

# Revista de Administración Pública

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## Bases for a national land policy<sup>1</sup>

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### Introduction

#### 1. Land problems in Mexican cities

Nowadays Mexico is a predominantly urban country. In 2010, the country's population grew to 112.3 million inhabitants, 77.8% of them lived in cities.<sup>2</sup> According to Mexico's population projection for the years 2010-2050,<sup>3</sup> by 2013 Mexico already had 118.4 million inhabitants and in 2030 Mexico will have 137.5 million people and 81.4% of them will live in cities.<sup>4</sup>

Speaking in conservative terms, the new population will need somewhere between 83 thousand and 290 thousand hectares for urban use; depending

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<sup>1</sup> This essay has its origins in the document "Proposal for the Creation of the National Land Institute" (Spanish: Propuesta de Creación del Instituto Nacional del Suelo) written by EURE Center for the General Management of CORETT. This work was coordinated by the author and includes the participation of some employees of said institution: Jesús Alcántara (General Manager), Eric López (Planning Manager), and other experts: Eduardo Ramírez Favela, Alberto Rébora, Víctor Ramírez and Alejandro Morales.

<sup>2</sup> INEGI, 2011: 2010 Population and Housing Census (Spanish: Censo de Población y Vivienda 2010). According to said institution, urban populations are those with agglomerations of 2 thousand 500 people or more.

<sup>3</sup> CONAPO, (n/d): *Proyecciones de la Población de México 2010-2050*, Mexico, DF.

<sup>4</sup> Developed by the author based on information from the Center of Public Finance Studies (Spanish: Centro de Estudios de las Finanzas Públicas) of the Chamber of Deputies of the Federal Government <http://www.cefp.gob.mx/intr/e-estadisticas> and of INEGI, 2010. The 2030 estimates were calculated based on the projections of the National Institute of Statistics and Geography (INEGI, Spanish: Instituto Nacional de Estadística y Geografía) and the National Population Council (CONAPO, Spanish: Consejo Nacional de Población, 2011 *Proyecciones de la población 2010-2050*, México, DF.

on the average density (the current one is 23 people per hectare) which could grow up to 80 people per hectare;<sup>5</sup> we also have to take into account the housing backwardness which nowadays represents 9 million units.

The real irregularity numbers are unknown; however, the College of Mexico (COLMEX, Spanish: Colegio de México) estimations are of 5 million residential lots. CORETT calculates that each year 90 thousand join this irregularity.

A big portion of Mexican population live on a very low income and they have been responsible for building their own homes in plots of land which have in most cases little or no legal certainty. Approximately 67% of the housing stock of 35 million homes has been socially or individually built, without the intervention of housing developing companies or with the support of the country's housing institutes. Another essential element is that 50% of the land surrounding the cities is social property and these plots of land is where low-income settlements will grow in our cities.

This situation will worsen in the upcoming years, if massive actions are not taken to offer poor people new places to locate their homes, the irregularity of landowning and settlements in high risk areas will continue to grow; this will force the Federal Government to increase their resources to solve this serious problems ex post by regulating landowning or by taking care of hundreds of thousands victims of catastrophes brought on by the awful location of this homes.

From another perspective, the absence of a land control policy in this country regarding its use, appropriation, exploitation and auditing has made every government agency and private business place their facilities, infrastructures and buildings in inadequate spots and without legal resolution of possession or property. Furthermore, the disincorporation of land carried out by federal agencies and bodies is limited by real estate records and absence of control of these lots as well as rights of way.

New federal policies are meant to build a "new model of urban development" and a coordinated housing strategy with said model, its essential part -besides housing- is the offering of millions of well-localized housing lots in cities for low-income population. All of this in order to avoid the growth of irregularities in landowning and high-risk human settlements; on the other hand, large investments in infrastructure and equipment will be made in every city, region and they will all need new soil.

It is clear that the disincorporation of rural to urban land, regularization of landowning processes and the uncontrolled increase of irregular settlements and high-risk areas cannot keep up with current trends; chaos

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<sup>5</sup> If we take into consideration 23 people per hectare (current national average), 60 and 80 people per hectare (SEDATU strategy) and in all three cases, three people per home.

and uncertainty in landowning have driven to country to an unstable situation which needs a comprehensive strategy to face them.

Which federal agency or body has the power to provide comprehensive land solutions to ensure the compliance of the strategies announced by the federal government? None.

## 1.2. Institutions in charge of land and their crises

CORETT was born in the 1970's to address the consequences of irregular / informal / illegal occupation of communal lots and not what caused them. The irregularity problem in landowning in cities is caused by two processes; the first one is accelerated urban expansion which in thirty years (1980-2010) caused the city's population to double and the urbanized surface to grow eight times creating a disperse pattern and the decline of urban average density in the country until it reached 23 homes per hectare when speaking in conservative terms it could reach somewhere between 60 and 80<sup>6</sup>. The second one is the lack of housing offers for poor people living in the city, this generated accelerated growth of irregular settlements, many of them on what are nowadays considered as high-risk areas.

Besides, there was no preventive approach or comprehensive solutions for irregular human settlement problems; at one point, CORETT<sup>7</sup> stopped having such a big role in landowning regularization and rustic incorporation to urban land processes and the urbanization process of the Mexican State came to a halt because of the reduction in budgets and programs -expropriation- and because of the new ways to acquire "full possession" in terms states by the Agrarian Law.

Throughout its history, since 1974, 995 Presidential expropriation decrees have been issued in favor of CORETT which has registered 2 million 687 thousand 244 on public record; its annual average has been 68 thousand 906 for 39 years.

Irregular occupation processes and their disorganized incorporation into urban growth are modeled and guided by various agents and circumstances: real state agencies which acquire full possession, agrarian people who sell their land rights, construction or modification of communal land urbanization areas, as well as other fragmentation and pulverization of land which do not adhere to urban development legality.

<sup>6</sup> Centro EURE SC: **Documento Base del Programa Nacional de Desarrollo Urbano y Ordenamiento Territorial 2013-2018**. 3rd versión. 2013, (document elaborated by CONAVI), Lerma, México.

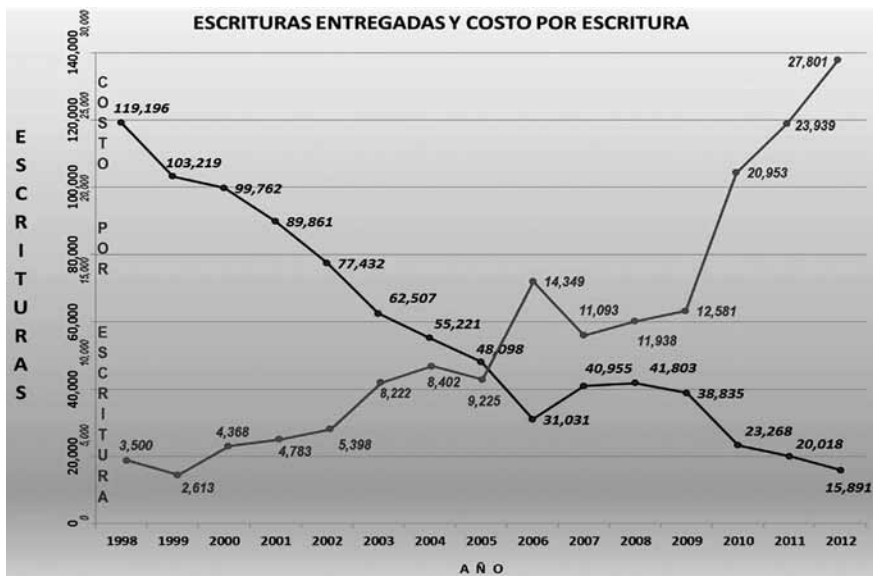
<sup>7</sup> These days there is no more Budget money to improve and promote the growth of cities and especially to acquire land. CORETT has stopped regulatory actions (after giving over 2.6 million lots); despite the fact that 50% of urban growth has been irregular and over 15 million properties lack public deeds.

However; in this context, CORETT has not carried out regulatory actions. In 2012 the cost of registering properties on public records was \$27,801; whereas in 1998 it cost \$3,500 pesos. This means deeds increased their cost 800% in 15 years. In 1998, 119 thousand 196 deeds were registered; however, only 15 thousand 891 were registered in 2012, a 750% drop.

The agency's productivity dropped in the 1998-2012 period because of the uninterrupted economic losses caused by the low registering of deeds -except in the year 2000-. In 1998 CORETT suffered a loss of 7 million pesos and 247 million in 2012, making this a very serious situation.

This data speaks for itself. We can conclude that since the late 90's there has been a deliberate strategy carried out by the Federal Government to drastically reduce CORETT's productivity and cause it to collapse administratively, financially and legally. This external crisis is linked to the internal one which entails productivity decline, a rise in land regularization corruption and the abandonment of its initial project.

### CORETT: Deeds, 1998-2012 <sup>1</sup>



(1) The annual cost per deed was calculated by dividing the Annual Budget Exercise of each Tax Exercise raised to the current value (BM's overnight bank lending rate) by the number of deeds given out per year. Developed by the author based on information provided by CORETT.

Besides this critical condition, if urbanization and occupation of territory phenomena are analyzed, we can see that the Federal Government has done next to nothing to face the growing irregularity landowning problems and the occupation processes of high risk areas.

The absence of a national policy which coordinates governmental and social actors efforts to have ordered, compact, equitable and sustainable cities has made agencies like CORETT lack of ideas, commitment and spirit to comprehensively face irregularity problems of urban landowning. In fact, CORETT only addresses the landowning regulatory processes of agrarian land and ignore other kind of land irregularities<sup>8</sup>, which have to be differentiated:

- *Illegal occupation of public properties* (a lot of which are classified as high-risk because they are over federal zones, roads, railway lines, PEMEX tubes public spaces, etc.);
- *Urban irregularity* (urban development settlements, subdivisions and buildings constructed outside the law);
- *Landowning or possession irregularities* (subdivision and occupation of land without having legal title);
- *Irregularity or lack of property titles* (also known as second generation of legal owners without titles); and
- *Illegal occupation of homes built by private business which are financed by national housing bodies*, which have been abandoned or vacated by the original and legal owners (creating a recent and unprecedented massive and illegal occupation of finished homes).

On the other hand, Mexico and its public institutions do not have adequate instruments to organize the urban and inter-urban OFFER of land for diverse uses or to offer housing land in a timely manner to low-income social groups or land for big infrastructures and public buildings. The reality is that each government body manages, disincorporates and makes decisions regarding the land they need without taking into account land and environmental organization agencies.

These actions which should have been addressed by SEDESOL (until 2012) and CORETT (and many other federal institutions) were left in the hands of real estate markets (formal and informal ones) and the government did not intervene to organize them and only symbolically appeared once in a while to simulate everything was being done in compliance with the law.

This is why a great deal of land acts (expropriation, disincorporation, acquisition, agreements with communal landowners, release of land rights, land registration, etc.) which were executed by governments (as well as private actors) are poorly registered, or have limited or incomplete records and many of them have not finished their legal-administrative processes. This actions have not allowed the recovery of generated surplus value and territorial taxes have not been paid.

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<sup>8</sup> Ramírez, V. (2009): **La Ley y la ilegalidad en la Producción del Espacio Urbano**, Curso de Desarrollo Profesional. Mercados Informales de Suelo y Regularización de Asentamientos en América Latina. Guatemala: Lincoln Institute of Land Policy.

In sum, even though there is an institutional framework created by the Federal Government to address land issues, it has been highly inefficient and has caused crisis in Mexican cities and metropolis.

CORETT's situation is emblematic and even though it has regularized approximately 2.6 million housing lots<sup>9</sup> throughout its history, in the last couple of decades it has lost efficiency and nowadays it's operatively and financially non-viable. Besides, its corruption and bad public image make it essential to restructure CORETT or create new institutional space to address general land use and regularization policies and their legal incorporation for urban development and required infrastructure projects.

### 1.3. Challenges this sector faces

The Federal Government's administrative structure has various institutions and agencies directly or indirectly associated with urban and building land and land-associated records (land rights, maritime and coastal strips, mining, communal lands and communities, private property...). However, these agencies are not aligned or coordinated and they lack a public body to organize current land policies.

A substantial element of the new urban development policies proposed by the Federal Government is the possibility of establishing mechanisms for comprehensive and coordinated land administration and set the bases for a more organized and sustainable urban development. This is why it is essential to recover land's social function as a high-priority public resource -established in article 27 of the National Constitution- which will allow the State to articulate urban development with housing policies and implement an urban management comprehensive strategy.

To make progress in this subject, the angular principle of national land policy has to be acknowledged: **HE WHO CONTROLS LAND, CONTROLS URBAN DEVELOPMENT** (Iracheta *dixit*). The State should be in charge of this for various reasons:

- Unlike other goods, land is very peculiar due to its essential characteristics: each property is unique, immovable and unrepeatable; this reduces competition among locations and tends to impose speculative prices (monopolistic) which can only be regulated by the State's intervention. The value of each city property is the product of the effort of many and not the owners; that is, a property's worth is given in relation to the other properties, constructions and improvements and services of its surroundings; however, this improvements are carried out by the State through public works and land use location decisions (urban planning). Thus, real estate taxation is essential to recover surplus value created by each urban property.
- Everyday thousands of decisions are made in real estate markets which respond to interests and desires of each individual and

<sup>9</sup> Information given directly by CORETT to the author.

business which do not take into account the needs of the urban community as a whole.

- Real estate markets will continue not leaving land for public use because they are considered as private low-return properties such as public squares, parks, social equipment, etc if a public intervention is not carried out. In the same fashion, they are very prone to speculation creating disproportionate prices and the “eviction” of low-income social groups from cities because of them; all of which has harmful consequences such as irregular settlements, the existence of large empty areas within cities and the irrational, scattered and unsustainable expansion of urban areas.

And even though urban development and planning is a municipal matter, the Federal Government should provide national orientations, policies and tutoring to ensure homogeneity and alignment among policies; as well as rules and regulations to control urbanization processes; especially inter-state and inter-municipal ones. Nonetheless, these processes are extremely complex ones because they need social agreements that include most of the actors, government agencies and public powers to decide the fate of cities’ territories and regional surroundings. All of this can be very difficult because it means imposing duties (and not only rights) on real estate properties and because these are sensitive to economic, political and even ideological interests.

The use of land (and buildings) needs comprehensive visions and policies and not sectorial or divided ones to organize and promote real estate markets; to define areas and intensities in land use; to make adequate records and have the necessary information to plan and ensure property’s legal certainty; to implement equitable land policies and to ensure each city has enough land devoted to social issues, public infrastructure and equipment, etc.

#### **1.4. Conclusion**

Mexico is going through an accelerated and disorganized urbanization. CORETT and other Federal Government agencies are in charge of cities’ land and development; however, land powers and attributions have not been integrated and a strategy to guide municipalities and social actors to develop more harmonic and sustainable cities has not been defined.

These institutions have reached un-operational limits and like CORETT structural crisis situations; this confirms there are no comprehensive land policies regarding urban development, territorial organization, etc.

The Ministry of Agrarian, Territorial and Urban Development (SEDATU; Spanish: Secretaría de Desarrollo Agrario, Territorial y Urbano) and other agencies and bodies of the Federal Government have land-related powers and attributions without effective coordination mechanisms between them; all of this makes it difficult to make a comprehensive national policy on urban, housing and land development.

The dispersion of powers has made it difficult to have rigorous land use mechanisms and has allowed the exercise of multiple irrational interventions. For example: a municipality approves the use of land without knowing if this area is appropriate, this increases the appearance and growth of irregular and high-risk settlements which do not have legal certainty and frequently occupy high-risk areas or of high environmental or agrological value which are defended by other federal or state agencies.

International experiences show that participatory determination and rigorous defense of land use and localization of every urban power is a *sine qua non* condition to make an urban land policy work and allows the development of cities.

In this context and in the face of the crisis of agencies in charge of urban and land development, the Mexican Government needs a public body to build a national land policy that includes urban and housing development. This important step should also include legal adjustments regarding human settlements and other issues (housing, planning, environment...). It is equally necessary to accompany administrative decisions to align, coordinate and even integrate powers which are currently scattered in a great number of federal agencies and bodies to achieve greater efficiency and effectiveness in the exercise of new national policies regarding land and urban development.

## **2. Axes of national land policy**

The earlier analysis makes it clear a National Land Policy and an institutional federal structure in charge of coordinating and managing it need to be created and which is capable of:

- Being a central instrument to transform the country's urban development model;
- Articulating substantial land areas: identification, record, acquisition, formalization and offer;
- Efficiently link them to other public policy areas such as social, environmental and especially the territorial and real estate tax ones; and
- Being the Mexican State's mechanism which ensures land offer required for development.

In this sense, challenges related to the formulation and implementation of the country's territorial organization and urban and housing development require actions in a lot of areas; however, the essential one is developing administrative organization instruments to efficiently address them.

This is why the body in charge of coordinating and managing the National Land Policy should include powers, capacities, instruments and mechanisms that have a lot of operating possibilities to directly affect the value of market from different perspectives such as:

- Promoting, consulting and coining projects of real estate investment in popular housing;
- Carrying out direct land acquisitions or adaptations for housing urban projects (or for other priority and public uses);
- Exercising housing land subsidies, guarantees or funding of projects;
- Managing tax and administrative facilities;
- Summoning and consulting local governments or promoting institutional framework reforms;
- Developing powers to prevent irregular processes and maintain corrective ones under a priority and principle scheme;

Thus, the **national comprehensive land policy with emphasis on urban one and with a clear sustainable approach**<sup>10</sup>, could be organized into three great axes:

## 2.1. Alignment and synergy with the Federal Government

The first approach of a national land policy is inter-governmental and inter-institutional coordination to execute it; the body in charge of coordinating it should consider the following:

- Establishing coordination agreements within the Federal Government and federal and municipal governments to ensure land incorporation to urban development and land needed for infrastructure and equipment projects for the country's regional and state development. It should also be important to establish support and association mechanisms with communal landowners, social organizations and businesses directly related to general land use; especially urban and building land. All of this should ensure the much needed synergy to have a new urban development model in charge of containing cities and offering new housing solution, social production of housing and other options.
- Establishing agreements with the Ministry of Finance and Public Credit (SHCP; Spanish: Secretaría de Hacienda y Crédito Público) and state and municipal governments to support, promote and manage the integration of the real state tax policy and the urban

<sup>10</sup> The National Land Policy would greatly benefit with the creation of a new Institute that could complete the integration of SEDATU, sectorially grouping the **Institute for Management and Appraisals of Federal Properties** (INDAABIN; Spanish: Instituto de Administración y Avalúos de Bienes Nacionales) in order to manage the inventory of national properties that are an strategic real estate resource of the Federal Government. Thus, SEDATU should manage **maritime-terrestrial federal areas and lands reclaimed from the sea** which SEMARNAT currently oversees. It would also be advisable to **integrate the Agrarian Agency's powers and resources to the new Institute**, under a triple perspective: widen its vision, denomination and attributions towards territorial and urban organization; ensure that the processes of transferring social property to urban development are carried out under the best conditions and according to agrarian and urban laws; so as to have a powerful instrument for territorial regulation.

development and housing ones; as well as reviewing and updating land taxes –especially of empty and vacant lots- of spaces required to house and consolidate the city’s surroundings and promote new tax figures to finance and recover surplus values generated by urban development and implement the “land base” property tax.<sup>11</sup> Taxes (property, title transfer, surplus) should be instruments to increase local collection and guide the growth of cities and land use. It also means participating in modernization processes of public

<sup>11</sup> The different Real Estate Taxes in Mexico make it possible to restructure the current real estate tax policy: *Real Estate Property Taxes: Property Tax*. The main tax on real estate property. Most states implement it in a proportional way, and sometimes they apply differential rates according to the property’s characteristics –urban, rustic or communal- or the way it is used –housing, commercial or industrial-. Most municipalities have mixed tax bases: land and constructions. **Real Estate Acquisition Tax (Title transfer)**. The latter taxes real estate acquisitions whatever legal act is used to acquire the property. It was, until 1990, an important source of income for municipalities. **Special Contribution for Improvements** (also known as Contribution for Public Works). This tax is applied when city halls have unforeseeable situations which forces them to make investments to solve and satisfy public needs. It is also applied when public works which are not considered in the expenditure budget are executed. Contributions made by the beneficiaries of said public work add up to the total cost or a percentage of it. **Division, sub-division and merging of properties tax**. Applied to any division. The tax concept includes division, subdivision and merging of properties. It does not necessarily include services provided by city halls so it works better as a tax. To determine this tax the type of division, location and surface is taken into account. Most states also ask the people who are dividing the property to donate 10-20% of the urbanized land. **Construction permits**. This tax generates the biggest collection. It includes permits to expand, rebuild and demolish buildings. It is a onetime tax which also needs municipal authorization. **Residence tax**. Not very common in Mexico (except in the State of Mexico). Municipal tax paid by those permanently, continuously and regularly established in commercial, industrial and service-related properties. This tax is determined by the exploitation of generalized and indivisible public services; taking into account the existence, quality and magnitude of said public services provided by different sectors of municipal territories, as well as the degree of development of each municipality. **Income Tax** (ISR; Spanish: Impuesto sobre la renta). ISR does not directly tax real estate, but any profit derived from it by natural persons and businesses. The land registry area makes a profit thanks to the rents or profits produced by the sale of real estate which also generates income tax. The base is determined by the sale price of the property. This tax is generated when the property is sold and in some cases the public notary receives it to then give it to tax authorities. The main defect of this tax scheme resides in the fact that even though a commercial appraisal is carried out, the transfer of title price is determined by the seller and the buyer; both of whom can agree to lower the declared price to pay less taxes. **Real Estate Acquisition Tax**. Refers to real estate buying and selling operations, the one who buys has to pay the real estate acquisition tax (or title transfer tax). It is collected by local governments. **Real estate surplus value tax**. This tax is not widely known. It taxes the increase of real estate’s value caused by public works or because of the property valuation processes real estate experiences over time. Its implementation has faced serious obstacles, which has resulted in a reduced collection of monetary resources. The mere existence of this tax reveals the need municipal and state governments have to recover huge investments made in urban development matters and tax urban owners who benefit from them.

property records and property registries carried out by the Federal Government and in consulting and assistance processes of state and municipal governments regarding housing and urban planning, as well as promoting the basic normative framework to regulate the use of land resources in every state.

- Develop a comprehensive land strategy with federal agencies and bodies to create, recover and maintain land rights and generate national registries.
- Promote the creation and adaptation of State Housing Agencies (OREVIS; Spanish: Organismos Estatales de Vivienda) with CONAVI so they can be responsible of formulating and executing land and regularization programs in every state. In the same sense, promote the creation of agencies in charge of executing federal funds, subsidies and resources intended for urban and building land needs. This is why federal and state policies and programs need to be coordinated to promote greater operative and financial ability. Finally, foresee the convergence and support of other federal agencies and bodies which have an important role in urbanization processes and whose actions depend on the realization and success of the national land policy. This is the case of the National Water Commission (CONAGUA; Spanish: Comisión Nacional del Agua), The Federal Electricity Commission (CFE; Spanish: Comisión Federal de Electricidad), Ministry of Environment and Natural Resources (SEMARNAT; Spanish: Secretaría del Medio Ambiente y Recursos Naturales), Ministry of Transportation and Communications (SCT; Spanish: Secretaría de Comunicaciones y Transporte), the Ministry of Public Education (SEP; Spanish: Secretaría de Educación Pública) and others. In this sense, financial alignment and support of the Bank of Development are essential for the success of this policy.

## 2.2. Territorial reserves and housing

One of the main reasons to promote a national land policy is the lack of public land offer for uses ignored by real estate markets, housing for the poor and public spaces. From another perspective, land offer for infrastructure needed for national development requires coordination to increase its efficiency. The other axis of national land policy refers to territorial reserves which has the following powers:

- Coordinate the Federal Government's land expropriation and acquisition actions, disincorporation of communal land for urban uses and interurban and regional infrastructure to create and rescue federal land rights and generate and integrate a STRATEGIC LAND RESERVE to ensure the much needed surface, its legal certainty and appropriate location in all kinds of property required for infrastructure and equipment projects for social production and

development, touristic, mining, port, industrial, logistics projects, among others. This strategy would address the opportunities which have been ignored by the Federal Government, contributing to sustainability, territorial organization and the effectiveness of territorial governmental action.

Besides the strategic reserve, the federal body created to coordinate the national land policy must participate with local authorities to define and put in operation reserves to consolidate and promote growth of metropolis and cities. It should also establish mechanisms to negotiate with landowners projects to use lots according to applicable plans. Ergo, it will be necessary to promote the creation of institutional structures (trusts, real estate businesses, communal and social real estate businesses) and social agreements for land incorporation.

The point is that territorial reserves will be land destined for urban use, it does not matter who the owner is, and will be part of the government's patrimonial reserve.

Said body will have to coordinate with local governments to participate in a strategy to occupy lots and areas of urban periphery, as well as empty and vacant urban lots. To achieve this it will be necessary to develop instruments to incorporate landowners and make them participate in urban projects such as: lot reunification, land use right transference, etc.

- An important element of the Land Policy is the creation of the Land Bank or Urban Land Bank, which includes the inventory, grades and even *registry*<sup>12</sup> and promotion of land appropriate for urban development and housing. The goal is to create and administer said bank, including properties which have financial, technical, environmental and legal viability for urban and housing development, promoting a better use of urbanized, empty and under-used lots emphasizing their exploitation to promote the habitat's social production. This bank can acquire through public or private rights (expropriation, disincorporation, buying, donation, etc.) real estate to generate land offer for urban and housing uses. In this sense, it could be responsible for coordinating federal actions related to the acquisition, exploitation, registry, certification and land use of the national territory.
- The experiences of bodies responsible of land, such as CORETT, will force the federal body that will coordinate national land policy to direct its efforts to have diversified source of resources: public budget, international and national funding (public and private),

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<sup>12</sup> In this sense, it is necessary to consider the importance of creating or articulating all 32 states' property public records and federal, state and municipal records related to real estate information.

including solidarity funds, under a cost recuperation perspective of disincorporation of land processes for urban development and provision of subsidies to popular urbanization processes. Federal budget resources must be timely and sufficient, and must accompany local resources related to power, support and projects of said body.

This land policy will need new financial products, especially the Development Bank, as well as new work programs to support urban and housing policies. The participation of users to solve land and service needs (taking into account their economic, social, cultural and legal abilities) will be acknowledged. Besides, new instruments will be designed to promote and execute financing, saving, credit and subsidy schemes to acquire appropriate land for territorial regulation programs in accordance with income levels of the population. It will be equally necessary to promote the creation of financial funds to support savings banks and microfinance banks, as well as other solidary forms of savings and popular financing to support urban land acquisition and adaptation processes.

Investment projects that promote disincorporation, acquisition and adaptation or urban land projects must be created and promoted and strategies to financially, legally, socially and technically advise and assist public entities which promote the execution of investment projects.

- A national land policy requires new housing policies, as well as promoting and supporting every housing form required by Mexico's socio-spatial diversity (rental homes, social production, self-production, improvement, etc.) and develops a massive national program of land offer -located within urban tissue and with access to basic services- for low-income and vulnerable social groups which are not affiliated to national housing bodies (ONAVIS) by designing new instruments, subsidies and credits and establishing support strategies and technical advice for social production and self-construction of homes in said lots.

A massive offer of housing lots will make it posible to stop irregular growth and establish goals to end backwardness in the regularization of housing lots in every Mexican city. This means it will help local governments in a specific and concurrent fashion develop the offer and select cities and metropolis which have urgent conditions or are appropriate for this program; this way scarce resources won't go up in flames and will be used to ensure successful financial and real estate operations that can be replicated.

### **2.3. Land regulation and regularization of land tenure**

A third axis of the National Land Policy refers to the development of legal bases for its operation, to offer housing land and other uses, regulate land

tenure to anticipate its end or establish comprehensive territorial records and new financial instruments for real estate markets; the necessary structures to do this do not exist. Thus, a strategic function of the new body in charge of land policy should be a thorough review of the regularization of urban and suburban land tenure with the help of the Agrarian Sector, state and municipal governments and agrarian organizations.

- A new territorial regularization strategy should focus on stopping irregular growth (through massive offer of lots) and address backwardness to gradually reduce these actions until there are only exceptional cases. To avoid irregular growth of land tenure and occupation of high-risk areas for human settlements, the Federal Government must coordinate and promote projects and actions to foresee these processes through well-localized land offers in cities and their surroundings, including social organizations, communal landowners and businesses under incentives and regulations to create new figures (social developer and social divider) for these actions.

The new body's attributions must be widened to also address all kinds of territorial regularization to achieve comprehensive actions, always taking into account it is an opportunity to improve neighborhoods and boroughs, considering the introduction of basic services and the support to build homes in an urban, organized and sustainable growth framework.

A new strategy to face this territorial regularization processes means implementing a series of principles and rules:

- Adjustment to urban planning, an improvement action that addresses urbanization problems such as insufficient or lack of infrastructure, equipment, public services and the establishment of greater cadastral and registry control of properties;
- Risk evaluation of irregularly settled population, as well as urban possibility of introducing infrastructure and its connection to existing networks, as well as the provision of public services so as to decide the regularization and offer settlement alternatives to at risk population;
- Acknowledge that regulatory action associated to habitat improvement and supports to build or improve housing, is an obvious social and public benefit;
- Evaluate the beneficiaries of regularization to give preference to holders of good faith, according to the age of the property.

Restructuring the land tenure regularization means having a series of strategies and policies; the most important ones are:

- a) Organize and generate massive housing land offer for low-income families as an important instrument to stop the growth of irregularity and make it massively disappear.
  - b) Promote local authorities' regulation, control and sanction and establish a regime of responsibilities and sanctions to those who allow, promote or benefit from irregular land occupation.
  - c) Effectively reduce costs paid by low-income inhabitants to acquire irregular land and subsequently for regularization acts exercised by the Federal government through CORETT.<sup>13</sup>
- To recover land's social function, achieve the complete exercise of real estate rights and duties and ensure its legal certainty, the new body should participate in urban and building land markets from different perspectives: offering land for important uses (housing, public space, environmental protection and new infrastructure and equipment) and establishing reference prices based on appraisals to reduce urban land speculation.

<sup>13</sup> An essential concern of the new federal body in charge of the National Land Policy will be to answer the following questions: **How can we make poor inhabitants not pay two times for their piece of land: when illegally bought from communal landowners and when CORETT regularizes it and also avoid communal landowners from collecting money twice?** The proposal puts forward the possibility of not paying communal landowners anything for communal lands; however, the Agrarian Act would have to be amended. Municipal authorities would be in charge of declaring human settlements in communal lands as irregular settlements without the approval of communal assemblies as stated in the Agrarian Act. The benefit offered to communal landowners is declaring the communal human settlement area is bigger than it really is, after this is approved by municipal authorities, communal landowners can sell the surplus of land which is currently allowed by the Agrarian Act. This would ensure the fulfillment of acts of authority and avoid protests and appeals. Families should only pay the cost of deeds, especially cartographic maps to limit lots with satellite coordinates, so that RAN can issue property titles and these can be registered in municipal property records. There is a similar situation when trying to regularize irregular settlements in public plots of land of the three government levels; the new body would have the power to disincorporation and give titles as well as modifying the National Asset Act. This families can receive subsidies because the amount they have to pay is considerably less than the amount paid as compensation to communal landowners for the expropriation which is determined by the money CORETT can charge for the registry which, in turn, depends on how much the settled families can pay based on appraisals which generate interpretation problems. The new body will have to supervise municipal actions, initiate municipal deed projects, especially for high-risk areas. A second question that needs answering is: **Which main characteristics should the land tenure have to leave behind the current system?** The amendment of the Agrarian Act should give municipal authorities the power to declare human settlements in communal areas as irregular without the approval of communal assemblies and it also should give the new body power to disincorporate public lots and issue property titles for settled families.

In the same manner, it should assume the responsibility for designing and promoting the inclusion of instruments needed by the National Land Policy in the appropriate law: plotting, areas of action, improvement cooperation, administration of surplus, flexible and diversified property tax, transfer of land use rights, etc.

### **3. Instruments to ensure the observance of the national land policy**

#### **3.1. Guidelines for a new institutionalality**

This essay has stated that Mexican institutions in charge of land and urban development are going through a crisis. The creation of SEDATU gives us hope, a federal agency in charge of organizing and coordinating land policies (urban-metropolitan and regional), housing, urban mobility and infrastructures will exist.

This essay also states that besides having a National Land Policy that is part of a National Urban Development and Territorial Organization Policy, a new federal body to replace CORETT is needed to coordinate and administer said policy and assume some basic functions.

- The creation of a new institution should have a small impact on federal public finances; thus, it is important to make good use of CORETT's resources after evaluating them and under a new body of administration.
- It is also essential to consider that its legal nature, administrative design and operation rules will depend on functions given to it as executor of the National Land Policy: Strategic Land Reserve; Land Bank; Regularization; Real Estate Tax Policy Support and Regularization of Land Markets; Housing Land Offers and Social Housing Actions.

According to current legislation, it could be a decentralized body or a business with state participation (it could even have elements of both of them if it can be divided into funds-trusts per project). In this sense, it would be convenient to analyze if it should have the capacity to carry out actions, works and direct investments and also the power to operate only like a financial body.

- The new body will have a centralized conduction of policies and regulations on land to guarantee homogeneity needed in all states, a shared and concurrent execution with state and municipal governments and also with social and private agents.
- Another important aspect is the capacity to develop better ITCs and social management strategies to have more efficient and comprehensive actions and set the bases to fight corruption.

The creation of a new body must be accompanied by legislation amendments on urban development (and others) as well as alignment, coordination or integration of functions carried out by other federal agencies and bodies regarding land and which should focus on the construction of a new urban development model, and it should assume these functions.

### **3.2. Funding: What resources are available?**

An important question is: what resources are available to be used in national land policy and promote the creation of a new federal body to coordinate it? There are two considerations regarding the national policy:

- Firstly, addressing urban and rural poverty by offering well-located housing lots in accordance to their income and keep this up until all land tenure is regulated.
- Secondly, the disincorporation and social land offer for infrastructure and development projects in regions and cities suggested by the Federal Government.

This is why the new body should generate real estate values through different patrimonial sources: “tangible patrimony” made up by land reserves currently owned by CORETT and those of the Federal Government and those which can be obtained by disincorporation processes of social land and the regularization of land tenure. “Intangible patrimony” which are exclusive attributions of this new body to act on rural and urban land which would ensure access to financial resources thanks to the execution of land disincorporation actions to be used in great infrastructure and equipment projects and those actions carried out to get back land rights and the administration of real estate records and other functions.

#### **a) Generation of real estate values**

This new body will have the exclusive power to disincorporate communal lands according to every cities’ and metropolis’ growth needs and the needs of infrastructure and equipment projects in cities and rural areas.

Thus, it will be necessary to develop instruments and processes to carry out agreements with communal landowners and communities to program and order land incorporation to its destined use or restructure current ones.

The exclusive power of this body will reduce operational risks and costs by limiting the diversity of actors involved in these processes; the body will be in charge of executing the whole process: identification, classification and selling of appropriate plots of land.

The first source of resources will undoubtedly be CORETT's reserve. In this sense, the Commission had already identified two-thousand lots in 2013.

Another source of real estate value generation is the body's acquisition of land. Certainty offered by the land incorporation process would make it easier to differ part of the land acquisition cost to the final buyer, diminishing initial investment and land access cost.

## **b) Funding**

A capital base is needed to access and settle funding opportunities, the new body will need besides an existing territorial reserve, another one which will be constituted thanks to Federal Government's contributions. The latter can be calculated based on cost estimations to address problems related to irregular urbanization made by the Federal Government. A new strategy to control and reduce irregular growth of land tenure of low-income urban settlements should be directly reflected on the reduction of costs paid by the Federal Government to take care of people affected by "natural" disasters provoked by out-of-control urbanization (regularizations, DN-III, FONDEN, etc.).

Besides the aforementioned sources, there are different mechanisms to finance this national policy and the operation of the body to control it; although, it would be convenient to achieve financial autonomy. This could be done by hiring resources stemming from financing instruments related to projects carried out by this body such as: Development Capital Certificates (CKDs) which finance infrastructure projects and stock market certificates where resources can be used in a more versatile way. Both scenarios need the creation of a trust fund to ensure transparency and avoid diversion of resources.

For example, to acquire territorial reserve and finance housing actions in regularized lots CKDs could be issued. This way, resources coming from investors could be used to: acquire more reserve, finance land and social housing actions, finance infrastructure (industrial, touristic, transportation, services, etc.), regularized land or the territorial reserve itself.

On the other hand, to substantially increase the production of deeds and decrease irregularity in land tenure, this body could issue a stock certificate; investors' and regularization resources will be administered by the trust fund, providing funds for regularization, housing subsidy, housing stocks and debt service of the new body.

Another financing option is the emission of titles to acquire land. Adequate building land (urban periphery), occupied (urban vacant lots) or consolidated

ones (regularized settlements or in the course of regularization) are in the short run the assets that will back up the emission of titles; thus, the body will collect the surplus generated by disincorporation and organized regularization of land.

Titles could be issued through the trust fund which invests in the acquisition of a portfolio of previously disincorporated and regularized properties which meet predetermined urbanization criteria verified by SEDATU.

Medium-term notes could be issued (3 to 5 years) with capital payment when selling the lots and certified on the feasibility of urban use, using instruments which are equivalent and complementary to the National Housing Registry (RUV; Spanish: Registro Único de Vivienda).

This funding strategy could offer security by guaranteeing timely payment, valuation and/or liquid reserve and it could also include other instruments: CECADES, BorHis, CEDEVIS (from Infonavit) y Tfovis (from Fovissste), etc.

Unlike emissions generated by huge developers of social housing to finance (among other items) land acquisition which sometimes outside urban planning regulations, the new federal body's titles would be backed up by properties appropriate to be used in the short-term as urban ones; its structure would be coordinated and would depend on the national urban development policy.

### **c) Payment sources**

The main source of payment of the new body could be the sale of macro-lots to private developers for different uses, especially social housing. This mechanism avoids financial costs and risks associated to the acquisition of agricultural soil and could link land to <<green mortgage>> credit lines which are already used in Infonavit, SHF and Fovissste, and others.

Another option is the sale of disincorporate land to real estate developers for industrial, infrastructure and/or commercial use, another important source of resources. The latter are the most profitable land uses which allow cross-subsidies for housing land projects for the poorest population in city and rural areas.

Another direct source of resources is the sale of housing lots to producers, dividers and social housing developers, or to families to promote assisted self-production of homes regulated by SHF (APVs) and to those who have access to the "Esta es tu casa" federal program (subsidy) and to promote the construction with micro-mortgages of SHF. Finally, to those who benefit from social programs that give them right to own a small piece of land and/

or foot of a house programs promoted by state and municipal governments through OREVIS.

#### **d) Commitments of the new body to have continuous funding**

The creation of a new body faces a paradoxical situation; on the one hand, CORETT has lost strength and legitimacy and on the other hand, the Federal Government needs a specialized institution to execute the National Land Policy. This is why, the new body will have to commit itself to:

- Prove it is possible to generate value based on appropriate management of the transformation process of rustic land to legal urban land which will offer housing alternatives for low-income and uninsured population and to develop great infrastructure projects in this country.
- Develop an organizational structure with a clear public policy approach, guaranteeing transparency in the exercise of its resources. It has to be capable of reporting the performance of the portfolio according to standards set by stock market actors (CNBV, institutional investors and risk-management agencies) and give certainty and trust regarding its operation.
- Ensure institutional efficiency and effectiveness through a planning system focused on addressing the country's land needs and fulfilling national land policy commitments. This means strengthening internal control and auditing areas to reduce possible operation risks and development of transparency mechanisms and accountability.

#### **4. What's next?**

Strategies to achieve a new urban development model cannot wait. The country cannot manage without a body that executes National Land Policy, as stated here.

If this is not done, federal expenses will increase because of irregular settlements and disasters caused by the ever-growing occupation of high-risk areas. All of this is caused by the lack of massive offer of well-localized housing lots for poor families in cities and its surroundings. Thus, land disincorporating will also increase its cost; it needs infrastructure and equipment investments all over the country and the lack of it will bring on poorly-controlled land rights in national and communal lands.