclusive objectives and believe that, if our other recommendations are adopted, young married couples should be able to acquire residential land on reasonable terms without the need to resort to rental leasing.

7.16 The fourth argument against the introduction of a land tenure system in which economic rents are charged is one which has particular significance for the new growth centres on which, along with the Australian Capital Territory and the Northern Territory, we have been asked to report. This is the geographical discrimination which it would introduce into

land tenure arrangements, by requiring those in the new centres of urban growth to suffer financial disadvantages (in effect, to pay taxes on the betterment of their properties) which are not also borne by landowners in existing metropolitan areas. Under circumstances in which governments are seeking to encourage decentralisation by making the new growth centres relatively more attractive than existing cities, such discrimination would be perverse in the extreme. We can see no case for requiring households in the new centres of urban growth to pay subsidies, through their rents, to the general body of taxpayers. If governments sought, as a matter of political philosophy, to tax unearned increments resulting from all community growth, it would be more equitable to do so by means of land taxes than through the land tenure system. In this way the unfair geographical discrimination would be avoided, although the other disadvantages we have described would remain.

7.17 In one submission it was argued that prices paid for fee simple land reflect expected unearned value increments so that, in effect, the purchasers of estates in fee simple are not in any case able to gain the benefits of the value increments for themselves. If this were true it would mean that the payment of economic rents was not subject to the disadvantage of geographical discrimination. This is because an equivalent disadvantage would attach to purchasers of land in existing cities at the times they made their capital payments. We do not accept this argument in relation to residential land, partly because any such expectations are themselves subject to much uncertainty and will presumably be heavily discounted, and partly because the prices which most people (for example, young married couples seeking land for their first homes) can afford to bid for land are necessarily related to their current incomes and not to the higher incomes they may be earning at the times the value increments are expected to accrue.

7.18 The final reason for believing that a residential rental leasehold system is likely to be inequitable is related to the political sensitivity and hence the stability of such a system. We believe that in the long run it would prove to be politically inexpedient to exact full economic rents from residential land. So far as we know, no government has ever succeeded in doing so consistently over a long period. The reason is simply that a lease is a contract between two parties, and if one of the parties is the government (or a government agency) and the other the voter who determines whether the government stays in office, the system is inherently unstable. Even if a rental leasehold system were to be introduced and economic rents charged by a government, it would be tantamount to inviting the opposition to promise to change the system in order to win votes and help unseat the government at the next election. If the system were changed in this way, the abolition of rents would result in windfall gains which would be capitalised in the land values of all existing landholders, who would then benefit at the expense of future landholders.

7.19 It is more likely, however, that economic rents will not be charged by governments. The residents of Canberra, which seems to be the only city in Australia where there is a strong attachment to land rents, have never paid economic rents over a period. When faced with the need to adjust rents

in accordance with the twenty-year re-appraisals that were required under the old Canberra leasehold system, the Government of the day avoided the issue by reducing land rents to a nominal sum. The resulting capital gains to existing lessees were estimated by some to be as high as $100 million. The experience of Canberra thus suggests that a rental leasehold system will only survive if it generates progressively increasing benefits to lessees at the expense of the Australian community. Far from serving the public interest in the way which the proponents of leasehold tenure claim, as a result of political decisions rental leasehold systems may be expected to subsidise lessees at the expense of taxpayers.

7.20 Overseas experience supports the conclusion that governments are unlikely to charge economic rents, although conditions in such countries are usually very different from those in Australia, partly because of the much lower incidence of home ownership in the countries concerned, partly because of the interposition of intermediaries (such as churches, property trusts, insurance companies and municipalities) between governments and tenants, and partly because leases usually cover land and buildings and not merely land. Even so, the level of rents is often held artificially low by governments by means of subsidies or rent controls.

7.21 Other arguments were advanced in submissions and by witnesses against the use of economic rents based on market values. One drew attention to the imperfections in the land market and the fact that, when assessed by reference to the high prices caused by insufficient supplies of land coming on to the market, the market value of all existing land would be artifically inflated. Development Corporations would then be in a position to reap substantial gains (through higher rentals in the whole of their areas) as a direct consequence of their own failure to provide land on a scale commensurate with needs. In order to prevent this situation from arising, it would be necessary either to ensure that shortages of serviced land did not occur or to relate adjustments to changes in costs of providing land. A similar kind of problem results from the difficulty of establishing market values for the purpose of determining rents, when all land is leased and there is no freehold land to use as a valuation base. The problem arises in a more acute form in the case of non-residential land, and we suggest below a different basis of rent determination which relates rents to the income-earning capacity of properties. But the problems we have discussed in this paragraph reinforce our view that an effective system of rental leasehold for residential properties is unlikely to be achieved.

7.22 We conclude that a rental leasehold system is likely to be both inequitable and politically impracticable for residential land, and that the interests of equity and stability in land tenure arrangements are most likely to be served by a system of land grants requiring payment of capital sums when land is originally allocated. Provision could be made for the capital sums to be paid by instalments over terms of years at rates of interest comparable with those used for housing loans.

Grants in Fee Simple for Residential Land

7.23 If, as we recommend, the case for economic rents is rejected and the case for the reservation of development rights is accepted, the question arises whether there is any need for residential land to be made available for a limited term of years. We can see no justification for restricting the period of residential tenure provided that development rights are retained by the crown, but we believe that the desire by home owners for security of tenure provides a strong positive reason for not limiting the period of tenure. This means that, in those places where residential land continues to be made available on leasehold tenure (as we assume will be the case in Canberra) the leases should be perpetual leases (or, more accurately in the light of the possibility of resumption for re-development, leases of indefinite duration). In terms of the characteristics we have now specified as desirable for purposes of residential leases would then be purchased for capital premiums (which might be payable by instalments over a period); they would not be subject to rent; they would be for an indefinite term; and they would be restricted in the use of land to single dwelling houses.

7.24 On the assumption that these specifications for leasehold tenure are virtually identical with the characteristics of fee simple titles with development rights removed, it is necessary to ask whether there are any other factors which warrant the continuing use of leasehold forms of residential tenure? One factor which obviously needs to be considered is the contribution which leasehold tenure may make to the planning and control of initial development and subsequent re-development. It was argued before us that development controls are greatly facilitated by the leasehold system.

7.25 Effective control over initial urban development depends primarily on public acquisition of rural land prior to its conversion for residential purposes. The tenure system is not of any significance in relation to public acquisition, although leasehold tenure does provide an effective means for stipulating and enforcing the form of land use (through the purpose clause) and the time within which development must take place. But evidence placed before the Commission shows that this desirable objective may be (and is being) achieved in Australia in ways which do not involve continuing leasehold tenure when the development phase has been completed.

7.26 Leasehold tenure would give Development Corporations greater control over residential properties subsequent to the development period, but on balance we believe that such control would conflict with the rights of individual landholders for security, peaceful enjoyment and privacy in the use of their land. The rights of neighbours may be protected in other ways.

7.27 Given the strong psychological attachment which most people have to so-called freehold land and the predominance of this form of tenure in existing cities, the Commission has concluded that compelling reasons would need to be advanced to justify a change to residential leasehold tenure in the new centres of urban growth. In the light of the foregoing

discussion, it will be clear that we are not persuaded that such reasons exist. We therefore recommend that all grants of residential land in the new metropolitan and regional growth centres be made on the basis of fee simple title, subject to the specification of the purpose for which the land is to be used, the enforcement of improvement conditions prior to the issue of title and the reservation of development rights. If general legislation is enacted, as we have recommended in Chapter IV, to vest all future development rights in the Crown, the form of tenure in the new cities will be the same as that in existing cities and grants may continue to be described as grants in fee simple. Until such time as general legislation reserving development rights is passed in a State, however, we recommend that grants of land for residential purposes, under which development rights are reserved, be issued under a new title, such as "residential grant" or "residential freehold". These would then be the form of tenure adopted in the new growth centres, and such titles would become grants in fee simple when development rights were removed from all land held in fee simple in other parts of the State.

TENURE IN UPGRADING SCHEMES

[from Sites and Services Projects (World Bank, April, 1974) p.29]

Problems of tenure in upgrading schemes for existing squatter settlements raise in some ways more fundamental issues. In many cases such settlements have been built by illicit invasion of private or public lands. The grant of legal title of the squatters is clearly a basic consideration in obtaining community support and providing a stimulus to self-help improvement of these neighborhoods. On the other hand, to grant such title is to acquiesce in an illegal action which, quite apart from questions of equity for the landowners concerned, may encourage further invasion of private or government land--in areas, moreover, which probably do not correspond to the desired urban pattern. Even the provision of public services such as water and electricity to squatter settlements may be considered as a de facto recognition of settlers' acquisition by illegal action which may have repercussions in making future control of the pattern of urban growth more difficult.

It has to be recognized that this issue of condoning or approving illegal seizure of urban land cannot simply be dismissed as recognition of a fait accompli against rich landowners who can well afford the sacrifice. Too many other issues of equity and administrative feasibility are involved. In practice, many subsidiary "rights" are involved as the original settlers sell or lease their holdings to others in the poor income groups. In other cases, original landowners, or the intermediaries to whom they may have sold their "rights", may still have sufficient control on occupied land--or political influence--to reap much of the benefit of any neighborhood improvements that may be introduced through actual or threatened eviction. More generally, in such amorphous conditions, it is administratively difficult to establish which individuals are the "occupants" to whom title should be given and what is the extent of their occupancy.

It is at this point that the relation of improvement schemes for existing squatter settlement to the overall program for site and services becomes of paramount importance. If the site and services program is sufficiently large to lessen the prospect of further illicit invasion of land, then the arguments against approving titles for occupants of existing settlements are much reduced. Moreover, the more that pressures and scarcity values are reduced by large scale site and services programs the more feasible it is to provide for some generalized security for tenure by constraints on eviction with provision for appeals--rather than to attempt immediate registration of precise rights and titles for all the individuals involved.

RECENT PAPERS IN THIS SERIES:

No.	TITLE OF PAPER	AUTHOR
254	Valorization Charges as a Method for Financing Urban Public Works: The Example of Bogota, Colombia	W. Doebele (consultant) O. Grimes
255	The Employment Impact of Industrial Investment: A Preliminary Report	J. Stern (consultant)
256	A "Stages" Approach to Comparative Advantage	B. Balassa
257	Measuring the Performance of Family Planning Programs	P.S. Mohapatra
258	Multi-Level Programming & Development Policy	W. Candler, R. Norton
259	Alternative Concepts of Marginal Cost for Public Utility Pricing: Problems of Application in the Water Supply Sector	J. Saunders, J. Warford P. Mann (consultant)
260	Meeting Basic Needs in Malaysia: A Summary of Findings	J. Meerman
261	A Model for Estimating the Effects of Credit Pricing on Farm Level Employment and Income Distribution	T. Husain, R. Inman
262	Commodity Price Stabilization and the Developing Countries: The Problem Choice	E. Brook, E. Grilli J. Waelbroeck
263	Industrial Policy and Development In Korea	L. Westphal, Kwang Suk Lim
264	The Incidence of Urban Property Taxation in Developing Countries: A Theoretical and Empirical Analysis Applied to Colombia	J.F. Linn
265	India's Population Policy: History and Future	R. Gulhati
266	Radio for Education and Development: Case Studies (Vols. I & II)	P. Spain, D. Jamison E. McAnany
267	Food Insecurity: Magnitude and Remedies	S. Reutlinger
268	Basic Education and Income Inequality in Brazil: The Long-Term View	J. Jallade
269	A Planning Study of the Fertilizer Sector in Egypt	A. Choksi, A. Meeraus A. Stoutjesdijk

No.	TITLE OF PAPER	AUTHOR
270	Economic Fluctuations and Speed of Urbanization: A Case Study of Korea 1955-1975	B. Renaud
271	The Nutritional and Economic Implications of Ascaris Infection in Kenya	L. Latham, M. Latham S. Basta
272	A System of Monitoring and Evaluation of Agricultural Projects	M. Cernea, B. Tepping
273	The Measurement of Poverty Across Space: The Case of Peru	V. Thomas
274	Economic Growth, Foreign Loans and Debt Servicing Capacity of Developing Countries	G. Feder
275	Land Reform in Latin America: Bolivia, Chile Mexico, Peru and Venezuela	S. Eckstein, G. Donald D. Horton, T. Carrol (consultants)
276	A Model of Agricultural Production and Trade in Central America	R. Norton C. Cappi, L. Fletcher, C. Pomareda, M. Wainer, (consultants)
277	The Impact of Agricultural Price Policies on Demand and Supply, Incomes, and Imports: An Experimental Model for South Asia	M. Osterrieth, E. Verrydt, J. Waelbroeck (consultants)
278	Labor Market Segmentation and the Determination of Earnings: A Case Study	D. Mazumdar M. Ahmed
279	India - Occasional Papers	M. Ahluwalia, J. Wall S. Reutlinger, M. Wolf R. Cassen (consultant)
280	Educational Effects of Class Size	W.D. Haddad
281	Relieving Traffic Congestion: The Singapore Area License Scheme	P.L. Watson E.P. Holland
282	World Trade and the International Economy: Trends, Prospects and Policies	B. Balassa