

Urban Planning and Land Management Instruments: Spontaneous Settlements in the Ecuadorian Amazon

**Instrumentos de
 planeamiento y gestión del
 suelo:**

asentamientos espontáneos en la
 Amazonía Ecuatoriana

**Instrumentos de
 planejamento urbano e
 gestão territorial:**

assentamentos espontâneos na
 Amazônia equatoriana

**Instruments d'urbanisme et
 de gestion du territoire :**

peuplements spontanés en Amazo-
 nie équatorienne

Fuente: Autoría propia

Autors

Katia Paola Barros-Esquivel

Facultad Latinoamericana de Ciencias
 Sociales FLACSO Ecuador
kapbarrosfl@flacso.edu.ec
<https://orcid.org/0000-0002-1576-9360>

Wilman Aldeán Aguirre

Superintendencia de Ordenamiento
 Territorial, Uso y Gestión del Suelo
wilman.aldean@sot.gob.ec
<https://orcid.org/0009-0008-7837-3196>

Recibido: 07/06/2024
Aprobado: 30/09/2024

How to cite this article:

Barros-Esquivel, K. y Aldeán, W. (2024).
 Instrumentos de planeamiento y gestión
 del suelo: asentamientos espontáneos
 en la Amazonía Ecuatoriana. *BITÁCORA
 URBANO TERRITORIAL*, 34(III): 159-172,
<https://doi.org/10.15446/bitacora.v34n3.114924>

[1] This article is the result of a research project by the Contested Territories Amazonia group of FLACSO Ecuador and the Superintendency of Territorial Planning, Land Use, and Management.

Abstract

Faced with the ecosystem and social crisis of the increasingly fragmented and disordered territorial configuration of the Ecuadorian Amazon, urban planning is established as a solution that redefines the role of the State in land administration. Based on the main planning instruments of municipal governments, the incorporation of land management tools defined in Ecuadorian national legislation is analysed for the recognition of the processes of social production of habitat in this planning process. The results include a systemic analysis of the legal framework of the matter applied to a timeline of its evolution; the study of the application of legal provisions in municipal planning; and the identification of a regularization policy that is ineffective in the Amazon reality. The research concludes that the public policy for the management of human settlements, in fact managed in a homogenized manner in the national territory, added to the limited capacities of local governments, both budgetary and human resources, continue to restrict the actions of the social production of the habitat.

Keywords: land management, planning, human settlement, instrument, Amazon.

Authors

Katia Paola Barros-Esquivel

Urban Architect from the University of Cuenca, Specialist in Administrative Law from the Andean University Simón Bolívar, and Master's in Urban Studies with a focus on Policies and Territorial Planning from FLACSO. Currently, Principal Investigator of the Contested Territories Amazonia group at FLACSO Ecuador and Director of Urban Planning, Land Use, and Land Management at the Superintendency of Territorial Planning, Land Use, and Management. Main research areas: urban law, territorial planning, urban planning, and Amazonian urbanization.

Wilman Aldeán Aguirre

Geographic Engineer from the University of the Armed Forces Ecuador, Master's in Project Management, Administration, and Business Management from the Catholic University of Ávila. Currently, National Superintendent of Territorial Planning, Land Use, and Land Management at the Superintendency of Territorial Planning, Land Use, and Management. Main research area: territorial planning.

Resumen

Ante la crisis ecosistémica y social de la configuración territorial cada vez más fragmentada y desordenada de la Amazonía ecuatoriana, la planeación urbanística se establece como una solución que redefine el papel del Estado en la administración del suelo. Tomando como base los principales instrumentos de planificación de los gobiernos locales, se analiza la incorporación de las herramientas de gestión del suelo definidas en la legislación nacional ecuatoriana para el reconocimiento de los procesos de producción social del hábitat en este proceso de planificación. Los resultados incluyen un análisis sistémico del marco jurídico de la materia, aplicado a una línea de tiempo de su evolución; el estudio de la aplicación de las disposiciones legales en la planificación municipal, y la identificación de una política de regularización inefectiva en la realidad amazónica. La investigación concluye que la política pública de gestión de los asentamientos humanos de hecho, manejada de manera homogenizada en el territorio nacional, sumada a las limitadas capacidades de los gobiernos locales tanto en materia presupuestaria como de recursos humanos, continúa restringiendo el accionar de la producción social del hábitat.

Palabras clave: gestión del suelo, planificación, asentamiento humano, instrumento, Amazonía

Résumé

Face à la crise écosystémique et sociale de la configuration territoriale de plus en plus fragmentée et désordonnée de l'Amazonie équatorienne, l'urbanisme s'impose comme une solution qui redéfinit le rôle de l'État dans l'administration foncière. Sur la base des principaux instruments de planification des gouvernements municipaux, l'incorporation des outils de gestion foncière définis dans la législation nationale équatorienne est analysée pour la reconnaissance des processus de production sociale de l'habitat dans ce processus de planification. Les résultats comprennent une analyse systémique du cadre juridique de la matière appliquée à une chronologie de son évolution. Deuxièmement, l'étude de l'application des dispositions légales en matière d'aménagement cantonal ; et troisièmement, l'identification d'une politique de régularisation inefficace dans la réalité amazonienne. La recherche conclut que les politiques publiques de gestion des établissements humains, en fait gérées de manière homogénéisée sur le territoire national, ajoutées aux capacités limitées des gouvernements locaux, tant budgétaires qu'humains, continuent de restreindre les actions de la production sociale de l'habitat.

Resumo

Diante da crise ecossistêmica e social da configuração territorial cada vez mais fragmentada e desordenada da Amazônia equatoriana, o planejamento urbano se estabelece como uma solução que redefine o papel do Estado na administração fundiária. Com base nos principais instrumentos de planejamento dos governos municipais, analisa-se a incorporação de ferramentas de gestão territorial definidas na legislação nacional equatoriana para o reconhecimento dos processos de produção social de habitat neste processo de planejamento. Os resultados incluem uma análise sistêmica do enquadramento jurídico da matéria aplicada a um cronograma da sua evolução. Em segundo lugar, o estudo da aplicação das disposições legais no planejamento municipal; e terceiro, a identificação de uma política de regularização ineficaz na realidade amazônica. A pesquisa conclui que a política pública de gestão dos assentamentos humanos, de fato gerida de forma homogeneizada no território nacional, somada às limitadas capacidades dos governos locais, tanto orçamentárias quanto de recursos humanos, continuam restringindo as ações da produção social. do hábitat.

Palavras-chave: gestão da terra, planejamento, assentamento humano, instrumento, Amazônia.



**Urban Planning and Land Management
Instruments:
Spontaneous Settlements in the Ecuadorian
Amazon**

Mots-clés : gestion des terres, planification, établissement humain, instrument, Amazonie.

Introduction

The urbanization of Ecuadorian Amazonia has been characterized by the consolidation of a disordered and fragmented urban network (Barros, 2022), arising from violent processes marked by dispossession, displacement, and social exclusion (Wilson & Bayón, 2017). This is the result of public policies directed by “agents considered experts and/or legitimate to decide” (Camallonga, 2019, p. 96), typically state agents. However, what happens with the social production of habitat? And who is not legitimized to make these decisions, despite being the primary actors in the configuration of the territory?

In Latin America, for several decades, land occupation has occurred mainly in two ways. The first integrates into formality and capitalist logics of land access. The second, which arises on the margins of institutional and formal structures, occurs through land subdivisions by large land-owners or the occupation of public land, followed by self-management and construction (López-Casado, 2020, p. 713).

In Ecuador, since 2016, when the Organic Law on Territorial Planning, Land Use, and Management was issued, the management of spontaneous or de facto human settlements has been determined by either municipal control, which entails eviction and dispossession, or through comprehensive physical and legal regularization (Barros, 2022, p. 109), in cases where territorial planning within the framework of urban law was not considered.

Territorial planning has become the main tool guiding decisions regarding the management or administration of land that is intended to be regularized. In theory, it arises from understanding territorial realities and citizen participation (National Assembly of Ecuador, 2016), as it is based on the Decentralized National System of Participatory Planning. This study will analyze the incorporation of land management instruments that allow for the administration of de facto human settlements or spontaneous settlements (considered synonymous in this study). All of this implies the first step towards recognizing the rights of the inhabitants of these settlements concerning land tenure and the provision of basic services and facilities.

Within this context, territorial planning plays a fundamental role. Based on this foundation, the objective of this research is to analyze the incorporation of land management instruments defined in Ecuadorian national legislation for the recognition of social habitat production processes in this planning process. The secondary questions addressed are: What is the evolution of the legal framework governing the recognition of spontaneous settlements? What is the level of application of national legal provisions and regulations in local planning? And can it be said that there is an ineffective regularization policy in Ecuadorian Amazonia?

Within this context, territorial planning plays a fundamental role. Based on this foundation, the objective of this research is to analyze the incorporation of land management instruments defined in Ecuadorian national legislation for the recognition of social habitat production processes in this planning process.

Conceptual Framework and Methodological Proposal

Self-management and habitat construction is, for the most vulnerable population, almost the only way to access land and the city (López-Casado, 2020, p. 714). These initiatives are known as Social Production of Habitat (SPH), a concept coined by local militant organizations and international civil entities, and later brought into academic debate and context (Zapata, 2024, p. 33). Consequently, to position the debate that frames this research, it is necessary to differentiate the following concepts:

- Self-production of habitat: “Refers to all forms of habitat production or its components undertaken by its own users (individual, collective, and from various production logics).”
- Social production of habitat: “Refers only to those habitat production processes or their components guided by a strict logic of necessity, where decision-making in the productive process and its planning is in the hands of its producers/originators.”
- Self-management of habitat: “Refers to a subset of SPH practices, strictly collective and organized practices, embedded in a political logic of social transformation through the community reappropriation of urban commons and the de-bureaucratization of the State for the reappropriation of its resources.” (Zapata, 2024, p. 33)

Based on the above concepts, this study is framed within the social production of habitat, which, according to Chanampa & Lorda (2020, p. 145), involves territorial appropriations that seek an alternative due to the limited or nonexistent access to the land market.

These forms of growth share several points in common. First, they occur without considering planning; second, they originate outside the legality of land tenure and established occupation forms, meaning there are no administrative decisions legitimizing such occupation; third, land shifts from being used as a commodity to a direct-use good. This does not imply that mercantile practices do not exist within the settlements, but rather that the objective of the occupation is not for profit or to generate added value (López-Casado, 2020, p. 714).

The management of these settlements by public administration, once they have been established and seek legal recognition, follows the principles, functions, bodies, and objectives of urban law, also known as urban legal rights. This can be defined as:

“... a set of legal norms, predominantly public law, regulating the relations between individuals and between them and the State, in relation to the use of social space; that is, all the territory susceptible to being used for the establishment or development of human settlements.” (Secretariat of Human Settlements and Public Works, 1978, p. 42)

The central premise of urban law is the relationship between private individuals and the State. Its primary goal is to achieve a balance between respecting land rights and prioritizing the general interest (Blanco Restrepo, 2006, p. 51). Urban law is a branch of Administrative Law “not only because of the nature of the authorities in charge of applying it, but also due to the unilateral nature of the decisions affecting it and its own content” (Herrera-Robles, 2005, p. 77), and thus shares its legal nature.

Additionally, it is pertinent to understand the distinction between urban law, urban legislation, and territorial development, as their meanings are often confused. Thus:

“... territorial development consists of a public function carried out by the relevant entities, ... urban legislation refers to the set of norms issued in the field of territorial development, and ... urban law is that part of administrative law responsible for studying both urban legislation and all legal phenomena inherent to territorial development” (Arbouin Gómez, 2019, p. 7).

Arbouin Gómez clarifies that, in this regard, the objective of urban legislation and territorial development is not the same as that of urban law, which is “to establish the special principles applicable to territorial development and, therefore, to the issuance, application, and interpretation of urban legislation, as well as the study of this normativity and other legal phenomena related to territorial development” (2019, p. 9).

With this clarification, the study that addresses both the principles of urban law and the foundation of urban legislation specifically focuses on land management, which refers to both policy generation and the application of the instruments that materialize land administration (Salazar Ferro, 2010, p. 1). In summary, this corresponds to all activities aimed at:

“... the acquisition (purchase, payment, tax instruments, expropriation, etc.) and/or repurposing (changes in uses, land consolidation, etc.) of vacant land and/or property by state organizations, which may involve the use of multiple instruments and tools” (Brikman, Najman, Aramburu, & Di Virgilio, 2019, pp. 3-4).

Under these principles, land management aims to obtain land for public purposes; finance urban development

Table 1. Methodology for Analyzing Policy Effectiveness

Source: Own elaboration based on Córdova (2018) and Howlett & Rayner (2007).

Objetivos de las políticas	Combinación de instrumentos			
	Consistente		Inconsistente	
Coherente	Óptimo	Integración	Inefectivo	Desviación
Incoherente	Mal direccionado	Conversión	Fallido	Superposición

through taxes, contributions, and fees derived from urbanization or construction, and to intervene directly or indirectly in the urban land market (Salazar Ferro, 2010, p. 2).

Within the framework of urban law and based on Ecuadorian legislation, land management of de facto human settlements or settlements originating from social habitat production is analyzed. The case study focuses on Ecuadorian Amazonia and the analysis of 37 out of 41 local governments in the Ecuadorian Amazon region. These correspond to the total number of territorial districts in which their local governments have active and legally issued Land Use and Management Plans (PUGS) for the 2019-2023 administration, which is the first administration that should have formulated these planning instruments (the PUGS) after the issuance of the Organic Law on Territorial Planning, Land Use, and Management (LOOTUGS) in 2016.

A purely qualitative study of the Ecuadorian Amazon case is proposed, based on the analysis of national legislation and the subsequent application of legal provisions in the formulation of planning instruments. The information was obtained from the Superintendency of Territorial Planning, Land Use, and Management, as the entity overseeing territorial planning processes and instruments in Ecuador, which is part of a fourth State function: Transparency and Social Control (National Assembly of Ecuador, 2008).

For the analysis of the effectiveness of regularization policies, the methodology of Córdova (2018, p. 14) is used, who states that effectiveness lies in the “institutional structures resulting from specific forms of interaction between the State, society, and the market [which] influence the coherent articulation of the objectives set and the implementation of the instruments to achieve them.” Hence, policies are analyzed in terms of their objectives and means, and their effectiveness is evaluated based on their dynamics in combination, as shown in Table 1.

In this context, the establishment of means to achieve the objectives can fail due to three aspects: overlap, when new objectives are constantly proposed without eliminating the previous ones, resulting in incoherence between the objectives and inconsistency in the instruments; devi-

ation, when policy objectives change but the instruments remain the same, thus becoming incompatible with the original objectives or failing to achieve effectiveness due to the combination of instruments; and conversion, when there is an attempt to modify the combination of instruments to adapt to new objectives in an area where change is blocked (Howlett & Rayner, 2007, pp. 8-9).

Results

Evolution of the Legal Framework

In Ecuador, according to Mena (2010, p. 17), policies related to de facto human settlements follow three periods. However, with the analysis of the current legal framework, it is considered relevant to add a fourth period.

The first period corresponds to the early 1960s, when de facto human settlements were considered a temporary issue that would be resolved over time without state intervention. For this reason, the state paid little attention to the matter, primarily focusing on social interest housing.

The second period, which occurred at the end of the 1960s, arose from the crisis of the previous model. The state became aware of the impacts of informality. Specifically, in the case of the Ecuadorian Amazon, informality became more intense than in other regions of Ecuador due to the oil boom and the consequent internal and external migration (Mejía, personal communication 2013, in Suárez 2014, p. 73). Public policies during this period aimed at eradicating settlements considered informal in origin.

The third period is characterized by fragmented and chaotic public policies that emerged from the state’s understanding of informality as an ongoing reality and a social problem in cities that necessarily had to be addressed. This period consolidated during globalization, when the market began to play a predominant role in housing solutions and the increasing intervention of the private sector became evident (Mena, 2010, p. 19). During this period, land tenure legalization programs emerged (McAuslan, 1994, p. 3), which also triggered various controversies about the effectiveness of these programs and whether

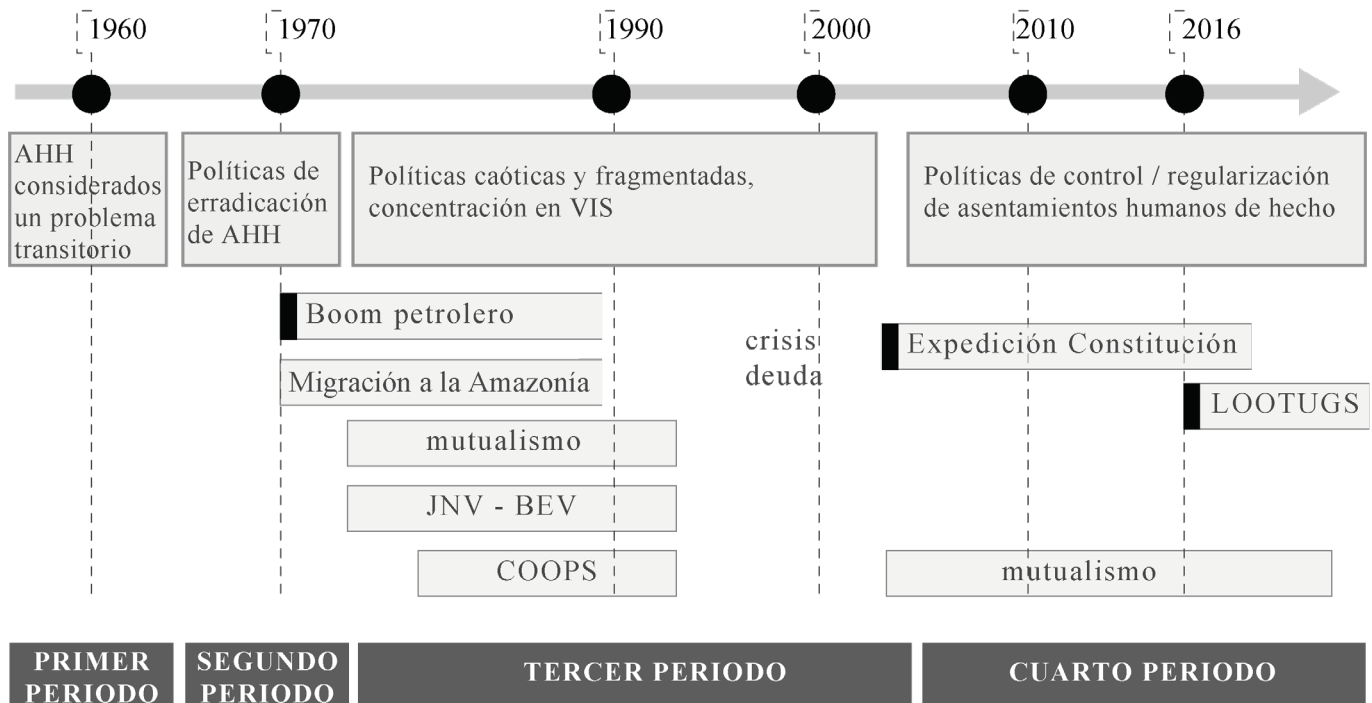


Figure 1. Evolution of the Legal Framework for Addressing Spontaneous Settlements
Source: Own elaboration based on the legal framework.

they should be considered under the perspective of a social policy (Clichevsky, 2003, p. 9).

Finally, the fourth period began in 2008 with the issuance of the current Constitution of the Republic. This marked Ecuador's transition from a social state of law, where the law was the limit of action and the center of decision-making, to a social state of rights and justice, where the limit is embodied in the Constitution (National Assembly of Ecuador, 2008), and the focus of action and decision-making is on rights. Justice thus became an obligation, not merely of means but of results, according to a pluralistic legal framework. In summary, the way of acting no longer solely relies on the law but on principles, rules, rights, facts, justice, and outcomes.

One of the rights enshrined in the Constitution is the right to adequate and dignified housing and a safe and healthy habitat (Article 30), followed by the right to the full enjoyment of the city and its spaces. These rights are framed within social justice (Article 31). The first right specified is defined as an obligation not only of the central government but also of local governments.

From this restructuring of the state, the political-administrative organization of territory is determined in provinces, cantons, and rural parishes, with the possibility of creating regions. For each territorial jurisdiction, a local

government with a system of competencies is established. The study primarily focuses on the municipal decentralized autonomous governments (GADM), as they have exclusive competence to regulate and control land use and occupation, both urban and rural (Constitution, Article 264).

In 2010, with the issuance of the Organic Code of Territorial Organization, Autonomy, and Decentralization, GADM were obliged to "control invasions and illegal settlements," which refers to the process to be carried out in case of unauthorized subdivisions and the special expropriation method for regularizing social interest human settlements. Consequently, in 2016, the Organic Law of Territorial Organization, Land Use, and Land Management (LOOTUGS) (National Assembly of Ecuador, 2016) and the Organic Law of Rural Lands and Ancestral Territories (LOTRTA) (National Assembly of Ecuador, 2016) were issued, establishing that a de facto human settlement is characterized by being:

A form of land occupation that has not considered the municipal or metropolitan urban planning established, or that is located in a risk area, and presents legal insecurity regarding land tenure, precarious housing conditions, and a lack of infrastructure and basic services (LOOTUGS, Article 74).

Provincia	GADM	Define zonas que serán objeto de regularización prioritaria	Observación
Sucumbíos	Cascales	NO	-
	Gonzalo Pizarro	SI	Se identifican 2 zonas que serán objeto de regularización prioritaria correspondiente a los AHH Las Palmas y Bella Esperanza
	Lago Agrio	NO	Se describe el proceso metodológico para la regularización de AHH; sin embargo, no se identifica la definición de zonas objeto de regularización prioritaria.
	Putumayo	SI	Se identifican 3 zonas objeto de regularización: un polígono de la cabecera cantonal de Puerto el Carmen, un AHH en la parroquia Palma Roja (Barrio Jumbo Gómez) y un AHH en los Barrios Rurales.
	Shushufindi	NO	-
	Cuyabeno	SI	Se identifican 15 AHH que suman 129.70 hectáreas. De estos, 5 son considerados dentro del Plan Parcial para el proceso de regularización prioritaria: Centro Unión, Nueva Santa Ana, Rey de los Andes, Playas del Cuyabeno y las Mercedes.
Orellana	Francisco de Orellana	SI	Se identifican 21 AHH. Además, se menciona que se aprobó la Declaratoria de Regularización Prioritaria de los AHH con Resolución No. 2019-019-CGADM-FO-ORD de fecha 09 de abril de 2019.
	La Joya de los Sachas	NO	-
	Loreto	NO	-
Napo	Tena	NO	Se describe el proceso metodológico para la regularización de AHH; sin embargo, no se identifican zonas objeto de regularización prioritaria.
	El Chaco	SI	Se identifica una única zona que será objeto de un proceso de regularización prioritaria, ubicada en el sector de San Bartolo el cual es considerado en la propuesta de un Plan Parcial.
	Archidona	NO	-
	Quijos	SI	Se describe un único AHH ubicado en el sector de Guagrayacu perteneciente a la Parroquia Baeza.
	Carlos Julio Arosemena Tola	NO	Se mencionan sectores que necesitan mecanismos de regularización de "asentamientos informales"; sin embargo, esta denominación no corresponde al ámbito de aplicación para la regularización de AHH de conformidad con lo establecido en la Resolución Nro.006-CTUGS-2020.
Pastaza	Pastaza	SI	Se definen 2 zonas objeto de regularización prioritaria: El Mirador y La Isla.
	Mera	SI	Se identifican 5 zonas objeto de regularización prioritaria.
	Santa Clara	NO	Se señala que existen 16 asentamientos humanos que se deben regularizar. No obstante, no se menciona cuales asentamientos serán objeto de la regularización, no se identificaron estas áreas a través de polígonos territoriales.
	Arajuno	NO	-
Morona Santiago	Morona	NO	-
	Gualaquiza	NO	No define zonas, pero sí conceptualiza el instrumento
	Limón Indanza	NO	No define zonas, pero sí conceptualiza el instrumento

Provincia	GADM	Define zonas que serán objeto de regularización prioritaria	Observación
Morona Santiago	Palora	NO	-
	Huamboya	NO	-
	San Juan Bosco	NO	No define zonas, pero sí conceptualiza el instrumento
	Taisha	SI	Se identifica un AHH, el cual, ha permanecido en posesión de los ocupantes por más de 13 años.
	Logroño	NO	Únicamente se menciona que existe un AHH en el sector de Yampas y plantean como propuesta un Plan Especial para su regularización. No se definen zonas objeto de regularización prioritaria; sin embargo, se menciona el instrumento de gestión del suelo y señalan el proceso metodológico para la gestión del suelo de asentamientos de hecho.
	Pablo Sexto	NO	-
	Tiwintza	SI	Se identifican 10 zonas que serán objeto de un proceso de regularización prioritaria, para las cuales, se ha establecido las superficies los que son representados únicamente por puntos con la localización.
Zamora Chinchipe	Zamora	NO	Se identifican 3 AHH; sin embargo, no define a ninguno como objeto de un proceso de regularización prioritaria.
	Chinchipe	NO	No define zonas, pero sí conceptualiza el instrumento
	Nangaritzá	SI	Se menciona que se ha identificado una zona objeto de un proceso de regularización física y legal de forma prioritaria en el sector rural "El Bosque".
	Yacuambi	NO	-
	Yantzaza	SI	Se identifican 4 AHH, de los cuales, se determina que 3 serán objeto de regularización prioritaria y 1 se realocalice.
	El Pangui	NO	-
	Centinela del Cóndor	SI	Se señala que existen 2 AHH, uno ubicado en la franja de protección del río Zamora y el segundo en los terrenos de la lotización "San José", de los cuales, se plantea a esta última zona como objeto de un proceso de regularización prioritaria mediante un "plan complementario urbano"
	Palanda	NO	No define zonas, pero sí conceptualiza el instrumento.
	Paquisha	NO	Se menciona que se desarrollarán Planes parciales para la regularización de AHH en el sector de "Draucin Calva" y en la zona minera del sur del cantón, y conceptualiza el instrumento de declaratoria de regularización prioritaria.

Table 2 Definition of areas subject to priority regularization declaration in planning instruments in the Amazon region
Source: Own elaboration based on SOT, 2024.

The focal point of this policy period is the definition of how to address de facto human settlements (AHH) in two main ways. The first is comprehensive physical and legal regularization, which refers to the granting of property titles and the provision of public support systems, equipment, and necessary infrastructure. The second is the ability to directly control settlements through eviction and displacement of people, as well as preventing such settlements by creating the Technical Secretariat of the Interinstitutional Committee for the Prevention of Irregular Settlements. There is, however, only one definition to

differentiate AHHs from irregular settlements. This secretariat has "a format for each public institution, such as Governorships and Municipalities, to enter information on potential settlements that are considered recent invasions or non-legalized settlements" (Technical Secretariat of the Interinstitutional Committee for the Prevention of Irregular Settlements, 2024) (see Figure 1).

The link between these two policies (control or regularization of AHHs) is a transitional provision established in the LOOTUGS, which obligates municipal GADs to reg-

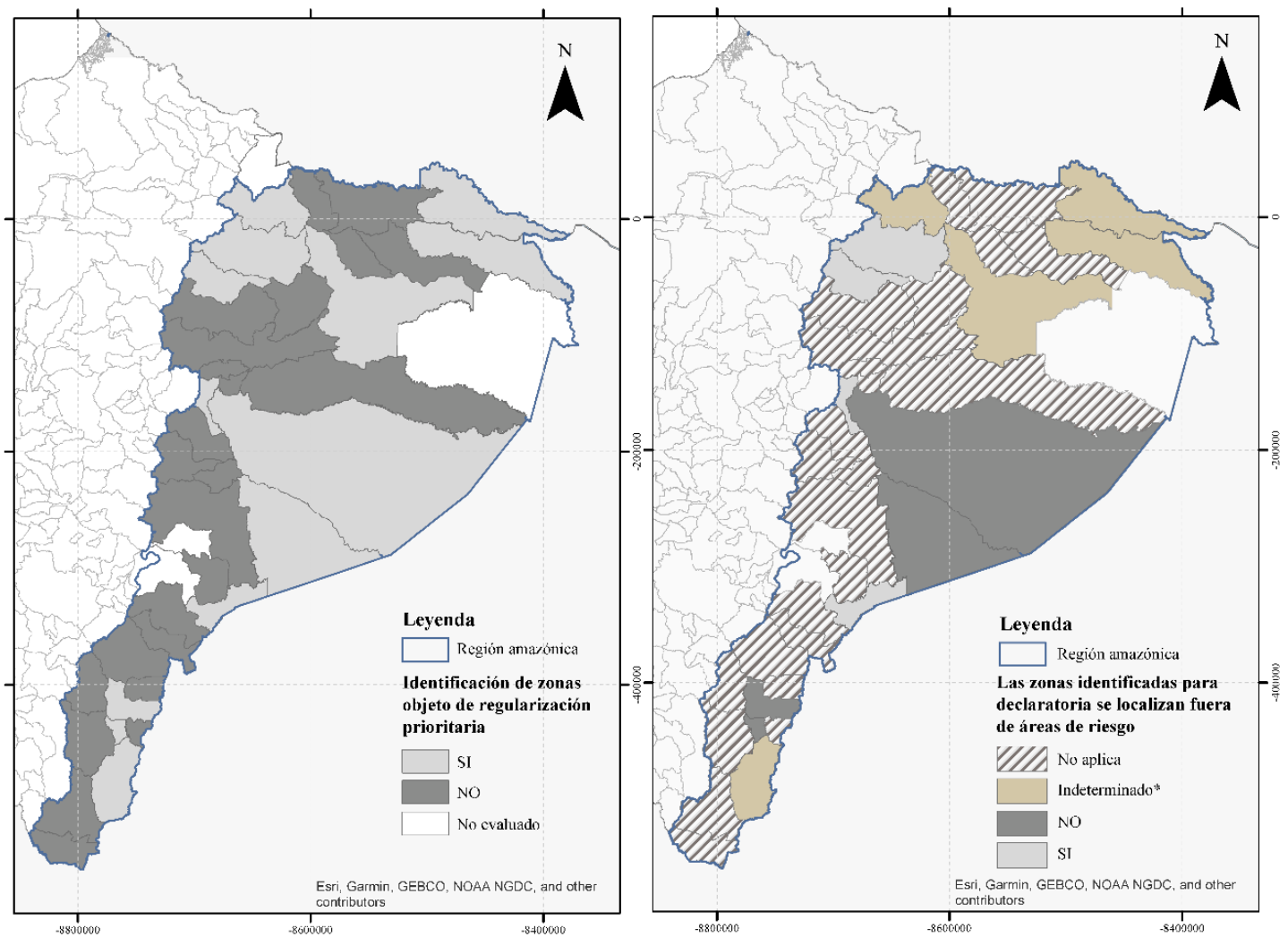


Figure 2 Definition of areas subject to priority regularization declaration in planning instruments in the Amazon region

Source: Own elaboration based on SOT, 2024.

ularize all settlements established before December 28, 2010 (Transitional Provision 8 of LOOTUGS); thereafter, regularization is carried out based on settlements that the GAD considers priorities and that have a social reality or the possibility of being controlled.

National legislation provides for the regularization of de facto human settlements through the inclusion of a land management instrument within the Plans for Land Use and Management (PUGS). This instrument is the identification of areas to be declared as priority for regularization. In other words, in municipal planning, the GADM (Decentralized Autonomous Municipal Governments) must identify the de facto human settlements that will undergo regularization. The second step is the declaration itself, which is made through an ordinance, marking the beginning of the recognition of people's rights. This declaration, according to the law, must be made within a period of two years or less from the issuance of

the PUGS, and if this does not occur, the central government will carry out the regularization process.

Application of Legal Provisions in Cantonal (Municipal) Planning

Of the 37 PUGS reviewed, thirteen (Pastaza, Mera, Taisha, Tiwintza, Nangaritza, Yantzaza, Centinela del Cóndor, El Chaco, Quijos, Gonzalo Pizarro, Putumayo, Cuyabeno, and Francisco de Orellana), representing 35%, identify areas designated for priority regularization, in compliance with the social and environmental function of property. This means that, in principle, these areas are recognized as having territorial reality, and there is an initiative to manage the land and regularize these settlements, as shown in Table 2 and Figure 2.

Provincia	GADM	Las ZIDRP se localizan fuera de áreas de riesgo no mitigable	Las ZIDRP se localizan fuera de áreas protegidas	Clase de suelo	Subclase de suelo
Sucumbíos	Gonzalo Pizarro	Indeterminado	Indeterminado	Indeterminado	Indeterminado
	Putumayo	Indeterminado	Indeterminado	Urbano /Rural	Urbano No Consolidado
	Cuyabeno	Indeterminado	Indeterminado	Rural	Transición
Napó	El Chaco	SI	SI	Urbano	Urbano consolidado, urbano no consolidado y urbano de protección
	Quijos	SI	SI	Urbano	No Consolidado
Orellana	Francisco de Orellana	Indeterminado	NO	Urbano/Rural	Urbano Consolidado Urbano No Consolidado, Rural Manejo Especial Área de Uso y Manejo sostenible del Bosque Nativo Área de Producción Agropecuaria Sostenible Área de Restauración Área Prioritaria para la Conservación
Pastaza	Pastaza	NO	Indeterminado	Indeterminado	Indeterminado
	Mera	SI	SI	Urbano / Rural	Urbano, rural de expansión urbana, rural de protección
Morona Santiago	Taisha	NO	Indeterminado	Urbano	Protección asentamientos informales
	Tiwintza	SI	SI	Urbano / Rural	Urbano consolidado, urbano no consolidado, rural de producción, rural de expansión urbana
Zamora Chinchipe	Nangaritza	Indeterminado	Indeterminado	Rural	Indeterminado
	Yantzaza	NO	Indeterminado	Urbano / Rural	Urbano consolidado, Rural de expansión urbana
	Centinela del Cóndor	NO	N/A	Urbano	Urbano no consolidado, Urbano de protección

Table 3 Localization of areas subject to priority regularization declaration with respect to risks and protected areas
Source: SOT, 2024.

In four of the thirteen PUGS that establish areas subject to priority regularization declaration, the de facto human settlements (AHH) targeted for declaration are located outside of risk zones. In another four cases, the AHH are located in areas that may jeopardize the life and physical integrity of the residents. For the remaining five PUGS, as they do not use geographic information, it is not possible to carry out a localization analysis regarding risk zones. This reflects a planning process in which not all decisions are territorialized or georeferenced, meaning that the planning decisions are made in the abstract.

Additionally, it is found that in four of the thirteen PUGS defining areas for priority regularization, the AHH designated for declaration are located outside protected areas, while in one case, the settlement overlaps with a protected area. For the remaining eight cases, due to the absence of geographic information, it was not possible to carry out the localization analysis regarding protected areas (see Table 3).

The areas designated for priority regularization declaration, as seen in Table 3, are located in both urban and rural land, and in cases where the GAD (Decentralized Autonomous Government) does not use geographic information or does not specify the location of these AHH by soil classes and subclasses in its PUGS, it is not possible to determine these parameters. These have been identified as ‘undetermined.’

An additional finding is that the dates for establishing these areas designated for priority regularization were in 2020, 2021, and 2022. More than two years have passed since these dates, meaning the declaration, in accordance with the legal provision in Article 76 of the LOOTUGS, should have already been issued and the regularization process underway.

Consumption of an Ineffective Regularization Policy

McConnell (2016) identifies the ways in which policies can fail: i) when the stated objectives are not achieved; ii) when the interests of the particular group or target are not benefited; iii) when the benefits are less than the costs; iv) when moral, ethical, or legal standards are disregarded; and v) when sufficient support from relevant actors and interests is not obtained (Nair & Howlett, 2017).

In this context, as evidenced in the previous section, on the one hand, there is no appropriation or use of land management instruments by the Amazonian municipal governments. Only 3 out of every 10 local governments plan to use these land management instruments (priority regularization declaration), which is the only way to implement them. In other words, it is a requirement to plan for the use of these instruments to make them a reality. On the other hand, the ultimate goal is to ensure access to a safe and healthy habitat, and of the few GADs that plan to use the land management instrument, 30% of the settlements are located in risk zones, which endangers the lives and physical integrity of the people. Moreover, in the AHHs (spontaneous settlements) that have been regularized, there is evidence that the ‘regularization’ ends with the simple granting of property titles, neglecting the need for accessibility, public systems, infrastructure, and equipment (Barros, 2022, p. 132).

In line with what was stated, the general objectives of regularization stem from the Constitution and consist of guaranteeing access to a safe and healthy habitat and to adequate and dignified housing. In terms of specific objectives, this means the regularization of all human settlements established before December 2010; the identi-

cation in municipal planning of areas subject to priority regularization. All of this requires the granting of property titles and the construction of public support systems.

However, the eighth transitory provision of the LOOTUGS, which sets a timeline for the regularization of AHHs established before December 2010, has not been fully realized in Ecuador up to this moment (2024), and the land management instruments for handling AHHs are not being used by local governments. The ineffectiveness stems from the fact that the objectives are not achieved and that interested parties do not appropriate the land management instruments.

On the other hand, the management instrument for regularization, the declaration, is scarcely implemented in the Amazon region of Ecuador. Moreover, there is also no control over AHHs, as they remain a reality in the region (Barros, 2022).

What has been presented constitutes an inconsistency in the means or strategies established to achieve the objectives of the regularization policies. According to McConnell (2016), a policy failure cannot be evaluated in a dichotomous manner; policies can fail even if there is success in some minimal aspects. In this case, the failure to achieve the objectives—the primary engine for which the policies are established—is the fundamental cause of ineffectiveness. While the objectives are coherent, in their articulation in the Constitution and national legislation, the means proposed (the priority regularization declaration and the AHH control regime) are not being appropriated by local governments and are not being implemented. As a result, they do not even come close to achieving the established goals.

Conclusions

Based on the results obtained, the general process and reality of the Ecuadorian Amazon in terms of informality, its policies, and the application of land management instruments can be observed.

The shift in the Ecuadorian legal framework has laid the foundation for managing spontaneous settlements with the inclusion of land management instruments or direct control through eviction, leaving the discretion of local governments to determine the treatment each settlement receives. The management of informality is grounded in national legislation and regulations. However, in the Amazon region of Ecuador, it has been scarcely implemented by the local governments, who hold this responsibility.

A consolidation of public policies with clear and consistent objectives, based on the supreme law, urban legislation, and planning, has been identified. However, these goals have not been fully achieved due to the limited application of instruments. This is because local governments have not sufficiently appropriated the land management tools, leading to an ineffectiveness in public policies addressing informal settlements.

At this point, territorial planning plays a predominant role, as it is the foundation on which decisions about land use are made. Consequently, it has become a tool that, by choice, fails to manage informality, focusing instead on establishing urban norms that aim to keep land within a market-driven process. These norms position land as an object of market-imposed rules, maintaining barriers to access for the social production of habitat. Managing informal or spontaneous settlements requires political will and efforts to direct local government resources to address this reality.

In conclusion, the management of informality and the challenge of combating limited access to land, the city, and housing remain unresolved. This is even more critical in contexts such as the Ecuadorian Amazon, a region rich in resources. However, the wealth generated from the extraction of raw materials is invested in other matters, neglecting the population closest to these areas.

Bibliographic references

- ARBOUIN GÓMEZ, F. (2019). Reflexiones sobre la naturaleza del derecho urbanístico y propuesta de definición. *Vniversitas*, 68(138). <https://doi.org/10.11144/javeriana.vj138.rndu>
- ASAMBLEA NACIONAL DEL ECUADOR. (2016). *Ley Orgánica de Tierras Rurales y Territorios Ancestrales*. Quito: Registro Oficial No 309.
- ASAMBLEA NACIONAL DEL ECUADOR. (2008). Constitución de la República del Ecuador. En *Registro Oficial No. 449, 20 de Octubre 2008*. file:///C:/Respaldo/TITULACION/REFERENCIAS/CONSTITUCION_REPUBLICA_ECUADOR_.pdf
- ASAMBLEA NACIONAL DEL ECUADOR. (2016). *Ley Orgánica de Ordenamiento Territorial, Uso y Gestión de Suelo*. Quito: Asamblea Nacional. <https://www.habitatyvivienda.gob.ec/wp-content/uploads/downloads/2016/08/Ley-Organica-de-Ordenamiento-Territorial-Uso-y-Gestion-de-Suelo1.pdf%0Ahttp://www.habitatyvivienda.gob.ec/wp-content/uploads/downloads/2016/08/Ley-Organica-de-Ordenamiento-Territorial>
- BARROS, K. (2022). *Violencias territoriales y producción estatal de hábitat y vivienda en la red urbana amazónica centro-norte del Ecuador: Aproximación cualitativa espacial a la reconfiguración de periferia urbana en Tena*, Carlos Julio Arosemena Tola y Santa Clara (2010-2020). FLACSO Ecuador, Quito. <https://repositorio.flacsoandes.edu.ec/handle/10469/19021>
- BLANCO-RESTREPO, J. V. (2006). La responsabilidad patrimonial de la administración pública por las limitaciones a la propiedad y la regulación de las 'cesiones gratuitas' como forma de evadir dicha responsabilidad. *Revista de la Facultad de Derecho y Ciencias Políticas*, 36(104), 47-66. <https://revistas.upb.edu.co/index.php/derecho/article/view/4098>
- BRIKMAN, D., NAJMAN, M., ARAMBURU, F., & DI VIRGILIO, M. M. (2019). El eslabón perdido: la gestión del suelo en las políticas de urbanización bajo los Planes Federales de vivienda en Avellaneda y Ciudad de Buenos Aires. *Revista de Urbanismo*, (40), 1-20. <https://doi.org/10.5354/0717-5051.2019.50567>
- CAMALLONGA, S. (2019). Jóvenes, espacio urbano y Derecho a la Ciudad: Aportaciones a la educación social. *Foro de Educación*, 17(26), 95-114. <https://doi.org/10.14516/fde.609>
- CHANAMPA, M. E., & LORDA, MA. A. (2019). Asentamientos informales y regularización urbana. La producción de territorialidades en tensión. *Bitácora Urbano Territorial*, 30(1), 141-150. <https://doi.org/10.36390/telos221>
- CLICHEVSKY, N. (2003). *Pobreza y acceso al suelo urbano. Algunas interrogantes sobre las políticas de regularización en América Latina*. CEPAL. <https://hdl.handle.net/11362/5780>
- CÓRDOVA, M. (2018). *Gobernanza y políticas públicas*. Editorial Universidad del Rosario / Flacso. <https://biblio.flacsoandes.edu.ec/libros/digital/57986.pdf>
- HERRERA-ROBLES, A. (2005). Conflictos urbanísticos en Barranquilla., *Revista de Derecho*, Universidad del Norte, 77. <https://rcientificas.uninorte.edu.co/index.php/derecho/article/view/2534>
- Howlett, M., & Rayner, J. (2007). Design Principles for Policy Mixes: Cohesion and Coherence in 'New Governance Arrangements. *Policy and Society*, 26(4), 1-18. [https://doi.org/10.1016/s1449-4035\(07\)70118-2](https://doi.org/10.1016/s1449-4035(07)70118-2)
- LÓPEZ-CASADO, D. (2020). La informalidad como nexo: Producción social del hábitat en ciudades Latinoamericanas frente a parcelaciones ilegales en España. *Acme*, 19(3), 707-725. <https://idus.us.es/bitstream/handle/11441/104302/Art3.pdf?sequence=1>
- MCCONNELL, A. (2016). A public policy approach to understanding the nature and causes of foreign policy failure. *Journal of European Policy*. <https://doi.org/https://doi.org/10.1080/13501763.2015.1127278>
- MCAUSIAN, P. (1994). Land Tenure and Regulation. *Manejo del Suelo Urbano, Programa de Gestión Urbana. Serie Gestión Urbana*. (1) GTZ, Lincoln Institute of Land Policy. Quito.
- MENA, A. (2010). *Regularización de los asentamientos informales en Quito: Análisis de las políticas públicas*. FLACSO Ecuador. <https://repositorio.flacsoandes.edu.ec/handle/10469/2383>
- MÉXICO. SECRETARÍA DE ASENTAMIENTOS HUMANOS Y OBRAS PÚBLICAS. (1978). *Glosario de términos sobre asentamientos humanos*.
- NAIR, S., & HOWLETT, M. (2017). Policy myopia as a source of policy failure: Adaptation and policy learning under deep uncertainty. *Policy and politics*, 45(1), 103-118. <https://doi.org/0.1332/030557316X14788776017743>
- SALAZAR FERRO, J. (2010). Ordenamiento urbano y consolidación de políticas del suelo. En P. Torres Arzayús & M. C. García Botero (Eds.), *Las ciudades del mañana. Gestión del suelo en Colombia* (pp. 1-38). Banco Interamericano de Desarrollo. <http://dx.doi.org/10.18235/0012437>
- SECRETARÍA TÉCNICA DEL COMITÉ INTERINSTITUCIONAL DE PREVENCIÓN DE ASENTAMIENTOS IRREGULARES. (2024). *Identificación de Asentamientos Humanos Irregulares*. <https://www.asentamientosirregulares.gob.ec/identificacion-de-asentamientos-humanos-irregulares/>
- SUÁREZ, M. (2014). Movimientos sociales y buen vivir: Ecuatorianos en la lucha por la vivienda en la plataforma de afectados por la hipoteca (PAH). *Revista de antropología experimental*, (14), 71-89. <https://dialnet.unirioja.es/servlet/articulo?codigo=5501526>
- SUPERINTENDENCIA DE ORDENAMIENTO TERRITORIAL, USO Y GESTIÓN DEL SUELO. (2024). *Informe de Análisis de resultados APV-006-2024*. Superintendencia de Ordenamiento Territorial, Uso y Gestión del Suelo.
- WILSON, J., & BAYÓN, M. (2017). *La selva elefantes de los blancos. Megaproyectos y extractivismos*. Abya-Yala / Instituto de Estudios Ecologistas del Tercer Mundo. <https://revistas.flacsoandes.edu.ec/eutopia/article/download/3098/2132>
- ZAPATA, M. C. (2024). Territorios en disputa: ¿la autogestión de hábitat como estrategia de reapropiación de comunes urbanos? *Revista de Estudios Andaluces*, (47), 28-52. <https://dx.doi.org/10.12795/rea.2024.i47.02>

ABREVIATURAS

AHH Asentamiento Humano de Hecho

LOOTUGS Ley Orgánica de Ordenamiento Territorial, Uso y Gestión de Suelo

GAD Gobierno Autónomo Descentralizado