

Policy Learning : New Challenges for Smart Value Capture in Colombia

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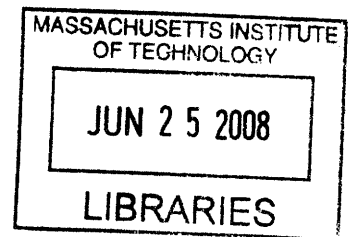
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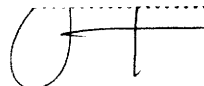
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Abstract.

Contribución por Valorización is a form of value capture similar to Special Assessment, used in Colombia to complement Local revenues for major public infrastructure programs. SA's continued use countrywide and its resulting technical evolution has, despite some shortcomings, made it a value capture practice that is internationally recognized as a noteworthy experience. *Participación en Plusvalías* is an instrument recently implemented to capture up to 50% of the increments on land values created by public actions, similar to betterment levies and unearned increment taxes. This newer, more complex form of value capture faces important implementation challenges, which need to be addressed.

The purpose of this study is to evaluate both Special Assessment (SA) and Participation in Land Value Increments (PLVI), in order to understand what elements of the process of implementation and consolidation of SA, can inform a strategy to make PLVI a politically sustainable policy instrument. This study explores how local political economy has shaped and influenced the development of these two instruments, highlighting that despite their common conceptual origins, SA and PLVI are significantly different. Acknowledging these differences, the research unpacks the experience in Bogotá with SA and sheds light on alternate approaches for PLVI's current managers to address the new instrument's challenging implementation arena.

The findings of the study suggest that for PLVI to evolve and consolidate as a policy instrument in Bogotá, strategic choices that reframe its management as a long term policy rather than a procedure, must be made. Complementary organizational strategies to enhance efficiency and to influence broader public support are amongst the valuable lessons from the experience with SA that underline the importance of a policy's responsiveness to its implementation arena for its political sustainability.

The evolution of PLVI in Bogotá is important, because it will strongly influence its debate in the rest of the country. For international scholars and decision makers, the comparative approach to understand the challenges this new chapter of the Colombian experience with value capture faces, can be useful to assess other policy environments; while the analysis of each instrument and its relation to the local political and legislative specificities, can be useful to temper these instrument's understanding.

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Keywords : Participación en Plusvalía, Contribución por Valorización, Value Capture Instruments, Value Capture in Latin America, Special Assessment, Participation in Land Value Increments, Unearned Increment Tax, Betterment Levies, Land Policy Innovations.

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Abbreviations

DNP	Departamento Nacional de Planeación
IDU	Instituto de Desarrollo Urbano, Bogotá, Colombia
	Participation in Land Value Increments
SA	Special Assessment
CIDER	Centro de Investigación Desarrollo y Economía Regional Universidad de Los Andes Bogotá Colombia
LILP	Lincoln Institute of Land Policy
LA	Latin America
SDP	Secretaría Distrital de Planeación

1 Introduction

“Creativity always comes as a surprise to us; therefore, we can never count on it as we dare not believe in it until it has happened. In other words, we could not consciously engage upon tasks whose success clearly requires that creativity be forthcoming. Hence, the only way in which we can bring our creative resources fully into play is by misjudging the nature of the task, by presenting it to ourselves as more routine, simple, undemanding of genuine creativity than it will turn out to be. (Hirschman: 1967)¹

Policy reform is about change. The politics of policy are the fascinating dimension of how change is envisioned, framed, debated and finally shaped by different forces, into pacts. Some policy reforms are more problematic than others, because they set out to redefine social norms, are critical of customary behaviors and intend to establish new rules about the way resources, privileges and responsibilities are allocated. These reforms are difficult to translate into actions, because they are often built on rhetoric, and shy of change. However, often against the odds, politically contentious policies actually make it through the political arena on to a new, equally challenging arena: implementation.

Implementation is not only technical and organizational, but strongly political. In developing countries, Grindle has referred to policy implementation as the “second generation reform”, because it is the stage at which the midlevel bureaucracy, sometimes informally, builds through day to day practice the hundreds of basic adjustments in the organizational structures and procedures required to make the policy work. Implementation at the local level not only determines in “fine print” the depth of reforms, but also the institutional arrangements that will sustain them. In consequence, many interests will try to influence the way policy “lands on the ground”.

Creativity and innovation are at front and center of implementation. Technical teams that introduce reforms face obstacles that threaten to make change impossible. Crafting contravening legal and procedural devices and improvising new techniques and organizational arrangements to face up to the challenges of reform, are part of the “art”

¹ Hirschman, Albert O. “The Principle of the Hiding Hand” Public Interest no. 6:10–23 in Friedman:1987 pg120

of making things happen. Nonetheless, because policy reforms often intrude into deeply entrenched private interests, thinking through an implementation process can't be limited to institutional "firefighting".

A consolidation strategy that understands implementation as a political arena is necessary to protect long sought reforms from the influence of interest groups that will benefit from their failure, as well as from organizations' natural resistance to change.

1.1 The Challenge

This thesis is a reflection about the implementation of Participation in Land Value Increments (*Participación en Plusvalías*), an instrument that has promised to address some of the core issues of the Colombian urban reform and territorial development policies. With this policy instrument the government can recoup up to 50% of the unearned land value increments generated by public planning decisions.

Like other bold reforms, it is the extraordinary achievement of a long political struggle. Amidst its "implementation arena", Participation in Land Value Increments (PLVI) is the target of many criticisms, faces resistance and has become the center of new political debate. PLVI is a long term policy tool that needs to fully consolidate to achieve its core objectives. Thus, making PLVI a sustainable policy is a challenge that must be integrated into its implementation agenda.

The relevance of value capture instruments in the policy agenda in Colombia has emerged from at least two motivations: First, because the instruments potentially generate a complement to local revenues required to meet pressing infrastructure gaps. Second, because amongst them, policy tools such as PLVI are intended to deal with some of the factors that restrict access to land; hence to address the challenges of housing for the urban poor, as well as the phenomena which promote extensive informal settlement of the urban periphery.

In contrast with the rest of the Latin American region, the Colombian experience with value capture has a solid, long standing precedent. Special Assessment ("*Contribución por Valorización*") has been in use in the country since the 20's, and this trajectory is recognized by international scholars as unique for its relative continuity as an effective tool for local infrastructure development.

Having such a valuable precedent is an opportunity to think about PLVI's challenges at its implementation stage, through *policy learning*. SA's process of evolution

holds important lessons to think about PLVI's long term sustainability strategically. Despite the fact that SA can be considered a "less problematic" policy, a historical analysis of its evolution shows that its continuity has been strongly determined by persistent adaptation focused on improved performance, responsiveness to its political environment and a concern for sustainability. SA is "smart" because it has been built to perform, learn and improve itself, fully acknowledging a politics as critical element of policy.

Learning from SA about "smart policy" has led to several important realizations about PLVI : i) it needs political allies: broad public awareness and positive public perception, ii) it needs integrated management: shift from being administered like a set of procedures to being managed as a policy instrument for a purpose, iii) it needs administrative streamlining and technical development: for legitimacy and sustainability, and iv) it needs to clarify its short-term, long-term outputs, in other words determine its expected performance as a policy instrument: to guide its strategy and shape support systems accordingly.

Thinking about strategic resource alignment for PLVI in an analogue direction to SA's approach, suggests selecting the core objectives a long term strategy for PLVI might focus on. PLVI needs to explore these choices to direct its implementation efforts towards "smart value capture".

1.2 The Approach

This research has studied Participation in Land Value Increments and Special Assessment in depth, explored their conceptual origins and attempted to understand the technical, organizational and sociopolitical dimensions that interplay in their implementation and practice as policy tools.

PLVI at work has many challenges ahead. The difficulties and barriers that are being faced to operate the instrument, as well as the emerging debates from the impacts its practical application is having on powerful stakeholders needs to be addressed. To be able to fully understand the implications of PLVI's implementation today, however, it is important to review the strong relationship this instrument has with core policy issues in the planning agenda, and with the history of how dealing with those issues has shaped the planning system in Colombia.

Institutional capacity to evaluate and monitor policy is restricted in Colombian public institutions. When policies are evaluated, nonetheless, it is often based on performance indicators that say little about their content, and offer few elements to assess some of the linkages between policies that may in fact be the essential factors behind their success. These evaluations may also fail to understand a policy's difficulty challenging political resistance to its implementation. This study has proposed "policy learning" as an approach to understand PLVI in relation to SA as a value capture strategy, but is giving great importance to the fact that the history and the relationships each instrument has to other issues, greatly determines their different paths. This is why the study has given such weight to their individual history.

Studying the history of the idea of capturing unearned increments in Colombia, within the context of local planning debates as they evolved, is useful to fully appreciate the circumstances that have influenced such a policy choice, and the reasons why despite its delay this reform and its implementation have great political significance.

Because I am an optimist, I believe principles ought to guide public action. Exploring how market interests and public interests meet at the policy arena should be guided by bold statements and making the distribution of rents a core issue in Colombian planning, is one such statement. The idea that the role of the State in allocating resources efficiently should be balanced by a principle of fairness in the distribution of publicly created values, is an idea I care about. This is why I think being concerned about the sustainability of PLVI as a policy issue is critical.

An introductory chapter gives the reader a conceptual background that is useful to understand value capture and its related land issues. It overviews the main concerns that have shaped the content of the policy arguments that justify value capture in Colombia. A description of each instrument is included, to fully appreciate some of the technical and institutional complexities the implementation process of these tools imply. This section creates a backdrop to understand the structural issues that underlie the tensions and implications of implementing value capture mechanisms.

The following chapters carefully unpack the history, logics and operation of PLVI and SA. They analyze the motivations, policy arguments, objectives, contexts and shapes of each, by studying their legislation and the political debates that have molded them. Then each chapter looks at their implementation in Bogotá, where in a similar context, yet distinct policy environment, each currently operates. Both chapters strive for a

nuanced understanding of the relationships between the technical issues, politics and organizational arrangements that define each instruments performance and sustainability. The level of detail also hopes to use the opportunity to share with a broader audience the roots of the policy innovations that are being explored in Colombia today and attempts to present some of the issues outside the local perspective.

The final chapter integrates the lessons from the experience with SA, to the challenges that PLVI faces with implementation and explores the organizational as well as political dimensions of alternate paths that could be taken to integrate sustainability into PLVI's implementation strategy.

1.3 The Lessons

The findings suggest that PLVI is being managed as a procedure rather than as a policy instrument. Thinking about PLVI strategically concerns defining targets that make its performance visible, while focusing on the objectives that structure its sustainability, to drive organization and technical development.

What does PLVI's long term *sustainability* hinge on? Can be it be *streamlined* into a "less problematic" policy without loosing its essence? How can its *short term performance* be addressed while a more strategic *long range perspective* drives the efforts?

These are questions that reframe how PLVI's implementation is being addressed and suggest that focusing on the core policy objectives might be an approach to do so. Three alternate paths are delineated: focusing on PLVI's performance as a revenue source, on its impacts and vision as a land market regulation mechanism, or exploring new value propositions than focus on its potential role in land management. Proposing to choose one path does not deny that PLVI somehow will continue to play all three roles; but it does suppose that different perspectives for building PLVI may have different implications on its sustainability.

2 A Look at Value Capture

The ability to channel socially created value towards the provision of social needs, is a current issue in the local policy agenda. Value capture instruments are tools that in different ways recoup for broader society, part of the increments in land value that result from the development dynamics of context, particularly from public actions, not attributable to the productive efforts of landowners. Both as fiscal and land policy tools, these instruments have been used in different parts of the world and developed through local variations, to respond to specific legal environments as well as alternate policy objectives.

This research analyzes two value capture instruments that are currently used in Colombia “*Contribución por Valorización*” (Special Assessment) and “*Participación en Plusvalías*” (Participation in Land Value Increments). The chapter sets the conceptual background to understand the purpose and the potential effects the use of these instruments have. It makes reference to models of value capture instruments that have had long standing and major influence, which they closely resemble: the Special Assessment and the Betterment Levy or Unearned Increment Tax.

Following a broad description of the objectives each policy tool has been designed to address, some specificities of the shape each instrument has developed in Colombia are also discussed. A general overview of the processes each instrument involves, as it is currently implemented in Colombia, is included to give a broad sense of the management challenges and technical requirements having these instruments in place actually represents. The final section also distinguishes some similarities between the two local instruments: Special Assessment and Participation in Land Value Increments, to dissipate confusion about the potential overlaps the prospect of their simultaneous use, mentioned throughout the document, can raise for readers.

As a background, the opening sections look at some generalities about the price of land and its relation to the price of housing, the effects and justification of value capture and its relation to the price of land, as well as some general features of the land market applicable to the Colombian context, which explain the role these instruments can potentially play in local land policy.

2.1 Conceptual Building Blocks : Where the Value Comes From

The dynamics of land markets in Colombia, similar to those in the rest of the Latin American region, are triggered by the rapid growth and demand for serviced land that cities have been subjected to as a result of massive migration waves, combined with a tradition of concentrated land ownership and retention, which has historically contributed to generate scarcity. Moderate property taxes and weak enforcement have not helped to disincentive speculative practices as they should. On the other hand, public infrastructure development policies, as well as upgrading programs, have indirectly subsidized formal and informal *free riding* by fully covering the costs of servicing. (Furtado:2000, Smolka,Furtado:2001)

High demand, restrained supply of land and “subsidized” development costs combined, have created a market rationale with severe structural impacts on the feasibility of public works projects and social housing. On the other hand restricted governance capacity to face the magnitude of those demands and to address the roots of overwhelming poverty, has further fostered the institutionalization of informal settlement. In consequence, no policy to prevent the social and economic impacts of the lucrative business of pirate subdivision, that fosters informal settlements, has yet been feasible.

To fully understand the nature of unearned increments and the reason why it makes sense to tax them, the next section presents a simplification of how the price of social housing² in the current Latin American land market is set, and how it relates to the market value of land.

² There is no public owned housing in Colombia, only programs for the lower income groups that are VIS (vivienda de interés social) and VIP (vivienda de interés prioritario) with maximum market price levels and a corresponding subsidy to meet the poorest families income levels. The prices of land and speculation have made these prices almost impossible to meet.

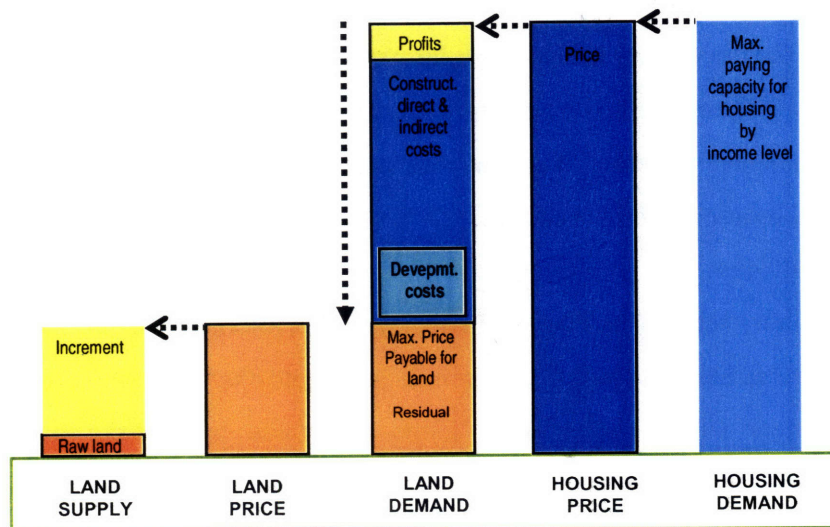
2.1.1 Relation Between the Price of Land and the Price of Housing

Morales³, has developed a simplified model to explain how the price of land for commercial housing in the typical Latin American periphery is broadly determined, illustrating how value increments do not express themselves in that price. (see graph 1)

The practical meaning of rent theory is that demand in fact determines the price of land. (Andelson:2000) Morales's illustration explains this is so, because the price of housing is set by the maximum payment capacity a family within an income group, has for a dwelling. In consequence, the maximum price the constructor is willing to pay for the land, is a residual value shaped by the difference between the expected sale price of a unit and the sum of the costs of producing it⁴, with a margin of return for the operation.

Graph 1. Land Value Increment

Source : Carlos Morales Schechinger 2003



For the landowner, the increment in land value or windfall, is the equivalent to anticipated rents the constructor expects to obtain through the use of the land in the future. Factors of relative location, and competition in the demand will additionally shape the constructor's willingness to fully pay those expected rents. Unless an effective tax system is in place, landowners in this setting may have more incentives to hold land than

³ Professor Morales Schechinger is UNAM Mexico. Affiliate of the Lincoln Institute of Land Policy.

⁴ Direct and indirect costs of construction and infrastructure.

to sell, making it scarce and yet more expensive. But the fact that there is no additional paying capacity at the demand side, will lead to either making a use unfeasible (for example affordable housing) or forcing production prices to contract, often resulting in smaller, lower quality development and dwellings.

Even though more complexities can be brought to bear, this simplification is useful to conclude three things about prices in the formal land market, in a context such as the one this research looks at: First, that the value increment of raw land results before any investment has been made. Second, that the price of land is basically determined by what can be built on it, therefore the public regulation of land use and construction rights indirectly allocates land values. Finally, that the impact of the expectations of landowners on the market can ultimately drive uses that produce low rents, such as social housing, out of it. Thus, having the mechanisms in place to discourage speculative behavior and discipline land markets under such conditions, becomes very important for urban governance.

Additional Unearned Increments in the Informal Land Market

Given the permanent influx of immigrants and the incapacity to produce feasible social housing or at least serviced land, the relation between speculative behaviors in a land market and the emergence of a parallel informal land market that has established at the city fringes, is evident.

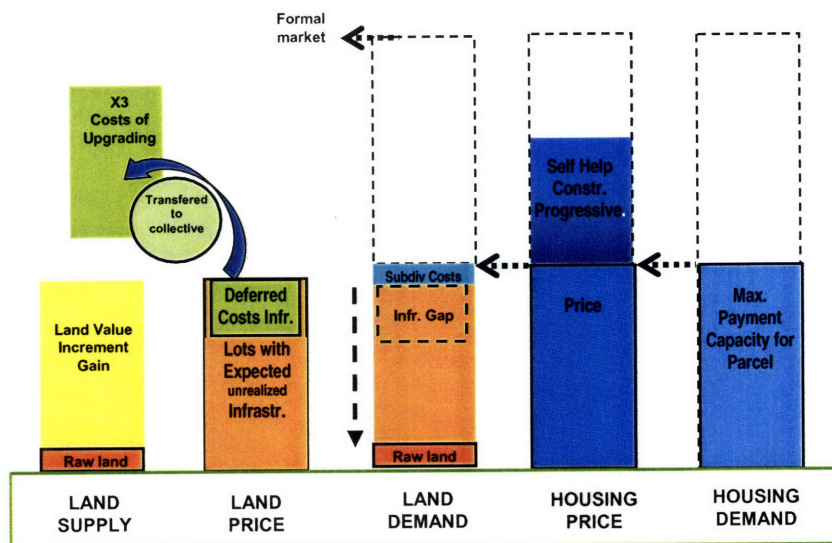
The landowner, often a farmer, will receive the price of raw land and perhaps a small gain, while a “pirate developer” will amass and hold the land, sometimes idle, to subdivide in the near future. This agent gains the value increments from illegally subdividing and commercializing unserviced land, under the dwellers’ expectation that utilities and public amenities will subsequently be furnished, through public investment in future upgrading programs. The expectations are enough to even discourage interest in subsidies for formal social housing which, restrained by costs, have become small, densely packed units lacking the growth and work potential that self constructed homes have in the eyes of many poor families.⁵

Not only does pirate development incorporate the land value increments of expected future public investment, but by selling non-developable land, such as high risk

⁵ Results from surveys done by Bogotá Planning Department and CIDER for Usme Operation. 2003

areas, ecological protection zones, and by leaving no space available for infrastructure or public amenities, it also creates conditions for dwellers that are impossible to restate even through upgrading. In sum, the land value gains for illegal subdividers include an additional premium for expected infrastructure, charging families to a certain extent for benefits that are not realized while transferring to public revenue, the costs of actually constructing the infrastructure. Because the costs of upgrading are three times as much as servicing before the areas are occupied, an administration's incapacity to produce serviced land not only has significant long term social costs, but it substantially diminishes the impacts of its deferred investments.

Graph 2. Land Value Increment – Informal Subdivisions



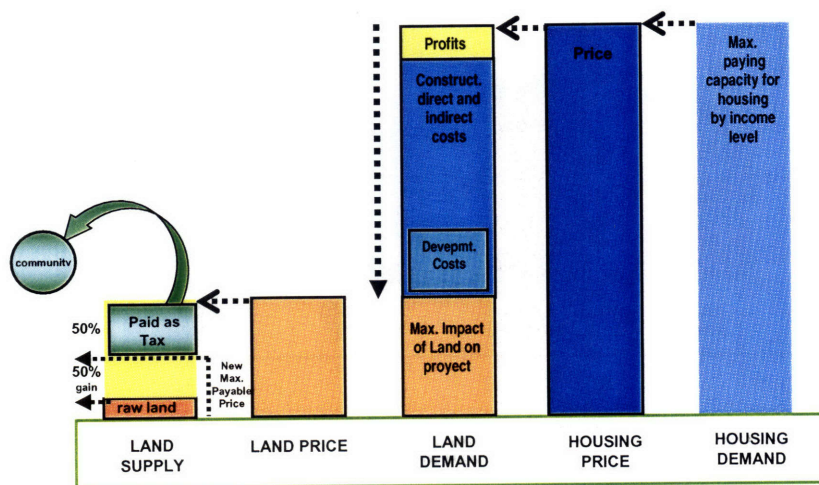
Much more can be said about the rationale that drives self construction and the dynamics of this complex market, which additionally has many local variations. Nevertheless, for the purposes of this chapter, it is enough to recognize the link between the issues of land availability, land value increments and the need for instruments that contribute to both: disincentive market behaviors that deepen exclusion and channel resources back into the development equation.

2.1.2 Land Value Capture Instruments

The increments on land values are in the Ricardian and Georgian sense, *unearned* in the measure they originate in the growth dynamics of society and public actions, and not as a return from productive efforts by those who exercise the privilege of property rights over the areas required for development.⁶ (Smolka, Furtado:2001, Andelson:2000) This position is not necessarily progressive, as both: leftist's redistributive political perspective and neoliberal's economic efficiency perspective have arguments in favor of value capture. Ultimately, because rent is residual, its taxation is found to have no broader economic disincentive effect. Experts in favor of the measure, argue that a portion of it can be levied, or arguably even fully confiscated, with little or no negative impact⁷. (Andelson:2000). *Graph 3*

Graph 3. Taxes on Unearned Increments

Source : Carlos Morales Schechinger 2003



When the increment of land value is taxed, the maximum impact the land component can have on the housing operation, in fact remains constant. The tax only shifts negotiations between landowners and constructors, in the measure that a portion of that component will be excluded from the private transaction in favor of the landowner,

⁶ For Ricardo, because land is a factor of production that is in permanent, inelastic supply, its value is in fact determined by the sum of supramarginal returns, generated by the combined growth of society, not by the enterprise of landowners, and therefore unearned. For George, because these are unearned they are ethically justified to be subject to taxation. (Andelson: 2000, Hagman, Mischynski:1978)

⁷ Henry George fully favored a 100% levy, which was eventually applied in England in 1947 by nationalizing building rights. Others argue that there can be broader economic impacts of these measures. It is perhaps one of the most complex debates raised by initiatives to capture these increments.

for constructors to be able to cover the charge that is due. This is why besides from recovering unearned increments, this tax tends to regulate the market price of land. Once levied, the resources are transferred to the local revenue, where it can either be integrated to the regular budget or be directed to expenditures for specially targeted areas, as a redistributive instrument.

The instruments that different authors include under the rubric of value capture vary greatly. The literature from the 60's and 70's tends to focus on taxes and fees that operate as incentives, as well as revenue sources to execute land policy. The more recent literature, on the other hand, is shifting towards an integrated notion of land value capture instruments that include fiscal as well as regulatory approaches, covering a broad range of land management practices.⁸ This possibly asserts the growing interaction between land policy and fiscal policy, which is also consolidating in urban management practices as a result of generalized decentralization.

Exploring policy tools that channel resources back into the development process has generated new interest amongst contemporary policy makers for their potential as new revenue for public investments and as leverage in negotiations with the private sector to produce additional public goods. Practice across the globe, offers multiple examples of value capture instruments developed to serve specific public interests, such as infrastructure development, land use control, land market regulation and redistribution of the benefits and burdens of urban development⁹. (Smolka and Amborski:2000)

Fiscal instruments include taxes and fees (or user charges). Amongst these some authors include the annual "property tax"¹⁰, while most of the general literature focuses on those that capture more extraordinary increments in land value. For increments attributed to public infrastructure, "special assessments", "impact fees" and "development charges" have been used. On realized or unrealized land value increments, attributable to other factors¹¹, instruments such as the "unearned increment tax" and the

⁸ Smolka and Amborski (2000) and Tone and Maria (2005) Include as alternative value capture instruments Land Banking, Land Readjustment, Density bonuses, Development Rights Transfers, Eminent domain, Land Leasing and other regulatory instruments that build on the notion of channeling created values in favor of land policy objectives. These share the redistribution of urban revenue, as an overarching principle.

⁹ Windfalls for Wipeouts, as Hagman, Misczynski proposed, that would use rents to compensate for the unavoidable planning differentials and burdens that result from planning choices.

¹⁰ It is argued that property tax by imposing a "user charge" on the bundle of public goods financed and provided in a certain location, is in fact a generalized form of land value capture, when the system is sufficiently functional and deep. (Smolka, Amborski:2000)

¹¹ Such as regulations that increase higher and best use, development authorizations of rural land or on exceptional generalized capital gains over determined periods. (Smith:1977)

“betterment levy” have been implemented, though sparsely. (Andelson:2000, Smolka, Amborski: 2000, Smith:1977, Hagman, Misczynski:1978)

Regulatory types of value capture instruments channel back to the public sector the added values resulting from new urban regulations, in multiple ways. They include forms of exactions, contributions in land and exchanges with development rights. The most common are forms of “in kind” payments, such as land for parks and amenities or negotiated infrastructure improvements. In more complex systems the public sector acquires a “share” in the increased values, which can entitle it to part of the developed land.¹² The use development rights as an exchange currency to finance public goods or as an incentive to promote shifts in development trends and land use patterns, are an evolution of how these values can be channeled.¹³ (Torne, Maria:2005, Smolka, Amborski:2000)

Event though the guiding principles are essentially the same, the determining factors for these instruments’ political feasibility are the differences between the way they operate (in planning systems or fiscal systems), the policy arenas they emerge from (governance, land policy, development policy), and the policy agendas they are meant to address (redistribution, local finances, local entrepreneurial management).

2.1.3 Value Capture on the Policy Agenda

Because land value increments represent important socially created value, it makes sense that once they are recouped by the state they should serve public interests optimally. However the different ways value capture can be addressed and the potential impacts each measure has, make some specific instruments more effective than others to support complementary policies. The literature has examples of alternate designs that can make these instruments simultaneously effective as fiscal tools, redistributive policy tools, land management assets and land market policy tools.

¹² In Spain for instance, 15% of the serviced land is required by law to be given to the municipality as its share of the operation. These fully serviced parcels, are “free” land obtained by the public sector, out of every project approved, that can be used for social housing or public amenities.

¹³ For example, added benefits to increase less profitable uses such as affordable housing, or to promote economic clusters.

Fiscal and Redistributive Policies

Value capture through taxes, fees and charges, such as the Special Assessment and the Betterment Levy or Unearned Increment Tax reviewed in detail ahead, can effectively serve different governance strategies: i) enhancing local revenue and autonomy, ii) financing infrastructure and promoting development, iii) social redistribution. (Furtado:1997) The revenue may become an additional stream of resources integrated into periodical taxes or a complementary source associated directly to benefits, such as infrastructure construction, as a one time charge. Likewise, if the financial resources are earmarked for specific purposes such as social investment, or transferred to areas that have special needs, such as informal settlements, the effect can also be redistributive.

Land Market and Land Management Policies

Urban land market policy, in a nutshell, aims to: i) facilitate urban planning: by seeking efficiency in government services and making decisions about large scale changes, protecting amenities, coordinating long term investment, as well as redistributing welfare, ii) support land assembly, iii) reduce land and property price inflation: pursuing wealth redistribution, the reduction of public authority costs, controlling inflation, as well as avoiding unduly high density; and, iv) to enable the community to share in the benefits from development. (Neutze:1973)

Taxes and regulations can be intentionally created to regulate land markets, in order to prevent its rationale from caving out the policy objectives mentioned above. Taxes on unearned increments, as it has been discussed, will tend to reduce land prices and transfer part of created value back into the development cycle through public investment of the captured resources.

Furthermore, when land policy instruments such as land readjustment plans are in place, the combined effect of value capture with ancillary tools such as reference assessments¹⁴ and project announcements¹⁵, contributes to control land prices, with two benefits: setting non-speculative prices for public acquisitions and establishing the baseline for payments in-kind to obtain through the tax, the land for infrastructure and ecological protection. In brief, as negotiated approaches and public-private partnerships

¹⁴ A land price set by assessing market values before expectations of greater development are incorporated.

¹⁵ A formal announcement of a public project, to set reference prices before the expected investment drives the land prices up.

consolidate in urban management practice, the technical possibilities for value capture instruments are expanding.

Making it Past the Policy Agenda – The Challenge

Policy agendas evolve both as a result of pressing local issues and, in developing countries especially, in response to policy directives and goals set in the global political arenas. Today on that agenda, the issues of governance and habitat for the urban poor, head the priority list. As issues are framed through political arguments, proposed solutions to problems will often have strong ideological content while, at other times, only strong ideological rhetoric. (Stone:2001) Therefore, the choice of policy tools and their content will tend to reflect the political economy that will frame subsequent actions. This explains why this research has particular interest in exploring the arguments that have justified the use of each of the value capture tools it studies in Colombia, and how the actual shape they have taken on the ground, relates to those arguments.

Both the political rhetoric and ethical motivations behind capturing unearned increments in land value can be diminished or lost in their practical application. (Furtado:1997) In policy arenas in Latin America while value capture has been a recurrent policy issue, its implementation has often been deferred on account of its political and technical difficulties. (Furtado, Smolka:2001) However, when it has successfully made it through the policy agendas, the specific design and implementation of the instruments has often hollowed out their expected impacts.¹⁶

The relevance of value capture instruments in the policy agenda in Colombia emerged from at least two motivations: First, because the instruments potentially generated a complement to local revenues required to meet pressing infrastructure gaps. Second, because amongst them, there are policy tools that promise to deal with some core factors that restrict access to land; hence to address the challenges of housing for the urban poor, as well as the phenomena which promote extensive informal settlement of the urban periphery. (Giraldo:1989, Maldonado:2006, Vejarano:2007) What is striking about the Colombian experience is that value capture as a policy issue has made it past

¹⁶ There are several examples. In Brazil some urban operations have created enormous values, yet they have been used to finance infrastructure that essentially benefits the richer areas of the city. In Colombia the use of Special Assessment, was in one occasion found to be used as a way to drive a poor community from a prime location.

the policy agenda and has entered the working agenda, where the spotlight shifts from rhetoric to performance.

How can value capture instruments work towards the stated objectives?

The chapters ahead on the Colombian experience with “*Contribución por Valorización*” (Special Assessment), and “*Participación en Plusvalías*” (Participation in Land Value Increments), focus on the challenges of implementing such initiatives and describe the specific conditions that have favored their introduction and shaped their local institutionalization. When it comes to value capture: *how you do it*, seems to make all the difference.

2.2 Value Capture’s Application

The experience with value capture in Colombia is broadly recognized as noteworthy. This research captures, through the analysis of the context and evolution of two value capture instruments, the contrast between a simple, pragmatic approach to value capture as a revenue source, and a more complex, integrated approach as a land policy and redistributive tool.

Nevertheless, it is important to recognize that the use of value capture instruments is not in itself a Colombian innovation. The literature broadly documents its use around the world. The UK’s experience with a controversial 100% land value increment tax in 1947, as well as with capital gains and betterment taxation has been influential. That tradition inspired other versions of taxes and fees in Canada, Australia and New Zealand, none of which have endured. (Neutze:1973, Hagman, Misczynski:1978) The US experience, on the other hand, has been recognized for developing market-approach systems for fees and regulatory value capture instruments such as Special Assessment, Impact Fees, Special Business Districts, and the Transfer of Development Rights. (Smolka, Amborsky:2000, Hagman, Misczynski:1978)

In the Latin American context, despite the fact that legislation abounds, the implementation of value capture instruments in general, has faltered. (Furtado:2000) Several explanations have been given for it: first, that value capture has not been acknowledged nor actively endorsed as a policy issue; second, that the existing legislation is often difficult to enforce or to translate into practice; third, that the concept

faces ideological and political resistance from interest groups; and finally, that it is narrowly understood and requires broader awareness and technical capacity. (Smolka, Furtado:2001)

Clearly, Latin American society has yet to develop a broader awareness of the significance of redefining as a public asset the market value of public monopoly over the allocation of land use rights and infrastructure initiatives, to place “over the table” social value which has been historically the currency of discrete transactions for private and political benefit.

In contrast with the rest of the region, the long Colombian experience with “*Contribución por Valorización*”, despite some shortcomings, is recognized by international scholars as unique, for its relative continuity and significant role in local infrastructure development. (Smolka, Furtado:2001, Furtado:2000, Doebele:1998) Its virtues as an effective alternate source of revenue have fostered its persistence as a policy tool, with the advantage that conceptually it has easily linked to the dominating issues of the governance policy agenda over the last decades: modernization, decentralization, cost recovery, local competitiveness and entrepreneurial urban management, each of which has deeply influenced political rhetoric and policy priorities.

The institutional arrangements and technical capacity that have become established as a result of the ongoing use of “*Contribución por Valorización*” (Special Assessment) in Colombia have become important assets for further innovative practices. (Furtado:2000) Not surprisingly, perhaps against the odds, “*Participación en Plusvalías*” (Participation in Land Value Increments), a more progressive form of value capture, has not only successfully been adopted through national legislation, but has, in Bogotá for example, made it through the local political arena in 2003 and moves forward in its implementation today.

2.3 Roots of *Contribución por Valorización* and *Participación en Plusvalías*

Redistributing the increments in land value in its broader sense has been integrated to planning practice in Colombia, through more traditional regulatory forms of capture such as exactions and cessions. The use “*Contribución de Valorización*” a form of special assessment, however, is a singular experience of fiscal value capture that has

a long tradition, and recently “*Participación en Plusvalías*”, a form of the betterment levy has also been introduced.

This section lays out the general background for the reader to understand the following chapters, which discuss these two instruments as policy items in depth. Each instrument is broadly outlined, referenced to its international models and then explained in its local form. A brief description of each procedure illustrates the major components of each process and the tasks involved, also giving a sense of the institutional demands and technical requirements for implementing both tools.

2.3.1 Special Assessment

“*Contribución de Valorización*” has its roots in Special Assessment. This specialized betterment levy was devised to finance all or part of the costs of a public improvement, by capturing the land value gain that results from it. It is considered “special” because it is related to a project that benefits a particular area. The levy is determined and apportioned between the benefited parcels according to one of two premises: at-no-more-than-cost when it is seen as a user charge for those who benefit from a specific project, or as a charge to recapture the increase in land value generated by the project. (Hagman and Mischynski:1978)

As in practice, despite its historical and broad use, it has been very difficult to measure the isolated benefits of infrastructure on land value, it has been generally accepted that devising a rule-of-thumb based on “front and footage” is a fair way to determine how a charge at-no-more-than-cost can be proportionally distributed amongst parcels inside a benefit zone.¹⁷ (Hagman and Mischynski:1978)

It has been argued that by only capturing a portion of the increment in land value generated by a public project, SA operates more as a user charge than a value capture instrument. Nonetheless, its value to local governments as a revenue source for local infrastructure makes that apparent loss a reasonable tradeoff that has clear practical advantages in return. In parallel, when it is capped by cost, the charge’s association to

¹⁷ Ad Valorem or distribution in proportion to property value is an alternative, as well as assessments for value change, however both present problems, as benefits are not reflected by current property values – only perhaps representing paying capacity; and the uncertainty or time span for change in value to actually occur represents an important political drawback for the second.

tangible benefits seems to work as a factor that increases general tolerance to certain degrees of inaccuracy in its calculation. (Hagman and Misczynski:1978)

In the US special assessments were implemented through a system of bonds that operated as a source of credit for local expenditure, while one time charges have proven to be a practical option, particularly for smaller projects. New forms of voluntary taxing for specific projects have been emerging. Business Improvement Districts for instance are an example of organized, private initiative charges, to complement or supplement public amenities, landscaping and other improvements the city cannot afford to provide, in specific areas.

Hagman & Misczynski's comprehensive study of value capture instruments done in the 70's, points out that the use of SA in the US for neighborhood projects and small infrastructure had been until then shortsighted because the instrument's potential for large public works, in particular transport systems, remained untapped. Today this is a reemerging debate.

Special Assessment in Colombia

The Colombian adaptation of SA has evolved from these references and has been adapted to local needs in terms of scale, charge criteria and forms of payment. In contrast with the US, its use has focused on large infrastructure programs, even though a modality for small neighborhood initiative projects also exists.

Since its introduction in the 20's, until today many legislative variations have been made responding to specific implementation challenges. As it has progressed, SA's practice in Colombia has actually overcome some of the limits the literature finds in its original references, for instance it can potentially recoup for the local level the value increments from projects financed by any other level of government. Additionally, it has included the possibility of distributing charges over the city as a whole as a "general benefit", making it potentially useful to finance major strategic investments.

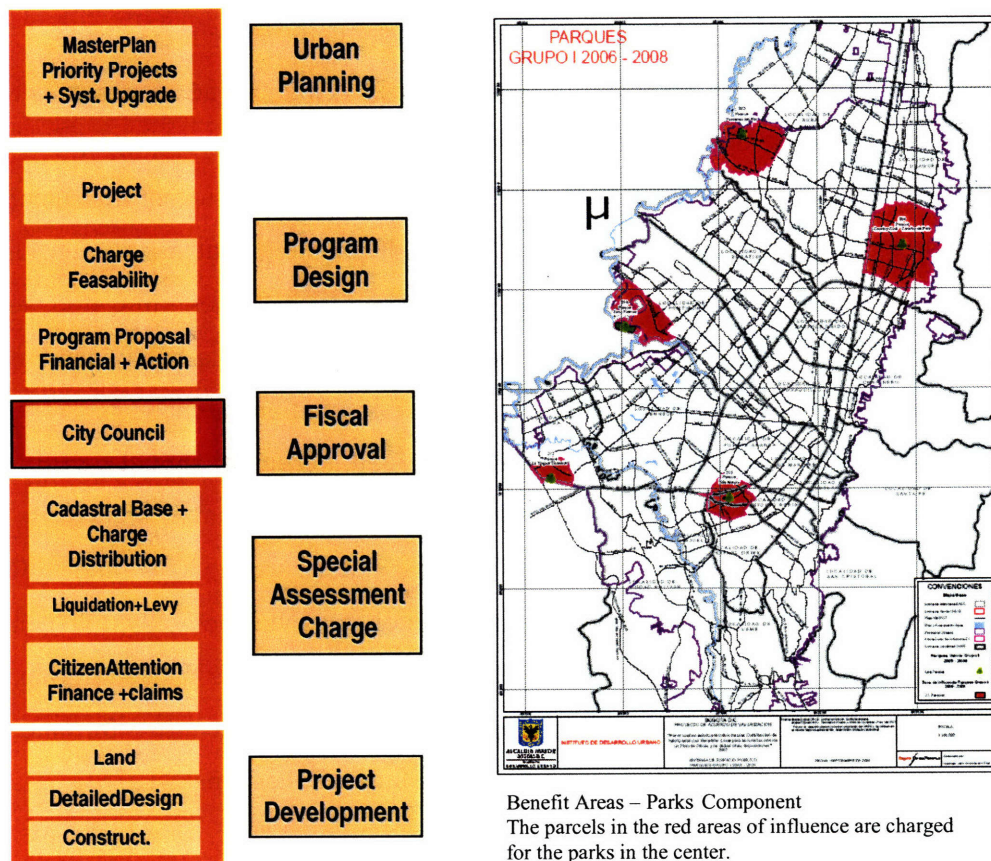
Finally, perhaps in response to restricted local finance and institutional capacity, SA in Colombia has remained a one time charge, collected generally before the projects are initiated. This approach differs from the bond emissions developed in the US reference. It fully charges beneficiaries and minimizes payment span, to overcome the absence of other sources of capital by quickly pooling the upfront resources required to jumpstart the programs.

What it looks like

Local governments in Colombia under the guidelines of the national laws, developed several variations of Special Assessment. While the next chapter reviews the general evolution and its implementation as a policy tool, *Graph 4*, illustrates the overall process, as it works in Bogotá today.

Three institutional features are worth highlighting about the process: i) the four distinct stages: program design and proposal, submittal to City Council, liquidation and levy, as well as project development are headed by a single agency; ii) the levy is individually calculated, charged and billed to each parcel and subject to claims and; iii) the agency is accountable for complying with the projects specifically determined by the program, all adjustments subject to City Council approval.

Graph 4 – Special Assessment – *Contribución por Valorización* Program in Bogotá



As the practice of SA has evolved, it has become common practice to prepare plans for mayors to finance their administration's main road infrastructure, parks and public space works that are presented to City Council for approval during the first third of their period. Recently, for the first time a 10 year plan was approved, which will span several administrations. This plan ratifies the instrument's growing importance to long term planning and its strong roots as a governance tool in Bogotá.

2.3.2 Betterment Levies

"Participación en Plusvalías" translated for this research as Participation in Land Value Increments (PLVI), has its roots in betterment levies and unearned increment taxes. These instruments focus on capturing land value increments that can be specifically attributed to public decisions, such as regulations; while some also include actions, such as investments in infrastructure. The levy is determined by comparing the land values before the effects of intended public decisions are reflected in the market with the new potential values that are created by the enhanced development possibilities new regulations authorize, or the effects on relative location investments have.

The justification for considering land value increments due to public activity, as an unearned gain by landowners, has been already briefly discussed. Attempts to capture them have varied in terms of the portion of the increment the different instruments have been tailored to recoup, the moments and forms of payment that have been chosen to levy the tax, as well as the way the recaptured resources have been invested, related to the policies that have been pursued. The impacts of the tax on the behavior of economic agents in land markets make it an indirect land price regulation mechanism.

Henry George proposed 100% of this unearned increment should be taxed in due fairness, while the experiences in England and Australia have shown its limited feasibility. Since then, betterment levies have ranged between 30 % and 80% of the increment. In such an arrangement, the landowner receives not only full commercial price for the raw land, but a part of the unearned increment as a capital gain. On the other hand, these tax rates are said to be neither inhibiting the incentive for land to enter the market; nor including the effects of inflation. (Hagman,Misczynski:1978)

Capturing unearned increments as a practice has been historically persistent in England, where it was first introduced in 1909 as “Betterment Recapture”¹⁸. Since then and until 1974 several variations were enacted including: the 1947 nationalization of development rights¹⁹, the 1967 Land Commission Act’s “Betterment Levy”²⁰, which evolved into the 1974 Capital and Development Gains Taxes. (Hagman, Misczynski:1978) These experiences had a strong influence in Australia, New Zealand and Canada where local versions were implemented and later on, also replaced by a combination of other taxes and fees.

From this trajectory, it is obvious that the issues associated with capturing land value increments have been politically contentious throughout. However, the persistence of the associated issues in policy agendas, has led to multiple variations of the mechanism that can be studied further, as a source of insight to anticipate implementation problems in similar attempts.

Both the impact of politics on the policy and the uncertainty about the expected impacts on the broader economy from taxing such gains, have been persistent issues common to the various experiences. In the case of England, these levies were introduced by the Labour Governments and systematically repealed by the Conservative Governments. This political instability turned out to be the strongest factor to disincentive compliance and make the land market behave in a way that made the policy unworkable. (Hagman, Misczynski:1978)

Participation in Land Value Increments in Colombia

The Colombian variation of the unearned increment tax, PLVI aims to recoup between 30% and 50% of the gains created by land use, building rights allocation and public investments in infrastructure. Its legislative evolution has elevated participating in

¹⁸ Betterment Recapture was conceived as a windfall- wipeout + mechanism for planning schemes. Amongst some of the problems it presented are : that being an optional rather than a mandatory local tax made it vulnerable to resistance; statutory conditionings distinguishing the plans from other factors of increment such as actual works and inflation made it difficult to assess; and the restricted impact on capture that using as a reference value the date of operation and not preparation of the plans. It was criticized for having a disincentive effect on making land available on the market, so it was finally considered unworkable and replaced by the new measures in 1947 Town and Country Act. (Hagman,Misczynski:1978)

¹⁹ The 1947 Town and Country Planning Act, levied 100% of the increments as part of the permitting process. It was severely criticized for removing all incentives to put land on the market. (Hagman,Misczynski:1978)

²⁰ The 1967 Land Commission Act created a 50% Betterment Levy for state land acquisition and banking to avoid land holding; nonetheless the Commission’s assessment functions were costly, complex and the revenue produced was modest. (Hagman,Misczynski:1978. Lowenberg:1974)

these gains, to a constitutionally recognized collective right, making its implementation at the local level a mandate. In addition to that political achievement, PLVI has been fully regulated by national legislation and integrated to the municipal planning system; this binds local governments somewhat but also shields the mechanism from potential political resistance, that would tend to defer or distort its implementation.

In contrast to its counterpart in England, PLVI is a local revenue. Even though the available literature does not evaluate how it relates to other taxes, local debates are a good clue to infer that in the Colombian context it taps into a source of revenue that has been previously unexplored. Nonetheless, it is clearly more valued as a land policy tool than strictly as a revenue source, especially because in contrast with other versions of the instrument, it has not been designed to provide a periodical revenue stream. PLVI has instead been established as a one time tax, associated with the effective use of new development potentials through licencing.

Its close relation to the planning system in Colombia, as a part of a broader system of distribution of benefits and burdens, resembles the English 1909 Betterment Recapture. PLVI has however, overcome several of the original version's shortcomings by: rationalizing its rate of capture to avoid landholding, generating the charge as a prerequisite for permit, establishing a lien as a payment warrant and being mandatory for local governments to impose.

For local public authorities in Colombia, implementing this instrument represents an enormous challenge, not only because the specialized requirements needed for its basic application, including detailed parcel information, highly skilled human resources and technical support systems are expensive and difficult to coordinate; but because politically, like its precedents, capturing unearned increments in Colombia has been a contentious, difficult issue on the agenda.

What it looks like

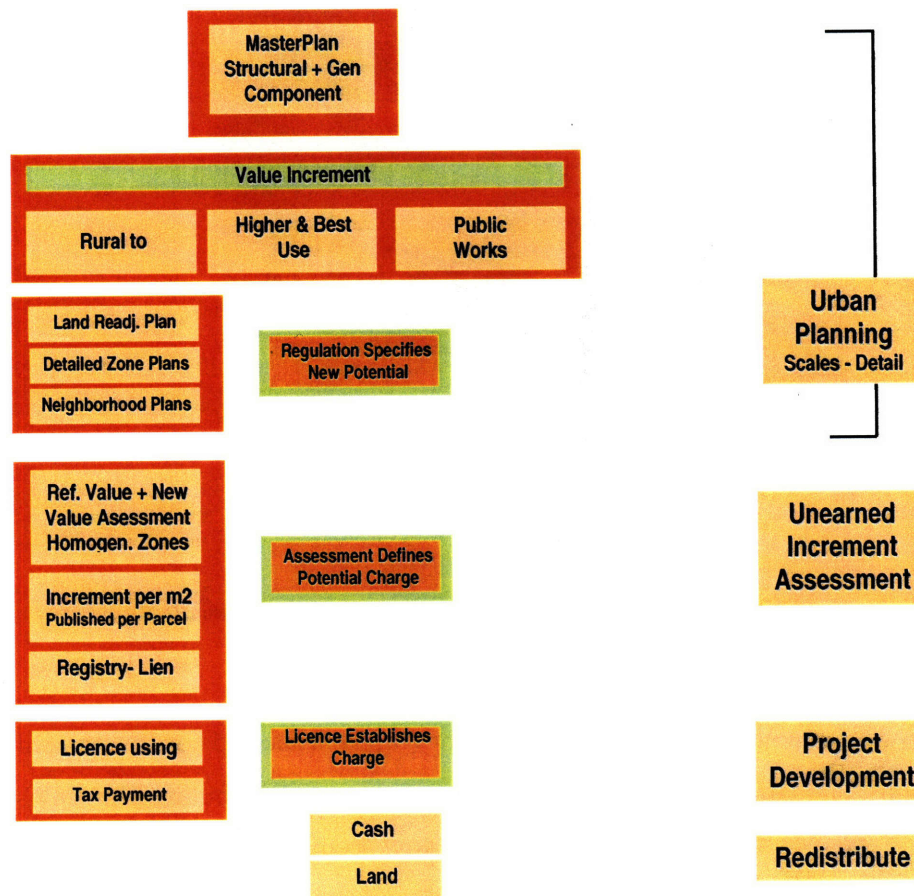
National legislation on PLVI is very detailed and binding. This is broadly criticized as it restricts adjustments that normally result from lessons in practice. Nonetheless, it is also a mechanism to protect the instrument from losing its intended effect by local variations in its shape.

There are however, several elements that can be adjusted to local policy: one is the rate, which in Bogotá for instance was introduced incrementally from 30% to 50% as

a transition measure. Another is the definition of exceptions. Congress introduced the initiative of exceptions for affordable housing projects in the law, it was introduced perhaps by misunderstanding because in fact such an exception would make the land market that precisely needs most control, the source of the largest windfalls. Finally, the determination of the generating causes for the revenue is also open to local choice. Bogotá, for instance excluded infrastructure projects as a cause, for tactical reasons that will be discussed later.

The key stages of the process involve different expertise and have been assigned by law to separate agencies: the city planning agency responsible for regulations and the liquidation process, the Cadastre in charge of assessments and parcel data bases, and the revenue agency responsible for collecting and administrating the payments. (Salgado et al:2007)

Graph 5. Participation in Land Value Increments – *Participación en Plusvalía* Bogotá



PLVI involves four separate moments: planning and regulation; assessments and liquidation; licensing and levy; and redistribution. The process begins by identifying the areas where new planning regulations potentially create land value increments and their assessment. The potential increment is established by the Cadastre, who compares it to an initial assessment based on the highest and best use the previous regulation allowed. These values determine the increment per m² for homogeneous zones that is in turn applied to the individual parcels. The tax is only subject to payment as a prerequisite for issuing the permit to use the new building-development rights. Because the charges can be paid both in cash, or in-kind, PLVI is also a potential source of land for public amenities.

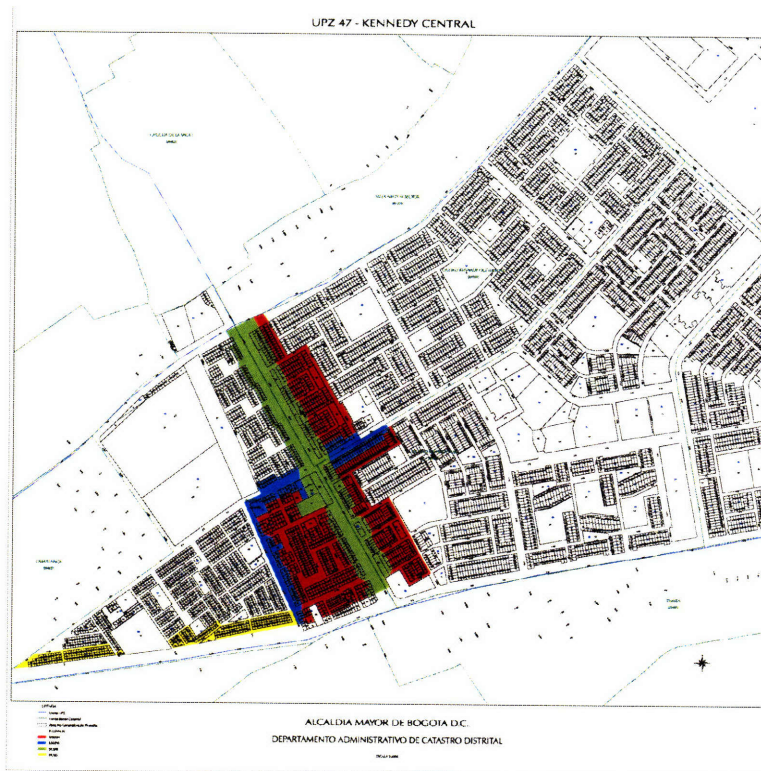


FIGURE 1 . Example of a regulatory map indicating by homogeneous areas the potential value increments. Source Secretaría Distrital de Planeación Bogotá. UPZ Kennedy – Neighborhood Plan

When the revenue agency receives payments, they are earmarked for investment in upgrading programs and affordable housing programs, thus redistributing the gains from economically dynamic areas to lagging areas that require substantial public investment.

2.3.3 Clarifying Special Assessment and Participation in Land Value Increments

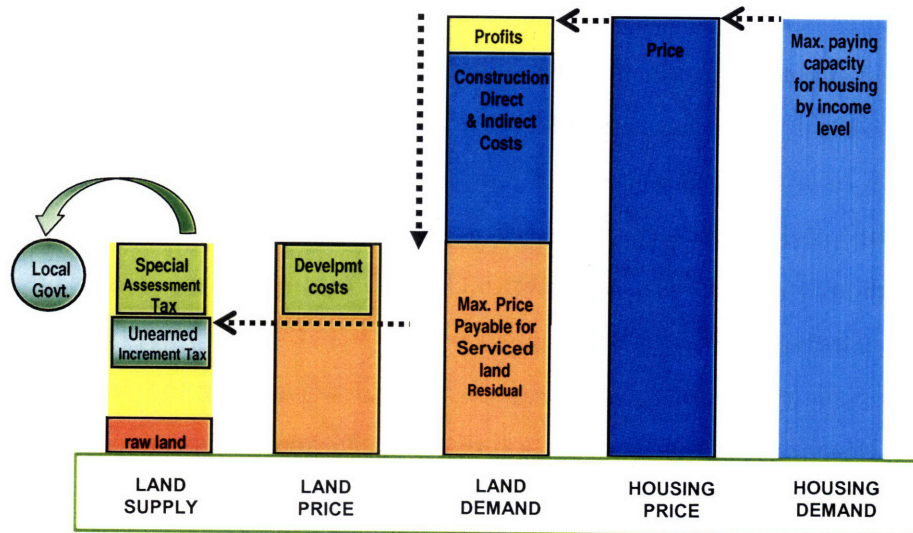
Even though the conceptual origins of Special Assessment (SA) and Participation in Land Value Increments (PLVI) in Colombia are similar, the following chapters review in depth and highlight many significant differences between them, in particular the different uses and policy issues they are meant to address. However, to close this section where we have broadly reviewed the processes that each involves and the relationship each charge has with land values, it is important to clarify a common misunderstanding about a possible overlap between SA and PLVI.

PLVI legislation contemplates the possibility of recapturing the gains from public infrastructure beyond project costs. This raises curiosity about a possible replacement of Special Assessment. Nevertheless, Graph no.5 illustrates that SA would only charge servicing costs that are separate from the unearned increments generated by new regulations on unserviced land. This is why according to Morales, the two can be used simultaneously, when investments on infrastructure have not been covered by constructors, without overlapping.

From a strategic perspective, having the flexibility to use SA individually or in combination with PLVI, is a good political option. Bogotá for example, has chosen not to include public infrastructure as a generating cause for PLVI. The decision acknowledges SA's importance as a well consolidated instrument and its special revenue raising capacity. Moreover, it recognizes the advantages of integrating planning regulations to new major infrastructure initiatives (transport corridors for example), where clearer assessments can be made to tax the enhanced building rights and land use changes; rather than facing the difficulties of attempting to isolate the effects of the new infrastructure on the price of land.

Graph 6. Special Assessment and PLVI Taxes

Source : Carlos Morales Schechinger 2003



SA is clearly an instrument that is highly valued and effective, while PLVI is only in its early implementation stages and still struggling through many uncertainties. Granted SA cannot fully capture unearned increments from new infrastructure, recognizing the limited capacity to attempt to fully capture these increments through PLVI at present, is critical. While it is also important to consider that having both instruments available to meet the specific requirements of different types of interventions, is not only necessary but crucial, considering the different political and financial advantages each instrument can offer.

2.4 Land in the Policy Agenda

Recognizing the links between the behavior of agents in the land market and the issues of affordable housing, informal settlements, infrastructure development and local finance is critical to understand why value capture is a policy tool of special interest to policy makers in Latin America. Land is at the core of these debates and addressing it as a policy issue, is a central item of local governance.

This research centers on two value capture instruments in Colombia: Special Assessment and Participation in Land Value Increments. By exploring their roots, it is clear that each has been chosen to address specific policy issues: the first, infrastructure

development; the second, land policy and redistribution. Compared to their historical references, both local instruments show significant adaptations that are important to understand their present relevance to their specific context. In their current shape, it is important however to distinguish them from their historical references, by the way they are also linked to the contemporary vision of local urban governance and planning.

The Colombian planning system empowers Local governments to disincentive market behaviors that deepen exclusion and to channel resources back into the development equation, by encouraging the use of value capture as a policy tool. The historical references show that around the world, making value capture instruments work and sustaining their continuity has been a great challenge. These references useful to raise questions about the limited success and political resistance most forms of “deep” value capture have faced, as well as to understand the alternate directions that have been taken to deal with these issues.

Further research to learn from the experiences in England, Australia and New Zealand in particular, can be an important source of insight about implementation that might be useful to further evaluate the challenges the Colombian experience with PLVI might be facing ahead, as well as a reference to debate alternative paths.

The following two chapters explore the history of the emergence and process of development of SA and PLVI in Colombia, from policy initiatives to implemented tools. The research has focused on identifying circumstances and strategies that have favored the consolidation of SA, as well as on developing a nuanced understanding of the two instruments, that will temper their comparison and yield policy lessons for PLVI.

3

Valorización :

The Practices and Institutions for a Policy Leap

Allocating the cost of public works to benefited property, as a concept, can be traced back to the Roman Digest of the 6th Century (Doebele et al:1979). Thus, the idea behind “*Contribución de Valorización*”²¹ the Colombian version of Special Assessment (SA), is certainly not new. The Colombian experience with this charge, however is special and broadly recognized, because it has played a key role leveraging the resources that largely financed the countries’ urbanization and building the necessary local capacity to meet infrastructure production demands. SA in Colombia has evolved and developed into a practice that has redefined local infrastructure development into an integrated planning, political and production, self financed cycle.

Analyzing SA within its policy arena and understanding its role as a policy issue is useful to frame the relationship between its technical developments and its institutional arrangements, with its sustainability on the political agenda. This analysis suggests that responsiveness and adaptation have played a central role in SA’s process of evolution and consolidation. While a persistent tension between short term performance and long term sustainability, has promoted management practices that have built SA to perform, learn and improve itself fully acknowledging its political environment.

SA can be considered a successful policy instrument, not because it is infallible, but because it has become a strong local *institution*²². Its trajectory as a value capture instrument in Colombia, is considered the precedent that has institutionally “paved the road” for Participation in Land Value Capture (PLVI). Understanding the history behind

²¹ Different scholars have used different terms to translate this term to English : Rhoads calls it Benefit taxation, Doebele calls it Participation of Beneficiaries in financing urban services, Ortiz calls it Valorization Charges. By definition, Hagman, Mischyski amongst Value Capture Instruments it is considered Special Assessment.

²² Grindle includes in her definition of “Institution” the political structure, debate arenas, power dynamics, political and organizational cultures, the written and unwritten rules and procedures, and bundles them into the notion of “rules of the game”.

SA's development and consolidation, can be a source of insight to assess the challenges of implementation and the organizational demands faced by PLVI.

This chapter first explores the general notion of SA and its specificities in Colombia, and then sets the historical, legal, political background that serves as a context to understand the environment in which SA emerges, persists and has been evolving in. Finally it reviews how the tool has been molded by its implementers, to respond to the political and institutional challenges it has faced along the way.

3.1 Special Assessment Practice: Spillovers and Debates

SA has had an important history in Colombia. International literature as early as the 60's recognized its extensive practice in the country as a remarkable experience, and found its use as a mechanism to cope with the rising infrastructure demands of rapid urbanization, unique amongst developing nations. (Rhoads, Bird:1967, Doebele:1979) Since its introduction in the early 20's, SA has had a relatively uninterrupted use. Despite some periods of decline it has progressively consolidated in large and intermediate cities, into a well established institutional practice. Today, for many local governments it has become a critical revenue source to finance infrastructure, especially intermediate and city wide arterial road networks, but also public space and park systems that are highly valued by citizens.

Charging beneficiaries for building roads and bridges was introduced in the colonies, by both England and Spain in the 17th Century. Therefore paying charges for benefits is not an alien culture to North nor South America. It was however, developed into its modern versions in Europe and the United States as "Special Assessments" and "Betterment Charges".(Rhoads, Bird:1967) These levies on land are charged to finance all or part of the costs of public infrastructure development. In the United States, SA played a major role financing infrastructure during the 20th Century until the Great Depression, when its use declined. (Lowenberg:1974, Sherper et al:2000).

In theory, SA is a value capture mechanism because it recoups part of the increased property values from the improvements that are introduced by specific public constructions. Whereas the value accrued is not equal to all property in the community, the charges are apportioned according to the relative benefit specific parcels are expected to experience, without exceeding in total the costs of the particular project.

(Lowenberg:1974,Hagman,Misczynski:1978) In its broader application, however, a salient issue is determining whether the appropriate base for collecting it should be the value added to the land, or the cost of providing service to each parcel. As a recapture instrument, since the charge does not normally exceed project costs, SA has in fact limited effectiveness; nevertheless, since the effect of a public investment on land value is difficult to isolate completely, and therefore debatable, such a pragmatic approach to cap the tax has also been considered one of its virtues.

Special Assessment has been strongly shaped by pragmatism. Its potential role as an effective revenue source for local infrastructure has influenced the tendency to emphasize its features as a mechanism to charge for benefits, rather than an instrument to capture the full increase in land value generated by public infrastructure. Some authors find that this approach hollows out its sense as a value capture instrument, while others praise its effectiveness.

However, in Colombia, SA has been a practice that can be additionally valued as process of institution building. This feature is very significant in terms of the relationship this research has established between SA and PLVI for policy learning, therefore it is presented at the outset as a frame that qualifies understanding SA's evolution beyond its operative dimensions.

3.1.1 Fiscal Culture and Trust Building

The long term use of SA in Colombia can be interpreted in many ways. From a fiscal perspective, the literature suggests that the use of value capture as a coping mechanism, that supplements rather than complement efficient property tax collection is a common smokescreen in Latin America to evade more structural fiscal reforms²³. (Ortiz:1999,Smolka,Amborski:2000) A prospective, more optimist view, however can consider that within that political reality, SA's evolution can be considered a factor of incremental cultural transformation that might favor such reforms in Colombia.

In Bogotá for example, SA programs have been a significant element of the general transformation that began with the administrative and fiscal reforms of 1993, which changed the face of the city during the last decade and a half. The SA practice

²³ Smolka and Ambroski argue for example that property taxes in Latin America are rarely above 1%, over assessments that are rarely above 70% of their market value, while in North America they range between 3 and 4% over a well assessed updated value.

notion has evolved from the original concept of administrating a charge, into self financing integrated infrastructure programs. These programs are now consolidated both technically and politically as a broadly accepted approach to address the challenges of chronic infrastructure lags, without absorbing the general revenues required to meet ever increasing demands for social spending. The physical changes have had an important demonstrative effect, which has been found to increase citizens' concern about public investments and their willingness to pay, not only for SA, but for property taxes.²⁴

The public's acceptance of the charges has been largely influenced by local government's evident incapacity to otherwise finance the enormous infrastructure gaps within the existing fabric. Furthermore, there is an intuitive correlation between projected physical improvements and expected associated benefits, including enhanced property value, that are generally *perceived* to be higher than the impact of the tax.²⁵ These factors have contributed to maintain, despite the broader assessment issues discussed before, a general tolerance - if not positive view, associated with SA programs. (Rhoads, Bird: 1967) This tolerance, in the long run has created the opportunity for broader positive impacts.

SA's highly visible outputs and management practices, discussed in depth ahead from the perspective of performance, have had the positive effect of building trust and strengthening the mechanisms for citizens to make local authorities accountable for the responsible use of public revenue. Moreover, tangible benefits have increased the social agreement to comply²⁶.

SA's approval through City Council, has slowly become an important forum to debate more broadly the way public investment is prioritized. In Bogotá for instance, intensive media coverage of infrastructure projects, clearly reflects the political impact of public concern over SA programs and other public investments. Political oversight has fostered, alongside other governance policies, greater discipline and political accountability over project budgeting, management and performance. These are political

²⁴ During Mayor Mockus's administration studies and programs to strengthen fiscal culture emphasized this relationship between trust and visible performance.

²⁵ Some depreciation has been an issue that has not been dealt with. The wipeouts from planning decisions are an issue that is difficult to address and that lead to some legal debates that are not within the scope of this study. Generally speaking, large infrastructure projects are bound to the debate between the broader public interests and the impacts on individuals and specific groups.

²⁶ The culture of informality in Latin America, has been explained as a voluntary exit from a system that does not deliver. A "dysfunctional social contract" between the state and citizens, where individually and collectively the perceived ineffectiveness of the state fosters unwillingness to comply with taxes and other regulations, hence creating social norms that tolerate it. (Saavedra:2007)

dimensions of democratic institution building that are also significant positive spillovers promoted by evolving SA practice.

3.1.2 Ups and Downs

These positive views of the broader impacts of SA do not mean to overlook the sharp variations it has experienced in its relative use, public perception and performance. Nor to ignore critiques that have been made by economic analysts of the impacts political criteria have had on the technical accuracy of SA throughout its trajectory. (Doebele et al:1979, Sherper et al:1999, Ortiz:1993)

Political Impacts of Performance

The literature that analyses the variances in the use of SA along its trajectory, presents it as a shortcoming. Nonetheless, another view of the same literature provides good evidence that both political and management issues are central factors that have explained the contrasts in SA's performance at its different stages of consolidation. SA's high participation as a percentage of local revenues nationwide during its peak period in the late 60's, compared to its period of decline between the mid 80's and the early 90's, confirm that failure to perform and its negative impact on public perception can determine SA's political downfall²⁷. The operative failures, cost overruns and inefficient collection, that created serious deficits in local finances, pushed SA in a downward spiral that resulted in almost complete loss of its political feasibility at its moment of worst decline.

The fact that Medellín, Bogotá and Cali, each display different behaviors within the same periods, however, reinforces the notion that local finances, politics and institutional capacity are factors that determine SA's specific performance as well as political interest and feasibility.

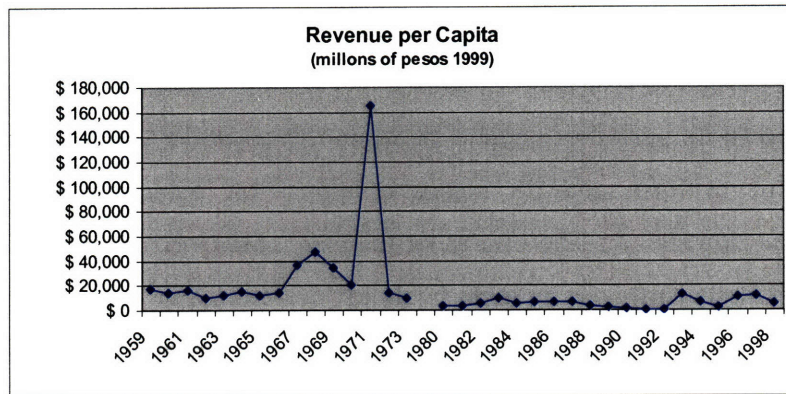
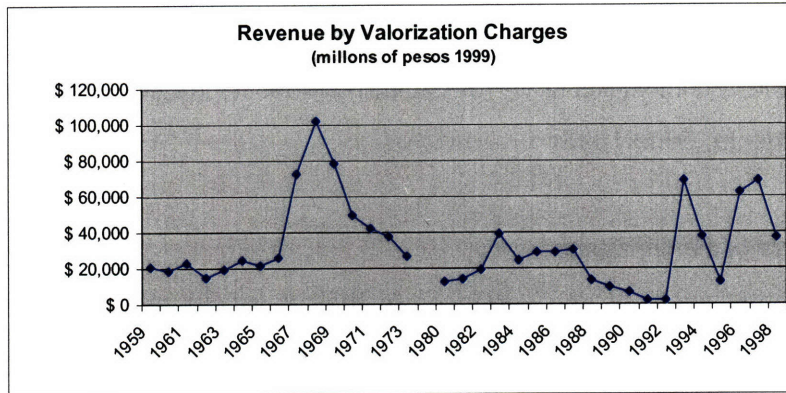
The literature has not yet characterized the renewed interest in SA since 1993, particularly in Bogotá, as a new phase in its evolution. One could say a period of "revival" has been building up, at least in the Capital, where the recent approval of an ambitious, ten year infrastructure development plan ratifies long term commitment to SA

²⁷ 1966 the national aggregate of collected revenue through SA was 15% of the aggregate municipal taxes. By the 1990's it was in aggregate only 5%, with a real decline of about 27% (Furtado:2000)

programs as a central development strategy. In the long run, the variances in SA's performance, to a large extent also represent a learning curve. The decline, largely explained by management and operative failures, critical mistakes and governance crises, is now behind. This new period of consolidation of SA rests on the institutional capacity and expertise in SA practice, built on those hard lessons.

Graphs 7 and 8

Source Vejarano:2000



Political Responsiveness

Another challenge to the overall optimistic view of SA this research presents, are a set of technical critiques that have pointed to the fact that the technical accuracy and precision of SA practice has also had strong variance. Several of studies agree, however that the design parameters for these models have been strongly biased to meet two political criteria: capacity to pay and “perceived fairness”, through caps that often distort other technical parameters.

Despite this evidence of permanent concern for keeping the relative burden of payments reasonable, especially for lower income groups, other types of assessment of

the earlier programs in the 70's argue that SA practice has had social impacts, such as displacement and segregation, that have been nonetheless strongly underestimated. (Jaramillo:2001)

An early analysis in the late 70's showed that high levels of discretion were allowed to adjust models and that multiple variations of the models were used simultaneously to meet different project's specific needs. Lack of consistency made comparison and monitoring of the effects of those "adjustments" at the time, almost impossible. (Doebele:1979). Likewise, scholarly evaluation of more recent programs such as Avenida Suba in Bogotá, suggest that in spite further technical refinement, SA might have had displacement effects as well. (Sherper et al:1999)

In sum, the technical critiques are useful to underscore that adjusting the models might not be the appropriate mechanism to make SA more responsive to payment capacity, while it does seem to sacrifice accuracy. Hence, sensibility to the issue possibly requires implementing complementary mechanisms within the broader fiscal policy framework, to balance negative social impacts that political management of SA alone cannot mitigate.(Doebele:1979)

3.2 The Context of Special Assessment as a Policy Initiative

Amongst the customary issues of the governance policy agenda, that include the administrative, budgetary, organizational and institutional dimensions of public affairs, revenue sources are usually a central item. As capacity to respond is greatly determined by the availability of financial resources, instruments to meet those demands have top priority. This section looks at the circumstances that fostered the introduction of SA, its persistence on the political agenda and its evolution. First, looking at the conditions at the National level, that led to promote local administration's own finance capacity early in Colombia's history and the efforts to promote its swift implementation. Then, at the local level by exploring the elements of context that might have influenced its persistence and promoted its further evolution, particularly in Bogotá.

3.2.1 Crisis to Change – National Agenda

Even though the privilege to levy SA was initially granted exclusively to Bogotá, its effectiveness as an instrument to make local government an ally to provide basic public services was a strong incentive for the National government to extend this same unique fiscal autonomy to the rest of the country by 1938, about half a century before decentralization was formalized in Colombia. (Jaramillo:2001)

The abrupt changes that began to take place in cities in the 30's, demanded a quick turnover from very rudimentary privately provided services to full public infrastructure systems at a moment where increasing population demands required rapid expansion. The absence of a domestic capital market to obtain low interest, long term credit, as well as limited access to funds from international agencies, who favored high import demanding projects at the time, made resources for these investments scarce. (Rhoads,Bird:1967) Private development was incipient, therefore unprepared to do its share. In tandem, a still weak, undeveloped property tax assessment and collection system made building any expectation of significantly increasing the local general revenue in the short term, quite unrealistic.

Making self-financed local infrastructure feasible at the top of the National policy agenda required, under the circumstances, a pragmatic, creative approach to local finance. Not surprisingly, the Valorization Tax, initially considered for rural development when introduced in 1921, was readily adapted to urban use by 1936, soon to be followed by complementary dispositions to meet the practical needs of implementation : i) enforcing its payment by legally subjecting sale to compliance, ii) regulating its methods and iii) conditioning its use to projects within municipal plans that would allow national authorities to verify a proper destination of the resources.

In absence of resources to transfer, high priority was given in the Congressional policy agenda to broaden, clarify and standardize its application, as well as to establish mechanisms to monitor and rationalize its use from central agencies. The prolific sequence of legislation that resulted from this interest progressively shaped SA and incorporated it into fiscal, land policy and municipal administration legislation. These bills share the quality of being brief, specific and show little evidence of difficult political debate, otherwise reflected in complex policy arguments.

Amongst the legislation that developed SA, one is particularly significant. In 1943 a law that anticipated several tools included 40 years later in the Urban Reform Law,

such as expropriation for infrastructure projects and *value capture beyond their costs*, was passed. Land policy was not, however, the essential policy argument to sustain or promote this set of legislative initiatives, but the operative challenges of infrastructure construction. That initiative to promote SA as a potential value capture instrument was however repealed only until 1966, over 20 years later.

This attempt to capture value increments from infrastructure antecedes its modern version in Participation in Land Value Increments. A brief reference is made about its application in Medellin, where local legislation authorized the capture of 75% of the increment. Beyond that attempt, it seems despite the legislation was in place, SA practice focused on its more feasible role as a charge. (Furtado:2000)

At the National level policy context, the introduction and initial instrumental development of SA has two, perhaps unintended, longer term effects : first, it leads to an early form of decentralization, giving early financial relative autonomy to cities; second, it imposes on them the *need* to develop individual institutional capacity to plan development, as well as to prioritize and finance infrastructure. Granted, capacity building was not fostered, learning by doing led to innovative institutional practices and creative problem solving by SA's local implementers, differentiating its application between cities, in spite of cross fertilization.

3.2.2 Opportunity and Evolution – Local Agenda

At the local level, politics, institutional capacity (performance) and citizen's willingness to pay (perception) are factors that have influenced SA's persistence on the policy agenda.

There are multiple examples across Colombia that could be reviewed to explore SA's context at the local level. Medellin's experience is perhaps the most accomplished. (Furtado:2000) However, because local specificity is a strong factor that shapes policy implementation, for this research analyzing Bogotá's experience with SA is more useful, to look be able compare Participation in Land Value Increments in the same local context.

Politics are very present in SA, because its nature as a fiscal instrument involves specific approvals from City Council each time it is used. Likewise, the legislation required to formalize procedures and define key administrative issues, are subject to a similar process, putting under political scrutiny both procedural innovations that may

affect public perception, as well as management strategies (such as payment conditions), that may affect political balance. Clearly, in contrast with the political context at the national level, the political costs of imposing charges influence decisions more at the local arena.

In Bogotá, the relationship between elected mayors and council has shaped how well and how promptly Valorization Projects are reviewed and approved. Tensions will often be reflected in stronger technical proposals and broad information to influence public opinion. These evolving practices ultimately have positive effects in terms of the general democratic evolution of decision making. City Council's legislative agenda has also shaped administrative practices around plan proposal preparation tactics and timings, it has disciplined IDU to early planning in the political term, motivated by the risk of not receiving approval to obtain its critical source of funding.²⁸

The interaction the use of SA imposes has also been useful to promote political agreements around administrative performance, evolving standards and political control over investment discipline. The inbuilt mechanism for this is that only the projects approved by the plan can be charged and that the levies collected for a specific project cannot be used for purposes other than the project. Similarly, any changes in the costs, planning or definition of the projects require justification and approval, setting levels of accountability on accuracy, effectiveness and performance, higher every term.

The political system has probably promoted strategic, more integrated infrastructure development approaches, because the political costs of these concessions can be quite high. In early days few projects were approved at a time. As technical capacity has evolved and the political culture behind the process has become more sophisticated, administrations push to include all their projects into a single legislative initiative with an embedded management strategy. This is unique in the sense that unlike general revenue, it connects the spatial, political and social dimensions of charging, collecting and materializing into one debate.

An example of how the balance between this political dimension and technical development has shaped SA in Bogotá, is the 1995 attempt to introduce the general benefit SA. In a nutshell, the technical challenges that hindered performance in that

²⁸ Hernandez highlights that since elected mayors have been in office, the trend has been that they have been authorized by City Council within their first year of office, to commit mayors to execute in the following two years. Proposals presented later have received no attention, showing that the commitment to perform is the essential element of the political agreement enacted by the Plan.

specific program, added to the management failures, impacted public opinion and political perception of the proposed technical approach to distribute the charges more broadly. Some find the approach lost legitimacy more on the grounds of the poor performance, than due to its own features, while it is also asserted that because general benefit reduces the link between the charge and the benefit that the public so appreciates, it is an approach unlikely to be used any time soon.

Since charges, collection and materialization all affect public opinion strongly, the process of evolution of SA in Bogotá has directed special attention towards mechanisms to maximize positive public perception. Recent strategies include conveying investment transparency, promoting public involvement and citizen oversight as well as creating high-touch mechanisms for individual attention to claims. Likewise, the importance of perceived fairness has driven technical development towards making models to calculate and distribute the charges in more pragmatic and simple ways. This has gone as far as to barely reflect the incidence on property values in the charge, but rather to proxy relative benefits in terms of proximity and distributing in proportion to paying capacity. It also has promoted adopting collection strategies and mechanisms that answer to individual needs for flexible payment schemes.

Finally, the concern with willingness to pay, which reflects the perceived legitimacy of SA and is closely linked to tangible outputs, has shaped management and institutional practices by extending accountability to process performance, incrementing detailed public information, high quality control to reflect the appropriate use of funding and adjusting practices in construction operation to public sensitivity. Evidently, these are part of a general trend of a broader transformation in Bogotá's administration policies, but I would argue they express themselves prominently in the implementation of SA, because of its unique charge-benefit-political correlation.

These elements show how practice has influenced SA's shape and how the failures behind some innovations can also impact legitimacy and reduce the public support SA's continuity depends on on.

3.3 Trajectory

The legislative evolution of SA in Colombia has drawn scholars attention, because it is a long, continuous process that describes how incrementally, through feedback from

practice, the instrument consolidated institutionally and was ratified politically both at the national and at the local levels consistently. Table 1 is an overview of the great number of legislative initiatives, that begin in 1921 at the national level, that evidence the strong political support for its use and the determination of the national government to resolve the barriers that emerged for its application. It reflects as well, a permanent concern with updating the instrument to other legislative advances, thus maintaining its relevance.

For this research, such an overview of the evolution of SA is useful to contrast its progressive, persistent build-up, with PLVI's more contentious and defined critical moments of reform in its more complex policy environment, discussed in the chapter ahead.

The limits speculative land practices and holding created for effective infrastructure development created the need in 1943 for legislation on SA to a cross over to issues that would later emerge in the land policy agenda, such as value capture and expropriation. This is worth noting because most legislation that has regulated SA exclusively focused on the instrument as a revenue source.

By 1968 the basic guidelines used today had been already consolidated into the "*Ley Marco de Contribución de Valorización*", but not surprisingly they were integrated into the "*Código de Régimen Municipal*" in 1986²⁹, in a governance policy initiative to guide municipal administration, distribute fiscal functions, establish organizational arrangements and determine operative tools. In this frame, SA was ratified amongst the ancillary tools to generate local revenue for infrastructure.

Despite this strong tradition, more recently two important legislative initiatives bridge SA back with the land and property issues that have historically challenged its operation : i) the 1991 Constitution clarifies that imposing SA charges can also be an initiative of other entities, re-establishing the link to the principles of unearned increment from public investment, above and beyond its regard as a local revenue, and ii) the Territorial Development Law in 1998 integrates it as a financial instrument working for master plan's long term infrastructure strategies. Thus, opening the way to articulate SA's use with land management tools such as "project announcements" to rationalize the

²⁹ Decreto 1333 de 1986

impacts of public actions on the price of land for infrastructure, before initiating the SA program action plans³⁰.

3.4 Implementation : Learning by doing

Grindle in her scholarly analysis of policy reforms in the third world, has noted that implementation is “an ongoing process of decision making influenced by program content and environmental context”. (Grindle:1980) SA is the means the National government uses to implement a local infrastructure development policy, which in practice has shaped in Bogotá into a program. The choices that are made at the implementation stage of policy have important implications on the outcomes of administrative actions and determine to a great extent the success of policy initiatives. This is why evaluating these choices can be useful to learn about what makes things work in specific environments, and the reason for looking at these aspects of SA’s implementation.

The literature on the implementation of SA available overseas is recent, scarce and mainly focused on the Bogotá experience. Therefore, in historical perspective many stages of its implementation must be inferred by analyzing the national legislative evolution. Other clues about its early implementation can be found in early international research on the case by Rhoads and Bird in 1967, Doebele in 1979.³¹ These descriptions give an idea of the institutional context and some of the challenges that were present early in SA’s implementation. They also point to concerns that help to explain how the instrument continued to evolve: with more emphasis on technical simplification, a preference for pragmatic criteria and strong focus on “collection-performance”. Since the early assessments, the accounts also highlight the tendency to shape models attempting to meet lower income citizen’s payment capacity.

³⁰ Ley 388 de 1997 Ley de Desarrollo Territorial integrates SA as a financial instrument for municipal development, and clearly establishes the differences between PLVI and SA. It also suggests their alternate and combined uses, and introduces “*anuncio de proyecto*” as the formalization of the project initiative that establishes officially a reference assessment, without expectations from the future public investment, that will be recognized in both negotiated or expropriated of land acquisitions to construct it. (Maldonado et al : 2006)

³¹ Furtado :2000 has some interesting historical context, but no technical evaluation of implementation as such.

3.4.1 Challenges and Effects

The use of SA in its early days in Colombia forced local administrations to develop the competencies to integrate planning, land assessment, revenue collection, infrastructure design, budgeting, management and construction. Local administrations, even in Bogotá the capital, had poor information, outdated mapping and scarce human resources to address this challenge. In Bogotá, the serious struggles to meet the requirements that implementing SA imposed on the meager institutional resources available, made only six road projects possible at its second decade of implementation. (Hernandez:2007)

The evolution of the national law is evidence that for its use to be rational, local governments were required to justify their privilege to levy the charge grounded on development plans that would specify the destination of the revenue, as well as feasibility studies that would determine the required funding. As an effect, SA stimulated the parallel development of planning strategies and budgetary systems, richer cadastral information and project assessment capacity, much before general decentralization was formally introduced at the national level.³²

On the ground, difficulties to determine the individual charges, to collect and to deal with default, begged for high management capacity; while insufficient funding to develop even the preliminary studies to estimate project costs and prepare proposals blocked the policy initiative at its origin. Complicated land acquisition was exhausting budgets and delaying projects unreasonably, these issues were taken back to the national level policy arenas because restricted operational capacity failed to meet citizen's expectations and threatened disbelief in the use of the charge. Most importantly, the construction contracts and financial commitments became risky burdens on the local budget, as the poor collection performance and lack of mechanisms to counter default, created financial crises. (Doebele:1979, Vejarano:2000)

Meeting these challenges stimulated developing multiple practical coping mechanisms to bridge institutional gaps. Paradoxically the systems needed to support SA implementation are the same required to sustain the quality property tax and planning systems it was seen to be originally compensating for.

³² The 1968 "*Ley Marco de la Contribucion de Valorizacion*" created the National Valorization Council and the Nacional Direction regulated by Decreto 3160 1968, to guide and monitor its use nationwide.

Thus in the long term, many of the technical and institutional developments that were “improvised” to cope with SA, have had significant effects on the evolution of the institutions and organizations that support those systems today.

This section has reviewed SA’s implementation process and found some evidence about its institutional environment in Bogotá that suggests, three elements in the practice stand out as factors that seem to have influenced most its relative continuity and performance: *aligned management, sustained operative strategy and simplified tools*.

3.4.2 Special Assessment at Work – Impacts

Rhoades, Bird and Doebele’s analysis in the late 60’s and the late 70’s both outlined some organizational features and institutional challenges that already suggested that SA’s optimal in Colombia would hinge on developing the capacity for effective project preparation and revenue collection required to sustain a reasonable infrastructure production flow. The authors’ analyses underscored some of the instrument’s early technical weaknesses. Doebele, as a result of evaluating models and broad variations in the levels of technical accuracy, highlighted that the institutional component that fostered discretionary use of the methods and broad variations in its practice, required special attention if SA were to consolidate as a long term policy tool.

Since then, SA has in fact become an institutionalized practice. Just recently in December 2007, the first of three phases a 10 year program was launched, expecting to levy US\$ 902 million (2005) to construct 45 road projects (193 km), 16 sector parks (1 million m²), 350.000 m² of public space and sidewalks, 31 pedestrian bridges and 26 major intersections between 2008 and 2017³³.

SA at work has had important, very visible impacts in Bogotá, and if the political context has not been particularly complex, it is also true that its increasing effectiveness has been the key to make it politically feasible. The organizational context that has been built for the system to deliver, is central to that performance.

Not all impacts have been, however positive, there have also been debates about negative social impacts such as displacement and wipeouts. That said, that same concern for public perception has been a key driver for including mechanisms that involve citizens

³³ Exposición de Motivos – Technical Support Document Acuerdo 180 de 2005.
http://www.idu.gov.co/valorizacion/acuerdo_180.asp

and make the agency accountable for these impacts are becoming a part of standard practice, such as citizen project approval and overview.³⁴

On the other hand, aligned management, sustained operative strategy and simplified tools are factors that recurrently emerge in the analysis of SA's evolution as elements that have greatly influenced its performance and fostered its persistence. Following how both local and national legislation evolved, in parallel with the way SA in practice progressively became institutionalized, highlights their prominent role in making it work.

Aligned management.

SA is introduced in Bogotá in 1937 and used for the first time only until 1947, with great unease and uncertainty.³⁵ By 1958, through a Statute, a Valorization Board and a Department of Valorization had been created to manage a system to collect the revenue and operate construction works³⁶. The new organization, as the number of projects constructed and the levels of investment per capita achieved reflects, developed surprising levels of performance and optimized the use of the tool's revenue reaching its all time peak in 1968. (Vejarano:2000, Hernandez:2007)

When those management functions were transferred to the Instituto de Desarrollo Urbano³⁷ IDU in 1972, there was in parallel a significant contraction of the share of SA as a revenue source³⁸. The new institutional arrangement had transferred SA's management to an agency created primarily to head the city's first large integrated development program PIDUZOB, financed through IADB funding. This mission initially absorbed the agency's operating capacity and restricted its attention to new infrastructure projects elsewhere in the city, that would otherwise be financed through SA.³⁹ (Vejarano:2000)

Doebele, as early as 1979 remarks that the key to take full advantage of SA's revenue generating potential for Bogotá, would be to increase the capacity to develop a continuous flow of large projects and to run them. To emphasize that point, he highlighted the fact that during the period of SA's decline, the small scale neighborhood

³⁴ Areas that are targeted for a project, receive summons for information meetings and citizen approval of the projects before their development. Additionally the citizen overview comitee is created for each area, for the duration of the works.

³⁵ Acuerdo 11 de 1937. Regulations for Applying - Impuesto de Valorización.

³⁶ Acuerdo 41, 1958 Concejo de Bogotá.

³⁷ Urban Development Institute - Agency in charge of Road Infrastructure Construction in Bogotá

³⁸ See Graph

³⁹ Acuerdo 19 1972. Creates IDU and assigns valorization management and operations including construction of roads, parks, public space, and social service buildings.

pavement projects, also based on SA charges, continued to grow steadily, by virtue of their manageable scale. (Doebele:1979) This view, in contrast with other arguments generally used to explain SA's contraction, such as resistance to charges by low income citizens and institutional neglect of the instrument, identified management capacity as a primary element of SA's retreats as well as its potential advances. (Jaramillo 2001, Sherper et al:1999)

The 1981 and 1987 versions of the *Estatuto de Valorización*⁴⁰ consolidated all the developed practices into detailed procedures for applying SA in Bogotá, most of which still remain relevant. The initiative basically aligned into one process the key elements of SA from planning to construction, placing it under IDU's management. It included: benefit calculations and charges, revenue collection and project development. The procedures integrated the general guidelines from national legislation with the local solutions that had progressively developed through practice to make the system work.

In Bogotá, the component tasks slowly evolved into an integrated program. The local version included coping mechanisms that had to be invented to make each task feasible. For instance, to make the information available for calculating and charging, a self declared parcel inventory specific to each program was established as a mechanism to complement the deficient cadastral information of the time and to efficiently fill parcel information gaps at each project site. Revenue collection capacity, a critical issue, was enhanced by measures to face default problems, such as interest fees, payment agreement options, and organizational adjustments such as legal advisors to enforce coercive measures. Furthermore, strategic alliances were established with the property registry to enforce charges before property transfers were formalized, and with the Cadastre for improved mapping and joint data bases.

Relative to the construction component, IDU was directly attributed the use of land acquisition tools including expropriation by City Council and given authorization to outsource for additional construction capacity. Through feedback loops with the national level, the critical barriers to develop project proposals and to improve project management capacity were removed by authorizations to include preliminary studies and administration fees within the charges.

Finally, mechanisms were included for two levels of interaction with citizens. Citizen participation mechanisms for the planning and construction phases were

⁴⁰ Decreto 536 de 1981 and Acuerdo 7 de 1987

introduced. Also, strategies to respond to individual issues with charges and legal channels to review, as well as to dispute charges, were implemented. Responsive mechanisms to accommodate special needs were built in, such as flexible schedules and forms of payment.⁴¹ In tandem, broader communication strategies to explain initiatives in detail, inform procedures and update the public on advancing projects became standard practice. Early experiences had shown already the negative impacts of bad interaction with citizens, making the issue present both in the regulated procedures and the organizational structure.

The operating SA under *one* agency is a crucial early choice that has benefited SA. The problems of coordination amongst many organizations to implement an initiative demand levels of definition that often do not exist when a process is still untried and procedures in the making. As IDU highly depends on SA to finance its mission, it has been a core component of its institutional agenda for many years, shaping its organizational development and the priority of its investments. Most importantly, it has unified management and promoted an integrated vision of SA's practice in Bogotá that has redefined its conventional notion as a revenue source and approached it as a program. This approach has integrated the key tasks into a fairly sophisticated process and has favored organizational alignment towards performance, while fostering management policies that have favored long term capacity building and resource development strategies.

The magnitude of the recently approved program both in scale and as a political assertion, ratifies that this organizational arrangement has optimized learning, capitalized experience and materialized a long term governance piece of integrated planning and fiscal strategy.

Implicit – Continuous Strategy

Unified management and taking on each SA initiative as a complete infrastructure development program, has evolved from action driven planning at IDU. The evolution of the models and procedures also suggests that it is an arrangement that has probably also fostered, from a policy standpoint, a strong awareness of the impacts on citizen perception of each of the tasks involved and their interrelation.

⁴¹ Initially only cash, subsequently in other forms as well, to include land owners with limited cash flow.

Since the early analyses of the 60's and 70's up to the most recent ones, the constant underlying goal to maintain positive citizen perception and political support is evident in the way SA has been managed, from model design to political brokering.

The technical innovations and procedures introduced in 1987 reflect how bridging across tasks, when mechanisms that burden are imposed they have been consistently counteracted with measures to relieve. Differential factors of absorption of SA charges between higher and lower income groups combined with cost burdens for economic uses, both conceived to balance charges to payment capacity, are a central piece of this strategy. In fact keeping charges "reasonable" is a primary criteria to evaluate alternative distribution models.⁴²

Mechanisms to enforce payment have been balanced with practices that show sensitivity to individual needs; mechanisms to reduce default on payments have been balanced with increased public information, higher accountability along the process and formal citizen group program oversight. More recently, measures to legally notify burdens have been balanced with detailed project information to improve the willingness to pay; and formal mechanisms to prioritize projects (such as the master plan) have been balanced with project selection criteria that acknowledge the high acceptance that broad coverage across the city and across income groups generates for SA programs.

An SA initiative's success, however, is heavily measured by perceived performance. The 1990- 1992 \$US 294 million initiative to implement *General Benefit Valorization* for the first time, was a great failure. This variation, introduced to further broaden the distribution of the costs of larger projects with enough incidence that could be justified as benefits to the whole city, was a next step into deeper cross subsidies and a potentially broader positive perception. Nonetheless, the operative failures that prevented proceeding with the charges and made it impossible to cover initiated constructions, not only led to fiscal deficit, but to a serious loss of political support. Only 50% of the charges were approved by City Council when recovery charges were authorized. (Hernandez:2007)

⁴² Programs have generally exempted from charges the lowest three income levels when the charge is modest. For example the most recent program excepts those parcels charged under US\$23. However critics have pointed out that the level of exception is determined by the higher costs of revenue collection.(Sherper et al:1999), while supporters argue it is indeed in recognition of a disproportionate relative burden to income.(Vejarano: 2000)

The negative perception left by the experience with *General Benefit Valorization*, led the agency to go back to the Local Benefit Valorization in subsequent initiatives⁴³. Citizen support had to be recovered and positive perception from the direct benefit approach was widely favored above the more diffuse General Benefit charges approach. Public opinion was influenced strongly by media coverage of the projects delivered between 1993 and 1995. Today, the 95% average revenue collection rate that was achieved in the latest programs, and the recent successful approval of the new 10 year program by City Council, can be partly considered a reflection of that positive perception. Thus, the critical political role this implicit overarching strategy actually plays in SA's continuity, is highlighted.

Simplified Tools

Technical developments are barely analyzed in the literature, and the scope of this research does not include a review of the models that have been used at different times to calculate benefits and charges; nevertheless the literature and legislation do reflect attempts to simplify the techniques applied in Bogotá for SA, which are clearly related with the strategy mentioned above.

Authors suggest that a general issue in the application of SA is the difficulty to accurately isolate and forecast the impact of infrastructure improvements on the price of land. (Ortiz:1993, Hagman and Misczynski:1978) In consequence, from a management point of view, it seems reasonable to favor pragmatic approaches for smoother implementation. Medellín, a smaller largely entrepreneurial city, during a good part of its early use of SA practiced negotiated assessment procedures.⁴⁴(Rhoads, Bird:1967) In Bogotá, the heterogeneity of the project sites initially led to project specific approaches, but progressively turned to simplified methods and their standardized application.

The criteria for developing these methods have persisted, at least in the rhetoric: reducing burdens of lower income groups, cross subsidizing according to payment capacity, separating values of use from economic benefits (burdening economic activities more than residence), and capping the charges to “politically reasonable” limits. Even though the models have been evolving, broadly, instead of detailed assessments, proxies

⁴³ The 1996 Salitre program, the 1995 Formar Ciudad program refinanced in 2001, and the recently approved 2008–2017 program, see investments in Table 1

⁴⁴ Rhoades refers to this bargaining as a positive interaction with citizens in determining the assessments, as opposed to the standardized models used in Bogotá, that can be criticized for obscuring the criteria for assessing and distributing. However that seems difficult to control and highly subjective.

have been used to distribute the burdens, referenced to payment capacity⁴⁵ and to proportional benefits, presumed as a function of distance, to determine individual charges according to parcel size (Doebele:1979, Ortiz:1996, Vejarano:2000). If only intuitively logical and often not accurate actual land value changes, this approach is actually consistent with the idea of SA as “contribution”, held by the average citizen, and far easier to grasp than unearned increment capture.

A simplified variation of local benefit charges has been the neighborhood pavement program, and its recent evolution known as “*Obra por tu Lugar*” (“work and works” for your place). It is an SA program analogue, that crafts 100% cost recovery partnerships with communities to address specific needs and support initiatives to enhance their environment. The limited size of the project involves more directly the community with the issues and the process by which charges are distributed. Yet it is a successful, community initiative driven program that is growing, additionally proving that low income communities have also a high willingness to pay, when they perceive that the benefits of their contribution will be responsibly delivered. This program has the added value of familiarizing communities with the system and thus increasing as well their positive perception of the larger programs.

An unsuccessful simplification of the “local benefit” approach was an attempt to bridge between the notion of direct benefit-to-charge and the broader property tax, in the sense that no specific identifiable direct benefit was individually attached. The “general benefit” approach was an attempt to innovate that had been legislated long ago but never applied. In 1990 its introduction in Bogotá was hampered by operational issues that tarnished its legitimacy, but arguably, it intended to reach a next level of SA where strategic projects with broader impacts could become feasible through an even more simplified distribution of charges.⁴⁶

Simplifying tools, hand in hand with simplifying procedures such as payment, claims and reviews, is a management approach to SA that in Bogotá has proven to play a central role in the way the instrument is perceived. Responsiveness influences both

⁴⁵ The most recent SA program has applied a “benefit factors” model that is based on coefficient values assigned to parcel area range, socioeconomic strata, economic use, floors and degree of benefit (relative distance) which determines a distribution factor applied to each parcel.

⁴⁶ Ortiz’s dissertation work on this specific experience of General Benefit Valorization is very critical of the models and criteria that were applied to distribute these charges. She highlights, amongst other technical problems, that it had problems of asymmetry of the charges, by not considering wipeouts; arbitrariness of the proportion of costs allocated to residential use, and the inadequacy of the property tax as a reference to cap the charges.

“perceived fairness” and “perceived effectiveness” which give SA political legitimacy and contribute to strengthen the notion of “contribution” as a social norm.

The pragmatism that has characterized the way SA has been practiced is reflected in these choices for implementation and have been responsive to citizen expectations and political feasibility. However, the direct benefit-charge relationship promotes that projects in areas that concentrate lower income populations, have restricted benefit through this mechanism as a result of the low capacity to withstand large full cost recovery projects. Some of the most important projects required in the areas with the highest infrastructure deficits, could be justified under a well designed general benefit program. Therefore, it is very important to consider the potential of an improved general benefit approach, that could build on the positive perception that the achievements of the current SA program is expected to have.

3.5 Conclusions

Much has been written to imply that the long tradition of Special Assessment in Colombia has conceptually and institutionally “paved the road” for Participation in Land Value Increments. A closer look has been useful to establish that these two instruments indeed share common theoretical origins, and in Colombia common legislative links.

However, the analysis of the rhetoric that justifies SA, its practical application, its use and the public’s understanding, shows that neither the rhetoric nor the practice have been strongly connected to value capture. In fact it may have well been a political strategy to do so. On the other hand, the practices, institutional arrangements and fiscal culture that have developed around the common use of SA, has had significant effects on the way the “business” of urban management is expected to be conducted in a city like Bogotá, and therefore is an important legacy for more progressive instruments.

Three elements in the practice of SA in Bogotá stand out as factors that have significantly influenced its relative continuity and performance: aligned management, sustained operative strategy and simplified tools. They have played an important role in making SA responsive to its implementation context and in creating a general positive perception that with good management can continue to consolidate.

From a policy standpoint, SA has been an item that long enjoyed a privileged place in the legislative and administrative agendas. By contrast, Participation in Land

Value Increments that is studied in the next chapter, has been far more controversial and faced more resistance. Some lessons learned from SA's process of implementation might be useful to build a solid PLVI practice and win the support it requires to continue.

Table 1
Special Assesment in Colombia – Legislation and Evolution

Topic	Enactment	Content
National		
Impuesto de Valorización	Ley 25, 1921	Impuesto Directo - Direct Tax as a contribution on properties that benefit from the realization of local public infrastructure, and exclusively destined to cover the costs of the projects. (rural)
New Faculties for Bogotá City Council to levy tax	Ley 195, 1936	Confers the Bogotá City council the faculty to apply the 1921 tax and determine its investment.
Nation's aid to finance municipal infrastructure .	Ley 113, 1937.	Determines that the direct tax created in 1921, also includes the greater value that urban properties acquire with road pavements.
	Ley 63, 1938	Extends to other municipalities the faculty to apply the 1921 tax
Special faculties transferred to municipalities	Ley 1, 1943	To declare public interest areas, use eminent domain to obtain land for infrastructure, mark valorization charges in property registry conditioning sale to payment. Also, to levy valorization charges on infrastructure developed by the nation capturing the land value increment without restriction to the cost of the project.
Impuesto de Valorización	Decreto Legislativo 858, 1956 / Ley 141, 1961	Determines valorization charge distribution can be distribute over the total urban or rural area, or in specific sectors, according to the projects. Requires municipal plans to guarantee proper destination of the revenue. Determines the calculation method from the costs of the infrastructure budget. Requires proof of payment as a requirement for property transfers. Exempts public property.
	Ley 25, 1959	Defines total cost of the project to include studies, interest on capital invested and administration costs.
Ley marco de la contribución de valorización	Decreto legislativo 1604, 1966 Ley 48, 1968	Changes the 1921 Impuesto de valorizacion into Contribucion de Valorizacion. Extends it to all projects of public interest developed by agencies of any level of government. Created a National council. Created interest payment for default. Introduced faculty to force payment. Limited levying on national projects, only in urban areas. Prohibits title registration without authorization from the entity responsible for valorization. Establishes the legal mechanisms to contest the charges.
1991 Constitutional Reform		Article 338 Taxes on Property - Contributions
Transport	Ley 105 /93	Article 23 Contribucion por Valorizacion for Transport Projects
In Bogotá		
Impuesto de Valorización	Acuerdo 11/37	
Estatuto de Valorizacion	Acuerdo 41/58	Creation of Valorization Board and Agency
IDU	Acuerdo 19/72	Creation of Instituto de Desarrollo Urbano - SA funtions
Estatuto de Valorizacion	Acuerdo 7/87	General revision procedures and methods
Estatuto de Valorizacion	Acuerdo 14/92	Revision procedures - charge emergency
Plan 1993-1995	Acuerdo 31/92	US\$78 million (1993)
Plan Salitre		US\$20 million (1996)
Plan 1995-1997	Acuerdo 25/95	US\$325 million (1995)
	Acuerdo 9/98	Adjustment 48%
	Acuerdo 48/01	Adjustment US\$5 million (1996)
Plan 2006-2017	Acuerdo 180/05	US\$902 million (2005)

Source : Bustamante Ledezma 1996 / Hernandez:2007

4

Participación en Plusvalías : Value Capture and Urban Reform

Literature on land value capture provides a clear picture that amongst the multiple tools to recoup unearned increments, local variations add to the existing diversity. New strains are developed to better respond to local legal, institutional and political specificities.(Hagman, Misczynski:1978) The preceding chapter explores how, within the Colombian governance policy arena, Special Assessment (SA) has succeeded to persist and become a fully institutionalized value capture instrument. Many of the factors that weigh in favor of its survival are related to the very nature of that policy arena, but others are related to the way it has been managed as a policy instrument. Despite its technical and institutional constraints, SA has maintained its relevance through adaptive development and innovative management. This approach has focused on strengthening practices that sustain its positive general perception, as a main source of legitimacy for its continued use.

This chapter looks at the process of evolution and implementation of Participation in Land Value Increments (*Participación en Plusvalías*), the Colombian adaptation of betterment levies and unearned increment taxes. It highlights the instrument's significance, in terms of its relevance to the greater land and planning policy reform process it is part of. First, some key elements of the context that explain the political environment Participation in Land Value Increments (PLVI) emerges from are laid out, highlighting some surrounding institutional and technical factors that have also influenced the policy initiative. Then, the long trajectory of legislative and institutional reforms that built up the foundations for the instrument's application, is traced. Along that trajectory, the rhetoric that has framed PLVI as a policy issue in each phase of its development is briefly examined, highlighting how it has adapted to changing contexts and conceptual shifts.

Finally, the current implementation stage in Bogotá is reviewed. Considering the observable impacts and deeper effects that the use of this value capture instrument

implies, some emerging institutional issues are discussed, bringing to bear the views held by professionals and public officials that have been involved in the process.

These issues are important to consider, in as far as they challenge PLVI's possibility to fully consolidate as a long standing, legitimate policy instrument. Singled out, they become the point of departure for the next chapter, which explores how some pragmatic insight from the local experience with SA, could be translated on to the more complex endeavor of making PLVI sustainable.

4.1 Participation in Land Value Increments

In chapter 2, the concept of value capture and the reasons why in Colombia these instruments are potentially useful to influence the behavior of the agents in urban development, have been discussed. As the analysis of Special Assessments in Colombia in the previous chapter has shown, the use of value capture is an issue that has long been superseded in the governance/management policy arena, and persists until today. Several authors relate this positive experience to the relative political open-mindedness that has resulted in discussions on value capture in other arenas, such as land policy.

Participation in Land Value Increments (PLVI) is an obligation imposed on property by Colombian Constitutional amendment since 1991, created to return to municipalities between 30% and 50% of the land value increments that are generated by public action. This obligation is founded on principles that are part of the broader reforms that have structured the Colombian land policy and planning system.

Also known in international literature as betterment levies or unearned increment taxes, in Colombia PLVI has been introduced as a land policy tool, emphasizing its role as an instrument to discipline the land market and to mobilize land rents socially, rather than as a fiscal instrument per se. Even though in Bogotá alone, between 2004 and 2007 over US\$16.5 million dollars had been levied as a result of this tax, it is not an ideal tool for a sustainable fiscal strategy, because it constitutes a one time charge that varies with market and development trends, which generates an unreliable revenue stream.⁴⁷ Nonetheless, as the analysis of its trajectory and evolution within land policy clearly shows, it is in fact its political role and potential social impacts that have mainly motivated the long struggle to implement it.

⁴⁷ Source Dirección de Economía Urbana Secretaría Distrital de Planeación Bogotá

Overcoming the challenges of policy reform to introduce PLVI, has been in Colombia a political and institutional feat; yet the hundreds of adjustments required to make it real on the ground, are the next great challenge to consolidate it. PLVI is nevertheless, a complex value capture instrument to operate. The institutional capacity required to systematically integrate the land regulation process, to the assessment and taxing procedures required to obtain the revenue, is very high. In fact, its implementation in Bogotá, perhaps the most developed local administration in the Colombia, has proven that it is an instrument that puts local planning, cadastral and tax collecting agencies' capacity to the test.

As the implementation stage advances, institutionalizing the instrument involves significant shifts in the organizational structures and cultures, as well as substantial technical innovation. The process of learning by doing, as there is no direct reference to emulate, has been slow and painful, raising controversy even amongst supporters. Yet, as a whole, PLVI constitutes a bold policy reform experience that is worth understanding in its context and history to be fully appreciated, and made useful locally as well as internationally, to inform further policy developments.

4.2 The Context for Participation in Land Value Increments

Read, as a trajectory, the evolution of Participation in Land Value Increment is both a result of the cumulative impact of the legislative initiatives that built its conceptual foundations and the events that occurred during the periods between those turning points. The most significant milestones are discussed ahead, to understand PLVI's process of evolution from principle, to its full definition as an applicable policy instrument. Some significant economic, institutional and technical factors that shaped the policy context during the periods in between, are also discussed to enhance understanding of the motivations and circumstances that drove the process. But first, to understand the direction these controversial reforms were headed towards, it is useful to introduce the basic concepts that sustain the legitimacy value capture in Colombia and that connect it to land policy today. ⁴⁸

⁴⁸ Doing so is useful to foreign readers, from cultures with different basic precepts for property and land dynamics. Clearly, in the US context, for example, it will be highly controversial to accept these basic notions as a basis for the planning system, as they differ strongly from the emphasis legislation has on private property, for example.

4.2.1 Legal and Conceptual Foundations

For Participation in Land Value Increments to be applicable in Colombia, legislation at different levels and jurisprudence have introduced and defined a set of basic concepts, with important implications in the terms of engagement of public – private agents in urban development. That cumulative regulatory process has refined the content and scope of these concepts, grounding the legal foundations that structure both PLVI and the planning system as a whole: i) the social and ecological function of property, ii) the collective right to participate in land value increments generated by public action, iii) urban planning as a public function, iv) prevailing public over private interest, and v) the equal distribution of burdens and benefits of urban development. (Maldonado: 2006)⁴⁹

Property as Social and Ecological Function

This notion asserts property as a right defined by the corresponding set of responsibilities that fulfill its social function.⁵⁰ Such definition of the content of property rights implies that in Colombia, they are essentially described by public decisions and subject to obligations to broader society. It thus separates the rights to build from the civil right to exercise property, and it establishes relative right to benefits, in the measure that burdens in favor of collective purposes are assumed.

The concept has evolved since its early introduction in 1936, and was further refined with the application of Special Assessments, which were already understood as an obligation assigned to property, making society a participant of part of the unearned increments in land value generated by public infrastructure. Further on, it was more precisely defined by the jurisprudence in terms of expropriation and public interest declarations introduced by the Urban Reform Law in 1989, when the Supreme Court affirmed that the legitimacy to retain the right to property is subject to compliance with its assigned responsibilities. Finally, the notion is fully formalized by the 1991 Constitutional Reform, where in addition to its ecological function, the dual nature of property as a right/responsibility becomes explicitly defined as a legal precept.

⁴⁹ Maldonado considers the Constitutional and the guiding principles of the urban planning system separately, as the legal differentiation structures her discussion. In this study bringing them together is useful to briefly highlight their linkages. (Maldonado :2006 a-)

⁵⁰ These responsibilities are: developing and building in the times and under the conditions defined by planning instruments, transferring exactions to public domain, obtaining licenses, transferring part of unearned increments to the state, and protecting historical and environmental heritage. (Maldonado: 2006 a-)

Participating in value increments : A Collective Right

Initially, capturing land value increments generated by public action was an extended interpretation of the social function of property, representing an assertion of public agency. With its introduction as a collective right in the 1991 Constitutional reform, this prerogative of the state to capture that value has become a *duty* in favor of protecting a collective right. Similarly, as a collective right, it becomes part of the *obligations* inherent to property as a social function that cannot be contested as a limitation to its exercise.

These two implications are further developed by the 1997 Territorial Development Law, which establishes in full detail how this participation in land value increments should be determined and applied by local governments.

Urban Planning as a Public Function

The 1997 Territorial Development Law establishes urban planning as a public function⁵¹, asserting the primary role of local government as an active agent in development. It calls for an assertive intervention in the dynamics that shape the territory beyond the mere regulatory, control oriented traditional public attributions. It defines this duty by providing a diverse set of tools to exercise public powers in favor of promoting new forms of private development that can support public aims, and channeling some of the vast resources created by urban development, to the production of public goods.⁵²

This notion absorbs the current idea of an entrepreneurial public management approach to urban planning, yet it explicitly defines the public objectives as the ultimate drivers that ought to guide such endeavors. Mobilizing socially land value increments generated by urban development is one such explicit aim.

⁵¹ “*Función Pública del Urbanismo*” is the term used by the law. For lack of a better term, I have referred to *urbanismo* as urban planning, because *urbanism* in the US has been associated more often to urban design, while the term in Colombian law expresses a concern for a deep involvement of local government in all dimensions of urban development and policy.

⁵² This makes sense as a policy assertion, if it is understood in its context, at a moment where cities collapsed as a result of regulatory practices that eroded completely the production of public goods and led real estate development to collapse.

Prevailing Public Interest

Rather than an assumption, this principle linked to Urban Planning as a Public Function, defines the main role of government as an agent in urban development. In contrast with neoliberal ideologies of previous decades, that understood it as a minimal role clearly limited to facilitating and maximizing private agency, this definition supposes public agency that asserts public interest over private interest. It sets the base for new arrangements in Colombian urban development where public action had been both systematically contested by private interests, making infrastructure projects impossible; and too often used to serve narrow, individual interests.

Furthermore, it establishes the base to redefine the debates of public interest from a question of their legitimacy vis a vis property rights and individual interests, to a question of how the burdens caused by collective requirements must be fairly addressed.

Equal Distribution of Burdens and Benefits of Development

Planning decisions necessarily generate the differentials that give land its attributes and shape its values of use. The conflicts of interest that surround these decisions surface the competition for benefits and the struggle to avoid the burdens. The land management system adopted through the 1997 revision of the Urban Land Reform seeks to restructure that logic in order to create conditions of equal distribution of burdens and benefits that minimize those traditional struggles and optimize the production and quality of public goods.

This principle applies at two levels. First, between developers and society, in terms of the relation that granted construction rights must keep with the responsibility of financing the required infrastructure to support them. Then, it applies amongst the private agents involved in a specific initiative, where through land readjustment the different responsibilities and gains generated by planning decisions can be balanced without sacrificing the quality of urban design.⁵³

⁵³ A typical land management scheme will pool the land and determine shares amongst owners entitling each to a common reference price that does not incorporate future development potentials. Then it proportionately distributes the newly created rights authorized through the planning scheme, as well as the burdens of the required support networks. For example, the owner who according to the design has a park over his property, will receive in proportion to the area of land he is placing, equal values than the owner whose land will be authorized a shopping mall within that scheme.

4.2.2 PLVI in Colombian Land and Planning Policy

Participation in Land Value Increments (PLVI) from a technical perspective is but an instrument amongst a broad set of tools available for land policy and urban management. In Colombia, by virtue of the principles it is founded on, it has been the spearhead of policy reform at different key moments. PLVI's own legislative and institutional history is linked to core debates at different stages of the evolution in the country's land policy and planning system as a whole.

Capturing unearned increments has been especially linked to two central debates in the development and housing policy arenas in Colombia: the need for public intervention in the urban land market to compensate for its failures and negative social impacts (Giraldo:1989); and more recently, the principle of equal distribution of the benefits and burdens of urban development (Maldonado:2006 a-). These conceptual links were established early on, yet careful analysis of institutional literature and public records reveals that they have been only intermittently emphasized. (Giraldo:89, MINDES:1995) PLVI has had moments when it has been front and center at the policy arena, while at others it has been conveniently bundled with Special Assessment (SA) as *another* local financial instrument, rather than a structural policy argument. These variations relate to the shifting political agenda and to the conceptual frame different technical teams have used to shape and define the content of the specific policy initiatives they have undertaken⁵⁴. (Grindle:2000)

The trajectory of PLVI within policy arenas, traced in this chapter, shows that as the political agenda at the national level shifted towards more contemporary governance issues, the instrument's role as a policy argument receded. Planning practice focused on efficient, decentralized governance and local competitiveness, shifted from the earlier discussions that had been centered on social justice and redistribution. Hence, only as PLVI has entered the local policy arena in its later stages of implementation, it has become again a prominent issue. In Bogotá for example, after the master plan revision in 2003, land value increments have become a factor that is redefining the logic and mechanics of building regulations as well as zone plans. A deep conceptual shift has

⁵⁴ Merilee Grindle underscores the importance of these teams, that influence through their proposals, the ideological frame and content of the policy through their choice of specific solutions and the design of the measures. The shifts in the political agenda have been from less regulated to more regulated.

taken place, towards a public exercise of planning that fully understands its role in the distribution and social mobilization of land valorization.

As a context for fully understanding PLVI as a policy issue, an overview of the broader trends that have influenced the Colombian planning system is useful. Over its different periods the evolution of the planning system has reflected both the influence of international mainstream ideas and the local responses to problems. The system today is a legacy of the institutional and technical developments from the design traditions of the 40's, the economic sector planning of the 70's, the regulatory approaches of the 90's, to the more recent shift towards integrated land policy and management. (Salazar:1998)

The evolution from the first instruments, which complied with the methods determined by multilateral agencies to warrant loan operations up to the more recent, involves significant changes in the way problems have been framed and in the ideologies that have shaped the instruments to address them. There has been a shift from the regulatory approach of building codes, to an entrepreneurial, strategic approach based on a more sophisticated, nested, planning-management system inspired in Spanish urban planning. (Salazar et al:1998) The Colombian current approach to territorial planning follows the general trends in global mainstream planning and urban management, yet closer to the European tradition, it has chosen to combine a strong role of the state in urban development with contemporary public-private partnership approaches.

The idea that a value capture instrument such as PLVI is a policy instrument that can discipline the local, highly speculative land market, as well as redistribute unearned land value increments has not only appealed for decades to technical teams concerned with the impact of such dynamics on the viability of coping with the demands for affordable and social housing, but also to politicians concerned with the impotence of local authorities to deal with the dynamics of informal settlement and its social impacts. PLVI fits well with the objectives and the role of public agency implicit in this new model of land policy and management⁵⁵ where it can play four roles: i) operate as a land market regulating mechanism, ii) operate as a revenue source – financial instrument, iii) enhance the creation of public goods (as it can be paid in kind, it can operate as a mechanism to obtain land) iv) redistributive instrument (capturing unearned land value increments from landowners and transferring them to finance public goods).

⁵⁵ Land Management is the term I have used for “Gestion del Suelo” used by the law to bundle the integrated practice of land readjustment, its tools and techniques and logics of combined regulation and action.

4.2.3 PLVI at Work

Participation in Land Value Increment interacts with the planning system at different levels, to fulfill those four roles. Decisions from the planning instruments at different scales, configure burdens and benefits, and the value from the project scale, that through PLVI is redistributed to the city scale. PLVI has four moments : when the potential increment in land value is created by planning and regulation; when this value is calculated through assessments and liquidated, when the potential is used and the charge is levied; and when the revenue is redistributed. Graph 6 in chapter 1 illustrates the process.

Creation – The Generators. There are several public actions that generate the land value increments and configure the contribution obligation, and all of them are linked to the planning system⁵⁶. Decisions in the general plan are detailed in subsequent zone plans, which in turn are further defined by specific land readjustment schemes or building codes. These establish the general, intermediate and local burdens that a given development must finance (both in land and investment). The uses and building rights (benefits) that can be potentially marketed are also progressively defined at each planning scale. As a result of this linked system both the generators of a new highest and best use, and the implied responsibilities for the developer to make them viable, configure the new potential price of land.

Calculation and Information. In chapter 2 there is a brief description of the way land value increments are assessed, and PLVI charges liquidated. Several mechanisms guarantee that the effect of the potential benefits and burdens of planning decisions are made public. The official assessment of the difference between the new potential value and the value before the planning decision is made, is published in the newspaper, formally notifying property owners of the potential increment and the corresponding 50% participation charge. Furthermore, an annotation at the property registry will notify any potential buyers of these conditions (planning decisions and impending tax). This part of the process integrates infrastructure planning, land regulation, assessment by the cadastre, and the coordination with national registry. It fulfills PLVI's role as a

⁵⁶ The generators (hechos generadores) according to the law are the following public actions : i) change of category from rural to urban, ii) increase in development/construction rights, iii) change to a higher value use iv) construction of public infrastructure. (Maldonado et al: 2006)

mechanism to discipline the market, by making burdens visible in the price and by implicitly reducing by 50% the transaction with the landowner, transferring it to its future payment as tax.

Levy and Payment. The obligation to pay is determined by the intent to make effective use of these new potentials. In consequence, in Bogotá payment is expected at the moment a specific authorization or license is issued.⁵⁷ (Maldonado et al:2006) Only then the exact definition of the building rights has been fully determined and the intention of a constructor to use them is concrete. Colombian law establishes multiple forms of payment, including land. As land for infrastructure and amenities is scarce, even though PLVI can play a role as a source of local revenue, it can play a more significant role as a means to obtain land, thus liberating public investment resources in infrastructure and ecological protection, from land acquisition.

Redistribution . Finally, if the unearned increment is paid in cash, national as well as local legislation has determined its possible uses. For example in Bogotá, 70% of the revenue is earmarked to address city wide programs for social housing (new developments, renewal or upgrading informal settlements), 15% for city wide programs to acquire ecological protection areas, and the remaining 15% for public space or infrastructure within the area of the specific development⁵⁸. This final role as a mechanism to redistribute unearned increments towards collective purposes beyond the generating project's area of influence is guaranteed by the city's budget system, where their destination to the specifically determined lines of investment is channeled.⁵⁹

PLVI at work illustrates the potentials as well as the complexities that the application and long term management of this policy tool entails. Important future development challenges include : monitoring and gauging the charge's impacts, as well as evaluating the consistency between the different stages of the process (regulation, assessment, levy and use of the resources) and the overall intended outcomes.

⁵⁷ Sale through previous certification of impending tax has been authorized, recognizing that the actual exercise of the new potential development might be too far ahead to finance payment of the tax upfront.

⁵⁸ Acuerdo Distrital 118 de 2003 – City Council Local adoption of PLVI .

⁵⁹ The system, restructured around the city master plan's objectives, incorporates the resources to the specific programs, where responsible agencies will be assigned the required funds to perform within each program.

What Lies Ahead?

PLVI at work has many challenges ahead. The section on implementation in this chapter discusses through the experience in Bogotá, the difficulties and barriers that are being faced to operate the instrument, as well as the debates that emerge from the impacts its practical application is having on powerful stakeholders. To be able to fully understand the implications of PLVI's implementation today, however, it is important to review the strong relationship this instrument has with core policy issues in the planning agenda, and with the history of how dealing with those issues has shaped the planning system in Colombia.

Evaluation and monitoring, according to World Bank studies, are some of the institutional gaps that challenge the effectiveness of planning and other policy instruments in developing countries. (Ortiz, Bertaud: 2001) In this particular case, the observation deserves special attention because PLVI has significant potential impacts on the construction sector, which plays a significant role in urban economies in Colombia's cities. Institutional capacity to evaluate and monitor policy is restricted in Colombian public institutions. When policies are evaluated, nonetheless, it is often based on performance indicators that say little about their content, and offer few elements to assess some of the linkages between policies that may in fact be the essential factors behind their success. These evaluations may also fail to understand a policy's difficulty challenging political resistance to its implementation.

This study has proposed "policy learning" as an approach to understand PLVI in relation to SA as a value capture strategy, but is acknowledging the fact that the history and the relationships each instrument has to other issues, greatly determines their different paths. This is why such importance is given to their individual history. Studying the history of the idea of capturing unearned increments in Colombia, within the context of local planning debates as they evolved, is useful to fully appreciate the circumstances that have influenced such a policy choice, and the reasons why despite its delay this reform and its implementation have great political significance.

The road ahead is greatly determined by a clear understanding of the history behind what we have today. The next section is an attempt to convey a nuanced understanding of the reasons why this thesis argues it is a mistake to misunderstand

PLVI as a procedure or “the way it works”, instead of a policy issue or “what it is meant for”.

4.2.4 Urban Development in Colombia – Looking for Another Way

The final element of context that can be valuable for non-locals to understand why Colombia has chosen this approach to planning urban development is of course, history. The question is unavoidable at a time when a good part of the theoretical mainstream is critical of master plans and has been for some time advocating other forms of engagement with the private sector, mainly through strategic planning and market incentives. In fact this approach, more in line with the European planning culture, and in contrast with the strong neighborhood planning culture emphasized in North America, is by all contemporary definitions a form of top-down planning.

Why such a public sector centered planning system, at this time in history? Discussing those issues appropriately is another challenging research project. Nevertheless, within this research, I propose understanding the choice as a reaction to the combination of specific local problems, the evolving political setting, and the influence of technical developments in other latitudes on local experts, at different periods, that this section briefly describes.

The legal foundations of PLVI, most of which are common to the planning system as a whole, are a result of a long sequence of both successes and failures. The events that lead up to those turning points, have been bundled into periods in this section to highlight some circumstances that framed perceptions and shaped policy solutions. From 1936 until today, four distinctive stages, defined by key turning points, can be outlined to this purpose.

Urban Explosion and Local Impotence

Several authors see in the 1936 introduction of property as a social function the first foundation of the Colombian planning system.⁶⁰ (Maldonado:2006, Giraldo:1989) Special Assessment during the same period was already being implemented, while PLVI

⁶⁰ Several authors trace the idea to the influence of the 1919 German Constitution, which connects well to the fact that value capture instruments were being tried out in different parts of Europe including Germany and England at the beginning of the century and Special Assessment in the same tradition, had already been transferred to Colombia since the 1920's.

was a central issue of a larger debate. The struggle stretched out over a long period of frustrated policy reform initiatives, until 1989 when the Urban Reform Law was enacted⁶¹.

This is also a stage of transition from a strongly centralized institutional structure, starting with Bogotá, which incrementally shifts resources and faculties to the local level, to face urban explosion.⁶² The accelerated urbanization process in major and intermediate cities, calls for some local fiscal and administrative autonomy to plan, finance and expand infrastructure. This situation reinforces the use, for example, of Special Assessment, as it was discussed earlier.

Two land markets emerge and boom⁶³. Both informal and formal demand added to the institutional incapacity to service land, drive prices to levels that make the need to empower local governments with instruments to discipline the land market, as well as structure urban development, an issue that reaches the top of the political agenda.⁶⁴ In parallel, improving fiscal capacity and urban management tools to rationalize investment becomes a priority, to be eligible for multilateral loans. Interaction with international agencies through large integrated investment programs in the 70's, promote technical cross fertilization and a transfer of operative skills, with positive spillovers that promote institution building at different levels, including local agencies such as IDU in Bogotá⁶⁵.

By the end of the period, a formal private construction industry is developing, but is challenged by a restricted, speculative urban land market in the hands of a few. This emerging economic agent creates another potential constituency for urban reform and regulatory mechanisms that make land available. Finally, informal development practices, also based on spectacular unearned increments gained through the parallel housing market through illegal subdivision, becomes a practice that despite its traditional links to local politics, can no longer be tolerated. Facing a decline from the technical developments of the 60's and 70's, and lacking the legal instruments to act, faltering

⁶¹ Except for the controversial enactment of Law 61 in 1978, approved according to Jorge Valencia Jaramillo's account, as a political decoy to reject a better project, and shortly after declared unconstitutional by the Supreme court. (Giraldo 1989)

⁶² Full local decentralization across the nation, however, only formalizes by the 1991 Constitutional Reform.

⁶³ Borrero:2003 1960's land prices rose 210% above inflation, 1970's 79% above inflation, 1980's high inflation period - no significant difference, 1990's with fluctuations an average of 48% increment above inflation.

⁶⁴ Machado:1989 Mentions multiple, disperse legislations and initiatives before the Urban Reform Law that attempted to address these challenges independently.

⁶⁵ Instituto de Desarrollo Urbano. The agency in Bogotá, created to operate the two large investment programs financed by IADB, to upgrade peripheral sectors of concentrated poverty. Later, it was the agency that managed and used the revenue from Special Assessment.

institutions' incapacity to deal with the growth, infrastructure deficits and decay, make times ripe for a reform.

By the time the 1989 Urban Reform Law is enacted, institutional capacity is overwhelmed by the magnitude of the challenges that have accumulated, local governments have no developed institutional capacity to generate or manage their own revenues to sustain their administration.⁶⁶ Despite the reform rhetoric, as the spirit of deregulation spread over the world, once the law is on the ground, this same local incapacity becomes fertile ground to transform the reform in its application into market driven regulations, far from the policy aims. This approach, neglected the balance between real estate development and the production of corresponding public goods, and promoted through the 90's a densification and expansion process with long term functional and environmental negative impacts, that are still the challenge of city's planners today.⁶⁷

Resistance and Silent Reform

The next stage, is a period of resistance to the reform. Through the judicial system the Urban Reform Law was being declared unconstitutional piecemeal.⁶⁸ Institutional weakness was a form of resistance as well. Planning offices had no technical capacity or resources to develop the Municipal Development Plans. Administrations were short and appointed mayors were not accountable, nor committed to long-term or controversial endeavors. The instruments of urban reform were being declared unconstitutional, while others had their regulation process stalled and could not be implemented. "Contribución al Desarrollo Municipal", the early form of PLVI, was also found inapplicable.

The Municipal Plans following the trend set by Bogotá, in general became inflated building codes that did little to direct formal development and neglected to balance the

⁶⁶ Bogotá's severe fiscal distress, for example, makes it impossible to respond to any new function or institutional challenge, making the general restructuring of its revenue system the top issue in its agenda.

⁶⁷ Individual parcel development and house by house densification, led to infrastructure and public space deficits as well as structural road network discontinuity in many prime real estate residential and commercial areas, that are now fully consolidated and impossible to restore.

⁶⁸ However, it has also been judged a fruitful stage that underscored weaknesses that would later be addressed through the Constitutional reform in 1991. Between 1989 and 1991, important jurisprudence was produced by the Supreme Court that further defined the nature of property as a social function and the legitimacy of capturing unearned land value increments.(Pinilla 2003)

market's behavior, to produce public goods.⁶⁹ Full fledged market driven formal development collapsed many parts of the city. Similarly, with the withdrawal of national housing projects, affordable housing was left to the informal market, now implicitly endorsed by the expectations fully institutionalized upgrading programs created.

At this stage, the Constitutional reform is at the center stage of the political scene. Structural transformations meant to decentralize, empower municipalities, give way to a pluralist, politically diverse system, with an open economy and a slimmer state apparatus, were the issues at the top of the political agenda. Within the Constitutional reform process, however, a silent, deep urban reform can still be traced. The founding principles of a new approach to urban development and within collective rights, of PLVI, were being formalized amongst the turmoil of other reforms.

Build up and Bust

After the 1989 Urban Reform and its tragic implementation, there came a moment of technical and institutional development, where various groups of scholars, professional associations, politicians and practitioners engaged in research and debate, looked at international experience and evaluated the national state of affairs. Through technical cooperation programs a nationwide debate was structured to discuss development planning issues and their institutional implications, outside the political arena. These became the technical foundations for a revision of the Urban Reform, led by an Executive initiative.

In 1995 the "*Política Urbana del Salto Social*" was presented by President Samper, who had also presented the 1989 reform initiative as a Congressman. It built on the technical advancements that had been in progress and set out to revise the 1989 Urban Reform Law on the grounds it should be "slightly adjusted" to be in tune with the new Constitutional precepts and municipal faculties.

Reform on the Ground

The enactment and first stage of application on the ground of the 1997 Territorial Development Law focused on the adoption of the first generation of municipal master

⁶⁹ This period has been characterized as an age of NO burdens and ALL benefits. Most areas of the cities were assigned maximum building rights and no planning guidelines existed to structure development except market trends.

plans⁷⁰. In Bogotá, for example, this transition to integrated spatial planning implied restructuring sector institutional planning into coordinated problem solving. This approach not only challenged organizational cultures, but redefined the required knowledge base for planning practice.

In tandem, several attempts to approve PLVI since 2000 failed. A belief that technically, as well as legally, it was unviable to adopt, participation in land value increment without changing the law, became a national debate. In 2003, however PLVI became a reality in Bogotá⁷¹. Together with the 2003 revision of the Bogotá master plan, which fully integrated it into the land management system, PLVI was ready for the ground, setting the trend for other cities in the country to follow.

4.2 The Trajectory

What is striking about land value capture instruments in Colombian history is only partially their implementation. Equally important is their political persistence and technical evolution. The difficulty of implementing these instruments as tools of urban management elsewhere in the Latin American region, has brought the Colombian experience to scholars' attention. Since policy reform is as *political* as it is *organizational* (Stone:2002, Grindle:2000), this research has sought the literature, institutional documents and has done interviews, to build an understanding of the interaction between these factors and their influence on such persistence. Attempting to link the circumstances that have sustained this long policy reform process intends to give a fuller sense of its complexity, than the legislative trajectory alone can.

4.2.1 The "In Betweens"

The policy reform process that leads to the local implementation of Participation in Land Value Increments (PLVI) has four legislative milestones that have been mentioned throughout the chapter: the 1936 Constitutional Reform, the 1989 Urban Reform Law, the 1991 Constitutional Reform, and the 1997 Territorial Development Law. These legislative accomplishments, are however the outcomes of the struggles "in between".

⁷⁰ Planes de Ordenamiento Territorial. POT

⁷¹ City Council enacted Acuerdo 118 late in 2003.

The legal and conceptual foundations presented earlier and their implications on each other are useful to understand how each legislative milestone adds to the framework for the legitimacy PLVI, as well as the grounds to operate within the Colombian legal and planning systems. Yet, at each of those intermediate periods, different key players from the legislative, the executive and the established technocracy have been engaged in efforts to push the reform forward. These efforts have been critical to overcome the legal, political and institutional challenges that have emerged along the way. Despite what one may intuitively assume, interviews have been helpful to understand that they have not been necessarily orchestrated efforts, nor always the product of agreements or bargains. They have also been a product of circumstance.

This section reviews in more detail the policy debates and the institutional and technical contributions that have, in this particular history, been essential to sustain the policy reform through several shifts in the political arena. It highlights the role of technical expertise and institutional innovation in this process, and recognizes the moments when the influence of technical teams pushing the reform initiatives has been most important for PLVI in Colombia. By shaping policy arguments and innovating technical solutions, these teams and their own learning process have been instrumental to PLVI's survival through the various stages of its evolution.⁷²

4.2.2 Political Defeats and First Round : “Contribución al Desarrollo Municipal”

Migration, soaring demand for housing, land retention speculative practices and institutional incapacity to provide infrastructure, all the dominant features that shaped Colombian land markets discussed earlier in chapter 2, translated into rapid consolidation of informal settlements and growing concentrations of urban poverty in Bogotá, as well as the country's network of secondary cities. Great political concern emerged. The country's stability had been maintained by a political coalition between the conservative and liberal parties, who alternated presidential terms and divided bureaucracy and Congress in equal shares during the period known as “Frente Nacional” between 1958 and 1974. This coalition built the foundation of a paradoxical political culture that long

⁷² This confirms Merilee Grindle's assertion that in developing countries, policy reform often is an initiative from the executive; where technical teams provided with special resources, are supported to design, develop and push these policy initiatives all the way through. (Grindle:2000)

outlived the period, making it difficult to judge whether agreement in policy arenas, even over issues as controversial as capturing unearned increments, were merely an expression of tactical coincidence, or in fact, a liberal ideological victory obtained through linked bargains.

Social tension made it clear, it was politically unviable to reject another legislative initiative for urban reform. Since the early 60's, over ten proposed bills had been shelved by Congress, many tagged as "socialist" and "dangerous" initiatives (Valencia:1989, Machado:1989, Maldonado:2006 a-). Adopting an urban reform law that would grant government the instruments it claimed, to intervene property and face up to the challenges urban development trends posed, became an issue that could not be further postponed. (Barco,V:1989 b-). By 1989, a political coalition, publicly endorsed by the construction sector, emerged and explicitly supported as its core principles those that have legitimated progressive value capture in Colombia until today.⁷³ This first version of the betterment levy was hereby introduced by the Urban Reform Law of 1989, as the Municipal Development Contribution⁷⁴. (Giraldo:1989)

With the enactment of this law, crucial steps towards a redefinition of property rights according to the social function that had been acknowledged by the Constitution since 1936 were taken. Several important statements were made: i) Municipal Development Contribution acknowledged the legitimacy of collective participation in unearned increments, ii) eminent domain condemned the practice of informal subdivision,⁷⁵ iii) exactions claimed land from developers for public amenities, iv) expropriation removed barriers for infrastructure development⁷⁶ and penalized land speculation, and v) municipal development plans made urban development and the coherent distribution of development rights, a public affair (Giraldo:1989). Furthermore, the Urban Reform set the policy objectives that would frame the roles and define the legal foundations of formal rules of engagement between public and private agents interacting in urban development.(Pinilla:2003)

⁷³ The political coalition on the issue of capturing unearned increment is specifically referenced as the foundation of the bill's support from both Liberals and Conservatives. Earlier reform projects had been essentially of liberal initiative and conservative resistance. (Giraldo:1989).

⁷⁴ Denominated at the time "Contribución al Desarrollo Municipal" - Municipal Development Contribution. Articles 106 to 110, Ley 9na 1989

⁷⁵ The law authorized punishing informal subdivision by confiscating the land - with no retribution.

⁷⁶ Infrastructure projects had been stalled for years when owners were not available or willing to sell. Bargaining by holding out was common, driving project costs up. Expropriation became a good stick for negotiations.

This moment has special significance in terms of the process that shapes the development of the two land value capture instruments this study looks at. In it, PLVI is central amidst the core issues of the land and housing policy agendas. In parallel, Special Assessment (SA) continues on its own path within the management and municipal finance policy agenda, where it remains today. Such separation is not inconsequential. As it has been pointed out in the previous chapter, remaining in the governance political agenda and being in that policy arena, has been a positive factor in favor of SA's relative persistence on the political agenda.⁷⁷

4.2.3 Silent Political Breakthrough and Second Round : "Participación en Plusvalias"

Whether a fortunate coincidence or a political strategy, a scrutiny of the rhetoric at the critical stages of PLVI's legislative history, highlights that especially at its two turning points, the Constitutional Reform in 1991 and the revision of the Urban Reform law in 1995, value capture as a policy issue is very discrete. In the Constitutional Reform, debates on territorial planning centered mostly on decentralization issues and the distribution of revenue instruments to finance local development.⁷⁸ The documents give an idea of the complexity and diversity of the debates, as well as a multiplicity of simultaneous policy arenas. This makes the rhetoric of debates difficult to relate specifically to PLVI. However, its location as a "collective right" associated to public space, suggests its conceptual link to the role Special Assessments played supporting infrastructure and public space initiatives, probably paved the way for it to become a fairly uncontested, discrete addition.

⁷⁷ On the other hand, at this time the separation could be read as an expected integration, considering that unearned increments from public infrastructure had been incorporated into Municipal Development Contribution, with the possibility to charge beyond the costs of the project; while simultaneously nationwide, SA was living the decade of its largest contraction. (Jaramillo 2001)

⁷⁸ Bearing in mind the geographic and time restrictions this research has already pointed out, the available materials from the reform debates by the Asamblea Constituyente (Gaceta Constitucional No. 22) reveal that within the debates on Collective Rights and Public Space, where the notion of participation in value increments in Article 82 of the 1991 Constitutional reform is currently inscribed, the issue is not even suggested yet. Further research might be necessary to determine how it was introduced, but interviews with scholars that have studied the legal origins PLVI for some time (i.e Juan Felipe Pinilla), have not yet found evidence of how the initiative was introduced in the final version. On the other hand, in the debates focused on Ordenamiento Territorial, the available material shows that policy arena was focused mainly on decentralization and its administrative implications (Gaceta Constitucional No. 44 and 22) .

On the other hand, a review of the exposition of intent that presented the Bill for the revision of the Urban Reform Law to the Senate in 2005, reveals that despite mentioning the issue, it is not especially highlighted as a policy argument. It is also interesting, for instance, that there is no mention of the fact that the Constitutional reform has given it full legal justification as a collective right, amongst the list of Constitutional reforms that are cited to justify the revision. Unearned increment remains discretely present as an element of context, amongst the original law's guiding principles. Nevertheless, technical evolutions on the matter since 1989 were not being ignored. This is evident in the fact that in the Bill, PLVI is consistently ratified as a financial instrument and most importantly, as a contribution integrated to land management.⁷⁹

The core debates of the 1989 Urban Reform are reframed in the policy documents published by the Viceministry of Housing and Urban Development's technical team in 2005, for the revision. The issues formerly presented a social rhetoric centered on inequity, poverty and social redistribution issues, were now presented as issues of urban crisis and dysfunction that hinder development as a whole.⁸⁰ In clear contrast to the 1989 policy arguments, the revision appealed to the contemporary notion of efficient urban management, local public entrepreneurship, and rationality in public decision making. If in other contexts, this state driven, top down rhetoric might seem for 1997 reevaluated in planning thought, the approach certainly met the political claim to transparency for public affairs during the Constitutional reform. After many decades of public decisions generally perceived as political favors, an approach that promised rational, technical decisions with mechanisms for public scrutiny and participation in place was rather, a sign of improved governance.⁸¹

⁷⁹ The strongest link between the two is the principle of equal distribution of burdens and benefits, which ties receiving gains from construction with an equivalent responsibility to finance servicing.

⁸⁰ *Ciudades y Ciudadanas : Política Urbana del Salto Social* in 1995, is the urban policy statement presented by the Samper presidency. Headed by Fabio Giraldo (former president of CAMACOL, editor of the 1989 Urban Reform Law presentation document) as ViceMinister, with the collaboration of a team of experts, the policy justification document reframes the Colombian urban debate. It presents an understanding of cities and city management within the national economic development process and related to external transformations such as structural reform and globalization. Focusing on local economic development as a key for competitiveness and on decision making instruments that are sensitive to local specificities, it presents as a solution (perhaps contradictory to the neoliberal ideology that frames the policy) the need for an active intervention of the public sector.

⁸¹ Another significant factor to consider is the strong influence of European planning on established Colombian experts at the time. The French, Spanish and English influence is very clear in the educational background and the intellectual networks of many of the influential members of the technical teams, both in the 1989 and the 1997 reforms. Both the nation building efforts of international development policies and this intellectual influence of academics and politicians involved in the debates, also ratify in their own way this shared vision of the role of state in urban development, that might seem foreign to readers from other contexts.

At the Congressional hearings, PLVI went through with little debate, despite the fact that it had been developed in detail.⁸² Both interviews and the literature on the subject suggest that landowners' main concern during the debates seemed to be focused on excluding the expropriation and the extinction of property rights that had been introduced for idle land and pirate development in the 1989 Law. Similarly, technical complexity, the size of the law, the novel instruments and concepts it contained, and the political turmoil that the presidency was facing at that moment, are all factors that seem to have influenced favorable conditions for PLVI to not only survive, but emerge from the revision technically enhanced and politically secured. In this round, no linked bargains were necessary for PLVI to come through. The surprise would unfold, however, as the technical developments for the implementation phase began to shape.⁸³

4.2.4 The Technical Contributions and Innovation

Between the intense political debates of the Constitutional Reform and the revision of the Urban Reform, planning practitioners and institutions were undergoing important transformations that set the stage for technical development and innovation outside the political arenas. For example, between 1991 and 1993, Bogotá had a major reform of its fiscal and administrative system, that transformed it from a bankrupt city to a strong local institution, with investment resources as well as a quickly developing management capacity. The innovations that included Autoavaluo⁸⁴ to increase tax revenue, as well as the renewed use of Special Assessments, accompanied by a general restructuring of the revenue agency, setting the trend for the rest of the country.

At the National level, in parallel, a great amount of learning and cross fertilization was taking place in the DNP⁸⁵. A team of experts became engaged in a 3 year research project, that assessed the institutional and technical challenges that the Urban Reform faced to be implemented and evaluated diverse international experiences for references

⁸² In interview with Patricia Torres – former ViceMinister of Housing & Urban Development, who presented the law in both chambers, she has pointed out that PLVI nor its detailed definitions became central issues in the policy debates or preparatory meetings.

⁸³ Oscar Borrero, former president of Fedelonjas and renown appraiser, mentions in his presentation at a public forum in 2003, that the private sector had no full understanding of the full meaning of the policy, nor foresaw its future implications. (Borrero:2003)

⁸⁴ Tax self assessment strategy to overcome the narrow tax base and create a renewed fiscal data base in a very short time.

⁸⁵ Departamento Nacional de Planeación. National Planning Agency

to fully develop an appropriate the tool set for the reform to become applicable at the local level.⁸⁶ In tandem with the research, the project created a debate agenda that involved practitioners, experts, public officials, the private sector, and organizations such as the Colombian Society of Architects, to discuss problems and explore the perspectives of a planning practice that, recalling Friedmann's notion, would shift Colombian planning practice "from knowledge to action". (Friedmann:1987)

Technical cooperation with France and Spain, especially the latter, was a rich source of concrete references of land readjustment practices, public private partnerships for social housing and infrastructure, and fiduciary management systems between landowners and developers. These novelties encouraged the private sector to sign on. Spain not only had an interesting experience, which resonated with the redistributive objectives of the Urban Reform, but has a similar legal system. The similarity made that experience an important precedent for urban law practitioners, to develop a nuanced understanding of the linkages and the fine grain legal requirements of each of the instruments that would be needed to implement the reform.

The spillover effects of these activities were very significant, as they literally prepared the ground for the opportunity that would arise with the Samper Presidency in 1995 to revise the Urban Reform Law. What is most striking about this moment is that it brings together the most diverse array of influential figures and schools of thought. The pragmatism of market oriented neoliberals, the critical and intricate elaborations of french ideologists, the action driven ivy league executives: were all drawn around this opportunity to make a difference. In fact, the law is often criticized for the evident contradictions these multiple views of the world have created, but in some sense, it can also be considered its strength.

Amidst these tensions, shift in leadership became the opportunity to include detailed regulations for PLVI's procedures, in the body of the law. This decision became the warrant PLVI would be politically secured and locally enforced without losing its content.

⁸⁶ The team at DNP under Carolina Barco's coordination, included Jose Salazar, Humberto Molina, Samuel Jaramillo, Maria Mercedes Maldonado, all of which were later on involved at different stages of the implementation of the Law in Bogotá. Maria Clara Vejarano headed the national workshops with municipal authorities. The National Architects' Association headed the nationwide professional debates. These forums were central to share experiences and build common understandings about urban issues.

4.4 Implementation : Learning by Doing

Bogotá sets national trends with its technical and institutional innovation, that make its early developments in value capture policy important to predict its potential evolution in the rest of the nation. Enacted in 2003 by City Council⁸⁷, it has been both praised and criticized as an achievement in further defining collective participation in unearned increments, and giving PLVI deeper implications.

After several failed attempts to implement PLVI in Bogotá, full technical and legal certainty that the instrument could actually be put to work only came until 2003. In early 2000, many experts were certain that once municipalities adopted their master plans, it would be too late to adopt PLVI, because taxes could not be retroactively applied.⁸⁸ However, through further scrutiny of the technical and legal content of the instrument, a group of scholars in collaboration with international experts and revenue officials were able to develop a full conceptual and legal framework to adopt PLVI in Bogotá. To gain support in City Council, preparation meetings were held to fully illustrate the basic concepts of the charge and the legal approach to the proposal for its local adoption. Several key council members endorsed the project and the levy was adopted, with a special authorization to charge PLVI to the intermediate planning regulations that had been approved between 2000 and 2003.⁸⁹

Local implementation has been a learning process that has surpassed any prediction that could have been made in 1989, when only rhetoric stood behind PLVI. It required legal savvy from policy makers; political boldness from Mayor Mockus, and creative problem solving from implementers in each agency, that no one could have foreseen. Its introduction has posed significant organizational challenges and technical demands that need to be addressed to sustain PLVI's operation.⁹⁰ There is a persistent stovepipe structure of decision making inside agencies, while organizational turf wars

⁸⁷ Acuerdo 118 , 2003

⁸⁸ The 2003 seminar "Reforma Urbana y Desarrollo territorial: experiencias y perspectivas de la aplicación de las leyes 9 de 1989 y 388 de 1997" held in april, revolved around that controversy. Advocates that supported PLVI resisted the nacional government's initiative to take the law back to Congress for a reform, before it was even given the chance to be introduced.

⁸⁹ Universidad de Los Andes's CIDER in collaboration with Lincoln institute of Land Policy, joined efforts with Secretaria de Hacienda and the Planning Department, to work in parallel the implications of the instrument on the fiscal and planning systems, and defining a transition stage for their full use.

⁹⁰ Interview with the current president of CAMACOL Bogotá, suggests that formal constructors are willing to pay PLVI, but that they are encountering terrible difficulty dealing with landowner's resistance to the impact of new assessments and the tax itself on their expected returns, making land scarce. They also find that increased standards, procedures, planning delays and responsibilities are making business increasingly difficult.

and technical disagreements between them are generating inconsistencies. Similarly technical capacity gaps and other effects of insufficient funding are evident. Users on the other hand find little responsiveness to their need for technical assistance and face inadequate agency-client rapport mechanisms. Finally, an uneven application of the assessment methods is being perceived as a sign of technical incapacity⁹¹. These aspects are further discussed in chapter 5, in contrast with some alternate approaches that SA management explored.

The implementation of PLVI in Bogotá, is linked to the master plan revision that was adopted in parallel in 2003. A link between PLVI and the equal distribution of burdens and benefits is introduced as a structural policy, that expands its expected impacts. This situation has created controversy in the private sector and has polarized debate amongst groups that originally converged in PLVI's adoption. The next section discusses some of the issues that are raised by these controversies and their possible general impact on the policy's long term sustainability.

4.4.1 A Debate about Impacts

The spatial result of two eras of market driven urban development, has been enough evidence in Bogotá to make public intervention beyond regulation, a central concern. Making the production of public goods viable through the rents generated by urban development became a core objective of the Bogotá master plan revision in 2003.

The combination of planning and land management instruments, that develops the notion of equal distribution of benefits and burdens embraced by the 1997 Territorial Development Law, was established in Bogotá as a structural policy strategy. It establishes a planning approach centered on a general balance between the potential benefits assigned through construction rights and the real capacity that development creates to assume the burdens its servicing imposes.

Bogotá because of its size, developed a planning system of nested instruments that determine in evolving levels of detail the decisions that define the public realm and guide private development. These range from the policy and strategic levels of the

⁹¹ CAMACOL has had reports of enormous differences between the draft invoice prepared by the Planning Secretariat, and the the final assessment provided by Cadastre that substantiates the charge. Memebers of the association claim that the differences in regulatory interpretation used for such calculations, for example, are diminishing technical credibility of the process. Furthermore, they deny the basic levels of certainty required to design acceptable project financial structures.

general plan, on to intermediate sector planning guidelines, down to the detailed building codes. The integrated system of distribution of benefits and burdens applies at the different planning scales and not only amongst private agents, but also between private agents and the city. In the new approach the authorized construction rights are establishing the “burden capacity” of a development from the expected potential rents. This framework aims to balance feasible private development, with its capacity to assume the corresponding burdens. The arrangement is linked to PLVI, because it incorporates the “reality” of burdens into the factors that shape the land value, replacing the development expectations from the land prices that were formerly privatized as rents, with real investment responsibilities.

The broader implications of this evolution of the concept of redistributing benefits and burdens, as part of the materialization of unearned increment capture on the ground, were probably unexpected. During the policy debates in 1989 and 1995, the construction sector coalesced with the reform proposals for at least two reasons : i) the anticipated effects of the policy instruments would only affect landowner’s speculative and monopolistic behaviors, making more land available for the business. ii) the promise of a system of distribution of burdens and benefits within the land readjustment areas, that would balance the disparities between lots and create win-win development arrangements between partners, and with the public sector.

This extended notion of distribution introduced in Bogotá’s master plan has potential implications on the traditional margins of rent that constructors have generally obtained. The public sector’s retreat from its traditional role as the “silent partner” has changed business perspectives. Yet, culturally it is only bringing “over the table” the conversations that have been taking place between planning agencies and the private sector, for decades.

A recent article by a formerly open supporter of PLVI, makes harsh criticisms of the shape PLVI has taken in Bogotá, questioning its rationality, full consideration of broader economic impacts and its legality (Giraldo: 2007). First, it points out that the technical basis of the evaluation of PLVI’s expected impacts is segmented and does not consider the links between markets. Thus the plan’s proposition neglects to acknowledge the impacts of this extended notion of distribution of burdens and benefits, on the economy as a whole. Second, it claims that the assumption that this type of public involvement has no negative impacts is theoretical, and not only ignores the reality of

market dynamics, but potentially hinders it. Third, it suggests that the approach is not rational but a public policy burdened by emotion and rhetoric, lacking technical substance and supported by institutions that are weak. Finally, it suggests that integrating PLVI to the distribution of benefits and burdens' system, is most likely unconstitutional, because it is not only transferring public obligations to the private sector (financing infrastructure), but restricting the profit margins of constructors by relating development potentials to inflated responsibilities.

That position, emphasizes that under present conditions, the political agreement that coalesced in favor of PLVI is in jeopardy. That is a significant implication of the technical and institutional challenges that are emerging at the implementation stage of from PLVI's, that risk its potential consolidation as a policy instrument. The earlier chapter, highlights the fact that even though Special Assessment is far from being technically flawless, it has been managed in a way that has sustained its political feasibility. Addressing the issues that are raised, through strategic management of technical and institutional advances, like monitoring and responsive information and "client" centered review systems, has shown to be a crucial element to sustain legitimacy and deflects criticisms meant to erode the policy's intent.

4.4.2 Institutional-technical challenges

This study does not address the more complex institutional challenges of implementing the whole burdens and benefits distribution system that PLVI is part of in Bogotá. But rather it acknowledges that the linkages that have been pointed out, generate further expectations on the effectiveness of PLVI's implementation. Its operation affects public opinion and feeds into the resistance the whole system is facing, therefore addressing its set backs is significant beyond improving its individual performance.

Bogotá in particular has a set of assets, that give it structural advantages to deal with some of the technical and procedural complexities PLVI imposes. The early phase of PLVI's implementation has reaped the benefits from earlier policy reforms. Existing administrative tools, procedures and organizational cultures that were developed with the revenue system reform, have bridged with relative ease many of the coordination mechanisms that the implementation of has PLVI imposed. Other specific practices such as the long standing Special Assessment programs had institutionalized

partnerships between the cadastre and IDU for land value capture processes that have promoted cross-fertilization between specialties and adapted cadastral systems beyond their use for revenue purposes. Milestones such as the master plan created common information systems for planning. All these practices have built human and technical support networks and systems that have been essential to the highly interactive tasks applying PLVI involves.

Coping mechanisms that were adequate to deal with the sudden introduction of PLVI, however, require further evolution to become the formal mechanisms required to sustain it in the long run. According to their mandates, each agency has followed the procedures regulated by law, but are limited by their individual capacity to shift resources from other priorities to the task. The enactment of PLVI did not include resources to build up human capacity or develop the systems to fully institutionalize it. Good intentions are not enough to tear down the natural barriers that emerge when the required resources for a task compete with each agency's primary mandates. As a result, during the first three years of its implementation, the process has been conducted primarily by temporary support personnel in each agency. This arrangement restricts institutional learning and delays the introduction of permanent arrangements that meet the policy's long term requirements.

These institutional and technical challenges outline the discussion in the next chapter about implementation and the impacts some of the early choices may have on the long term evolution and persistence of a policy instrument. Chapter three, has highlighted some interesting aspects about SA's implementation and evolution that contrasts with PLVI's current situation. The contrasts between the two will focus on attempting to draw some lessons from the experience with SA on how to address these challenges keeping in balance incremental development and short term performance.

4.5 Conclusions

The overview and analysis of the process of evolution of Participation in Land Value Increments in Colombia, shows that it is a policy reform experience where the role of interrelated policy issues and overlapping political agendas has been very influential. It has built on the legal foundations, as well as some technical and institutional developments from the long experience with Special Assessment; and benefited from the

positive general perception of value capture the culture of its use has created. However, a closer look shows that PLVI is hardly the result of an evolution of SA or incremental development, but rather a policy leap that feeds on the trajectory of the first, but takes a more complex path of its own.

As political agendas have shifted and the policy arenas have realigned, PLVI's path as a powerful policy argument, has interchangeably played protagonist roles and more discrete roles at the critical moments that have defined the broader land policy and planning system. These shifts have safeguarded it at certain stages from potential opposition. During the periods "in between", different technical teams have skillfully crafted the necessary developments to overcome barriers and meet emerging challenges. The composition and ideology of these teams has strongly influenced the way PLVI as a policy issue has materialized through legislation and the shape it has taken on the ground. In Bogotá, its conceptual link to a broader notion of burdens and benefits has made it once again a difficult policy debate. The implications of such an ethical proposition as a structural strategy for the master plan, and in consequence, public urban development policy, has had unexpected impacts on the construction sector that have generated strong controversy. Nonetheless, the rhetorical power of redistributive propositions also constitutes a political advantage.

It is clear that far from being an efficient or substantial revenue flow, PLVI is an instrument that has two very important impacts : a cultural impact – in terms of its effects on the rationality of the agents of urban development, and a economic impact, in terms of the effects it has disciplining the land market. As a redistributive instrument, the resources captured are not insignificant (\$US16.5 million), though the most important redistributive repercussions come from the shifts that have taken place in public policy, based on the extended understanding of the basic principles of PLVI, such as avoiding the social costs of opportunity that customary infrastructure investment policies have had.

The technical and conceptual evolution of PLVI at its implementation phase in Bogotá, has been despite these challenges substantial. In fact without such creative problem solving by the technical team that shepherded the enactment through, this value capture instrument would have been inapplicable. Being bundled with the integrated burdens and benefits system, though conceptually useful, has nevertheless become a

political liability. As it is making the complex performance and operational challenges of each policy instrument a combined target for critique and opposition.

The operative problems that the application of PLVI is facing, have broader implications and potentially serve broader policy arguments. In spite of many institutional and technical assets, many of the critiques indicate the need for a general shift in the way these challenges are being tackled. A significant insight from the history of Special Assessment in this respect is that a process owner might be missing, in order to leave behind the current segmented, procedural view, to face strategic issues that need to be attended, frontally. The political environment indicates coherent judicial defense, technical consistency, and smooth process flow, under an overarching long term consolidation strategy, are required to prepare PLVI for the bumpy road that still lies ahead.

5

Policy Learning: Making Value Capture Smart

Both conceptually and in practice, Colombia's long experience with Special Assessment - *SA* has made it easier for people, politicians and institutions to grapple with the notion of Participation in Land Value Increments - *PLVI*. (Furtado:2000, Jaramillo:2001) The idea that the publicly created value transferred by public actions is not an entitlement, seems to be a settled debate, but how that value is determined and how far that concept can be stretched, is clearly not. The critiques that strong stakeholders have against *PLVI* and of its extended meaning in the burdens and benefits distribution system in Bogotá are a challenge that requires attention.

The study of the motivations, political environment and evolution of *SA* and *PLVI* in the previous chapters make it obvious that we are not looking at a single incremental value capture policy reform. Instead we are considering a series of interactive public instruments that, however related, address distinct policy objectives, have different potentials and face a separate set of challenges ahead. When it comes to unearned increments, it is also clear that it may prove easier to take little from the many (*SA*), than a lot from an organized few (*PLVI*). This distinction is important for two reasons, it underlines the significance of acknowledging that each instrument will continue its own path of development and therefore supposes that *PLVI* must face up to its own implementation battles alone. It also suggests that the lessons that can be drawn from the experience with *SA* for *PLVI* are better tempered by acknowledging those differences.

This research has posed that question. What policy lessons does the experience with *SA* hold, for *PLVI*'s own continuity and evolution?

This concluding chapter explores different lessons that can be drawn from *SA*'s process of implementation and development to think about *PLVI*, by drawing on parallels and contrasts between the two. It discusses as a point of departure the reasons *SA* can be considered "smart" policy and it argues that *PLVI*'s policy environment requires some

of the same special attention SA's implementers gave performance and sustainability⁹² concerns, that made it responsive and feasible in its own political context. The essential issue that has been neglected by PLVI's managers is the acknowledgement that implementation is the ultimate political arena of policy reforms.

Technical and institutional development are shaped by management focused on core aims and successful strategic alignment of resources. SA has developed an integrated approach to management that drives its performance and evolution process towards the clear goal of producing infrastructure. By contrast, PLVI stagnates as a result of a segmented management approach that relegates it to simple procedural administration, without tactical guidance. Important choices lie ahead and this chapter discusses some of the paths that might be explored by implementers during this new time "in between"⁹³.

5.1 Policy Learning

Learning from SA can be taken to a next level. Some obvious advantages have resulted from the practice of SA that have favored PLVI's recent implementation, such as a relatively consolidated technical expertise, developed institutional support systems and broad citizen awareness and fiscal culture.(Furtado:2000) Using these sources of support as stepping stones have been factors that have made PLVI's implementation probably far less difficult than even its most optimist early supporters might have anticipated. They may even be responsible for PLVI's local implementation⁹⁴, having gone far beyond what opponents may have expected when it was allowed to "breeze through" its latter legislative stages. Indeed PLVI has benefited from the legacy of the experience with SA, and been put into operative practice against the odds. Important steps are necessary to complete its implementation and make it sustainable. This research suggests that studying the policy evolution of SA, can be a useful source of insight.

⁹² Sustainability here is used in a very narrow sense. It refers to the continuity of the policy instrument in time, relative to its perceived legitimacy and to its political feasibility. It relates to its relevance, as well as to the arrangements that enhance its long term performance and perceived responsiveness.

⁹³ In the earlier chapters, the "time in between" has been used to name the moments of policy evolution when they are outside political arenas and legislative debate. These periods are the moments technical teams and professionals on the ground are inventing procedures, understanding problems and debating about options that are often used for legislative evolution when political arenas open up again.

⁹⁴ In Bogotá, particularly.

A sustainable policy requires building up the capacity to “deliver”, channeling adequate resources to propel it forward, and creating the political coalitions it needs to become stabilized. (Grindle:1997) I find the main lessons SA’s process of evolution has to offer the analysis of PLVI are about approaching the policy’s sustainability strategically. Despite the fact that it has been a policy with little opposition, SA has persistently adapted for improved performance and remained responsive to its political environment.

This research has highlighted that SA in Colombia, with all its shortcomings, can be an example of “smart”, context sensitive policy for PLVI. The history of its legislative development reveals a permanent loop between practice and legislation, which promoted its refinement and continuity. SA has consolidated at the local level through incremental institutional development while the permanent political scrutiny on its performance has kept it in high priority, sustaining the necessary flow of resources to support its application and evolution. Even though the favorable policy context make SA’s persistence predictable, the underlying management strategy that has maintained its political feasibility and created its positive perception has strong merits of its own. SA is “smart” because it is built to perform, learn and improve itself, fully acknowledging a critical element of policy: politics.

Several features in this approach to SA practice, despite the differences with PLVI, can be useful to think about making the latter a “smarter” policy and hence, a sustainable one. The problem is that if from a legal point of view PLVI may look as if it is here to stay, from a political point of view – that is not so clear. As its implementation advances, so do critiques and judgments about the way it is being practiced. Questions are being raised as well about the levels of technical uncertainty and broader economic impacts the kind of public intervention that is taking place can actually produce. In Bogotá for instance, the administration’s approach to implement the measure is *perceived* as “intuitive” and parochial, potentially de-legitimizing the merits of the policy.⁹⁵

The need to gear-up to face the technical and administrative requirements of a substantive policy debate with the construction sector and other stakeholders appropriately, should be clear by now. SA’s focus on developing technical, operative and management capacity, consistently aimed at giving the instrument credibility and political

⁹⁵ Public pronouncements of opponents and critics in the real estate sector which outwardly label the professionals responsible for the process as second rate, incapable, uninformed and utterly unable to understand what they are doing, are an example. In the interview with Camacol Bogotá’s current CEO, the lack of administrative coherence and technical consistency between stages of the same process and between different cases is a main issue that substantially erodes institutional credibility.

leverage is a good example of an effective approach to do so. These must also become core issues of PLVI's implementation agenda : value capture needs to "grow smart".

5.2 Implementation : A Political Arena

Grindle's analysis of policy implementation in developing countries has found that a policy initiative will tend to have relatively little debate at the input level of the decision process, while stronger participation and the clash of interests will tend to emerge after they have been formally adopted. In consequence, she suggests, the implementation stage is yet another political arena and often the most important one, as it determines the real shape, content and impact of an adopted policy.

Implementation is therefore not only technical and organizational, but strongly political. In developing countries, Grindle has referred to policy implementation as the "second generation reform", because it is the stage at which the midlevel bureaucracy, sometimes informally, builds through day to day practice the hundreds of basic adjustments in the organizational structures and procedures required to make the policy work. This is also the setting where natural resistance to change in organizations operates, and where opposition, with simple tactics that hinder action, can completely stall a policy reform. (Grindle:1997, Grindle:2000)

Implementation at the local level not only determines in "fine print" the depth of reforms, but also the institutional arrangements that will sustain them. In consequence, many interests will try to influence the way policy "lands on the ground" by denying these reforms the resources they require to succeed. Highly skilled technical teams that implement reforms, may overcome the obstacles intended to make the most controversial policies inapplicable by crafting contravening legal and procedural devices, to make their enforcement possible. They may even successfully incorporate incentives to reduce opposition. Nevertheless, case studies have found that in spite of those efforts, the absence of political pacts may lead these reforms to slow death. The 1909 Betterment Levy in England is a good example of how the policy reform, torn between Labour and Conservative political interests well into the 1970's, was overall inoperative, despite both parties shared concerns about the issues that inspired it.(Hagman, Misczynski:1978)

5.2.1 Participation in Land Value Capture at the Implementation Arena

As the preceding chapters convey, one basic difference between SA and PLVI is that while the first in general had its place in the political agenda for many decades, as well as strong support to back up its continued application, the other has made it to implementation down a long, bumpy road, where apparently few of its original advocates expected to see it arrive.

PLVI's enjoys only lukewarm political support and strong, growing opposition in its implementation arena. At the institutional end many unresolved operative challenges and struggles are creating inefficiencies, while technical inconsistencies and gaps are generating solid grounds for harsh political judgment. Allies have been introduced by policy advocates to compensate for these high levels of technical uncertainty, however the political motivations behind claims are only mildly mitigated by such support. The broader implications of this situation are that whatever happens with PLVI in its implementation arena in Bogotá, will most likely define the future of PLVI for the rest of the country.

Innovating has costs. As a unique experience in its region, the recent Colombian implementation of PLVI is headed by isolated pioneers, with few precedents to draw from to fully predict its potential impacts, nor fully tested institutional models to emulate for operating it smoothly. Responsible agencies have faced full scrutiny and strong pressures to perform, yet few resources are being diverted from other priorities for its technical development. Four years after its introduction in Bogotá, for instance, the requirements of the process continue to seriously strain the institutions' operative and investment capacity, because the new responsibilities must be essentially endured, redistributing existing resources. Furthermore, despite the myriad of innovations that have been required to assimilate the new tasks and to coordinate the process between agencies, resulting delays, conceptual clashes and contradictions among different managements have made the instrument a target of many severe criticisms.

The ongoing local "turf wars" amongst agencies involved in PLVI's implementation process have become yet another factor that potentially jeopardizes the instrument's effectiveness and legitimacy. Diverse understandings of urban regulations affect the accuracy of the assessments and multiple legal interpretations create contradictions between agencies. Fragmented responsibilities deepen these divides and

restrict PLVI's overall coherent management and technical consistency. Within the agencies, individuals attempt discretionary adjustments to cope with procedural fragmentation, but these fall short of successfully streamlining the process as a whole, because they lack the necessary formal arrangements that ensure permanent interdisciplinary collaborative work and smooth process flows. Informal channels to exchange information between professionals for instance, have been useful to speed up process flow; but unofficial information and informal technical concepts can become dangerous to handle. Those persistent limitations have led local professionals to become increasingly critical and pessimist about the real possibilities of withstanding political challenges against PLVI.

In contrast, the significant breakthrough the application of this complex value capture mechanism represents, has inspired interest and positive expectations amongst foreign scholars and practitioners, for its potential value as an example to other countries in Latin America and elsewhere. Their interest has favored the local debate, by introducing renowned international academics and research networks into the forum, opening up funding opportunities for research initiatives by NGO's and universities, as well as creating an alternate source of capacity building for public officials. Moreover, these somehow represent external allies that add technical legitimacy to ongoing efforts⁹⁶.

Having surpassed the "crisis" created by the legal requirements to comply with PLVI's initial application and moved on to other "crises", it is not certain how facing these challenges of implementation, or taking the necessary initiatives to respond to the complex dynamics of that context can be integrated into the responsible agencies' priority agendas.⁹⁷ The organizations involved may have slowly succeeded in assimilating the procedures into their day to day business, but this is far from a strategic organizational alignment, to meet the policy challenges on the horizon.

⁹⁶ The Lincoln Institute of Land Policy's Latin American network of scholars and funding has been a key factor to consolidate knowledge and develop technical capacity. Martin Smolka Director of the Latin American Program, has studied and fostered research, filling an important gap in the Colombian institutional capacity to document and publish the ongoing experience.

⁹⁷ In 2003 when PLVI was enacted, a transition period of 3 months was drawn as a deadline for the Mayor to calculate, liquidate and enact PLVI charges for all the regulations that had been enacted since the master plan had been approved in 2000. Doing so was a great challenge that required all the agencies to set up full time taskforces to meet that requirement. Failing to do so would result in legal responsibility for generating losses to the state as a result of taxing omission. This risk was a strong incentive for all agencies to focus all their resources on the task. When the crisis ended, the task forces were dissolved and each agency went back to meeting their own critical agendas.

What type of legal precedents are being set by official concepts, when they do not evaluate their broader impact as precedents that can affect the long term integrity of the instrument? What effect can the absence of a strategy have on the legal defense of the multiple cases that have gone to court? How can research be considered a strategic asset rather than a low priority expenditure? How are reflective practice, institutional learning and knowledge building being shared to inform adaptations? What gaps exist and where does technical development need to go, for PLVI to serve well long term land policy objectives? Who monitors the impact of the policy? Who determines unified criteria for dealing with political opposition? Which challenges ahead require new institutional arrangements or tools? Who is organizing an external agenda to deal with challenges imposed by other legislation and different government levels? ⁹⁸

Because PLVI has intruded into deeply entrenched private interests, thinking through its implementation process can't be the result of institutional "firefighting". A consolidation strategy that understands implementation as a political arena is necessary to protect this long sought reform from the influence of interest groups that will benefit from its failure. This study suggests that a useful source of insight to develop such a strategy originates in a better look at some "smart" choices that contributed to Special Assessment's own success with its specific implementation challenges.

5.3 Special Assessment : Smart Value Capture

When it comes to policy, bundling the qualities of clarity, flexibility and responsiveness implied by the term "smart", may not necessarily be a natural feature of an instrument, but rather an acquired quality. Cleaves' assessment of the factors that most affect policy implementation, suggests policies that: i) have simple technical features, ii) imply marginal change from status quo, iii) have a one actor target, iv) have a one goal objective, v) have clearly stated goals and, vi) have short duration, are "less problematic"⁹⁹.

⁹⁸ The judicial system, for instance, contests assessments by applying other methods. Municipalities in the region that are not applying PLVI, neutralize the policy measures and create land market distortions.

⁹⁹ If SA were evaluated simply as a tax, the characteristics would be limited to paying capacity and clarity. For its comparison with PLVI and because as urban policy instruments I think they should be both understood beyond their role as sources of revenue, I find these criteria encompass more accurately the broader dimensions of policy issues in the political arena. Cleaves, Peter. Chapter 11 in Grindle:1980.

The analysis of SA reveals that it is a policy instrument where many efforts have been made, throughout its evolution process, to make it “less problematic”. Despite the fact that it has developed in a relatively benign political environment, from a strategic perspective, the way SA has evolved technically and institutionally suggests a continuous concern for performance and sustainability, which became central factors of success in its implementation and the grounds for its consolidation process. With its natural shortcomings, as well as the challenges the specificities of each program posed, the overall assessment of SA’s development shows that addressing such concerns, in the long run yielded valuable results.

The following table relates the technical and management choices, already discussed in detail in chapter two, to those core objectives.

Table 1. Special Assessment . Factors of Performance and Sustainability

	Technical	Management
Performance	<ul style="list-style-type: none"> . Simplified models for distributing charges . Simplified independent parcel assessment . Standardization of procedures for calculating charges . Program evaluation and research ex-post . Systematized billing . Scaling up programs –sophistication . Innovation in program design – dif. scales, general/local; city-neighborhood 	<ul style="list-style-type: none"> . Unified strategy : legal, political and administrative . Adaptive organizational resource alignment: design, collection, construction . Balance program content and action plan – political pacts . Investment on technology . Organizational structure adapted to strengthen revenue tasks . Capacity building design . Outsourcing capacity – construction . Investment on organizational capacity included in the instrument.
Sustainability	<ul style="list-style-type: none"> . Integration of political criteria into distribution model design. . Progressive build up of default recovery: legal and procedural . Progressive build up of Information systems : basic to sophisticated . Partnership with Cadastre: support systems long term development . Minimizing discretion – Standardized procedures: transparency/Consistency . Registry – Property Lien: recovery guarantee, legitimacy . Production of maps and program information customized for citizens 	<ul style="list-style-type: none"> . Clarity charge – benefit :perceived fairness . User information and attention to claims: individually responsive . Public detailed information of projects and contracts in progress : accountability on performance and use of revenue . Enforcing interest and coercive charge: legitimacy . Relative burden – responsive to payment capacity: perceived fairness . Terms for payment – flexible : responsive in Installments acc. to capacity . Broad communication, media strategy: positive perception

Even though it is very unlikely a study of formal strategy for SA can explain the adaptive behavior that characterizes the instrument's continuous evolution, it is surely a result of a combination of the demands of its policy environment and the organizational arrangement in which it was implemented. In the long run, as external demands for performance favored adaptation and development, the integrated management of its three distinct core tasks fostered positive feedback loops between: practice and legislation, procedural refinement and technical specialization, capacity building and scaling up operations.

Significance of Political Pacts for SA

Political pacts create external pressures that can shape implementation environment in different ways. For SA, the political tension has in general been favorable, because it has optimized the use of its resources, supported its evolution and been an engine to increase its performance.

City Councils' approval of SA charges make political management an essential component of each program's design. Not necessarily because old fashioned political bargaining dominates project selection, but because the geographic distribution of the projects, charge criteria, the scale of the program and budget; as well as the construction action plan with its impacts, need to be a fruit of dialogue and are subject to continually renewed political agreements.

There are, in Bogotá for instance, unwritten protocols about the moment during a Mayor's administration, when it is most appropriate to present a SA program and how it must be done. (Hernandez:2007) Political control over performance of each program and its effect on a Mayor's public support has made SA an important item that strongly influences his relationship with City Council. This is perhaps the reason this dimension of policy is fully integrated to the way SA is practiced: from program design and revenue management; to public communications strategies integrated to construction management.

The political cycles and pacts on performance and responsiveness are central to SA. An enacted program is itself a pact that authorizes levying a tax in exchange for a specified commitment to perform. The content of a program, the distribution of the charges, the relative weight different economic activities bear, the selected projects and the time limits established to collect the tax, are all part of the pact. In the measure these

pacts have been increasingly made public, through broad communication, media coverage and citizen participation in program proposals, they contribute to the evolution of democratic practices.

(Hernandez:2007) This study will not attempt to judge whether linked bargaining is ethical or not, rather it seeks to make a point about the way SA has inbuilt some simple mechanisms that make it flexible enough to be able to deal with the requirements of its political environment.¹⁰⁰

Smart Shape – Smart Organization

Even though smooth process flows do not imply that concentrating tasks “under one roof” is absolutely necessary, for SA having unified management has successfully coordinated the three core highly specialized tasks that integrate its programs: design, charge, construct. Doing so has deeply connected the rationale between these processes making them primarily responsive to overall performance. The administrative structure promoted by this arrangement, has also made aligning resources optimally a set of very simple internal procedures.

The investments on capacity building, support systems development and institutional strengthening which the permanent interplay between the long term political sustainability of SA as a revenue resource demands, and the short term timely, visible outputs that the same sustainability hinges on, have somehow promoted a continuous commitment to its strategic management. The political and organizational contexts have perhaps contributed to shaping it that way. Nonetheless, the long term positive effects of such an approach are evident in SA’s evolution and crucial in its consolidation. PLVI is within an institutional context that does not naturally favor such a fortunate approach. The experience with SA suggests that program “shape” is heavily influenced by “organization” and that without an alternate arrangement, the chances to develop adequate support systems and to integrate the tasks for PLVI to perform well towards the long term aims it was meant to address, are very slim.

¹⁰⁰ Antanas Mockus mayor of Bogotá from 2001 to 2003 presented City Council a program three times and was denied. The exact program was approved by City Council in 2005 for the next Mayor. In his defense to critiques on his administration’s performance, Mockus claimed he would not be subject to any bargains even at the cost of having the infrastructure program blocked.

5.4 Participation in Land Value Increments : the “more problematic”

In contrast with SA, PLVI embodies the characteristics that are more difficult to implement. It aims to achieve highly controversial multiple goals, implies complex technical procedures, requires specialized, permanent support systems, yields politically intangible benefits, and promises uncertain and long term effects. (Cleaves:1980) Most importantly PLVI is a policy that redefines social norms, is critical of customary behavior and establishes new criteria for the allocation of burdens and benefits that have very high economic impacts on a narrow, strong group of stakeholders.

The previous chapter has discussed the different roles PLVI plays as a mechanism to capture unearned increments, as a land market regulator and as a redistributive mechanism. It also highlights that while its benefits are not visible to the broader public its effects impact the business environment of influential economic agents in a way that generates political tension. Moreover, PLVI’s expected structural positive effects as a land policy instrument are perhaps only tangible in the long term, while the costs of the new social arrangement it reflects are being felt already. Added to the institutional difficulties being faced to enforce the tax efficiently, these conditions define a complex setting for PLVI’s implementation, but most importantly, they establish an enormous sustainability challenge.

What does PLVI’s long term *sustainability* hinge on? Can be it be *streamlined* into a “less problematic” policy without losing its essence? How can its *short term performance* be addressed while a more strategic *long range perspective* drives the efforts?

These are questions that emerge by stepping out of the current narrow view that dominates PLVI’s implementation environment. Addressing them could lead to other ways of dealing with the difficult political context that is building up today. To explore these options, there are two important lessons from experience with SA that can be revisited: the way an *organization can be realigned* to get the job done, by integrating distinct strategic tasks; and the way *integration can redefine outputs* into new propositions with added value. SA was a task that redefined IDU¹⁰¹, in the sense that beyond learning how to levy a charge and integrate it into its procedures, the organization actually aligned its resources to perform in response to the political need to legitimate the charge, while in

¹⁰¹ Instituto de Desarrollo Urbano.

the long run ensuring its sustainability. As the design, charge and construction tasks became integrated by the overarching purpose to perform, they redefined thinking about building infrastructure as a task, into thinking about infrastructure production as a self financing cycle. A broader view of SA has led to significant added public value.

These two achievements suggest that two barriers must be overcome to reframe the current approach to PLVI. The first, is organizational thinking about it as a set of procedures, instead of acknowledging it as a long term policy instrument. The second, is an overall neglect of the implications that a focus on mobilizing created public value such as building rights, potentially could have over the direction of PLVI's long term technical and organizational development.

5.4.1 Procedure or Policy?

Thinking about PLVI simply as a set of procedures, in a group of agencies, which adds up to an uncertain amount of revenue, is a problem because it limits its understanding as a policy instrument and distorts the way it is handled. While policy calls for strategic management, procedure calls for administering operative flows. Granted, resolving operative issues that currently make PLVI procedures inefficient and inconsistent is important, but it is also true that focusing exclusively at this level distracts critical attention from the issues that need to be addressed within the broad "implementation arena".

The analysis of SA has been useful to understand its political dynamics and its implementation rationale, in terms of the broad public awareness and political impact it creates. The contrasts explored earlier in this chapter, make it clear that translating this understanding directly to a reflection about PLVI has limits, but this study proposes to explore some alternate dimensions of the challenge through the questions about sustainability, streamlining and performance formulated in the preceding section.

This approach is far from neutral. It is strongly influenced by an optimistic, somewhat idealist assumption that if PLVI becomes "good enough" it might have a better chance of attaining political sustainability. Certainly more pessimistic readers might find that assumption impossible to defend. History however, has shown that PLVI's political

context has often been unpredictable and that technical ingenuity has found plenty of opportunities to make important differences.¹⁰²

The Question of Sustainability

PLVI's current political context is challenging. Some of its impacts have extended to interest groups that did not expect to see their traditional rules of engagement with the state redefined. New concerns and new coalitions at the implementation arena suggest that PLVI's long term sustainability could hinge on at least two factors: renewed political support and visible performance.

Experience with SA has shown that informed public opinion becomes a critical asset to influence the balance of power in political arenas. Building a broad, simplified understanding of PLVI and its intentions, by making its benefits more tangible to citizens, potentially generates public expectations for social benefits that could help to sustain the policy. As things stand today, an average citizen is in general unaware of the potential impact of the tax on his/her own assumptions as a homeowner, as well as of the broader economic implications of PLVI on large stakeholders or its important social returns.

If visible performance is as influential as the experience with SA has proved, parallel reasoning would suggest the importance of creating public awareness of the short term benefits of PLVI. Showing citizens how the values captured through the tax are being invested and their concrete positive impacts on the needier areas of the city, is critical to build public awareness and support for the policy. This can be done by channeling the revenues to specific projects. Identifying short term tangible benefits directly associated with PLVI's redistributive impacts, will increase its social value.

Public perception is also strongly influenced by misunderstanding. Educating single homeowners who are fearful of payments they are not expected to make, and who are misinformed of the benefits they are entitled to, prevents unnecessary negative perceptions and misguided expectations.¹⁰³ Good information can shape reasonable market value expectations from the larger group of citizen stakeholders, when they are

¹⁰² Such was the case with its approval without opposition in the 1997 Territorial Development Law, and with the unexpected technical savvy that resolved the timing issues, that at one point made PLVI's local implementation after the approvals of master plans apparently impossible.

¹⁰³ When the potential participation charges are posted in the newspaper, citizens often believe they are being charged for the amount. They are not aware that it is only due if and when their property actually realizes the value increments by using the new rights. They are not aware that they will still be gaining 50% of the additional value the regulation changes produce. Both misunderstandings create fear and frustration for average homeowners.

also balanced with the broader community's perception of the policy's benefits. Acknowledging new political alignments and broadened support as potential elements of PLVI's sustainability is strategically as important as technical development, to its legitimacy in the public debate against organized opposition.

The Question of Streamlining

SA was strategically simplified to become a "less problematic" policy to implement. PLVI's complex process is established by national law, therefore the formulas and procedures for calculating unearned increment are bound. In contrast with SA, the positive potential of a feedback loop between practice and legislation for PLVI is unlikely, because it jeopardizes the political achievements of the Territorial Development Law on many issues, by summiting it for revision.¹⁰⁴

The legislation that regulates PLVI makes it very demanding for the agencies that operate it and a difficult revenue source to administer. Actors involved are few, but they require specialized attention. Constructors who are processing licenses and people who need certifications to sell properties subject to the tax, interact at critical moments in their business transactions with the agencies that are responsible for different procedures related to the tax. In consequence there are claims, particularly from the construction sector, about administrative inefficiencies, methodological inconsistencies, substandard technical assistance and most importantly, inaccurate pre-calculations of the charge, that create unacceptable financial uncertainties.

Streamlining basic operations to resolve inefficiencies, as well as technical inconsistencies, are in principle matters that could be addressed through management improvements. Nevertheless, responsible agencies are reluctant to shift resources or priority towards the tasks related to PLVI, because it implies cutting back from tasks that are central to their own missions. The resulting lack of responsiveness increases users' discomfort, political tension and spreads negative perception. Furthermore, it gives grounds to declare that public administration is incapable of dealing with the policy altogether.

¹⁰⁴ In Colombia if a law is submitted to a legislative body for revision, there is no way to limit the debate strictly to the items that are proposed. Once it is there, any item can be discussed, changed or eliminated without a possibility for rebuttal, nor withdrawal. Therefore, proposing even minimal changes to the 1997 Law implies placing the whole urban reform back into the political arena.

As long as interagency coordination requirements remain unsolved, task division unchallenged and attention to emerging issues remains secondary to the internal priorities of each agency, the chances that the operative problems that challenge credibility will be resolved are slim. Likewise, the investments required to design and implement these tools and to establish the long term mechanisms to monitor the policy impacts that generate feedback for policy adjustment, are unlikely to happen under the current organizational vision.

Understanding PLVI as a set of procedures limits decision makers' perspective on the broader political significance of its neglect. It leads to choices that place administrative simplicity over and above the special organizational needs the policy's full implementation demands. An interdisciplinary PLVI task force created in the planning agency early in its implementation phase in Bogotá to coordinate the tasks the agency is responsible for, was unfortunately dismantled.¹⁰⁵ Such an alternative organizational approach however, would be beneficial to construct networks for problem solving, to promote flows of information and skills, to increase integrated understanding and to create simple monitoring mechanisms to mitigate many of the negative impacts segmented management generates. Furthermore, it would be a flexible arrangement that could easily adjust to the work flows created by surges in planning regulation cycles, and promote cross-fertilization between areas of expertise.¹⁰⁶

A key lesson from SA, to think about how to resolve the conflicts in resource allocation, was its success in including the administration costs as a percentage of the charge. This resolved the barriers that prevented the agency from being able to create support systems and develop capacity to perform well. PLVI generates revenue, therefore it should not have to drain resources from other priorities. Part of the revenue PLVI is generating needs to be reinvested in basic operations support systems that contribute to streamline procedures, but more importantly to build long term capacity to responsibly overview its impacts.

¹⁰⁵ The team was integrated by a set of professionals from different areas in the planning agency, and complemented with temporary personnel. It became an administrative challenge because no midlevel management vacancy was available to assign a team leader. As hierarchy greatly influences getting issues onto bureaucratic agendas, the teams' findings and initiatives had no institutional impact and soon because it was unsupervised, personnel was withdrawn and the coordination system eliminated. These apparently minimal issues confirm Grindle's findings that the great barriers of reform in the implementation arena emerge from simple organizational friction often beyond the politics of a policy.

¹⁰⁶ Interview with Francisco Bermudez former Coordinator of the task force at the planning agency in 2005, was useful to understand the benefits of having such a team and the technical developments and spillovers that the interaction between disciplines was generating in favor of institutional learning and knowledge building.

The Question of Short Term Performance and Long Range Perspective.

Considering long term sustainability as assured by short term performance seems to have been a natural logic for SA's managers. In contrast, it has not developed naturally from the practice of capturing PLVI, despite the fact that by definition it is a long term policy instrument.

The political cycles of SA programs create the tensions that drive the agency's short term performance, while the organizational strategies required to cause the support systems to respond well, have sustained the overall technical and institutional evolution process. The long term relationship between the revenue source and the responsible agency's mission has inspired the continuity of this management approach.

PLVI's implementation, by contrast, has been driven by the responsible agencies' individual attempts to meet the legal deadlines to calculate and liquidate the potential participation charges. Overall, management has centered on procedural outputs and coping with operational challenges, while the policy outputs that need to be defined at the strategic level remain to be addressed. There are no clearly defined short term outputs for PLVI in land policy, nor a core long term policy objective driving its management.

The absence of a directly responsible agent for policy outputs, called in organizational literature a "process owner", limits the possibilities to act and think tactically about short term performance in the broader picture. It hinders as well the efforts to ground PLVI capture as a policy tool through the actions that establish its long range support systems, including research and capacity building. The absence of an integrated vision particularly limits the institutional capacity to understand and address PLVI's "implementation arena" and to act accordingly.

Besides these organizational barriers to future oriented action the clear definition of what PLVI's performance should be, a key element to bridge organizational short term - long term thinking, is missing. Perhaps mistakenly, within the current arrangement the overall performance of the instrument is only measured on reported generated revenue. At the institutional level, performance is assessed on compliance with the legal terms to fulfill individual tasks, but not on policy impact. While PLVI's fiscal performance is limited, if its concrete redistributive benefits remain intangible, its policy impacts will remain unrecognized. Even though the resources are tagged for their appropriate destination through agency budgets and feed the lines of investment of identifiable

projects, PLVI's management remains focused on the taxing procedures and does not acknowledge the significance of making those outputs a tangible measure of *policy short term performance*. Increased awareness of PLVI's short term positive impacts, such as the investments in upgrading programs and public amenities it ultimately finances, can become a strategic political asset, as well as a driver for other dimensions of its institutional development.¹⁰⁷

For the moment, recognizing that PLVI is being shortchanged as a procedure rather than handled as a policy instrument, is a most critical issue. Thinking about PLVI strategically concerns choices about its core aims and a clear definition of its policy targets. These choices in fact, might become part of the political pacts that need to be crafted to sustain it.

5.5 Managing Publicly Created Value

Moore, in a discussion on organizational strategy in the public sector, suggests that public management can evolve from accommodating to mandate and focusing on maintenance, to creating value propositions that deploy an organization's capabilities to meet emergent problems and produce new public value. (Moore:1995) This is part of the entrepreneurial public management ideological trend that has also inspired the Colombian land management system. Ironically, PLVI is a tool that creates and channels public value, but has no organizational arrangement to meet its strategic needs.

Earlier chapters have illustrated the multiple roles PLVI can play as a policy tool. Even though its practice has simultaneous impacts in terms of land policy, as a revenue source and a redistributive mechanism, management decisions and organizational arrangements can shape which roles are played well, as well as those which are neglected. The analysis of the present situation shows that currently PLVI's role as a revenue source seems to be the focus of its administration; in consequence, its more valued impacts are being underestimated (land policy and redistribution).

This section explores possible directions that can be considered to align resources strategically by focusing on a core objective. Some choices are simple, while a fully integrated project approach such as the value proposition the Nuevo Usme

¹⁰⁷ Such as policy research, monitoring systems to qualify impacts and other requirements of policy management.

operation suggests, is more ambitious. Ultimately the purpose of this discussion, is to raise the issue that because only clear objectives can drive to action, deciding who can best head PLVI's management and best align the resources to attain those objectives, depends on how far the city is ready to pursue each of its policy choices.

5.5.1 Aligning to a Value Proposition

In Chapter three, one aspect about SA's institutional arrangement that is rarely mentioned in the literature, but that by contrast I find very interesting, is highlighted. This is the fact that *Instituto de Desarrollo Urbano - IDU* in Bogotá, as the responsible agency for SA, by integrating its mandate to levy SA with its design and construction capacity and strategically aligning them into a program, has created additional public value. IDU has transformed a charge into an action: a way of *conceiving* and *deploying* the city's infrastructure production process.

Thinking about strategic resource alignment for PLVI in an analogue direction to SA, suggests identifying what core objectives a long term strategy for PLVI might pursue. This is a choice, not a question with a right or wrong answer. Nevertheless, the reflection along the lines this research has explored suggests that amongst the possible choices, at this point, a fully transformative approach with only the present resources available might be difficult to sustain. Focusing on a specific purpose may be useful to integrate thinking about the way PLVI should organize and develop.

5.5.2 Choices : Core Objectives and Targets

In thinking about choices, history becomes important. The 1989 Congressional debates that led to an urban reform sought an efficient incentive to remove the negative impact of land speculation on productive urban development. The policy arguments alluded to a principle of fairness in participating in socially created values, thus establishing PLVI as an incentive to discipline the land market that promised significant positive impacts on housing policy, as well as a new flow of revenue from the captured increments.

Today, the initial expectations have evolved. PLVI's potential role as a mechanism to recoup socially created value, is being recognized as a source of public

leverage in its entrepreneurial urban developments. This concept has been explored in detail by the Interdisciplinary Center for Regional Studies (CIDER) of the Universidad de Los Andes, through a planning strategy that structures its proposals for the two largest future expansion land pockets left in Bogotá¹⁰⁸. The studies establish an innovative approach that combines land readjustment and several complementary land management instruments involving the use of the city's participation in value increments as shares to engage in different forms of partnership in urban development initiatives.

The initiatives are very ambitious and illustrate clearly that reframing the question of how socially created value through public decisions is brought to the table, redefines planning outcomes and potentially yields greater public gains. In Spain for instance, captured value is “paid” by transferring to the city 15% of the serviced land as a result of all developments, regardless of its potential commercial values. The potential results of developing expertise for a stronger public participation in development are disquieting for many stakeholders and have generated, logically, resistance that is manifest through meager political support for those proposals.

Is it feasible to go “*all the way*” with value capture so early on in the evolution of the new planning system and PLVI as a practice? The “silent resistance” to Nuevo Usme Operation initiative and the real capacity available to meet the project's operational demands suggests that maybe it is not.¹⁰⁹ However, it is a conceptual framework that could guide PLVI's long term evolution as a value proposition. The institutional expertise that is currently developing through small land readjustment project approvals (*Planes Parciales*) inside the planning agency, is in fact the “craft” that it would take for capturing PLVI to enter that next level of evolution.

Three Paths

PLVI at present faces both organizational resistance and political indifference. Both are signs that can lead to pessimism or to thinking about this moment as time “in between”, an interim for technical development. If that is so, history has shown us before

¹⁰⁸ Detailed information on Plan Zonal del Norte (2006) and Plan Zonal de Usme (2006), including the studies and full development proposals is not published, but is in the Secretaria Distrital de Planeación and Interdisciplinary Center for Regional Studies (CIDER) of the Universidad de Los Andes. Plan Zonal de Usme was adopted in 2007 but the Operation is stalled.

¹⁰⁹ Bogotá has elected “progressive” mayors in the last two elections, yet neither mayor has fully endorsed the initiative, in spite of the fact that it is designed to produce over 400 has. of affordable and social housing.

that there are some technical choices that can be made, to slowly move forward until priority policy agendas shift.

Is PLVI going to focus on its role as a revenue source? As a land market policy instrument? Or as a resource to leverage further public value?

- *Revenue Source.* The fragmented procedure PLVI is today, results from its perceived value as an inefficient, expensive, unpredictable revenue source that no agency wants to be fully responsible for. To focus on developing revenue capacity would mean focus on procedural efficiency, coordination, closing the gaps that are generating significant evasion, and perhaps exploring new ones¹¹⁰,
- *Land Market Regulator.* If on the other hand, it is more valued as a land market regulation tool, it can continue to be a limited revenue source, but it will require focusing on developing support systems and technical capabilities to assess its broader policy impacts on the core issues it has been meant to address. Similarly, on developing the capacity to evaluate possible unintended impacts on urban and regional economy and development.
- *Value Proposition.* Finally, if along the lines the Nuevo Usme initiative suggests, PLVI's evolution should begin by focusing on its potential as a source of leverage for further public value in planning operations then efforts would center on specific pilot projects to develop and scale up institutional capacity, responsive support systems and to trial new procedures. Adopting an alignment to deploy resources to make such exchanges effective and feasible from early implementation.¹¹¹

PLVI's potential roles are all important. In fact they should all be pursued. But is it possible to do it well all at once? Is it feasible? Is it "smart"? These are the issues that only a "process owner" of this policy instrument could evaluate and act on. The experience with SA is that focus has been a crucial factor to its advantage. While for

¹¹⁰ Such as the undeveloped parcels under "Tratamiento de Desarrollo", which are currently by omission, exempt.

¹¹¹ These would include the mechanisms to strategically channel payments in-kind, relate them to the local planning strategies, learning about transfers between areas, creating trusts for neighborhood investment from the 15% of PLVI that can be reinvested in the area that generates the value, amongst others.

PLVI, not being clearly focused on any strategic output at all, seems at the moment a factor that makes its present achievements less fruitful than they could be.

Looking ahead – More Challenges

The third chapter establishes the close relationship between the evolution of the Colombian planning and land management systems with PLVI. Indeed, as the capacity to integrate the use of land readjustment and other land policy instruments develops, so will the need for strategic use of these publicly created values. Nuevo Usme anticipates some of the additional institutional innovations such evolution would require.

Amongst the emerging issues that will pose new technical and institutional challenges for PLVI's development, will be the impacts of Bogotá's regulations on the development of the neighbor municipalities that have not adopted them; inner city redevelopment and the existing restrictions the current assessment criteria imply for its application there; progressive transformation of the city's single unit housing areas into higher density areas and the mechanisms that will have to be created to reinvest their corresponding share of PLVI; as well as the issues new transport corridors and the strategic development regional corridors, will raise.

In 1942 the British government created the Uthwatt Committee, a panel of experts, to make a detailed study of the existing betterment recapture instrument that had been in use since 1909 to fully evaluate its relation with other charges, compare it to other options that would achieve the same aims and make recommendations about the way it should be managed. (Hagman, Misczynski:1978) Preparing for political debates ahead might require revisiting the policy issues PLVI is intended to impact and finding ways to discuss and reaffirm its technical relevance to address them, beyond rhetoric. Like the English an attempt to evaluate the policy choices that have been made, their impacts and how they compare to other alternatives, would be useful to enlighten and broaden the perspective of such debates.

As an alternative however, administrators through a very simple management choice of small political cost, have it in their hands to create conditions that integrate thinking about PLVI, favoring linkages that in the long run will make a big difference. Instituting the operative task force and creating an executive board for policy guidelines, are feasible, short term key steps in that direction.

Like other times “in between”, this is an interim period for research and technical preparation for the challenges ahead. Refocusing organizational thinking about Participation in Land Value Increments strategically is necessary to make the result of over 40 years of political struggle worthwhile.

5.6 Conclusions

The people that are in a position to make these feasible, critical choices are often unaware of them. Many years of work in the busy world of “bureaucratic firefighting” are enough to know that having time to think through a problem, as this research has allowed me to do, is indeed a privilege.

The analysis has not aimed at making recommendations on what to do, but rather at framing the issues that shape PLVI’s implementation challenges, which are both political and organizational. The findings suggest that performance and sustainability should both come into play in PLVI’s management strategy, emphasizing that the core policy objectives can guide PLVI’s long term development better than procedural administration. As a the policy instrument’s sustainability which some of those choices may have. These are, of course, limited by the distance I have from those decision making circles now. Perhaps stakes are much higher.

There is a story, about an apprentice asking his Master which instrument is the best for drawing. He answered it depends on how skilled an artist you are, because a more precise instrument will demand greater command and depth to produce a good piece. A broad pen will require a few strokes while a fine tip will demand much more. This story conveys that the instrument one chooses for a task greatly determines the expected outcome and the depth one is committing to pursue. PLVI is an instrument that aims high on expectations and objectives, including its time frame. Regulating the land market is a long term policy aim that requires attention and depth in the way it is handled, in consequence PLVI needs to be conceived in the same way.

PLVI is above all a political achievement. Recognizing it as such defines its implementation as a critical phase that lays the foundations for longer term endeavors. Learning from SA about “smart policy” has led to several important realizations about PLVI : i) it needs political allies: broad public awareness and positive public perception, ii) it needs integrated management: shift from being administered like a set of procedures

to being managed as a policy instrument for a purpose, iii) it needs administrative streamlining and technical development: for legitimacy and sustainability, and iv) it needs to clarify its short-term and long-term outputs; in other words to determine its expected performance as a policy instrument, shaping operative strategy and support systems accordingly.

Thinking about strategic resource alignment for PLVI in an analogue direction to SA, suggests identifying what core objectives a long term strategy for PLVI might pursue. This research has suggested three alternate paths to think about how resources might be aligned strategically to sustain PLVI: focusing on developing its role as a revenue source; as a land market policy instrument; or as a resource to leverage further public value. Navigating in two of these while focusing development on the third can lead PLVI's institutional and technical evolution in different directions.

This research has found there must be a shift from a procedural to a strategic management of PLVI. In my view, focusing attention on PLVI's role as a land policy instrument to discipline the market, would favor long term strategic thinking the most and structure the necessary organizational arrangements in order: i) to responsibly assess the broader impacts of the way PLVI is being implemented (economic and on regional development trends); ii) to reframe the management and organizational arrangements so they will serve the instrument's development in a long range perspective; iii) to invest in support systems and technical capacity that sustain long term policy overview , iv) to focus on strategic thinking and "dialogue" with the structural policies it was intended to support (i.e housing, informality).

Strategy is about making choices. I have attempted to draw paths to think about choices, because it seems that the shift in perspective that might emerge from focusing on its long term role, would redefine PLVI's implementation process to shape the other roles more clearly as well.

My hope is that this will sound as "*simple and undemanding*" as Hirschman might have thought it should, so it can be helpful.

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