‘Responsible Governance and Secure Tenure of Urban and Peri-Urban Land in Latin America and the Caribbean: Analysis of 10 Countries’

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“Investing in people is the best development strategy: a society progresses only if all the individuals that are part of it increase in their freedoms and capabilities.”
Mahbub ul Haq

“Cities are made of stones, standards, and people.”
Joan Clos
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In this section, the nature and degree of the problems of governance and insecure tenure on urban and peri-urban land is shown on a regional level, according to facts and figures, best practices, and actionable strategies.
1. INTRODUCTION

1.1. This study and report

This study comes from the need for a diagnostic, strategy, and plan of action on governance of urban and peri-urban land for Latin America and the Caribbean, with a focus on 10 countries: México and Honduras (representing Central America), Jamaica and the Dominican Republic (representing the Caribbean), Colombia, Perú and Ecuador (representing the Andean-Equatorial Arc), Brazil (as the Portuguese territory in America), Argentina and Paraguay representing the Cono Sur. The reasoning is that a deficient land governance system leads toward inequitable construction of the city, with social, economic, environmental, and broader political-governance impacts. Furthermore, land governance is necessarily a part of the New Urban Agenda, and under the mission of HFHI and GLTN on this subject, above all because phase two of GLTN must directly support countries on the subject of urban land (GLTN Program, 2012-2017).

The research questions guiding the study are the following:

1. What are the principal problems of governance and tenure in urban and peri-urban areas of LAC?
2. What has been done in the region for land governance, and what do theory, ‘best practices,’ agreements and international directives, the SDG’s and the New Urban Agenda say on this subject?
3. What has to be done to reverse or handle emerging problems and challenges in governance and land tenure, and how?
4. What are notable existing land policies, plans, programs and tools in the region and in the selected countries? (Notable in terms of inclusion, equity, resilience and sustainability.)

The principles of reference are: inclusion, equity, prosperity, resilience and sustainability.

Objectives of the study

a) Identify the main problems of governance and land tenure in urban and peri-urban areas of LAC, challenges and opportunities, with special emphasis on the 10 selected countries, as a basis for future decisions and actions, with reference to the SDG’s (actionable study).

c) Increase knowledge on land governance in LAC (through comparative analysis) and contribute to the documentation and exchange of knowledge (best practices).

d) Define guidelines for improving urban and peri-urban land governance and a preliminary work plan at the regional level and for the selected countries, with a focus on inclusion, equitability, prosperity, resilience and sustainability.

Methodology

a) The following activities are realized to identify problems, challenges and opportunities on the subject of governance and secure land tenure in urban and peri-urban areas:
   - Bibliographic review;
- Online interviews with key actors: authorities and technicians on national and local level, academics, NGOs, real estate developers, and others; to each of whom a request is sent to complete a Country Table and guided interview\(^2\);
- Development of the Country Document by national experts, which describes: the legal framework governing urban and peri-urban land; mechanisms for regularization; mechanisms to control speculation; mechanisms to control illegal and informal practices; practices of inclusive real estate development (if they exist); mechanisms to improve the system of land administration; costs and steps in the process to transfer rights; governance of land from cultural and environmental perspectives; control and resolution of conflicts; sectorial and institutional budgets; human resources.

b) The comparative regional analysis is possible thanks to the common structure of the Country Tables, interviews, and Country Documents of this report. Moreover, the study is completed with transversal observation of common thematic areas, with reference to the SDG's (land deficit under the housing deficit, political-legal-institutional, administrative, formation and management of territorial information, disputes, and Best Practices).

c) To document Best Practices, the report consolidates information collected in the Country Tables, interviews, and Country Documents keeping the principles and directives of the SDG’s as a reference.

c) The definition of guidelines, action strategies, and the work plan will be achieved through analysis of collected information, through the political and technical demands and opportunities identified in the 10th Hemispheric Mayors’ Summit in Sucre, Bolivia (19-20 May 2016); the inputs that arise in the Expert Group Meeting, San Jose, Costa Rica (14-15 July 2016); inputs from study participants and strategic colleagues of GLT and HFHI.

**Figure. Methodological scheme**

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Input</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Building the framework and methodology for evaluation</td>
<td>Bibliographic review (with special emphasis on LGAF evaluations)</td>
</tr>
<tr>
<td>2. Background</td>
<td>Bibliographic review, laws and norms, semi-structured interviews, Country Table, Country Document</td>
</tr>
<tr>
<td>3. Evaluation by country and by area</td>
<td>Framework of evaluation, bibliographic review, Country Table, Country Document</td>
</tr>
<tr>
<td>4. Results and conclusions</td>
<td>As above, with input from San José</td>
</tr>
<tr>
<td>5. Recommendations</td>
<td>As above, with input from San José</td>
</tr>
<tr>
<td>6. Preliminary commitments and action strategies</td>
<td>Multi-sectoral institutional commitments in San Jose, and other commitments from HFHI, GLTN and associated agencies</td>
</tr>
<tr>
<td>7. Best practices</td>
<td>Bibliographic review, semi-structured interviews, Country Table, Country Document</td>
</tr>
</tbody>
</table>

\(^2\) We chose semi-structured interviews with key players from various sectors, rather than spreading the online survey because from our experience we knew that due to the complexity of the issue the penetration of the online survey (as originally thought) would be low. Interviews with key actors have enabled simultaneously to raise national information from the testimonies of local actors and to disseminate the study among people that will be in the medium-term counterparts for the actions arising from this study.
**Expected results / products**

a) Regional Report on land governance in urban and peri-urban areas with a special emphasis on the selected countries: diagnostic, evaluation, proposals for improvement and a preliminary plan of action.

b) Country Table with socio-demographic information, quantitative land information by tenancy category, legal and institutional information on urban and peri-urban land governance, and good practices.

c) Country Document that describes the legal and institutional framework on land governance (types of tenure, state of the cadastre(s) and register(ies), programs or instruments for the regularization of tenure), which have succeeded in practice with recommendations.

**Target audience**

This study action is aimed at supranational, regional and national authorities that face daily challenges on the subject of urban and peri-urban land; land-based policy makers; social leaders; and representatives of institutions related to the theme that support better governance of land.

**Why and how to use this report**

This report can be used as a diagnostic for governance and tenure in LAC with special emphasis on the 10 analyzed countries, as much as a descriptive document with recommendations for preliminary actions on this subject post-Habitat III. The report is divided in two parts: (1) General Evaluation and (2) Evaluation by Country.

For a diagnostic, it is recommended to read sections 1, 2 and 4 of the first part of the report, as well as the Country Tables. For information on Best Practices it is recommended to read the Country Tables. To understand the recommendations it is recommended to read sections 6 and 7 of the first part of the report.

**1.2. Why study land governance and land tenure in urban and peri-urban areas?**

We study land governance and land tenure in urban and peri-urban areas because in recent decades the perception of insecurity and the uncertain legality of land tenure and homes in Latin American and Caribbean (LAC) cities have persisted and increased.

The great majority of the urban and peri-urban population lives with insecure tenure and in areas that are poorly serviced. This is due, among others, to:

- inherent aspects of urban, land and housing policies: inexistence, lack of complementarity among policies, incoherence with respect to demand and supply of land, lack of legitimacy among diverse tenure arrangements, incapability to reconcile diverse land regimes;
- incoherence, inexistence, and lack of access to legal information on territory and lands within urban and peri-urban areas, and a culture of non-registry;
- lack of redistributive mechanisms for constructing the city (urban planning);
- socio-cultural processes that detract from land rights;
- lack of capacity in collecting and managing property taxes and other levies under municipal jurisdiction;
- scarcity of professional technical capability;
- socio-demographic challenges;
- environmental challenges;
- political will and alliances.

To live under insecure tenure, in poorly served areas, without access to services and benefits provided by the city — above all to the most vulnerable populations — or living in a space that is ‘neither urban nor rural’ obstructs the legal exercise of rights to land; undermines democratically established systems of government; reproduces poverty (to be proven); increases inequality; violates the right to housing, human rights, and complicates the realization of sustainable development objectives.

**Responsible governance (preliminary operative definition)**

Governance is understood to mean “the way in which public authorities and institutions acquire and exercise the authority to shape public policy and provide goods and services” (World Bank: 2007). In a wider sense, considering public and private, the International Federation of Surveyors (FIG) defines it as “the policies, processes and institutions through which land, property, and natural resources are managed. This includes decisions about rights, access, use, control, and management” (FIG 2009).

These definitions make reference to:

a) The definite rights to land (for groups or individuals), access, provision, and disposal;
b) The way in which public vigilance is exercised regarding the use, management and taxation of land;
c) Land that is property of the State, and the way in which such lands are governed, acquired and disposed of;
d) The nature and quality of information regarding physical and legal attributes of land that is accessible to the public, and the way in which such records can be accessed and updated;
e) The way in which land-based disputes are handled and resolved.

**Tenure**

Land tenure is the relationship, either defined in a judicial form or by customary arrangement, between individuals or among groups of people, with respect to land (for convenience, “land” as used in this report includes property as physical territory together with natural resources such as water and trees). Land tenure is an institution, that is, a set of rules invented by society to regulate the relationship between humans and land (UN Habitat 2016 and FAO 2016).

In other words, land tenure determines who can use what resources, over what period of time, and under what circumstances. Land tenure relationships can be well defined and enforceable before an official judicial tribunal, or defined according to customary agreements within a particular community. In other cases, it can be relatively poorly defined, with ambiguities that lend themselves toward abuses.
Land tenure constitutes a network of inter-related interests. Among these, the following are prominent:

a) Dominant interests: when an authority, for example, a sovereign nation or a self-organized community, has the power to allocate or redistribute land through expropriation, etc.

b) Overlapping interests: when various parties have received different rights regarding the same piece of land, for example, one party has the right to lease the land and another party has a right of way to cross it.

c) Complementary interests: when different parties have the same interest on the same parcel, for example, when members of a community share the right to use (habitation) on the same lot (Family Land, Jamaica).

d) Conflicting interests: when different parties claim the same rights on the same parcel of land, for example, when two parties independently claim the right of exclusive use on a lot. Conflicts over land tenure are a consequence of the existence of opposing claims (FAO: 2016, UN-HABITAT: 2014).

**Types of Tenure**

Land tenure is commonly divided into the following categories:

a) Private: rights are assigned to a private party that could be an individual, a couple, a group of people or a legal entity, such as commercial or non-profit enterprise. For example, within a community individual families can have exclusive rights to residential parcels, agricultural lots, and a selection of trees. Other members of the community remain excluded from the use of these resources without the consent of those who maintain those rights.

b) Communal: a collective right can exist within a community, in which each member has the right to independently use the properties of the community. For example, members of a family and their descendants share the same rights over one lot (e.g. Ejidos, Mexico).

c) Free access: no rights are assigned specifically to anybody, nor can they exclude anyone. In this context, national assets for public use are typically included, such as rights-of-way, parks, forests, mountains, and so on.

d) State: property rights are assigned to a public sector authority. For example, in some countries urban parks, natural reserves, forest lands and others can be maintained under a state mandate, held either by the central authority or a decentralized body (FAO: 2016).

Tenure can be legal, illegal, formal or informal, and is generally found in combinations:

- legal formal tenure: for example, formal ownership;
- legal informal tenure: for example, an informal lease;
- illegal formal tenure: for example, the illegal occupation of a private lot through a formal purchase arrangement from a false landlord;
- illegal informal tenure: for example, the illegal occupation of a private lot through an informal purchase arrangement from a false landlord.
It is estimated that 70% of the regional population lives in insecure tenure situations, which is crystallized as a tendency under diverse jurisdictional circumstances\(^3\).

There is a gap between 'where we are' and 'where we should be going' with reference to the international accords on these subjects (Right to Housing, Habitat II Agenda, MDG’s, Rio+20 Declaration, Preliminary Habitat III Agenda, SDO, Human Rights).

**Box Nº1: Concepts and scope of evaluation**

For this study, aspects of governance of urban and peri-urban land that impact tenure are being analyzed. Other aspects of land governance with effects and impacts on other areas are not analyzed.

For the purpose of this investigation, the following are key concepts:

**Land:** A definable area of the terrestrial surface of Earth, which covers all of the biospheric attributes above and below this surface, including those of climate around the surface of the soil, superficial hydrology (including shallow lakes, rivers, and wetlands), sedimentary layers near the surface, an associated reserve of subterranean waters, populations of plants and animals, the structures of human settlement, and the physical results of past and present human efforts (terracing structures, waterworks and drainage, roadways, buildings, etc.) (FAO 1994). Note: This report refers to the natural, socio-economic, and cultural assets for which rights and duties are defined.

**Property:** Property within this report refers specifically to land that has been altered for use and construction, regardless of the legal status of such land.

**Use of Land:** All of the arrangements, activities, and uses that people undertake on a given piece of land. The use of property refers to the products and benefits obtained from the use of land, through the actions of managing land to produce these products and benefits (FAO Guide).

**Rights to Land:** Also as land rights, this refers to the social conventions that regulate the distribution of benefits that are derived from the specific use of a piece of land. A series of arguments supports the public provision and regulation of such rights (Deininger: 2003).

**Social Function of Property:** A judicial concept that limits the absolute and exclusive character of the right to property, under liberal individualism, and subjects it to the common good. The constitutions of some of the countries under study contain wording that can be identified with this function.

Note: Elaborated by the Author.

1.3. LAC and sub-regions

This section takes account of some characteristics and tendencies across the region and sub region, with respect to governance and tenure security in urban and peri-urban areas. This includes: new manifestations of urban development; the global and informal economic systems; inequitable forms of constructing the city; unsustainable use of natural resources; lack of transparency within the systems of governance with insufficient local financing; threats to the safety of citizens; and the deficit in urban planning in the Caribbean, which are among the greatest urban challenges for the coming decades.

**Latin America and the Caribbean**

**Consolidated Urbanization**

We live in a highly urbanized region, with 82% of the population living in cities. We surpassed 306 million urban residents in 1990 and 464 million residents in 2010 (increasing from 480 to 580 million total residents over the same period)\(^4\).

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\(^3\) Clarissa Augustinus en Diálogo Urbano, Documento Tierra, Julio 2015, Nairobi.

\(^4\) Statistical database Cepalstat, 2015.
<table>
<thead>
<tr>
<th>Year</th>
<th>1990</th>
<th>2010</th>
<th>2030</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Urban Population</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cono Sur</td>
<td>44.218.054</td>
<td>58.881.570</td>
<td>70.950.613</td>
</tr>
<tr>
<td>Andean Arc</td>
<td>63.947.629</td>
<td>99.512.058</td>
<td>133.229.980</td>
</tr>
<tr>
<td>Central America</td>
<td>13.405.010</td>
<td>24.227.948</td>
<td>38.325.169</td>
</tr>
<tr>
<td>México</td>
<td>61.475.379</td>
<td>91.745.303</td>
<td>119.016.210</td>
</tr>
<tr>
<td>Brazil</td>
<td>110.622.982</td>
<td>164.631.360</td>
<td>197.460.860</td>
</tr>
<tr>
<td><strong>Total Population</strong></td>
<td><strong>301.169.133</strong></td>
<td><strong>453.339.156</strong></td>
<td><strong>580.463.309</strong></td>
</tr>
<tr>
<td><strong>Total Households</strong></td>
<td><strong>70.098.000</strong></td>
<td><strong>119.210.052</strong></td>
<td><strong>181.125.077</strong></td>
</tr>
<tr>
<td><strong>Average Household Size</strong></td>
<td><strong>4.3</strong></td>
<td><strong>3.8</strong></td>
<td><strong>3.2</strong></td>
</tr>
</tbody>
</table>

Source: Author’s elaboration based on Cepalstat 2015

Richer but more unequal cities

In comparison to 20 years ago, the majority of LAC cities are less poor, but more unequal and more violent: they are among the most unequal and violent areas of the planet. This persists despite the fact that income inequality has also tended to improve recently in diverse cities across the region (UN-Habitat 2012).

Since the 1990’s, the number of cities that have between 300,000 and 500,000 residents has doubled; the same is true for cities of between 1 and 5 million residents. This calls for a category of emerging cities with anywhere from 100,000 to 2 million residents that have rates of population and economic growth higher than the national average.
Insecure, illegal, and informal tenure

Another urban characteristic in the region is the informal, illegal, and out-of-date condition of tenure of land and housing, and the undervaluation of the negative impacts that this entails. Close to 70% of urban households are in a situation of outdated, informal or illegal tenure, creating a huge challenge in terms of:

- forced eviction;
- maintenance or reproduction of family wealth through housing and land for subsequent generations\(^5\);
- use of land as collateral for loans;
- territorial investment;
- locating productive economic activities on the land.

What will current owners have to hand down to their children if current tenure is unclear, and under what conditions? What will happen with the significant populations living within informal settlements, after illegal or informal occupation, in response to pressures from the real estate market and the property rights of legally legitimate landowners? What and how much will cities lose in terms of creation of productive activities, from the lack of clarity in tenure in urban and peri-urban areas? These are questions that, so far, have been little addressed.

Furthermore, the socio-demographic and environmental changes present new challenges in tenure and governance of urban and peri-urban land.

Non-redistributive cities: the persistence of extra-legal urbanization, housing deficits, physical legal and social deterioration in social housing stock, polarization of urban standards, urban expansion ‘without the city,’ and underutilization of lots and property in good locations.

Tenure insecurity is reproduced and persists under methods of constructing the city that are not redistributive. The huge housing deficit is the result of housing and land policies that have not been able to respond to the demand in volume or in diversity. Moreover, programs to regularize tenure, large as they may be, have been unable to cover the tenure deficit.

The on-going qualitative and quantitative deficit in housing affects some 39% of urban households (approximately 50 million households)\(^6\), and with that the persistence of informal settlements which contain more than 110 million residents accounting for 25% of urban households across the region\(^7\). While the proportion living in informal settlements has decreased in relative terms since the 1990’s, the figure has increased in absolute terms, with important regional differences: in Jamaica, 60% of the urban population lives in informal settlements, versus Chile where the rate is less than 1%\(^8\).

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\(^6\) Boullion, 2012.
\(^7\) ONU-HABITAT, 2012.
\(^8\) Base de datos Observatorio Urbano Global, ONU-Habitat, 2015.

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<table>
<thead>
<tr>
<th>Country</th>
<th>National</th>
<th>Urban</th>
<th>Rural</th>
</tr>
</thead>
<tbody>
<tr>
<td>Argentina</td>
<td>n.d.</td>
<td>32</td>
<td>n.d.</td>
</tr>
<tr>
<td>Bolivia (E.P.de)</td>
<td>75</td>
<td>64</td>
<td>93</td>
</tr>
<tr>
<td>Brazil</td>
<td>33</td>
<td>32</td>
<td>44</td>
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<td>Chile</td>
<td>23</td>
<td>19</td>
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<td>Colombia</td>
<td>37</td>
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<td>Costa Rica</td>
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<td>Ecuador</td>
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<td>El Salvador</td>
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<td>Guatemala</td>
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<td>Honduras</td>
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<td>México</td>
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<td>Nicaragua</td>
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<td>Peru</td>
<td>72</td>
<td>60</td>
<td>98</td>
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<tr>
<td>Dominican Republic</td>
<td>41</td>
<td>35</td>
<td>56</td>
</tr>
<tr>
<td>Uruguay</td>
<td>n.d.</td>
<td>26</td>
<td>n.d.</td>
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<tr>
<td>Venezuela (R.B. De)</td>
<td>n.d.</td>
<td>29</td>
<td>n.d.</td>
</tr>
<tr>
<td><strong>Average</strong></td>
<td><strong>45</strong></td>
<td><strong>39</strong></td>
<td><strong>66</strong></td>
</tr>
</tbody>
</table>

*Source: Boullion ed. 2012*
The low public investment in housing, infrastructure, equipment and services is a constant that, among many consequences, strongly affects the existing social housing stock. Especially within social housing condominiums, there is a concentration of degradation along physical and social axes over time, which is highly reflective of the lack of governance and administration over common property. The percentage of social housing condominiums that have devised and implemented co-ownership regulations is extremely low in Latin America and the Caribbean, which lays the foundation for physical and social degradation in our homes and neighbourhoods.

Another distinctive feature of our cities can be described as a polarization of urban standards (PEU), with exceptionally well-equipped areas while other areas in the same city are poorly served. The polarization of urban standards accentuates disadvantages based on location and perpetuates socio-residential segregation. Cities that are on the whole equitably served permit a greater Right to the City and more dignified habitat in the city environs.

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The non-redistributive construction of the city is also expressed in urban expansions ‘without the city.’ Cities in the region are expanding on average three times faster than their population\textsuperscript{10}, this is due to multiple causes: gentrification, housing policies that drive peripheral growth, lack of control over speculative practices around the city, development of gated communities, and so on. In this context, the strategic occupation of urban centres and surrounding districts is becoming a survival strategy among the poorly resourced and most vulnerable segments of the population. Intra-urban migration is concentrated in districts adjacent to the urban centre.

Proof of this is the increase in families sharing a household (often relatives who share a single house or lot) within the peri-centric ring, in addition to millions who abandon the poorly served urban periphery in order to, in many cases, live in worse tenure and housing conditions that are nonetheless better located. This has taken place notably in Mexico City DF over the past decade\textsuperscript{11}.

**New ‘faces’ of Urbanism**

In socio-demographic terms, the most relevant is the appearance of new “faces” of urbanism, which shows a combination of processes of demographic transition and fragmentation of urban households. With respect to the past 20 years, the following can be observed:

- a stable presence of “ninis” (youth between 15 and 29 years of age, who are not along a steady axis of education and jobs) who amount to 30 million people across the region or 22% of the total. Among these, 70% are women in domestic work and home care\textsuperscript{12};
- increase in youth population, especially those in extreme poverty without linkages to social protection systems.

- Increase in the number of single-person households (representing 23% of households in 1990 and 33% of households in 2010)\textsuperscript{13}.

\textsuperscript{10} Angel, 2013.
\textsuperscript{11} ONU-HABITAT, 2012 y Arriagada, 2015.
\textsuperscript{12} CEPAL a, 2014.
\textsuperscript{13} According to Cepalstat statistics, 2015.
- Increase in senior citizens (representing 4.8% of the urban population in 1990 and 7% in 2010) in which both segments, seniors and female-headed households, are less connected to systems of social protection than in the 1990’s\(^\text{14}\).

\[\text{Seniors: Population and proportion, 1990-2010}\]

- Increase in regional migration, with scarce access to housing, work and social protections in the majority of arrival countries. Estimates place 7.6 million people living principally in the Dominican Republic, Argentina, Venezuela and Costa Rica\(^\text{15}\).

- The populations of indigenous and African-descended people in urban areas: close to 25 million indigenous and 60 million African people live in urban areas, who categorically face income inequality, less access to education, and greater risk of forced eviction and overcrowding\(^\text{16}\).

\(^{14}\) Only 20% of seniors receive a pension, that is, 6 million of 30 million current residents; the figure will double to 12 of 60 million by 2030 under current projections (Cepalstat 2015 and OIT: 2015).

\(^{15}\) Cepal a and b, 2015.

\(^{16}\) ONU-Habitat, 2012 and according to Cepalstat, 2015.
Reconfiguration of households: the poorest are largest, but all tend to fragment.

- Increase in extended family households among the lowest income quintile, and in single-person households in the highest

<table>
<thead>
<tr>
<th>Households by type, 2010</th>
<th>Q1</th>
<th>Q2</th>
<th>Q3</th>
<th>Q4</th>
<th>Q5</th>
<th>Mean</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-person</td>
<td>4.6</td>
<td>7.4</td>
<td>11.9</td>
<td>12.4</td>
<td>20.5</td>
<td>11.36</td>
</tr>
<tr>
<td>Two adults with children (Nuclear family)</td>
<td>40.6</td>
<td>32</td>
<td>33.6</td>
<td>35.5</td>
<td>34.2</td>
<td>35.18</td>
</tr>
<tr>
<td>Two adults, no children</td>
<td>4.4</td>
<td>8.9</td>
<td>11.2</td>
<td>13.1</td>
<td>16.6</td>
<td>10.84</td>
</tr>
<tr>
<td>Single-parent</td>
<td>21.7</td>
<td>15.1</td>
<td>13.6</td>
<td>13.3</td>
<td>11.3</td>
<td>15</td>
</tr>
<tr>
<td>Extended Family</td>
<td>34.7</td>
<td>36.7</td>
<td>29.7</td>
<td>25.7</td>
<td>17.3</td>
<td>26.82</td>
</tr>
</tbody>
</table>

The fragmentation of households is another socio-demographic fact that affects how public resources must be managed to serve the same population. Said in another way, the social cost per person is increasing due to this fragmentation, which is expressed by an average household size of 4.3 people in 1990, 3.8 in 2010 and 3.2 by 2030. Similarly, household numbers are increasing: 70 million in 1990, 119 million in 2010, and 181 million by 2030. This implies more diversity of tenure, more transfers of rights, and more costs to manage urban and peri-urban land.

With certain differences within the region, demographic transition (toward lower birth and higher death rates) is already an established process, especially as expressed by a lower dependency ratio (down from 0.7 to 0.5 between 1990 and 2010) and by an estimated increase in the elderly population from 30 million in 1990 to 62 million in 2030 in urban areas. In the most urbanized countries in the region, the demographic transition has moved into a cycle of population decline.

<table>
<thead>
<tr>
<th>Table: Demographic composition by 1990-2010-2030</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total populatoin and % of totals, LAC</td>
</tr>
<tr>
<td>Pop. 0 - 14 years</td>
</tr>
<tr>
<td>Pop.15 - 64 years</td>
</tr>
<tr>
<td>Pop. + 64 years</td>
</tr>
</tbody>
</table>

What impacts on urban and peri-urban land government will these socio-demographic changes have, in figures?

There will be new vulnerable groups to whom the State will have a renewed duty to guarantee secure tenure and well-served places to live; especially among the youth, who uphold the family economy and a part of the urban economy.

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17 Cepal-Unicef, 2014.
18 Cepal-Unicef, 2014.
19 According to Cepalstat data, 2015.
In figures: 62% of the population of the region are between 15 and 64 years of age, if we consider that a third of them form an independent household, that would mean that about 120 million live in the city under any type of tenure. If we consider that 25% of the population is poor, it is easy to deduce that 30 million households in the region are formed by poor young people most likely to need to urgently regularize their tenure situation.

A similar exercise can be done with women heads of household and older adults. We know that of all urban households, 33% consist of women heads of households (about 39 million households); we also know that 50% of female household heads work in the informal market. It is highly likely that half the heads of households in the region, ie about 20 million urgently require regularize their tenure. In the case of the elderly, the situation is even more critical. We know that only one sixth of them receive a pension for work (about 5 million); it is highly likely that the rest is in an informal / illegal tenure situation that also puts pressures on the property inheritance of their children.

**On the Economy: Wealth is generated in the cities, but is unequal and informal**

A large part of regional wealth has been generated in cities, specifically Sao Paulo, Rio de Janeiro, Buenos Aires and Mexico City DF generate almost 50% of the regional GDP (UN-Habitat 2012, CEPAL 2014). At the same time, economies are unequal (as seen in the Gini Coefficient according to income) and the labour market is precarious. As example of this last point: 50% of women region-wide work in the informal sector; at parity of education and experience women receive 30% lower salaries than equivalent men; the rate of inscription within social protection systems is also lower, with extreme situations such as in Paraguay in which 75% of working women are not affiliated to the system of public protections.

The effects on land and tenure are to a certain extent the unequal reproduction of land rents and the increase in insecure tenureship, due to the informal environment in which rights are transferred.

**Environmental questions with effects on governance and tenure**

The propensity of natural disasters caused by climate change poses great challenges to the task of regularizing tenure and land governance. On one hand it increases the number of households affected by disasters (about 192,000 annually according to UNISDR, International Disaster Reduction Strategy of the United Nations); the other hand it adds pressure on land registers and records, with the necessary modifications to post-disaster.

The unsustainable use of land as a resource has effects on the quality and usability of land, with serious effects on the commercial value and sustainability of usable attributes.

Within this panorama, not everything is negative. It is important to recognize that public management of land and housing has certain important successes:

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- Production of urban land and provision of well located land through redistributive mechanisms of urban incomes (21) (Brazil, Colombia)
- De-couple the right to use from the right of construction (Brazil and Ecuador in process);
- Improving access to land and housing for vulnerable groups (Brazil, Mexico, Ecuador, Colombia);
- Overall improvement of slums and social housing (in the latter ‘the State returns to the land for the second time’; compensating for losses due to their own omissions (Mexico, Brazil, Colombia);
- Expansion of social housing provision based on the ABC model (savings, credit and bond) with deficiencies in location (Peru, Colombia, Mexico, Brazil);
- Soil Policy Project (Ecuador, Dominican Republic, Mexico);
- Land redistribution policy that has been recently approved (Argentina, Buenos Aires).

Sub-regions

It would be inconsistent and somewhat impertinent to do a comparative analysis of the government of urban and peri-urban land transversely, for example putting Jamaica and Brazil in the same position for evaluation. Instead, analyzing sub-regions that demonstrate common culture and history of land governance, as well as opportunities provided by sub-national agencies, allows pause for consideration.

The geographic clusters with common cultural and historical areas are:

a) Cono Sur or Southern Cone: Paraguay, Uruguay, Argentina and Chile (2010 Total Pop. 67.3 million, 11.6% of regional total).
b) Equatorial-Andean Arc: Peru, Bolivia, Ecuador, Colombia, Venezuela, Guyana (2010 Total Pop: 13 million, 2.2% of regional total).
c) Central America: Panama, Guatemala, Honduras, Nicaragua, Costa Rica, El Salvador and Belize (2010 Total Pop. 49 million, 8.4% of regional total).
d) Caribbean: Cuba, Jamaica, Dominican Republic, Haiti, Antigua and Barbuda, Trinidad and Tobago, and small islands (2010 Total Pop. 41 million, 7% of regional total).
e) Brazil (2010 Total Pop: 195 million, 33.6% of regional total).
f) Mexico (2010 Total Pop: 120 million, 20.7% of regional total), (UN-Habitat and CAF: 2014).

The fastest growing regional conglomeration over the period 1990-2010 was the Andean Arc, passing from 93 to 130 million, a 41% increase.

The rest of the conglomerations grew on average 30% over the 1990-2010 period, with the exception of the Southern Cone, which grew by only 25%.

For the 2010-2030 period, growth is projected to slow for most clusters to a rate lower than 25%, especially the Southern Cone which will grow by only 13%; the Andean Arc however will continue its rapid growth at a lower rate of 35%, as the area that will continue to grow over the next 20 years (Data prepared from Cepalstat: 2015).

21 Bonomo et.al, 2015; Siclari, 2012; Siclari, 2013.
On average in the region there are more people aged 15 to 64 years (62%), children younger than 14 years (32%) and than senior citizens at just 32 million (6%).

### GDP

In the region, GDP per capita increased from US $ 3,817 to US $6,012 between 1990 and 2010 (a 58% increase).

- Brazil increased from US $ 4,001 to US $ 5,069 in the same period (26%).
- Mexico from US $ 6,525 to US $ 8,626 (33%).
- The Cono Sur from US $ 3,380 to US $ 6,949 (103%).
- The Arco Andino US $ 2,363 to US $ 3,548 (51%).
- Central America US $ 2,070 to US $ 3,792 (80%).
- Caribbean US $ 4,563 to US $ 7,193 (64%) (World Bank 2015, Database Web).

The Cono Sur or Southern Cone achieved the greatest increase in GDP per capita over the period from 1990-2010 (103%), followed by Central America (80%) and the Caribbean (64%).

The countries where per capita GDP was growing fastest in the same period are: Costa Rica, Panama, Dominican Rep, and Chile.

In the Andean Arc, while per capita GDP increases it has not risen as fast as the growth in population.

The greatest disparities are hidden in the Caribbean, where Antigua and Barbuda, Trinidad and Tobago have a GDP per capita of more than US $ 11,000 in 2010 versus Haiti which has just US $ 497 per capita (in 2005 dollars). A similar situation is evident in Central America where Panama has a GDP per capita of US $ 8,087, which is three times greater than the average across the sub-region.

#### Urban poverty

Today in the region there are 118 million poor people living in urban areas, 17% less than in 1990, when there were 128 million. The figure will increase to 147 million by 2030 if the current growth rate continues.

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22 At purchasing power parity in 2005 dollars: http://data.worldbank.org/indicator/NY.GDP.PCAP.KD.
Brazil in 1990 had 45 million poor urban residents, constituting fully 41% of the urban population in 1990; in 2010 it had just 36 million, or 25% of the total urban pop in 2010, and probably will increase again to 42 million or 26% of the urban pop. in 2030.

Mexico had 9 million poor urban residents in 1990 (17% of the urban pop.), 24 million in 2010 (27% of urban population), and this will increase to 30 million in 2030 (remaining constant at 27% of the urban population).

The Caribbean had 6 million urban poor in 2010 (21% pop. Urban) and will feature 7, 4 million in 2030.

Central America: 7.6 million urban poor in 1990 (48.2%) of the urban population, the figure was 11 million in 2010 (38%) and will be 18 million in 2030.

The Southern Cone passes of 11 million poor people in 1990 (25% of urban pop.) To 12 million in 2010 (20%); will reach 14 million in 2030 (20% of the pop. Urban for that year).

The Andean Arc Equatorial goes from 32 million urban poor in 1990 (50% of the urban population in that year) to 33 million in 2010 (32% of the pop. Urban) and 43 million by 2030.

Urban poverty increased in absolute terms but decreased in relative terms in Central America (+3.4 million, -10.2%), Southern Cone (+ 1 million, -5%), and the Andean Arc (+ 1 million , -18%).

In Central America and the Andean Arc urban poverty has a high participation among the urban population: 38% and 32%, more than in the other clusters reaching an average of 25%.

In 2010 in the region, the urban poor represent 17% less than it was in 1990, Brazil and the Andean Arc (to a lesser extent) have followed this trend.

Mexico is the most worrying for the absolute and relative increase in urban poverty in the period 1990-2010, 15% case. 10 million people.

**Inequality**

The Gini Coefficient for income equality improved by a decrease of 0.03 percentage points between 1990 and 2010 across the region. It is, however, a high coefficient compared to that observed for countries with similar per capita GDP in other regions. Where inequality of income distribution improved most is in Brazil, decreasing by -0.7 points, followed by the Andean Arc at -0.07. In other clusters is decreased on average by -0.02 points, comparable to the region. In Mexico during it decreased by -0.02, Central America by -0.04, and in the Southern Cone decreased by -0.01. No data was available from the same source for the Caribbean in 1990, meaning comparisons over time were not possible.

Brazil has the greatest growth with equity and poverty reduction, followed by the Andean Arc. In the Southern Cone and Central America overall growth has been remarkable, but there have been lower reductions in poverty and inequality.
Table: Variations in GDP per capita, urban poverty as % of total population, and Gini Coefficient over the period 1990-2010

<table>
<thead>
<tr>
<th>Conglomeration</th>
<th>LAC</th>
<th>Brasil</th>
<th>México</th>
<th>Cono Sur</th>
<th>Andean Equatorial Arc</th>
<th>Central America</th>
<th>The Caribbean</th>
</tr>
</thead>
<tbody>
<tr>
<td>Change in GDP per capita</td>
<td>+58%</td>
<td>+26%</td>
<td>+33%</td>
<td>+103%</td>
<td>+51%</td>
<td>+80%</td>
<td>+64%</td>
</tr>
<tr>
<td>Change in urban poverty as a % of total population</td>
<td>-17%</td>
<td>-26%</td>
<td>+10%</td>
<td>-5%</td>
<td>-18%</td>
<td>-10%</td>
<td>n.d</td>
</tr>
<tr>
<td>Change in the Gini Coefficient</td>
<td>-0,03</td>
<td>-0,7</td>
<td>-0,02</td>
<td>-0,01</td>
<td>-0,07</td>
<td>-0,04</td>
<td>n.d</td>
</tr>
</tbody>
</table>

Source: Author's elaboration using Cepalstat and World Bank database information 2015.

**Social exclusion**

The rate of participation in presidential elections is lower for young people with respect to the total population: 52.8% vs. 73.4% overall (Web Latinobarometro 2015). The exclusion is also seen in the increasing segregation in some cities in the period 2000-2010 (UN-CAF: 2014).

**Insecurity and urban violence**

Both the perception of insecurity and youth violence are increasing in urban areas, with diversification and specialization of violence (Cepal: UNDP 2014: 2013).

The regional average is 21 homicides per hundred thousand inhabitants, 4 more than in 1990 for the same population, and 13 more than Europe. The figure is considered a pandemic by the WHO.

Mexico is where the homicide rate increased the most over the period 1990-2010, by 50%; the same happened the Caribbean. For example, in Jamaica, the worst rate of violence was in 2009, with 60 murders per 100,000 inhabitants. In 2010, the rate fell to 52, and global statistics collected by the United Nations indicate that it is only surpassed by El Salvador (86) and Honduras (82.1), (UNDP: 2013).

**1.4. Sub-regional, regional and international institutions with an impact on improving the governance of urban and peri-urban land**

**International**

Inter-American Development Bank (cadastre improvement projects) and World Bank (LGAF).

National Cadastre of Spain, CEDETT Foundation and the Spanish Agency for International Cooperation; courses and network.

GLTN partners (FIG, Kadaster, etc.); courses and network.
Regional

The Organization of American States, through its courses: Use of GIS Technology in Cadastre and Introduction to Cadastral Management

The Standing Committee on Cadastre in Latin America and its partner institutions: http://www.catastrolatino.org/noticias.asp

National

National Cadastre Offices.
Ministries of Urbanism, Housing, and Land Use Planning.
Federal, regional and provincial governments.
Municipal associations and municipalities.
Associations of Notaries and Property Registrars.

| Tabla. Indicadores de inequidad, exclusión social, violencia urbana 1990-2010-2030 nivel regional y sub-regiones |
|--------------------------------------------------|--------------------------------------------------|--------------------------------------------------|--------------------------------------------------|--------------------------------------------------|--------------------------------------------------|--------------------------------------------------|--------------------------------------------------|
| LAC | Brazil | Mexico | Haiti | Central America | Cuba | South America | Andean |
| Población total en millones | | | | | | | |
| Pobreza urbana y como % | | | | | | | |
| Desiguald | | | | | | | |
| 2030 | | | | | | | |

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2. Diagnostic of tenure and governance of urban and peri-urban land in LAC

2.1. The given problem: insecure tenure, social housing at the periphery, scarce urban land, poor local governments

When speaking of problems in land governance, what is commonly noted is the presence of informal settlements and the peripherization of social housing, and this is due, so it is said, to the scarcity of land and to local governments that lack resources to buy well-located and well-served urban land.

Observing the figures, currently the population living under insecure tenure (de facto and or perceived) has increased over recent decades. This is expressed in: i) the persistent presence of informal settlements in light of the important decrease in poverty levels (CAF and UN-Habitat 2014); and the increase in population in ‘other forms of tenancy’ with respect to twenty years ago, ‘other forms of tenancy’ which quite probably refers to insecure tenure (Cepalstat 2015).

Nothing speaks to the lack of redistributive instruments in urban income, in the multiple types of it (normative, urban planning, and taxation), nor the scarcity of urbanized land, the low housing supply, or the poverty of local governments which are, in part, the consequence of this lack.

There are very few countries that use redistributive instruments in the reconstruction of the city across the LAC region, one might dare to mention Brazil and Colombia, though there are certain places leading the pack: Rosario in Argentina, with the prohibition of gated communities in the periphery, which certainly avoids the suburbanization of the peri-center and expulsion of rural populations. A number of countries in the region are on the verge of passing laws on urban land: the Dominican Republic, Mexico, and Ecuador. In all of these, the presence of redistributive income instruments is strong.

Moreover, there are innovative instruments of a compensatory nature, such as the ‘headbands’ or Cintillos in the Dominican Republic, which are certificates that give evidence of full ownership of buildings (usually houses) on insecure land. This permits the use, enjoyment, and usufruct of real estate assets that in other circumstances due to a deficiency in the cadastre and registries would be legally blocked.

In general, the effect of poor land governance is not a priority area for public discussion, except in international development spheres.

2.2 Partial answers

The responses and solutions have addressed certain areas, but not the root of the problem. The following have been implemented:

- massive programs of titling and regularization to alleviate the problem of illegal and informal occupations and the irregularity of construction. This is certainly a relief measure, completed ex-post, with uncertain and poorly understood outcomes (Smolka: 2014, Durand-Leserve and Payne: 2013). In diverse cases the land title has been used as a clientelist, political approach to capture votes from direct beneficiaries (Peru and Honduras);
- programs for the improvement of cadastres and registries with the support of supranational financial institutions (improvement of the Bogota cadastre, production of geo-referenced information at the national level in Jamaica, improvements to the national cadastre in the Dominican Republic, improvement of the urban cadastre of Peru, and so on);
- programs for the regeneration of neighbourhoods, which in a shared operation between the state and private entities compensate for the loss of income from the abandonment of such neighbourhoods;
- implementation of some emerging redistributive instruments such as taxes on the change from rural to urban use; obligatory construction on under-utilized lots; compensation by appraisal, etc.
- with an eye on improving municipal finances derived from land, interventions have been scarce except in a few municipalities in the region: Bogota, Medellin, Sao Paulo, Rio de Janeiro.

2.2. The re-interpreted problem: insecure tenure, lack of land and housing for poor people in well served areas is a consequence (not a cause) of a non-redistributive construction of the city.

The basis of the hypothesis is that under a form of just city construction (redistributive, inclusive and sustainable) problems of tenure, socio-segregation, nor scarcity of municipal resources would not have to exist. Additional causes must be added to the central cause of non-redistributive construction, such as conceiving of land simultaneously from diverse perspectives and from there creating systems of governance; also those causes rooted in socio-cultural, socio-demographic, information management, housing and land policies, urban planning, environmental planning, capacity, technical and human resources, and above all, political will considerations.

To understand why we face problems of governance and tenure in urban and peri-urban land and what problems we face, it is necessary to conceive of land from four points of view, such as:

- natural resource;
- economic asset;
- cultural asset;
- object of management and administration.

a) Land as a natural resource
Land, per se, is finite in its ecological properties that affect environmental services by those that are competing with diverse activities. Instead of making sustainable use of the resource, urban and peri-urban land has been subject to deforestation, urbanization of fertile lands, contamination of water, air and soils, hardscaping, alteration of natural water courses, all of which facilitate climate change with important effects on cities. A higher sea level affects coastal areas, a greater propensity for natural disaster affects inhabited risk areas.

b) Land as an economic asset
The price of land depends significantly on the attributes over which people are willing to compete. Under the social function of land, positive or negative land attributes should be equitably distributed among those that generate and those that suffer (in the case of negative attributes), and among those that generate and those that benefit (in the case of positive attributes). This question is rarely asked due to
the inexistence of mechanisms to redistribute social consequences among private entities and the state, nor often within the state itself.\footnote{\textsuperscript{24} It happens in practice that many of the positive attributes are generated by the state and internalized by private. Clear expression of this are the gains from public investment in urban infrastructure and services, which are predominantly benefit the formal and informal real estate developers through the profitability of their projects. Conversely, many negative attributes are generated by private and internalized by the State, such as overexploitation, destruction of roads and pollution of pericentros by agro-industrial activities, which ends up taking over the local government. Cases generating negative externalities by the state, suffering from private, for example, the allocation for unreported or under-informed expropriations, not negotiated, free fair compensatory measures for those affected (expropriations, statements are also given heritage, etc.).
}

c) \textit{Land as a cultural asset}
That land is a cultural asset, that is a space conceived and used by diverse groups in different ways at the same time, implies that these diverse uses should be recognized and legitimated, while avoiding oppositions and establishing an order of priority. By contrast, the land regimes in many cases are superimposed, creating conflicts of use that can be aggravated by a lack or incoherence in legal and physical information on the land, and a lack of legitimate institutions that are responsible for the definition, management, and resolution of conflicting land claims including those conflicts which stem from these institutions.

d) \textit{Land as an object of administration}
The systems of registry have not been capable of documenting physical and legal changes to urban and peri-urban land at the rate and variety in which they occur. In practice it happens that both physical and legal modifications are not registered in time (on formal land) or occur in a context of informality (which hardly culminate in formal registry). Added to this is an emergence of a series of \textit{de facto} documents, which are socially accepted, that support new modes of tenure that are not legitimate in the formal space.

\subsection*{2.3. Other background for evaluation}

To prove that the redistributive instruments of city construction guarantee more secure tenure, better access to land (and housing) that is well served for poor people, and better economic resources at the local level is not simple. However, the following sections take account of what theory indicates about \textit{responsible governance} as well as what is indicated by international accords, that support this approach. As such, a brief description of the results on these subjects is included, in cities which have implemented redistributive instruments for urbanization under the focus of the social function of land and property, with respect to the Right to Housing and Human Rights.

\subsubsection*{2.3.1. Brazil and Colombia: construction of the just city with redistributive instruments.}

\textbf{Brazil: Improvement of informal settlements, Control of Speculation and Inclusive Real Estate Development}

The Statute of Cities that includes the social function of property, which regulates the Urban Political section of the Constitution, was formalized in 2005 in a National Housing Policy. This policy adheres to a broader strategy of the government to promote, simultaneously, economic growth and the fight against social and economic inequalities.
The National Housing Policy is operationalized through the Ministry and Council of Cities, created the same year that the Policy was adopted, together with a Fund and a National System of Social Housing (FNHIS and SNH)\(^{25}\) and a Fund Management Council. (The institutional apparatus also includes a National System of Market Housing (SNHM) directed to families with higher incomes that can be served by the free market).

The Social Interest System and Fund are reinforced with the elaboration of the National Housing Plan (Planhab 2008), to assess and respond to the deficit in housing as calibrated according to the demand by segment of the population. This was previously operated through the Program My House My Life (PMCMV) to increase the supply of affordable housing, and through the Program to Accelerate Growth - Urbanization of Informal Settlements (PAC-UAP) or ‘PAC-favelas’ to urbanize slums (a line of action of the broader Program to Accelerate Growth PAC).

The National Housing Policy considers three areas in which it intervenes with instruments for land governance:

a) **Regularization of informal settlements**: with Zones of Special Social Interest that are empty or full; Special Concessions for Use for Purposes of Housing (known in Brazil as ‘posse’) and accession of use rights over time.

b) **Control of speculation**: obligatory construction, expropriation, and progressive taxes for underutilization of land (IPTU).

c) **Inclusive real estate development**: urban operations (Operação Urbana Consorciadas, OUCs) and Certificates for Additional Construction Potential (CEPACs)\(^{26}\) constitute a method to benefit from private funds to finance public investment to revitalize neighbourhoods through a process of re-zoning and increases in construction rights. Also included in this are Solidarity Quotas, under the most recent Strategic Directive Plan of the Municipality of Sao Paulo, with the concrete intention of controlling gentrification processes and to guarantee the development of social housing in well-located areas. Along the same lines is the current work by the agency that is regenerating the port area of Rio de Janeiro *Porto Maravilha* (Prefecture of Sao Paulo: 2014 and *Porto Maravilha* online: http://www.portomaravilha.com.br/)

As Smolka and the Sao Paulo municipal officials themselves point out, entries into auctions for increases in construction permits (CEPACs) since the inception of the program, have risen to a total of US$ XXX; creating resources available for the financing of XXX (Smolka: 2013, Daniel Montandon, interview, 7.07.2016).

\(^{25}\) The SNHIS approved in 2005 had been submitted to Congress with the support of more than 1 million signatures in 1991.

\(^{26}\) The CEPAC are defined/applied on a specific area offering three types of benefits to owners: i) more building rights; ii) changes of use, and iii) increased occupancy rates (Sandroni, 2013). Rezoning and sale of CEPAC allow cities to raise funds for initial construction costs, long-term maintenance and other priorities, such as the preservation of historical and cultural heritage. These revenues are captured in a separate fund from the general treasury and are dedicated to urban neighborhood or area of operation. By specific regulation, you can condition the use or create incentives through the CEPAC development of neighborhoods housing and mixed uses. (There is that if you highlight the gentrifying character of this intervention model).
In 1997 the Congress approved Law N° 388, built on the basis of the Law of Urban Reform N° 9 of 1989. This is a softer version, which does not permit the extinction of land tenure in cases where well-served urban lots are under-utilized, which the Law N°9 did allow. However, it defines instruments for urban and fiscal planning for different territories, which guarantee the social function of property, in which general interests prevail over individual interests, as well as the just construction of the city.

The law incorporates a series of instruments through which the State can compensate owners for what they must do as a result of the regulatory and normative changes on land, and vice-versa — it includes instruments through which the state can recover value from beneficiaries of the new regulations.

To regularize informal settlements, the Law includes process of urbanization with land adjustments between private owners and informal occupants. Speculation can be controlled with expropriation without compensation and public auction. Inclusion is achieved through the development of land banks for social housing; obligatory quotas of social housing, definition of priority areas, taxes on capital gains, and transferrable development rights. Compensation is done in a consultative manner; the community and those directly affected participate (Rojas: 2013).

Later in 2006, the government promulgated the "National Plan for Development 2006-2019" (Law 1151/2007), in which the strategy for ‘Pleasant Cities’ is outlined with a focus on urban policies in three key areas: (1) programs for land and development of accessible housing; (2) improving slums and the provision of basic services; and (3) urban revitalization and densification. Two programs help to realize these objectives: Macroproyectos de Interés Social Nacional (MISN, major national social interest projects) and the Programa Integral de Mejoramiento de Barrios (PMIB, Integral Neighbourhood Improvement Program) (Gilbert: 2012 and Vergel: 2013).

As a compliment to the Law 388/1997, in 2011 the government approved the Organic Law of Land Management. This law facilitates the decentralization of power in the territory, promotes strategic investments in public resources, greater participation of citizens, and creates areas of investment to overcome poverty.

Through these measures, in Colombia it has been possible to achieve XXX.

To evaluate the countries under study, it is also convenient to review what theories say on responsible governance, as well as international accords and directives.

2.3.2. Responsible governance of urban and peri-urban land: theory.

Governance refers to ‘the way in which authorities and public institutions acquire and exercise the authority to shape public policy and provide public goods and services’ (World Bank: 2007). ‘Good’ land governance has been described operatively in three documents over the past decade (LGAF, VGGTs, Blueprint). The areas considered are those described below, which have been used as a benchmark in the evaluation of governance and tenure in the countries under study:
- the way in which rights to land are defined, accessed, and modified (for individuals and groups)
- the types of access, use and management (FIG: 2009);
- the way in which public control is exercised over the use, management and taxation of lands and property;
- the types of lands that are property of the State, and the way in which such land are acquired, managed, and disposed of;
- the nature and quality of information about land tenure that is accessible to the public, and the ease through which one can access and modify such information;
- the way in which disputes are resolved, and how conflict is managed (World Bank: 2012).

2.3.3. International Accords and Directives

The governance of land is a historic issue which is related to greater objectives of sustainable urban development. Already in 1976 the Vancouver Plan, product of the first United Nations meeting on human settlements HABITAT I, said “given its nature (finite and irreplaceable), land cannot be treated as any asset, for the few and at the mercy of market forces, but its management (public) must be conceived under a long-term logic, above all in that which respects location and development of urban activities, for the effects that it has on the models and structure of human settlements” (Vancouver Action Plan, 1976).

The 1996 HABITAT II Agenda (paragraph 75) states: ‘access to land and legal security of tenure are a prerequisite for the provision of adequate shelter for all and sustainable development of urban and rural human settlements’ (UN-Habitat: 1996).

The Voluntary Guidelines on Responsible Governance of Land, Fish and Forests in the Context of National Food Security (VGGT), in support of progressive rights to food security, promotes ‘responsible governance of land, fisheries and forests with regard to all forms of tenure: public, communal, indigenous, customary and informal. It urges governments to: protect various forms of tenure from threats and violations; promote the enjoyment of legitimate tenure rights; facilitate access to justice to deal with infringements of legitimate housing rights; prevent tenure disputes, violent conflicts and corruption’ (FAO 2012).

The Guidelines also aim to ‘contribute to achieving sustainable livelihoods, social stability, housing security, rural development, environmental protection and sustainable social and economic development’ (FAO 2012).

The Sustainable Development Goals promote secure tenure and sustainable land uses among others, which are expressed especially in Goals 3, 6, 8, 10, 11, 12, 13, 14 and 16, with two precise indicators regarding these effects: Indicator 1.4.2 on the number of older adults in secure tenure with a perception of security, by sex and type of tenure; and Indicator 11.3.1 on the ratio between the rate of consumption of land to the population growth rate (ODS: 2015).

To these agreements and guidelines, are added:

From the perspective of the environment, governance of land should have as a reference among others: the Paris Agreement (operative binding document of the UN Conference on Climate Change, COP 21) indicates that measures should be adopted for mitigation, adaptation, and management (including land and its resources), development and transfer of technologies and capabilities to achieve a slowdown in the rise in global temperature over the next 15 years, as far as possible within 2°C (UN FCCC / CP / 2015 / L.9 12.12: 2015).

In addition, the Framework for Disaster Risk Reduction of Sendai 2015-2030 (UN-ISDR) has the aim of preventing and reducing disasters through the implementation of multidimensional measures of risk prevention, disaster reduction, strengthening responses and recovery (UNISDR: 2015).

From the perspective of land rights it is necessary to look Resolution 59/239 (22 December 2004), through which the General Assembly of UN-Habitat urges governments to support the Global Campaign on Secure Tenure and the Global Campaign for Urban Governance as tools for promotion and administration of land and property rights, together with the Global Urban Campaign (Resolution 65/165, December 20, 2010).


Resolution GC23-17 (UN-Habitat 2011) calls on governments to: implement policies for sustainable land policies enacted with effective land governance systems, promote security of tenure especially during and after conflicts and disasters; improve land management systems (planning, reporting, taxation); create mechanisms to expand revenue sources based on land for financing infrastructure development.

The latter approach as a reference from the perspective of land as an economic asset.
The Right to Adequate Housing (OHCHR, Booklet 21, Rev.1), the Global Strategy for Shelter (R.24 / 9, 2014).

The Montego Bay Declaration of MINURVI 2015 gives specific instructions on how to proceed with city construction to ensure secure tenure and responsible land governance. The Declaration states that National Urban Policies are the social agreement regarding human and urban development policy objectives. It also places the State in terms of its role in achieving those objectives; reaffirms the right to the city, access to affordable and adequate housing; and it urges to overcome problems of poverty, insecurity, segregation and irregularity that affect the region, especially climate change which affects Small Island Developing States (SIDS).

This Montego Bay Declaration calls for the development of policies for the rehabilitation of housing with qualitative deficits, and re-use of abandoned buildings that are suited to becoming new solutions. For rural housing, it is necessary to offer solutions that use the opportunities of the city without impoverishing the countryside. It is aligned with measures of equity, universal access to adequate housing, quality infrastructure, sustainability, resilience, security and governance, to facilitate greater participation and diversity of institutions. This will facilitate the development of financing instruments and urban productivity, in addition to continuing with the analysis and exchange of best practices in urban planning, housing development, support systems and infrastructure and rural housing (MINURVI: 2015).

In the 2016 Sucre Declaration, a product of the recent Regional Summit of Mayors (LAC), municipal representatives ratify their struggle against inequality, material and spiritual poverty, and the constant pursuit of social and economic development based on solidarity and complementarity, with full respect for the environment. It reinforces autonomies and calls for strengthening local capacity, improving urban security, and increased participation of women in municipal government (FLACMA: 2016).


The Sustainable Development Goals promote among others secure tenure and sustainable use of land, which is expressed above all in objectives 3, 5, 8, 10, 11, 12, 13, 14 and 16, with two precise indicators for these effects: Indicator 1.4.2 about the number of senior citizens with secure tenure with perceptions of security, by sex and by type of tenure; and Indicator 11.3.1 about the relation between the rate of consumption of land and the rate of population growth (SDG: 2015).

From the environmental focus, the governance of land should include as references: the Paris Accord (binding operative document from the United Nations Conference on Climate Change, COP 21) which indicates what should be adopted as measures for mitigation, adaptation, strategies for management (including land and resources), development and transfer of technologies and capacities to achieve a reduction in the increase in global temperatures over the next 15 years, to the lowest possible less than 2°C. (UN, FCCC/CP/2015/L.9 12.12: 2015).

In addition, the Framework for Disaster Risk Reduction of Sendai 2015-2030 (UN-UNISDR), with the objective of preventing and reducing disasters through the implementation of multi-dimensional measures for the prevention of risks, reduction of disasters, strengthening of disaster response and recovery (UNISDR: 2015).

From the land rights focus, it is necessary to look at Resolution 59/239 (22 December 2004), through which the General Assembly of UN-Habitat urges governments to support the Global Campaign for Secure Tenure and the Global Campaign for Urban Governance as tools for the promotion and administration of land and property rights, together with the Global Urban Campaign (Resolution 65/165, 20 December 2010).


Resolution GC23-17 (UN-Habitat 2011) calls on governments to implement policies for sustainable land policies enacted by effective land governance systems, promote security of tenure especially during and after conflicts and disasters; improve land management systems (planning, reporting, taxation), create mechanisms to expand revenue sources based on land for financing infrastructure development. The latter is a reference from the perspective of the land as an economic asset.

The Right to Adequate Housing (OHCHR, Booklet 21, Rev.1), the Global Housing Strategy (R.24/9, 2014).

Article 17 of the Universal Declaration of Human Rights states that “everyone has the right to own property individually or with others … and no one should be deprived of his property” Article 5 of the Convention on the Elimination of All Forms of Discrimination obliges states to prohibit and eliminate racial discrimination concerning the right of individual or collective property.

Resolution 24/15 (UN-HABITAT: 2015) and the 2014-2019 implementation plan (HSP / GC/25/2), recommends that governments address the development of human settlements from planning and urban design, urban legislation and funding; forming a comprehensive guideline to approach the government of land.

Finally, as a matter of on-going discussion regarding urban land as a theme in the New Urban Agenda, UN-Habitat-GlTN states that governments should commit their action on the following aspects:

- raising awareness of the centrality of land for the sustainable development of human settlements;
- providing adequate and affordable space, recognizing the limited nature of land on Earth;
- achieving secure tenure with gender equity, by recognizing various forms of ownership, with better land management systems and training;
- ensuring that urban planning is efficient, socially and environmentally sustainable, despite rapid population growth;
- advocating for responsible governance;
- facilitating land-based financing;
- promoting a balance between social function of land and land as an economic asset;
- conceiving of durable solutions for internally displaced and resettled people;
- seeing that land is not a subject of dispute;
- promoting sustainable land management to prevent further climate change and natural disasters;
- generating geo-data that is accessible and transparent;
- generating land policies that ensure affordability and sustainable consumption;
- committing to sustainable development and the New Urban Agenda.

It also states that non-public actors including private companies should ‘respect human rights and legitimate land tenure rights including with their actions in host countries, through impact assessments of their actions on this matter, use of compensatory measures and public devices that allow this’ (UN-Habitat: 2016). The governance of land is a historic issue which is related to greater objectives of sustainable urban development. Already in 1976 the Vancouver Plan, product of the first United Nations meeting on human settlements HABITAT I, said “given its nature (finite and irreplaceable), land cannot be treated as any asset, for the few and at the mercy of market forces, but its management (public) must be conceived under a long-term logic, above all in that which respects location and development of urban activities, for the effects that it has on the models and structure of human settlements” (Vancouver Action Plan, 1976).

The 1996 HABITAT II Agenda (paragraph 75) states: ‘access to land and legal security of tenure are a prerequisite for the provision of adequate shelter for all and sustainable development of urban and rural human settlements’ (UN-Habitat: 1996).

Source: Own elaboration.
3. Governance of urban and peri-urban land in the countries under study

3.1. Brief background by country  
3.2. Transversal view of the 10 countries by area

| Tabla N: Datos de gobernanza de tierra urbana y peri-urbana ; países seleccionados. |
|------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Páis/País de gobierno de tierra | México | Honduras | Colombia | Perú | Brasil | Ecuador | Argentina | Paraguay | Jamaica | Rep. Dominicana |
| Población urbana total |  |  |  |  |  |  |  |  |  |  |
| Población rural total |  |  |  |  |  |  |  |  |  |  |
| Población urbana como porcentaje de población nacional |  |  |  |  |  |  |  |  |  |  |
| Población urbana en asentamientos informales |  |  |  |  |  |  |  |  |  |  |
| Población urbana en asentamientos informales como porcentaje de población urbana |  |  |  |  |  |  |  |  |  |  |
| Existencia de política de suelo |  |  |  |  |  |  |  |  |  |  |
| Existencia de política de vivienda |  |  |  |  |  |  |  |  |  |  |
| Instituciones responsables del gobierno de suelo urbano y peri-urbano |  |  |  |  |  |  |  |  |  |  |
| Existencia de instrumentos redistributivos de plusvalías y minusvalías de tierra |  |  |  |  |  |  |  |  |  |  |
| Existencia de instrumentos de regularización de tenencia |  |  |  |  |  |  |  |  |  |  |
| Reconocimiento de diversas formas de tenencia |  |  |  |  |  |  |  |  |  |  |
| Reconocimiento de diversos regímenes de tenencia |  |  |  |  |  |  |  |  |  |  |
| Instrumentos de control de especulación |  |  |  |  |  |  |  |  |  |  |
| Instrumentos de desarrollo inmobiliario inclusivo |  |  |  |  |  |  |  |  |  |  |
| Coherencia y asequibilidad registro-catastro |  |  |  |  |  |  |  |  |  |  |
| Resolución conflictos sobre tierra |  |  |  |  |  |  |  |  |  |  |
| Notas |  |  |  |  |  |  |  |  |  |  |
4. Mismanagement of Urban Land: Many Unconsidered Causes

Socio-Demographic Area

4.1. Trends

The emergence of ‘new faces of inequality’: more female-headed households, the elderly, youth, intra-regional migrants and displaced people are all vulnerable; together with the atomization and greater extension of the poorest households, these impose challenges for governance and secure tenure for these groups: to cope with increased ownership changes (due to fragmentation of households) and diversification of holdings (for diversification of households and over time which tends toward more informal tenure).

Urban Planning and Administration Area

4.2. Scarce housing supply for the poor and vulnerable with no redistributive mechanisms for improving the housing supply, which facilitates the persistence of slums.

Certainly slums are a focus of insecure tenure, as informal areas are generating forms of tenure that are unknown and still not legitimated under the law. Recognizing that informal settlements exist and persist, in part, because the supply of housing for the poorest and most vulnerable people in the region has been minimal. Redistributive mechanisms have not been implemented, such as quotas of social housing in real estate development for the upper-middle classes, or payment for building rights in kind (social housing). There are few countries that have such instruments: Colombia, Brazil, and Buenos Aires, Argentina.

4.3. Lack of regulation of speculative processes: lots on the edges of cities, internal wastelands, underutilized land and buildings: if regulated, these could create a greater housing supply in physical units or in economic resources for this purpose.

Notable among the possible instruments for regulation are: a tax on transition of use from rural to urban, progressive taxes for underutilization of land, compulsory construction on underutilized plots, land adjustment, especially for informally occupied property on the edges of the city, etc.

4.4. Lack of planned city extensions

It is a fact that LAC cities expand on average 3 times faster than the increase in population (Angel: 2013 Angel: 2014); said expansion in most cases takes place in an unplanned way. Specifically, property at the edge of teh city are sold or occupied in an informal way, generating a concentration of informal tenure. Sub-urbanization of rural areas with unsustainable land uses aggravates the problem of informal tenure and access to well-served land, creating poorly served sub-urban properties.

4.5. Mismanagement of social condominiums and a culture of no registration from the State

Another visible problem is related to the mismanagement of social condominiums. According to World Bank figures, in LAC annually about 80,000 social housing units are built under a condominium regime. Many of these homes are delivered to families, but registration of individual tenure is not finalized, remaining in a pending ownership
situation which precludes the sale or use of the units as collateral, which encourages informal transfers. This often occurs in social housing in Buenos Aires (Clichevsky: 2015 Canestraro: 2015). The lack of regulation of co-ownership makes these properties prone to physical and social deterioration.

**Territorial administration Area**

4.6. Incoherent and out-dated information between registry and cadastre, and among registers (when tenure records are held in more than one registry).

In all countries, with certain nuances, one can see that the land registry has not been able to respond promptly to the diversity and magnitude of physical and legal territorial changes. This certainly creates a permanent gap between what happens in physical reality, and what is recorded in the land registry, giving space for situations of permanently unclear or out-dated tenure; also hampering any formal, legal way to transfer and use rights as collateral.

4.7. Low local tax revenue based on land rent

This is a consequence of the lack of redistributive mechanisms locally, with effects on local finances.

![Image](http://www.localglobalideas.com/la-gestion-del-suelo-urbano-factor-de/)

**Cultural Area**

4.8. The informal culture in the acquisition of tenure rights, housing and city construction

In consolidated residential and commercial areas, what is observed over time is a failure to register transfers of rights due to a 'culture of informality' (where procedures, complexity, or cost stop legal transfers mid-way). This leads to informal transfers of rights on a massive scale: "here homes up to US $ 1 million are bought and sold in any garage" (Diego Restrepo, Colombia 11/06/2016). In new areas, in order to avoid paying for land taxes and public works, houses are built and not finished, and as such, in a situation of being falsely uninhabitable so that paying land tax is not yet required.
4.9. Perverse practices of procuring land rights that are guaranteed by the State

In several countries, we observe the use of fee simple title as an object of political patronage. Informal occupation is accepted as a kind of ‘discreet presence’, and is penalized arbitrarily and at random. In pre-election periods, political candidates offer ‘mass qualifications’ in places and under conditions of occupation and use of space that have nothing to do with sustainable development, rather according to political commitments made with communities. It is a process of double fault: on the one hand, it allows informal construction of the city, and on the other, it legitimates unfit places.

4.10. Eviction through extortive practices by real estate speculation or social conflict. Forced eviction of a ‘second generation’.

If in the 70s and 80s, the ‘bulldozer eviction’ of populations in informal areas were generally responded to ‘community cleanliness’ measures under military governments. Today evictions are of people living in formal tenure: through extortive practices, people are forced to sell or abandon their lots and homes by real estate pressures or fear; the latter when the process is carried out by criminal organizations or paramilitary forces, as in Colombia, Honduras (Casas Locas) and Mexico.

4.11. Insecurity of land tenure due to overlapping land regimes

Another of the observed situations is related to insecurity of tenure (and conflict over land) generated by overlapping land regimes, when the order of priority of such regimes is unclear.

4.12. Insecurity of tenure due to deconfiguration of collective holdings (ejidos, family land) and by densification of informal settlements. A subject for further study.

Tenure insecurity may be generated by the transfer of individual rights to lands that were once collectively shared for direct and indirect family members (as is permitted by Peruvian and Mexican law). More clear is the situation of informal lots that were once the ‘property’ of the first occupant family and where today, with the passage of time, new generations have built homes and/or additions to a floor or vertically. Testimonial information shows that these situations have increased domestic conflict for land and housing rights, with greater occurrence of crime (Bolivia El Alto, Peru, Ecuador).

Environmental Area

4.13. Inability to respect tenure on lots or housing after natural disasters

If under normal conditions the future of tenureship is unclear, outdated, informal and / or illegal, land and property claims are kept in a ‘dormant state.’ Natural disasters in urban and peri-urban areas force such irregularity to emerge strongly, challenging any attempt to just reconstruction. Disasters give space for unrecognized tenure claims and situations of inconsistency between registry and cadastre (often because the disaster erases physical limits, completely destroying areas), which are difficult to handle during reconstruction.

Training and technical resources

4.14. Insecurity of tenure due to a lack of professional and technical capacity in the government of urban and peri-urban land
Municipalities, institutions responsible for the assessment and collection of land taxes, and those responsible for land registers and records, all have scarce professionals. People working in the field are often modestly prepared and have scarce technical resources, which hinders record keeping and consistently updated cadastres. This human resources issue impacts levels of secure tenure, as well as the effective collection of land taxes, income which may well be used for a wider range of efforts to produce well-located housing and urbanized land for the most vulnerable segments of our countries.
5. Conclusions and Recommendations by Area

This section contains a set of recommendations based on each subject area discussed above, preliminarily:

**Area: Political, institutional, legal, administrative**

a) Design and implement land policies under the principles of social justice, inclusion, and sustainability, complimentary to the policies of housing.
b) Include redistributive income instruments in the policies.
c) Build coherent systems of physical and legal information that are robust, cost-effective, pro-prosperity, accessible and affordable.
d) Simplify and reduce the cost of legal practices on land.
e) Legitimate diverse forms of tenure and the right to inherit for vulnerable people.
f) Run censuses in informal settlements identifying diverse forms of tenure, for further legitimization and physical improvements (which is distinct from regularizing)
g) Guarantee access to land and housing to ‘the new faces of inequality:’ female-headed households, immigrants, and internally displaced people.

**Area: Territorial (land planning and housing)**

i) Integrate urban, rural, and urban-rural issues into land policies.
j) Design and implement plans for city extensions.
k) Consider land for infrastructure, mobility and transport.
l) Use vacant land and underutilized buildings for social housing and commerce on the neighbourhood scale.
m) Dedicate land for social interest housing.

**Area: Social**

n) Encourage the registration of transfers of ownership in the public and private sector.
o) Punish extortive eviction due to speculation and social conflict (Bancrim, paramilitaries, gangs, etc.)

**Area: Economics**

p) Ensure that business actions (national and multi-national) do not negatively affect human rights and legitimate tenure rights (UN-Habitat: 2016).
q) Use land attributes as mechanisms for redistribution.
r) Use the middle ground of funding/provision of social housing, infrastructure and local services.
s) Improve the system of taxation, collection, and use of land taxes at the local level.
Area: Environment

t) Establish progressive rights to land for populations in risk areas.

u) Facilitate access to land and housing to displaced populations due to natural disasters.

v) Establish protocols for post-disaster reconstruction processes.

Area: Capacities and technical improvement

w) Strengthen institutional capacities.

x) Increase the use of innovative tools on land: STDM, Participatory Enumeration, Land Readjustment to improve informal neighbourhoods and/or for the reconstruction after disasters, and others.

Area: Political Will

y) Change customs (e.g. titles used for political clientelis by improving transparency in land governance.

z) Instill a focus on redistribution within land policies.
6. Action strategies and preliminary commitments

This section will include action strategies and preliminary commitments on sub-national and national levels by country.

7. Best Practices by area

Area: Political, institutional, legal, administrative
Area: Territorial (land planning and housing)
Area: Social
Area: Economics
Area: Environment
Area: Capacities and technical improvement
Area: Political Will

PARTE II: EVALUATION BY COUNTRY

Argentina
1. General data and tenure
2. Legal and institutional framework for the governance of urban land
3. Cadastre and register
4. Urban planning and taxation
5. Urban land governance ‘in practice’
6. Recommendations and preliminary action strategies
7. Good practices

Peru
1. General data and tenure
2. Legal and institutional framework for the governance of urban land
3. Cadastre and register
4. Urban planning and taxation
5. Urban land governance ‘in practice’
6. Recommendations and preliminary action strategies
7. Good practices

Paraguay
1. General data and tenure
2. Legal and institutional framework for the governance of urban land
3. Cadastre and register
4. Urban planning and taxation
5. Urban land governance ‘in practice’
6. Recommendations and preliminary action strategies
7. Good practices

Ecuador
1. General data and tenure
2. Legal and institutional framework for the governance of urban land
3. Cadastre and register
4. Urban planning and taxation
5. Urban land governance ‘in practice’
6. Recommendations and preliminary action strategies
7. Good practices
Colombia
1. General data and tenure
2. Legal and institutional framework for the governance of urban land
3. Cadastre and register
4. Urban planning and taxation
5. Urban land governance ‘in practice’
6. Recommendations and preliminary action strategies
7. Good practices

Brasil
1. General data and tenure
2. Legal and institutional framework for the governance of urban land
3. Cadastre and register
4. Urban planning and taxation
5. Urban land governance ‘in practice’
6. Recommendations and preliminary action strategies
7. Good practices

Honduras
1. General data and tenure
2. Legal and institutional framework for the governance of urban land
3. Cadastre and register
4. Urban planning and taxation
5. Urban land governance ‘in practice’
6. Recommendations and preliminary action strategies
7. Good practices

México
1. General data and tenure
2. Legal and institutional framework for the governance of urban land
3. Cadastre and register
4. Urban planning and taxation
5. Urban land governance ‘in practice’
6. Recommendations and preliminary action strategies
7. Good practices

Dominican Republic
1. General data and tenure
2. Legal and institutional framework for the governance of urban land
3. Cadastre and register
4. Urban planning and taxation
5. Urban land governance ‘in practice’
6. Recommendations and preliminary action strategies
7. Good practices

Jamaica
1. General data and tenure
2. Legal and institutional framework for the governance of urban land
3. Cadastre and register
4. Urban planning and taxation
5. Urban land governance ‘in practice’
6. Recommendations and preliminary action strategies
7. Good practices
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Annex

Country Table (Argentina as example)

Glossary