Planning Laws, Development Controls, and Social Equity

Lessons for Developing Countries

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Lessons for Developing Countries

Rachelle Alterman

Implementing or revising planning laws is a booming trend around the globe, especially in developing countries. The tendency in developing countries has been to model planning laws along the lines of those enacted and practiced in advanced-economy countries. Before rushing to emulate the planning laws of advanced economies, however, developing and transition countries should ask some tough questions about the models to be adopted. Perhaps the most important is whether the enactment and implementation of planning laws has enhanced social equity in cities or exacerbated the inequities. When one examines advanced-economy countries, where planning laws and regulatory instruments have been routinely applied and enforced for many decades, the answer to this question is a mixed one.

After an introduction to the relationship between planning laws and urban justice, this chapter delves into the functions played by planning laws and how cities and countries have operated without them, both in the past and more recently. A brief history of the evolution of planning laws around the globe is presented, including their general state in developing countries today. A conceptual framework for thinking about the regulatory layers of development controls leads to an overview of existing research on the effects of planning regulations on social composition of cities and neighborhoods, with a special focus on housing prices. Finally, lessons for developing countries are discussed.

Social Equity, Planning Laws, and Development Controls

Planning laws, planning regulation, and development controls set land use and building characteristics and thus affect the physical environment. Whether intentionally or not, planning regulation may also affect the social composition of regions, cities, neighborhoods, and even city blocks.

Unlike many other types of civic laws, planning laws affect not only one or two distinct spheres, such as governance, business, or child care. Because

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the entire range of human (and nature-based) activities require the use of space, and because space is often people's major property asset, the procedures, institutions, and rules for controlling urban and rural development affect many spheres of life. Some of these effects can be anticipated, but many are ancillary or unintended. By impacting the use of land and space, planning laws and development control can deeply influence the existing sociocultural and economic order. They may have dramatic implications on personal health and safety, housing prices, employment opportunities, family life, personal time (spent on travel), and accessibility to public services.

Planning regulation can encourage the supply of adequate and affordable housing and thus reinforce social integration, but regulations might also aggravate the separation of social groups, provide greater public amenities to privileged sectors, and raise housing prices, whether intentionally or not. Thus, planning laws may exacerbate social differentiation and social exclusion.

In other words, urban planning in general, and decisions made under planning law in particular, is strongly related to notions of justice. Social justice is an elusive concept. In her book *The Just City*, Fainstein addresses the challenge of evaluating public decision making in urban planning and management. After surveying relevant schools of philosophy, she decides that the concept of equity is preferable to that of equality and better captures the essence of a just city. She defines equity-seeking urban policy as one that "favors the less well off more than the well-to-do. That is, it should be redistributive, not only economically but also, as appropriate, politically, socially, and spatially."[1]

The concept of "distributional equity" is relevant to planning regulations. Because lucrative land in a particular region is limited, legally binding plans or zoning decisions are really a matter of allocating financial gains or losses—what Hagman and Misczynski call "windfalls and wipeouts."[2] The major function of planning regulations is to allocate development rights for different land uses and densities—some lucrative to the landholders (such as designation as market housing or commercial), and some undesirable (such as designation as protected agricultural zone that allows no development). Planning regulations also determine which tracts will have access to effective public services, and which will have little access to services. Planning regulations determine which areas will benefit from positive externalities and which will bear the brunt of negative ones. In other words, planning regulations have major implications for property values and thus for many households.

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1 Susan Fainstein, *The Just City* 36 (Cornell U. Press 2010).

2 Donald G. Hagman & Dean J. Misczynski eds., *Windfalls for Wipeouts: Land Value Recapture and Compensation* (Am. Plan. Assn. 1978). In a book comparing 13 Organisation for Economic Co-operation and Development (OECD) countries, Alterman analyzes how the law in each country treats the value loss or gain from planning regulations differently. *See* Rachelle Alterman, *Takings International: A Comparative Perspective on Land Use Regulations and Compensation Rights* (ABA Press 2010).

Fainstein defines distributional equity as aiming "at bettering the situation of those who without state intervention would suffer from relative deprivation.[3]" In the context of planning regulation, two baselines for comparison would determine land use distribution if there were no planning controls: market forces and existing sociocultural and political norms. In advanced-economy countries, market forces are the dominant precursors to planning regulations, whereas in developing countries, sociocultural and political norms are also important (sometimes more than market forces).

Although Fainstein does not address planning law directly, her book opens with a debate among planning theorists that is relevant to this chapter. Fainstein asks if planning theory—and urban justice—should center on the way planning decisions are made (procedural) or on their substance and impacts (substantive). The procedural-justice approach focuses on the quality of communication between government and the concerned public, on power relationships or on the instruments of public participation.[4] Fainstein argues that although for the assessment of planning laws and regulations both approaches are relevant, substantive decisions are more relevant in evaluating just planning or a just city.

Every planning law in the world contains both procedural and substantive components that impact the concept of justice. On the procedural side, planning law sets up institutions, ways of communication with the public, access to information, and degrees of legal power granted to stakeholders. On the substantive side, the essence of planning law is the various instruments with which it empowers government bodies to make a difference "on the ground." This chapter adopts Fainstein's perspective in that it examines the instruments of development controls in terms of their impacts, rather than on how they were adopted. However, there is need for more comparative research on the relationship between social equity and planning institutions and procedures.[5]

This chapter uses the term "urban justice" broadly, as suggested by Fainstein,[6] to refer to public policies that promote greater social equity and fairness than the market or preexisting social forces would have engendered without public regulation or intervention.

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3 Fainstein, *supra* note 1, at 37.

4 John Forester, *The Deliberative Practitioner* (Mass. Inst. Tech. Press 1999); Patsy Healey, *Planning through Debate: The Communicative Turn in Planning Theory*, in *Readings in Planning Theory* 234–258 (Susan S. Fainstein & Scott Campbell eds., Blackwell 2011); Judith E. Innes, *Planning Theory's Emerging Paradigm: Communicative Action and Interactive Practice*, 14 J. Am. Plan. Assn. 183–189 (1995).

5 For an example of such comparative research, *see* Dafna Carmon & Rachelle Alterman, *Planning Theory and the Right for a Fair Hearing in Planning Laws: A Cross-National Perspective* (in preparation).

6 Fainstein, *supra* note 1, at 37.

What and Why Planning Laws?

Different Terms, Shared Elements

Planning laws are called different things in different countries: land use planning, zoning plans, land management, local planning, urbanization, spatial planning, town and country planning, urban and regional planning, city planning, environmental planning, development control. All these terms refer to one or more laws that authorize government bodies to apply a set of instruments to steer or control urban and rural development or conservation. These instruments often include statutory plans (in most countries), zoning bylaws (in the United States and Canada), subdivision or "platting" controls, powers to secure land or financing for public services, and the control of development by means of permits and building and housing codes.

All countries also have laws that empower the state or its organs to take land or buildings for public purposes under a set of conditions.[7] These powers may be included in the planning law or be independent of the planning law. They are known by different terms in different countries: eminent domain, compulsory purchase, compulsory acquisition, expropriation, takings. Although planning laws vary around the world, they usually encompass all or most of these regulatory or interventionist functions.[8] This chapter uses the term "planning law" to include this entire set of instruments, including the control of development through the process of granting (or refusing) building permits.

Urban Development without Planning Laws

The history of planning laws should not be confused with the history of urban planning in general. Urban planning has a long history—in some areas of the world, it can be traced back thousands of years. Even today, urban planning decisions by governments are not necessarily predicated on the existence of planning laws. In some regimes, including those of many developing countries, governments can act directly in making and implementing their own plans for certain aspects of city form.

Before the emergence of regulatory planning laws, public planning tended to focus on only the basic elements that a regime deemed important, such as central roads, water sources, and defense. The standards of use of land and housing by private households and businesses usually did not concern governments unless these actions interfered with the interests of the rulers or other holders of power. Even today, in developing countries—which constitute the majority of urban (and rural) areas in the world—planning laws are either nonexistent or almost irrelevant due to nonimplementation. Instead,

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7 These differ significantly across countries; the topic is beyond the scope of this chapter.

8 Rachelle Alterman, *National-Level Planning in Democratic Countries: An International Comparison of Urban and Regional Policymaking* (Liverpool U. Press 2001). Compare with the recent large-scale comparative analysis, but on specific aspects only, Alterman, *supra* note 2.

market forces, social norms, or brute power regulates the use of land. Stark social inequities often ensue.

What about when there is total government control over land use? Does that hold the recipe for urban equity? The ideologies that propelled the Communist countries envisioned such a situation in a large-scale experiment of regimes that sought social equity without planning laws. The governments of the Soviet Union and most East European Communist countries did not need the authority of planning laws in order to make their own short- or long-range urban plans. Most developable land was nationalized.[9] State organs or related agencies controlled most land allocation and had the authority to develop it directly or to allow others to develop it. Communist countries were able to plan and implement huge housing projects, intended to create social equality and improve the livelihoods of all.

After the Bolshevik Revolution in 1917–18, Communist planning (without planning law) delivered millions of standardized housing units and upgraded public services. However, in the latter decades of the 20th century, the iniquitous outcomes of Soviet planning became apparent:[10] the title of a paper by Weclzwowicz states the development succinctly: "From Egalitarian Cities in Theory to Non-egalitarian Cities in Practice."[11] Soviet planning turned out thousands of tiny, poorly built housing units in huge blocks. These often looked fine on government plans but turned out to be dismal estates far away from the city center or employment centers, without public transportation or services. In the absence of regulation, environmental degradation became severe. The collapse of the Soviet Union revealed a story of chronic housing shortages, sometimes involving decades-long waiting lists.[12] Yet, those who were close to power were always able to obtain central housing locations.

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9 B. Renaud & A. Bertaud, *Socialist Cities without Land Markets,* 41 J. Urb. Econ. 137–151 (1997); Kiril Stanilov ed., *The Post-socialist City: Urban Form and Space Transformations in Central and Eastern Europe after Socialism* (Springer 2007); Hopferm Andrezej, *Property Development and Land Use Planning in Poland,* in *Property Development and Land-Use Planning around the Baltic Sea* 55–70 (Kai Böhme, Burkhard Lange, & Malin Hansen eds., Nordregio 2000); Leonid Limonov & Vincent Renard eds., *Russia: Urban Development and Emerging Property Markets* (Association des Etudes Foncières 1995); Stephanie Balme, *Rule of Law as a Watermark: China's Legal and Judicial Challenges*, in *The World Bank Legal Review* vol.4, 179–200 (World Bank 2013).

10 Sonia Hirt & Kiril Stanilov, *The Perils of Post-socialist Transformation: Residential Development in Sofia,* in *The Post-socialist City: Urban Form and Space Transformations in Central and Eastern Europe after Socialism* 215–244 (Kiril Stanilov ed., Springer 2007); Tom Reiner & Ann L. Strong, *Formation of Land and Housing Markers in the Czech Republic,* 61(2) J. Am. Plan. Assn. 200–209 (1995); Vincent Renard & Rodrigo Acosta eds., *Land Tenure and Property Development in Eastern Europe* (Association des Etudes Foncières 1993); Jan K. Brueckner, *Government Land-Use Interventions: An Economic Analysis,* in *Urban Land Markets—Improving Land Management for Successful Urbanization* 3–23 (Somik V. Lall et al. eds., Springer 2009).

11 Grezgorz Weclzwowicz, *From Egalitarian Cities in Theory to Non-egalitarian Cities in Practice: The Changing Social and Spatial Patterns in Polish Cities,* in *Of State and Cities: The Partitioning of Urban Space* 183–199 (Peter Marcuse & Ronald van Kempen eds., Oxford U. Press 2002).

12 The Polish case is an example. *See* Adam Radzimski et al., *Are Cities in Poland Ready for Sustainability? Poznan Case Study* (Real Corp, Proceedings May 18–20, 2010), available at http://www.corp.at.

The lesson from the Communist experiment is that regimes that grant few freedoms to individual initiative do not need, or want, planning laws. Even though the essence of planning laws is to restrain private actions, their very existence is "good news" for personal freedom. The introduction of planning law in China in 1990 can be viewed as a step forward in the democratization of planning and land management.[13]

Planning Laws in Developing Countries

In developing countries, most land area, including urban areas, is not regulated by planning laws, even if laws exist on paper. The key attributes of urban areas in developing countries include widespread poverty; stark socioeconomic disparities; intense rural-to-urban migration; a huge shortage of adequate and affordable housing leading to megaslums with informal tenure; a weak or absent system of land registration and property recording;[14] and governance issues such as transparency and citizen-empowerment deficiencies.[15] In those developing countries that have planning laws on the books, many dating back to colonial times, the laws are absent in practice from the majority of urban areas and enforcement of the laws is haphazard.[16]

The cities of the developing world need planning laws and development controls in order to offer a better quality of life for their residents, greater certainty for their businesses, and more sustainable environmental resources. Cities without planning laws are governed by a combination of an unbridled market, cultural traditions, and brute power. These cities are unable to deal with an insufficient public infrastructure, the absence of public open space, and poor environmental quality. Without planning laws, there is no mechanism that can mitigate "negative externalities" emanating from land use—that is, the many negative impacts on neighbors or the community at large, such as noise, obstruction of sunlight, parking needs, and unaesthetic construction. In the language of economics, private (or even public) land users have no incentive to "internalize" these externalities unless regulations require or incentivize that. An unregulated market will likely produce substandard and dangerous housing of poor environmental quality and great disparities in access to infrastructure, social services, and amenities.[17] In general, an unregulated city

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13 City Planning Law of the People's Republic of China; available at http://www.china.org.cn/english/environment/34354.htm.

14 UN-Habitat, *Secure Land Rights for All* (Global Land Tool Network 2008).

15 Hassane Cissé, *Legal Empowerment of the Poor: Past, Present, and Future*, in *The World Bank Legal Review* vol. 4, 31–44 (World Bank 2013).

16 C. B. Arimah & D. Adeagbo, *Compliance with Urban Development and Planning Regulations in Ibadan, Nigeria*, 24(3) Habitat Intl. 279–294 (Sept. 2000); Maurice Onyango & Owiti A. K'Akumu, *Land Use Management Challenges for the City of Nairobi*, 18(1) Urban Forum (2007).

17 There is extensive literature on unregulated urban areas in the developing world. *See*, for example, Ayona Datta, *The Illegal City: Space, Law, and Gender in a Delhi Squatter Settlement* (Ashgate 2012).

is host to extreme discrepancies in quality of life.[18] A lack of planning controls is not an option for developing countries.

However, planning laws and their regulatory instruments should be evaluated carefully and adopted only after the assessment of existing knowledge about their performance and (surmised) impacts in developed countries.

Developing countries are at a juncture. Either they lack planning laws altogether, or their existing laws and institutions are functioning only partially. This situation provides an opportunity for a "restart" that advanced economies don't have because planning laws have created a regulatory reality that is difficult to reverse. The time is ripe for developing countries to take a look at their existing planning laws in terms of impacts on social justice, to learn from the experiences of advanced economies, and to be selective in which aspects and instruments of planning laws to adopt and which to reject.

A Brief History of the Emergence of Planning Laws

Building Codes: The Precursors to Planning Laws

In many countries, the precursors to planning laws were building or housing codes. The major thrust in the development of building codes came with the Industrial Revolution in Europe[19] and somewhat later in the United States.[20] The influx of hundreds of thousands of people from rural areas into urban areas forced governments to shed their disinterest in the urban living of the general population. Plagues, fires, and blocked roads were dangers to all social classes. The building or housing codes that emerged called for minimum distances between buildings, a minimum number of windows to enable sunlight penetration, a minimum size for a housing unit, maximum building heights, fire escapes, and plans for sewage-disposal facilities. The need to transport people and goods on a daily basis required passable streets, and thus were born setback rules for buildings on public roads.

Even though building codes dealt with the structural and architectural aspects of buildings, they also created greater social equality in housing

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18 Nicholas Addai Boamah, *Land Use Controls and Residential Land Values in the Offinso South Municipality, Ghana*, 33 Land Use Policy, 111–117 (2013); Ademola K. Braimoh & Takashi Onishi, *Spatial Determinants of Urban Land Use Change in Lagos, Nigeria*, 24 Land Use Policy 502–515 (2007).

19 Elke Pahl-Weber & Dietrich Henckel eds., *Planning System, and Planning Terms in Germany* (Academy for Spatial Research Aug. 2008); Jeroen van der Heijden, *International Comparative Analysis of Building Regulations: An Analytical Tool*, 1(1) Intl. J. L. in the Built Env. 9–25 (2009); W. A. Fischel, *An Economic History of Zoning and a Cure for Its Exclusionary Effects*, 41(2) Urb. Stud. 317 (2004).

20 Wendy Collins Perdue, Lesley A. Stone, & Lawrence O. Gostin, *The Built Environment and Its Relationship to the Public's Health: The Legal Framework*, 93(9) Am. J. Public Health 1390–1394 (2003). The authors are with the Georgetown University Law Center. *Requests for reprints should be sent to Wendy Collins Perdue, 600 New Jersey Ave, Washington, DC, 20001.*

standards and in access to public services. The legacy of building codes is very much embedded in current urban design and land subdivision.

Pioneering Planning Laws

Yet, building codes did not enable governments to designate different tracts of land for different land use functions, differing densities, or design. As written, these regulations were used as exclusionary instruments (intentionally or not), steering different social groups (income, class, ethnic, religious) to different parts of the city.

Arguably the world's first national planning law was the United Kingdom's 1909 Housing, Town Planning, Etc., Act.[21] The British belief in the merits of planning law was so strong that the government transported this innovation to its colonies. Thus, at a time when even some of the most industrialized countries did not have planning laws, the British empire exported sophisticated (for that time) formats of planning laws around the world.[22] Poor countries became the premature "owners" of planning laws that were born in disparate circumstances. However, the effects of these acts on the colonies were much more limited—and at times dysfunctional and discriminatory[23]—than their effect on the British homeland.

Planning law in the United States emerged without any visible kinship to British law. Instead of resulting from a federal or state legislative initiative, planning law in the United States emerged from the bottom up.[24] Local authorities used their "police power" (an American term similar to regulatory authority) to enact rudimentary zoning ordinances in order to protect the "health, safety, and welfare" of residents.[25] For many years, the legality of the rising wave of local ordinances was in limbo, and many court challenges were submitted. In 1926, the U.S. Supreme Court agreed to hear a zoning challenge.[26] In *Village of Euclid v. Ambler Realty Co.*, the court ruled that zoning was not in violation of any constitutional or other legal right of landowners because

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21 The official name of the act is indeed Housing, Town Planning, Etc., Bill, HC Deb (Apr. 5, 1909) vol. 3 cc733–98, Hansard. The "etc." reflected the absence at the time of a comprehensive term for what would later become known in the United Kingdom as "town planning." Raymond Unwin, *Town Planning in Practice: An Introduction to the Art of Designing Cities and Suburbs* (Ernest Benn 1909). *See* also Philip Booth & Margo Huxley, *1909 and All That: Reflections on the Housing, Town Planning, Etc. Act 1909,* 27(2) Plan. Persps. 267–283 (Apr. 1, 2012).

22 Robert Home, *Of Planting and Planning: The Making of British Colonial Cities* (E & FN Spon 1997); K. H. Wekwete, *Planning Law in Sub-Saharan Africa—A Focus on the Experiences in Southern and Eastern Africa,* 19(1) Habitat Intl. 13–28 (1995).

23 Vanessa Watson, *The Planned City Sweeps the Poor Away: Urban Planning and 21st Century Urbanisation,* 72(3) Progress in Plan. 151–183 (Oct. 2009).

24 Rachelle Alterman, *A View from the Outside: The Role of Cross-National Learning in Land-Use Law Reform in the USA*, in *Planning Reform in the New Century* 306 (Daniel M. Mandelker ed., Am. Plan. Assn. 2004).

25 J. R. Nolon, *The Importance of Local Environmental Law* 5 (Ctr. Envtl. Leg. Stud. 2001).

26 Unlike supreme courts in many other countries, the U.S. Supreme Court is very selective in what appeals it decides to hear.

the designation in advance of different areas of the town for different land uses is a legally valid extension of nuisance law.[27] The obligatory separation of zones for industry from zones for housing is an advance in prevention of negative externalities. The separation of land uses was—and still is—a major function of zoning.[28]

Thus, the legal road was paved for the use of zoning as a means of creating the physical homogeneity that typifies many American suburbs, and thus relatively homogeneous socioeconomic neighborhoods (see figure 1).[29] As many scholars have noted, zoning can be "credited" as a contributing factor to the stark socioeconomic separations that characterize American land use patterns, especially residential ones.[30]

Planning laws arrived in most West European countries in the 1960s, in the wake of World War II.[31] The rationales for adopting laws varied from nation to nation but often reflected the need not only to physically rebuild destroyed cities but also to create a "welfare state" supplying housing, upgrading schools, and providing public services. These rationales were very different from the thinly concealed exclusionary purposes—or effects—of the American zoning model.

The spread of national planning laws is a complex picture. On the one hand, planning laws, more so than building controls, have a built-in capacity to create social exclusion and inequities through a variety of instruments. No planning laws and regulations are immune from exclusionary effects. There is evidence of exclusionary uses of development control powers not only in the United States, but also in the United Kingdom.[32] On the other hand, the exclusionary use of planning laws is a matter of degree, and there are major differences around the world (although there is no systematic comparative research to document this beyond a few countries). For example, Hirt compares German and Austrian planning regulation with their American zoning counterparts and

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27 U.S. Supreme Court. *Village of Euclid v. Ambler Realty Co*., 272 U.S. 365 (1926), available at https://supreme.justia.com/cases/federal/us/272/365/case.html.

28 Among the best-written (and most entertaining) accounts of the evolution of zoning in the United States is Donald L. Elliott, *A Better Way to Zone: Ten Principles to Create More Liveable Cities* 9–18 (Island Press 2008).

29 Rolf Pendall, *Local Land-Use Regulation and the Chain of Exclusion,* 66(2) J. Am. Plan. Assn. 125–142 (2000); Fischel, *supra* note 19.

30 This fact is documented by many U.S. scholars. *See*, for example, Fischel, *supra* note 19; Raphael Fischler, *Linking Planning Theory and History: The Case of Development Control* 19, J. Plan. Educ. Res. 233 (2000); Jonathan Rothwell & Douglas S. Massey, *Density Zoning and Class Segregation in U.S. Metropolitan Areas,* 91(5) Soc. Sci. Q. 1123–1143 (2010); Brueckner, *supra* note 10; Richard H. Chused, *Symposium on the 75th Anniversary of* Village of Euclid v. Amber Realty Co. *Euclid's Historical Imagery,* 51 Case W. Res. 593 (2000–2001).

31 This conclusion can be deduced from European Union, European Commission, *The EU Compendium of Spatial Planning Systems and Policies* (Office for Official Publications of the European Communities 1997) (hereinafter, EU Compendium).

32 S. Davoudi & R. Atkinson, *Social Exclusion and the British Planning System,* 14(2) Plan. Prac. & Res. 225–236 (1999).

Figure 1. A typical U.S. middle-income residential area, homogeneous as a result of a slate of planning regulations

Source: Wikimedia Commons. Photo by Sean O'Flaherty, aka Seano1. Photo from May 24, 2006, cropped from original version from May 9, 2005. Location: San Jose, California.

shows that the former allow for much more mixture of land uses and housing types.[33] In general, European cities and suburbs are often less exclusionary than their American counterparts. So although planning laws and regulations harbor the capacity for exclusionary use, the degree of severity of such use and the measures taken to counteract it are in the hands of policy makers.

Classification of Planning Regulations

There is little systematic comparative knowledge about the components of planning laws, and even less about their performance and impacts.[34] As coun-

33 Sonia Hirt, *The Devil Is in the Definitions*, 73(4) J. Am. Plan. Assn. 436–450 (2007); Sonia Hirt, *Mixed Use by Default*, 27 J. Plan. Lit. 375 (2012).

34 Comparative systematic research of more than two or three countries is rare. Some items are outdated. *See* Gerd Schmidt-Eichsteadt, *Land Use Planning and Building Permission in the European Union* (Deutscher Gemeindeverlag Verlag 1995). *See* also EU Compendium, *supra* note 31; Alterman, *supra* note 8. Compare with the recent large-scale comparative analysis, but on specific aspects only, Alterman, *supra* note 2

terintuitive as it may sound, there is no dominant format of planning legislation, nor is there a consensus about best practice. As my prior research shows, beyond some basic shared structures (sometimes with misleading in similarities), there are major differences in the details of planning laws and regulations.[35] This may be true even for adjacent countries with similar cultural traits and geo-demographic attributes.[36]

There is no international depository of planning regulations (or development controls) used in various countries.[37] Regulatory instruments vary not only from country to country but also from city to city. Moreover, there is no internationally agreed-on classification of such regulations. Researchers who have sought to study the relationship between regulations and social factors, especially housing prices, have developed their own classifications.

The majority of research on this topic originates in the United States—perhaps due to the exclusionary history of zoning. The categories that individual researchers have used may reflect their specific normative perspective. For example, Pendall, Puentes, and Martin classify urban growth boundaries as part of the recent "growth management" trend.[38] By contrast, in England and some other West European countries, the use of green belts—a distinctive urban-containment instrument—is well established.[39] Brueckner uses a classification based on free-market ideology and calls growth boundaries "supply restrictions."[40]

Table 1 presents a classification of instruments intended to reflect the evolution of planning regulations. The table reflects the layers of regulations that have accumulated in advanced-economy countries over time. The division into five "generations" is intuitive and may differ from country to country.

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35 Alterman, *supra* note 2.

36 For example, the planning laws in Sweden and Norway, the Netherlands and Flemish Belgium, France and Wallonian Belgium, England and Ireland, and Germany and Austria differ significantly from each other. See EU Compendium, *supra* note 31; Alterman, *supra* note 2; Schmidt-Eichsteadt, *supra* note 34.

37 The most impressive attempt in this direction is UN-Habitat's Global Land Tools Network (GLTN). It is prescriptive rather than empirical, and it focuses on specific instruments deemed to be lacking in the practice of developing countries. *See* http://www.unhabitat.org/categories.asp?catid=503.

38 Rolf Pendall, Robert Puentes, & Jonathan Martin, *From Traditional to Reformed: A Review of Land Use Regulations in the Nation's 50 Largest Metropolitan Areas* (Research Brief, Brookings Institution, Aug. 2006).

39 Rachelle Alterman, *The Challenge of Farmland Preservation: Lessons from a Six-Country Comparison,* 63(2) J. Am. Plan. Assn. 220–243 (Spring 1997).

40 Brueckner, *supra* note 10. Another type of classification is used by a third large-scale study: Joseph Gyourko, Albert Saiz, & Anita Summers, *A New Measure of the Local Regulatory Environment for Housing Markets: The Wharton Residential Land Use Regulatory Index*, 45 Urb. Stud. 693 (2008).

Table 1. Layers of planning and development control regulations

First generation: Building or housing codes

- Structural soundness
- Durability and safety of construction materials
- Safety from fire damage: architectural and engineering regulations
- Architectural regulations related to health: distances between buildings to allow sunshine, minimum proportion of windows, roof rules
- Minimal size of housing unit and other housing standards

Second generation: Traditional land use and density instruments

- Minimal (or maximum) lot sizes
- Maximum number of housing units per lot
- Maximum building height
- Maximum coverage of lot, setbacks from street and other buildings
- Parking standards

Third generation: Rules about good architecture, urban design

- Rules for architectural quality: style of facades, roofs, color, materials, size of lobby
- Rules about landscaping of private lots: location on plot, types of plants permitted, style
- Rules of historic preservation (what is deemed to be of historic value); restrictions on replacement or extension
- Special design review process (additional procedure and cost)

Fourth generation: Environmental protection

- Requirements to leave part of lots unpaved for groundwater absorption
- Requirements for large lots with set-asides for wetlands or biodiversity
- Rules for energy conservation and passive energy
- Rules for wastewater and waste collection and recycling
- Rules that require investments in renewable energy
- Green belts, urban boundaries
- Agricultural land conservation
- Timing controls for growth management

Fifth generation: Regulatory instruments as public finance substitutes

- Land dedication for public use
- Exactions of other services or amenities in kind
- Impact fees for public services
- Environmental mitigation requirements
- Exactions for affordable housing
- Exactions for "soft" community needs such as employment

At the time it was introduced, each regulatory instrument may have been intended to be socially indifferent or even to further social justice. However, regulations interact with each other, creating cumulatively more restrictions over time rather than the reverse. Restrictions often mean piling on costs or excluding certain sections of the population. Together, the generations of regulations may exacerbate social differences and impair the distribution of urban benefits among social groups.

The first generation, building and housing codes, is the precursor to planning laws. These codes were not implemented with the intention to exclude population groups or to raise housing prices. Some of the building codes refer to engineering, others to architecture or public utilities. Some evolved into the second generation.

The second generation includes traditional instruments for controlling land use and density of development: land use categories, lot sizes, permitted coverage of the lot, setback lines from the road or lot boundaries, floor area ratios relative to plot size, number of housing units, and so on. These types of instruments are the most prevalent among planning regulations internationally. These instruments can be expressed quantitatively and are perceived as helping planners rationalize the calculation of public services needed. Yet, these "objective" measures can also be used in socially unjust ways.

The third generation of regulatory instruments includes design review and historic preservation. Design review established rules, or discretionary decision bodies, to assess architectural design proposals in terms of what is "good architecture." Design rules may control the shape, style, materials, and color of buildings, roof types, and the design of retaining walls. By means of design rules, governments may be able to require that multifamily residential buildings add a large (and expensive) lobby space or recreation facilities. Some design controls restrict the design of private gardens. Design rules may impose restrictions on the shapes, materials, or heights of fences. Many of these requirements cost money and delay the permit approval process and thus may raise housing and other costs (sometimes intentionally).[41]

Historic preservation regulations, part of the third generation, determine what should be protected from new development because of historic value. Historic preservation is tied to specific sociocultural narratives often shared by parts of the population. Preservation regulations have achieved political correctness and are also making inroads in developing countries. But historic regulations can lead to higher property values, loss of affordable housing, and gentrification. Despite a seeming consensus about historic preservation, recent research has shown that historic regulations are often the focus of conflict and legal challenges.[42]

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41 Nurit Corren & Rachelle Alterman, *Design Control in Israel: Between Freedom of Architectural Practice and Public-Planning Goals* (Ctr. Urb. & Regl. Stud. 1999).

42 Nir Mualam & Rachelle Alterman, *Conflicts over History Preservation: The Role of Tribunals* (in preparation).

The fourth generation includes regulations based on environmental considerations. This is a fast-growing enterprise. In today's era of climate change, national and local governments are adopting an increasing number of environmental restrictions over and above the traditional "amenities" such as open space standards. Table 1 provides examples of requirements, such as a rule that a portion of each plot must remain unpaved to allow for water seepage, or a portion of a plot be set aside for wetlands or urban wildlife. In some countries and municipalities, planning or building regulations have required green construction for energy saving, water conservation, or recycling. But as Frieden noted as far back as 1979, environmental protection may hide socially exclusionary considerations.[43] Environmental protection regulations may have trade-offs with other goals, such as housing prices. Given the status of these regulations, decision makers in developing countries should scrutinize the prospective impacts of environmental regulations on urban justice with extra care.

The fifth generation is different from the others because it deals with planning regulations as levers for financial revenue. The use of planning regulations for financial revenue is both very old and very new. In some countries, requirements of land for public roads embedded in property law or subdivision codes predate planning regulations.[44] Today, the use of finance-substitute instruments such as those listed in table 1 under "Fifth generation" is expanding both geographically and in the range of services being financed (though not without legal stumbling blocks).[45] I have argued elsewhere that such tools have special relevance for developing countries where ample alternative resources do not exist.[46] When adopting planning laws, developing countries should pay special attention to revenue-generating instruments.

The Relationship between Planning Regulations and Social Justice: Research from Advanced-Economy Countries

Because planning laws and development controls have been in operation in advanced-economy countries for many decades, it is reasonable to ask if the practice of development control has contributed to greater or lesser urban social justice and how this contribution has differed across countries.

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43 Bernard Frieden, *The Environmental Protection Hustle* (MIT Press 1979). The comprehensive empirical study by Gyourko et al., *supra* note 40, shows the incidence of regulations for open-space preservation and their impact on housing prices.

44 Rachelle Alterman ed., *Private Supply of Public Services: Evaluation of Real-Estate Exactions, Linkage, and Alternative Land Policies* (NYU Press 1988).

45 Rachelle Alterman, *Land Use Regulations and Property Values: The "Windfalls Capture" Idea Revisited*, in *The [Oxford] Handbook of Urban Economics and Planning* 755–786 (Geritt Knaap & Nancy Brooks eds., Oxford U. Press 2011); Alterman, *id*.

46 Rachelle Alterman, *Levying the Land: Instruments for Public Revenue and Their Applicability to Developing Countries* (paper presented to the UN-Habitat Governing Council, Apr. 14, 2013).

Methodological Challenges

There are no comparative analyses of the impacts of different types of planning regulations across countries. To attribute impacts to a particular planning regulation, one must argue that there is a causal connection between the regulation and the outcome on the ground (for example, higher housing prices). Yet, there is scarcely any theory from which variables can be deduced. It is difficult to "hold constant" the innumerable variables among countries and local contexts. Comparative research has difficulty linking even one specific topic of planning law to any "explanatory variables."[47]

Most researchers admit that even single-country empirical analysis of the social impacts of planning regulations is difficult from a research perspective.[48] Regulatory instruments interact with each other in different ways in different contexts. Individual impacts are difficult to determine because they may be due not only to planning regulations but to many variables that differ from context to context. Yet, several researchers have undertaken empirical research (especially in the United States) about planning regulations and the relationship (not necessarily causal) with issues such as social composition and housing prices.

The United States as a Laboratory

Due to its legal reality and sociopolitical differences, the United States has proven to be a laboratory for research about the relationship between planning regulations and urban social justice.

Because of the U.S. federal structure and the constitutionally imposed division of powers, different planning laws are enacted from state to state (although there are similarities among some groups of states). In addition, extensive planning and zoning powers are vested in local governments. The United States is home to tens of thousands of empowered local governments. This situation has created unprecedented variety in planning-regulation instruments.[49] In addition, the United States has a history of planning law. Therefore, the United States offers many lessons about the relationship between planning regulations and social justice.

This section considers the rare situations in which advanced economies function without public planning regulations and then proceeds to economies that rely on planning regulations. The chapter then examines building codes, finally addressing the impacts of planning regulations. Throughout, U.S. examples are cited.

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47 Alterman, *supra* note 2, makes this argument in research on compensation rights for "regulatory takings."

48 Pendall, Puentes, & Martin, *supra* note 38.

49 Alterman, *supra* note 24, at 306.

No Planning Regulations

Among advanced economies, there are few examples of urban areas or housing markets without any planning (or zoning) regulations, and even fewer without any building codes. However, there is one place where the planning law clock seems to have stopped: Houston, Texas. Because the United States has no national-level legislation for planning regulations,[50] Texas has not enacted a state-level planning law that mandates local authorities to enact their own land use regulations (zoning).

The Texas story has attracted many researchers. Their findings show that even in Houston, the market is not entirely devoid of planning-like regulations. Instead of zoning, Houston has private-law restrictive covenants self-imposed by developers or housing associations; these act as facsimiles of public planning regulations.[51] However, private controls can be even less "socially blind" than public zoning. Siegan was the first to show that private controls serve the middle and upper segments of the land and housing markets and are largely absent from poorer areas.[52] But Houston has not taken its hands entirely off city planning: The city does retain some important powers that shape city structure, such as siting and providing public roads, utilities, other public services, and taxation and environmental regulations.

Research shows an ambivalent picture for Houston. On the one hand, planning regulations have benefitted the better-off groups much more than other groups and have led to socially exclusive neighborhoods and disparities in the quality of public services. On the other hand, the less controlled parts of the market retain more affordable housing than may have been available with planning regulations—but with poorer environmental and service qualities.[53]

Building and Housing Codes

Today, building and housing codes exist in most advanced-economy countries, sometimes based on independent legislation, sometimes integrated into planning legislation and regulations. Like any regulations, building controls may place a cost burden on housing and thus affect affordability; the question for developing countries to consider is, How much?

Unlike with planning regulations, it is relatively easy to define the impact of building codes on housing costs. Not all U.S. states have mandatory codes, although the majority do. Some local governments impose their own

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50 Other countries, such as Germany, do have national planning laws. Alterman, *supra* note 8.

51 B. H. Siegan, *No Zoning Is the Best Zoning*, in *A Planner's Guide to Land Use Law* 143–152 (S. Meck & E. M. Netter eds., APA Planners Press 1983); B. H. Siegan, *Land Use without Zoning* (Lexington 1972); Edwin Buitelaar, *Zoning, More Than Just a Tool: Explaining Houston's Regulatory Practice,* 17(7) European Plan. Stud. 1049–1065 (2009); T. M. Kapur, *Land Use Regulation in Houston Contradicts the City's Free Market Reputation* 34 Envtl. L. Rep. 10045 (2004).

52 Siegan, *Land Use without Zoning, supra* note 51.

53 *Id.*; Buitelaar, *supra* note 51.

codes even without a state mandate. A recent study surveyed the cost burden imposed by codes on housing prices and concluded that these amount to an increment of only a few percentage points.[54] One author cites estimates that building codes may add 15 percent to the cost of construction (without the costs of land, infrastructure levies, etc.). Thus, there is evidence that the cost burden of building codes is lower than that associated with many planning regulations.[55]

The introduction of building codes in developing countries, even without planning regulations, can address basic safety and health needs. However, the establishment of building codes is not a simple matter, because the administrative and enforcement institutions need to be established, with trained professionals available to issue permits and enforce the rules. Thus, these institutions could be viewed as precedents to the introduction of planning laws.

The Generations of Planning Regulations

American researchers have produced a large body of research on the social impacts of planning regulations. This section focuses on two research projects that have provided methods for observing the cumulative layers of planning regulations.[56]

Pendall, Puentes, and Martin surveyed a large sample of U.S. local governments in all regions of the country.[57] Their findings classify municipalities into four groups: low (which they call "wild, wild Texas"), traditional, exclusionary, and reform (growth management). The authors provide a disclaimer that the findings are "not a direct statement of cause and effect" and that more research is needed to discover the precise relationship between "regulator, housing prices, sprawl, and regional opportunity."[58] Yet their findings do portray several clear (though not uniform) relationships between the more stringent layers of regulations and social exclusion (especially in the states in the Northeast and Midwest). The litmus test of exclusionary tendencies that Pendall et al. employ is the likelihood that local governments would approve a small number of two- or three-floor apartment buildings. They found that 30 percent of municipalities within metropolitan areas would not approve even such minimal multifamily housing, preferring single-family (or

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54 Michael D. Turner, *Paradigms, Pigeonholes, and Precedent: Reflections on Regulatory Control of Residential Construction,* 23 Whittier L. Rev. 3 (2001); other authors have addressed the cost of regulation. *See* also Eric Damian Kelly, *Fair Housing, Good Housing or Expensive Housing? Are Building Codes Part of the Problem or Part of the Solution?,* 29 John Marshall L. Rev. 349 (1996).

55 Richard Clagg, *Comment: Who Remembers the Small Builders? How to Implement Ohio's New Statewide Residential Building Code without Sinking Ohio's Small Builders,* 34 Cap. U. L. Rev. 741 (2006).

56 More American researchers have analyzed planning regulations and their relationship with exclusion or with housing prices—too many to survey here. Brueckner, *supra* note 10, presents a good survey.

57 Pendall, Puentes, & Martin, *supra* note 38.

58 *Id.*, at 32.

double-family) homes. This study and others show what any observer in the United States will note: that zoning law and practice have not shed their exclusionary origins (see figure 1).

Gyourko, Saiz, and Summers developed an index of 11 factors related to the assumed stringency of planning regulations. Among their factors are not only the types of regulations included in table 1 but also some related to decision processes. These researchers created a composite scale of stringency, similar to what this chapter refers to as generations of regulations. Their overall finding is that "community wealth is strongly positively correlated with the degree of local land uses regulations. The higher the median family income, median house value or the share of adults with college degrees, the greater is the community's [score on the index]."[59] This study also confirms the findings of Pendall et al. that the Northeast states are more exclusionary.[60]

The Overregulation Paradox

The recognition of the socially exclusionary effects of U.S. zoning practices gave birth to the term "regulatory barriers." The antidote has been the legal concept of removal of regulatory barriers—a vivid expression of the strained relationship between planning laws and social justice. Here is the paradox: In order to remove the regulatory barriers accumulated over the years, more regulation may be necessary.

One type of regulation that may help correct for the regulatory barriers is inclusionary zoning. This uniquely American concept incorporates recognition that zoning often has an exclusionary effect. Inclusionary zoning is not a uniform instrument but a set of zoning and other planning regulation instruments that vary from place to place. All are intended to combat exclusion by enabling or mandating neighborhoods with some degree or format of mixed housing types, densities, or types of eligible households.[61] The broader set of instruments titled affordable housing includes some regulations intended to mitigate the price hike deemed to be caused by planning regulations (a topic that is beyond the scope of this chapter).[62]

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59 Gyourko et al., *supra* note 40, at 695.

60 *See* also E. L. Glaeser & B. A. Ward, *The Causes and Consequences of Land Use Regulation: Evidence from Greater Boston,* 65 J. Urb. Econ. 265–278 (2009).

61 Among the body of writing on inclusionary zoning, *see,* for example, Alan Mallach, *Inclusionary Housing Programs: Policies and Practices* (Ctr. Urb. Policy Research, Rutgers U. 1984); B. R. Lerman, *Mandatory Inclusionary Zoning—The Answer to the Affordable Housing System,* 33(2) B.C. Envtl. Aff. L. Rev. 1 (2006); Jerold Kayden, *Inclusionary Zoning and the Constitution,* 2(1) NHC Affordable Housing Policy Rev. 10–13 (2002); D. Porter, *The Promise and Practice of Inclusionary Zoning* (Brookings Symposium on Growth Management and Affordable Housing, May 29, 2003); Fischel, *supra* note 19; Edward Sullivan & Karin Power, *Coming Affordable Housing Challenges for Municipalities after the Great Recession,* 21(3&4) J. Affordable Housing & Community Dev. (2013).

62 There is a huge body of literature on affordable housing in the United States and in other countries. A few key references are T. Iglesias & R. Lento eds., *The Legal Guide to Affordable Housing Development* (ABA and Am. Plan. Assn. 2006); N. Calavita & A. Mallach eds., *Inclu-*

The best-known example of efforts to remove regulations is the New Jersey Supreme Court decisions in the two Mount Laurel cases.[63] The cases were brought to the court because certain local jurisdictions in New Jersey adopted zoning regulations that had minimal lot sizes and no allocation of land for multifamily housing. The developers argued that were it not for these regulations, there would have been a market for their proposed multifamily housing. The court ruled that the state must set up regulatory and quasi-judicial institutions in order to create a "fair share" of affordable housing among municipalities in the state and thus mitigate exclusion. Developers who wish to develop multifamily housing could seek remedy with a special state body.

The Mount Laurel decisions are an example of "audacious judges," as Haar has characterized them at work.[64] What kind of impact have these decisions had? New Jersey's urban poor—regardless of ethnicity or minority status—continue to face many of the same problems in obtaining adequate, affordable housing that characterized the period prior to the rise of the Mount Laurel doctrine. In addition to Gyourko et al., several other researchers have shown that the Mount Laurel decisions have had only limited effects.[65] Some researchers argue that regulations to counteract exclusionary regulations may lead to higher housing prices rather than an increase in affordability.[66]

The Mount Laurel decisions are regarded as the epitome of anti-exclusionary legal measures in the United States. Yet, the empirical findings demonstrate that the exclusionary tendencies of local planning regulations have been more tenacious than the intended effects of the New Jersey court rulings.

The "Piling On" Syndrome

American attempts to remove regulatory barriers hold important lessons. Urban justice would be much better served if planning regulations were carefully scrutinized in advance of their adoption. One may assume that each layer of planning regulation had a laudable public justification when it was adopted: to rationalize urban structure for service provision, to beautify the city, to provide public or private open space, to preserve historically valuable areas, to conserve the natural environment, to mitigate feared hazards. The problem

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sionary Housing in International Perspective (Lincoln Inst. of Land Policy 2010).

63 *Southern Burlington County NAACP v. Township of Mount Laurel*, 336 A.2d 713 (N.J.) 423 U.S. 808 (1975); *S. Burlington County NAACP v. Township of Mt. Laurel*, 92 N.J. 158, 251, 456 A.2d 390, 438 (1983).

64 C. M. Haar, *Suburbs under Siege—Race, Space and Audacious Judges* (Princeton U. Press 1996).

65 Naomi Bailin Wish & Stephen Eisdorfer, *The Impact of Mount Laurel Initiatives: An Analysis of the Characteristics of Applicants and Occupants*, 27 Seton Hall L. Rev. 1268–1281 (1997); Robin Leone, *Promoting the General Welfare: After Nearly Thirty Years of Influence, Has the Mount Laurel Doctrine Changed the Way New Jersey Citizens Live*, 3 Geo. J.L. & Pub. Policy 295 (2005); Henry A. Span, *How the Courts Should Fight Exclusionary Zoning*, 32 Seton Hall L. Rev. 1 (2001)

66 Jenny Schuetz, Rachel Meltzer, & Vicki Been, *Silver Bullet or Trojan Horse? The Effects of Inclusionary Zoning on Local Housing Markets in the United States*, 48(2) Urb. Stud. 297–329 (Feb. 2011).

is the "piling on" syndrome: Even if each regulation is acceptable on its own, their mutual interactions often lead to compromised social justice.

How does the piling on syndrome occur? Over time, more public objectives emerge, proposed by newly trained professionals who bring more up-to-date notions, by active civic groups, or by elected community leaders. But the previous regulations are already in place and are difficult to roll back due to property values, public finance considerations, and political concerns. The previous layers of regulations often become uncontested norms of "good planning." They are taken for granted by the professionals and the consumers-residents as defining how housing areas ought to look and function, or how public services ought to be located and allocated.

The introduction of each new regulation is rarely accompanied by a requirement to assess the cumulative effects on urban equity issues, such as the cost of housing for different social groups or the equitable access to public services. A good rule might be that a new proposed planning regulation that might impact equity be adopted only after existing regulatory barriers to equity have been reassessed, removed, or relaxed. In a similar spirit, the UK Legislative and Regulatory Reform Act of 2006 grants ministers powers for the purpose of "removing or reducing any burden, or the overall burden, resulting directly or indirectly for any person from any legislation." [67] However, this act focuses on financial and administrative burdens, not on social equity.[68] There are no examples of a similar policy being consistently applied to planning regulations.

Conclusion: Lessons for Developing Countries

The experience of advanced-economy countries with planning regulations depicts a strained relationship with social justice. Urban development can no longer be left to the whims of rulers, social norms, or the marketplace. Planning laws fulfill many important functions in modern societies: they protect the endangered environment and often facilitate the functioning of the market. Countries that have experienced the absence of planning regulations—the former Soviet Union, its allies, and China—are now in the midst of adopting or learning how to implement planning laws.

Advanced-economy countries that have had operational planning regulations for decades have accumulated layers of regulations that are difficult to shake off. Many of these have become "part of the furniture" of urban life, and neither consumers nor decision makers can envision cities without them. Foreign advisers often recommend that developing countries adopt laws and regulations similar to those prevalent in their own countries. Each proposed regulation may sound like a good idea and is likely to be accompanied by

67 UK Legislative and Regulatory Reform Act 2006 C51, at art. 1(2); available at http://www.legislation.gov.uk/ukpga/2006/51/contents.

68 *Id.*, at art. 1(3).

eloquently presented examples from beautiful projects in one of the world's rich cities.

However, planners and policy makers in developing countries should take a hard look at each proposed law or regulation.[69] Unlike in advanced-economy countries, the formative stage of planning laws in developing countries leaves enough "degrees of freedom" for decision makers to be selective in what they choose to adopt. They should lead the way in finding ways to evaluate proposed regulations critically in terms of anticipated equity impacts and to be concerned about cumulative effects.

Decision makers in developing countries should take the following advice into account when considering a planning regime:

- Learn from the history of the gradual evolution of planning laws and their rationales. It is not reasonable to introduce planning laws or regulations that exist in advanced-economy countries because these reflect layers of (often forgotten) rationales that have accumulated over time.
- Go back to the basic rationales of planning laws and development control: health, safety, the rationalization of public services, and environmental protection. Choose single regulations that can be assessed individually rather than entire "packages."
- If there are no current planning laws or if existing ones function poorly, consider a graduated strategy: first, adopt a solid administrative-professional basis for introducing building and housing controls, and then, after several years of successful operation, consider gradual introduction of planning laws.
- Create a routine for assessing proposed laws and regulations in terms of their estimated cost effects on housing and other amenities. Discuss the likely trade-offs with other public goals. For example, assess trade-offs of environmental quality, historic preservation, design review, or green building with short- and long-term housing costs. Ask international aid organizations for professional support in this task.
- Assess new planning laws or regulations in regard to their ability to be fairly and systematically enforced across socioeconomic and political groups in society. The costs of long-term enforcement should be factored into the adoption of new land use regulations.

These recommendations will be difficult to carry out, but the adoption and implementation of complete planning laws is much more difficult. A beacon in such recommendations is the recent launching of the Urban Legislation Unit of UN-Habitat,[70] which espouses a "back to basics" approach similar to the one presented in this chapter. If UN-Habitat promotes more policy

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69 *See* also Carole Rakod, *Forget Planning, Put Politics First? Priorities for Urban Management in Developing Countries,* 3(3) Intl. J. Applied Earth Observation & Geoinformation 209–223 (2001).

70 *See* http://www.unhabitat.org/categories.asp?catid=260.

research along these lines, and organizations such as the World Bank join the momentum, developing countries may be able to adopt planning laws and regulations suited to their own needs. They may be able to harness planning laws to create greater urban justice, rather than to exacerbate urban inequalities. To do this, developing countries and the experts advising them must be willing to heed the lessons that the advanced-economy countries have learned.