New York University
Robert F. Wagner Graduate School of Public Service

COMPARATIVE LAND USE PLANNING:
PROPERTY, INSTITUTIONS AND POWER

URPL-GP 4606-001
Spring 2014
Day and Time: Wed 4:55 – 6:35 p.m  Location: Bldg 194M Room 305

Instructor:
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Office Hours: Wed 3:45 – 4:45 pm in Room 3047 (or by appointment)

COURSE DESCRIPTION

Land has always been a contested resource. Public officials make value-based and political decisions on land allocation among different, often competing, uses. These decisions shape, and are shaped by, societal factors like who owns/occupies land, how they value it, what they do with it, and who benefits from it. Land-use planning, then, is fraught with trade-offs and conflicts. The past few decades have further complicated these already fraught processes with changes like accelerated urbanization in countries in the global south, complex global interdependencies leading to the creation of transnational real estate markets, and the growing strength of human rights movements that make previously standard land-use tools like eminent domain virtually unusable.

The course starts with the unique nature of land. How does land, a natural resource, come to be owned? How is ownership and use of land different from other forms of property? What are the different modes of organizing land ownership? Since land is both a public and private good, who is entitled to the benefits that accrue from land? These readings will engage with key concepts - like externalities, transaction costs, land rent, public interest, rights and obligations, fairness and access to property - which we will keep returning to during the rest of the course.

The next section is a comparative analysis of land-use planning. Against some key background readings that will prepare the stage for discussion, each session will interrogate a specific land-use instrument – eminent domain, land readjustment and zoning – through a set of comparative country cases. This pairing of background readings with country cases aims at bringing institutions center-stage in our discussions. We will be keenly attentive to questions on the institutional arrangements of decision making (how are land use decisions made? which social actors have greater access and leverage over these political institutions and decision-making processes?) and on the distributional outcomes of land use decisions (which uses are privileged over others and how has this changed over time? which social groups are the winners and losers?).

The course will engage with key planning challenges that arise in the context of rapid urbanization in developing countries. Some of these challenges are unprecedented, such as
the rapid expansion of urban growth outside cities boundaries and the new challenges of peri-urban land use planning. Others are older debates that take on new meaning and urgency in the contemporary context, such as the new modes of functioning of informal real estate markets in a global era. We will ask if conventional land use planning tools are adequate to respond to these new urban conditions, and if light of these limits, we will discuss some of the new land-use innovations in dealing with these challenges.

COURSE OBJECTIVES
The course will enable students to:
- Understand the different schools of thought on property rights in land
- Identify the trade-offs and conflicts inherent in land use planning and cultivate their own value positions on these debates
- Think pragmatically about the politics of policy-making and the challenges of implementation
- Frame land use problems in different transnational settings, with attentiveness to context-specific variables such as legal doctrines, social norms and existing institutional practices
- Identify the different institutional actors involved in land use planning and think critically about their institutional incentives, comparative advantages and conflicting interests in the planning process

GRADING AND ASSIGNMENTS
Reading responses and class participation 40%
  Reading responses 15%
  Class participation 25%
Class debate on forms of property ownership in land 20%
Final class presentation and paper 40%

READING RESPONSES AND CLASS PARTICIPATION
Students are required to upload reading responses (ca. 250-350 words) for every class. The responses should be critical reflections on the week’s readings: they can include, inter alia, questions of interest that can be further discussed in class, cases of relevance and unusual insights from the readings that change/challenge the way we think about a problem. In short, these responses should go beyond being mere summaries of the week’s readings. They should be uploaded to NYU Class before 5 p.m on the Tuesday preceding the class. I will provide a set of key questions to orient the readings a week before each class.

Active class participation means completing the assigned readings and being ready to engage in a reflective discussion in class. Since the class is based on a comparativist mode of inquiry, students are encouraged to contribute cases and experiences from countries they are familiar with.

CLASS DEBATE ON TITLING V. COMMUNITY LAND TRUSTS
The class will be divided into two groups and will use the titling programs and community land trusts as examples to debate the pros and cons of private v. shared equity forms of property ownership in land.

Debate brief: Developing countries are witnessing a strong push towards titling
programs for the creation of private property rights in land. On the other hand, there is a growing movement towards shared equity housing and community land trusts in the United States. With particular attention to low-income groups, how do you compare private property rights v. shared equity ownership? Are there certain contexts that are amenable to one or the other form of property ownership? Use specific examples of titling and shared equity homeownership programs to substantiate your arguments.

**FINAL PRESENTATION AND PAPER:**
At the beginning of the course, students will pair themselves in groups of two. Depending on their country of interest, each student will pair up with someone with a different country interest. Each duo will work on comparing land use concepts and tools for the two countries. Possible topics could include a comparison of the constitutional protections of property (comparing, for instance, Brazil’s social function of property clause with the United States’ Fifth Amendment clause), the uses of eminent domain in different countries, or of similar forms of property ownership that may have different outcomes in different countries (comparing, for instance, the community land trusts, CLTs, in the United States with the shared ownership of land by collectives in China).

The class presentation will count for 10% of the final grade and the paper for 30%. Students will decide on their teams by February 5. Each team will submit a one-page abstract by February 19, along with a list of 8-10 key references. I will provide feedback on the abstract by February 23. The final presentation is on March 12, but the papers are not due until April 15. The final paper should 18-22 pages in length. The paper will be graded on the basis on standard criteria for academic writing, including the structure of the argument, use of correct citations and writing style.

If you would like additional support with the craft of writing, Wagner tutors are available to help students with their writing skills. Please see details on [http://wagner.nyu.edu/students/services/writing.php](http://wagner.nyu.edu/students/services/writing.php). This webpage has additional details on other useful resources, including NYU Writing Center and several links concerning plagiarism and how to cite properly.

**A note on academic integrity and plagiarism**
We take matters of academic integrity very seriously. It is your responsibility to identify quotes and to cite facts and borrowed ideas. If you need guidance, please consult the NYU-Wagner Academic Code ([http://wagner.nyu.edu/students/policies/](http://wagner.nyu.edu/students/policies/)) and additional references listed there. Please note that NYU-Wagner subscribes to a commercial service that compares papers to a gigantic database to flag plagiarism. We will refer all cases of plagiarism to the appropriate disciplinary committee at Wagner.
OVERVIEW OF COURSE SCHEDULE

SECTION I: PROPERTY IN LAND

January 29  Legal conceptions of property in land
February 5  Forms of property ownership in land
            Class debate on titling v. community land trusts
            Submission: Final exercise - Team Preference

SECTION II: LAND USE PLANNING INSTRUMENTS IN COMPARATIVE PERSPECTIVE

February 12  Eminent domain
February 19  Land readjustment
            Submission: Abstract for final exercise
February 26  Exclusionary land use regulations
March 5      Zoning: Property rights and environmental regulations
March 12     LAST CLASS: Wrap-up and class presentations
April 15     Final paper due online
COURSE OUTLINE AND READINGS

SECTION 1: PROPERTY IN LAND

1.1 LEGAL CONCEPTIONS OF PROPERTY IN LAND

Case:
Balakrishnan, Sai (Unpublished) Thika Tenancy and Bustees in Kolkata, India
Highlights the complexities of property ownership in land.

1.2 FORMS OF PROPERTY OWNERSHIP IN LAND

CLASS DEBATE
Titling and community land trusts.

SECTION 2: LAND USE PLANNING INSTRUMENTS IN COMPARATIVE PERSPECTIVE

2.1 EMINENT DOMAIN

**Cases:**
Tata Motors in Singur: Public purpose and private property (HBR case)
A comparison of compulsory state acquisition of private land for industrial development in the U.S and India.

### 2.2 LAND READJUSTMENT


**Case:**
A case of India’s Development Plan - Town Planning Scheme (DP-TPS), a land readjustment tool practiced in the state of Gujarat.

### 2.3 EXCLUSIONARY LAND USE REGULATIONS


**Case:**
ZEIS Special Interest Zones in Brazil (UN-HABITAT Best Practices)
A case of Brazil's legislation for the creation of ZEIS (Zones of Special Social Interest) within which building and land regulations are relaxed to make these zones affordable to the poor. The Brazilian government sees ZEIS as a tool for regularizing informal settlements.

2.4 ZONING: PROPERTY RIGHTS AND ENVIRONMENTAL REGULATIONS


Cases:
Lucas v. South Carolina Coastal Council
Almitra Patel v. Union of India

ADDITIONAL RESOURCES/RECOMMENDED READINGS

1.1 LEGAL CONCEPTIONS OF PROPERTY IN LAND


1.2 FORMS OF PROPERTY OWNERSHIP IN LAND


De Angelis, Massimo (2001) "Marx and primitive accumulation: the continuous character of capital’s enclosures." The Commoner 2, no. 01.


2.1 EMINENT DOMAIN

2.2 LAND READJUSTMENT

2.3 EXCLUSIONARY LAND USE REGULATIONS