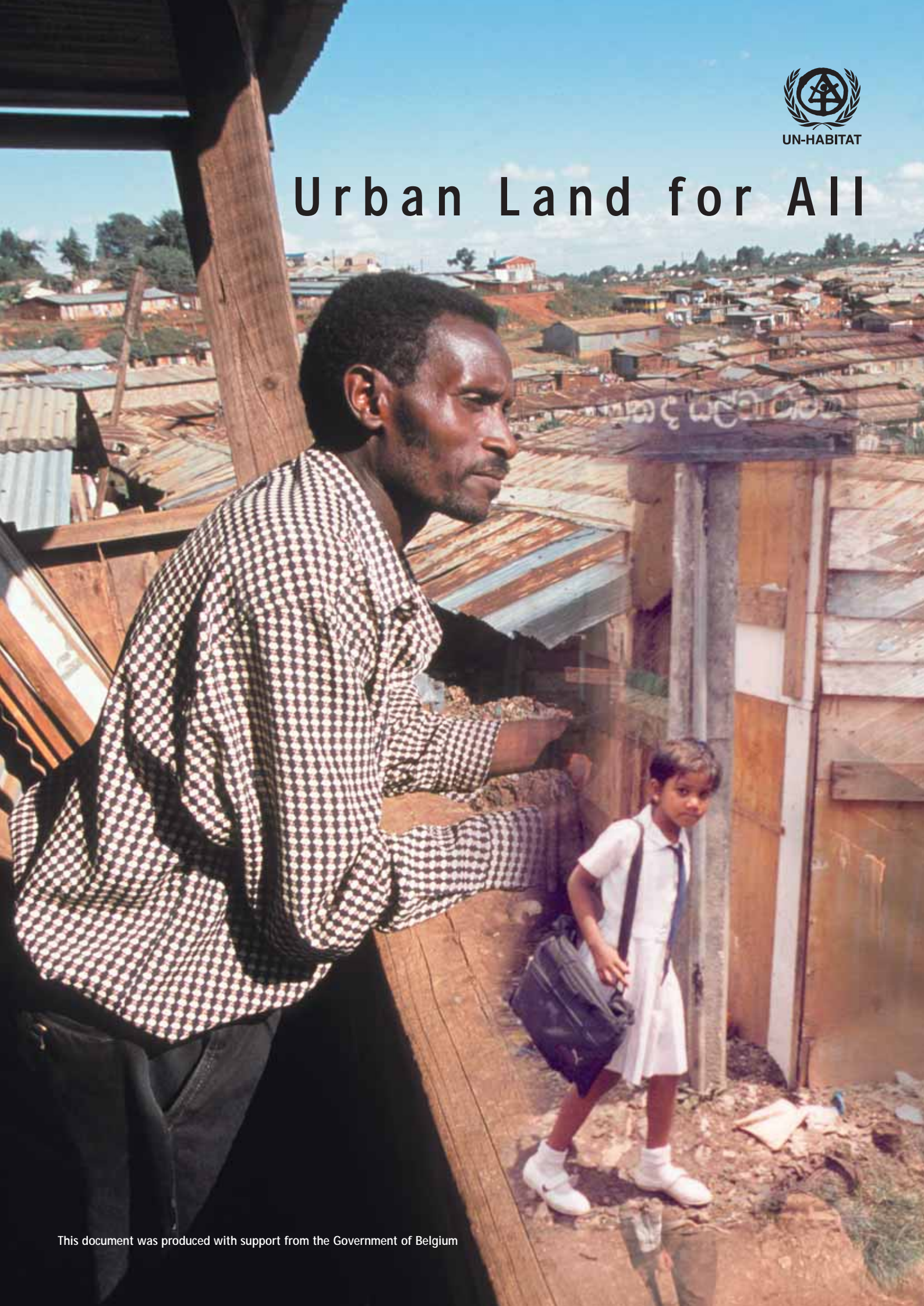




Urban Land for All



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The world is committed through the Millennium Development Goals to alleviate the plight of slum dwellers. The question is how. There isn't one answer. No one country has a complete lock on the formulae. Certainly no single NGO or agency would claim to know it all. The solutions are not easy. But they exist - the answers are out there. They have been tried. They work. UN-HABITAT has been working with slums since its inception. We too, don't claim to have a magic formula. We are learning every day. We are learning with every project. We have made errors and we have had great successes. We have built up a body of knowledge. We have not discovered one key, but several keys. And the keys work. We have a strategy and it works. Here in Nairobi, and in projects all around the globe, we have concentrated on sharing techniques with people who have walked this path before, managing knowledge and reporting, advocating universal norms, seeking innovative financing with creative thinkers and developing strategic partners. It has taught us a lot. One of the most important things it has taught us, if we hadn't already known it in our own, personal lives, is that people need to feel that they have secure tenure. Once they have that they themselves will pitch in to alleviate their own plight. Tenure, more than ownership appears to be emerging as one of the most important keys to reaching the goals to which our leaders have committed themselves in regards to slum dwellers. In many cases we have learned more from the people than we have taught them. And we have learned that they want to feel that they will not be arbitrarily moved. Tenure doesn't necessarily mean ownership, or even collective, community ownership. Sometimes it could be as simple as a promise that the people will not be moved. But, achieving security of tenure has its difficulties. How is it achieved without disrupting the greater society, or without throwing into imbalance the rights of property owners in and around the slums? This work looks into these questions, and more. It is aimed at the professional charged with dealing with slums in his or her country. But it can be read, too, by the urban activist, the policy maker who is not a technical expert, and the urban dweller. It has practical examples of how concrete plans have or have not worked. It has theoretical answers, tied to practical examples. It will give a large picture of what we believe are important elements in this challenging task, and hopefully it will lead to further reading, including that of the much larger and more detailed work such as *the Global Report on Human Settlements 2003 – the Challenge of Slums*. The United Nations Millennium Declaration calls upon member states to improve the lives of 100 million slum dwellers by 2020. That's a difficult task by any standard. This publication will not give the master plan. But we believe it will help the policy maker and the roofless in choosing the right path.



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'people need to feel that they have secure tenure. Once they have that they themselves will pitch in to alleviate their own plight'



“It is now recognised that security of tenure is more important for many of the urban poor than home ownership, as slum policies based on ownership and large scale granting of individual land titles have not always worked.”

The Challenge of Slums: Global Report on Human Settlements 2003

Figure 1

Slum dwellers as a percentage of urban population by region, 2001

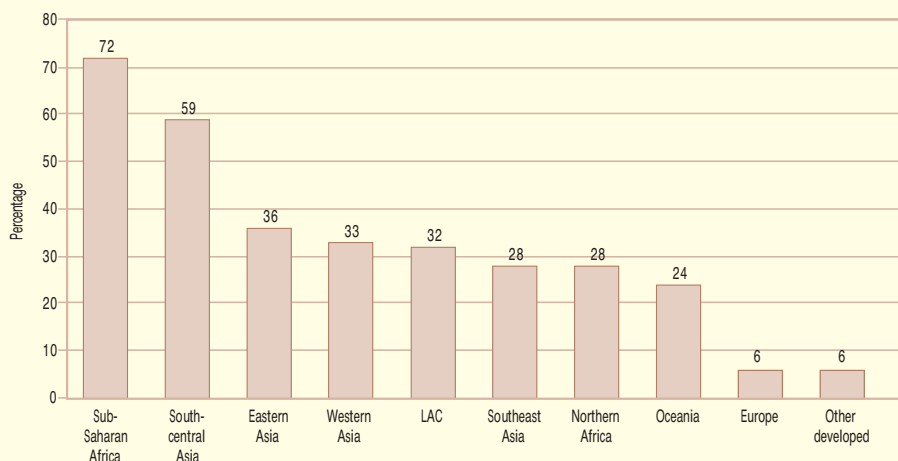


Figure 2

Proportion of slum dwellers in urban population by region, 2001

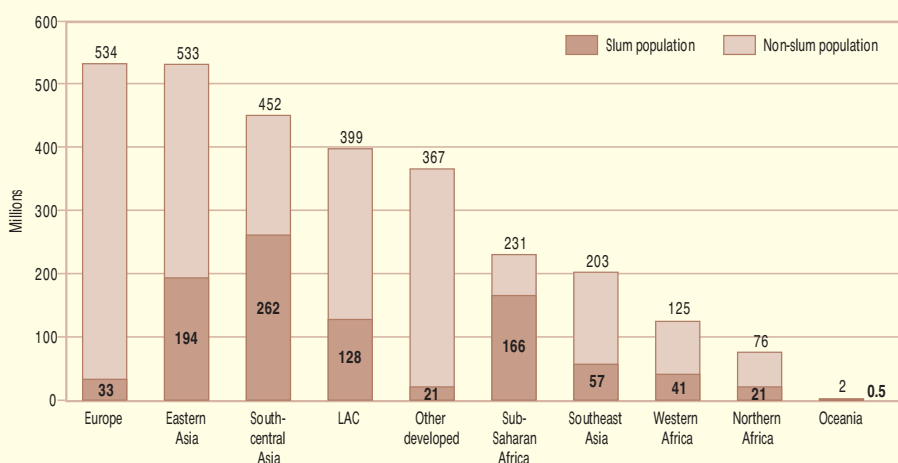
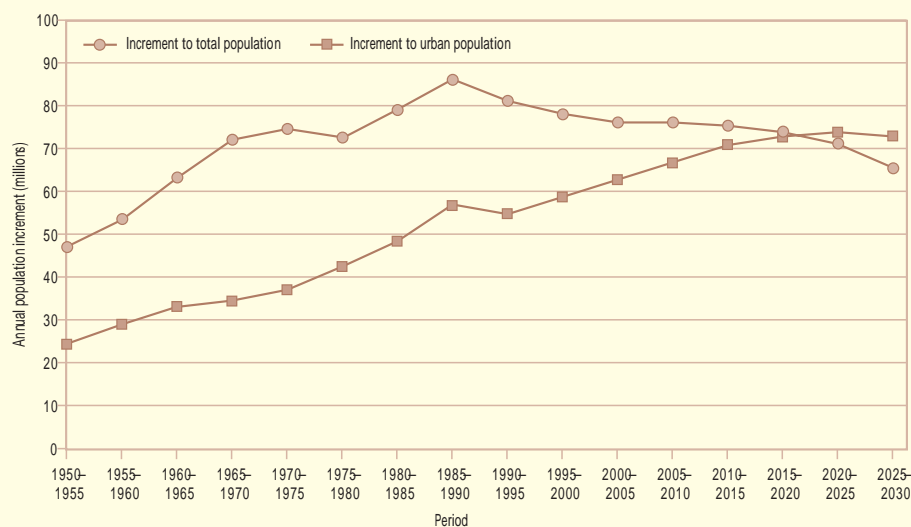


Figure 3

Annual increment in total and urban population

Source: United Nations Population Division, 2002, Figure 1



This brochure is meant to be both thought provoking for policy and decision-makers in Member States, and to assist them to move forward and make improvements in urban land markets and tenure policies in their cities and countries. The brochure consists of a synthesis of different types of policy instruments that could be used by government officials to introduce more appropriate and flexible tenure systems, uphold the rights of the urban poor, and secure urban land for slum dwellers. Boxes illustrating examples of innovative approaches show how security of tenure for the urban poor can be delivered by referring to what is actually happening on the ground in various countries world-wide. The emphasis is on tenure security in general (not necessarily ownership) because UN-HABITAT, with experience throughout the world, has found that it works; works for all the stakeholders, including the slum dwellers themselves and society at large.

The United Nations Millennium Declaration recognizes the dire circumstances of the world's urban poor, articulating Member States' commitment to improve the lives of at least 100 million slum dwellers by the year 2020.

When preparing or revising urban management and tenure policies, it is important to consider the following:

- Urbanisation is a wealth creating process. Stopping it is not an option, but managing it is vital to achieving social and economic development.
- Managed properly, housing is a means of economic development and need not be a welfare burden on the economy.
- Private land ownership puts land to the most economically efficient use, but commonly at the cost of excluding the poor and limits state land management options.
- Security of tenure is a precondition for local investment. Nobody invests if they feel insecure, though international experience shows that even the poor will invest what they can if they have reasonable security.

Favelas in Rio, Brazil
Topham Picturepoint



Some facts about slums

- *Urbanisation is growing and will continue to grow.*
- *Stopping it is not an option. The world's rural population has essentially reached its peak. Two billion people are coming to cities in developing countries, soon.*
- *Most government intervention in the last 30 years has increased, rather than decreased, poverty and slums.*

But:

- *Urbanization is a wealth creating process*
- *Some relatively low cost, effective, policies have emerged from trial and error.*



E. Moreno/UN-HABITAT

Improving tenure for the existing urban populations will not be enough unless measures are also taken to reduce the need for new slums and informal settlements.

This requires a parallel approach to increase the supply of planned, legal and affordable land on a scale equal to present and future demand.

Improving security of tenure and the property rights for millions of the urban poor is a massive challenge. Tenure issues are extremely complex. No single tenure option can solve all these problems. Policy on land tenure and property rights can best reconcile social and economic needs by encouraging a diverse range of options rather than putting emphasis on one option, such as titling. This will involve adapting and expanding existing tenure and rights systems where possible and introducing new ones selectively.

The following steps can help to stabilise the existing situation and provide a foundation for longer-term options.

1. Provide basic short-term security for *all* households in slums and unauthorised settlements. This can best be achieved through land proclamations or moratoriums. A simple statement by the relevant Minister is often sufficient to reduce uncertainty and stabilise situations.
2. Survey all extra-legal settlements and identify any that are in areas subject to environmental hazards, (e.g. floods, landslides, etc) or required for strategic public purposes. These should be subject to independent review.
3. Offer residents of all such settlements priority for relocation to sites that offer close access to existing livelihood opportunities (e.g. street trading) and services (i.e. not out of the city). Temporary Occupation Licences or Permits can be provided for a limited period, depending on how long it takes to agree with the local community on moving to alternative sites.
4. Designate all other extra-legal settlements as entitled to medium term forms of tenure with increased rights, but not necessarily full titles. Where possible, the precise form of such tenure and rights should be based on tenure systems already known to local communities. Customary or communal tenure options, such as communal leases, may be acceptable to residents and can reduce the administrative burden on land management agencies. This will allow such areas to receive services and environmental improvements through a participatory process of physical and socio-economic development. It will also increase security without stimulating rapid increases in land prices which could attract downward raiding by higher income groups and the displacement of very poor tenants. For unauthorised settlements on private land, options can include land sharing, under which settlers may be provided long-term tenure on part of their site and the landowner develops the remainder. Local authorities can assist this approach if they permit relaxation on planning or building restrictions so the landowner can recoup any lost profit or income. Temporary land rental, (Bangkok box), is another way of reconciling conflicting interests.

These measures can provide a sustainable, practical and socially progressive way of improving the tenure security and rights for millions of the urban poor. They can also improve the functioning of urban land and housing markets, stimulate economic development and improve the effectiveness of government in urban management.

Improving tenure for the existing urban populations will not be enough unless measures are also taken to reduce the need for *new* slums and informal settlements. This requires a parallel approach to increase the supply of planned, legal and affordable land on a scale equal to present and future demand. This can be achieved by:

- Revising planning regulations, standards and administrative procedures to reduce entry costs and accelerate the supply of new legal development. Options may include reducing the proportion of land allocated to roads and public open space, relaxing restrictions on plot use and development and simplifying administrative procedures.
- Introducing and collecting property taxes on all urban land, whether developed or not.
- Permitting incremental development of land construction and services provision.



Port of Spain, Trinidad
Topham Picturepoint

- Permitting households to obtain basic services, such as water, sanitation and electricity, irrespective of their tenure status.

“After many years of collective struggle, we gained legal title to our land. You should see my house today, instead of a water tank outside my shack, I now have a two-story home, with running water, a lovely kitchen and a real bathroom with shower and toilet.”

Gloria de Chipo, 48, Canteras slum, Bogota, Colombia

Additional Policies Required

Both existing and new urban settlements will need to be developed in ways which increase access to livelihood opportunities, services and community facilities at costs affordable to all sections of the population, including the poor. Since subsidies will not usually be able to bridge the gap, it will be necessary to adopt several related policy measures to reinforce progress in providing increased tenure security and property rights. These include:

- Improving governance, especially at the urban and local levels;
- Decentralising resources and responsibilities to the lowest possible administrative level;
- Strengthening community participation in the formulation as well as implementation of urban development policies;
- Promoting partnerships and joint ventures between government, developers and communities to extract a public benefit from private sector investments and developments. Such projects can also help generate internal cross-subsidies to facilitate low-income access;
- Encouraging mixed land use developments, except for pollution generating activities;
- Encouraging finance institutions to provide credit without requiring titles as collateral;
- Strengthening the administrative capacity of land administration and land record agencies;
- Improving transportation links between residential, commercial and industrial areas.

Why tenure policy is important for economic development

An estimated 924 million people (GUO 2001) are presently living without secure tenure in informal settlements in the urban areas of developing countries. This number is projected to increase to 1.5 billion by 2020 and 2 billion by 2030 unless urgent action is taken. In some countries, the proportion of people living in unauthorised settlements is already much higher than those in formal land and housing markets. This is a problem for governments seeking to harness the creative energies of their populations to achieve economic development and reduce poverty.

Excluding a significant proportion of urban populations from legal shelter reduces the prospects for economic development. People who fear eviction are not likely to operate to their maximum potential, or invest in improving their homes and neighbourhoods. Also when people are excluded, local and central governments are denied the revenue from property taxes and service charges, which could help improve urban living environments and stimulate local and external investment. In addition to this, uncertainty associated with insecure tenure may hinder external investment and the improvement of other services such as improved water and sanitation, durability of housing etc.

What is tenure security?

As agreed during the Expert Group Meeting on Urban Indicators in 2002, tenure security is: "the right of all individuals and groups to effective protection by the state against forced evictions." Under international law, 'forced eviction' is defined as "the permanent or temporary removal against their will of individuals, families and/or communities from the homes and /or land which they occupy,

Table 1 Total, urban and estimated slum population by major region, 2001

Major area, region	Total population (millions) ^a	Urban population		Estimated slum population	
		(millions) ^a	%age of total popn. ^a	(thousands) ^b	%age of total popn. ^b
WORLD	6,134	2,923	47.7	923,986	31.6
Developed regions	1,194	902	75.5	54,068	6.0
Europe	726	534	73.6	33,062	6.2
Other	467	367	78.6	21,006	5.7
Developing regions	4,940	2,022	40.9	869,918	43.0
Northern Africa	146	76	52.0	21,355	28.2
Sub-Saharan Africa	667	231	34.6	166,208	71.9
Latin America and the Caribbean (LAC)	527	399	75.8	127,567	31.9
Eastern Asia	1,364	533	39.1	193,824	36.4
South-central Asia	1,507	452	30.0	262,354	58.8
Southeast Asia	530	203	38.3	56,781	28.0
Western Asia	192	125	64.9	41,331	33.1
Oceania	8	2	26.7	499	24.1
Least Developed Countries (LDCs)	685	179	26.2	140,114	78.2
Landlocked Developing Countries (LLDCs)	275	84	30.4	47,303	56.5
Small Island Developing States (SIDS)	52	30	57.9	7,321	24.4

Sources: a Total and urban population: World Urbanization Prospects: The 2001 Revision, Table A.1. b Slum population and percentages calculated by UN-Habitat using data from DHS (1987–2001); MICs (1995–2000); WHO/UNICEF JMP (1998–1999).

without the provision of, and access to, appropriate forms of legal or other protection."

Under international human rights law, secure tenure is one of the seven components of the right to adequate housing, which again is linked to the right to land. The other six components are: (1) availability of services,

materials, facilities and infrastructure, (2) affordability; (3) habitability; (4) accessibility; (5) location; and (6) cultural adequacy. All human rights apply equally to women and men, and women's equal right to adequate housing, land and property is firmly entrenched in international law.

In some countries, the proportion of people living in unauthorised settlements is already much higher than those in formal land and housing markets

Thierry Geenen for the Nairobi River Basin Project, UNEP



What is tenure and property rights?

Land is not a single entity owned by only one person at a time. Rather, land rights in a unit of land can be equated to a bundle of sticks. Each individual stick defines a way in which the land may be used, the profit that may be derived from it, or the manner in which some or all of the rights may be disposed of, to other people, or to organisations. For each right in the parcel there will be an 'owner'. Thus one owner may hold the overall registered rights to the land through a title deed. One part of this land may also be a servitude (easement) for underground cabling for the local authority, also documented and registered. An informal settlement may cover the entire property and these residents may have rights under an anti-eviction law. The leaders of this settlement may keep a community register showing who is resident in the settlement. That is, there can be a number of parties with rights of different types in the same piece of land. Some of these rights may be legal (stronger or weaker according to the law) and some informal (stronger or weaker depending on enforcement, length of possession, political support etc). Property rights cover several key factors:

- Occupy, enjoy and use
- Restrict others from entry
- Sell, buy or inherit
- Develop or improve
- Cultivate or use for production
- Rent, sublet, or sublet and fix the rent (e.g. free of rent control)
- Realise a pecuniary benefit from increased property values or rental income
- Access services
- Access formal credit.

In addition to this:

- Security is partly a matter of perception. Formal titles are not the only means of making people feel secure enough to invest in their homes and neighbourhoods.
- Land tenure and property rights are more complicated than the conventional categories of legal/illegal, or formal/informal suggest. Most urban areas contain a range of semi-legal categories and maybe even more than one legal system, as in countries where statutory, customary or religious tenure systems co-exist. In this sense, it is preferable to consider tenure and property rights as a continuum with different shades of grey as well as black and white categories.
- Land tenure issues reflect cultural, historical and political influences. Policy should recognise and reflect local circumstances.

Policy makers need to make choices, including acceptable compromises.

Cultural Rights and Land Tenure

Under international law *"all human rights are universal, indivisible and interdependent and interrelated."* Cultural rights therefore are to be considered on an equal footing with civil and political rights. The principle of a 'minimum core obligation' holds that it is incumbent upon states to ensure minimum essential levels of economic social and cultural rights. For example, housing layouts and construction must appropriately enable the expression of cultural identity. Activities geared towards development or modernization in the housing sphere should ensure that the cultural dimensions of housing are not sacrificed, and that, *inter alia*, modern technological facilities, as appropriate, are also ensured.

Customs and traditions in land tenure systems are to be respected, but it is each government's obligation to ensure that these customs are not discriminatory, particularly with regard to women, and do not violate other human rights.

Assessing existing tenure systems

The towns and cities of most developing countries contain a range of land tenure and property rights systems. In addition to freehold, leasehold, public and private rental, there may be customary or religious tenure options and various categories of unauthorised or informal settlements, each with varying degrees of legality and rights. Within this continuum, there may even be more than one legally acceptable system operating, so that migrants moving from rural areas dominated by customary systems, to urban centres dominated by statutory systems, may be considered to be acting illegally, simply because they are operating in accordance with norms which are not officially acceptable in their new locations.

The co-existence of these different tenure systems and sub-markets within most cities creates a complex series of relationships in which policy related to any one has major, and often unintended, repercussions on the others. Before any attempt to intervene in land markets is made, it is therefore vital to assess the full range of existing tenure systems and sub-markets. Some of the tenure categories and their characteristics which exist in many cities are shown in Table 2, though this should not be taken as a definitive taxonomy. To further complicate matters, many settlements and even dwellings within settlements, move between one category and another, yet subtle differences between categories, which may be invisible to outsiders, can be critical to those living in them.



"Security is partly a matter of perception. Formal titles are not the only means of making people feel secure enough to invest in their homes and neighbourhoods."

The people of Samambaia, Brasília

Table 2 Tenure systems and their characteristics

Tenure system	Characteristics	Advantages	Limitations
Freehold	Ownership in perpetuity.	Provides a high degree of security. Freedom to dispose, or use as collateral for loans. Maximises commercial value, enabling people to realise substantial increases in asset values.	Costs of access generally high. Collateral value may not be relevant if incomes are low or financial institutions are weak. Property values can go down as well as up and may trap the unwary in properties worth less than they paid for them.
Delayed freehold	Conditional ownership. Title is granted on the completion of payments or when developments have been completed.	This provides the same high degree of security as freehold, providing payments are made as required or developments have been completed. Freedom to dispose, or use as collateral for loans. Maximises commercial value, enabling people to realise substantial increases in asset values.	Failure to maintain payments or undertake developments may result in eviction and loss of funds invested. Collateral value may not be relevant if incomes are low. Property values can go down as well as up and may trap the unwary in properties worth less than they paid for them. Expectations of increased values can divert investments from more productive sectors of the economy.
Registered Leasehold	Ownership for a specified period from a few months to 999 years.	As secure as freehold, but only for the period specified in the lease.	Requires legal framework. Costs of access generally high.
Public rental	Rental occupation of publicly owned land or house.	Provides a high degree of security providing terms and conditions of occupation are met.	Limited supply may restrict access. Often badly located for access to livelihoods. Terms often restrictive. Deterioration may result if maintenance costs not met.
Private rental	Rental of privately owned land or property.	Good security if protected by legally enforceable contract. Provides tenants with flexibility of movement.	Open to abuse by disreputable owners. Deterioration may result if maintenance costs not met.
Shared equity	Combination of delayed freehold and rental in which residents purchase a stake in their property (often 50%) and pay rent on the remainder to the other stakeholder.	Combines the security and potential increase in asset value of delayed freehold and the flexibility of rental. Residents can increase their stake over time, ultimately leading to full ownership.	Requires a legal framework and efficient management.
Co-operative tenure	Ownership is vested in the co-operative or group of which residents are co-owners.	Good security. Maintains social cohesion.	Requires a legal framework. Restrictions may reduce incentives to invest. Requires double registration first of land and of association
Customary ownership	Ownership is vested in the tribe, group community or family. Land is allocated by customary authorities such as chiefs.	Widely accepted. Simple to administer. Maintains social cohesion.	May lose its legal status in urban areas. Vulnerable to abuse under pressure of urbanisation. Poor customary leadership may weaken its legitimacy.
Religious tenure systems (e.g. Islamic)	There are four main categories of land tenure within Islamic societies. <i>'Waqf'</i> is religious trust land and is potentially very significant in addressing landlessness, whilst <i>'mulk'</i> , or individual full ownership, is also protected in law; <i>'miri'</i> , or state owned/controlled land which carries <i>'tassruf'</i> or usufruct rights, is increasingly common, whilst <i>'musha/mushtarak'</i> , is collective/tribal ownership.	Facilitates family/group tenures and accessible and affordable land management procedures.	Because they are outside the commercial land market, <i>waqf</i> lands are often inefficiently managed. Inheritance disputes can cause land conflicts.
Non-formal tenure systems	These include a wide range of categories with varying degrees of legality or illegality. They include regularised and un-regularised squatting, unauthorised subdivisions on legally owned land and various forms of unofficial rental arrangements. In some cases, several forms of tenure may co-exist on the same plot, with each party entitled to certain rights.	Some of these non-formal categories, such as squatting, started as a response to the inability of public allocation systems or formal commercial markets to provide for the needs of the poor and operated on a socially determined basis.	As demand has intensified, even these informal tenure categories have become commercialised, so that access by lower income groups is increasingly constrained.



Before making any policy decisions regarding land tenure or property rights, it is advisable to undertake a review of the existing situation and the implications of each tenure category. A simple way of assessing the range of tenure categories is to undertake or commission a survey of all key stakeholders active in providing land and housing and classify first the range of tenure categories and then the types of rights available to those occupying them. In dealing with the formal, statutory, tenure categories, this will be relatively straightforward. However, it will be more difficult to assess unauthorised, or non-statutory tenure categories, since levels of security will vary and legal rights may differ from perceived rights, or those exercised in practice. It is therefore advisable to identify the different tenure forms and rights directly with slum dwellers, landowners and informal settlement developers, so that a better understanding can be obtained on the nature of the local problems and the most appropriate policy options. In doing so, it will also be important to distinguish between those who claim to own property and those renting it, since policies can affect them very differently.

Property rights and gender

It should not be assumed that tenure security and property rights are available equally to both men and women. Many tenure regimes, including statutory, customary and informal, discriminate against women either formally, or in practice. Cultural traditions often make women dependent on fathers, husbands or sons for tenure security and deny basic rights to divorced or widowed women. All too often property rights are vested in men, and women are denied legal protection. Such discrimination is both unjust and contrary to good management, in that women are generally considered a lower risk against default than men, and female-headed households frequently form a high proportion of low-income groups. Property rights therefore need to be seen in terms of the extent to which women enjoy equal rights with men, and addressing any gap should be a priority of tenure policy.

women are generally considered a lower risk against default than men, and female-headed households frequently form a high proportion of low-income groups

Housing rights, housing policy and security of tenure



The role of government housing policy should be to encourage a pluralistic land and housing market, in which a diverse range of suppliers compete on equal terms to meet the needs of different sections of the population. Whilst the state will always need to provide a safety net, its main function within increasingly market driven economies, should be to create a regulatory framework and 'level playing field' within which a range of suppliers can operate.

Over the past decade, there has been significant advancement in the development of the conceptual framework of the human right to adequate housing owing to the consistent work of the United Nations agencies, United Nations human rights mechanism and civil society. "Housing rights" has thus become a widely accepted terminology among the international community. This development has taken place in parallel to the wide consensus reached on the enabling approach as being a fundamental element in shelter policy formulation. The situation is also a reflection of the understanding and recognition that realization of this right is a process in which many practical aspects of housing development interact with the legal context of this right. This expansion complies with the increasing focus of the international community on the rights-based approach which integrates the norms, standards, and principles of the international human rights system into the plans, policies and processes of national development.

It is important to note the links between affordable housing policies at the national level and specific policy measures needed for addressing the realisation of housing rights. Housing policies need to be comprehensive and include measures on economic, social, cultural and human rights aspects of human development. While general improvements in living and housing conditions and national actions towards achieving the goal of adequate shelter for all contribute to the realisation of housing rights in general, actions in five specific areas have a more direct and effective impact in this process. These are promoting equal access to housing resources, promoting security of tenure, prevention of forced evictions and discrimination in the housing sector, combating homelessness and protecting the rights of homeless people and promoting access to legal and other remedies.

"Housing rights" has thus become a widely accepted terminology among the international community.



Security of tenure is a key element in the full and progressive realisation of housing rights. It applies to rental as well as to owner-occupied housing, and in formal as well as informal settlements. Countless examples reveal that as security of tenure increases so do the individual, household and community savings and investments in the improvement of homes and neighbourhoods. This in turn assists in improving standards of living and the prospects of the realisation of housing rights. In some countries the 'urban citizenship' approach is progressing whereby governance process and procedures are moving towards being more participatory and transparent. Good urban governance is the essential environment where human rights in general and housing rights in particular can be fully and progressively realised.

Tenure and governance

Tenure issues cannot be divorced from the broader issues of governance. UN-HABITAT governance campaign defines good governance as characterised by sustainability, subsidiarity, equity, efficiency, transparency and accountability, civic engagement and citizenship and security. It recognises that the quality of urban governance is the single most important factor for the eradication of poverty and for prosperous cities. Tenure policies which satisfy these criteria can therefore contribute substantially to meeting the objectives of the governance campaign. In

addressing this issue, it is necessary to recognise that although land tenure raises important technical and procedural questions, it is ultimately a political issue, since rights over land cannot be isolated from packages of rights in general.

Land Management Policy Options

Tenure policy needs to be considered as part of urban governance, spatial planning and infrastructure provision to ensure that security and rights are balanced with improved access to livelihoods, services and credit. There are five commonly adopted approaches to achieving these objectives:

- a. The first option concentrates on asserting the need to implement master plans and regulations and generally involves the eviction and relocation of unauthorised settlements with, or without, compensation or alternative shelter. Such approaches invariably reflect a concern for visual order rather than meeting the needs of the poor.
- b. The second option advocates the granting of full individual property ownership in the expectation that this will enable the poor to obtain credit, realise the potential value of their property assets and lift themselves out of poverty, whilst also raising revenues from property taxes. It may be undertaken as part of the first

approach by granting titles to relocated households. Due to high land costs in areas near employment centres, such relocation projects are often outside the urban area and impose high transport and infrastructure costs on the poor.

- c. The third option emphasises the need to introduce or expand 'intermediate' forms of tenure, such as community land trusts, Temporary Occupation Licenses, shares in land-buying companies, shared titles or land leases, etc to provide medium term security at prices lower than formal titles would command. These enable low-income groups to live in areas which would otherwise be unaffordable.
- d. The fourth option focuses on the need to increase rights of occupancy, use, development, etc, for all households in unauthorised settlements, especially for women. Once the situation has been stabilised, emphasis can then move to building on existing local tenure systems with which people are already familiar, before importing new options.
- e. Finally the last option involves integrating tenure policy with urban planning and infrastructure provision policies. Ideally, it involves combining forms of tenure which provide security and access to credit with efficient and flexible land use planning based on the priorities and perceptions of the residents, not just the professionals.



Sri Lanka

Table 3 Benefits and limitations of different tenure policy options

Policy option	Benefits	Limitations
A: Evicting unauthorised settlers (see Box on India)	<p>Releases land for more productive use.</p> <p>May facilitate providing more secure tenure elsewhere.</p>	<p>Disrupts communities already suffering from multiple deprivations.</p> <p>Actually reduces the housing stock, unless alternative shelter is provided.</p> <p>Moves problems elsewhere.</p> <p>Socially and politically contentious.</p> <p>Relocation sites are often far from places where people can access livelihoods and services.</p>
B: Providing titles if beneficiaries have adequate income (see Box on Peru)	<p>Provides a high degree of security</p> <p>Grants poor households an asset they could otherwise not afford.</p> <p>May increase access to formal credit if incomes are sufficient to service loans.</p> <p>Encourages residents to invest their resources in home and neighbourhood improvements.</p> <p>May increase revenues from property taxes, where levied.</p> <p>Often linked to servicing.</p>	<p>Places a heavy burden on agencies preparing and allocating titles/cannot easily be done at scale.</p> <p>Distorts land and housing markets unless granted on a large scale.</p> <p>Open to abuse and nepotism if granted on a small scale.</p> <p>May stimulate litigation over competing claims.</p> <p>Unlikely to increase access to formal credit through banks.</p> <p>May actually encourage unauthorised development by groups hoping to obtain titles at a later date.</p> <p>May expose poor residents to unaffordable property taxes and service charges.</p> <p>May result in higher rents or the eviction of tenants.</p>
C: Intermediate tenure options, such as Temporary occupation licenses, private land leases, Certificate of Rights, Declaration of possession and Home owners Associations etc. (See Boxes on Bangkok, Bolivia, Kenya, Colombia, Philippines)	<p>Increase security.</p> <p>Encourage residents to invest their resources in home and neighbourhood improvements.</p> <p>Minimise land and housing market distortions.</p> <p>Do not encourage further unauthorised development.</p> <p>Reduce administrative burden.</p> <p>Increases social cohesion and community solidarity.</p> <p>Reduce the temptation for residents to obtain a windfall profit by selling their homes to higher income groups.</p> <p>Facilitate access for future low-income groups.</p>	<p>Not widely accepted by finance institutions as collateral for loans.</p> <p>Can take years to introduce by reforming legal frameworks.</p> <p>Difficult to replicate if introduced outside of mainstream legal framework.</p> <p>Require large-scale capacity building among implementers.</p>
D: Increasing rights of use, occupancy, development, etc. (See Box on the Philippines)	<p>Increases de facto security.</p> <p>Only requires an announcement which minimises administrative burden.</p> <p>Reduces the temptation for residents to obtain a windfall profit by selling their homes to higher income groups.</p> <p>Facilitates access for future low-income groups.</p> <p>Provides breathing space to develop more formal tenure alternatives.</p>	<p>Not widely accepted by finance institutions as collateral for loans.</p>
E: Integrating tenure policy with urban planning and infrastructure provision policies (e.g. strategic urban development plans or structure plans). (See Box on Tanzania)	<p>Creates diverse and dynamic urban societies in which the poor can play a full part.</p> <p>Enables all stakeholders to contribute.</p> <p>Improves the level of security and quality of life for low-income groups.</p> <p>Improves public health and labour productivity.</p> <p>Minimises the need for subsidies.</p>	<p>Requires an administrative structure responsive to active participation by local groups.</p> <p>Can be time-intensive, especially in the early stages.</p> <p>Requires effective co-ordination between relevant agencies and between them and other stakeholders.</p>



India

Eviction and relocation

As the example below on India reveals, slum clearance and eviction programmes punish the victims of market forces and inappropriate planning frameworks. Secondly, they fail to increase the housing stock and are likely to increase poverty if people are relocated far from livelihood sources. Thirdly, they fail to address the structural problems posed by population growth, rural-urban migration and economic inequality. Instead of solving the problem, they simply move it elsewhere at considerable social, and occasionally political, expense.

Evicting settlers in India

During the 1970s, the authorities evicted up to 500,000 people from Delhi slums and squatter settlements and moved them to small plots in 'relocation colonies' outside the city. Such was the outcry that it contributed to the defeat of the government at subsequent elections. However, in 1990-91 and again in 2001-02, the courts insisted that the government again evict people living in unauthorised settlements and as many as 40,000 households were evicted to enforce the city master plan and respond to complaints by upper and middle-income groups. The recent evictions have not even provided evicted families with alternative accommodation and policies seeking to provide these have been challenged by the High Court as "giving a reward to a pickpocket" (Times of India, 8th August, 2000). The fear is that as Delhi seeks to achieve global city status, it will increasingly exclude poor people from the benefits of economic development.

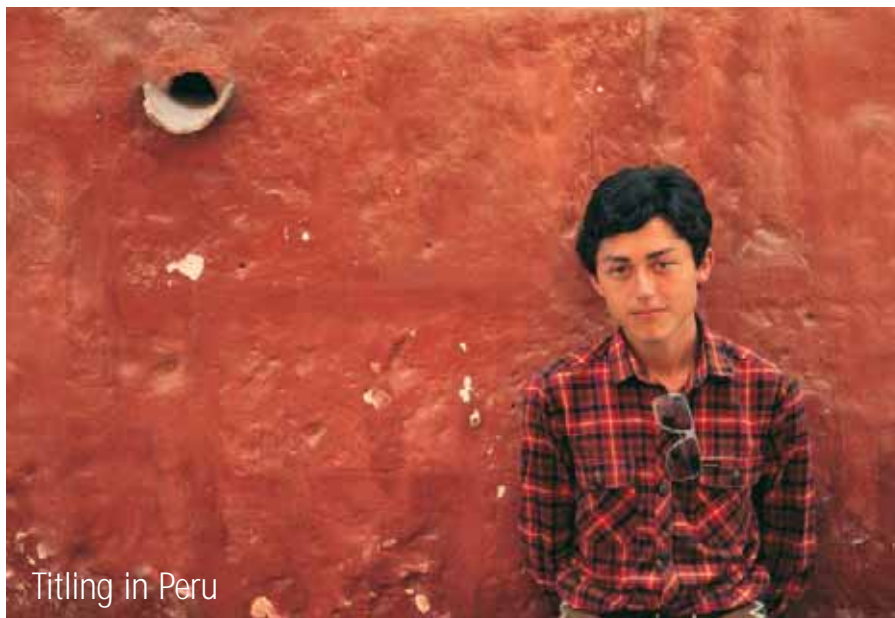
The recent evictions have not even provided evicted families with alternative accommodation and policies seeking to provide this have been challenged by the High Court as "giving a reward to a pickpocket" ...

Land Titling Programmes

The example on Peru shows that titling programmes are extremely expensive and do not necessarily achieve their objectives even when implemented at a large scale. Whilst titling has benefited many informal property owners, and deserves a place in any tenure policy, it has not necessarily increased access to credit nor prevented the growth of new informal settlements. Another potential disadvantage is that it may unintentionally or inadvertently discriminate against other forms of tenure which may be more appropriate for large sections of the population. For example, it is common for many low-income households to prefer the social cohesion which customary systems offer under conditions of rapid social change, or the mobility offered by rental tenure systems, providing they enjoy adequate security and legal protection. Such protection may be easier to achieve in land markets which encourage a variety of tenure options, rather than one at the expense of others.

A further consideration is that many governments in developing countries have little experience of formulating and implementing urban land tenure policies appropriate to all sections of demand. The direct and indirect, positive and negative consequences of a specific policy measure are particularly difficult to predict, and if they cannot be predicted, they cannot be controlled. Also, unlike policies concerning interest rates or taxation, which can be adjusted upwards or downwards, as circumstances require, tenure is a uni-directional policy instrument, in that it is practically impossible to withdraw rights once granted.

The unpredictability and inflexibility of tenure instruments therefore makes it difficult to apply them with any degree of confidence as a means of improving the efficiency of land and housing markets. However, it is clear that insistence on full titles can have severe negative impacts on the operation of urban land and housing markets.



Titling in Peru

City-wide tenure regularisation programmes are likely to reduce market distortions, but impose a heavy burden on development agencies and land registries. Conversely, those implemented at the local level will be easier to cope with, but are likely to increase urban land market distortions. One of the few cases where massive land titling can claim to have increased land market efficiency and equity is that of the COFOPRI programme in Peru, which has allocated about 1.5 million between 1996 and 2004. Whilst this is impressive by any definition, it was made possible largely by the provision of large-scale loans from the World Bank and the existence of vast tracts of government owned desert land adjacent to urban areas, a feature not available in most countries. Also, many of these areas already had titles but were not formally registered and local authorities had previously registered others. Even with full government support and the advantage of unlimited free land to develop only a small proportion of poor households with titles have been able to obtain full services or formal credit. Informal settlements continue to grow.

Egypt: Individual Titles Not Always the Answer and Definitely Not the Easy Answer

In Egypt, acquiring and legally registering a lot on a state-owned desert land involves at least 77 bureaucratic procedures at 31 public and private agencies.

In Peru, building a home on state-owned land requires 207 procedural steps at 52 government offices...In the Philippines establishing legal ownership takes 168 steps and between 13 and 25 years. In Haiti obtaining a lease on government land - a requirement to buying - takes 65 steps.

'Intermediate' tenure options

As the texts on Bangkok, Bolivia, Colombia, Kenya and the Philippines demonstrate, a range of innovative 'intermediate' tenure options have been developed by land-owners, informal developers and some governments as a pragmatic, medium-term means of increasing security and improving access to services.

Slums of Bangkok:
Topham/UNEP



Temporary land rental in Bangkok

Low-income communities in Bangkok have evolved a practical arrangement with land-owners to enable them to live in areas with good access to livelihood opportunities which would otherwise be too expensive for them to access. The communities find land-owners who are waiting for the market price of their land to rise even higher before developing it and offer to rent the land on a short to medium term lease, paying what they can afford. In this way, land-owners avoid third parties invading their land.

In recent years, communities and authorities have been looking at ways by which they can provide basic services to the temporary settlements, though if a longer term lease is agreed, they may provide higher standards. This arrangement depends on the residents agreeing to move out when required and reflects a more deferential approach to those higher up the social pecking order than applies in many other countries. However, it has enabled large numbers of poor households to live in areas that would otherwise be beyond their reach. As urban growth brings livelihood opportunities to other locations, so the poor can move with the flow and negotiate a similar arrangement with another land-owner.

Anticretico in Bolivia

The need to put the existing housing stock to full use and also increase access for those in need has led to an innovative-tenure system in Bolivia. Called an 'anticretico', or 'against a normal credit' it involves a legally binding contract in which the owner receives a lump sum (in dollars) from the occupant in return for the right to use the property, normally for a period of two years. At the end of the contract period, the owner returns the full amount deposited by the property occupier. For the owner this is an effective way of raising capital sums without incurring high interest rates from the banks, whilst for the user, it represents an effective way of living at low cost for those able to raise the initial deposit. 'Anticretico' tenure also encourages people to maintain the property, due to the possibility of purchasing it when the contract period expires. Although the system enjoys widespread social acceptance, it depends on both parties fulfilling their obligation. Government attempts to formalise the system and extract revenues from a transfer tax have recently made the approach more bureaucratic and expensive for both parties involved.

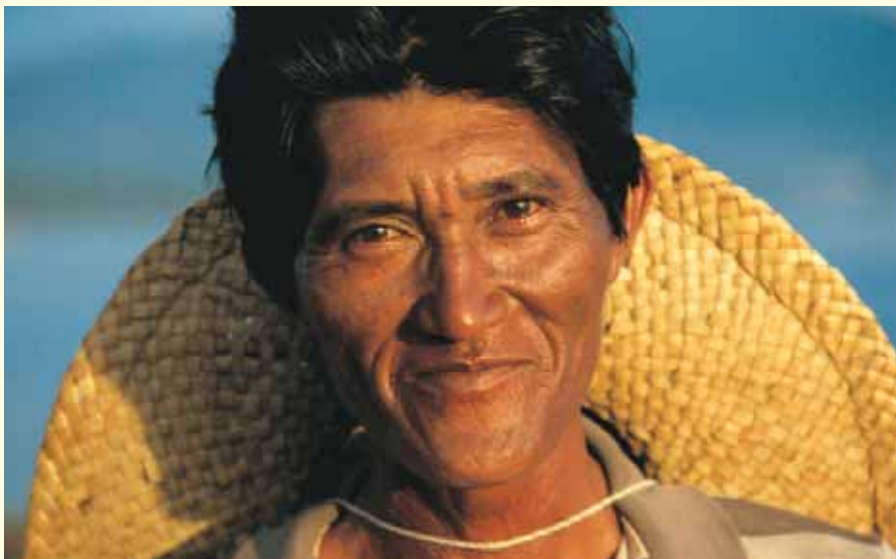


Temporary Occupation Licences in Kenya

The Temporary Occupation Licences were introduced by Nairobi City Council to promote efficient utilisation of idle public land in strategic locations, e.g. street intersections, road reserves in high-density neighbourhoods and open land on the urban fringe. They enable the local authority to allocate land for a productive use without giving up long-term control, since the licence is renewable annually and the licensee is allowed to build semi-permanent structures. Since the licensee has to pay an annual land rent, the enhancement of municipal revenues is also important. Although intended for commercial and income generation purposes, the ToLs are also sometimes used for residential purposes and could be applied for this purpose in other cities.

Consideration should also be given to increasing the range of tenure options available, possibly by adapting existing indigenous tenure systems, or innovations from other countries. This will help to minimise short-term fluctuations in land prices and other indirect consequences and enable households and governments to learn from experience and adjust to change at an acceptable pace.

Once households have basic security, what invariably concerns them most is access to services and, to a lesser extent credit.



Security and services in Colombia

Formal tenure systems are often considered essential in influencing access to public services. However, in Colombia, legislation permits all citizens to obtain services such as water supply, sanitation, electricity, storm drainage, garbage collection, telephone and gas supplies. The only condition is that they must prove that they live in their homes and can pay for the services provided. A range of intermediate tenure systems such as 'Declarations of Possession', 'buying and selling rights for future use' and 'communal tenancy' all provide stepping stones with increasing rights and levels of protection from eviction, enabling poor households to obtain secure housing at affordable costs. In such conditions, land tenure is not even a concern to the majority of poor households since they are protected by legislation from forced evictions without due legal process and are entitled to receive all essential services irrespective of their tenure status.

Community-Based Organisations dealing with access to land in the Philippines.

The Kabalaka Homeowners Association is a local network of CBOs made up of around 1000 very poor households from around the city of Iloilo in the Philippines. This network has mobilised in response to the insecure tenure and housing conditions faced by its members who were squatting in informal settlements. Since 1977 they have collectively saved 2.5 million pesos (\$50,000) to buy 4.4 hectares of land close to their original settlements. The community groups found this land themselves and researched its ownership, zoning and rights-of-way in preparation to purchase it. In addition, the CBOs negotiated with the Philippines National Housing Authority for help in developing three new sites through their Land Tenure Assistance Programme. Once the land purchase has been finalised the NHA will develop the land on the basis of the community's layout requirements. The people will then build their own houses.

Such intermediate, incremental options which emphasise an increase in land rights appear to offer improved security, increased public sector influence over land development, modest increases in tax revenues and practical options for financing land development. Such approaches are able to improve tenure security for the most vulnerable social groups (and therefore equity) and at the same time reduce distortions in land and housing markets. They are also, simpler and cheaper to implement.

Increasing occupancy rights

This approach can take the form of proclamations by senior politicians or moratoriums against forced evictions and relocations. They are widely used to buy time and are both popular and easy to implement, since no surveys need to be undertaken and no documents are required. They differ from general amnesties in that they do not necessarily involve the formal recognition of unauthorised settlements and therefore enable the authorities to retain long-term control over land whilst seeking equitable and cost-effective longer-term alternatives.

Land proclamations in the Philippines



A key policy of President Macapagal-Arroyo in the Philippines has been to announce land proclamations which assure squatters on public land that they will not be evicted and social services will be improved. Between 2000-02, more than 645,000 families in 33 informal settlements have benefited from these proclamations, which expands a policy introduced earlier by President Aquino.



The policy does not apply to families squatting on private land, which form the majority of informal settlements, but is nonetheless, a positive and pragmatic response which has encouraged numerous poor households to improve their homes and neighbourhoods.

Integrating tenure and urban development strategies

Combining innovative tenure policies with equally responsive urban planning and infrastructure provision programmes is the most effective means of improving the urban and national economy and meeting the Millennium Development Goals for reducing urban poverty. Urban strategic development, can provide a spatial framework for local development and encourage local participation and investment. They can also increase public sector influence over urban land development.

Strategic urban development planning framework in Tanzania

In common with many developing countries, Tanzania has sought to manage urban development through the preparation and implementation of master plans. However, the static nature of these plans makes it difficult for them to respond to growth and changing needs. To overcome these limitations and increase the contribution of the local population in urban development planning, the Kahama District Council decided in 1999 to prepare and implement a strategic urban development planning framework (SUDPF) as a tool for addressing critical issues. Workshops with the local business sector, civil society organisations, utility agencies and local community groups identified issues and options which were then developed by multi-disciplinary task groups. The approach has provided a predictable environment for investment and security for families wishing to invest in housing construction or neighbourhood improvements.

Varied Innovative Tenure Systems in the Shadows of Brasilia

People of Samambaia, Brazil, service the modern capital of Brasilia but do not live in it. Innovative and varied systems of assured tenure have helped alleviate a problem made famous when the original designers discovered that virtually none of the builders of capital could afford to live anywhere inside the product of their own work, and wound up in hovels 25 kilometres away. The plans varied from outright ownership--the titles were given to women, not men --through rental, and rental-to-ownership agreements, to collective assurances. Recently some 68,000- people were given collectively assurance that they would not be removed from a linear strip of land previously set aside for a utility. " The city of Samambaia now has a high quality of life, a vibrant local economy, a well established network of schools and a centre for professional skills training. The Samambaia experience demonstrates the importance of secure tenure for financing of projects and sustainability of project achievements, as people are more confident to invest their own savings if they have secure tenure. It also showed that well articulated, multi-faceted housing policy integrate into a broader strategic planning framework is critical to expanding the range of housing options for all urban dwellers and can generate employment in the process."



Topham Picturepoint

Table 4 The dos and don'ts of slum upgrading

Do	Don't
Promote good urban governance systems.	Assume that slums will disappear automatically with economic growth.
Establish enabling institutional frameworks involving all partners.	Underestimate the role of local authorities, landowners, community leaders and residents.
Implement and monitor pro-poor city development strategies.	Separate upgrading from investment planning and urban management.
Encourage initiatives of slum dwellers and recognize the role of women.	Ignore the specific needs and contributions of women and vulnerable groups.
Ensure secure tenure, consolidate occupancy rights and regularize informal settlements.	Carry out unlawful forced evictions.
Involve tenants and owners in finding solutions that prioritize collective interests.	Discriminate against rental housing or promote a single tenure option.
Adopt an incremental approach to upgrading.	Impose unrealistic standards and regulations.
Associate municipal finance, cross-subsidies and beneficiary contributions to ensure financial viability.	Rely on governmental subsidies or on full-cost recovery from slum dwellers.
Design and negotiate relocation plans only when absolutely necessary.	Invest public resources in massive social housing schemes.
Combine slum upgrading with employment generation and local economic development.	Consider slum upgrading solely as a social issue.
Develop new urban areas by making land and trunk infrastructure available.	Provide unaffordable infrastructure and services.

Table 5 Insecure tenure by region (percentages)

	Squatters, no rent	Renters	Other	Total
Southern Africa	8	16	6	29
Rest of Africa	13	30	7	50
China	5	2	8	15
East Asia and Pacific, excluding Australasia	7	26	9	41
South and Southeast Asia	14	31	5	50
Middle East	8	28	6	42
Western Europe	2	19	4	25
Northern America and Australasia	1	10	4	16
Latin America and Caribbean	11	17	6	34
World	7	17	4	28

Source: Flood, 2001.

Table 6 Broad tenure categories, 1998 (percentages)

Region	Formal owner	Formal rental	Squatter (including informal rent-paying)	Other
Africa	25	23	38	15
Asia (without China)	29	19	45	7
China	35	50	9	6
Eastern Europe and Central Asia	65	34	1	3
Latin America and the Caribbean	48	21	25	6
Western Europe and others HICs	40	57	2	1
World	42	34	19	5

Source: Estimated from UNCHS (Habitat), 1996c and UN-Habitat, 2002f by Flood, 2001.

Table 7 Indicators and thresholds for defining slums

Characteristic	Indicator	Definition
Access to water	Inadequate drinking water supply (adjusted MDG Indicator 30)	A settlement has an inadequate drinking water supply if less than 50% of households have an improved water supply: <ul style="list-style-type: none"> household connection; access to public stand pipe; rainwater collection;¹ with at least 20 litres/person/day available <i>within an acceptable collection distance</i>.
Access to sanitation	Inadequate sanitation (MDG Indicator 31)	A settlement has inadequate sanitation if less than 50% of households have improved sanitation: <ul style="list-style-type: none"> public sewer; septic tank; pour-flush latrine; ventilated improved pit latrine. The excreta disposal system is considered adequate if it is private or shared by a <i>maximum of two households</i>.
Structural quality of housing	a. Location	Proportion of households residing on or near a hazardous site. The following locations should be considered: <ul style="list-style-type: none"> housing in geologically hazardous zones (landslide/earthquake and flood areas); housing on or under garbage mountains; housing around high-industrial pollution areas; housing around other unprotected high-risk zones (eg railroads, airports, energy transmission lines).
	b. Permanency of structure	Proportion of households living in temporary and/or dilapidated structures. The following factors should be considered when placing a housing unit in these categories: <ul style="list-style-type: none"> quality of construction (eg materials used for wall, floor and roof); compliance with local building codes, standards and bylaws.
Overcrowding	Overcrowding	Proportion of households with more than two persons per room. The alternative is to set a minimum standard person for floor area per person (eg 5 square metres).
Security of tenure	Security of tenure (MDG Indicator 32)	<ul style="list-style-type: none"> Proportion of households with formal title deeds to both land and residence. Proportion of households with formal title deeds to either one of land or residence. Proportion of households with enforceable agreements or any document as a proof of a tenure arrangement.

Note: i 'Well' and 'spring' are considered acceptable sources in the original MDG indicator but are almost certain to be polluted in urban areas.

Sources: adapted from UN-Habitat, 2002a, 2002b.

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