

# Self-Construction, Urban Land and Public Policies

*Nora Clichevsky*  
*CONICET - National Council for Scientific and Technical Research*  
*CEUR - Center for Urban and Regional Studies*  
*Corrientes 2835 7 p. "A"*  
*1193 Buenos Aires*  
*Argentina*

## Summary

The problems connected with legalizing illegally occupied and built ground by the lowest income groups are examined. The lowest income groups are unable to buy the land they occupy. Faced with taxes on legalized or purchased plots, they will have to leave them and invade new terrains. This poses a series of open-ended questions. Legalizing self-built constructions that do not comply with minimal standards implies the acceptance of different minima for different social groups. Yet, not to do so raises further questions about inequality. Despite a privatizing 'fashion', the State's intervention through public policies on the land and housing market is seen as the only possible way to improve the situation.

## Résumé

Les problèmes liés à la légalisation de l'occupation, par certains groupes à bas revenus, de terrains bâtis dans l'illégalité sont examinés. Les groupes disposant des revenus les plus bas ne peuvent pas acheter les terrains qu'ils occupent. Au moment où ils devraient payer des impôts sur des terrains acquis de manière légale ou légalisés après-coup, ils se voient contraints de partir et d'occuper d'autres terrains. Ceci pose une série de questions auxquelles on ne peut trouver réponse définitive. La légalisation des constructions qui ne correspondent pas aux standards minima implique que différents minima soient définis pour des groupes différents. Et pourtant, sans légalisation d'autres questions d'inégalité sont soulevées. L'auteur de l'article considère qu'en dépit d'une 'mode' favorisant la privatisation, seule une intervention de l'Etat sur le marché immobilier sera en mesure d'apporter une amélioration de la situation.

## 1. Introduction

The last decade of the 20th century starts with a crisis of unknown scope in terms of economic and social issues, dramatically evident in Latin American cities. There is a global lack of resources at the national, provincial and municipal level. The distribution of already scarce resources does not respond to the needs of the poorest population. The crisis of urban employment - low wages, unemployment, under-employment, insecurity - worsens the conditions of urban life for large sectors in the society: no access to land, to housing or even to basic facilities violate life itself for urban dwellers.

Three issues were mentioned in the title of the present paper: self-construction, land and public policies. They are of different orders since they refer to ways of pro-

duction, to support for the development of human activities and to administration policies. We might ask whether they are essential issues in improving living standards for the poorest population in the Latin American cities. Many papers have been written, based on empirical studies and on conceptual analyses. Proposals have been made and they have occasionally been implemented by governments. Some authors heartily defend self-construction, while others see it as one more form of exploitation of the lower income classes.

This paper will focus on a few elements which are issues when adopting proposals on public policies, involving the question of land and housing.

## **2. A brief historical note**

In Latin America, the governments, in general, have not supported programmes of self-construction. These have been undertaken by non-governmental organizations, by simple neighbourhood associations and even by isolated families. Some rare projects have been supported by international aid.

Urban land has rarely been the object of public policies. On the one hand, private owners or enterprises active in the land market have defined - with minimum regulations from the State - the subdivision of land. On the other hand, lower income groups who have decided to invade private or public lands, in a spontaneous or organized way, delimit plots according to their own rules. These will depend on the type of land which is occupied, on the way in which it is occupied (individually or collectively) and on cultural characteristics.

The State, when furthering policies for regularization or implementing a legislation on land subdivision for the poorest sectors, uses criteria that are different from those applied to other population sectors. Thus, in some countries, plots of 30 square meters have been legalized.

But even in these cases there might be complications. For instance, the traditional policies of regularization through purchase of land might become inapplicable due to the impossibility for beneficiaries to pay.

By the end of the '80s, it has become evident that several States act just in response to the most urgent requirements of populations rather than by furthering new policies in order to solve the habitat problem of the poorest people. Obviously, there are examples to the contrary, but these are isolated and depend on specific political objectives of regional governments.

## **3. Towards a Proposal of Policies for Urban Land and City Construction in the Context of Social Change**

In order to elaborate proposals, it is necessary to have an idea about the type of urban habitat which it is possible to build for the lower income population. Thus it is important to define minimum quality standards: surface, plans, facilities, construction materials. It is also necessary to decide between the construction of a transient or a definitive habitat. Experience in Latin America indicates that some transient projects implemented more than thirty years ago are still lived in, and that, in such cases, a definitive habitat is impossible to accomplish. What is acceptable for a transition is not intended to be so for a more definitive stage.

The issue of minimum standards and transitoriness is complex. For instance, are minima defined according to middle-income classes and in agreement with their ideology and standard of life? Yet, in many Latin American countries, there are minima regulations for the lower income sectors. Is it that poor people need less surface for living, or is it that, for them, these are supposedly not inconvenient?

These questions lead us to examine some of the criteria.

### *3.1. The definition of urban land*

Urban land is defined by the following criteria:

- quality characteristics: surface, topography, resistance, location, quality of underground water
- characteristics related to ownership: individual or collective ownership, rent, cession, donation;
- as related to the above, mechanisms of purchase-sales, contracts, credit, guarantees;
- legal situation of people occupying that land.

### *3.2. Public policies of land tenure: legalization and new urban lands*

The State defines land policies according to the laws of each country, as found in the Constitution and the civil codes. The definition of property is essential for policies on land.

In order to further the solution of problems, new policies must envisage questions which traditionally have not been considered. This poses a series of problems with respect to the State's definition of its policies, to the ideologies these are they based on, to the concepts that are underlying them and to the limits for implementation of new policies:

1. Is illegality accepted, and for whom? What answers are there in our unequal societies for different types of illegalities: in land, housing, facilities, employment and working standards? How does the State conceive illegality? What does illegality represent for different social sectors? What does it imply for everyday life?
2. In our unequal societies from the point of view of wealth distribution, which are the economic conditionings for applying legal equality to the citizens, as contemplated in the legal frameworks, with respect to illegality of urban land?
3. What are the social, political and economic costs of legalization? Under this heading the following themes must be considered:
  - legality may be used for eviction, but it may become a very 'costly' measure for a society as a whole when applied to lower income sectors;
  - the importance of clientelism;
  - environmental problems of ecological nature may arise when occupied areas are legalized;

- social problems do arise if an occupied area cannot be legalized as a whole. This might be the case when some occupiers do not have the economic means to buy their own areas or because of the too high densities of the occupied areas, that require the relocation of some families.
4. Is it legitimate - or ethical - that there is a different legislation according to economic inequalities, as in some Latin American countries?
  5. What alternatives do we have for defining codes and standards in a context of severe urban crises? Can we conceive of other ways in which to regulate the construction of cities?
  6. What real possibilities are there to elaborate and implement new forms of legalizing present situations of illegality?

If these questions are to be answered it is necessary, on the one hand, to have a better knowledge of present situations in terms of the needs of the population and social actors who are defining social processes. On the other hand, a projection of future needs in terms of urban land is required. Although we know that projections have very limited validity, we must have a hypothesis of growth.

We would like to point out some considerations, which are essential for the definition of new policies. Through history, the land market has been a source of extraordinary benefits. Yet, in many Latin American countries today, land and housing markets are depressed and do not constitute an important investment opportunity with respect to other economic sectors. Given this situation, the powerfully concentrated capital groups would be inclined to accept an interventionist policy of the State, in order to favour the lower income and labour sectors, provided there are other opportunities for capital investment. In fact, a solution of housing and land problems for the poor should appease social unrest.

The economic meaning of land policies for the lower income sectors must also be considered. The lowest income groups are unable to buy the land they occupy.

Certain legalizations have also served to 'clean' an area of the city and have later been taken over by middle and high income sectors. Even if this has not been an explicit intention, the poorer population faced with taxes on legalized or purchased plots will not be able to pay them. Thus, they will have to leave their plots and invade new terrains.

Standards of production and use of the urban habitat must also be questioned. What are the biological and physical minima acceptable for area, housing, conditions and services? What is the quality and quantity of water necessary for the population's health? How should residues be handled?

Present legal standards are functional to the capitalist system. Will it be necessary to wait until these patterns are modified in order to produce a change?

### 3.3. *The logics in the articulation of self-construction and urban land*

Self-construction is most used by lower income sectors (Clichevsky *et al.*, 1990). Entering the process implies great sacrifices on the part of the family. It is a process of wear and tear as working hours are extended, not only to build the home, but also to obtain resources for the payment of increasingly costly building materials.

Therefore, if we want to improve the living standards of the urban population, self-construction might not be the best solution. This point of view is not absolute. For instance, it is possible that the State could define public policies for self-construction. For instance, the State might intervene on the market of building materials by promoting a bank for them, or by subsidizing self-construction by families.

In this case, a similar situation occurs as with the question of land. But again, the poorest population would have no access even to a state subsidized market for building materials.

#### 4. A final remark

We believe that the solution of problematic standards of life for the poor in most cities must be controlled by public policies, in spite of a privatizing 'fashion' which has been tending to invade the production of the city. The State must intervene in the land and housing markets and must define actions with regard to fiscal property. Thus, it is necessary to pose objectives for change in order to implement redistribution policies and policies for greater productive development. All these are essential conditions to make specific policies on land and housing really feasible.

In short, there are two central lines along which the solution of urban problems have to be considered: the political perspective and the innovating, creative ways in which specific elements in the production of cities must be treated.

#### 5. Relevant Bibliography

There follows a list of bibliographical references relevant to autoconstruction, urban land and public policies.

- AZUELA DE LA CUEVA, A. (1982), Hacia una sociedad jurídica de la urbanización popular: problemas teóricos y metodológicos, *ponencia presentada ante las VII Jornadas de la Asociación Latinoamericana de Métodos de Enseñanza del Derecho*, trabajo mimeografiado, noviembre 1982 (México).
- BASALDÚA, R.O. (1965), El control y regulación del uso de la tierra en el planeamiento urbano, *Municipalidad de la Ciudad de Buenos Aires, Organización del Plan Regulador* (Buenos Aires).
- BONDUKI, N. & ROLNIK, R. (1979), Periferia da Grande São Paulo. Reprodução do espaço como expediente de reprodução da força de trabalho, *A produção capitalista da casa (e da cidade) no Brasil industrial*, (Erminia Maricato, org.) (Alfa Omega, São Paulo).
- BURGESS, R. (1988), Algunas falacias respecto a las políticas de autoconstrucción en los países en desarrollo, *Estudios Demográficos y Urbanos*, El Colegio de México, 3, May-August 1988, 8, (México).
- CALDERÓN COCKBURN, J. (1987), Luchas por la tierra, contradicciones sociales y sistema político. El caso de las zonas ejidales en la ciudad de México (1980-84). *Estudios Demográficos y Urbanos*, El Colegio de México, 2, May-August 1987, 2 (México).

- CARRIÓN, D. & y VILLAVICENCIO, G. (1983), Acciones de los sectores populares frente al problema de la tierra urbana y reacciones de las fuerzas socio-políticas afectadas. Los casos de Quito y Guayaquil, *Revista Interamericana de Planificación*, XVII, March 1983, 65, (Sociedad Interamericana de Planificación-SIAP, México), 50-63.
- CLICHEVSKY, N. (1975), "El mercado de tierras en el área de expansión de Buenos Aires y su incidencia sobre los sectores populares (1943-1973)" (Centro de Estudios Urbanos y Regionales-CEUR, Instituto Torcuato di Tella-ITDT, Buenos Aires).
- CLICHEVSKY, N. (1987), Política urbana y mercado de tierra. Buenos Aires, 1970-1986, *Boletín de Medio Ambiente y Urbanización*, 5, Sept. 1987, 20 (Buenos Aires), 80-87.
- CLICHEVSKY, N. *et al.* (1990), "Construir y administrar la ciudad latinoamericana" (GEL, Buenos Aires).
- COLOUMB, R. (1988), ¿Inquilinos o propietarios? La crisis del sistema de la vivienda popular en la ciudad de México, *ponencia presentada en el Seminario Habitat popular en México y Centroamérica*, 27-29 de junio 1988 (México).
- CUENYA, B. *et al.* (1984), "De la villa miseria al barrio autoconstruido" (Centro Estudios Urbanos y Regionales-CEUR, Buenos Aires).
- DINÍZ, E. (1987), El programa 'Un lote para cada familia'. Una evaluación preliminar, *Boletín de Medio Ambiente y Urbanización*, 5, Sept. 1987, 20 (Buenos Aires), 32-44.
- DURAND-LASSERVE, A. (1985), La cuestión del suelo y la problemática de la vivienda en las ciudades de los países en desarrollo: tendencias generales de la evolución actual, *Revista A*, VI, May-August 1985, 15 (UAM Azcapotzalco, México).
- GAMA de ANDRADE, L. *et al.* (1984), Lei de desenvolvimento urbano: análise política preliminar, *Espaços & Debates. Revista de Estudos Regionais e Urbanos*, 4 (1984), 11 (São Paulo), 56-67.
- GARCÍA PERALTA, B. (1986), La lógica de las grandes acciones inmobiliarias en la ciudad de Querétaro, *Estudios Demográficos y Urbanos*, Sept.-Dec. 1986, (El Colegio de México, México), 375-397.
- GEISSE, G. (1979), Los asentamientos humanos en América Latina: ¿foco de problemas?; ¿potencial de desarrollo?, *Revista Interamericana de Planificación*, XII (July-Sept. 1979), 50-51 (SIAP, México), 161-186.
- HARTH DENEKE, A. & LUNA, B. (1980), Los tres submercados informales o populares de vivienda urbana en El Salvador, *Revista Interamericana de Planificación*, XIV (June 1980), 54 (SIAP, México), 92-110.
- JARAMILLO, S. (in press), Los límites de una política reformista de vivienda en Colombia, *Las ciudades latinoamericanas en la crisis* (M. Schteingart ed.) (Ed. Trillas).
- KÓWARICK, L. & BONDUKI, N. (1987), São Paulo, espacio urbano y espacio político. Del populismo a la redemocratización, *Estudios Sociales Centroamericano* (1987), 44 (Costa Rica), 45-61.

- KÓWARICK, L. (1983), Explotación y reproducción de la fuerza de trabajo (Notas sobre el problema de la vivienda urbana en el Brasil), *Cuadernos Ciudad y Sociedad*, (1983), 1, (CEU, CUIDAD, SUR, Ecuador).
- KÓWARICK, L. (1983), Explotación y reproducción de la vivienda urbana en el Brasil, *Cuadernos Ciudad y Sociedad*, (1983), 1, (CEU, CUIDAD, SUR, Ecuador).
- MÁRICATO, E. (1987), "Política habitacional no regime militar. Do milagro brasileiro a crise economica" (Editora Vozes, Petrópolis, Brasil).
- QUEIROZ RIBEIRO, L.C. (1980), A renta urbana, *Revista Chão* (1980) (Rio de Janeiro).
- QUEIROZ RIBEIRO, L.C. (1987), "Acumulação urbana e cidade: reflexões sobre os impasses atuais da política urbana" (IPPUR, Rio de Janeiro), mimeographed.
- RIOFRÍO, G. (1983), Papel del Estado y de los poderes locales frente a las demandas de vivienda de los sectores populares: el caso de Lima, *Revista Interamericana de Planificación*, XVII (March 1983), 65.
- RIOFRÍO, G. (1983), El Estado y las políticas de tierra urbana, *Relación campo-ciudad: la tierra, recurso estratégico para el desarrollo y a la transformación social* (Ediciones SIAP, México).
- RODRÍGUEZ, A. (1983), Como gobernar las ciudades o principados que se regían por sus propias leyes antes de ser ocupados, *Revista Interamericana de Planificación*, XVII (March 1983), 65 (México), 135-155.
- ROSAS, I. & ROMERO, C. (1987), Los costos de construcción de las viviendas en los barrios de ranchos, *ponencias presentadas en el Seminario Las Soluciones habitacionales desarrolladas por la población de bajos ingresos en el Tercer Mundo*, 6-10th April, 1987, Caracas, Venezuela.
- SÁNCHEZ LEÓN, A. & CALDERÓN COCKBURN, J. (1987), "El laberinto de la ciudad. Políticas urbanas del Estado: 1950-1979" (Centro de Estudios y Promoción de Desarrollo, DESCO, Lima).
- SCHTEINGART, M. (1986), "El sector informal de la vivienda urbana en México", (El Colegio de México, mimeographed).
- SCHTEINGART, M. (1988), Promoción inmobiliaria y suelo en la ciudad de México, *Medio Ambiente y Urbanización*, 6 (March 1988), 22 (Buenos Aires), 24-32.
- TRIVELLI, P. (1981), Elementos teóricos para el análisis de una nueva política de desarrollo urbano: Santiago de Chile, *Revista Interamericana de Planificación*, XV (Dec. 1981), 60 (CIAP, México), 44-60.
- TRIVELLI, P. (1981), Reflexiones en torno a la política nacional de desarrollo urbano, *EURE*, 22 (Pontificia Universidad Católica de Chile, Instituto de Planificación de Desarrollo Urbano, Santiago de Chile), 43-64.
- TRIVELLI, P. (1986), Access to Land by the Urban Poor, *Land Use Policy* (April 1986), 101-121.
- ZORRO SÁNCHEZ, C. & GILBERT, A. (1982), Tolerancia o rechazo de los asentamientos urbanos irregulares: el caso de Bogotá, *Revista Interamericana de Planificación*, XVI (June 1982), 62.