Comparative Land Use Planning: Property, Institutions and Power

Course description

Urbanization is arguably the dominant demographic feature of our age. Indeed, not only are we now a majority urban planet, the UN estimates that by 2030, nearly 80% of the world’s population will be urban. Unsurprisingly, this rapid change is generating a wide range of social, economic, political, environmental, cultural, and legal problems. In this context, land use planning has become a major field of discussion – and conflict.

This intensive course will examine the main legal notions underlying the processes of urban development, planning and management, as well as discussing the public policies, sociopolitical processes and possible legal reforms necessary to make more urban settlements livable so that more people can lead productive, safe lives in thriving cities.

The approach will be transdisciplinary, seeking to determine the main nature, characteristics, causes, and implications of urban change today.

Case studies and examples will be drawn from many continents and different country contexts, although the focus will be on the developing world, particularly Latin America and Africa. Unlike other parts of the developing world, Latin America was heavily urbanized before any other major geographic region. As such, the region has been profoundly marked by combined patterns of sociospatial segregation, socioenvironmental impact and sociopolitical exclusion, as well as widespread land and housing informality.

The course will place special emphasis on the role historically played by the legal-institutional order, especially regarding overall conditions of urban land governance.

Moreover, the course will discuss the nature, dynamics and aspirations of growing sociopolitical processes and disputes that have laid claim for urban reform through institutional and legal change. In this, the course will allow students to explore the notion of the “right to the city”, which seeks to integrate the key principles of the social value of property and democratic urban management.

Course objectives

The course aims to 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 position 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 about their institutional incentives, comparing advantages and conflicting interests in the planning process

Grading and assignments
- Readings responses, presentations, and active class participation 50%
- Final paper 50%
(Active class participation means completing the assigned readings and being ready to engage in a reflective discussion in class. Students are encouraged to contribute cases and experiences from the countries they are familiar with.)

Overview of Course Schedule
(Further suggested readings will be distributed before each class)

Jan 27
Session 1 The Right to the City: Land and Property rights, Urban Development, and Reform of the Legal Order
A general introduction

Readings

Mehta, Suketu “Beyond the maximum: cities may be booming, but who’s invited to the party?”

Souza, Marcelo Lopes de “A Just City is Inconceivable without a Just Society”
http://www.thenatureofcities.com/2015/10/20/confronting-the-mirror/

Harvey, David “The Right to the City”
http://newleftreview.org/ll/53/david-harvey-the-right-to-the-city
Feb 3
Session 2 International perspectives on urban law and policy
Urban development and Urban law: topics for a teaching/research/action agenda

Readings
Barrett, Bradley L. “The privatisation of cities' public spaces is escalating. It is time to take a stand”

Feb 10
Session 3 Property rights, Urban development, planning and (in)formal land markets
The centrality of land use policy
The social function of property/social value of land doctrine: law, land and urban policy and management
Controversies over Eminent domain

Readings
McBrayer, Justin P. “This Land Is Your Land. Or Is It?”
http://opinionator.blogs.nytimes.com/2016/01/05/this-land-is-your-land-or-is-it/?_r=0

McAuslan, Patrick Whose Land Is It Anyway? The failure of land law reform in Kenya
http://www.africaresearchinstitute.org/publications/whose-land-is-it-anyway/

McAuslan, Patrick “Property and empire: from colonialism to globalisation and back”
http://eprints.bbk.ac.uk/4843/

Feb 17
Session 4 Law and the production of informal urban land development
Programs for the regularization of informal settlements in urban areas
A panoramic evaluation of Hernando de Soto’s agenda for economic development

Readings
Fernandes, Edesio “Regularization of Informal Settlements in Latin America”

Feb 24
Session 5 The Politics of Urban Law Making
Reforming the urban planning legal framework in Latin America and Africa: principles and challenges

Readings

Haffner, Jeanne “Is the gentrification of cities inevitable – and inevitably bad?”
http://www.theguardian.com/cities/2016/jan/16/gentrification-inevitable-bad-urban-change

Berrisford, Stephen “How to make planning law work for Africa”

March 2
Session 6 Law and urban management
Local government and metropolitan management
PPPs
The financing of urban development
Popular participation and Participatory Budgeting processes
Access to Judicial Power

Readings

Smolka, Martim “Implementing Value Capture in Latin America”
https://www.lincolninst.edu/pubs/2244_Implementing-Value-Capture-in-Latin-America

March 9
Session 7 The conceptual construction of the “right to the city”
The RTTC as a “proper” right?
The possibilities of urban legal reform

Readings
Fernandes, Edesio “Constructing the ‘Right To the City’ in Brazil”
http://sls.sagepub.com/content/16/2/201.abstract