



# Land Value Capture for Urban Development – Knowledge Report

A conceptual overview and insights from partner countries of the German Development Cooperation

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On behalf of

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Section 1

# Introduction and Project Summary



## Section 1: Introduction and Project Summary

Land Value Capture refers to the recovery of land value increases that are not due to the use of private labor and capital. It is thus an important source of municipal finance, done through taxes, levies or in the context of project development to finance infrastructure and housing projects. Important success factors are a multidisciplinary approach that aligns social, environmental, and economic goals, as well as efficient owner schemes that incorporate participatory decision-making. Municipalities are often pioneers in the implementation of innovative instruments, especially in partner countries of development cooperation in Latin America or Asia. They require support through appropriately oriented national urban development and land policies, practice-oriented and multidisciplinary vocational and further training of experts, as well as continuous spatial and market monitoring. In view of the social and ecological challenges of urbanisation, especially the immense need for investment in urban infrastructure, German DC is exploring ways to strengthen municipalities in the application of LVC at the interface of urban planning and municipal finance.

The present document constitutes the final revised report of a study on basic concepts related to land-based financing and insights in local frameworks and implementation practices in selected partner countries of the German development cooperation<sup>1</sup>. Carried out by the Institute of Housing and Urban Development Studies of Erasmus University Rotterdam (IHS) on behalf of the GIZ, this study contributed data to the OECD and Lincoln Institute of Land Policy's Global Compendium of Land Value Capture Policies (LVC), to be published by OECD and Lincoln Institute of Land Policy (LILP) in June 2022. Together, these works analyse the frameworks and use cases of LVC instruments in 60 Countries, including the ten selected countries of GIZ-IHS's study: Ecuador, Egypt, Ethiopia, Ghana, Indonesia, Morocco, Namibia, Peru, Tunisia, Ukraine.

Local experts selected by IHS, in accordance with GIZ criteria, completed OECD and Lincoln Institute's survey and together with IHS, developed a country-level strategic assessment of local positioning towards LVC in each of the ten focal countries, based on an analysis of the data collected, personal expertise, interviews with local land experts, and secondary data.

See Appendix 1 for the final Study reports. Building upon this strategic assessment, IHS developed conclusions and recommendations to inform German DC and GIZ on LVC general objectives and usage, key findings on trends, challenges, and opportunities, and technical recommendations for policymaking and practice towards LVC in the ten focal countries.

The present document contains the following sections:

- ▶ Section 1 introduces the project within the context of the Compendium.
- ▶ Section 2 presents an overview of key LVC trends, challenges, and opportunities, worldwide.
- ▶ Section 3 provides key findings from the Study teams in the ten focal countries.
- ▶ Section 4 proposes recommendations for LVC policy and implementation support, aimed at development cooperation.
- ▶ Appendix 1 presents the final (revised) version of the ten Study reports, following comments made by GIZ.
- ▶ Appendix 2 comprises a taxonomy of commonly used LVC terms and instruments, for reference.

The Sector Project "Cities" ("SV Stadt") supports the Federal Ministry for Economic Cooperation and Development (BMZ) in policy development and knowledge management to strengthen the role of cities and their impact on global sustainability. Therefore, the SP advises BMZ's Sector Department 414 (Urban Development, Mobility, Circular Economy) on sustainable urban development, focussing on the topics integrated urban planning, municipal and climate finance and sustainable construction in order to contribute to a sustainable and climate friendly urban growth that leaves no one behind. The Sector Project "Cities" would like to take this opportunity to express its gratitude for the open-mindedness, flexibility and collegiality of the colleagues from OECD and Lincoln Institute of Land Policy, which made this cooperation possible.

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<sup>1</sup> "Study on Positioning Towards Land Value Capture Policies (LVC) and Provision of Data for OECD and Lincoln Institute of Land Policy's Global Compendium in Selected Countries", carried out by the Institute of Housing and Urban Development Studies of Erasmus University Rotterdam (IHS) from 10th February 2021 until 30th April 2021, commissioned by the predecessor project „Integrated Implementation of the 2030 Agenda in Cities and City-Regions“ (CityRegions 2030).



Section 2

# LVC Core Principles, Instruments and Applications

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## Section 2: LVC Core Principles, Instruments and Applications

### Definition and core principles

LVC is a policy approach that enables cities to recoup and re-invest increases in land values that result from public planning decisions and public investments, such as in infrastructure and other public amenities. Land value capture is based on the principle that public action and public investments should generate public benefit—and that the benefits of public investments should be recovered or “captured” by the public sector for reinvestment, and not solely flow to private property owners for self-gain. Ideally, LVC should contribute to a virtuous cycle of public investment, public value capture and public reinvestment of land values captured, which in turn then leads to creation of additional value in a city, as illustrated in Diagram 1 below.

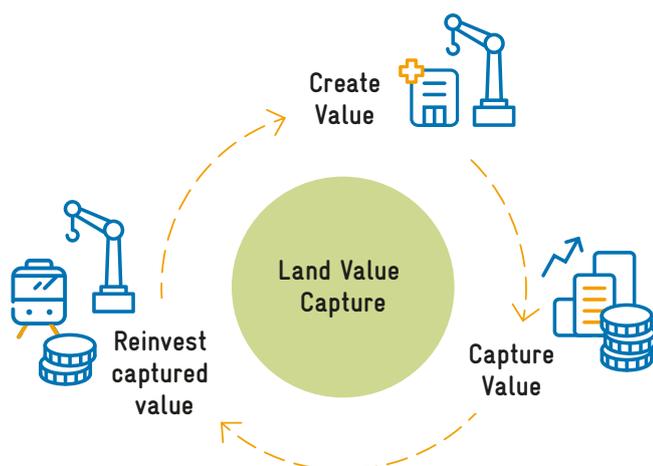


Diagram 1: The LVC cycle, in theory (adapted from Siba & Sow, 2017)

### Rationale

The need for a LVC approach among cities around the world has never been greater. As a result of urban population growth, affordable housing deficits, climate change, natural disasters, inadequate infrastructure and other challenges, the fiscal pressures on municipalities are ever-increasing. National governments cannot be counted on to fill the financing gaps of cities, since they themselves face great fiscal pressures, so local governments have to make better use of their own assets to plug their funding gaps.

Land represents the main underutilized asset that most cities have. When implemented well, and in conjunction with good governance and urban planning principles (OECD and LILP, 2020), LVC can be an effective tool to mobilize local resources from land value rise while, in the process, helping to achieve important social, economic and environmental objectives.

### Types of LVC instruments

The LVC “toolkit” consists of many different kinds of instruments. These instruments vary in their design and application in each context because of different (national) planning, legal and governance traditions. In general, LVC instruments can be divided into three categories: macro-level instruments; direct value capture instruments; and indirect value capture instruments (Alterman, 2012). The range of instruments is illustrated in Diagram 2.

In macro-level instruments, LVC tools are embedded in overarching land policy regimes and are driven by a broader rationale and ideology. In these land-policy regimes, LVC is usually only one of several other motivating rationales and objectives (Alterman, 2012). Examples are land nationalization, land banking, long-term public leasehold systems, and land readjustment, also known as land pooling. While the primary objective of these instruments is to better control the land market (in the case of land nationalization and leasehold systems), to ensure sufficient land for public uses (land banking), or to realign land parcels to facilitate infrastructure planning (land readjustment), the capture of land value rise represents an important secondary purpose.

Direct value capture instruments are those that have an explicit, legally endorsed rationale to oblige landowners to contribute a share of their land value increments to the public purse. If this increment is due to general economic conditions (i.e., the capture of unearned land increment) this may take the form of a property tax, capital gains tax or a tax upon transfer of title, for example. If the increment is due to government policy or planning decisions, this may take the form of betterment levies. Due to the political unpopularity and high visibility of many direct LVC measures, local governments in many countries often prefer to apply indirect value capture instruments (Alterman, 2012), as described in the next paragraph.

Indirect value capture instruments are quite diverse, and they are known by different terms in different countries. In general, what they have in common is that they are locally devised and negotiated with developers, they do not require national legislation, and therefore they are more flexible and faster in their application and in response to changing market conditions than direct LVC instruments. These types of instruments include

developer obligations, exactions, inclusionary zoning, impact fees and transfers of development rights.

## Applications

The LVC “toolkit” consists of many different kinds of instruments. These instruments, as outlined in the Principles of LVC for the funding of construction and maintenance of infrastructure, such as roads and aqueducts, have been around for a long time: they have been documented at least since Roman times but were probably applied even earlier (Smolka, 2013).

In a more contemporary setting, in the global North the principle of LVC has long been used to finance public amenities while at the same time rationalizing land plots to make them more amenable for “efficient” land use, in an example of a macro-level application. The technique of land readjustment was applied to implement the L’Enfant-McMillan plan for the new capital at Washington, DC in the 18th and 19th centuries. In the early 20th century, land readjustment was used on a large scale to reconfigure fragmented plots of land for development in Germany, including for post-World War II reconstruction in and around German cities and in the reconstruction of the postwar city of Rotterdam in the Netherlands (Home, 2007). Similarly, in Japan, approximately 30% of urban areas have been replanned through land readjustment, including many neighborhoods that were bombed during World War II. Land readjustment remains the main way in which planners ensure basic infrastructure at reasonable cost, with landowners bearing some of the burden through their land contributions (Home, 2007).

In a more recent example of a macro-level application of LVC, in the Netherlands large municipalities have typically used public development of land as a tool to achieve large area redevelopment projects, through an “active” land policy comprising public land holdings or land purchases, readjustment of parcels into suitable shapes, and subsequent sales of parcels to developers. This policy has been enabled by the transfer of property rights to public development agencies through a “first choice” or “right of first refusal” land purchase model for municipalities (Falk, 2020 and van der Krabben and Needham, 2008).

In the global South, LVC tools have arguably been used most widely in Latin America, with a combination of new, innovative approaches on top of older, established practices (Smolka, 2007). Popular instruments have particularly included betterment levies and charges for building rights, which have supported a variety of local investments, particularly in transportation and urban redevelopment projects. Experience in this region, especially in Brazil and Colombia, has been “synergistic and

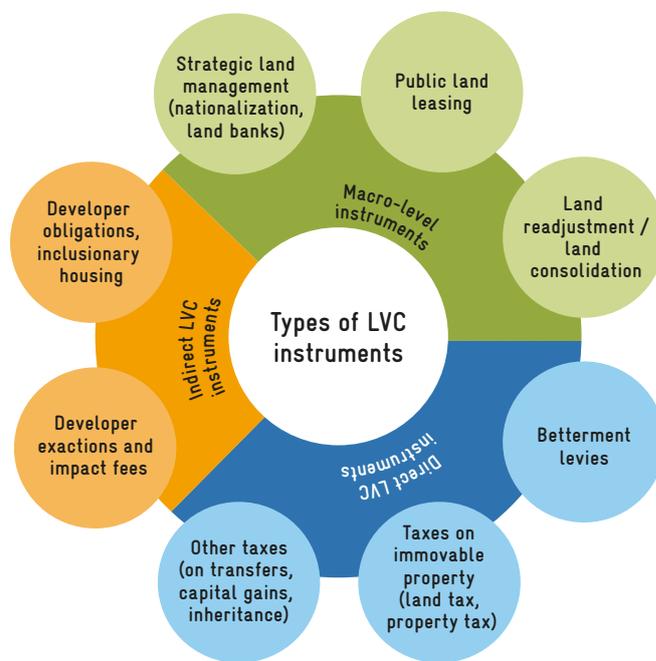


Diagram 2: Selected instruments of LVC (adapted from OECD/LILP, 2020 and Alterman, 2012)

cumulative”, as successes with one type of LVC instrument has led to further experimentation and innovation (Smolka, 2013).

Looking towards the future, private developers are increasingly likely to take the lead in spatial planning in most cities, due to a combination of public financing constraints and growing urban complexity. The latter implies that governments need to work in partnership with other stakeholders to tackle urban problems, as these are too dynamic and multi-faceted to be fully understood by governments alone. In this scenario, it is increasingly assumed that it is the market, not the state, that should resolve planning problems, either with or without minimal (financial) public intervention (Janssen-Jansen, 2008). As this trend increases, the adoption of indirect value capture policies—many of them innovative instruments such as transfer of development rights (TDR) and negotiated developments—is likely to expand and intensify around the world, because of the flexibility of these kinds of LVC instruments in comparison with macro-level and direct forms of LVC (Alterman, 2012).



## Section 3

# Key Findings from Local Experts

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## Section 3: Key Findings from Local Experts

Note: Country information in Sections 3 and 4 is adapted from the local experts' Study reports, which are contained in full in Appendix 1. For source material, please consult the references in these reports.

### The context for LVC

Study reports from the ten countries covered by the assignment (see Section 1) demonstrate a wide variety of situations with regard to the state of LVC. This is partly due to the very different baseline situation regarding urbanization experienced by the ten countries.

For a start, land markets in the ten countries differ greatly from each other. Some countries come from a tradition of land nationalization due to a legacy of state socialism (Ukraine and Ethiopia), which means that LVC is a very recent phenomenon and authorities have little experience in designing and implementing LVC instruments. In other countries (particularly in Sub-Saharan African countries, including Ghana and Namibia in this Study) land markets accommodate a diversity of land tenure arrangements (freehold, customary and communal) and legal instruments. This tenure plurality exacerbates unsustainable land use management and land control practices and brings with it overlapping institutional responsibilities due to a clash between customary and formal, state authorities. Moreover, there is also a significant gap between still overwhelmingly rural countries, where local governments have less of a strong role (Ethiopia, Namibia) and countries where urbanization has been occurring for much longer (as in much of Latin America), and where city governments demand more of a say. The pressure for LVC will be less in the former countries than in the latter.

Despite these differences, the ten countries studied display many similarities. These include rapid urbanization in most of the ten countries studied and the almost universal pattern of growing inequality and exclusion on land markets accompanying urbanization, which is inhibiting access to land for a vast majority of the (urban) poor and single-headed households. Directly related to this is the pattern of informal urbanization: in most countries, informality is the dominant form of land development. For example, in Egypt, an estimated 65-68% of built-up areas in the country are unplanned, and in Ethiopia (despite land nationalization and a land lease market for land users) over 90% of the land parcels are supplied through the informal markets. In Peru, as cities have expanded around 50% during the past 20 years, only 6% of this expansion has taken place as “formal” (i.e., plan-based) urbanization, whereas 93% is informal, as a result of the rapid increase in land prices.

These trends underline the urgent need for LVC in countries of the global South, as a set of policy measures to fund infrastructure development and environmental measures to help keep pace with urbanization, and—in the process—to try and correct the trend of inequality on land markets, through indirect LVC measures as developer exactions for public amenities and inclusionary housing, for instance.

### Embracing LVC: overview of key trends

In most of the ten countries studied, some form of LVC has been in place for many decades, even if this has not been recognized explicitly as a LVC policy, and even though these measures are in many cases carried out by national governments and are not always tied to local government funding measures.

In Tunisia, for example, some direct LVC instruments are levied by the national level (i.e., property taxation and a tax on real estate capital gains), even though LVC as a concept is not well-known in the country and Tunisian communes remain handicapped by a lack of power to define their own resources despite their responsibilities in urban planning. In Ethiopia, too, there is a disconnect between the nationalization of rural and urban land after 1975 and the imposition of an Urban Land Use Rent and House Tax (both macro-level LVC measures, though not recognized as such) and the lack of scope for cities to implement their own LVC measures.

Gradually, however, two trends are emerging: decentralization measures are being put in place in more and more countries, granting greater powers to local governments—including in finance—and explicit LVC programs are starting to be formulated, tied to the growing need for cities to manage urbanization. Moreover, in several countries in Latin America especially, these trends are also tied to a growing awareness of citizens' rights and the social function of property.

A good example is Ecuador, where a new Organic Law of Spatial Planning, Land Use and Management was passed in 2016. This law provides a national legal framework for urban planning and land management that includes concepts and guiding principles such as the right to the city, the social and environmental function of property, the equitable distribution of the benefits and costs of urban development, and the separation of building rights from property, among others. The new law includes measures for financing of urban development, through explicit LVC instruments.

As these trends play out and local government powers are increasing, a new division is emerging within countries, between

larger (and richer) cities and smaller and more peripheral cities and local governments.

This is illustrated well in Ukraine, where municipalities of large cities with significant financial and human resources are most actively using all the available tools for economic regulation of development, infrastructure development and spatial planning. At the same time, comparatively poor rural communities continue to have limited capacity to develop infrastructure and implement effective spatial planning. In an African context, too, the division is stark. In Namibia, smaller local authorities are described as lacking the required capacity and sophistication to manage local authority affairs as compared to the larger municipalities.

The Moroccan Study suggests that these divisions may in fact not be so new: in Morocco, at least, social and territorial differences and inequalities are rooted in patterns of economic concentration, in a context where public policies and services provided by the government are deemed to be deficient and do not meet the legitimate needs and expectations of the population.

## LVC implementation risks and bottlenecks

An overview of risks and bottlenecks in current LVC implementation strategies in the ten countries highlights several common challenges: insufficient technical and human resource capacities, linked to inadequate budgets; sub-optimal policy and legal frameworks; overlapping institutional mandates; and ongoing political opposition, linked to poor awareness of (the importance of) LVC. A combination of these factors can cause LVC instruments to be under-utilized, misused, or even not used at all.

## Technical and human resource capacities

Capacity issues encompass a spectrum of interrelated issues covering budget, human resources and technical and systemic capacities. Critical technical constraints include land registers and cadasters that either do not exist or that are not updated, and land valuation systems that likewise are not updated. With underperformance in these sectors, an accurate basis for the capture of land values is not present.

In Indonesia, the Study reports points to low human resource capacities (i.e., the lack of public officers' capacity), particularly in administering LVC instruments and conducting land valuation to set the tax base, as reasons for low collection of revenues. An example from Ghana illustrates well the inter-con-

nected reasons for the low capacity to collect local revenues. There, property rates have been less effective at mobilizing local revenues primarily due to inadequate financial capacity to undertake rateable valuation. The assessment of rateable values for property rating purposes is an expensive exercise often requiring spatial data sets as well as on the ground triangulation, so the estimates that originate from the government valuers for such exercise are quite large when compared to the local authorities' internally generated funds. In addition, local authorities often compare the time and resources it takes to conduct the rating valuation and what they refer to as the "easy collectables" such as licenses and fines, which they collect with fewer resources and efforts. These factors have led many local authorities to resort to using a flat rating system that does not yield adequate revenues.

Another aspect of "capacities" is the planning dimension. To be effective instruments to achieve socio-economic objectives, LVC tools need to be linked to local development plans. But in many countries, local plans are not regularly updated, for various reasons linked to local capacities. In Peru, for example, data shows that only around 12% of districts have Urban Development Plans. Even the capital and largest city of Lima has not had an updated plan since 2010.

The Study report from Ecuador suggests some reasons for the slow progress in producing local plans. In Ecuador, five years after the approval of the Organic Law of Spatial Planning, Land Use and Management, not a single city plan has yet been passed under the auspices of the new law. Most municipalities have weak or non-existent planning and management capacities, including very basic cadastral systems. But the Study report points out that the reasons for the planning deficit also go deeper and relate to a required shift in the role of municipalities: historically, most municipalities have been focused on administering public services rather than managing and governing their territory, therefore, they have not yet fully embraced or fulfilled their new roles as land managers.

## Policy and legal frameworks

Where LVC is not well or explicitly defined in the policy and legal framework, this may lead to lack of clarity with regard to use of LVC instruments and policy goals. Thus, in Indonesia and other countries, the lack of a clear legal framework for LVC results in revenue collected from LVC instruments not being earmarked for any specific purpose and instead ending up in general government budgets. Therefore, one of the main rationales for LVC—to help finance and maintain public amenities and services—cannot be adequately monitored.

In some countries, such as Peru, the policy goals may be clear but LVC tools may be regulated by different laws, in the absence of a national framework. A related problem is that if there is no clear monitoring system and no clear indicators for successful implementation, again as in Peru, then there is a risk that LVC tools will be rarely implemented by local governments if the risks of failure outweigh the benefits.

### **Institutional mandates: overlaps, contradictions and conflicts**

A common problem is that multiple institutional actors, especially at national (policy and regulatory) level, have conflicting mandates in land management, leading to policy fragmentation. The causes of this fragmented approach to land are manifold, but generally can be explained by the multiple interests in land across the political spectrum, with competing objectives of economic efficiency, equity and sustainable development jostling for attention. In addition to institutional conflicts, there are also administrative constraints, where different government tiers have overlapping responsibilities and remain difficult to access for communities, as identified previously in Morocco.

In Indonesia, for example, several government agencies and ministries are responsible for carrying out strategic land management projects that are selected as pilots for LVC. Thus, an agency responsible for planning the use of land acquired by the state could be different from the agency responsible for the land acquisition process. This lack of coordination means that it is often not clear which government agency has the main responsibility to lead the implementation of LVC, thereby leading to policy confusion and delays.

In addition to the challenge of overlapping mandates, in Egypt there are also issues of overlapping claims to land and land seigniorage by public agencies. As an example, plots in an ongoing land consolidation project fall under six public land seigniorages (i.e., encompassing financial prerogatives), including by the Army and departments of Antiquities, Agriculture, Irrigation, Railways, and the Governorate, thus complicating value capture from land readjustment.

In Ghana, as in other sub-Saharan African countries with both statutory and customary land allocation traditions, most customary lands are not formalized (registered or recorded) which makes it difficult to trace lessees for annual leasehold payments. In addition, the challenge with implementing transfer taxes is that most transactions in lands and gifts of landed properties in the customary and informal context are not recorded in the land registry cadaster, and therefore it is

difficult to track these informal transactions due to the lack of an up-to-date cadaster.

### **Political opposition and low awareness**

Opposition to LVC comes in different guises. At one end of the spectrum is passive undermining of LVC tools through lack of awareness or lack of support or consultation. Lack of awareness and support by the citizenry is cited as a major reason for lack of progress on LVC in Ethiopia. With elections on the way, political elites refrain from introducing complex policies that are seen as “risky” and difficult to understand by the populace. A specific incidence of this can also be found in Tunisia, where a tax applied for the benefit of the communes, which requires a contribution by residents in development expenses (for roads, drainage, lighting, etc.), has not been adopted so far because of the low level of support from citizens and possibly also citizens’ misunderstanding of policy objectives, which have possibly not been clearly communicated. Some central governments may simply not perceive any urgency to develop policy and legal frameworks for LVC. In Ukraine, the central government is often inclined only towards “conservative reforms” and shows a lack of enthusiasm for rapid changes.

At the other end of the opposition spectrum is active organization against LVC. The local expert reports indicate that there tend to be two main drivers of active opposition. The first is fears by the political class (in most countries) that LVC will worsen the business climate by introducing impediments to business and/or by upsetting or bringing to light corrupt practices in land management and spatial planning. The second driver relates to ideological disagreement with the aims of LVC policy goals among certain stakeholders. In Ghana, resistance to land-based finance can come from customary landowners, who do not perceive LVC to be in their direct self-interest of managing customary land. Another example again is Ukraine, where—in addition to passiveness by the central government—the introduction of new LVC tools has been actively opposed by the construction business, who view certain LVC measures as an extra tax on their operations.

### **LVC implementation opportunities**

In spite of the long list of challenges in the implementation of LVC, conditions in many of the ten countries included in the Study suggest that it is important to persevere with LVC given urgent urban development needs. The same challenges that present an obstacle to urban equality—the rapid growth of urban land values—can also be viewed as an opportunity and

an incentive for States to capture these land values in the public interest. Some momentum towards this goal can be perceived in selected countries.

In Ecuador and Peru, despite the slow pace of local development plans, there are promising conditions for LVC implementation and a momentum towards instituting a recognition of the social function of property. In Ecuador, the few incipient cases of LVC have not been uniformly effective, but they have at least helped to build a conscience about the necessity of having common agreements regarding the city's best interests. These are viewed as the first steps to providing incentives (as well as exercising control) over real estate industry-led growth and laying the basis for better rights and equality in cities, factors that have been neglected so far. In Peru, the legal recognition of the social function of property rights was the basis for LVC implementation. An incentive program to improve municipal management and modernization is working to strengthen the administrative capacity of municipalities to increase local land tax collection.

In Indonesia, too, there are signs of momentum for LVC at the highest political levels. In a return to macro-level LVC instruments, the Government of Indonesia is laying the groundwork for a Land Banking Agency, to be placed under the Ministry of Land and Spatial Planning. In a development context highly dominated by the private sector, the main task of the newly formed agency will be to manage land owned by the government to maximize its function for the public interest. And in Ethiopia the national government is seeking to improve its land lease proclamation, incorporating the realization of some LVC instruments.



## Section 4

# Recommendations for LVC Policy and Implementation Support

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## Section 4: Recommendations for LVC Policy and Implementation Support

The sheer variety in local conditions in the ten countries covered in the Study means that preconditions for successful LVC and suitable entry points for policy and implementation support will necessarily be highly context specific. Nevertheless, some generalizations can be attempted.

### Preconditions for successful LVC implementation

As Smolka (2013) noted in his analysis of LVC practices in Latin America (though arguably they apply to all areas of the world), successful implementation of all three types of LVC mentioned in Section 2—macro-level instruments, direct value capture instruments, and indirect value capture instruments—benefits from three types of measures, all of which have to do with promoting greater capacities in LVC.

- ▶ Planners and developers should learn from a wide range of experiences with the implementation of value capture policies and tools, including management skills to deal with complexity and diverse stakeholders and a proper understanding of land market conditions.
- ▶ Cities and their partners in academia and international organizations should conduct research, document and disseminate implementation experiences, and provide practical (non-ideological) evidence about how LVC policies work on the ground.
- ▶ To increase awareness and the likelihood of acceptance and success of LVC measures, cities and their partners should promote greater understanding among public officials and citizens about how LVC tools can be used to benefit communities and respond to practical local problems.

As mentioned in Section 2, in most countries of the world indirect modes of value capture are likely to expand and intensify (Alterman, 2012). This may especially be the case in the global South, where the role of private actors in urban development is proportionately quite large and where there will therefore be a need to negotiate flexible LVC instruments with private parties to help guide this rapid development and negotiate financial contributions.

Alterman (2012) hypothesizes four preconditions for a “reasonably successful application” of indirect LVC instruments:

1. Governments should have well trained professionals (planners or real estate experts) to negotiate with the developers and to be able to assess the limits of how much may be exacted from developers without compromising projects.

2. Local governments should conduct good monitoring of fluctuations in land prices in order to be able to challenge developers’ arguments that exactions demanded from them as part of LVC raise the cost of housing or other products.
3. There should be enough transparency in negotiated exactions to help counter legal challenges.
4. Countries or local authorities known for high levels of corruption should refrain from adopting LVC instruments with discretionary elements. A reasonable level of trust in government is a precondition for their successful operation.

The challenges for national and local governments in the global South as they attempt to meet these preconditions will be significant, particularly in an environment of weak public sector capacities, poor governance, and incomplete legal and policy frameworks for LVC.

### Points of entry for supporting LVC and LVC capacity development measures

Points of entry for supporting successful LVC programs will vary per country according to the degree of experience with value capture.

Countries starting from a low base, such as Namibia, Ethiopia and Tunisia, where there is little to no experience with LVC implementation at local level, are in need of knowledge development about value capture, despite the scepticism and reluctance displayed by certain government officials and members of the general public—which is to a large degree born of lack of awareness about LVC and urbanization challenges. As the Study report from Namibia suggests, local authorities are quite eager for information about tools and mechanisms with which to improve urban management, revenue, and resource allocation. Given the current and historical inequalities, there is a great opportunity to add new knowledge, innovations, and perspectives to urban land reform debates currently underway. Due to limited support from the national government, local authorities in this situation are wholly dependent on local rates and taxes and land sales for revenue generation. These rates and fees are insufficient, so the need for LVC is obvious at local level, but the design and use of these instruments is unfamiliar.

In countries such as Ghana, Ukraine, Morocco and Egypt, with more experience implementing LVC at the local level, entry points for supporting LVC should at least partly center on overcoming resistance to mainstreaming LVC as land policy, through a combination of technical capacity develop-

ment about the use of LVC instruments and awareness-raising campaigns.

In Egypt, development partners such as LILP have identified four areas of resistance, known as the “four i ‘s”:

ignorance, ideology, interests, and inertia. External support could help transform these four ‘i’s from risks into opportunities. Ignorance could be turned into a concerted campaign to educate bureaucrats and the public about LVC and its diverse scales and instruments. Ideology could be negotiated with central and general agencies with mandates over land and property.

Managing internal resistance and building political will and public support are important aspects of LVC and require concerted action. In Ghana, the Study report suggests that one way to approach this resistance is for national and local authorities to ensure transparency and accountability related to how resource allocation decisions are made and to how systematic public reporting of revenues are collected, expenditures made, and outcomes achieved. It is also crucial that elements of any of the land-based finance instruments must be adapted to the local context, the local history and the local culture.

For countries with an existing and reasonably functional national policy and legal framework for urban planning and land management, such as Ecuador with its new Organic Law of Spatial Planning, Land Use and Management, and to a lesser degree also Peru and Indonesia, this is a moment to build on the legal and policy momentum and help solidify local government capacities.

In Ecuador, all municipalities are due to approve their Land Use and Management Plans in September of 2021, which will be a starting point for some of the biggest municipalities to implement the Organic Law. However, without proper technical support and adequate urban policies by the national government, it is possible that this process can be lengthy or even futile.

Alterman’s four preconditions for successful application of indirect LVC instruments become especially relevant at this stage in the LVC process—and to some extent also for the countries with more nascent legal and policy frameworks. Cities implementing LVC need to strengthen their urban policies to ensure that LVC efforts work in favor of equitable and sustainable urban development, and to ensure that these tools do not become mechanisms that legitimize bad practices that serve political interests.

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Appendix 1

# Study reports



## Ecuador

Lead Expert: Mr. Francisco Salazar

Second Expert: Ms. Maria Cristina Gomezjurado Jaramillo

### Country-specific background

Ecuador, with 283,560 km<sup>2</sup> of surface, is a small unitary country located in South America. Ecuador has around 17,500,000 inhabitants and, according to data from the World Development Bank, 63% of its population lives in urban areas. However, it is estimated that this number is higher, as around 74% if the population lives in areas with urban characteristics but located in rural ‘parishes’ (Ministry of Urban Development and Housing, 2016).

The urbanization process in the country started in the 70’s, when only 39,5% of the population lived in urban areas. This rapid urbanization process has not been sustainable or equitable and in consequence, it has caused scattered uncontrolled growth, socio-spatial segregation, unequitable access to services, inefficient use of land, loss of productive land and negative impacts on sensitive ecosystems. It also presents “scarce urban land and limited provision of affordable housing for the poorest, which, in addition to the predominance of speculative dynamics in the land market, force a significant part of the low-income population to live in irregular settlements” (Scholz and Morales, 2016). Ecuadorian cities have grown occupying rural land. Suburban areas are the result of unregulated scattered settlements connected to rural roads, where municipalities have reached late with remediation public works.

The Ecuadorian State is governed through one Central State, and three sectional government levels: Provincial, Municipal and Rural *Parroquial* (rural parishes) defined as *Gobiernos Autónomos Descentralizados* or Decentralized Autonomous Governments. Each of these governments has a set of exclusive competences to carry out and receives budget from the central government to do so<sup>2</sup>. Regarding land, the municipal level is the government that has the exclusive competence on land use and management, therefore municipalities oversee Land Value Capture (LVC). Ecuador has 221 Municipal Decentralized Autonomous Governments. However, municipalities are extremely

heterogeneous across the country and are extremely unbalanced regarding population, development level, political, economic, and technical capacities to govern their territory. According to projections, 35% of the country’s population lives in the three biggest municipalities: Quito Guayaquil and Cuenca (the latter is significantly smaller in population compared to the first two).

| City      | Inhabitants | % of national population |
|-----------|-------------|--------------------------|
| Quito     | 2.781.641   | 15,89%                   |
| Guayaquil | 2.723.665   | 15,55%                   |
| Cuenca    | 636.996     | 3,64%                    |
| Country   | 17.510.643  | 100%                     |

Quito and Guayaquil take the lead, also, in urban population, as 41% of the country’s urban population live in these cities (Ministry of Urban Development and Housing, 2016). There is no official classification for cities in Ecuador, but some studies suggest that besides Quito and Guayaquil, other 20 cities can be classified as intermediate cities in size, functions, and capacities. That implies that the majority of the municipalities of the country are small (199), with little population (below 50.000 inhabitants) and with very limited capacities, but the majority of the population (and the urban population) is located in those 22 big or intermediate municipalities.

### State of the art: capacity, resources, and evolution

Although a municipal competency system is clearly defined, most municipalities do not have the technical, political, or financial capacities in place to exercise their competencies. The budget of municipalities relies heavily on transfers from the national government, especially true for small municipalities. Multi-functioning cadastre systems are somewhat complete and up to date only in the biggest cities. Most municipalities have weak, or non-existent, planning and management capacities, including very basic cadastral systems. Land markets in these cities are also incipient and non-speculative. Historically, most (if not all) municipalities have been focused on administering public services rather than managing and governing their territory, therefore, their role as land managers has not been understood nor fulfilled.

As part of a process that involved the introduction of Constitutional citizen’s rights related to urban development (such as the right to the city), the introduction of mandatory territorial planning by all levels of government in the Constitution in the year 2008, as well as the development of regulations “related to territory organization, the jurisdiction of subnational governments, the assignment of competencies and territory and financial planning instruments, all gathered under the Organic Code of Territorial Organization, Autonomy and Decentralization (COOTAD) and the Organic Code for Planning and Public

<sup>2</sup> The Constitution (2008) establishes Special Regimes of Government, Metropolitan Districts, and Regional Governments as well. To the date, only the Galapagos Province is governed under a Special Regime, not a provincial government. The only Metropolitan District in Quito, however, to this date the District does not have its Autonomy Regime, therefore it acts as a municipal government. To date, there are no regional governments formed. The parroquial rural government has a very limited set of competencies and limited budget as well.

Finance (COPFP)”, after a lengthy process that started in the year 2011, the Organic Law of Spatial Planning, Land Use and Management (LOOTUGS) was passed in July of 2016.

The LOOTUGS provides a national legal framework for urban planning and land management that includes concepts and guiding principles such as the right to the city, the social and environmental function of property, the equitable distribution of the benefits and costs of urban development, the separation of building rights from property, among others. It also provides a set of instruments that rendered brand new to most municipalities of the country. The LOOTUGS encompasses three elements and establishes its complementary and interdependent implementation: 1) Urban planning, 2) Land management, and 3) Financing of urban development (Scholz and Morales, 2016). The last two are possible through land value capture instruments. Regrettably, the implementation of the LOOTUGS throughout the country has been extremely slow. After nearly five years since its approval, not a single city plan has been passed under the guidelines of the LOOTUGS. However, most municipalities are working on the adaptation of their planning instruments, and in some cases creating new ones.

Land markets in the country, a structural component of financing of urban development, have historically been characterized by inequality and exclusion. These factors are reflected in the tenure structure of land and in land transfer mechanisms, which has created two parallel markets, one informal, outside the municipal register connected to informal settlements, inheritances related subdivisions, and rural land transfers; and the other one connected to the real estate industry. This dual reality has created two different scenarios for city management, one that supports the real estate industry through new instruments and legal frameworks, and the other related to regularization of informal and precarious settlements through improvements in infrastructure. These two scenarios have divided the housing market, leaving the biggest demand, of lower income families, unmet by the biggest provision market and excluded from the formal markets.

Quito had used more complex land value capture instruments (since before the approval of the LOOTUGS) such as the sale of development rights or development exactions, and Cuenca has started a debate on land readjustments. However, it seems that these strategies have promoted aggressive real estate development processes, which far from improving the housing shortage for lower income families had shown the first signs of “financialization” of the city, giving way to “global image” modern developments that had increased land prices, prioritizing financial gains, increasing inequality, and turning away from affordable housing provision.

The first formal trials of LVC, in Quito, were harnessed by the big real estate players. While lengthy debates were happening at the national level, regarding the LOOTUGS, the municipality was holding long negotiations (longer than 5 years in some cases) where formal developers were looking generate great profits on land using local instruments. These processes gave way to Developers Exactions called *Proyectos Urbanísticos Arquitectónicos Especiales (PUAE)*<sup>3</sup> or Special Urbanistic-Architectonic Projects. These negotiations were (and still are) characterized by high levels of discretion from municipal officials, great amount of political lobbying, and a clear speculative intention. This instrument started as straight-forward exchange of specific public works for higher regulations (usually large vehicular overpasses)<sup>4</sup>, and later became much more complex operations with calculations of land value increments, division of payments in cash or kind with diverse uses such as hotel, big developments, sectorial amenities, among others<sup>5,6</sup>.

In 2012, the Municipality of Quito also started a first trial of the Sale of Development Rights as a way of better regulate the approval of higher urban norms (as opposed to the PUAEs which have proven to be ad-hoc negotiations). This instrument quickly evolved to incorporate environmental benefits criterion in the construction<sup>7</sup>. This instrument, known as *eco-eficiencia* or eco efficiency, has allowed the aggressive process of real estate development that showed “financialization” signs, mentioned before.

## Implementation opportunities and risks

Ecuador is at a crucial moment regarding land management and LVC. The legal framework is in place, although its implementation has yet to start. All municipalities are due to approve their Land Use and Management Plans in September of 2021, which will be a starting point for some of the biggest municipalities to implement the LOOTUGS. However, without proper technical support from the national government and adequate urban policies it is very likely that this process will be long or futile.

Land Value Capture is not an end on itself, but a tool to implement urban policies. Therefore, LVC instruments, not only must be linked to, and be a direct consequence of the Land Use Plans but need to be proposed with clear objectives of equality, social justice and sustainability and considering an integral view

<sup>3</sup> Council of The Metropolitan District of Quito, 2011. “Ordenanza Metropolitana 0172 que Establece El Régimen Administrativo Del Suelo En El Distrito Metropolitano de Quito: Derogatoria de Las Ordenanzas Metropolitanas Nos. 3746, 0031 y 255” [http://www7.quito.gob.ec/mdmq\\_ordenanzas/Concejo%20Abierto/Ordenanzas/ORDENANZAS%20MUNICIPALES/MUNICIPAL%20\(172\)/MUNICIPAL\\_0172\\_517.pdf](http://www7.quito.gob.ec/mdmq_ordenanzas/Concejo%20Abierto/Ordenanzas/ORDENANZAS%20MUNICIPALES/MUNICIPAL%20(172)/MUNICIPAL_0172_517.pdf)

<sup>4</sup> Council of The Metropolitan District of Quito, 2012. “Ordenanza 0318 que aprueba el PUAE denominado EKOPARK - UDLA” (2012). <https://bit.ly/3sCci3m>.

<sup>5</sup> Council of The Metropolitan District of Quito, 2015. “Ordenanza 0067 del PUAE „Arts Cumbayá””. <https://bit.ly/2Pq61ti>.

<sup>6</sup> Council of The Metropolitan District of Quito, 2019 “Ordenanza 284 - 2019 que aprueba el PUAE San Patricio”. <https://bit.ly/380k6UK>.

<sup>7</sup> Secretary of Territory, Habitat and Housing of the Metropolitan District of Quito, 2020. “ANEXO No. 02: Instructivo de Aplicación de Los Parámetros de Eco-Eficiencia (Resolución No. STHV-034-2020)”. <https://bit.ly/2Odd6ww>.

of the territory. It is also vital to consider the real capacities of different municipalities and its institutions (to avoid inefficiencies or over charges) as well as the local market conditions (to promote adequate investments and not create over dimensioned expectations, or impossible standards to meet for developers, especially those that seek to provide affordable housing).

The calculation of costs and benefits, established in the LOOTUGS, are a new condition in the Ecuadorian urbanistic practice. However, these calculations require great technical capacities, as well as quality information on land that considers effects of regulations, building conditions, and especially accurate land prices. This information is somewhat available for mayor cities, however, this is not the case for most of the cities of Ecuador. Quito and Cuenca have a long-standing tradition of urban planning and these are perhaps the cities with the highest potential of implementing LVC successfully. It is very important to point out that a successful implementation of LVC, urban development policies and objectives must be clear and transparent. The case of Quito, the Sale of Development Rights as well as Development Exactions (PUAE) have worked a lot in favour of developers and little in favour of objectives of sustainability, efficient use of land or redistribution. In the case of PUAEs, they have facilitated low-density, upper class development and urban sprawl, while raising small revenues that do not reflect the real earnings in plus values from landowners and developers. On the other hand, in Cuenca, the latest events have shown great influence from construction unions in the decision-making process. Both cities need to strengthen their urban policies to ensure that LVC efforts work in favour of equitable and sustainable urban development, and that these tools do not become mechanisms that legitimize bad practices that serve political interests.

Land Value Capture policies are still in a trial-and-error phase. The few incipient cases of LVC have not been efficient or effective, but they have helped to build a conscience about the necessity of having common agreements regarding the city's best interests. Furthermore, these are the first steps into providing incentives (as well as exercising control) over the real estate industry growth, that, when well oriented, will allow us to achieve rights and equality in the cities, factors that have been neglected so far.

### **Profile of Interviewee: Jaime Rumbca**

Executive director and spoke person of the Housing Real Estate Developers Association (Asociación de Promotores Inmobiliarios de Vivienda del Ecuador APIVE).

## Egypt

Lead Expert: Dr. Dalia Wahdan

Second expert: Mr. Ahmed Tarek Ahmed Awad Alahwal

### Country-specific background

Egypt is reputed to inhabit between 5–7% only of its national territory. The reasons behind this skewed habitation are historically and topographically complex and interrelated. Since the 1960s, successive governments have undertaken urban and land reclamation programs that continuously expand habitation, with the current government setting a target to the lesion of 12% or more.

Historically, land in Egypt is predominantly public property or Amlak Amiriya. Granting lands to other entities (public and private) and taxation came after the middle of the nineteenth century (Sims 2014). Later, the control over public land was enacted by Laws 143/1981, 5/1996, and 7/1991. These laws defined four types of land:

- ▲ Public land; either public-domain or state private-domain
- ▲ Hiyaza land (government-recognized land possession) and hand claim land (informal)
- ▲ Private land
- ▲ Waqf (religious trust)

Four state agencies must approve any allocation of land before land transactions:

- ▲ Ministry of Defense, through Agency for Military Operations
- ▲ Ministry of Petroleum and Minerals
- ▲ Supreme Council for Antiquities
- ▲ The Egyptian Environmental Affairs Agency could also be required to consent
- ▲ In some cases, the Ministry of Awqaf (Endowments).

Four agencies take precedence for land allocations:

- ▲ Agriculture and Land Reclamation Agency (ALRA)
- ▲ New Urban Communities Authority (NUCA)
- ▲ Industrial Development Authority (IDA)
- ▲ Tourism Development Authority (TDA)

Land markets are highly distorted, if not dysfunctional, due in no small measure to unclear land information, ad hoc land transaction procedures (public bids versus auctioning versus Presidential direct orders), and the practice by individuals to resale the same plot or property to multiple entities.

Within urban and rural areas – as distinct from desert lands – 65-68% of built-up area is unplanned, with high built-up and population densities. This results in chronic land crunch (unavailability) due to the contentious issues of land ownership and titling, the historically diverse and overlapping types of tenancy, legally unclear land occupancy, systems of land parcels, land fragmentation, squatting and hand claims, changes in land-use patterns and lease terms, and legal changes pertaining to the use of eminent domain for the expropriation of lands for public benefits and/or the implementation of mega projects.

Combined with less-than-optimal regulatory frameworks, these vectors have repeatedly resulted in prohibitive costs for servicing land and high land transaction costs, especially with regards to ‘black soil’ i.e., fertile plots and in urban areas, including lands designated as green belts around new urban communities. Nevertheless, the past 8 years have witnessed significant transformations in land management that have direct implications on the implementation of LVC.

### State of the art: capacity, resources, and evolution

If we follow the approach that distinguishes LVC into two main categories, namely the public capture of private gain versus cost-recovery of publicly-financed infrastructure (Walters, 2012) then it is possible to conjecture that other than crop and product taxation and direct sale of land, there was hardly any practice that could be called LVC until 1981 (Hosni Mubarak presidency). With the imposition of successive economic reform and structural adjustment programs, and adjustments in the banking sector, state and private land and property have increasingly become bankable assets. Privatization gained momentum in the 1990s primarily through direct sale of land and property and the state, a substantial economic agent, forwarded more incentives to private enterprising.

Two understudied cases that involved LVC-based agreements are Alexandria governorate under Governor Abdul Salam Mahgoub (1997-2006), particularly the renewal of the Corniche in collaboration with the private sector with instruments that resemble developer exactions, and South Sinai under the Governorship of Mustafa Afifi (1997-2005/7). Although much hyped in media, there is limited analytical literature on both cases. In Greater Cairo Region, Mitchell (2002) mentions the case of Dream Land in 6th of October city when the developer was required to contribute to the completion of the ring road as an offset gain of acquiring land below market value. Similarly, Peterson (2009) provides a summary glimpse of an agreements whereby a firm was asked to spend US\$1.45 billion of private infrastructure investments plus 7% of serviced land turned over to the government for moderate-income housing. Later, Sims (2014) mentions the mechanism of ‘general contractor’ followed by the IDA in the late 1990s.

Within the rubric of public participation in private land value increase, since 2014, Egyptian state agencies have been establishing public private partnerships with Emirati, Saudi, Kuwaiti, Chinese and other regional and international entities that involve both in-cash and in-kind VC in transport infrastructure, real estate, logistical hubs, land reclamation, energy, and other extractive activities. All partnerships are made possible through legislative amendments of existing laws, issuance of new laws, revisions of mandates, and organizational restructuring.

Some transactions are scaled up for maximum liquidity by indirect value capture instruments. For instance, NUCA's securitization of lands in 2019 by issuing credit-rated sovereign bonds, securing a 3-month bridge loan and subsequently EGP 71 billion loan over three years at Central Bank-subsidized interest rate 2.5%. Similarly, several mega projects are collateralized with bankable lands, with financial intermediaries, banks and international financial organizations as overseers and partners. Those partnerships are contractual agreements with non-disclosure clauses, forbidding access to information outside stakeholders. This is aggravated by the protracted national state of emergency imposed since 1958 - with short reliefs, absence of Right to Information Law, and the suspension of local councils since 2014.

Yet, in terms of institutional capacities, it is important to mention that the recent history of privatization under Hosni Mubarak left bitter sentiments. Many privatization schemes uncovered corruption scams and highlighted the chronic deficiencies in land registry and practices that facilitated illicit land transactions. Corruption is also exacerbated by the fact that 90% of land and property in Egypt was, and remains, either unregistered or customarily recorded. Hernando De Soto stressed this predicament in 2004 and later in his meeting with ex-Prime Minister Ibrahim Mehleb in 2015. De Soto (2004) and Sims (2014) listed other sub-optimal institutional capacities namely, out-dated cadastres, and unclear procedures of land valuation and allocation that distort land markets and negatively influence the implementation of LVC.

The above conditions are not much different with regards to cost recovery of public infrastructure investments. Taxes on property under Real Estate Taxes Law 196/2008 remain poorly collected, let alone resisted by large land and property owners. Betterment levies revoked in 2020 are too recent to assess. Law 222 (Betterment Levy Law) was enacted in 1955, when most lands and property were in private hands and the government needed funds to finance public infrastructure before massive nationalization. Even then, there are no records to assess the procedures of calculation, collection, revenue, or remit.

Besides the afore-mentioned Betterment Levy Law 222/1955, land readjustment has been gaining traction through 13 projects, two projects by GIZ and around 11 by UN-Habitat. While both organizations have followed participatory approaches, the few reports published indicated both bureaucratic and adminis-

trative inertia and community ignorance and resistance. There is also a substantial degree of mutual mistrust between citizens and local administrators.

Nevertheless, the major challenge to successful land readjustment projects is the multiplicity of land seigniorage. For illustration, a land consolidation project that is currently underway in Qena governorate, revealed how plots in the district fall under six public land seigniorages namely, the army, antiquities, agriculture, irrigation, railways, and the governorate. The second major challenge is overlapping mandates. To continue with the previous example in Qena, a new Area Development Agency is currently under establishment and once in effect, will assume jurisdiction powers over the area's land use and allocations.

## Implementation opportunities and risks

It will take at least 10 years for LVCs to be duly implemented in Egypt and another 10 years for a valid regulatory impact assessment to be carried out. Until the time of writing, there has been no regulatory impact assessment of LVCs in place since the early years of 2000s.

In the case of betterment levies, their imposition in 1955 was justified by the land ownership patterns that existed then namely, large private ownership. Anecdotal evidence indicates that reluctance of private owners to comply with regulations resulted in minimal revenues to municipalities and public agencies. This gave impetus to policies of nationalization and expropriation. Revoking betterment levies in 2020 remains speculative. There is no dedicated exercise to monitor implementation and evaluate their impact on municipal revenues or assess the readiness of administrative capacities or citizens' compliance. **There is an opportunity to conduct this monitoring and evaluation exercise and install mechanisms to undertake these jobs.**

With regards to property taxes, publications and personal communications with ex-ministers revealed that resistance from large landowners were and could remain behind stalling the imposition and effective collection of taxes on immovable property, capital gains tax, and developer exactions. **Again, there is an opportunity to formally undertake this exercise.**

With regards to land readjustment and consolidation, casual conversations with individuals who participated in land consolidation projects indicated that small landholders stood to lose plots and livelihoods. Therefore, **a study of the possible impact of land readjustment on livelihoods is recommended.** GIZ and UN-Habitat are two organizations that could sponsor such an assessment particularly that both are involved in this arena.

Nevertheless, there are risks. The first concerns LVC as a concept. The latter remains relatively obscure, and its direct and indirect instruments continue to be skepticism by bureaucrats

and citizens alike. The UN-Habitat in collaboration with the Lincoln Institute of Land Policy, have identified four vectors of resistance to mainstreaming LVC as land policy. These are Ignorance, Ideology, Interest, and Inertia. From risks, these four 'I's could be transformed into opportunities. Ignorance could be turned into a concerted campaign to educate bureaucrats and the public about LVC and its diverse scales and instruments. Ideology could be negotiated with central and general agencies with mandates over land and property. This is especially feasible under the present regime and it will rely on debt- and land-based financing of urban infrastructure. The interest in LVC could be harnessed at least with regards to cost recovery of public investments. We especially recommend bringing in the Informal Settlements Development Facility (ISDF) as a collaborative agency along with General Organization for Physical Planning (GOPP) and Governors to reverse the interior borne out of years of state-led land and property management.

## Ethiopia

Lead expert: Dr. Frew Mengistu Truneh

### Country-specific background

Ethiopia is the second populous nation in Africa, after Nigeria, with 112.1 million population in 2019. It is located in the Horn of Africa, with a land area of 1.11 million sq km. Topographically it is endowed with rugged mountains, flat topped plateaus, deep gorges and river valleys. Currently the country is organized in a federal system with nine regional states and two chartered cities – Addis Ababa and Dire Dawa.

Ethiopian urbanization can be traced back to the Axumite Empire from 100 B.C. to 650 A.D. (Ermias et. Al. 2019). As towns and cities such as Axum, Lalibela and Gondar were flourishing in the geo-political region of northern highland Christian Ethiopia, cities like Harar and Jimma developed in the predominantly Muslim and pagan southern geo-political region of the present-day Ethiopia. Towns and cities in the northern geopolitical region were found as seats of conquering king, administrative centres and military garrisons, in either combined form or singly. These administrative seats were not able to bring transformation in the socio-economic fabric of the country. In contrast to the driving factor of urbanization in the northern geo-political region, trade had played a very important role in the southern regions. With the coming into power of Emperor Menelik and expansion to the south, garrisons were maintained, and military administrations were established in the new conquered regions which later evolved into urban centres.

As the southern regional kingdoms were incorporated, two types of land tenure systems were applied in the two geo-political regions: in the northern region, a *rist* system, a sort of descent corporation in which the right to claim a share of land based on kinship to a historical ancestor held in common with other *rist* holder. In the southern regions a sort of fief right in which *gult* land was granted in lieu of other remuneration to certain persons who perform or are liable to be called upon to perform service to the state. It was the Tax Reform of 1941, defending the land, for which tax had been paid to the government, as the property of the taxpayer, which became a milestone for the introduction of freehold tenure during the imperial period (Truneh 2013).

By the time the nationalization of all land (actually *nationalization* of urban land and *public ownership* of rural lands) was proclaimed following the revolution in 1975, it was considered as a threat to the *rist* tenure which was held as free hold given by the community in the northern regions. On the contrary it helped

to dispossess the nobility and redistribute land to the tenant population in the southern region.

This divide on land tenure systems between the northern and southern geopolitical regions is somewhat still expressed by the abandonment of the lease policy in the Somali Regional State specifically in its regional Capital Jigjiga. The government has to negotiate with tribal chiefs to get a parcel of land to build even a public university. A year ago, the Oromia National Regional State has merged the administration of both rural and urban land under Oromia Land Administration and Use Bureau with two deputies for each. Another deputy bureau head leads the integrated cadastral information. It is too early to evaluate how much effective would it be.

The development of urbanization in Ethiopia remains dreary due to the above-mentioned historical factors. Currently the level of urbanization is about 22% percent almost half the Sub-Saharan African average which is 37%. Projections show that urbanization will grow even more by 5.2–5.4 per cent for the coming three decades. The World Bank and GoE (2015) urbanization Review Report expresses the desperate situation of Ethiopian urbanization by noting the fact that urbanization is failing to meet the demands of growing residents in three areas: access to jobs, infrastructure and services, and housing.

The organizations which are involved or relevant to the LVC in the country are the Ministry of Urban Development and Construction, the Ministry of Finance and Economic Cooperation and the City Administrations. Other actors include the private businesses, real estate developers, property owners, and the society at large. Despite the importance of land value capture or land financing, currently there is some resistance from the concerned bodies. The main factor among part of the public (society) is lack of awareness. The second factor is the complication with the lease tenure system in which a lease payment is expected to be paid within the repayment period. Any additional payment requested is considered as a burden in the part of property owners, private businesses, and real estate developers. The rest of the society, the ‘mass’, is often in support of such these actors’ resistance, ignoring ultimately the fact that it LVC should benefit them through accessing infrastructure and services. The political elite are also cautious not to risk such resistance especially during a transition period, while election is on the way. The cumulative effect is that the readiness to launch LVC is jeopardized. Previous governments also did not venture to take such a risk when political legitimacy was at stake or due to vested interest.

### State of the art: capacity, resources, and evolution

The history of Municipal Administration goes back the early years of the 1900s. A renewed interest in city administrations (rather than municipality) came with the decentralization move, due to the new federal structure base on the Constitution of the

Federal Democratic Republic of Ethiopia (1995). The World Bank – IMF supported fund for Capacity Building for Decentralized Service Delivery (CBDSD) project helped to draft regional city administration legislations. The Institute of Housing and Urban Development Studies (IHS-EUR) in collaboration with the Ethiopian Civil Service University launched a master's program in Urban Management (van Dijk et al 2013). Specialized masters' programs including urban land development and management as well as property valuation and taxation were later opened. The Engineering Capacity Building Program (ECBP) financed by German Ministry for Economic Cooperation and Development (BMZ) helped to improve the quality of engineering education program and Curricula for Technical Vocational Education and Training programs (TVET).

Despite these attempts in building the capacity of urban development and management there are still deficiencies and challenges weakening specifically the land development and management, property valuation and taxation and generally in utilizing value capture instruments. Still professional manpower capable of using technology and adhering to the rules and regulation is very limited in number. Professionalism in service delivering is yet not developed and processes are based on conventional ad hoc basis.

A very small quantity of land is supplied in the formal land markets. Almost 93% of the land parcels are supplied through the informal markets. The lease land market has excluded the majority of citizens. It has been made far to be a functional market (not to say perfect market) by monopolistic tendency by supplying few numbers of parcels infrequently – once or twice a year. As the result lease prices soared up, where few numbers of parcels are infrequently supplied – once or twice in a year.

Explicit legal frameworks for land value capture instruments are lacking. For example, betterment tax, development right transfer and developer exactions frameworks are missing. The cumulative effect is towns and cities being underserved, while the value capture benefits go to speculative brokers and real estate developers.

The first legal instrument in relation to land value capture, specifically to property tax, was introduced during the Emperor Haile Silassie period in 1941. This property tax reform was instrumental to emancipate those kept under fiefdom. Land for which property tax had been paid by right owner under whatever tenure type and who had been using the land was converted into private property. After the revolution of 1975, rural and urban land was nationalized or had become under state and public ownership. The socialist oriented Military Government, based on Marxist Leninist principles, could not impose tax on its subjects, as they do not own the land, and it is not willing to tax itself as owner of the land. Therefore, it introduced a nominal Urban Land Use Rent and House Tax (known as Roof Tax) in its Proclamation 161/1976. The rate amount was so minimum it remained nominal. Some urban administrations do

not collect it due to the administrative hassle as compared to the amount revenue it generates. Most often they collect such income when a property transfer is processed with all back payments cleared before processing the transaction. Except few improvements by some regions and Addis Ababa at one time following a campaign to register all properties, the proclamation remains and is active until now. Previously city administrations used to collect tax from businesses for using the urban services by the name of Municipal Business Permit which was substantial and almost equivalent with business income tax. However, after the free-market economy became the economic model of the government, the “ease of doing business” ripped off the additional tax request from the businesses by the municipalities.

The Ministry of Urban Development and Construction (MUDC) established the Modern Property Taxation Study Project Office in 2013. This Project Office has accomplished two milestone activities. The first one is Urban Finance Strategy document and the other is the Modern Property Tax Proclamation. Both were submitted to the Prime Minister Office hoping to be approved by the Legislative body i.e., the Parliament. Currently the Urban Revenue Reform Bureau of MUDC is working in the details of the strategy. Offices for coordination of property taxation project had been established in the three pilot cities of Bahir Dar, Dire Dawa and Mekele. According to the information of the previous Project Office Head, who is also one of our informants for this Study, the Urban Finance Strategy includes some of the LVC tools, such as betterment fee, development exactions, etc. About the property tax, the Ministry of Finance and Economic Cooperation claimed the property tax to be part of the Federal Government on the ground that it is also involved in funding urban infrastructure. Later, when the new Council of Ministries is set with new ministers, then the agenda of approving it become new for the ministers. So currently the approval is still pending.

## Implementation opportunities and risks

The most difficult impasse to make progress in introducing LVC instruments is the lack of experimentation and administering piloting projects. The short but strict reaction by the leadership is taken for granted without any professional dialogue. This culture is somewhat related to the days of revolutionary democracies, what Goodfellow (2017) refers them as neo-developmental states. Blanket approaches to policy study and implementation are the other major problem.

The interaction between the federal ministries (not only the case of MUDC) and their regional counterparts and city administrations under the new federal system is not also without confusion. Actions to establish cadastral information system has been initiated around 2004 by the major regional bureaus Works and Urban Development and the major regional city administrations. At the moment no support in advising to standardize the data acquisition and organization of the database is given by the

federal entity but later these efforts were considered as ad hoc and led to the abandonment of the database.

However, there are also recent encouraging developments. The ISO standard Land Administration Domain Model is being adopted and the legal framework is being drafted. In the new 10 years Plan of the Ministry, it is envisaged to register about 6.6 million parcels (Ministry of Urban Development and Construction, 2020). Improvement on the land lease proclamation has been submitted to the legislative body, incorporating the realization of some of the LVC instruments. These might be taken as points of entry; however, if the approval of the legislations fails it would cause setback. With the establishment of stable government where its legitimacy is guaranteed by a winning public election, opportunities for new entry points would avail themselves. One entry point is the possible endorsement of the Urban Finance Strategy submitted to the highest executive body of the country. Then actions along the three tiers of political administration are necessary: the Federal Government must endorse the strategy and issue the property tax proclamation;

the ministerial office in charge of the institutional function, or to be entrusted with the responsibility of implementing it - i.e. whether the Ministry of Urban Development and Construction or the Ministry of Finance and Economic Cooperation- has to be decided. Then Regional Governments need to adapt it according to specific circumstances. Ultimately it goes to the city administrations to be implemented. The woreda administrations, the rural counterparts, collect agricultural land use tax.

Land value capture is not only about providing infrastructure and services but an important aspect of social equity and a means to adhere to the principles of social function of land (Mengie 2016). Underserved areas might continue to exist as long as a tipping point of no return is reached. Finally, the much-sought desire to maintain the status quo and political stability might be challenged.

## Ghana

Lead Expert: Mr. Samuel Banleman Biitir

Second expert: Dr. Joseph Ayitio

### Country-specific background

Ghana is a unitary state with central government, agencies and department having their headquarters in the national capital, Accra. However, it operates a decentralised system of governance where the country is currently divided into 16 administrative regions that mainly coordinate the development activities of local government authorities. The local government structure currently comprises of 260 Metropolitan, Municipal and District Assemblies that operate as local authorities in their respective jurisdictions clothed with powers to mobilise internally generated revenues from several sources including LVC mechanisms. The country is noted for its robust democracy reflecting in consistent peaceful elections and processes of governance since its transition to multiparty rule in the early 1990s.

Historically, Ghana was colonised by the British and was the first in Sub-Saharan Africa to gain independence in 1957. It inherited the English system of common law and modelled its legal regime after this system. Particularly, land management is characterised by legal pluralism where both statutory and customary laws regulate the land tenure system. Land ownership is largely customary and communally owned with the state accessing land for public use through expropriation mechanisms. Culturally and traditionally land carries a social obligation to serve the community. Therefore, the Ghana's Constitution of 1992 recognised this notion and made provision to ensure that managers of land are fiduciaries charged with the obligation to discharge their functions for the benefits of the people of Ghana. Besides, the legal and institutional frameworks of land use planning and urban management are traceable to colonial legacies as well as its planning instruments.

Ghana is endowed with land and natural resources with gold and cocoa being the mainstay of the economy until oil was discovered in commercial quantities in 2007. The economy has improved significantly in the past three decades with consistent GDP growth rates averaging above 5.6% (Cities Alliance, 2016). Ghana was ranked as the fastest growing economy in Sub-Saharan Africa and one of the fastest in the world in 2011 when it recorded a GDP growth rate of 14.4%. However, since then the economy plummeted due to world economic shocks and falling commodity prices. In 2014, GDP was 4% and rose marginally to 4.1% in 2015, but even then, it was higher than the Sub-Saharan Africa average GDP growth rate of 3.8%. Poverty rates have significantly reduced over the years. According to the World Bank (2015), the total poverty incidence dropped below

25% in 2013 and below 11% for urban areas.

The country has experienced rapid urbanisation and for the first time in 2010, more than half of the population (53%) lived in urban areas (World Bank, 2015). It has six metropolitan areas with populations exceeding 100,000 and many small towns. Since 2000, the country has experienced faster urban population growth rate in its smaller cities than the larger ones. The population of the capital city has grown considerably however, its urban primacy declined due to rapid growth rate in medium and large cities.

The historical position of Ghana during the independence struggles and the role it played in assisting other Africa countries gain independence puts its on an envious position within the African continent. Thus, with regard to the geopolitical context, Ghana has several bilateral and multilateral relations with other countries outside the region such as England, the United States, Germany and quite recently the East Asian countries particularly China and Japan. It has signed and rectified many international treaties and is a member of many multinational organisations such as the United Nations, UN-Habitat, The World Bank, The International Monetary Fund, Department of International Development (DFID), German International Cooperation (GIZ) among others. It was signatory to the UN Sustainable Development Goals. These multilateral organisations have in several ways influenced aspects of national policy formulation and programme implementation in the areas of urban policy, decentralisation, land administration reforms and other socio-economic programmes. These reforms have led to amendments to old regulations and new legislations that have touch broadly on some LVC instruments such as development charges, betterment levy, public land leasing and property rating. British colonial legacies in the area of land use planning have also influenced legislation of planning instruments such as development approvals, development charges implementation.

Typical LVC mechanisms that have been introduced by various statutes over the years include property rates, development approvals, development charge, betterment levy, public land leasing, annual leaseholds payments both on public and customary land leases and transfer taxes such as stamp duty, capital gains and gift taxes. Property rates, betterment levy and development charges are colonial legacy instruments that were inherited an incorporated in modern Ghana political administration. The principal actors involved in the implementation these mechanisms are state agencies, local government authorities and some private sector players. The state agencies include the Lands Commission, Office of the Administrator of Stool Lands and the Ghana Revenue Authority. These agencies implement different LVC instruments based on their capacity and role in the urban management and development. For instance, the Lands commission is responsible for managing public lands through which they implement public land leasing and collect leasehold premiums and annual leasehold payments or ground rents. Office of the Administrator of Stool Lands collect annual leasehold payments on

behalf customary landowners and disbursed it in accordance to formula prescribed by the Constitution. Local Authorities collect and retain property rates, development approvals, development charges and betterment levy. However, there are some parastatal organisations such as the Tema Development Company, State Housing Company and the Ghana Airport Company that have implemented development charges, leasehold premiums and annual leasehold payments. In recent times, the parastatal organisations have had their legal mandates expanded, that allows them to acquire lands and either develop residential estates or engage in site and services schemes in the process they use LVC to raise revenues for their continuous operations.

The private sector actors such as the Ghana Real Estate Developers Association (GREDA) have over the years complemented the state and parastatal organisations' efforts in providing residential accommodations. These developers acquire small to medium tracts of lands by private treaty and implement some LVC (leasehold premiums, development charges and annual leasehold payments) to augment their resources for further investments. In terms of civil society actors, currently there is only one player known as COLANDEF. This organisation provides advocacy and education on land rights and has the potential for advocating for the implementation of LVC to inform policy discussion.

## State of the art: capacity, resources, and evolution

LVC as a concept has not featured prominently in Ghana as a policy agenda to merit any political and scientific debates. However, LVC mechanisms have existed in piecemeal as offshoots of colonial legacies and have been seen largely by politician and academics as revenue generating and urban planning instruments. These instruments are operating as individual tools rather than coordinated LVC mechanisms to merit comprehensive legal or policy guideline that can be aimed at addressing urbanisation challenges. Thus, the legal and institutional frameworks for implementation of these mechanisms have existed mainly along state agencies and local government authorities. Public land leasing and annual leasehold payments on public lands is being implemented by the central government through the Lands Commission vide the Lands Commission Act, 2008 (Act 786). Annual leasehold payments on customary lands are the preserve of the Office of the Administrator of Stool Lands (OASL) also a national agency through the OASAL Act, 1994 (Act 481) and OASL Regulations, 2019 (L.I. 2377). Historically customary lands control and stool land revenues have been contentious as the state has attempted to control rents on customary lands through several legislations (i.e., Article 267 of the 1992 constitution). In Ghana, customary authorities can allocate to land developers in the form of leases for a maximum of (99) years for Ghanaians and 50 years for foreigners. The sale of leases and the annual rents payable by lessees serve as important sources of income for these customary authorities as well as local government authorities. Over the years, revenue from

customary lands such as stool/lands have been subjected to compulsory sharing between the state (10%) and local authorities (55%) while the rest is retained by the landowning customary authority. The institutional framework for Property rates, development approvals, betterment and development charges, in particular, are implemented by local authorities through the Local Governance Act, 2016 (Act 936). Property rates are used to depict the local property tax as used in many former British colonies (Franzen and McCluskey, 2017). Transfer taxes are implemented by the Ghana Revenue Authority through the Income Tax Act, 2015 (Act 896).

The unitary state structure of Ghana allows central government to make national laws governing the operationalisation of these instruments. Thus, the national law governing the operationalisation of property rates, development approvals, development charges and betterment levy are the Local Governance Act, 2016 (Act 936) and the Land Use and Spatial Planning Act, 2016 (Act 925) as well as the Land Use and Spatial Planning Regulations, 2019 (L.I. 2383). However, the implementation and utilisation are done by local authorities.

To ensure the implementation of property rates, the Valuation School was set in the 1950 to train low level manpower (Valuation Technicians) to undertake rating valuation subsequently the departments of Land Economy and Planning were established at the Kwame Nkrumah University of Science and Technology (KNUST) to trained skilled personnel in property valuation, land administration and physical planning in the 1960s. These departments train the requisite personnel for local governments as well national government agencies to handle matters related to public administration, valuation and physical planning. KNUST was the only higher institution of learning training these professional until the late 2000 where the University for Development Studies, established the departments of planning and real estate and land management as well as three Polytechnics that mounted programmes in Estate Management and building technology to train middle level personnel with skills for property valuation. Two professional bodies (Ghana Institute of Planners and Ghana Institution of Surveyors) were also established to provide professional training in relevant areas. Currently the Ghana Institution of Surveyors for example has about 1,500 Valuation and Estate Surveyors that are equipped with requisite skills in property and rating valuations. Therefore, in terms requisite capacities to assess rateable values and assess development approvals fees, there are quiet a number of very qualified personnel. However, the right mix at the various agencies implementing LVC instruments is not adequate. Land Valuation Division of the Lands Commission that is the government valuer responsible for rating valuation in the country currently has only 46 district offices through out Ghana and 10 regional offices (one each in every administrative region). In terms of Physical Planners, each of the 260 local authorities ought to have a physical planner but currently only Metropolitan and Municipal Assemblies have at two with most District Assemblies having none at all.

## Implementation opportunities and risks

Within much of the urban development discourse, the concept of LVC has not received much attention in Ghana. This is because government and politicians have historically depended on bilateral and multinational institutions for raising funding for financing major infrastructure projects as well as for economic stabilization. An Urban Management Expert interviewed explained that, governments over the years have relied on their glory as “the so called ‘star performer’ of the Breton Woods institute to secure donor funding for infrastructure development. Recently, the government has also relied on China to access lines of credit for major infrastructure projects. For these reasons, there has been little motivation to explore the use of LVC and other innovative financing for infrastructure projects.

There are, however, some mounting interest to explore new opportunities for funding public infrastructure especially at the sub-national level. In addition to dwindling finance from traditional lenders due to the global financial crises, the rising infrastructure gap has caused a substantial shift towards domestic funding. These constraints have mandated national and sub-national governments to begin to explore a combination of innovative financing mechanisms including PPP arrangements and land-based financing instruments.

In the last decade, fiscal decentralization reforms have been pursued aggressively in Ghana (Ahwoi and Mahama, 2018), and local governments have now become increasingly responsible for infrastructure and service provision. Improving revenue-generation and management capacity has been a central focus of these reforms. Through programs such as the Support for Decentralization Reforms (SfDR) program, and other fiscal measures implemented to support key urban functions, metropolitan and municipalities now have significant control over urban expenditure priorities, urban planning and urban management. While the use of property taxes and charges related to land have improved, these only constitute a part of the bundle of revenues local governments require in order to meet the burgeoning demand for services and infrastructure.

Despite Ghana’s land development difficulties, several laws and regulations have been introduced that provide legal justification for LVC implementation at both national and sub-national level. These legislations include the new Land Act, 2020 (Act 1036) which clearly spells out the ownership and governance of private and communal land (“stool and skin land”), taxable interests, assessment procedures and applicable taxes, fees and charges. The Local Governance Act, 2016 (Act 936) empowers metropolitan and municipal authorities to implement any permissible land-based finance instrument (e.g., property taxes, developer exactions, betterment charges etc), and also to develop local regulations and methods to guide actual implementation. Furthermore, the new Land Use and Spatial Planning Act (Act 925) and Land Use and Spatial planning regulation, 2019 (LI 2384) address policy issues inherent in land-based finance while

specifying the standards for preparation of spatial plans, as well as procedures and approaches for development permitting and other applicable LVC instruments. Together, these pieces of legislative instruments provide legal basis and authorization for national and sub-national governments to use a broad array of land-based finance tools.

There is increasing evidence of land-based financing mechanisms in Ghana, that suggest an emerging real estate market with the potential to undertake LVC transactions. For instance, the development of the Accra City Mall involved the payment of developer impact fees where the government provided bulk infrastructure while the developer provided for connector and internal infrastructure. A similar arrangement was used in the development of the Kempeski Hotel Gold Coast City – government provided the land, while the developer funded the relocation of government departments, and provided all social, internal, connector and bulk infrastructure for the City apart from the road network. These exemplary LVC cases can be attributed to the introduction of supportive legislations/regulations but also the increasing involvement of the private sector in urban infrastructure provision. The presence of an effective and efficient real estate market has served as a key component in leveraging private sector finance to successfully implement these LVC transactions. When combined with an enabling legal and regulatory framework and capital markets, LVC can be deployed on a transformative scale. More recently, the national urban policy is being revised to encourage the use of LVC mechanism in funding affordable housing and public infrastructure.

While there exists prospect for a wider use of LVC, a number of challenges remain in the current environment. First, resistance to the introduction or expansion of land-based finance is expected from customary landowners and within the political institutions themselves. Managing internal resistance and building political will/public support are thus paramount and require concerted action. One way to approach this resistance is for national and local authorities to ensure transparency and accountability in how resource allocation decisions are made, and systematic public reporting of revenues collected, expenditures made, and outcomes achieved. It is also crucial that elements of any of the land-based finance instruments must be adapted to the local context, the local history and the local culture.

Some observed challenges affecting land-based finance systems in Ghana are outside the land and property tax system. These include a lack of administrative capacity, incomplete land registration and inadequate physical addresses in most of Ghana’s cities. The administrative capacity to identify the instrument to be used in a particular urban intervention, how to assess the fee or charge as well as ensuring that such fee or charge is commensurate with the gains made in terms of land values or benefits received is lacking in most local government authorities. Administrative capacity also varies with the type of instruments. Therefore, local authorities have a variety of LVC instrument

must be equipped with a variety of expertise to be able to assess and determine the types of instruments that are feasible to implement. The lack of administrative capacity has manifested in the lack of implementation of development charges and betterment levy since they were introduced in 1945 Town and Country Planning Ordinance (Cap. 84) (Biitir, 2019). Nonetheless, these instruments have been maintained in every revision of Local Governance and Planning Laws. Property rates have been less effective at mobilising local revenues primarily due to inadequate financial capacity to undertake rateable valuation. The assessment of rateable values for property rating purposes is an expensive exercise often requiring spatial data sets as well as ground truthing, so the estimates that originate from the government valuers for such exercise are quite huge compared to the local authorities internally generated funds. In addition, local authorities often compare the time and resources it takes to conduct the rating valuation and what they refer to as the “easy collectables” such as licenses and fines which they collect with little efforts and resources.

These factors have led many local authorities to resort to using a flat rating system which does not yield adequate revenues. In many instances, the rates applied to properties do not reflect the market rates of structures. Implementation of public land leasing and annual leasehold payments has been problematic due to political interference in the allocation of public lands. In terms of customary lands, the challenges in the annual leasehold payments are due to prevalence of informal land transactions. Most customary lands are not formalised (registered or recorded) which makes it possible to trace lessees for annual leasehold payments. The challenge with implementing transfer taxes is that most transactions in lands and gifts of landed properties are not recorded in the land registry cadastre and it is difficult to track these informal transactions due to lack of up-to-date cadastre.

That is why the SfDR program was introduced to build administrative capacity for revenue mobilization in local governments. The national Land Administration Program was also implemented to improve land administration and registration. The street naming and property addressing program being implemented country-wide will also help to identify the location of land parcels and subsequently delivering tax notices to the occupants. The gains made by these programs need to be consolidated and improved to enable LVC implementation. Besides, the Ghana Enterprise Land Information System has also been introduced to help improve both the land registry and fiscal cadaster at the state level. It is hoped that the full implementation of this system will help link the fiscal cadaster to the Ghana Revenue Authority and improve taxpayer identification so that assessment and collection of taxes can be enhanced. This system will also assist the implementation of LVC instruments in the country.

### **Profile of Interviewee: Dr. Kwadwo Ohene Sarfoh**

Dr. Sarfoh is an Urban Development Expert with several years of experience in implementing urban development projects. He is also an alumnus of IHS and has been very instrumental at initiating impactful inner-city revitalisation and slum upgrading projects in Ghana where he attempts to experiment LVC mechanisms as a tool for leveraging funds for urban infrastructure. He is currently the Project Coordinator of the Greater Accra Resilient and Integrated Development (GARID) which is experimenting LVC as a mechanism to help finance the project. He understands LVC very well and one of the experts that has advocated for and is promoting the experimentation LVC in projects.

## Landscape for potential LVC Mechanism

Table 1: Landscape for Potential Land Value Capture Mechanisms

| LVC mechanism                                | Description   | Precedent   |
|--|---|---|
| Development Charges/<br>Impact Fees          | Requires developers pay for infrastructure provided by public authorities or pay to develop the required infrastructure at their own expense. | Lands Commission Fee Fixing Resolution –Lands Fees Instrument of 2009 allows for development charges on new public land allocations, with respect to meeting development standards requiring infrastructure<br><br>Land Use and Spatial Planning Act (Act 925) allows for development charges on customary/private land allocations |
| Sale of Development Rights/<br>Density Bonus | Right to build at greater densities than normally would be allowed, under standard zoning rules and other restrictions.                       | Local Governance Act of 2016–Act 936 allows local authorities to charge planning permission or development permit fees  |
| Public Land Leasing                          | Generating revenue to finance infrastructure development through ground rents on publicly owned land.   | Lands Commission Ghana, as part of its public land administration and management function, performs allocation of public lands  |
| Property Tax                                 | Recurring tax based on the value of immovable improvements or on the attributes of the improvements   | Local Governance Act of 2016–Act 936 allows for property rating (property tax) by all local government authorities  |

## Indonesia

Lead Expert: Mr. Agustinus Yunastiawan Eka Pramana

### Country-specific background

Indonesia is an archipelago consists of around 17,000 islands. It has five main islands, which are Java, Sumatera, Borneo, Sulawesi, and Papua. There is socio-economic disparity between the west and the east part of Indonesia. The social and economic activities are concentrated mostly in Java, especially around Jakarta, the Capital City of Indonesia. In the second quarter of 2020, Java alone contributed 58.55% to the total Gross National Product (GNP). Meanwhile, the accumulation of GDP produced in Borneo, Sulawesi, and Papua only contributed 17.96% to the total GNP. Indonesian Cities have been facing rapid urban growth, especially from 2010 up until now. Before 2010, the proportion of the population who lived in the rural area was higher than the urban population. However, after 2010, the urban population is more than the rural one. In 1980's, the urban population in Indonesia was only 22,3% of the total population. Nowadays, the recent data shows that 55,9% of the total population live in the urban area. The urbanization process is concentrated in several major cities in the Java Island. The most urbanized area in Java Island is Jakarta Greater Metropolitan Area, which consists of Jakarta as the urban core, with Bogor, Depok, Tangerang, and Bekasi on its urban periphery area. Other cities that also face the rapid urbanization are Bandung, Semarang, Yogyakarta, Surabaya, Medan, and Balikpapan.

After governed by an authoritarian regime for 32 years, in 1999 the Parliament had passed a law that regulates the transfer of authority and responsibility from the national government to the local government (decentralization law). The decentralization law was amended twice, in 2004 and 2014. The decentralization law gives more opportunity to the local government, not only to deliver public service, but also to generate revenue for the provision of the public service. In several municipalities, the transfer of authority is then followed by the efforts of the local government to create innovation on how to generate revenue for the provision of public services. However, most of local governments in Indonesia have no such capacity to make some innovation to provide funds for the public service provision. Most of the municipal government face the problem of the lack of capacity of the public officers, diversity of the socio-cultural background, and the ability to effectively mobilize local resource to support regional development.

This geopolitical situation has made the application of LVC instruments varies across the country. Several municipal governments in major city (i.e., Jakarta, Palembang, Bandung,

Balikpapan) have put some efforts on how to maximize the utilization of the land instruments. Despite of its controversies, the former Governor of Jakarta had applied the additional development charge to the developer who exceeded the FAR limit on their development project. The charge collected from the developer was then allocated to build a connecting bridge to solve the traffic jam problem in Semanggi, Jakarta. The municipal government in Jakarta also updates the land value as the tax base for collecting the Land and Property Tax. By doing so, the municipal government in Jakarta may optimize their revenue from collecting the Land and Property Tax. Some local governments, for example in Sleman, have conducted land consolidation projects in the sub-urban area. Despite taking around 30 years to complete the land consolidation project, local government in Sleman has successfully managed the land prepared for the urban expansion in the sub-urban area. As another example, the Municipal government in Palembang is still seeking the appropriate method to capture the land value increment resulted from the construction of the Light Rail Transit (LRT) track. Nonetheless, there are more local governments that still do not have any idea on how to apply the LVC instrument on their jurisdiction. As a result, most of the municipal governments still depend on the inter-governmental transfer as the main financial resource for delivering public service.

### State of the art: capacity, resources, and evolution

Land Value Capture (LVC) has long been practiced by the government of Indonesia. There are several LVC instruments that have been applied by the government of Indonesia, such as land and property tax, transfer tax, and land consolidation. The collection of the land and property tax was conducted by the government based on the National Law in 1985. In 1994, the National Law was amended, which stipulates the use of the market value as the tax base for collecting the Land and Property Tax.

Meanwhile, the Land Consolidation Instrument had been used by the government to provide land for the public infrastructure development since early 1980's. In 1980's, the National Government exercised Land Consolidation in Borobudur, Magelang to provide land for the development of the National Heritage Park. This instrument also had been practiced in Sleman, Yogyakarta in 1980's, as the part of the effort to contain the urban development by the Municipal Government in Sleman. In this case, the land consolidation process took a long span of time to be completed. The land consolidation project was initiated in 1980's. After receiving denial from the resistance landowners, the project finally could be completed in 2013, which means that the Land Consolidation Projects took almost 30 years to be completed. This instrument is still used by both national and local government, especially in the urban redevelopment project in the slum area and disaster-prone area.

After the enactment of the National Law number 33/2004, that gives the local government more revenue sharing from

the Land and Property Tax, the local government has seen the potentiality to optimize revenue from collecting Land and Property Tax and Transfer Tax. The property value used as the tax base for collecting the Land and Property Tax and Transfer Tax was set far below the market value. Therefore, starting in 2015, the Ministry of Land and Spatial Planning introduced a new method of the land valuation for the purpose of setting the tax base. The Ministry of Land and Spatial Planning introduced the Land Value Zone (Zona Nilai Tanah/ZNT) as a reference for the municipal government to set the tax base. The land value in the ZNT is close to the market value, which has made some municipalities (i.e., Jakarta, Yogyakarta, Bandung, and Sleman) able to generate more revenue from collecting the Land and Property Tax and Transfer Tax.

The implementation of the Land Value Capture has its momentum recently. The current president, Mr. Joko Widodo, has put the infrastructure development as the main priority targeted to reduce the socio-economic disparity. According to the Coordinating Ministry of Economic Affairs, the government will require around 6.42 Trillion Rupiah to finance the infrastructure development in 2020-2024. The state budget is estimated to cover only around 37% of the total investment needed to provide the infrastructure. The acceleration of the infrastructure development has been taken place, such as the construction of the Trans-Java Toll Road, that connects Jakarta with several main cities in Java, and the construction of the Trans Sumatera Toll Road, that connects Bakauheni (the main ferry port in Sumatera connecting Sumatera and Java) with Palembang (one of the major cities in Sumatera).

During the implementation of the national program to accelerate infrastructure development, the governments are facing the problem of land acquisition. Land availability for project development was constrained due to economic pressure and land-owner's reluctance to sell their land to the government or state/local-owned enterprises. Land market speculation was rampant as there was no clear and stringent regulation to address land scarcity. Even with the issuance of several government regulation concerning the integration of land development into spatial planning process, central and local government were unable to address how to effectively capture the financial and economic impacts accrued from the development that took place in the designated area for development.

The Government of Indonesia launched new approach to ensure land availability for development is warranted. The process of acquiring land for national development project is facilitated through the execution of the Law no. 2/2012 concerning land acquisition for public interest development. Moreover, efforts to debottleneck impediment of accelerating infrastructure and regional development are eased through the issuance of presidential regulation no. 66/2020 regarding land funding for public interest development to implement national strategic projects. It is expected that the implementing business entity (badan usaha pelaksana) would play significant role acquiring land for

development along with State Assets Management Agency (Lembaga Manajemen Aset Negara/LMAN). Moreover, due to the pandemics, the cost recovery of the infrastructure built by the government could not go through as it was planned. In the case of the Trans-Sumatra Toll Road, for example, the traffic flow is below the predicted number. It has made the revenue from the operation of the toll road fall below the initial estimation. This has made the national government and the toll road operator rethink how to accelerate the cost recovery. The implementation of the Land Value Capture policy is then regarded as a potential way to provide land for the infrastructure development purpose and to accelerate the cost recovery for the infrastructure development project.

## Implementation opportunities and risks

Based on the assessment on application of LVC tools in Indonesia, we conclude that there are several problems that constrain the implementation of LVC in Indonesia:

1. **Lack of legal framework, especially regarding the explicit definition of Land Value Capture and the earmark of the revenue generated from implementing LVC Policy for the specific purpose.** The absence of explicit definition regarding LVC may lead to the misinterpretation of LVC by the responsible public officers. The lack of legal framework also causes the revenue collected from the already-applied LVC instruments could not be earmarked for any specific purposes. The revenue collected from the LVC instruments is the part of the total government revenue, therefore, the purpose of the LVC, which is to capture the land value increments to be redistributed for public service provision, could not be monitored.
2. **Institutional complexity to implement LVC.** As in the strategic land management instrument, there are several government agencies and ministries responsible for carrying out a strategic land management project. The agency who responsible for planning the use of land acquired by the state could be different with the agency who responsible for the land acquisition process. The lack of coordination among different government agencies has made the implementation of strategic land management took very long time.
3. **Lack of public officers' capacity,** especially on administering LVC instrument and conducting land valuation to set the tax base.

Despite of the afore mentioned constraints, the implementation of LVC is a hot topic in Indonesia. **The Coordinating Ministry of Economic Affairs (Kementerian Koordinator Bidang Perekonomian) has already commenced a study regarding the implementation of LVC together with the World Bank in 2020.** Both parties have already prepared a long list of the National Strategic Project that will be selected as the pilot project for implementing LVC Policy. In the middle of 2021, it is expected that the location for the pilot project could be selected.

The list of the National Strategic Projects that are nominated as the location for the pilot project consists of:

1. Light Rail Transit (LRT) Jakarta International Stadium-Kelapa Gading-Velodrome-Klender Corridors and Pulo Gebang-Joglo Corridors in Jakarta. The LVC could be implemented together with the plan to develop TOD Area in several stations in the corridors.
2. Light Rail Transit (LRT) Station in Jakabaring, Palembang. Similar with the development concept of the LRT Stations in Jakarta, the LRT Station in Jakabaring, Palembang will be also developed with the concept of TOD.
3. Revitalization of the Sekanak-Lambidaro Area in Palembang, South Sumatera
4. Transit Oriented Development (TOD) Project in Jurangmangu, Tangerang, Banten
5. Development of the area around the rest area and the toll gate along the Bakauheni-Terbanggi Besar Toll Road (part of Trans-Sumatera Toll Road).
6. Development of Harbour City in Bakauheni Port, Sumatera
7. Transit Oriented Development Project in Merak Port, Banten

The strategic land management instrument and land and property taxation are mentioned as the most possible land-based instrument to be implemented as the pilot project. The land and property tax are considered as the most feasible option, especially regarding the intention of the National Government to utilize the LVC Instrument as the revenue generation tool. The funds generated from implementing the LVC Instrument is expected to recover the government investment on the infrastructure development.

The main bottleneck on implementing the LVC Policy in Indonesia regarding the legal framework. Firstly, there is no explicit definition of the Land Value Capture in the Indonesian Constitution and Law. Secondly, there is not any regulation that allows government to earmark the revenue generated for any specific purpose. The revenue generated from the Land and Property Tax, for example, belongs to the general government revenue and it could not be earmarked for any specific purpose. Moreover, the Government of Indonesia does not have any legal standing to exercise other LVC Instruments, such as betterment charge or transfer of development rights. Those facts show that the regulatory framework is still the main implementation impeding factor of LVC policies in Indonesia.

The second bottleneck is regarding the sharing of authority among various government agency and ministry in Indonesia. It is not clear which government agency that has the most responsibility to lead the implementation of LVC policies. Current practice of the LVC policies implementation shows that the responsibility to implement the policy is fragmented. The land and property tax and transfer tax, for example is the responsibility of the municipal government. In the case of strategic land management, the National Assets Management Agency (LMAN) has only limited responsibility to manage the government owned property.

In order to solve these bottlenecks, the Government of Indonesia has given a special authority to the Government-Owned Company (namely Hutama Karya) to lead the implementation of the strategic land management policy in Bakauheni, Lampung. The government of Indonesia is also preparing a Land Banking Agency in accordance with the Job Creation Law/Omnibus Law number 11/2020. The Land Banking Agency will be managed under the Ministry of Land and Spatial Planning. The main task of the newly formed agency is to manage the land owned by the government to maximize its function for the public purpose. The government is also preparing a new regulation as a legal basis for the authority given to the newly formed agency.

## Case Study

### A Case Study Regarding the Implementation of LVC: Land Consolidation Project Commenced by the Local Government in Sleman Regency, Yogyakarta

The expert found an interesting case of the implementation of LVC Instrument in Sleman, Yogyakarta. Sleman is a part of Yogyakarta Conurbation Area, where the urbanization has led into the land use conversion of the agricultural land for residential and commercial use. The urbanization process has occurred since 1980's. The local government has put some efforts to contain the urbanization process, for example by setting an urban growth boundary and prepare some agricultural land for the urban expansion. As the part of the effort to prepare agricultural land for the urban expansion, the local government carried out a land consolidation project in Sinduadi, which is located next to the administrative boundary of Yogyakarta City at the core of the urban area. The land consolidation project was started in 1980's. During that period, Indonesia was still under an authoritarian regime (namely the New Order/Orde Baru). Under the authoritarian regime, the government often forced the people to follow top-down policies.

A similar approach was also used when the local government carried out the land consolidation project in Sinduadi, Sleman. After the land had been consolidated, the landowners were forced to accept the new land division made by the local government. The new plot received by the landowners was often located far away from the previous plot. Because of in the concept of Javanese Culture, a person is strongly attached with the land given by their ancestor, many landowners did not accept the new plot as it was delineated by the local government in the land consolidation project. Many landowners opted to stick on their original plot and were still doing farming activity on their original plot. They were reluctant to move to the new plot, even though they had been given a land certificate for the new plot. As a result, despite of the potentiality of the area for the urban expansion, people mostly avoided to do land transaction on that area. The location of land sold by the landowners often did not match with the real location of the land as it is stated in the land certificate.

This problem was finally solved after the previous generation (the original landowners) had inherited their land to their son or grandson. It was in 2013 when the people who received the inherited land finally agree to solve the problem of the land division. The local government built

the road as it was planned before the land consolidation project had been commenced. The newly built road was also functioned as a physical boundary for the land plot; thus, it could help the landowners to define the boundary of their new plot. Nowadays, the land plot claimed by the landowner in the land consolidation project area has been match with the location and the boundary of the plot as it is stated in the land certificate.

Since the commencement of the project in 1980's, the land consolidation project was regarded as successfully completed in 2013, which means that the project took around 30 years to be completed. The land consolidation area now becomes a favourable area for residential building development in Sleman. As the result of the land consolidation project, the local government able to provide land for the provision of public road without spending a lot of budget.

The lesson learned from the land consolidation project carried out by the local government in Sleman is as follows:

1. It is important to get the consent of the landowners involved in the land consolidation project without any force by the government. The recent land consolidation project in other part of the jurisdiction was regarded as successfully carried out by local government. The local government may carry out the recent land consolidation project because they get the consensus from the landowners involved in the project. In the recent case, the local government did not need to use force to make the landowners accept the land consolidation project. The landowners provide some parts of their land voluntarily for the provision of the local road. The result of the land consolidation project is benefited both the local government and the landowners.
2. It must be acknowledged that in several cultural context in Indonesia, there is a strong attachment between a person with the land inherited by their ancestor. This concept often causes difficulties in the land acquisition process by the government. It is important to carefully negotiate landowner, especially from the older generation, to give up their land for the public purpose.

## Morocco

Lead Expert: Dr. Moha El-Ayachi

Second Expert: Dr. Abdelwahed El-Idrissi

### Country-specific background

Morocco during the last decade has known a series of potential discussions and debates on the land sector and related aspects. The land policy is one among the governmental activities that should facilitate generating output for the nation. The economic value of an efficient land policy and land governance depends on the amount of the implemented land value capture instruments to specifically offer user friendly services. The most discussions can be referred to the following debates:

- ▲ National debate on the urban planning code in 2006,
- ▲ National Dialogue on Collective lands in 2014,
- ▲ National debate summit on land policy in December 2015

The objectives behind national debates are:

- ▲ To generate various inputs for agriculture and environmental activities,
- ▲ To provide tools for managing lands, modelling the product factors related to spatial features, enhancing the productivity by means of landscaping analysis, and locating accurately the natural resources for rational use and profit,
- ▲ To enhance land planning, land development, and land valuation,
- ▲ To develop a system of wealth for individuals and society,
- ▲ To generate major economical values by avoiding costs of the repetitive operations to produce land information,
- ▲ To build a modern cadastre that permits a large public participation in decision making by setting up an inclusive system enabling the access to land information,
- ▲ To create an inter-ministerial cooperation and an inter-local coordination between municipalities, provinces, and cities to ensure a regional interoperable land data repository.

The outcomes of the debates are an opportunity for decision makers and policy makers to treat additional forms of social and cultural information. The more relevant information the government process for a particular environment, the more reliability and social confidence they reach.

Land is a social and economic resource and a way of generating wealth for human growth and development. Land management is challenged by the diversity of local cultural and traditional practices, multiple legal frameworks, and different modes of administration. Morocco has generated much interest over the

past to develop a suitable form of administrating and managing efficiently lands. A multitude of emerging activities has been conducted to improve the policy, legal, and technical framework of land policy and governance.

The first initiatives taken to regulate and put order in the country refers to the circular of November 1, 1912 (Eddahbi, 1992). The foreword of this circular defines transferable, non-transferable lands, and the special prescriptions for foreigners to hold lands in Morocco. The 12 August 1913, a land titling system based on the Torrens act was promulgated (Decroux, 1977). All legislative and statutory disposals created a variety of lawful statutes relating the real estate. The objective of these disposals was to put properties in a security state and preserve the rights of owners and those of the central authority. The real estate as defined in dahir (Moroccan law) of June 2, 1915 constitutes the basis of the land regime in Morocco (El-ayachi, 2006). The relationship between owners and their estates is dominated by two forms of regulations. Firstly, we find the formal deed system using abstract deeds, called Aduleer act, to guaranty the ownership. Secondly, we find the registration system formalized by the colonial authorities. Various challenges were observed between land subjected to deed operated by the Ministry of Justice and land subjected to land titling system operated by the National agency of land conservation, cadastre, and mapping through two systems. The first system is the juridical cadastre, which is sporadic and covers only the requests inquired by owners and dealings with registration and titling tasks to secure land ownerships. The second system is the national cadastre dealing only with cadastral rural and agrarian projects such as reallocation and irrigation without involving security for land ownerships. It provides information on land value, soil characteristics, and beneficiary owners.

The aspects of urban land development and urban policy are not considered subject of neither the national nor the juridical system. The responsibility to manage and administrate public lands within the urban and suburban areas belongs to the national land agency. The objective behind the national agency is to establish an inventory of the public lands and conduct studies on urban management and zoning to promote urban development projects. While the national system and the national land agency are centralized, the juridical system is decentralized.

Multiple institutional actors have colliding mandates over land management, including Ministry of the Economy and Finance, the Ministry of the Interior, the Ministry of Habous and Islamic Affairs, the Ministry of Equipment and the Office of the High Commissioner for Water and Forests and the fight against desertification. Other than institutional conflict, there is also an administrative issue, where different government tiers have responsibilities overlap, and remain difficult to access for the communities. Land policies are not participatory, although consultations happen for some development projects (El-Ayachi et al., 2019).

## State of the art: capacity, resources, and evolution

The LVC concept has evolved as the results of the historical evolution of the Moroccan land administration system. The successful implementation of LVC instruments in the country is typically linked to the guaranteed security on land especially in the urban areas.

Taxation, as one of the tools aiming to encourage investment in land sector, became increasingly liberal in the early of 1980s. An incentivizing policy was undertaken in 1981, with a Code specifically dedicated, for the first time, to the real estate sector. A year later, two new Codes were enacted, namely the industrial investment Code and the tourist investment Code. After the adoption of a real estate Code in 1985, all the Codes were abolished and replaced by a new system aimed at revising the preferential measures marked by a substantial decrease in the granted benefits (El Ktini, 2020). One of the specificities of this Code is that the provided benefits affect all taxes and duties on real estate in a form of reductions of multiple taxes: the urban tax, the patent, as well as the tax on professional profits and the tax on real estate profits. The beneficiaries of these exemptions have the option of setting aside a provision for investment in land sector.

The country has started a privatization process, which has contributed to an increasing of land values, with huge regional disparities exacerbated by the real estate and large landowners' lobbies. Throughout the last decade, there have been new techniques and methods to design and develop convenient and efficient land administration system. The country includes new approaches and mechanisms to deal with user needs in land information and land market. Land capture functions and operations at different levels are improved such direct and online declaration of immovable revenues as well as the great interest accorded to digitization process, which is a potential catalyst for land management enhancement.

The current legal framework is the result of French protectorate and the Islamic law. The land sector knew many reforms for more than a century. The land value capture instruments are typically linked to the taxation system that has been marked by a succession of amendments to renovate and simplify the procedures and ensure transparency and efficiency. Nevertheless, the Moroccan tax system continues to present limitations and difficulties related to the lack of coherence and visibility, as well as to the weakness of its results, compared to the real tax potential of the country.

These shortcomings have a direct impact on the efficiency of the land value capture tools to be developed. To face these issues, many initiatives measures have been regulated since last five years. This can be summarized in the below measures:

- ▲ Tax incentives for property developers: The real-estate promoters who act within a framework of an agreement with

the government will benefits of many tax decreases regarding the Corporate Tax, the Income Tax, and the Added Value Tax. The incentives comprise also some exemptions and reduction in the registration fees.

- ▲ Tax incentives for housing buyers: application of reduced rates for the registration fees and total exemption from property taxation for new building within a period of 5 years.
- ▲ Social housing: Real estate developers, acting within the framework of an agreement concluded with the government, accompanied by a set of specifications for the achievement a construction programme of at least 500 social housing units, with a covered area between 50 and 80m2 and the selling price is less than 250 000,00 dirhams spread over a maximum period of 5 years, starting from the date of delivery of the building permit, are exempted from:
  - ▲ Corporate tax
  - ▲ Income tax
  - ▲ Registration and stamp duties
  - ▲ Professional Tax, Tax on undeveloped urban land and the tax on construction operations
  - ▲ Land registration fees.

This exemption is applicable to agreements concluded with the government before 31 December 2020.

In terms of capacity and resources, secondary sources (Cherkaoui, Ben Ali, 2007; Catusse, et al.,2007) report the high reliance on national government transfers of local authorities and little negotiation space in the hands of lower tiers of government for more power allocation. Subnational stakeholders have gained importance but the framework for intervention still results weak and they are in need of more financial autonomy. Economic development policies have lean towards strong urban actors, such as large landowners and enterprises.

## Implementation opportunities and risks

Currently, many studies have highlighted various cross-cutting and institutional constraints namely:

- ▲ The persistence of social and territorial differences and inequalities
- ▲ The high economic concentration, characterized by a small number of companies that are at the root of the creation of a volume of national wealth that remains equally small
- ▲ The persistence of inequalities, in a context where public policies and services provided by the government are deemed to be deficient and do not meet the legitimate needs and expectations of the population, and where the activity rate is declining and unemployment remains at a high level,
- ▲ The real and perceived instability of the tax system, through the multiple provisions introduced by successive finance laws, making the system less readable and coherent.

According to the above issues and to the incentives introduced by the government, the future of LVC instruments in Morocco may be improved in terms of use and efficiency because of the following measures:

- ▲ The national policy toward promoting the digitization strategies followed by the government in various sectors
- ▲ The development of a coherent land policy framework related to the various initiatives of the government in terms of new legal mechanisms dealing with state public lands, state private lands, and collective lands
- ▲ The deconcentrating and decentralization of the decision-making level to enable an inclusive and efficient land governance at the local level
- ▲ The integration of the new urban planning concepts such as smart, sustainable, and resilient cities to be aligned with global trends at the international level to face and mitigate the climate change effects.

# Namibia

Lead Expert: Mr. Charl-Thom H. Bayer

## Country-specific background

The territory of Namibia covers approximately 824,292 km<sup>2</sup> of land and 513,015 km<sup>2</sup> of sea surface. At independence (1990) the population distribution was still rural, but that has changed as of 2018, when Namibia became predominantly urban, with more than 50% of persons living in urban areas (World Bank, 2018). It is estimated that as of 2018 approximately 35% (29 mil ha) of land is under customary tenure, while 42% (34 mil ha) of land is under statutory (freehold) tenure and the remaining 23% (19 mil ha) percent is held as state land in the form of national parks and restricted areas (Namibia Statistics Agency, 2018). The state land includes government owned commercial farms and other freehold property held by government entities. Urban areas consist of about 795,244 Ha (1% of total land mass) under the jurisdiction of a variety of local authority structures (municipalities, town, villages, and settlement areas).

|                     |  |
|---------------------|--|
| Population          | 2.4 million inhabitants (2018)               |
| Population density  | 2.9 persons per km <sup>2</sup> (2018)       |
| Avg. household size | 3.9 persons in (2016).                       |
| Administration      | Republic – 14 regions and 121 constituencies |

The territory of Namibia covers approximately 824,292 km<sup>2</sup> of land and 513,015 km<sup>2</sup> of sea surface. At independence (1990) the population distribution was still rural, but that has changed as of 2018, when Namibia became predominantly urban, with more than 50% of persons living in urban areas (World Bank, 2018). It is estimated that as of 2018 approximately 35% (29 mil ha) of land is under customary tenure, while 42% (34 mil ha) of land is under statutory (freehold) tenure and the remaining 23% (19 mil ha) percent is held as state land in the form of national parks and restricted areas (Namibia Statistics Agency, 2018). The state land includes government owned commercial farms and other freehold property held by government entities. Urban areas consist of about 795,244 Ha (1% of total land mass) under the jurisdiction of a variety of local authority structures (municipalities, town, villages, and settlement areas).

Namibia faces several key challenges including reforming land governance and administration dating from pre-independence. This has resulted in a land governance system that must accommodate a diversity of tenure arrangements (freehold, customary, communal) and legal instruments. This inevitably results in

some overlapping institutional responsibilities and is further challenged by inconsistent and unsustainable land use management and control practices. The historical unequal distribution of land has persisted and continues to exacerbate problems in peri-urban areas while rapid urbanisation has resulted in growing informal settlements. Land valuation and taxation (as well as urban planning) legislation and practices date from the 1960's and earlier, resulting in deficient legal instruments, and are unable to meet the changing demands of a modern land administration system. There is an active land market in the freehold sector, but housing has become increasingly unaffordable for the majority of the population.

To address some of these challenges, Namibia launched a number of land reform programmes after independence, primarily address inequalities of commercial agricultural land ownership and reform of customary land tenure. Urban land reform was not prioritised until about 2018, when it was added to the agenda of the 2nd National Land Conference.

The primary agents responsible for implementing LVC instruments are local authorities and at a national level the Ministry of Urban and Rural Development as well as the Ministry of Agriculture and Land Reform. Windhoek, the capital city, is the major local authority and often sets the tone with regards to urban development strategies, process and functions. The Windhoek Municipality, and local authorities in general, are responsible for urban development and developing and implementing LVC tools. The Ministry of Agriculture and Land Reform house the Office of the Valuer General. At the National level this is the key actor for developing and implementing LVC instrument, especially in relation to agricultural land and communal land outside of the urban areas. The Ministry of Urban and Rural development is a major actor in setting the policy and legislative direction for spatial planning and would be a good entry point for a legal and policy discussion on “new” LVC tools.

## State of the art: capacity, resources, and evolution

As outlined above urban reform is only now garnering the kind of attention it deserves, but the dialogue is still in its beginning stages and is dominated by the growing informal settlements. The focus is on urban housing and service provision, access to land, housing affordability and urban tenure reform.

The discourse has not yet developed to the level where it incorporates more sophisticated land value capture mechanism and instruments. Land Value Capture as normally contemplated, is not currently a feature of academic, economic, or political debate. At the 2<sup>nd</sup> National Land Conference urban reform was on the Agenda for the first time. There has been preliminary engagement with government on some key ideas that are relevant to LVC such Capital Gains Tax, improved funding and land value capture for local authorities and the cross-subsidisation of affordable housing. These ideas have not yet been fully

internalised and have not escalated to the level where it could be described as being part of the national discourse.

As such there are not many current public sector actors that are conversant with, or extensively work with land value capture instruments. However, the local authorities (municipalities and towns) have the primary jurisdiction for land development in urban setting. It is also at this level where we find the current instruments for land value capture. As stated in Lühl and Delgado (2018) local authorities, are mostly not able to be financially self-sufficient and to undertake housing investments. The commercial private sector may contribute to housing needs for low-middle income and public sector employees, but not for the high-risk low-income population. PPPs are promoted as vehicle to supply housing in case of high demand from financially able groups.

The two primary land value capture instruments used by local authorities are endowments and betterment fees.

**Endowment Fees**<sup>8</sup>: Endowments are typically fees charged for the permission to subdivide land within a local authority area. These endowment fees, which are somewhat similar to development charges are levied at 7.5% generally based on the market value of the land. The transaction value of the land and the appraisal by a valuer should be within fifteen percent of one another. This is presumably to ensure that land is not sold for a nominal amount and then that amount is used for determining the market value.

**Betterment Fees**<sup>9</sup>: This is a one-off fee that is charged. It is used only when a rezoning of property takes place. The subsequent increase in value due to the rezoning is levied as a betterment fee. The subsequent increase in value due to the rezoning is levied as a betterment fee.

The primary taxes applicable to land include:

**Transfer Duty**: This is a variable rate once off tax amount payable upon the transfer of real property and increased the value of the property.

**Stamp Duty**: This is a fixed rate once off transfer tax (although below a certain value threshold the stamp duty is exempted) on real property upon transfer.

**Municipal Land Tax**: Recurring tax on land within a local authority area's jurisdiction based on the value and size of the land typically payable on a monthly basis.

**National Land Tax**: This is a variable and recurring agricultural land tax based upon the area and the number of parcels (rate increases with the number of parcels held) held by an entity and is typically payable annually.

**Capital Gains Tax**: Not applicable in Namibia.

There is currently no major initiatives or legislative reforms planned or in discussion regarding land value capture instruments.

The valuation, powers and duties of local authorities are set out in the **Local Authorities Amendment Act of 2018**. At the national level, the **Agricultural Land Reform Act of 1995** makes provision for land taxes and fees on agricultural land and state land subject to reforms in conjunction with the Land valuation and taxation Regulations, 2007. The profession is regulated through the **Property Valuers Profession Act of 2012**. Namibia adheres to the Namibian Valuation Standards 2016, through affiliation with the International Valuation Standard Council (IVSC) standards. The **Communal Land Reform Act of 2002** makes provision for the fees in relation to the lease of communal land as well as setting out the rights with respect to communal (customary) land. The **Urban and Regional Planning Act of 2018** provides for the review of zoning schemes, provide for the subdivision and consolidation of land; to provide for the alteration, suspension and deletion of conditions relating to land and generally to support spatial planning matters. The **Townships and Division of Land Ordinance 11 of 1963**, which has been amended several times and will be replaced by the Urban and Regional Planning Act, makes provision for the establishment of townships and to provide for the regulation and control of the development and subdivision of land and for matters incidental thereto. **Townships and Division of Land Amendment Act 11 of 2000** was also repealed by the Urban and Regional Planning Act on 3 September 2020.

## Implementation opportunities and risks

Engaging in LVC-related discussion in the country is promising, with no risks foreseen; It is likely only to be a long process as this is a concept that is not well developed, or even fully understood in Namibia, and as such would require a significant investment in knowledge development.

Namibia is ripe for a discussion on land value capture, despite the initial scepticism and reluctance encountered during the study. This scepticism had more to do with people not being reasonably willing to be interviewed about a topic with which they were not familiar. If approached from another perspective, the reaction could be quite different. Given the state of current discussions and the increasing primacy of urban land reform and the problems that local authorities are facing, partially due to outdated legislation, there is an opportunity and willingness to learn about LVC.

<sup>8</sup> Townships and Division of Land Ordinance 11 of 1963

<sup>9</sup> See Section 34 of Town Planning Ordinance No 18 of 1954

Significant human resources and capacity is available at the national level with regards to financial and urban management. However, these resources are not evenly distributed, and smaller local authorities are at a significant disadvantage and often lack the required capacity and sophistication to manage the local authority affairs. Increasing informal settlements, inequality and a lack of essential services are a constant problem for local authorities and consume much of the oxygen when it comes to other issues and innovations. LVC discussions are not on the agenda in Namibia.

It is also a very necessary discussion for Namibia and will be very relevant. Local authorities are quite desperate for tools and mechanisms with which to improve urban management, revenue, and resource allocation. Given the current and historical inequality, there is a great opportunity to add new knowledge, innovations, and perspectives to the renewed urban land reform debate in Namibia. Due to limited support from the national government, local authorities are wholly dependent on local rates and taxes and land sales for revenue generation. Examination their land allocation process and instruments to create more value and to redistribute the benefits of land development more equitably would be received very favourably.

It would probably require a longer terms perspective, but there are progressive organisations and researchers that would be willing to engage. Approaches may include knowledge sharing workshops and master classes to sensitise participants to the topic and to present case studies with local relevance and to stimulate discussion.

## Peru

Lead Expert: Mr. Manuel Martin Lozada Checa

Second Expert: Ms. Illari Cristina Aguilar Sanguinetti

### Country-specific background

#### Decentralization

Peru has a unitary system of government, since the National Constitution determines that the Central Government has the authority to determine political power to the constituent units (Article 188, National Constitution of Peru, 1993). According to the Decentralization Bases Law N° 27783 (2002), the government is constituted and organized at the national, regional, and local levels; the regional government is the departmental level and in the local government coexist the provinces and districts (Article 4 Municipality Organic Law). Following this decentralization model, each government tier has political, administrative, and economic autonomy (Contraloría General de la República, 2014). The national government guides the urban development national policies through the Ministry of Housing, Building and Sanitation; according to Article 6, number 1 of Organization and Functions Law N° 30156, the Ministry oversees “formulate, plan, guide, coordinate, execute, supervise and evaluate the national policy”.

Since the local governments are closer to the citizens, they are in charge of promoting the development and enhancing the local economy, as well as the provision of public services, in accordance with the national and regional policies and plans for development (subsidiarity principle). Specifically, they plan the urban and rural development in their jurisdiction, including land use zoning, urbanization and regional planning (Article 195, National Constitution of Peru, 1993). Nevertheless, the Article VIII of the preliminary section of the Municipality Organic Law N° 27972 states that the specific functions and competences of the municipalities must be in accordance with the policies and plans of the higher tiers (national, regional, and local in case of districts). Both tiers of local government are autonomous about the expenditure as well revenues because

they have their own tax bases. However, they cannot establish the rates of their taxes because that is a central government responsibility. Moreover, the dual coexistence of provinces and districts makes the organizational structure of local government very fragmented and consequently, generates the overlapping of responsibilities because many of them are shared or concurrent

### Expansion of urban areas and informality

By 2017, 79.3%<sup>10</sup> of the population in Peru live in urban areas (INEI, 2018). Around 30% of the national population is concentrated in Lima, the capital city. Other important cities are considerably smaller than Lima and they are part of metropolitan areas in their regions. An example are the cities located in the North coast and in the South of the country (CEPLAN, 2011). In the last 20 years, cities have expanded around 50%: 6% of it are formal urbanizations and 93% is informal<sup>11</sup> (GRADE, 2020). One of the reasons for the informal expansion is the considerable increase of land price. According to Gestión (2019), between 2001 and 2019, land prices in Peru have increased by 400%, and in some urban districts such as San Isidro -located in Lima city- the land price increased close to 800% on average. Another reason for the informal expansion is the lack of social housing. Currently, the social housing programmes (Fondo MIVIVIENDA) led by the National government only satisfy 12% of the demand. This situation affects in a particular way to the poorest sectors of the population (sectors D and E), since only 4% of the offer is destined to these groups (GRADE, 2020). Also, there are incentives for informal areas because they receive indirect subsidies from the State, such as the basic services and the national titling programme led by COFOPRI<sup>12</sup>. Consequently, the land prices have increased their value as well as the rentability of the informal developers. Therefore, there are less incentives for formal urbanization, which affects mechanisms like developer exactions and living conditions in cities (GRADE, 2020).

### State of the art: capacity, resources, and evolution

#### LVC policies

As explained before, the national government provides guidelines for urban policies. The current National Policy Housing was issued in 2006. Even if in 2006 the country had developed exactions and betterment contributions, both mechanisms were not articulated in the policy as LVC tools. The only proposal related to the topic is the land bank, which it has not yet been implemented. Since LVC tools are not part of the policy, there are no goals nor indicators.

Most of the LVC tools were introduced in the country in the last 10 years. For instance, in 2011 was published the Regulation for Territorial Planning and Urban Development, which introduced the land readjustment. Then, in 2012, the district municipality of Miraflores (located in Lima city) issued the Municipal Ordinance 387-MM<sup>13</sup> which creates for the first time the transfer of development rights (TDR). Based on

<sup>10</sup> 23 31 893 inhabitants (INEI, 2018).

<sup>11</sup> Informal expansion areas are those settlements that do not have full urbanization. 47% are occupied by squatters, 34% did not have urbanization without infrastructure and 10% are object of land trafficking (GRADE, 2020).

<sup>12</sup> Organism for the formalization of informal properties (Organismo para formalización de la propiedad informal).

<sup>13</sup> According to number 4 of Article 200 of the National Constitution, a Municipal Ordinance is a law only for the jurisdiction.

this experience, in 2014 the Metropolitan Municipality of Lima (MML) approved the Municipal Ordinance 1862-MML, which introduced the TDRs and land restructuring for the city. Additionally, the Municipal Ordinance 1869-MML regulates the TDRs and establishes that the MML is the only entity that rules how TDR works (Article 2).

Considering the previous experience, in 2016 the Regulation for Territorial Planning and Sustainable Urban Development (RATDUS) was approved. This document is a milestone for the LVC tools because it introduced the transfer of development rights (TDR) and additional development rights for sustainable building and inclusionary housing. Likewise, in 2019 the Ministry of Culture introduced a pilot project about TDRs. By the implementation of this instrument named “*Altura para la Cultura*”, the owners of cultural heritage can sell to developers with housing projects the square meters that they cannot develop as a result of the height restrictions imposed by their heritage status. Finally, according to José Carlos Fernandez, another important milestone is the Bill N° 1797-2017 proposed by the Congress in 2017.

#### LVC at local level

The LVC tools capture the increase of all or part of the land value, which is generated by other agents than the landowner himself (Smolka, 2013). Since the district municipality levies the land taxes, this tier of the government is the one which should implement LVC tools. However, depending on the mechanisms the decision-making process varies:

- ▲ Betterment contributions. According to the Municipal Tax Law, the betterment contributions must be regulated by the district municipality (Art. 62). However, there are cases like Lima city, where the Metropolitan Municipality (which works as a provincial municipality) regulates the Betterment contributions for the 43 districts (Municipal Ordinance 1790-MML).
- ▲ Land readjustment and development exaction. Both mechanisms are ruled by Urbanization. According to numeral 3.6.1 of Article 79 of the Municipality Organic Law N° 27972, the district municipality is the only one that can approve the Urbanization and the developer exactions.
- ▲ Transfer development rights (RATDUS. Articles 125-127) and Floor Bonification for Sustainable Buildings (RATDUS. Article 133). The zones defined for these mechanisms must be included in the Urban Development Plan and the Land Use Zoning (RATDUS Article 27 and 35). Both regulations could be formulated by the District Municipality but need to be approved by the Provincial Municipality through a Municipal Ordinance. Even if this approval process wants to ensure an articulated territory, sometimes the provincial municipality could restrict the discretionarily of the district.

- ▲ Floor Bonification for Inclusionary Housing (RATDUS. Article 135). The floor bonification certificate must be issued by the Provincial Municipality, which defines the minimum and a maximum number of additional floors based on the number of affordable units. The regulation does not specify a coordination mechanism with the District Municipality in order to define the areas for inclusionary housing. This results in a contradiction since the edification certificate is issued by the District Municipality.

#### Local administrative capacities:

Several aspects can influence the implementation of LVC tools:

- ▲ **Self-governance and autonomy:** Decentralization provides competences to the Municipalities to regulate and to complement national range laws. In this sense Municipalities can issue not only Municipal Ordinances, but also Municipal Decrees in order to complement and implement different mechanisms or regulate some laws. As previously mentioned, there are several tools available for the districts in Lima city, since the Metropolitan Municipality of Lima (MML) regulated some of them by the Municipal Ordinance 1862-MML such as TDRs and land restructuring.
- ▲ **Technical Capacity:** There are two ways to hire workers in Public Administration, through the Legislative Decree 276 - Law of Basis of the Administrative Career and Public Sector Remuneration - and the Legislative Decree 1057 - Special system of administrative services. The last one establishes that workers can be hired for a maximum of a one-year period, but the contract can be extended or renewed<sup>14</sup>. This regulation promotes that public workers change constantly, affecting the institutional learning process and limiting technical capacity at the municipalities. For example, since the workers usually change, they do not have enough knowledge of the local context and stability to implement LVC. It is worth to be mentioned that the Legislative Decree 1057 was modified on March 9th, 2021 by the Law 31131 and now the contracts are for an unlimited period.
- ▲ **Technological Capacity:** Currently Peru does not have a National Cadastre, so each Municipality has to implement their own cadastre. There is a special Law to articulate all the different Cadastres made for the Municipalities (Law 28294 - Law creating the National Integrated Cadastre System and its Link to the Land Register). According to Article 14, Cadastre is defined as “the physical inventory of the properties oriented to a multipurpose use, which is constituted by the sum of contiguous properties that make up the territory of the Republic” (Law 28294, 2014). Because of the local nature of the cadastres, the National Government is struggling to integrate the different Municipal cadastres into the National System.
- ▲ **Cadastre:** Despite Article 20 of the Legislative Decree 776 considers that Municipalities must use the 5% of the income obtained through property tax “to finance the development and maintenance of the district cadastre” (Legislative Decree 776, 1994), up to now the up-to-datedness, accuracy or completeness of cadastre records in urban areas constitute another bottleneck for urban management and LVC tools. This happens because district municipalities do not have enough equipment and qualified workers (Banco Mundial 2016, p.66). It is important to highlight that there is a project to

<sup>14</sup> This is regulated in the Supreme Decree 075-2008-PCM – Regulation for the Special System of Administrative Services, in the following way: “The duration of the contract cannot be longer than the period corresponding to the respective fiscal year within which the contract is made; However, the contract can be extended or renewed as many times as the contracting entity considers it necessary. Each extension or renewal cannot exceed the fiscal year” (Supreme Decree 075-2008-PCM, 2008).

implement an urban national cadastre named “Plan Nacional de Catastro Urbano Utjawi”, which is led by COFOPRI<sup>15</sup>.

- ▲ **Financial Capacity:** Different studies have shown that municipalities do not have enough administrative and project management capacities to execute the resources transferred by the national government (Banco Mundial 2016, p.85). By 2016, the percentage of the budget to local governments that was not executed reached 27% of the total assigned (MEF 2017).

In conclusion, even if the legal framework has regulated some LVC tools and the local governments have the competence to implement them, currently those tools are rarely applied. Also, neither the Ministry of Housing, Building and Sanitation nor the local governments have a monitoring system in order to collect information about the LVC tool progress and their impact.

## Implementation opportunities and risks

Based on the above-mentioned legal framework, conditions to LVC implementation are:

- ▲ **Increase in urban land value.** The land value has increased around 400%, which is an opportunity for the State to capture the land value.
- ▲ **Recognition of the social function of property rights.** The social function of the property right is recognized by the Constitution of Tribunal though it sentences number 048-2004-PI/TC<sup>16</sup>. This decision was a precedent for LVC use.
- ▲ **Administrative capacity for local land tax collection.** In the last years, the Incentives Program to Improve Municipal Management and Modernization has been strengthening the administrative capacity of the municipalities to increase the local land tax collection.

Even if there exists a legal framework, the LVC tools are not being used frequently. The bottlenecks are the following:

- ▲ **Lack of articulation of the legal framework:** The LVC tools are regulated by different laws. It is necessary to produce a national document that articulates all of them and guides their use.
- ▲ **Legal level of RATDUS:** Even though RATDUS is a national law, local municipalities (provincial and district municipalities) can align their framework to the RATDUS or issue their own regulation (ordinances) to implement LVC tools.

- ▲ **Articulation between the provincial and district municipality:** Even if district municipalities have a high degree of discretion to implement LVC tools, they are subordinate to the provincial tier: in case of a legal collision, the provincial regulation will prevail.
- ▲ **Limited urban planning:** Only around 12% of the districts have Urban Development Plan (INEI, 2019). Hence, this constitutes a limitation for the implementation of LVC tools.
- ▲ **Labour instability of public officers:** According to national law, labour contracts are as much as one year, generating labour instability. Therefore, the institutional learning process is very weak.
- ▲ **Limited political will:** Even if a legal framework for the LVC tools exists, its unpopularity induces authorities not to apply it.
- ▲ **Lack of a monitoring system:** Since LVC tools are not part of the urban policy, there are no indicators nor information about their implementation.

There is a disarticulation in the legal system because, even though RATDUS has a national scope, it is not compulsory for the local governments. Indeed, municipalities can issue their own ordinances, which have a higher level than RATDUS in the legal hierarchy. Therefore, this situation can generate overlaps and legal conflicts in the LVC tools application.

According to the law, some LVC tools must be part of the Urban Development Plan previously to its implementation process. However, data shows that only few local governments have Urban Development Plans (e.g., Lima city has not an updated plan since 2010). Therefore, this constitutes a problem to implement those LVC. Also, we must consider that there are limited financial and human resources in the municipalities. Likewise, limited political will does not consider LVC tools as a priority. For all these reasons, we can conclude that LVC tools are rarely implemented by local governments.

### Profile of Interviewee: José Carlos Fernandez

Director of Urbanism and Urban Development of  
Ministry of Housing Building and Sanitation

<sup>15</sup> Agency for Formalization of Informal Property (Organismo de Formalización de la Propiedad Informal)

<sup>16</sup> Number 84. The private property right must be developed in accordance with the social function that is part of the essential content of this right; and, on the other hand, the State acts must be executed based on the general interest to achieve the common good.

# Tunisia

Lead Expert: Mr. Anis Wahabi

## Country-specific background

### Geography

The Republic of Tunisia is a country in the Maghreb region of North Africa. It is bordered by Algeria, Libya, and the Mediterranean Sea, and it covers 163,610 km<sup>2</sup>. Tunisia is the smallest country in North Africa. It contains the eastern end of the Atlas Mountains and the northern reaches of the Sahara Desert, with much of its remaining territory arable land. Its 1,300 km of coastline include the African conjunction of the western and eastern parts of the Mediterranean Basin. Its population was 11.7 million in 2019, and the capital and largest city is Tunis, located on the northeast coast.

In terms of growth, the population of Tunisia has evolved with a rate of 1.03% over the last decade (2004 - 2014). By being at this low level, the rate of population growth confirms once again its regression, which has been going on since the 1980s. In fact, the average annual growth has been in regression since the 50's; reaching a maximum of 2.48% between 1975 and 1984; then, gradually declined to 2.35% between 1984 and 1994, then to 1.21% between 1994 and 2004, to reach 1.03% between 2004 and 2014.

The south of the country is desert. The terrain in the north is mountainous, which, moving south, gives way to a hot, dry central plain. The south is semiarid, and merges into the Sahara. Tunisia is home to five terrestrial ecoregions: Mediterranean conifer and mixed forests, Saharan halophytics, Mediterranean dry woodlands and steppe, Mediterranean woodlands and forests, and North Saharan steppe and woodlands. The country had a 2019 Forest Landscape Integrity Index mean score of 5.14/10, ranking it 108th globally out of 172 countries.

### Government and politics

Tunisia is a representative democracy and a republic with a president serving as head of state, a chief of government as head of government, a unicameral parliament, and a civil law court system. The Constitution of Tunisia, adopted 26 January 2014, guarantees rights for women and states that the President's religion „shall be Islam“. In October 2014, Tunisia held its first elections under the new constitution following the Arab Spring, followed by a Presidential Election. Tunisia (#69 worldwide) is the only democracy in North Africa and is included in the European Union's European Neighbourhood Policy (ENP), which aims at bringing the EU and its neighbours closer. Tunisia is subdivided into 24 governorates (*Wilaya*), which are further divided into 264 „delegations“ (*mutamadiyat*), and sectors (*imadats*).

### Legal and tax system

The Tunisian legal system is heavily influenced by French civil law, while the Law of Personal Status is based on Islamic law. Sharia courts were abolished in 1956. The Tunisian Constitution guarantees the protection of individual property. The Tunisian tax system is based on direct taxes, consumption taxes and duties applied to the transfer of land and imports. The decentralization process in Tunisia, initiated since 2014, places local governments at the heart of city management. The new Code of Local Authorities has transferred several tasks related to urban planning and land use to the municipalities, while maintaining a role of coordination and regulation at the level of central authorities. Reflections have been launched on shared taxation and the transfer of competences (transport, health, education, environment, etc.).

### Urbanism

Apart from the governorate of Tunis and the governorate of Monastir, the urban population varies from a minimum of 27.1% in the governorate of Sidi Bouzid to a maximum of 90.8% in the governorate of Ben Arous. At the national level, a little more than 2/3 of the population reside in cities. From one decade to another the evolution of the urban population is slow: 61% in 1994, then 64.9% in 2004 and 67.7% in 2014. The governorates of the District of Tunis are the most urbanized. The governorates overlooking the sea coastline, from north to south (except for the governorate of Mahdia) and to a lesser degree governorate of the South of the country, have higher percentages of urban population than in the governorates in the west of the country. Overall, eight governorates are mostly rural, with less than 50% of urban population: Zaghuan (43.7%), Bèja (44.3%), Jendouba (30.6%), (42.4%), Mahdia (45.7%), Kairouan (35.3%), Kasserine (43.6%) and Sidi Bouzid (27.1%). The dispersion of the urbanized areas hinders the rapid evolution of the population in these governorates.

## State of the art: capacity, resources, and evolution

The decentralization process has led to the reorganization of land use planning responsibilities between the central authorities and the various levels of local authorities (districts, regions, and municipalities). The Ministry of Equipment, Housing and Territorial Development has given way to the various local authorities, which, according to the 2018 local authority Code, are responsible for land use planning. This ministry is now responsible for monitoring on a national scale and for national urban planning. Regional councils and municipalities deal with urban planning at lower government tiers. The Ministry of Equipment, Housing and Territorial Development role is:

- ▲ The realization of studies and research allowing to know the natural and economic specificities of the different regions of the country.
- ▲ The elaboration and the implementation of the orientations relating to the development of the territory at the national

and regional levels.

- Mastering the tools and methods of urban planning and conservation of the architectural specificities of the country.
- Ensure the implementation of the State policy in the field of urban planning and architecture in coordination with the services and structures concerned.
- To contribute with the local authorities to the elaboration and the revision of the urban development plans with the concern of their conformity with the urban regulation in force.

The administrative organization of the ministry includes central services and 24 regional branches. The regions and districts are obliged to be consulted during the preparation by the central authority of the spatial planning documents falling within its competence. The regions and districts shall draw up, in coordination with the central authority, the spatial planning and development plans falling within their competence. Municipalities develop plans that fall within their jurisdiction. Neighboring municipalities may, with the agreement of their elected councils, prepare a joint urban development plan covering their entire territories. Since 2014, Tunisia is engaged in a decentralization process. The whole territory is divided into 350 municipalities (*baladiyats*) and 24 regions. Local government enjoys its own legal capacity and manages local affairs autonomously. It operates its own financial planning and manages its budget autonomously. Elections constitute the political and democratic expression of decentralization. Local governments are headed by elected councils. District councils are elected by the members of municipal and regional councils. It should be noted, however, that as things stand, the division of roles between the various parties is not sufficiently clear. The new code of spatial planning is being discussed in parliament, and a major effort must be made to reorganize the attributions, following the promulgation of the new Code of Local Authorities in 2018.

Tax regulation, collection and control are managed by the Ministry of Finance, specially through the Code of Local Tax. Property taxation is based on the registration duty payable on various forms of transfer (sale, donation, inheritance) and the tax on real estate capital gains, paid in the event of a capital gain. There is no wealth tax in Tunisia despite some attempts to introduce it in 2014 and 2015. Local taxation is based on a set of taxes. Houses are subject to a tax on built-up areas (calculated according to the built-up area and the services offered by the municipalities). Bare land is subject to a tax based on the reference value of the land. The LVC concept is not used in Tunisia. There is, however, a tax applied for the benefit of the communes which consists of the participation of residents in development expenses (roads, drainage, lighting, etc.). This practice has not been adopted because of the low level of support from citizens. The Tunisian local tax system has certain limitations that are related to the capacities of the monitoring and control authorities, notably in the following areas: the census of assets subject to taxation; the evaluation of assets; the recovery of taxes found.

The yield of local taxes is considered low, and the collection rate does not exceed 18%. An evolution of the local taxation system is foreseen in the Local Authorities Code, based on the principle of shared taxation. The design and contours of the new system are a challenge for the coming period. This will concern the nature of the taxes to be shared (income tax, consumption tax, property tax), the percentage to be paid by each party, the methods of collection and sharing. Furthermore, the evolution of the competences of the communes, as in the field of urban planning, has not been accompanied by an evolution of resources. The communes do not currently have the power to define their resources at the local level.

## Implementation opportunities and risks

LVC process as defined by the literature is not clearly defined in the Tunisian literature and regulatory texts. However, there are several texts and practices that address LVC (Code of Local Tax, Code of urban planning and territory development, Code of tax on personal revenue and companies benefits, and implementation texts). At the national tax level:

- the taxation of the real estate capital gain at the time of the sale
- the registration fee paid at the time of purchase of the property

At the local tax level:

- taxation of real estate assets under the municipal service tax (tax on built-up buildings, tax on unbuilt buildings)
- fees for the use of public roads

At the level of territorial planning:

- Residents' participation in development costs,
- the reservation of a share of the lots (about 20%) for public services.

The political changes that Tunisia is currently undergoing present significant **risks** in relation to the success of the decentralization process; the updating of regulatory texts not adapted to the new governance model of the country; the evolution of the economic development model towards new innovative ideas and/or inspired by international experiences, including the improvement of the business climate and public-private partnership; the reform of the tax system to embrace the new governance model, especially the distribution of role between central authorities and local governments.

**Blockages** relates to the fact that the texts implementing the local government code have not been approved in their entirety (8 texts out of 38 have been adopted and there is no visibility on the fate of the other texts).

Moreover, the new land use code is currently being discussed in parliament. The old code dates from 1994 and is no longer

adapted to the new system of governance and decentralization. Also, the tax system does not meet the principle of shared taxation provided for in the 2018 local government code.

The LVC process is an important economic development opportunity. It is an innovative mechanism that will help fill the gap in financial resources and complementarity between the public and private sectors. LVC mechanism opportunities are the provision of new mechanisms for local development which

responds to a real and current need in Tunisia, and the identification of new sources of funding, more equitable and that take into account the true potential of wealth and gain. However, risks are the acceptability of the system may be compromised by strong resistance to change, the low levels of investment that may slow down the implementation of new ideas and mechanisms, the cumbersome legislative process due to weak public governance.

## Case Study

### Case 1: Return on investment of land redevelopment

A private company wants to develop a land for a new mixed-use area (residential, commercial and services). In the current context, the public authorities (State and communes) will only perceive indirect returns through the collection of the tax on the profits from the sale of the land lots and the evolution of the taxes and fees received from the commercial activities. In order to valorize this operation for, it is possible to envisage tax reforms which will relate to:

#### 1. Taxing the latent gain

In the current tax legislation, the gain on capital is due when there is transaction. The taxation of the operation on the potential gain, based on a prior assessment and which will be applied at the time of granting the authorization. According to Article 27 of the Personal Income Tax and Corporate Income Tax Code, only the capital gain realized on the sale of real estate is taxable. The potential gain, even if it is indirectly beneficial to the owners and operators, is not subject to taxation. In the case of the valuation of assets, it is proposed to amend the above-mentioned article 27 to include in the taxable base „the latent capital gains noted on the occasion of public investments having led to an increase in the value of real estate“. To ensure the fairness of this provision, the tax due must be deductible from the tax paid later on the occasion of disposal operations.

#### 2. Contribution to collective equipment

According to article 36 of the code, that the owners of land or premises located within a land intervention perimeter may participate in a project to be carried out within this perimeter by virtue of an agreement that will be concluded between the intervener and the owner of the building according to specifications approved by decree on the proposal of the Minister in charge of Urban Planning. A development of the legislation can go in the direction of widening the public investments concerned by the measure to investments that enhance the value of assets.

#### 3. Reservation of a percentage of the land to be allocated to the commune for asset enhancement

According to article 30 of the Urban Planning and Development Code, the detailed development plan determines the locations of constructions, works and collective or private equipment as well as the nature and destination of constructions and any other type of land use. It also determines the road network, the various networks and the easements that must be observed. Also, in accordance with article 35 of the code, the State or local public authorities may proceed with expropriation, on their behalf or on behalf of the on behalf of the land agencies mentioned in article 30 of this code, of any code, of any property located within the perimeter of the land of land intervention for the realization of projects of development, equipment, renovation and rehabilitation projects rehabilitation projects mentioned in the same article. A legislative evolution may consist of obligations to reserve a quota for structuring projects.

## Case Study

### Case 2: Participation of the beneficiaries of public investment

A municipality is planning to develop some public services (subway station, business center, etc.). For this purpose, the municipality can consider, through a legislative change, to make the citizens and established companies participate in part of the cost of the investment. This participation is justified by the fact that this investment will have a direct impact on the quality of life, the volume of business, the value of the assets of the area.

According to the provisions of article 39 of the code of land use and urban planning, promulgated by law n° 94-122 of November 28, 1994, the owners of buildings located, in whole or in part, within the said perimeter, must contribute to the cost of realization of to the cost of carrying out the development and equipment, rehabilitation or urban renewal program within a land intervention perimeter, the owners of buildings located, in whole or in part, within the said perimeter.

Also, the owners of the contiguous buildings must contribute to the cost of carrying out the program, the owners of the buildings contiguous to a intervention perimeter, benefiting from the infrastructure and infrastructure and collective equipment implanted within the framework of

the aforementioned program, and this, after the agreement of the organizations responsible for of the public networks. Moreover, in local taxation there is a provision on the contribution to the realization of collective parking lots for means of transport (Article 89 and 90 of the Local Taxation Code).

According to this provision, the contribution to the realization of collective parking for means of transport is due by the owners of new constructions or those having been the object of extension or partial or total transformation of their use when, for technical or economic reasons, it proves impossible for their owner to satisfy the standards of parking for the means of transport such as envisaged by the regulation in force. The list of areas concerned by this contribution will be established by a joint order of the Minister of the Interior and the Minister responsible for urban planning. In the context of utility development and given that investments in infrastructure increase the value of assets and business, the provision for owner contribution can be translated to new investments. In this case it is possible to adopt a scale per area and per category of services to be implemented and charge owners a fee as a contribution to infrastructure investments.

# Ukraine

Lead Expert: Prof. Dr. Andrii Martyn

## Country-specific background

Ukraine is a country in Eastern Europe. It is bordered by Russia to the east and north-east; Belarus to the north; Poland, Slovakia and Hungary to the west; and Romania, Moldova and the Black Sea to the south. Ukraine has an area of 603,628 km<sup>2</sup> and is the second-largest country in Europe after Russia. Excluding Russian-occupied territories, Ukraine has a population of about 41.5 million, making it the eighth-most populous country in Europe. Its capital and largest city is Kyiv. The landscape of Ukraine consists mostly of fertile plains (or steppes) and plateaus, crossed by many rivers. Ukraine's various regions have diverse geographic features ranging from the highlands to the lowlands.

During the Middle Ages, the territory of modern Ukraine was a key centre of East Slavic culture, with the powerful state of Kievan Rus' forming the basis of Ukrainian identity. After World War II the western part of Ukraine merged into the Ukrainian Soviet Socialist Republic, and the whole country became a part of the Soviet Union. Ukraine gained its independence in 1991, following the dissolution of the Soviet Union. Now Ukraine is a unitary republic under a semi-presidential system with separate powers: legislative, executive, and judicial branches.

The settlement network of Ukraine is represented by 460 cities, 885 urban-type settlements and more than 10 thousand villages. Cities by population are divided into three cities with a population of millions (over 1 million people: Kyiv, Kharkiv, Odessa), five very large cities (500-1000 thousand people), 20 large cities (100-500 thousand people), 44 medium (50-100 thousand people), 388 small towns (up to 50 thousand people). The largest share of the urban population of Ukraine (about 33%) lives in small towns, about 27% - in large cities, and only 16% - are cities with a population of millions. As a result of Russia's occupation of the Autonomous Republic of Crimea and certain districts of Donetsk and Luhansk oblasts, 28 out of 45 economic centres remained in Ukraine.

Until 1991, the land was publicly owned, but after the start of the land reform, large-scale privatization processes began. More than 12 million people received land plots in private ownership for housing, gardening, peasant farming and other purposes. The real estate market is functioning, about 500 thousand transactions with real estate are carried out annually, of which 180-200 thousand are transactions with land plots. Due to political circumstances, since 2000, a ban was imposed on the alienation and development of the privatized agricultural land of former collective farms on an area of 27 million hectares. This ban is due to be lifted from June 1, 2021.

The reform of the post-Soviet legislation in the field of land relations and real estate continues. Land and buildings are still treated as separate properties. Taxation is also carried out separately, whereby the base of the land tax is the non-market monetary valuation of land, and the taxation of real estate other than land is carried out according to its footage. Local communities are empowered to approve urban planning documentation, which is mandatory for developers. The development of agricultural land and forests requires the payment of special compensation payments. In some cases, development requires government approval. The Ministry of Community and Territorial Development (at the central level, regulates construction and spatial planning), the Ministry of Agrarian Policy and Food (at the central level, regulates the infrastructure of geospatial data, land management), the State Service of Ukraine for Geodesy, should be considered the key actors for the implementation of the LVC tools in Ukraine, including cartography and cadastre (in all regions maintains a land cadastre, conducts land valuation, mapping and monitoring of lands) and some other bodies

## State of the art: capacity, resources, and evolution

Ukraine largely inherited the Soviet urban planning system, the typical features of which were: the construction of settlements only according to the approved plan, the prohibition of unauthorized construction; normatively set system of town-planning project documentation, which was developed on the basis of planning directives, which determined the locations of industrial enterprises; rigid and standardized design solutions; mass construction of houses on standard projects with the use of industrial construction methods; strict restrictions on the use of land for the needs of non-state and individual housing construction; construction of exclusively centralized engineering systems; high rates of building density, standard sizes of apartments and housing, urban monotony throughout the country. After gaining independence in 1991, the practice of urban planning was significantly liberalized. As a unitary country, Ukraine applies the same legislation in the field of land relations and planning throughout its territory. The main powers in the area of spatial planning, property taxation and infrastructure development are vested in local communities, but the central government retains control over compliance with legal requirements, maintains a cadastral registration system, and oversees tax collection. The disadvantage is the relatively frequent reorganization of government bodies (every 2-3 years), which forces them to focus on operational tasks and prevents the development of strategic instruments. After the administrative reform of 2020, there are 1,470 local communities in Ukraine, whose executive committees directly implement the spatial planning policy, set tax rates for real estate, and carry out inspections in the field of construction and land use. About 3000 real estate appraisers and 800 land appraisers, 4500 land surveyors, 800 geodesists, 4500 architects work in Ukraine.

Over the last ten years, Ukraine has undergone significant reforms in the field of land relations and real estate. In 2013, new laws „On the State Land Cadastre“ and „On Registration

of Real Property Rights and Their Restrictions“ came into force. Digital transformation of the State Land Cadastre as a single state geoinformation system of information on lands located within the state border of Ukraine, their purpose, restrictions on their use, as well as data on quantitative and qualitative characteristics of lands, their evaluation, distribution of land between owners and users, created a geoportal of the public cadastral map. In 2013, according to a special law, the demarcation of state and communal lands also took place, which determined the criteria according to which public lands became the property of communities or remained at the disposal of state bodies. In 2012, a special law amended the Land Code of Ukraine, which regulated the procedure for conducting land auctions, which have since been widely used for the sale and lease of public land. At the same time, in 2017-2019, the government implemented a pilot project on the introduction of electronic land auctions for the lease of state-owned agricultural land. Large-scale amendments to the Law of Ukraine „On Land Management“ in 2013 and 2015 simplified land surveying procedures for the allocation of land for citizens and entrepreneurs. In the period 2013-2015, the legislator constantly expanded the powers of notaries in the field of registration of real estate rights, and after 2015, notaries perform all the functions of state registrars of real estate rights, and therefore registration of rights in state registers takes place on the day of the contract. In 2020, the law „On Amendments to Certain Legislative Acts of Ukraine on Land Use Planning“ was adopted, which introduced a comprehensive spatial planning of communities, which eliminates the need to develop several related types of urban planning documentation and surveying documentation; standardization of issues related to the approval of planning documentation; use of digital cartographic basis for spatial planning; ensuring a real connection between socio-economic development programs and spatial planning documentation, as well as creating a transparent and non-conflict mechanism for taking into account public and private interests through transparent public discussions.

Since 2015, Ukraine has been implementing large-scale deregulation in the construction industry in Ukraine. According to the evaluation of construction permitting procedures, Ukraine rose from 183rd place in 2013 to 20th place in the annual Doing Business survey conducted by the World Bank Group, which also helped advance Ukraine in the Ease of Doing Business rating of the same study. Ukraine rose from 137th place in 2013 to 64th place in 2020. Among the reforms implemented in the construction sector, it is worth noting: reduction of the list of permits; speeding up the procedure for obtaining and approving permits; abolition of legally, technically and morally obsolete Soviet norms and standards of construction and their replacement by standards that meet modern developments; expansion of the list of construction works that do not require permits and/or special commissioning of the results of such works; abolition of the mandatory fee for „participation in infrastructure development“ - an additional contribution required from construction companies for the development of

local infrastructure, which has often been criticized as a source of corruption and additional financial burden on developers; launch of the Unified State Electronic System in the field of construction, designed to combat corruption at all stages of construction. Since 2019, the registration of real estate prices by means of the State Register of Real Property Rights has been introduced. Thus, in recent years in Ukraine, in the context of deregulation and simplification of doing business, some LVC tools have been cancelled (share contributions of developers for infrastructure development), while monitoring of the real estate market is developing, preconditions are being created for taxing real estate on a market basis. The digital transformation of cadastral activities, the construction industry, and real estate appraisal continues.

## Implementation opportunities and risks

The introduction of new LVC tools is largely restrained by the fears of the main political players to worsen the business climate, as well as by the reluctance to significantly change the established conditions for the construction business. At the same time, initiatives related to digital transformation, deregulation, as well as certain anti-corruption initiatives are supported. Despite this, the level of corruption in land relations and spatial planning remains relatively high. The construction business has an active parliamentary lobby, which makes it possible to gradually improve the legal regulation of development activities. Many radical land and real estate reforms are initiated by business associations, non-governmental centres, and local community associations. At the same time, the central government is often inclined towards conservative reforms and shows an unpreparedness for rapid changes. It should be noted that municipalities of large cities, which have significant financial and human resources, are most actively using all the available tools for economic regulation of development, infrastructure development and spatial planning. At the same time, comparatively poor rural communities tend to have limited capacity to develop infrastructure and implement effective spatial planning. LVC tools can be used for further reforms in land and property relations, taxation, and decentralization. Considering that Ukraine continues active reforms in these areas, gaining experience of LVC from other countries can be an important argument for key political players in improving national legislation. The widespread introduction of LVC tools in Ukraine requires an information campaign among key players (parliament, relevant ministries, associations of local communities, business associations), who often do not have knowledge of the variety of regulatory instruments in the real estate sector that are used in developed countries, as well as training policy recommendations assessing the potential effectiveness of such instruments.



Appendix 2

# LVC Taxonomy



## Appendix 2: LVC Taxonomy

Land Value Capture is a policy approach that enables governments to recover and reinvest land value increases that result from public investment, government actions and demand and supply dynamics. This can happen through recurrent taxes, one-time charges or in-kind contributions from landowners or developers to a public entity. Land value capture is rooted in the notion that public action should generate public benefit.

Please find more information in Appendix 1. Definitions of the instruments and descriptions follow the 2020 OECD-Lincoln Institute of Land Policy Questionnaire on Land Value Capture developed for the forthcoming OECD-Lincoln Institute of Land Policy Global Compendium on Land Values Capture.

The Table below lists the most common terms for each LVC instrument and provides a brief description of its utilization across the ten countries, as mentioned in the Study reports.

| Type of LVC Instrument | LVC instrument    | Common terminology  | Definition and description  | Country of planning or implementation (more details in the Study reports)   |
|------------------------|-------------------|---|---|---|
| Macro-level instrument | Land Readjustment | <ul style="list-style-type: none"> <li>▲ Land readjustment</li> <li>▲ Land pooling</li> <li>▲ Land consolidation</li> <li>▲ Land re-plotting</li> </ul> | There are plots of land that are not leveraged to their most efficient use according to a jurisdiction's land use or public infrastructure plans. The instrument is used when there is insufficient land for public services and infrastructure and there is a lack of funding or ability to expropriate private land for public use. Land parcels in that situation are pooled and readjusted into a different shape and size in an orderly configuration, making space for public improvements such as utilities, roads, transit lines, or parks. After the land readjustment determination, involved landowners typically receive a smaller tract of land, whose value is higher than the original plot because of up-zoning and/or the improvements made to the immediate area. Expropriation might be required, and most local landowners should participate. The scheme can be initiative by actors other than local authorities. Sometimes, the readjustment of the newly planned area could include the creation of collectively or publicly owned parcels that are leased or sold to generate additional revenue for the planned area. | <ul style="list-style-type: none"> <li>▲ Ecuador: land readjustment used in Cuenca</li> <li>▲ Egypt: Land readjustment is implemented in 13 projects, 2 by GIZ and 11 by UN-Habitat. Main issues are mistrust towards authorities and bureaucratic and administrative inertia. The Qena land consolidation project is currently under way.</li> <li>▲ Indonesia: land consolidation projects used since '80s with extensive implementation time. Used by national and local government in redevelopment projects in slums and disaster-prone areas.</li> <li>▲ Peru: introduction of land readjustment in 2012</li> </ul> |

| Type of LVC Instrument | LVC instrument           | Common terminology   | Definition and description   | Country of planning or implementation (more details in the Study reports)   |
|------------------------|--------------------------|--|--|---|
| Macro-level instrument | Strategic Land Managment | <ul style="list-style-type: none"> <li>Land banking</li> <li>Strategic acquisition of land and real property</li> <li>Acquiring/retaining land and other real properties</li> </ul>  | A government and/or an authorized public entity strategically acquires and retains land and other real property in advance of needs. Depending on the purpose of use of strategic land management, a wide range of activities can be undertaken on acquired land, such as developing, rezoning, leasing and eventually selling. In some jurisdictions, development activities on acquired land can be carried out in partnership with the private sector, through public-private partnerships (PPPs).  | <ul style="list-style-type: none"> <li>Egypt: PPPs with different entities involving in-cash and in-kind value capture for various development activities.</li> <li>Indonesia: land acquisition for national development projects (law 2/2012). A Land Banking Agency is in preparation.</li> <li>Peru: land bank promoted in the National Housing Policy in 2006, not yet implemented.</li> </ul>  |
| Macro-level instrument | Public Land Lease        |  | A government grants private and public entity the right to occupy, improve and use publicly owned land for a specific period in exchange for fees. Through leasing conditions and/or incentives, the government may have the power to influence and/or restrict the use of leased land. The leasing agreements can vary significantly in terms of duration of lease terms, permitted uses, rent payment options, ownership of improvements, transferability of land rights, etc.   | <ul style="list-style-type: none"> <li>Ethiopia: lease policy different between northern and southern regions</li> <li>Ghana: Lands Commission Ghana, as part of its public lands' administration and management function, performs allocation of public lands.</li> <li>Ukraine: practice of land auction for the lease of state-owned agricultural land.</li> </ul>   |
| Direct LVC Instrument  | Betterment Levy          | <ul style="list-style-type: none"> <li>Betterment contributions (generally one-time charges)</li> <li>Special assessments (generally a recurrent charge over a period of years)</li> <li>Business improvement districts, or community improvement districts (generally a recurrent charge over a period of years)</li> </ul> | A public improvement project or service is identified by relative authorities, together with the specific area benefitting from the improvement. The beneficiaries are the owners of the parcels in the selected area. The cost of improvement is accordingly assigned to each parcel based on the share of benefits received. Charges are one-time or ongoing for a fixed period. The use of this instrument is usually politically driven. A referendum vote of property owners is typically required and/or communities' petition to local authorities for such financing plan. | <ul style="list-style-type: none"> <li>Egypt: betterment taxes, following Law 222 Betterment Levy Law of 1955, which cannot be assessed due to insufficient data.</li> <li>Ethiopia: explicit framework for betterment levy lacking</li> <li>Ghana: betterment levies are colonial legacy instruments that were inherited and incorporated in modern Ghana political administration. Lack of implementation due to low administrative capacity.</li> <li>Namibia: betterment fee, used only when a rezoning of property takes place.</li> <li>Peru: betterment contributions at district municipal level, in some cases at metropolitan/provincial level.</li> <li>Tunisia: residents' participation in development costs; low implementation due to low citizens' support</li> </ul> |

| Type of LVC Instrument  | LVC instrument                        | Common terminology   | Definition and description   | Country of planning or implementation (more details in the Study reports)  |
|-------------------------|---------------------------------------|--|--|--|
| Direct LVC Instrument   | Taxes on immovable property           | <ul style="list-style-type: none"> <li>▲ Property taxes</li> <li>▲ Land value taxes</li> </ul>   | <p>Recurrent taxes on immovable property are levied at a regular time interval, on the use or ownership of immovable property such as land, houses, and buildings. They may be expressed as a percentage of an assessed property value, or of a rent or capital value derived from certain characteristics of real property (e.g, location and size). Such taxes can be levied on owners, tenants, or both. They can also be special taxes on property whose revenues are earmarked for a specific purpose, if they are not levied only on properties that obtain a benefit from the earmarked purpose.</p>  | <ul style="list-style-type: none"> <li>▲ Egypt: property taxes are poorly collected due to large landowners' resistance</li> <li>▲ Ethiopia: used as main LVC instrument</li> <li>▲ Indonesia: Land and Property Tax; in 2015 the tax base and land valuation system was updated as a value closer to market value, hence increasing municipalities' revenues.</li> <li>▲ Ghana: property rating (property tax) collected by all local government authorities</li> <li>▲ Morocco: exemption from property tax for new buyers</li> <li>▲ Namibia: Land tax at municipal and national level.</li> <li>▲ Tunisia: tax on built-up areas of (calculated according to the built-up area and the services offered by the municipalities). Bare land is subject to a tax based on the reference value of the land.</li> <li>▲ Ukraine: Taxes on land and buildings are separated, the first based on non-market monetary land value, the second based on its dimension. Real estate market monitoring is being developed towards taxation on market value.</li> </ul> |
| Indirect LVC instrument | Transfer of Development Rights (TDRs) | <ul style="list-style-type: none"> <li>▲ Sale of additional development rights</li> <li>▲ Charges on development rights</li> <li>▲ Density bonuses</li> <li>▲ Inclusionary housing/zoning</li> </ul> | <p>Developers or landowners are required to pay one-time cash or in-kind (e.g, affordable housing) in exchange for additional development rights, or upon a jurisdiction's decision to rezone their plots of land. For the use of this instrument, ordinances, and procedures to get permission to build at higher density levels or different land use are defined in advance by a jurisdiction. Typically, there would be an established density and/or height baseline, and developers or landowners wanting to build beyond that baseline (but within the maximum density permitted by the zoning plan) need to contribute as specifically required by the corresponding ordinance or regulation. If a jurisdiction decides to rezone an area, the required payment for additional development rights or</p> | <ul style="list-style-type: none"> <li>▲ Ecuador: sales of development rights in Quito, including environmental benefit criterion (eco-efficiency). Increasing the risk of financialization of the city.</li> <li>▲ Ethiopia: explicit framework for TDRs lacking</li> <li>▲ Ghana: sale of development rights or density bonuses, allowing to build at greater density than what is allowed.</li> <li>▲ Indonesia: in Jakarta, developers are charged if the development exceeds FAR limit; value allocated to build a bridge in Jakarta.</li> <li>▲ Morocco: inclusionary housing (social housing) development comes with tax exemption.</li> <li>▲ Peru: transfer of development rights and floor bonification for inclusionary housing, with different roles of municipal and provincial authorities.</li> </ul>   |

| Type of LVC Instrument  | LVC instrument     | Common terminology  | Definition and description   | Country of planning or implementation (more details in the Study reports)   |
|-------------------------|--------------------|---|--|---|
|                         |                    |   | different land use can either depend on the increase in value due to the rezoning decision or can be a uniform fixed charge.   |   |
| Indirect LVC instrument | Developer Exaction | <ul style="list-style-type: none"> <li>▲ Development impact fees</li> <li>▲ TDRs instruments negotiated.</li> </ul> | <p>Developers are required to make a one-time payment (cash or in-kind) to obtain development approvals. The payment is intended to compensate for the impact of new development on existing infrastructure or for the cost of providing the infrastructure and improvements needed by new development. The payment is calculated on a formula basis or is negotiated directly between the jurisdiction and the developer. In most instances, cash or in-kind charges are set at a level that has a documented link to actual public infrastructure and in some cases the social costs incurred by the jurisdiction due to new developments. Development approvals and corresponding payments may be for on-site or off-site improvements, or for other social improvements.</p> | <ul style="list-style-type: none"> <li>▲ Ecuador: developer exaction, especially in Quito, called Proyectos Urbanísticos Arquitectónicos Especiales (PUAE) or Special Urbanistic-Architectonic Projects. Increasing the risk of financialization of the city.</li> <li>▲ Egypt: use of instruments resembling developer exactions in understudied projects, such as: renewal project in Corniche, Alexandria; Dream Land in 6th of October City in Greater Cairo, where the developer acquired land at under market value in exchange of financial contribution to ring road development.</li> <li>▲ Ethiopia: explicit framework for developer exactions lacking</li> <li>▲ Ghana: impact fees are colonial legacy instruments that were inherited and incorporated in modern Ghana political administration. Used in real-estate market.</li> <li>▲ Morocco: incentives or exemptions for property developers promoting activities within government framework</li> <li>▲ Namibia, use of endowment fees, similar to development charges, charged for permission to subdivide land within a local authority area.</li> <li>▲ Peru: developer exactions at municipal level.</li> <li>▲ Ukraine: the fee for “participation in infrastructure development” was cancelled after the 2015 reforms focusing on deregulation of construction industry. The argument was that the tool was a corruption source and a financial burden for developers.</li> </ul> |

| Type of LVC Instrument | LVC instrument | Common terminology           | Definition and description  | Country of planning or implementation (more details in the Study reports)   |
|------------------------|----------------|------------------------------|---|---|
| Direct LVC instrument  | Other taxes    | Transfer taxes, stamp duties | When the registered property rights associated with land and/or buildings (either statutory titles or other legally recognized and recorded forms of land rights) are transferred from one party to another, taxes or fees may be levied. This one-time tax/fee is assessed and collected at the time of formal transfer.   | <ul style="list-style-type: none"> <li>▲ Ghana: introduced.</li> <li>▲ Namibia: stamp duty (a fixed rate once off transfer tax (although below a certain value threshold the stamp duty is exempted) on real property upon transfer) and transfer duty (this is a variable rate once off tax amount payable upon the transfer of real property and increased the value of the property).</li> <li>▲ Tunisia: introduced.</li> </ul> |
|                        |                | Capital gain taxes           | When the transaction of a property associated with land and/or buildings results in net capital gains (profits), a tax may be levied on such capital gains. The capital gains are equal to the difference between the sale price and the purchase price or the declared value (in case the real property was received as a gift or inherited). Depending on the jurisdictions, capital gains may take into consideration transaction costs, the value added tax, or other associated expenses. This form of tax is most commonly integrated with the income tax system. | <ul style="list-style-type: none"> <li>▲ Egypt: capital gain taxes are poorly collected due to large landowners' resistance.</li> <li>▲ Ghana: introduced.</li> <li>▲ Tunisia: introduced.</li> </ul>   |
|                        |                | Inheritance taxes            | When wealth (including land and buildings) is transferred as part of an inheritance, a tax may be levied on it.   | Tunisia: introduced   |

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There are also application texts which complete it, in particular:

- ▲ Decree No. 1655 of 1996 dated September 18, 1996 setting the composition and operating procedures of the inter-ministerial committee for land use planning and amended by Decree 1688 of 2003 dated August 11, 2003 to integrate the ministries of higher education, health and sport and for the creation of a technical committee for land use planning which includes permanent representatives.
- ▲ The decree n°2468 of 1997 dated December 22, 1997 fixing the constituent parts of the master plans of development.
- ▲ The decree n°2092 of 1998 dated October 28, 1998, fixing the list of the big urban agglomerations and the sensitive zones which require the development of master plans of development.

We also rely on other important texts such as:

- ▲ The Water Code (1975) <http://www.droit-afrique.com/uploads/Tunisie-Code-2017-eaux.pdf>
- ▲ The Code for the protection of agricultural land <http://www.citet.nat.tn/Portail/doc/SYRACUSE/42719/la-loi-n-83-87-du-11-novembre-1983-la-loi-n-83-87-du-11-novembre-1983-relative-a-la-protection-des-t?lg=ar-TN>
- ▲ The Forest Code <http://www.droit-afrique.com/uploads/Tunisie-Code-2017-forestier.pdf>
- ▲ The public maritime domain [http://www.apal.nat.tn/site\\_web/Files/dpm.pdf](http://www.apal.nat.tn/site_web/Files/dpm.pdf)

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## Ukraine

This report was prepared using official data from the State Service of Ukraine for Geodesy, Cartography and Cadastre, the Ministry of Justice of Ukraine, as well as the Association „Land Union of Ukraine“ (Andrii Koshyl) and the NGO „Association of Land Management Specialists of Ukraine“ (Prof. Taras Yevsyukov). For information on legal regulation, the official portal of the Parliament of Ukraine was used (<https://www.rada.gov.ua>).

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