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*Guest Editor's Introduction*

# Learning From Land Use Reforms: Housing Outcomes and Regulatory Change

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## Introduction

Zoning is changing. Paradigms that have stood for a century—like the predominance of single-family-only residential zoning—are being questioned and, in some places, abandoned. Political sacred cows, like regulatory mandates for new construction to provide that most valued of amenities, off-street parking, have been gored. Major reforms to loosen zoning and increase the supply of housing have taken place in cities big and small, in state houses and city halls, from coast to coast. Without overstating the case—in most places, the status quo remains unchanged, and even in the few, change has been incremental—there has been a groundswell of support for rethinking the restrictiveness of the American land use system.

Indeed, interest in zoning reform is a rare spot of bipartisan agreement. Legislation to promote housing supply has been enacted by states as blue as California and Massachusetts and as red as Montana and Utah. At the federal level, leading legislation comes from Indiana Republicans and New Jersey Democrats. Concerns about regulatory barriers to housing production have been trumpeted, at least for a time, by the Obama, Trump, and Biden White Houses (White House, 2022, 2016).<sup>1</sup> This is a moment of ferment—and experimentation—in land use policy.

That experimentation demands careful policy evaluation: rigorous research exploring why land use reforms have or have not worked; which policy levers matter most and how they interact; how different tools function in different housing market contexts; and overall, how policymakers can incrementally learn from the experiences of their neighbors. This article series helps build this knowledge base. Gathering authors from multiple disciplines—economics, law, urban planning, and public policy—and using both quantitative and qualitative empirical methods, this collection

<sup>1</sup> Executive Office of the President. 2019. Executive Order 13878, *Establishing a White House Council on Eliminating Regulatory Barriers to Affordable Housing*. <https://www.federalregister.gov/documents/2019/06/28/2019-14016/establishing-a-white-house-council-on-eliminating-regulatory-barriers-to-affordable-housing>.

of seven articles offers new insights (and raises new questions) for policymakers exploring land use reforms to increase housing supply.

This series comes at an auspicious moment. Housing policy experts have warned of the regulatory barriers to housing production without much interruption for a half-century. But two factors have pushed the issue into the spotlight—and even allowed reformers to notch some victories. First, the politics have changed. The housing shortage has simply gotten much more acute, especially in states like California and New York. Even if lower-income households ultimately suffer the most from a housing shortage, today, middle-class Americans—and even some rather affluent ones—are feeling the bite of restrictive zoning, particularly as rent burdens have increasingly hit higher-income households over time (Dougherty, 2021; Ellen, Lubell, and Willis, 2021). This has produced a far broader and more powerful political coalition for reform. The politics of affordability has also been bolstered by renewed attention on racial equity—which has long been the basis for concerns about exclusionary zoning—and new concerns about climate change. In many places, after all, zoning limitations preclude the most environmentally friendly forms of development—like dense, multifamily housing; housing near transit; and housing in climate-friendly locations like coastal California—while pushing growth instead to the sprawling periphery (Jones and Kammen, 2013).

At the same time, a steady stream of research has bolstered the case for zoning reform, suggesting that restrictive land use policies lead not only to problems in the housing market but also contribute to serious macroeconomic harms and racial injustice. Economists have shown how overly-restrictive zoning has dramatically increased the cost of housing, especially in California and metro areas along the Northeast Corridor (Gyourko and Molloy, 2015). They have shown how zoning has limited household mobility to rich regions with better opportunities, costing the economy as much as 9 percent of the gross domestic product—or over a trillion dollars (Ganong and Shoag, 2017; Hsieh and Moretti, 2019). Scholars have connected restrictive zoning to increased racial segregation (Resseger, 2013; Rothwell and Massey, 2009). They have traced how frequently this was the intent of those enacting zoning regulations (Rothstein, 2017; Trounstein, 2018). They have connected limitations on access to high-opportunity neighborhoods, a downstream effect of exclusionary land use rules, to a slew of important long-term social outcomes for children (Chetty and Hendren, 2017). Moreover, a new strand of research has brought these findings from the macro level down to the level of the neighborhood, tracing the effects of the construction of individual buildings and providing an improved understanding of the mechanisms at play (Li, 2022; Mast, 2021).

Even given the increasing magnitude of the housing supply shortage and the ever-increasing body of research pointing to the need for regulatory reforms, it is somewhat remarkable how much political action has been taken to reform land use in recent years. As Ellickson (2022) demonstrated, American zoning is characterized by its basic stasis: once neighborhoods are built as single-family residential neighborhoods, they overwhelmingly tend to stay that way. In some sense, this long-term stability is to be expected. Leading theories of land use politics all agree: people hate change. They bought their neighborhood in a bundle with their house, and whether for economic or psychological reasons, they are distinctly, and perhaps unreasonably, averse to the risks brought

by any change (Fennell, 2009; Fischel, 2005). Whether voters fear new development will increase housing costs (pricing them out of their neighborhoods) or decrease them (reducing the value of their homes) they are against it.

Indeed, to a surprising extent, not just land use policies, but land use politics, too, are little changed over a period of decades. Many accounts of zoning law and politics written more than a half-century ago could be republished today with only limited amendments. Richard Babcock's 1966 *The Zoning Game* remains the witty and conversational tour guide for so many observers of land use, while reexamining the still-vital warnings of 1968's Kerner and Douglas Commissions serves to remind any reader how little progress has been made toward racial and economic equality in housing. It is difficult to think of many important regulatory systems that have changed so little over so long: imagine environmental law without climate change or cap-and-trade, or telecom under Ma Bell. Of course, land use law has evolved over this period, but too often by leaning into its preexisting shortcomings: imposing tighter controls, more delay, and more discretion. (Sometimes, as with new environmental laws, this brought important benefits—but the direction remains consistent.)

This long-term stability has shaped the research base guiding land use reform. Quite simply, there have been too few examples of land use reforms intended to promote housing supply, and as a result, there is too little evidence on what reforms accomplish. Much of the leading empirical research uses creative ways to estimate what the effects of land use reforms *would* be, based on existing variations across places: how wages might rise *if* New York City and San Francisco loosened their zoning; how housing affordability would improve *if* Connecticut allowed smaller lot sizes; how Greater Boston might be less segregated *if* it had permitted more multifamily housing (Glaeser, Gyourko, and Saks, 2005; Resseger, 2013; Song, 2021). These articles are methodologically sophisticated and offer extremely important insights into the harms of overly-restrictive land use regulations. But of course, those counterfactuals never happened.

Accordingly, there is a need for more high-quality research evaluating the reforms that did, in fact, occur. Given the messiness of the real world, what research exists in this vein is often ambiguous and contested (Freemark, 2020). Unsurprisingly, it is often the older interventions where researchers have been most able to pin down what has worked and what has not. For example, important and influential studies have evaluated California's decades-long struggles to successfully implement either the legalization of accessory dwelling units (ADUs) or its "fair share" system for allocating regional housing-need obligations to localities (Brinig and Garnett, 2013; Lewis, 2005). Similarly, researchers have relatively stronger understandings of New Jersey's famous Mount Laurel doctrine and Massachusetts' analogous "40B" fair share process (Marantz and Zheng, 2020; Massey et al., 2013).

This collection is meant to help fill that gap. The articles in this series look at places that have made policy-relevant reforms and try to draw policy-relevant conclusions. These are lessons about policy design in the real world—and often in real-time. As a result, they focus more on descriptive analysis and less on the hard work of definitively disentangling all the causal mechanisms. This approach certainly has its limits, but it has payoffs as well. In some sense, the articles in this series are meant to be the second drafts of history, coming after initial journalistic coverage and adding

scholarly rigor and empirical analysis, but before the authoritative accounts of a deep qualitative history or a dot-every-i social scientific causal analysis are possible. More time—perhaps decades—will be needed for all outcomes to unfold and all data to be available.

This focus shaped the scope of this article series. Some of the most splashy, well-covered reforms—Minneapolis' legalization of two- and three-unit homes citywide, or Oregon's similar elimination of single-family-only zoning across much of the state—were too nascent to be adequately evaluated for the outcomes of greatest interest.<sup>2</sup> The evaluations are worth waiting on. Likewise, the constraints of timing shifted these articles toward studying outcomes like housing production and away from outcomes like segregation, which might change more slowly (and where early effects might not reflect a longer-term equilibrium). Issues like segregation—or climate emissions, rent burdens, homelessness, or social mobility—of course remain the ultimate reasons one would care about land use reform, the ends toward which housing production is a means, but this series was not intended to measure them.

The scope of this collection is limited in at least two other important ways. First, it is focused on questions of residential development and housing supply. Given the acuteness of the housing crisis today, those issues seem especially timely, and many recent innovations in land use policy have been addressed to residential supply. Other land use matters, whether attempts to revitalize distressed neighborhoods or the planning of commercial and industrial areas and its effect on labor markets, are well-worth further investigation elsewhere.

Second, this series sticks to an orthodox land use policy paradigm that sees adequate housing supply as important and land use restrictions as costly barriers to that supply. This paradigm is consistent with a wide range of ideological perspectives and policy approaches to land use reform. Some articles in this series, for example, examine policies to facilitate market-rate housing production, and others focus on subsidized housing development; some involve state-level intervention into local control of land use, whereas others examine bottom-up policies crafted by localities themselves. Recognizing the costs of land use regulation is also consistent with a range of perspectives on the benefits of zoning to be weighed against those costs, and the policy recommendation of removing costly barriers to production can be mixed-and-matched with any number of non-land-use housing policies, from community ownership and social housing models to rental assistance, homeownership subsidies, and mortgage market reforms. Land use liberalization is not a panacea, even if it is the topic of this symposium.

But this collection does not include the voices of “supply skeptics” who hold that increased supply will do little to improve, and may even hurt, overall housing affordability (Been, Ellen, and O'Regan, 2019). Such perspectives remain fairly popular among the public at large and with a small-and-declining number of scholars (Nall, Elmendorf, and Oklobdzija, 2022). However, this “supply skepticism” is not backed by the weight of the evidence. Nor does this collection spend undue time with more traditional arguments against development: that it leads to overcrowding or a poor quality of life. Where substantiated, these are important concerns—and ones grappled with in this collection—but the articles proceed with the recognition that the United States has room to grow and a need to grow, and moreover, that such concerns have often undergirded

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<sup>2</sup> Important preliminary results in Minneapolis are provided by Kuhlmann (2021).

or excused exclusionary land use policies. In other words, these articles all proceed on the shared understanding that land use law ought, somehow, to facilitate adequate—and therefore, additional—housing supply. The questions concern how to do so.

Within this defined scope, the collection covers a broad range of topics. The articles cover changes to the substance of land use law and to its procedures. The authors study regulatory changes that applied in select neighborhoods, citywide, and at the state level. Close attention is paid to the ongoing reform efforts in California, the current epicenter of both the housing affordability crisis and efforts to tackle it through land use changes. Three of the seven articles examine different elements of that state's recent reforms—and these only cover a fraction of the ongoing efforts.<sup>3</sup>

There is still much more to study. This collection fails to include coverage of the Mountain West—a region facing unique challenges as remote work and other shifts helped suddenly drive up housing costs during the COVID-19 pandemic—or of the Rust Belt. There has been renewed interest in understanding how building codes can act as an important regulatory barrier to housing; this is another important topic for future research.

Even so, these articles should prove useful in thinking through an array of policy options for promoting housing production across a range of types of place. The results will not generalize directly. Different cities will face different patterns housing demand, different legal backdrops, and different political interests. Indeed, in at least one of the articles here—concerning neighborhoods in Ramapo, New York, populated by ultra-Orthodox Jews—the uniqueness of the place is very much the point. Rather, the hope is that these case studies point to the kinds of questions that policymakers need to ask about the mechanisms before them: How does a particular policy play out in neighborhoods of different incomes or with different preexisting lot sizes? What tradeoffs apply when cities attempt to mandate affordable housing be included in new construction, and how might they be evaluated?

## **Symposium Articles**

The series includes seven articles. A first set of articles examines some of California's recent interventions into local land use. Nicholas Marantz, Christopher Elmendorf, and Youjin Kim (2023) study one of California's most-heralded reforms: the state's efforts to legalize ADUs across most single-family neighborhoods. Given ADUs' relatively low costs and compatibility with the existing built environment, they have been widely touted as a promising reform. California, after decades of unsuccessful attempts to force local governments to permit ADU construction, enacted a slew of statutes between 2016 and 2020, repeatedly limiting localities' ability to block ADUs and effectively permitting the construction of ADUs smaller than 800 square feet as-of-right. Marantz, Elmendorf, and Kim offer two important sets of insights about these latest reforms. First, they quantify ADU production, showing it to be a considerable share of California's total housing growth in the last few years: around 13 percent of permits in the Bay Area and 19 percent in Southern California. Second, they show what kinds of parcels are mostly likely to have an ADU, such as

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<sup>3</sup> Future research will certainly be needed to explore two of the state's more ambitious experiments, its provisions for as-of-right lot splits and duplexes and for higher density along commercial corridors, which were too recently enacted to be evaluated in this series.

those that are larger, those that are in neighborhoods with moderate rents (i.e. relatively low, but not the lowest, rents), and those closer to job centers. These findings help to identify where this type of reform is likely to be most efficacious.

Paavo Monkkonen, Michael Manville, Michael Lens, Aaron Barrall, and Olivia Arena (2023) examine another of California's attempts to make a long-ineffective effort to produce housing more functional, specifically, recent reforms to the state's Regional Housing Needs Assessment (RHNA) process. Under longstanding state law, California localities are required to develop plans, called Housing Elements, for how they will meet the need for new housing at various income levels, as projected by state and regional bodies. The RHNA process is meant to ensure that all municipalities do their "fair share" in meeting that housing need. But housing need has historically been miscalculated and misallocated, and the state has failed to scrutinize local plans for bad-faith (or inadvertent) evasion of local responsibilities. Again, between 2017 and 2019, the state enacted a suite of reforms to tighten policy and address each of those problems. The authors find those reforms to be substantial, though incomplete, successes. Under the most recent planning cycle, Southern California cities have engaged in dramatically more land use changes to meet their RHNA obligations, including in the high-demand locations where such rezonings are most needed. Indeed, just the 93 first Southern California cities to have compliant housing elements—representing just one-fifth of the state's population—have rezoned to add space for over 250,000 units. In contrast, in the previous, prereform cycle, rezonings *statewide* only created space for 35,430 units and, moreover, concentrated those rezonings where they were least needed. Although the system is still slow and labor-intensive—and seems still to provide some mechanisms for not-in-my-backyard politics to reduce the obligations of whiter and wealthier localities—the improvements appear to be marked.

The third investigation of state-level reform in California comes from Moira O'Neill and Ivy Wang (2023). They examine Senate Bill 35 (SB 35), a 2017 law that targets not the substance of local zoning but its procedures. In cities that have not met their housing production obligations under RHNA, certain mixed-income or fully-affordable multifamily housing developments can avoid local discretionary review. Instead, these SB 35 projects may use a state-provided ministerial process to receive their permits. These projects must comply with the bulk and use requirements of local zoning; only the process changes. Gathering project-level data on the approval process and rich context on individual city's implementation of SB 35, O'Neill and Wang find preliminary evidence that SB 35 is making the development process faster and more predictable—and therefore, cheaper and more attractive for affordable housing developers. Comparing the kinds of developments that would have been eligible for SB 35 before its enactment to those that used it subsequently, O'Neill and Wang find, for example, that approval timelines were cut by more than half in Los Angeles and San Francisco. Although such reforms are inherently limited to places that, on paper, allow for dense development, this research highlights the independent importance of procedure in any land use reform agenda.

Although state-level reforms, in California and elsewhere, are especially high-profile (and potentially high-impact) changes, land use remains primarily a local prerogative, and much innovation in this space comes at the local level. Jake Wegmann, Aabiya Noman Baqai, and Josh Conrad (2023) study

an important land use reform in Houston (*not*, as Houstonians would remind you, a rezoning, because technically the city lacks zoning). Changes to the city's mandatory minimum lot size, first enacted in 1998 and then extended in 2013, permitted the widespread development of what Houstonians call "townhouses," skinny, single-family homes (whether attached or detached) on lots as small as 1,400 square feet. Past research has catalogued the scale of the townhouse boom, which has produced tens of thousands of units, and the neighborhoods where growth has been fastest (Gray and Millsap, 2020). Wegmann, Baqai, and Conrad add to this literature by focusing on an especially important set of townhouse redevelopments: those which replace existing single-family housing. Given the political inviolability of such lots in many places and the especially high barriers to their redevelopment, it is especially valuable to understand under what conditions such single-family lots might be densified. The authors find that single-family redevelopment accounts for about one-fifth of total townhouse developments—whether this is a lot or a little is a matter of perspective—and that it tends to occur when large lots near the urban core are occupied by small, old homes. Notably, this redevelopment tends to occur in areas with higher-than-average housing prices, yet it provides relatively affordable and spacious housing options.

Although Houston's liberal land use rules and sustained growth have received much attention, Joseph Huennekens (2023) points to a much more unusual case study: the Monsey section of suburban Ramapo, New York. Monsey is home to a fast-growing ultra-Orthodox Jewish population, a group which, unlike most suburbanites, is extremely supportive of housing development. Whereas most land use reforms take place in a political context that is, at best, apprehensive about growth, Monsey illustrates what an enthusiastic embrace of density might look like in a traditional suburban setting. Mixing qualitative and quantitative techniques, Huennekens traces the area's sustained efforts to permit housing development, which have transformed it from predominantly single-family to primarily multifamily housing, and identifies what worked in this unique setting. He finds, for example, more sustained housing production in 6–12 unit buildings and less success with ADUs, and he pinpoints the importance in this context of allowing condominiums in addition to rentals. Huennekens also examines the impact of this growth on suburban service provision, exploring the most common complaints around water, sewer, and fire provision.

Jacob Krimmel and Betty Wang (2023) study Seattle to shed light on a common proposal for land use reforms: mandatory inclusionary zoning. In 2017 and 2019, Seattle rezoned 33 of its neighborhoods for greater density, while also requiring that all new development in those areas either set aside units as below-market-rate housing or pay into a citywide affordable housing fund. By using a difference-in-differences approach to compare the pace of housing production just inside the rezoned areas to those just outside them, Krimmel and Wang find that Seattle's policy reduced development along the upzoned side of these borders. Instead, development shifted to parcels just outside the rezoned area. In Seattle, it seems, the cost of the affordability component outweighed the benefit of the relatively modest upzonings (at least during this period), but neighboring areas had zoned capacity sufficient to allow continued housing production.

Finally, Leah Brooks and Jenny Schuetz (2023) flip the script in their article. Rather than ask whether a given zoning change generated additional housing production, they ask whether, in Washington, D.C., housing production was preceded by zoning changes. Washington, D.C.,



they show, is a city that has experienced meaningful amounts of infill development—but not especially as a result of rezonings. The District’s rezonings over the past two decades largely left bulk and density rules unchanged, especially in single-family residential neighborhoods, and the neighborhoods that grew did not usually do so because they had been rezoned. Brooks and Schuetz find no association between the change in a neighborhood’s housing units and the percentage of land in that neighborhood that was rezoned. Instead, they identify as critical the fact that high-growth neighborhoods began with relatively few single-family homes (many were nonresidential to begin with). Their work points to the likeliest path forward for infill housing production *absent* regulatory reform: finding underutilized commercial and industrial neighborhoods (with limited political opposition to housing from residents) to convert to large-scale multifamily housing.

## Symposium Themes

Despite the disparate institutional, political, and economic contexts for the reforms studied, some common themes and sharp contrasts emerge across the seven articles. At the most basic level—but still worth saying—these articles refute the idea that zoning reform is futile, as some scholars have suggested, or that it is unnecessary given popular demand for the existing, low-density built environment (Schragger, 2021). Both city and state reforms can facilitate the production of new housing supply. Both changes to the substance and the procedures of zoning can contribute. Indeed, as Monkkonen, et al. (2023) show, even legal strategies which had seemed utterly ineffective—like mandates for local governments to plan for housing growth—can be reworked into powerful levers for change.

Perhaps more to the point, reforms have achieved two more difficult tasks. Reforms have successfully facilitated subsidized housing development, as seen most clearly in O’Neill and Wang’s (2023) research finding faster development times for the affordable projects aided by California’s SB 35. And new housing production is possible even in established single-family residential areas, which are widely understood to be especially resistant to redevelopment (indeed, this understanding is confirmed by Brooks and Schuetz [2023] in their study of Washington, D.C.). As illustrated by Houston townhouses, Ramapo’s growth, and California’s ADU development, even single-family neighborhoods can change. Densification is not easy and not without policy tradeoffs. Nor is it an inevitable result of regulatory liberalization. Factors ranging from demand and location to the ease of site assembly are critical. But well-designed reforms can promote the development of new housing: at many income levels and in many kinds of neighborhoods.

The collection also points to the kinds of neighborhoods most affected by some contemporary zoning reforms. In Houston, townhouse redevelopment is taking off in higher-income, non-gentrifying neighborhoods. ADU construction in California has been concentrated in census tracts with slightly lower median rents compared to their larger regions and not very-low-income areas. It appears that, in general, zoning reforms may have smaller effects in the lowest-income neighborhoods, where future development would bear relatively low prices, and in the very highest-income neighborhoods, where wealthy residents either retain tools to inhibit redevelopment or place such a high value on the amenities of low density that they (for now)

eschew the returns to redevelopment. Whether this pattern holds for all types of reform is an important question, but as a rough rule of thumb, it provides useful guidance for those concerned with gentrification and displacement in low-income neighborhoods. Those neighborhoods appear not to be the primary places affected by these reforms.

This collection also highlights the importance of forms of tenure and ownership. In Ramapo, for example, permitting multifamily units to be sold separately, as condominiums, was necessary for significant levels of investment, echoing the Houston experience, where density has been built through a townhouse form that allows not just condominium ownership but ownership in fee simple. While rentals play a critical role in the housing system, in certain contexts—perhaps especially in more suburban settings—the ability to own one’s unit remains something of economic, practical, and cultural value. Relatedly, California’s experience with ADUs indicates the lasting importance of covenants and homeowners associations in limiting housing production, even when those covenants are no longer legally enforceable. This echoes past research on the longer-term effects of racial covenants after their being ruled illegal in *Shelley v. Kraemer*, and it points to the need for close consideration of the private law devices in play (Brooks and Rose, 2013).

A long literature has considered the merits of pairing upzoning with affordability requirements (Hamilton, 2021; Schuetz, Meltzer, and Been, 2009). This series of articles adds to that discussion, though it hardly resolves it. Krimmel and Wang’s (2023) study of Seattle adds a note of caution, showing how miscalibrated deals can leave the cost of affordability requirements higher than the benefits of the added density—potentially impeding rather than promoting development. Ramapo, too, abandoned its affordability requirements for similar reasons. At the same time, though, California’s RHNA law—and its strengthened enforcement, both through SB 35’s ministerial process and through the reforms to the target-setting and local rezoning processes—points in another direction. A path exists for zoning reforms that specifically target below-market-rate units. This path may not be an inclusionary zoning requirement in all cases, but the alignment of land use reforms with subsidized housing programs remains an important opportunity for continued policy innovation.

There are no silver bullets here—as there so rarely are. Where California has attempted to restructure the local zoning process, its successes have only been partial, as the articles studying those state-level reforms show. Many cities have had no projects proceed under SB 35, and many have found ways to keep their housing targets under RHNA lower than they ought to be. Ramapo has struggled to upgrade its infrastructure as it grows. Progress and meaningful policy successes have occurred, however, in an area where, historically, many interventions have fallen short. Moreover, as both Krimmel and Wang’s (2023) account of Seattle and Huennekens’ (2023) story of Ramapo make clear—not to mention the decades-long sagas of California’s various housing production strategies—there is always a need for tinkering and iterative improvement. In Seattle, for example, the same broad policy framework would have had quite different implications with different levels of affordability required, different amounts of density granted, or a different drawing of the geographic boundaries.

There is much more to learn about what interventions work—and especially about how to pair the right reforms with particular places. Case studies cannot show every conceivable permutation of

policy detail, political context, and market conditions. This series of articles helps to build out the body of evidence for policymakers looking to understand the current wave of reforms. But there is more to learn about what cities and states have done—and much more importantly, more for cities and states still to try. At a high level, the need for zoning reform remains clear. The hard questions remain: How to select from an ever-growing menu of reform options? How to tailor those strategies to local conditions? How to mix-and-match, and how to innovate further?

Then, perhaps the hardest question of all: How to get those reforms passed?

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## Guest Editor

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