



SECURE TENURE  
*boxes & graphs*

The urbanization of poverty: The growth of slum populations (1990–2020)

	Total slum population (millions)					Slum population as a percentage of urban population	
	1990	2001	2005	2010	2020	1990	2001
World	715	913	998	1246	1392	31.3	31.2
Developed regions	42	45	47	48	52	6.0	6.0
Transitional countries*	19	19	19	19	18	10.3	10.3
Developing regions	654	849	933	1051	1331	46.5	42.7
Northern Africa	22	21	21	21	21	37.7	28.2
Sub-Saharan Africa	101	166	199	250	393	72.3	71.9
Latin America and the Caribbean	111	128	134	143	163	35.4	31.9
East Asia	151	194	212	238	299	41.1	36.4
Southern Asia	199	253	276	308	385	63.7	59.0
Southeast Asia	49	57	60	64	73	36.8	28.0
West Asia	22	30	33	38	50	26.4	25.7
Oceania	0	0	1	1	1	24.5	24.1

\* Commonwealth of Independent States

Source: UN-Habitat, 2006e, pp188, 190

Security of tenure: State party reporting responsibilities under the International Covenant on Economic, Social and Cultural Rights (ICESCR)

All of the 156 states which have ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) are legally required to report to the United Nations Committee on Economic, Social and Cultural Rights (CESCR), every five years, on the measures they have taken and the progress made in addressing the rights recognized in the Covenant. Among the more prominent questions which states are required to answer are the following:

*Please provide detailed information about those groups within your society that are vulnerable and disadvantaged with regard to housing. Indicate, in particular:*

- 1 the number of homeless individuals and families;
- 2 the number of individuals and families currently inadequately housed and without ready access to basic amenities, such as water, heating (if necessary), waste disposal, sanitation facilities, electricity, postal services, etc. (in so far as you consider these amenities relevant in your country); include the number of people living in overcrowded, damp, structurally unsafe housing or other conditions which affect health;
- 3 the number of persons currently classified as living in 'illegal' settlements or housing;
- 4 the number of persons evicted within the last five years and the number of persons currently lacking legal protection against arbitrary eviction or any other kind of eviction;
- 5 the number of persons whose housing expenses are above any government-set limit of affordability, based upon ability to pay or as a ratio of income;
- 6 the number of persons on waiting lists for obtaining accommodation, the average length of waiting time and

measures taken to decrease such lists, as well as to assist those on such lists in finding temporary housing;

- 7 the number of persons in different types of housing tenure by social or public housing; private rental sector; owner-occupiers; 'illegal' sector; and others.

*Please provide information on the existence of any laws affecting the realization of the right to housing, including ...*

- 3 legislation relevant to land use; land distribution; land allocation; land zoning; land ceilings; expropriations, including provisions for compensation; land planning, including procedures for community participation;
- 4 legislation concerning the rights of tenants to security of tenure, to protection from eviction, to housing finance and rent control (or subsidy), housing affordability, etc;
- 5 legislation concerning building codes, building regulations and standards and the provision of infrastructure;
- 6 legislation prohibiting any and all forms of discrimination in the housing sector, including groups not traditionally protected;
- 7 legislation prohibiting any form of eviction ...
- 9 legislation restricting speculation on housing or property, particularly when such speculation has a negative impact on the fulfilment of housing rights for all sectors of society;
- 10 legislative measures conferring legal title to those living in the 'illegal' sector.

Source: United Nations Document E/C.12/1990/8, pp88–110

World Population in Billions)

## A general typology of land tenure and property rights

<b>Customary rights</b>	
Tribal/collective	Members of the group or tribe controlling customary land may be entitled to a variety of rights, such as access, occupation, grazing and development, but not transfer; this can be undertaken only by the group as a whole or its accepted leaders. While rights can usually be inherited, land cannot be used as collateral for loans to individual group members.
Stool land <i>Ejidal land</i>	Allocation by chiefs of unused land near an existing settlement; common in southern Ghana. Access depends upon the chiefs' approval; secure. Land controlled either by a group of people, as in Mexico, or a co-operative.
Individual	In a few cases, as in Burundi and Burkina Faso, customary rights to a family plot may acquire a status akin to individual title. They normally revert to corporate status, however, on the death of the original owner.
Ground rent (e.g. <i>hekr</i> )	The charges made for long-term lease of undeveloped land, often by large landholders, who obtained their rights through grants made under feudal concepts. It is also used for any situation in which the rent is payable on the land as distinguished from rent payable on the building. Under the Ottoman Land Law of 1858, it enabled farmers and others to settle and develop unused land for the payment of a ground rent, or <i>hekr</i> , on registration of a claim. Secure where traditional writs still apply, but less so where active land markets operate.
<b>Private tenure categories</b>	
Unlimited duration (e.g. freehold, dominium, <i>mulk</i> )	Provides for full ownership of unlimited duration and the right to free enjoyment and disposal of objects providing that they are not in any way contrary to laws and regulations. The only restriction is normally that of 'eminent domain', where the state may acquire part or all of a property, provided that due process of law is observed and full compensation paid.
Finite duration (e.g. leasehold, individual)	Provides rights to the exclusive possession of land or property by the landlord (or lessor) to the tenant (or lessee) for a consideration or rent. Leases are normally for a specified period, which may vary from one week to 999 years. Long leases are practically indistinguishable from freehold, while shorter leases may be renewed subject to revised terms. The assignment of a lease by a lessee is normally permitted as with freehold.
Tribal/collective	As above, though usually for shorter periods to enable the terms and conditions to be revised in accordance with market trends.
Condominium	A form of 'horizontal ownership' common in multi-storey developments. Rights may be freehold or leasehold.
Leasehold, rent control	This form of tenure accords tenants full security and restricts the freedom of the freeholder or head leaseholder to increase rents more than a specified amount over a given period. It is extensive in cities with older high-rise apartments, such as Bombay. Since rents do not generate an economic return on investment, maintenance is often poor, and both residential mobility and new supply are limited. Key money may be required for properties that become available and this, in effect, restores a market value that can benefit outgoing tenants as much as the freeholder.
<b>Public tenure categories</b>	
Crown land	Originally intended to acquire for the Crown unused or unclaimed land in parts of British, Spanish, Portuguese and other colonies. Such lands were often extensive (e.g. half the land of Buganda), and were allocated to European settlers and companies with freehold or long leases.
State land	This is not significantly different from Crown land. In private domain, state land may be placed on the market through the award of leases. In public domain, state land is retained by the state for use by public organizations. It is widely used for forests, military camps, roads and other natural resources; but in Namibia, for example, it also applies in urban areas.
Public land	This consists of land acquired by government for public purposes. Compensation may be paid in acquiring it from other owners or those with rights, and sometimes acquisition is simply to enable land to be developed and/or reallocated as freehold or leasehold.
Occupancy certificates	Also known as 'certificates of rights' or ' <i>permit d habitation</i> ' originally introduced by colonial administrations as a device to deny local populations freehold tenure and to enforce racial segregation. More recently, used by independent governments as a means of providing 'allottees' on housing projects with security of tenure, while restricting the development of freehold land and property markets.
Land record rights	Memorandum of an oral agreement between a local authority and an occupant. Provides for loans to develop the site, providing the occupant pays all dues and builds in conformity to official standards. Duration normally specified.
<b>Islamic tenure categories</b>	
<i>Mulk</i>	Land owned by an individual and over which he has full ownership rights. Most common in rural areas.
<i>Miri</i>	Land owned by the state and that carries <i>tasruf</i> , or usufruct, which can be enjoyed, sold, let, mortgaged or even given away. Rights may also be transmitted to heirs (male or female), although the land cannot be divided among them. The state retains ultimate ownership and, if there are no heirs, such land reverts to the state. Also, the state retains the right of supervising all transactions pertaining to the transfer of usufruct rights and their registration.
<i>Musha</i>	Land owned collectively. It originates from the tribal practice of dividing up arable land on which the tribe settles its members and takes account of variations in land quality to ensure equality. Restricted in application to tribal areas with low population densities.
<i>Waqf</i>	Land held in perpetuity as an endowment by religious trusts and therefore 'stopped for God'. Originally established to ensure land availability for schools, mosques and other public buildings, it gradually became a means of keeping land away from extravagant heirs or acquisitive states.
<b>Other formal tenure types</b>	
Co-operatives	In most developing countries, these are often a device to share costs, and transfer is sometimes possible (although this does not conform to the international principles on co-operatives).
Shared equity/ownership	Not common in developing countries: the occupant buys part of the equity (30:70, 50:50, 60:40, etc.) from the freeholder and rents the remaining value. The proportion of mortgage repayments/rent can be amended at a later date, enabling the occupant to eventually acquire the freehold.
Housing association lease	Extensive in the UK, but not common in developing countries. Housing associations are non-profit organizations that provide and manage housing primarily for lower-income groups. Some also offer shared ownership. Tenancies are secure, providing rents are paid and other obligations are met.
Collective, shared or joint ownership	A small, but expanding, form of tenure in which a group pools ownership and allocates rights of alienation and price to a self-created organization. Well established in Ethiopia and Colombia, where it is used to combat external threats to security of tenure. A variation is the land pooling programmes of Thailand and the Philippines in which land parcels are re-subdivided to enable part of the plot to be developed in return for the settlers receiving security of tenure for an agreed share of the land and/or property.
<b>Non-formal tenure types</b>	
Squatter, regularized	Secure, possibly with services and access to formal finance; higher entry cost than before regularization.
Non-regularized	Security depends upon local factors, such as numerical strength and political support; low entry costs and limited services provision.
Tenant	Generally, the most insecure of all tenure categories and also the cheapest. A contract is unlikely. Minimal housing and services standards.
Unauthorized (or illegal) subdivisions	Land subdivision, without official approval, usually by commercial developers for sale to lower-income households seeking plots for house construction. May take place on public or private land. Now commonly the largest single tenure category in the urban areas of many countries. Legal status varies; but most occupants possess some form of title, such as the <i>hisseli tapu</i> or shared title, found in Turkey. Entry costs are usually modest due to efficient land development and refusal by developers to follow official standards and procedures. Commonly legalized and serviced after a period.
Unauthorized construction	Development on land that is legally occupied, but for which the occupant does not possess official permission to build. The offence is therefore technical or procedural, but may be classified as illegal. Security can, therefore, be less than indicated by the tenure status <i>per se</i> .
Unauthorized transfer	Widespread in public-sector projects, where original allottees transfer their rights, at a substantial profit, to another. The transfer is invariably not permitted by the allottee's contract, but is effected using a secondary contract or power of attorney, which is recognized in law. It is particularly common in Delhi. Secondary allottees are very rarely removed or punished, due to legal complications. Entry costs are relatively high as the transfer is used to realize the full market value for a subsidized unit.
Purchased customary land	In areas where customary tenure is subject to urbanization, such as Southern Africa and Papua New Guinea, illegal sales of land take place to both long-established residents and newcomers, usually kinsmen. Such sales do not enjoy legal or customary approval, but are increasingly accepted by all involved, providing occupants with security of tenure and even <i>de facto</i> rights of transfer.

Source: adapted from Payne, 1997, pp52–54

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