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*Slum Upgrading Legal Assessment Tool*

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**UN-HABITAT**

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## INTRODUCTION

UN Habitat's estimates of the number of urban households that are 'slum' households suggest that there were 881 million 'slum dwellers' in 2016,<sup>1</sup> including some 56 per cent of the urban population in sub-Saharan Africa and more than 30 percent of the urban population of South Asia (UN-Habitat 2016, p. 203). Slums normally differ from formal settlements because of unclear, often illegal, land occupation, or the settlement and its buildings did not receive official permission, and also because the site layouts and structures contravene regulations (for instance, plot sizes are smaller than the minimum specified by planning regulations). In many cities, informal settlements are so common and house such a high proportion of the population and the workforce that they cannot be considered an exception but the rule. If laws and regulations in force in a country consider illegal the homes and livelihoods of much of the city population, then their appropriateness that should reviewed.

Lessons from UN-Habitat's work in slum and informal settlement upgrading highlight how a successful slum upgrading need to shift the housing and land regimes towards a pro-poor regulatory framework - remove obstacles and create practical solutions responsive to the slum context. It is therefore fundamental to understand the structure and the way in which legal and regulatory frameworks support or hinder the development of informal settlements upgrading efforts.

### *What is the Tool*

The Slum Upgrading Legal Assessment Tool is a diagnostic self-assessment tool to identify, in a structured, objective and systematic way, the strengths and weaknesses of the regulatory framework made of all legislation and regulations enacted at different levels and in force in country. It is designed to be used either alone or, ideally, within the context of a broader law reform method that begins with issue identification and legal mapping and moves all of the way through to recommendations for reform. It is a useful tool to guide the process to agree on actions that are needed to address the identified gaps. The Assessment Tool uses an indicative approach, relying on a limited number of indicators in each of its five thematic areas: land, planning, basic services, housing and financing. While it produces what appear to be quantitative outputs, these are built on a primarily qualitative analysis that is designed as a framework to catalyze discussion within a national or local context and not as a means of ranking.

The legal assessment framework uses two sets of indicators, the first is related to the functional effectiveness of law, which includes indicators related to: 1) Consistency of policy objectives; 2) Transparency and efficiency of mechanisms and processes; 3) Organizational of institutional responsibilities and roles; 4) Clarity in standard of drafting and 5) Capacity for implementation. However, this part will not be discussed in this handbook.

The second set of indicators are technical in nature and they are related to land and security of tenure, planning, access to basic services, housing and financing. The technical content will be elaborated in details.

### *The Aim of the Tool*

This legal assessment tool intends to provide urban managers and other stakeholders with a framework to understand how and if their legal and regulatory framework supports participatory city-wide slum upgrading or not. Specifically, the quick guide is to act as:

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<sup>1</sup> Excluding those without tenure security.

- A self-assessment tool to be used during focus groups, to identify strengths and weakness of the current urban planning system and guide opportunities for city-wide slum upgrading.
- A clarifying process- to make clear what frameworks might need to be revised as part of a longer-term reform process.
- An entry point to change mindset and build capacity around legal and regulatory frameworks for participatory city-wide slum upgrading. Based on key planning principles promoted by PSUP.

The quick guide is NOT intended to:

- Be a comprehensive assessment of urban law (though the method of analysis could be applied). It is not conclusive, but only an initial assessment
- Cover everything affecting urban planning but rather focus on the basic elements of physical planning in slum and informal settlement contexts.
- Does not include specific indicators for the crosscutting issues: participation, human rights, youth, gender and climate change. But human rights consideration will be given to some thematic areas related to slum and informal settlement contexts, such as forced evictions, access to basic services for example.

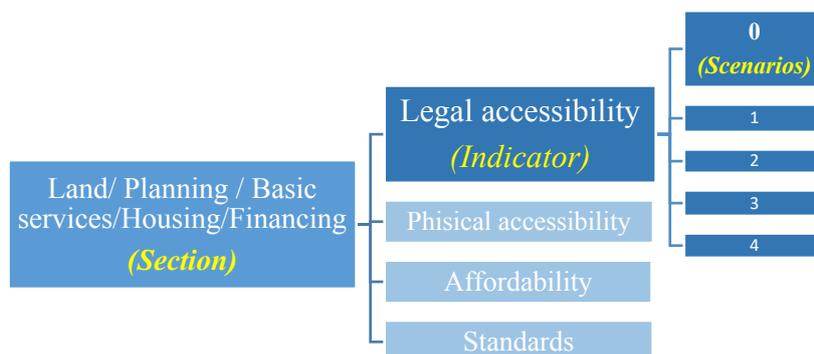
### *What Are the Benefits and Outcomes*

The analysis tool assesses the regulatory causes that have an impact on five thematic areas. It looks at all the laws, regulations, decrees applicable in a city, enacted at different levels. It focuses on the actual law, but will stimulate the discussion on any discrepancies in their enforcement or enactment.

At the end the tool will help urban managers and other key stakeholders to have a robust domestic legal analysis, supported by a participatory discussion which outlines the strengths and opportunities or impediments of current legal and regulatory frameworks for slum upgrading. As a result, a set of recommendations will be produced and indicate the way forward for slum upgrading, and what actions need to be taken to make longer-term reforms for strengthening responses to improve the lives of slum dwellers, and the urban poor in general.

### *Structure of the Assessment Framework*

The Slum Upgrading Legal Assessment Tool focuses on five areas: tenure security, planning, access to basic services, housing and financing. In each areas, we use a number of indicators to capture the essential elements that matter most for slum upgrading and provision of affordable housing. Each indicator is further broken down into five “scenarios” on a scale from 0 to 4, with indications of the what legal provision could be in place based on the principles of the New Urban Agenda, UN-Habitat’s principles and experience, and international human rights standards. The guiding UN-Habitat’s principles here refers to: 1) Human Rights-Based Approach; 2) Slum household definition (5 deprivations): lack of safe water, access to sanitation, durability of housing, overcrowding, and security of tenure; 3) Functional effectiveness of laws (capacity of the laws of achieving their objectives); 4) Right to adequate housing; 5) The continuum of land rights; 6) UN-Habitat Sustainable Neighbourhood Planning 5 principles and the PSUP neighbourhood design recommendations for slum upgrading. The scenario under ranking 4 describes the most satisfactory result for a given indicator.



The different scenarios offers suggestions on different mechanisms the legal provisions could contain and that countries could consider introducing to support their upgrading programmes.

## SECTION 1. LAND AND SECURITY OF TENURE

### *The Right to Land and the Right to Adequate Housing*

Secure Tenure is the right of all individuals and groups to receive effective protection by the State against unlawful evictions. Without tenure security, housing will be inadequate<sup>2</sup>, and might fall into the scope of slums (as it is considered as one of the five conditions that define slums)<sup>3</sup>. Today a significant percentage of the world population cannot afford formal land tenure and is forced to choose informal settlements. Without tenure security, people fear eviction and become reluctant to invest in improving their house.

Therefore, improving tenure security is deemed as the first component of the progressive realization of the right to housing and slum upgrading. This is also in accordance with the principle of promoting secure land tenure which is enshrined in New Urban Agenda.<sup>4</sup> The granting of secure tenure will not, in and of itself, solve the problem of unsafe living environments and inadequate housing. However, it is one of the most essential elements of a successful slum upgrading strategy and a precondition for the physical and environmental improvement of slums.

In this Chapter, the tool promotes a flexible tenure system with land regularization, supported by effective land management, multiple dispute resolution mechanisms and safeguards on involuntary relocation.

### *Structure of the Assessment*

This section of the tool evaluates land regulations through five indicators:

Indicator 1: Flexible tenure systems

Indicator 2: Land regularization

Indicator 3: Eviction and involuntary relocation

Indicator 4: Mechanisms to resolve disputes

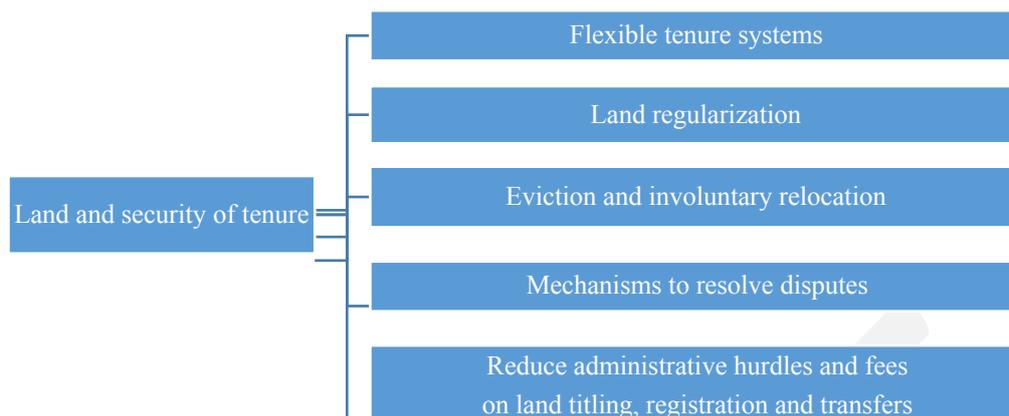
Indicator 5: Reduce administrative hurdles and fees on land titling, registration and transfers (red tape)

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<sup>2</sup> Adequate housing entails more than four walls and a roof. In order for housing to be adequate, it must, at a minimum, meet the following criteria: legal security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; location; and cultural adequacy. See General Comment No.4 to the right to adequate housing.

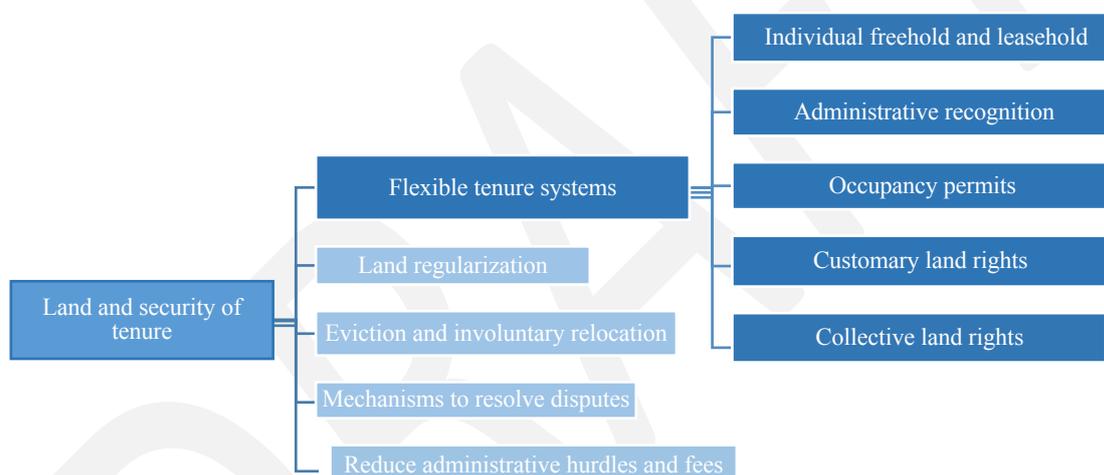
<sup>3</sup> UN-Habitat defines a slum household as a group of individuals living under the same roof in an urban area who lack one or more of the following: a) Durable housing that protects against extreme climate conditions; b) Sufficient living space; c) Easy access to safe water; d) Access to adequate sanitation; e) Security of tenure that prevents forced evictions.

<sup>4</sup> UN, Resolution adopted by the General Assembly on 23 December 2016 - 71/256 New Urban Agenda, A/RES/71/256 (25 January 2017), para 14.



## *Technical Content of Land and Security of Tenure*

### 1b.1 Flexible Tenure Systems



Rather than importing one-size-fits-all models on individual ownership, this tool adopts a fit-for-purpose approach which calls for the legitimate holding of customary land and other informal tenure to be recognized in the formal legal system with the option of subsequently being recorded and eventually upgraded to a legal status. For this purpose, the indicator is made to assess whether the system allows for the continuum of land rights or not.

“Continuum of land rights” is a concept to describe a situation where different tenure forms incorporating a range of interests exist simultaneously, often transforming and changing between forms over time. A range of land tenure types that may exist between a number of possibilities, such as individual ownership and customary interests, or family and customary lineage.<sup>5</sup> Continuum of tenure rather than just individual ownership can act as an important tool to improve access to land tenure. In reality, the wide range of informal tenure situations (from various forms of tolerated occupation, or occupation legitimised by customary practices) may provide very different degrees of de facto tenure security. Moreover, tenure forms other than ownership may be better suited to local circumstances at a

<sup>5</sup> UN-Habitat, Framework for Evaluating Continuum of Land Rights Scenarios. GLTN Report 4

particular time. Therefore, more focus should be given to the recognition and protection of customary, collective and more informal land tenures.

0. Only individual freehold and leasehold land rights are recognized.

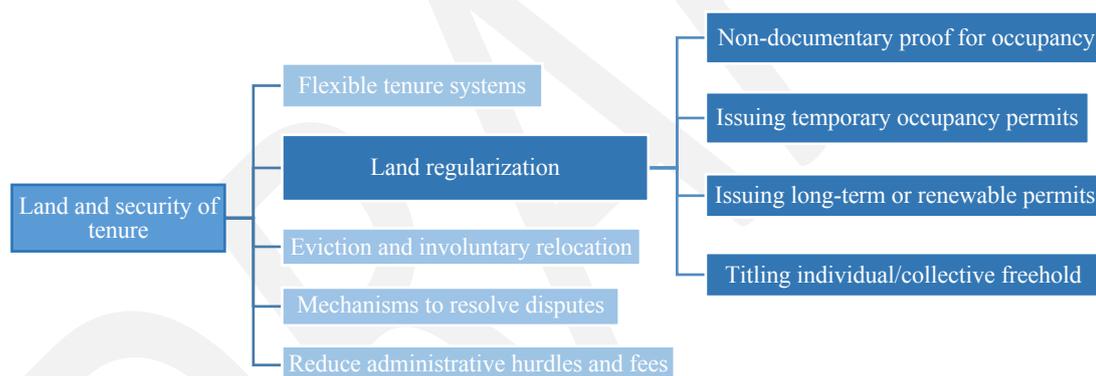
1. Legislation only recognizes individual freehold and leasehold land rights; administrative recognition is granted to informal occupancy.

2. Legislation only recognizes individual freehold and leasehold land rights; legal recognition is granted to informal occupancy by issuing temporary occupancy permits.

3. Legislation recognizes individual freehold and leasehold land rights, customary land rights and occupation.

4. Legislation recognizes individual freehold and leasehold land rights, customary, occupation and collective land rights.

## 1b.2 Land Regularization



Land regularization is a deliberate process by which informal tenure and unauthorized settlements are integrated into the official, legal and administrative systems of land management. The regularization process present as two-fold: juridical/administrative (tenure regularization) and the physical (material regularization). Whilst this section will majorly be concerned with tenure regularization and will analyse the physical regularization in the housing chapter. In tenure regularization, the process often starts with the delivery of an administrative permit to occupy that can be conditionally upgraded to a leasehold and, at a later stage, to a long-term registered freehold. It is an instrument to improve tenure security by recognizing the occupation and providing slum dwellers with legally recognized tenure spanning from occupancy certificates to full property rights (land titling).

The administrative recognition of occupancy rights—by the State or by local authorities— results in the delivery of personal rights to heads of households living in informal settlements. It usually takes the form of an administrative permit to occupy or a short-term leasehold. Although such rights can be, and usually are renewable, they are temporary (from one to several years) and conditional (the land must be used or developed according to standards set by public authorities). Some restrictions are usually imposed concerning the use of the land and its transfer (through sales or inheritance). Administrative recognition can be renewed or revoked. It can be a first step towards the delivery of property rights.

The other type of regularization is the delivery of real property rights, a process also known as ‘land titling’. These rights include freeholds titles, surface rights, and registered long-term leaseholds. They can be opposed to a third party, transferred through sale and inheritance, and mortgaged. This type of formalisation, which can be sporadic or systematic, provides rights that are authenticated and guaranteed by the State.<sup>6</sup>

0. No legal mechanism present on land regularization.

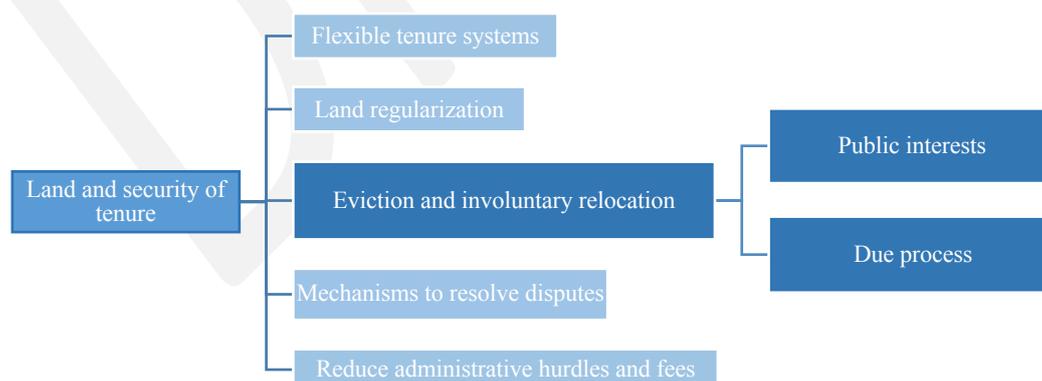
1. No mechanism present on land regularization. The legal system recognizes “occupancy rights” to land with non-documentary proofs such as street addressing<sup>7</sup>, payment of property tax, utilities payment, housing contracts etc. without issuing any occupancy permits.

2. No mechanism present on land regularization. The legal system recognizes “occupancy rights” to land with non-documentary proofs such as street addressing, payment of property tax, utilities payment, housing contracts etc. by issuing temporary occupancy permits.

3. Land regularization mechanism exists through issuing long-term or renewable permits to occupy in informal settlements.

4. The following land regularization mechanisms exist: titling individual/collective freehold rights through shortened adverse possession (e.g. a period of five years) with simplified process admitted<sup>8</sup> for small plots<sup>9</sup>, combined with issuing various types of occupancy or use permits for short term residents in slums with simplified process admitted<sup>10</sup> (both documentary and non-documentary forms of evidence are accepted).

### 1b.3 Eviction and Involuntary Relocation



The prohibition of forced evictions is contained in the right to adequate housing, as one’s home should

<sup>6</sup> Alain Durand-Lasserve\* and Harris Selod, The formalisation of urban land tenure in developing countries. (2007).

<sup>7</sup> Street addressing uses a system of maps and signs that give the numbers or names of streets and buildings. (Farvacque-Vitkovic et al., 2005).

<sup>8</sup> Simplified proves include housing contracts, bank statements, or utility bills that officials would accept as the ‘proof of residence’.

<sup>9</sup> Here small plots refer to the plot area which not exceeding 120m<sup>2</sup>.

<sup>10</sup> Simplified proves include housing contracts, bank statements, or utility bills that officials would accept as the ‘proof of residence’.

not be arbitrarily destructed and demolished.<sup>11</sup> Evictions and involuntary relocation can only be justified if based on public interest and should be carried out proportionately,<sup>12</sup> with adequate compensation and provision of alternative housing solutions. Therefore, this indicator assesses if the regulatory framework includes the protection against forced evictions and rules on how eviction and relocation should be conducted.

According to UN-Habitat and OHCHR's Fact Sheet on the Right to Adequate Housing<sup>13</sup> and Fact Sheet on Forced Eviction<sup>14</sup>, protection against forced eviction is not linked to property rights. Regardless of the type of tenure—ownership, public or private rental, cooperative housing, collective arrangements, lease, emergency or transitional housing or informal settlements—everyone has a right to be protected against forced eviction. Expropriations that are carried out without proper justification or in breach of international law are also considered to be forced evictions. Therefore, slum dwellers who do not have titles to the land are entitled to protection against forced evictions. Moreover, international human rights law requires Governments to explore all feasible alternatives before carrying out any eviction, to avoid, or at least minimize, the need to use force. When evictions are carried out as a last resort, those affected must be afforded effective procedural guarantees, which may have a deterrent effect on planned evictions. These include:

- An opportunity for genuine consultation;
- Adequate and reasonable notice;
- Availability of information on the proposed eviction in reasonable time;
- Presence of Government officials or their representatives during an eviction;
- Proper identification of persons carrying out the eviction;
- Prohibition on carrying out evictions in bad weather or at night;
- Availability of legal remedies;
- Availability of legal aid to those in need to be able to seek judicial redress.

In addition, the alternative housing solutions should be adequate. For housing to be adequate, it must provide more than four walls and a roof, and at a minimum, meet the following criteria: 1) Legal security of tenure, which guarantees legal protection against forced evictions, harassment and other threats; 2) Availability of services, materials, facilities and infrastructure, including safe drinking water, adequate sanitation, energy for cooking, heating, lighting, food storage or refuse disposal; 3) Affordability, as housing is not adequate if its cost threatens or compromises the occupants' enjoyment of other human rights; 4) Habitability, as housing is not adequate if it does not guarantee physical safety or provide adequate space, as well as protection against the cold, damp, heat, rain, wind, other threats to health and structural hazards; 5) Accessibility, as housing is not adequate if the specific needs of disadvantaged and marginalized groups are not taken into account (such as the poor, people facing discrimination; persons with disabilities, victims of natural disasters); 6) Location, as housing is not adequate if it is cut off from employment opportunities, health-care services, schools, childcare centres and other social

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<sup>11</sup> This entitles all tenants the legal protection against unlawful eviction, harassment and other threats, no matter what type of tenure it is based on (rental and owned accommodation, cooperative occupation, lease, emergency housing and informal settlements such as occupation of land or property).

<sup>12</sup> According to General Comment No. 4, involuntary eviction is “prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law”.

<sup>13</sup> UN-Habitat & OHCHR, *The Right to Adequate Housing: Fact Sheet No. 21/Rev.1*. <https://unhabitat.org/the-right-to-adequate-housing-fact-sheet-no-21rev-1/>

<sup>14</sup> UN-Habitat & OHCHR, *Forced Evictions: Fact Sheet No. 25/Rev.1*. <https://unhabitat.org/forced-evictions-fact-sheet-no-25rev-1/>

facilities, or if located in dangerous or polluted sites or in immediate proximity to pollution sources; and 7) Cultural adequacy, as housing is not adequate if it does not respect and take into account the expression of cultural identity and ways of life.<sup>15</sup>

0. No rules governing how evictions should be carried out and no legal protection against forced evictions.

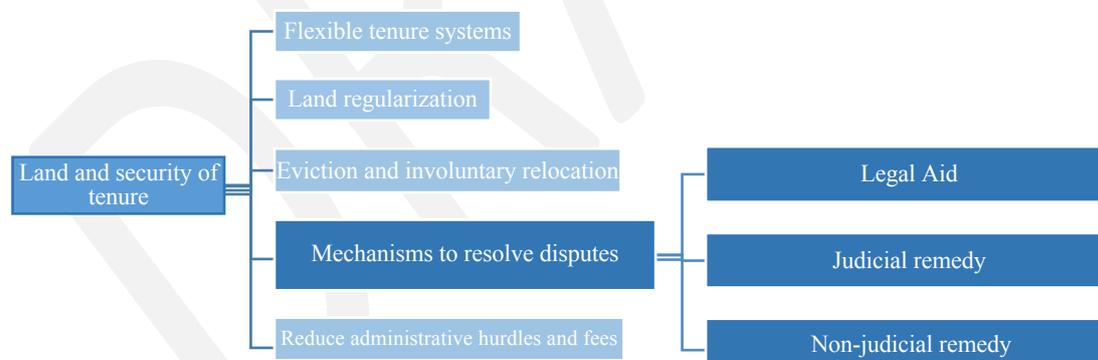
1. Forced evictions are prohibited by law but no requirement of public interest to justify the evictions.

2. Forced evictions are prohibited by law. Evictions can only be justified under reasonable ground (public interests).

3. Forced evictions are prohibited by law. Evictions can only be justified under reasonable ground (public interests), and following due process. However, procedural obligations on evictions are not adequate.

4. Forced evictions are prohibited by law. Evictions can only be justified under reasonable ground (public interests), and following due process. Procedural obligations on evictions are adequate, including: compulsory consultation with affected communities to identify all feasible alternatives to evictions; prior and adequate notice; provision of legal remedies, compensation for losses; and adequate alternative housing to those who cannot provide for themselves.

#### 1b.4 Mechanisms to Resolve Disputes



This indicator assesses the availability of judicial and non-judicial remedies, and legal aid for those in need of judicial redress. Victims of land conflicts often are marginalized and discriminated groups, such as the urban and rural poor, racial or ethnic minorities, indigenous peoples, irregular migrants, internally displaced persons or women. Providing legal aid and alternative dispute resolution (ADR) can ensure that victims have access to remedies in land disputes.

Under this indicator, we consider mechanisms that give land disputes priority, such as establishing special courts on land and housing issues, enabling collective complaint mechanism for such issues,

<sup>15</sup> See General Comments No.4 & 7 of the International Covenant on Economic, Social and Cultural Rights. This section requires the house to be physically adequate on its construction.

also those administrative procedural laws that lower applicable standards for land and housing disputes. We also consider the existence of legal aid for low-income and vulnerable groups.

In addition, this indicator gives higher scores to countries that have ADR mechanisms for housing and land disputes, such as conciliation, mediation, socio-therapeutic consultation etc., as well as neighbourhood justice centres or community-based mechanisms to resolve housing and land disputes.

0. Only judicial dispute mechanisms are available for housing and land disputes. No legal aid is provided to low income group.

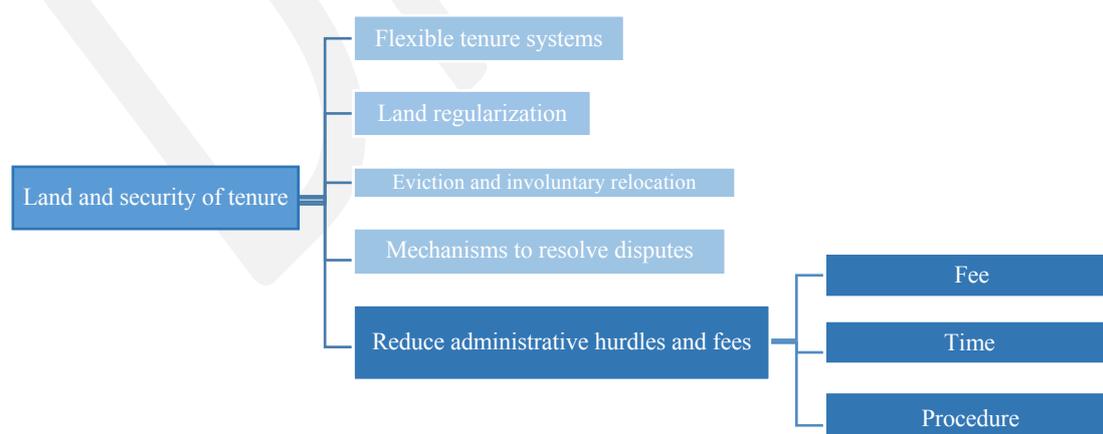
1. Only judicial dispute resolution mechanisms are available, legal aid is available to low income and marginalized group.

2. Judicial dispute resolution mechanisms and legal aids are available to low income and marginalized group. In addition, housing and land disputes have priority through establishing special courts, collective mechanisms<sup>16</sup>, or lowering applicable standards (admissibility criteria) for such disputes.

3. Judicial dispute resolution mechanisms are available and legal aid is available to low income and marginalized group. In addition, ADR mechanisms for housing and land disputes exist (e.g. conciliation, mediation, socio-therapeutic consultation etc.) as well as neighbourhood justice centres or community-based mechanisms to resolve housing/land disputes.

4. Judicial dispute resolution mechanisms and ADR mechanisms are available and legal aid is available to low income and marginalized group. Housing and land disputes have been given priority through establishing special courts, collective mechanisms, or lowering applicable standards (admissibility criteria) for such disputes.

### 1b.5 Reduce Administrative Hurdles and Fees on Land Titling, Registration and Transfers



This indicator focuses on regulatory challenges that could increase the cost of land related services. The services include land titling, land registration and land transfers. The highest score is given to legal frameworks that reduce the fees, time and procedures for land related services for slum dwellers. The

<sup>16</sup> Collective mechanisms: class action suit, relator action or action collective.

best scenario is that the law requires a streamlined, affordable and fast procedure on land-related services for slums upgrading and affordable housing. The measures may include new technologies for surveying, automating processes; improving online access etc.

0. The regulatory framework does not have reduced fees and simplified processes for land-related services (such as land titling, registration and transfers) for slum upgrading and affordable housing.

1. The regulatory framework has reduced fees for land-related services (such as land titling, registration and transfers) for slum upgrading and affordable housing.

2. The regulatory framework has reduced timeframes and procedures associated with land-related services for slum upgrading and affordable housing.

3. The regulatory framework requires to reduce the fees, time and procedures associated with land-related services for slum upgrading and affordable housing.

4. A streamlined, affordable and fast procedure exists on land-related services for slum upgrading and affordable housing. These may include new technologies for surveying, automating processes; improving online access etc.

## SECTION 2. PLANNING

### *Inclusive Planning at Scale*

A city-wide approach to slum upgrading is the most sustainable and effective approach in addressing the challenge of slums and informal settlements in a city. Those who live in informal settlements cannot find ‘formal’ housing that they can afford. So, they live in settlements that are outside the formal system of regulations for recording land acquisition and for acquiring legal land tenure; also, for getting permission to develop buildings. Slums are the physical manifestation of the failure of the urban planning system to supply adequate and affordable land for housing to meet the demand. Only a city-wide approach towards the physical, social, legal and economic integration of all slums into the official planning and urban management systems that govern the city can provide a solution to the challenge of slums and informal settlements in a city. Planning to accommodate the expected population growth is the first step towards this aim. It requires urban plans to consider the housing needs and organise urban space for the supply of affordable land, housing and infrastructure, through both city extensions and city infills. A city wide approach integrates informal areas into city planning, addresses slum issues with specific planning instruments that prioritize the specific needs, and flexible planning standards for affordable housing. An effective planning system should also be inclusive and it should have participation mechanisms in all planning processes.

### *Structure of the Assessment*

This section of the tool evaluates planning regulations through five indicators:

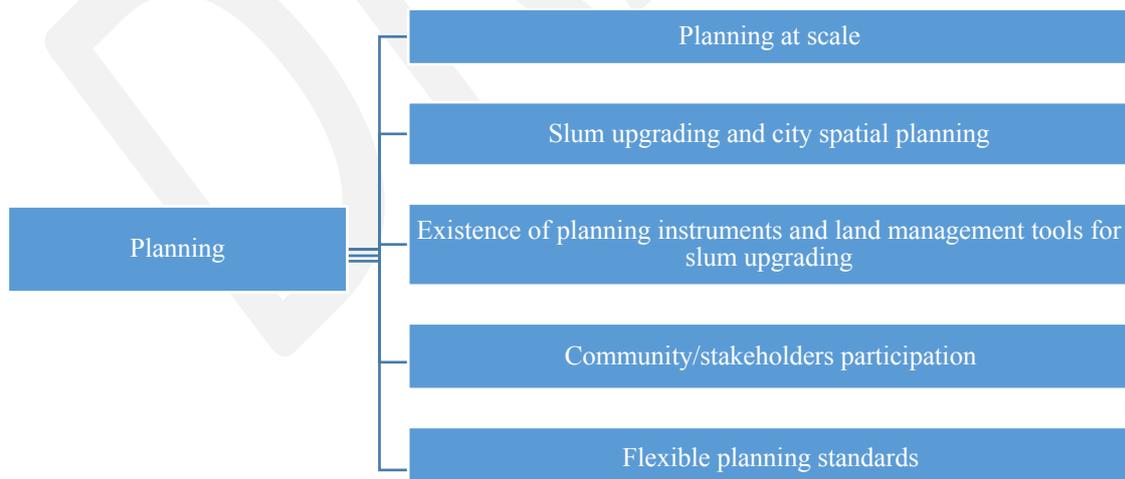
Indicator 1: Planning at scale

Indicator 2: Slum upgrading and city spatial planning

Indicator 3: Existence of planning instruments and land management tools for slum upgrading

Indicator 4: Community/stakeholders participation

Indicator 5: Flexible planning standards



## Technical Content of Planning

### 2b.1 Planning at Scale



This indicator considers as best scenario the one where the planning framework requires urban plans to be developed considering expected demographic and migratory trends, housing needs and affordability requirements and addresses them with an adequate supply of serviced land. The government maintains up-to-date and reliable information on housing needs and affordability. Moreover, there should be mechanisms to secure and implement extension plans and city infills and the production of affordable housing. These can be done through unlocking vacant and idle land, public underused land, assembling or readjusting land such as through land consolidation and re-parcelling, etc.

0. The urban planning framework has no requirement to consider demographic and migratory trends, housing needs and income projections when developing new plans.

1. The planning framework requires realistic projections to be made of demographic and migratory trends but no requirement to consider current and expected housing deficit.

2. The planning framework requires realistic projections made of demographic and migratory trends, housing deficit and income projections.

3. The planning framework requires realistic projections to be made of demographic and migratory trends, housing deficit, considering income estimates, and urban plans need to address the projects planning for the supply of the needed serviced land for affordable housing.

4. The planning framework requires realistic projections to be made of demographic and migratory trends, housing deficit, considering income estimates, and urban plans need to address the projects planning for the supply of the needed serviced land for affordable housing. Mechanisms are in place to secure and implement extension plans and city infills and the production of affordable housing.

## 2b.2 Slum Upgrading and City Spatial Planning



This indicator will give the highest score to legal frameworks that requires the urban plans to identify, map and integrate informal areas into city planning.

0. Informal settlements are not integrated into city planning (only when they need to be demolished to build infrastructure).

1. Informal settlements are included into city spatial planning but only for redevelopments that will evict current residents.

2. Information on informal settlements is included into city wide spatial planning, slums identified and mapped only.

3. Information on informal settlements is included into city wide spatial planning, slums identified, mapped and planned but not integrating the sites into the broader city structure.

4. Planning frameworks establish the requirement to list, identify and map slums in order to integrate them into the city-wide plan.

## 2b.3 Existence of Planning Instruments and Land Management Tools for Slum Upgrading



This indicator is made to assess if there are specific planning instruments to upgrade slum settlements. Such planning instruments should consider slum contexts and needs in all stages of the planning process (tenure, participation, enumeration, data collection, risk assessments, consideration of the informal economy, security etc). In addition, there should be land management instruments to consolidate, densify and readjust the land.

0. No planning mechanisms exist to deal with slum upgrading and upgrading is dealt with on an ad hoc basis (through projects)

1. No planning mechanisms exist to deal with slum upgrading and standard planning tools (detailed and neighbourhood plans) are used across the city, including slum areas.

2. No planning mechanisms exist to deal with slum upgrading and standard planning tools (detailed and neighbourhood plans) are used across the city, including slum areas. The legal framework has regulations to allow land consolidation and re-parcelling in slums.

3. Specific planning tools exist to deal with slum upgrading.

4. Specific planning tools exist to deal with slum upgrading. The legal framework has regulations to allow land consolidation and re-parcelling in slums.

#### 2b.4 Community and Stakeholders Participation



Slum upgrading projects need meaningful community participation across the planning process. Gaining the support and the collaboration of communities is essential at all stages of the upgrading process. Through meaningful participation - community workshops, enumerations, planning charrettes – needs and data can be gathered. It is also a process by which consensus is built and the inclusion of all residents negotiated. This indicator therefore assesses the variety and the meaningfulness of the participation channels, and the moment in the planning process when it appends, as well as the impact of the participation on the decision-making process.

0. No framework for community engagement in the planning process.

1. The regulatory framework requires the publication, notification and community communication of already developed plans.

2. The regulatory framework requires the formal dialogue, face-to-face interaction and consultation with the community/stakeholders of already developed plans.

3. The regulatory framework requires the community involvement in the planning formulation phase but the community is involved in the latter stages of planning.

4. The regulatory framework requires the broad-based/inclusive (gender balance and youth etc) community involvement in all planning phases with a variety of approaches including new technologies and ICT.

## 2b.5 Planning Standards



This indicator assesses if the law have uniform planning standards for the whole city or if special standards are available for informal settlements. Planning standards, such as minimum plot size, streets and public spaces requirements, allowed densities, minimum setbacks, etc., are usually unaffordable for low-income households or not practicable in dense and highly populated slums. Pro-poor regulatory frameworks therefore aim at eliminating inappropriate standards that raise costs, thereby encouraging small-scale and density for social housing projects. To be more specific, the planning law may encourage low-cost buildings by permitting higher floor-space ratios, loosening height restrictions, or allowing greater density in specific target zones.

0. Same planning standards apply for the whole city including informal settlements and affordable housing (plot size, building height limit, floor-area ratio, streets and public spaces requirements, plot coverage and set back, land use zoning, block length, infrastructure standards etc.)

1. Special planning standards exist but only on few planning elements.

2. Special planning standards exist on several planning elements, but they are not adequate (too high) to support slum upgrading and affordable housing.

3. Special planning standards exist on several planning elements, and they are adequate to support slum upgrading and affordable housing. For instance, the minimum plot size less than 20-100 m<sup>2</sup> or waives minimum plot sizes/parking requirements for social housing and upgrading programme; encourages higher floor-space ratios; loosening height restrictions; flexible plot coverage and set back rules; or allows greater density.

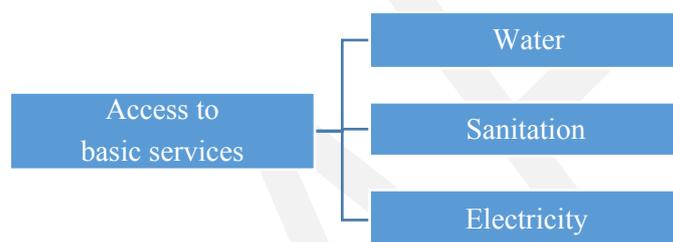
4. All planning standards are adapted to the slum upgrading and affordable housing. The regulatory framework sets up flexible requirements regarding the minimum plot size, minimum parking requirements, floor-space ratios, height restrictions, plot coverage and set back rules, and allows greater density.

## SECTION 3. ACCESS TO BASIC SERVICES

### *Improving Access to Basic Services as an Important Dimension for Slum Upgrading*

Inadequate access to safe water as well as to sanitation and infrastructure are two of the five deprivations of the UN-Habitat slum definition.<sup>17</sup> Slum dwellers chronically suffer from unsafe water supply, poor sanitation and inadequate infrastructures. The physical upgrading of slums with improved access to municipal basic services is significant in improving the quality of people's lives in such places. This section of the assessment tool focuses on the legal issues that have a role in promoting access to basic services.

### *Water, Electricity and Sanitation are Basic Human Needs*



Water, sanitation and electricity are basic needs of human life. Housing is not adequate if its occupants do not have safe drinking water, adequate sanitation, energy for cooking, heating, lighting, food storage or refuse disposal.<sup>18</sup> As for water and sanitation, the target of Goal 6 of Sustainable Development Goals (SDGs) aims to “achieve universal and equitable access to safe and affordable drinking water for all” by 2030. In New Urban Agenda the States committed themselves to “promoting equitable and affordable access to sustainable basic physical and social infrastructure for all, without discrimination, including affordable serviced land, housing, modern and renewable energy, safe drinking water and sanitation.”<sup>19</sup> Moreover, on 28 July 2010 the United Nations General Assembly through Resolution 64/292 explicitly recognizes the right to safe and clean drinking water and sanitation as a human right which is essential for the full enjoyment of life and all human rights. The right to water and sanitation is also enshrined in various international human rights instruments including the Universal Declaration of Human Rights (art. 25), the International Covenant on Economic, Social and Cultural Rights (art.11&12), the Convention on the Elimination of All Forms of Discrimination against Women (art. 14.2), the Convention on the Rights of the Child (art. 24.2), and the Convention on the Rights of Persons with Disabilities (art. 28.2). Also in the New Urban Agenda, the leaders committed to “promote affordable access to basic infrastructure for all, including energy, safe drinking water and sanitation”<sup>20</sup> and “promote adequate investments in protective, accessible and sustainable infrastructure and service provision systems”<sup>21</sup> in those regards.

<sup>17</sup> UN-Habitat, *The Challenge of Slums: Global Report on Human Settlements 2003 (Revised April 2010)*, p 16. A slum household is defined as a household lacking one or more of the following: a) Improved water; b) Improved sanitation; c) Sufficient living area; d) Durable housing; and e) Secure tenure.

<sup>18</sup> Definition of adequate housing, see UN-Habitat & OHCHR, *The Right to Adequate Housing: Fact Sheet No. 21/Rev.1*. <https://unhabitat.org/the-right-to-adequate-housing-fact-sheet-no-21-rev-1/>

<sup>19</sup> UN, Resolution adopted by the General Assembly on 23 December 2016 - 71/256 New Urban Agenda, A/RES/71/256 (25 January 2017), para 34.

<sup>20</sup> UN, Resolution adopted by the General Assembly on 23 December 2016 - 71/256 New Urban Agenda, A/RES/71/256 (25 January 2017), para 34.

<sup>21</sup> *Ibid*, para 119.

Electricity is another basic need for human beings, electrification have been identified as important elements to end poverty and improve the living environment. The international community has recognized the vital role of energy in development and prosperity, sets Sustainable Development Goal 7 to “[e]nsure access to affordable, reliable, sustainable and modern energy for all” by 2030 and commits to “giving particular attention to the energy and transport needs of all people, particularly the poor and those living in informal settlements”<sup>22</sup>. It has also been emphasized through the New Urban Agenda as a commitment “to ensure universal access to affordable, reliable and modern energy services”<sup>23</sup>.

In order to improve living conditions in slums, implement the New Urban Agenda, fulfill the human rights obligation on water and sanitation and realize the SDG goal on access to electricity, legal, policy and regulatory frameworks should incorporate these considerations to ensure access to basic services and as a result, facilitate slum upgrading.

### *Structure of the Assessment*

#### *Themes*

This section of the tool deals with legal and regulatory instruments that facilitate access to basic services in three areas:

- a. access to water;
- b. access to electricity; and
- c. access to sanitation.

Although the physical improvement of slums includes additional public infrastructure in this legal assessment we prioritize the access to basic infrastructure that are indispensable to satisfy basic needs and conduct a healthy life.

#### *Indicators*

These three themes are further subdivided into 12 indicators to capture the quality of policies and regulations on access to basic services:

- Indicator 1: Legal accessibility of water;
- Indicator 2: Physical accessibility of water;
- Indicator 3: Measures to ensure affordability of water;
- Indicator 4: Regulation for water services providers;
- Indicator 5: Legal accessibility of electricity;
- Indicator 6: Physical accessibility of electricity;
- Indicator 7: Measures to ensure affordability of electricity;
- Indicator 8: Regulation for electricity services providers;
- Indicator 9: Legal accessibility of sanitation;

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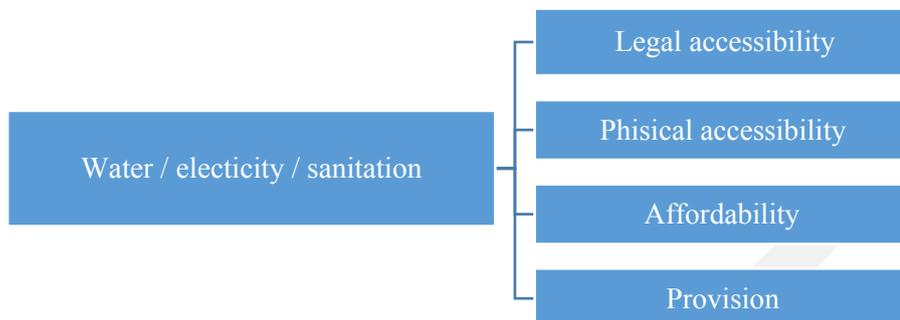
<sup>22</sup> *Ibid*, para 54.

<sup>23</sup> *Ibid*, para 121.

Indicator 10: Physical accessibility of sanitation;

Indicator 11: Measures to ensure affordability of sanitation; and

Indicator 12: Regulation for sanitation services providers.



### *Technical Content of Access to Water*

#### 3b.1 Legal Accessibility of Water



Slum dwellers are frequently excluded from formal water services due to lack of tenure security and/or relevant documents to prove they have the right to live at their residence. Officers often require people to provide documents and evidence if they want to get connected with the formal water supply. Therefore, those who do not have property titles or other proves of residence can only buy water from informal service providers, where the quality of water cannot be guaranteed and the price is usually higher. Even if the required documents are available, it might still be difficult for slum dwellers to get access to water as the administrative procedures could be time consuming and costly.

Considering these situations, this tool ranks the scenarios based on: a. documents required (full property title as the worst scenario while the best when any person holding an interest in immovable property can request to connect the property to the public water supply network); b. the evidence needed (from official documents of 'proof of residence' to any forms of evidence); and c. the complexity of the administrative process.

0. Full property title and official documents (such as housing contracts, bank statements, or utility bills as 'proof of residence') are required to be connected to formal services.

1. Full property title or title of occupation are required to be connected to formal services.

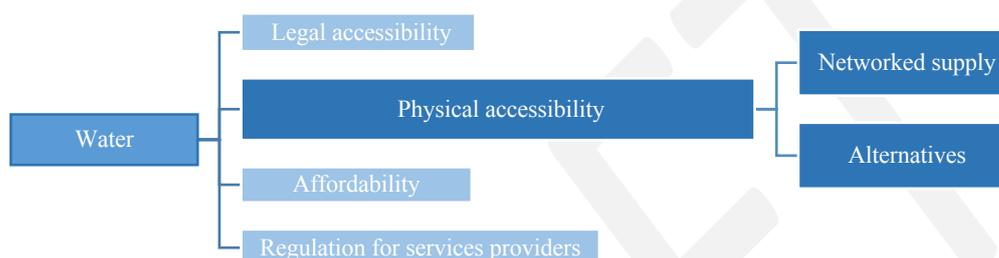
2. Any form of documentary (property title and occupancy certificate) and non-documentary forms

of evidence (such as testimony of neighbours) are sufficient to be connected to formal services.

3. Any person holding an interest in immovable property is entitled to connect the property to the public water supply network. However, the complicated administrative procedures are time consuming and costly.

4. Any person holding an interest in immovable property is entitled to connect the property to the public water supply network. Efforts are paid to ease process.

### 3b.2 Physical Accessibility of Water



The tool further examines the physical accessibility of networked (or piped) water services and possible alternatives to ensure access. Often, utility companies (formal service providers) are reluctant to go into informal settlements. First, the service provision may be expensive and not remunerative for both providers and users. Second, the concern on the high risk of vandalisms and damages in slum areas also makes utility companies reluctant. In this case, it is crucial that the legal framework has measures to encourage utility companies to provide services in slum areas. Good practices to address this problem typically include granting financial incentives to utility companies to extend the network, or providing alternative solutions, such as public standpipe, borehole, protected dug well, protected spring, rainwater collection, etc. The ranking of the scenarios has been made according to the availability of water supply and government's efforts on the extension of the supply.

0. No legal obligation to guarantee that all people have access to water.

1. The legal framework contains an obligation to guarantee that all people have access to water but there are no mechanisms for implementation.

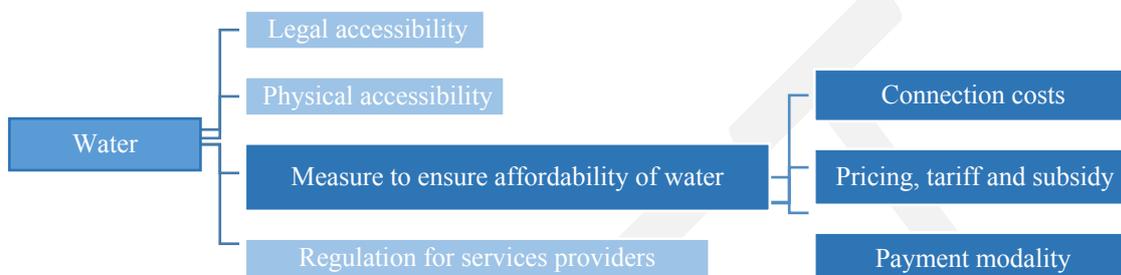
2. The legal framework contains an obligation to guarantee that all people have access to water and for utility companies to provide piped water services to all parts of the city.

3. The legal framework contains an obligation to guarantee that all people have access to water and for utility companies to provide piped water services to all parts of the city. When piped water supply systems cannot be built, alternative solutions should be put in place (such as public standpipe, borehole, protected dug well, protected spring, water kiosk, rainwater collection etc).

4. The legal framework contains an obligation to guarantee that all people have access to water and for utility companies to provide piped water services to all parts of the city. When piped water supply

systems cannot be built, alternative solutions should be put in place (such as public standpipe, borehole, protected dug well, protected spring, water kiosk, rainwater collection etc). Public investments are made to support the extension of the water supply network.

### 3b.3 Measures to Ensure Affordability of Water



Even when the water services are physically accessible, the high cost of the service can prevent the poor from accessing water services. The high construction costs, connection charges and tariffs may limit people's access to affordable services. Therefore, ensuring water affordability is indispensable to safeguard the right to water, as required by the Committee on Economic, Social and Cultural Rights (CESCR Committee) in General Comment No. 15 on the right to water.<sup>24</sup> The affordability requirement underlines that water facilities and services must be affordable for everyone, even to the poorest. Poorer households should not be disproportionately burdened with water expenses. However, high construction costs, connection charges and tariffs usually limit people's access to affordable services. Accordingly, measures should be taken to reduce the direct and indirect costs for those in poor livelihood. It could be done through developing appropriate pricing, tariff and subsidy structures (such as differentiated flat rates, differentiated tariffs, lifeline tariffs, increasing block tariffs, targeted subsidies based on income, geographic location and types of access, cross-subsidies, universal price with rebate, debt management schemes). UN-Habitat set a standard in Urban Indicator 1.10<sup>25</sup>: water should not take an undue proportion of the household income, i.e. less than 10%. A number of countries have also set specific national standards for affordability. Another examples is from Indonesia. Indonesia law states that "[t]ariff shall meet the principle of affordability... if domestic expense on the fulfilment of the standard of basic need for drinking water does not exceed 4% of the income of subscribers". However, the affordability of water and sanitation services is highly contextual, and States should therefore determine affordability standards at the national and/or local level.

This indicator assesses to what extent the regulatory frameworks has requirements to reduce the cost for slum dwellers, and enable them to use various payment modalities. A satisfied scenario is present as level 3 below - when the States also subsidize the connection charges. The highest score is given to legal frameworks that enable diverse payment modalities. Good practices show that providing payment alternatives (such as using banks, direct debit, mobile banking, mobile money, scratch cards and payments at points of sale like supermarkets and fuel stations) in informal settlements allows dwellers

<sup>24</sup> CESCR Committee, 'General Comment No. 15: The Right to Water (arts. 11 and 12 of the International Covenant)', E/C.12/2002/11 (20 January 2003) para 2.

<sup>25</sup> UN-Habitat, *Urban Indicators Guidelines*, see: <https://unhabitat.org/urban-indicators-guidelines-monitoring-the-habitat-agenda-and-the-millennium-development-goals/>

to pay their bills when funds are available, and helps reduce unpaid bills and service interruptions.

0. The legal and regulatory framework does not have any mechanism to promote affordability of water services for low income groups.

1. Pricing, tariff and subsidy structures to promote affordability exist but are not adequate to ensure that water is affordable for low income groups.

2. Pricing, tariff and subsidy structures to promote affordability exist and they are adequate to ensure that water is affordable for low income groups but connection charges represent a barrier for low income groups.

3. Pricing, tariff and subsidy structures to promote affordability exist and they are adequate to ensure that water is affordable for low income groups. There are subsidies or consumer financing mechanisms (i.e., utility loans, on bill financing, micro-loans, etc.) available to support the payment of connection charges by consumers (connection charges include: initial installation fees, construction, operation and maintenance costs, etc).

4. Pricing, tariff and subsidy structures to promote affordability exist and they are adequate to ensure that water is affordable for low income groups. There are subsidies or consumer financing mechanisms available to support the payment of connection charges by consumers (connection charges include: initial installation fees, construction, operation and maintenance costs, etc). Various payment modalities are available for paying service charges.

### 3b.4 Regulation for Different Types of Enterprises



This indicator focuses on the standards for water utilities and small-scale provider to ensure that water is sufficient, safe, acceptable, physically accessible and affordable. Authorities are not only mandated to make policy and allocate resources, but also to play the role of regulators for service provision to prevent arbitrary disconnection and guarantee the quality standards. This becomes more relevant in places where water services are heavily reliant on private sectors or even informal services providers.

According to international human rights law on the Right to Water, the right to water contains the right to be free from arbitrary disconnections or contamination of water supplies.<sup>26</sup> This means the

<sup>26</sup> CESCR Committee, 'General Comment No. 15: The Right to Water (arts. 11 and 12 of the International Covenant)', E/C.12/2002/11 (20 January 2003), para. 10 states: "[t]he right to water contains both freedoms and entitlements. The freedoms include the right to maintain access to existing water supplies necessary for the right to water, and the right to be free from interference, such as the right to be free from arbitrary disconnections or contamination of water supplies...."

regulations should adopt measure to protect people from arbitrary and unjustified disconnections. For instance, disconnection of basic services to conduct an unwilling eviction is prohibited. No individual or group should be disconnected and not be guaranteed minimum drinking water quantities because he/she cannot afford to pay. Pre-paid water meters will allow for access to a limited quantity of water even where the individual or household has not paid. Disconnections shall be carried out lawfully.

Regarding standard setting, international human rights law requires water to be “sufficient, safe, acceptable, physically accessible and affordable (water) for personal and domestic uses.”<sup>27</sup> This has been elaborated by World Health Organization (WHO) in its guidelines which sets out detailed requirements on: a. sufficiency (between 50 and 100 litres of water per person per day)<sup>28</sup>; b. safety (free from micro-organisms, chemical substances and radiological hazards that constitute a threat to a person's health); c. acceptability (in color, odour and taste); d. physical accessibility (the water source has to be within 1,000 metres of the home and collection time should not exceed 30 minutes); and e. affordability (the United Nations Development Programme suggests that water costs should not exceed 3 per cent of household income).<sup>29</sup>

The scenarios are designed to promote the legal regime which is in conformity with the above international standards.

0. No clear and effective legislation regulates the operations, quality, safety and quantity standards of water service providers (public, private, or community-based).

1. Operation, quality, safety and quantity standards on water services exist but they do not meet WHO/UNICEF Water Supply and Sanitation standards and international human rights law standards (physical accessibility: safe access to water facilities not more than 1km and 30 min walking time from home, quantity: minimum amount of 20 litres per person per day and quality of water: safe and non-polluted water). Disconnection of water provision is possible as result of inability to pay and/or unwilling eviction.

2. Operation, quality, safety and quantity standards on water services exist but they do not meet WHO/UNICEF Water Supply and Sanitation standards and international human rights law standards. Disconnection of water provision is not possible as result of inability to pay and/or unwilling eviction.

3. Operation, quality, safety and quantity standards on water services exist and are in line with WHO/UNICEF Water Supply and Sanitation standards and international human rights law standards. Disconnection of water provision is not possible as result of inability to pay and/or unwilling eviction.

4. Operation, quality, safety and quantity standards on water services exist and are higher than WHO/UNICEF Water Supply and Sanitation standard and international human rights law standards. Disconnection of water provision is not possible as result of inability to pay and/or unwilling eviction.

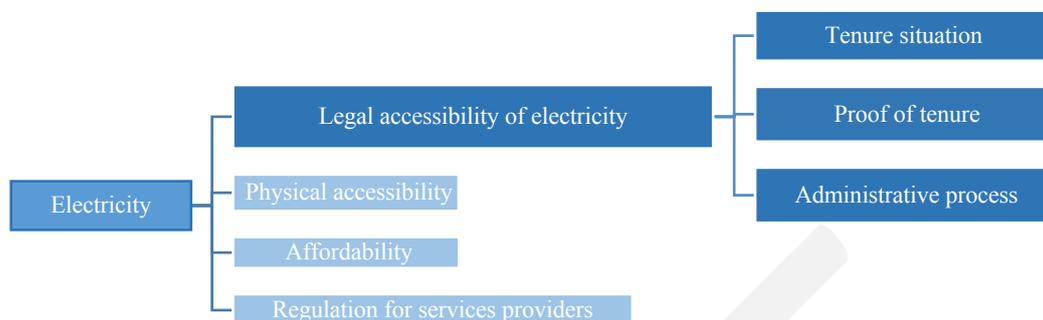
<sup>27</sup> *Ibid.*

<sup>28</sup> Also see UN-Habitat standard in Urban Indicator 1.10: Access to safe water. This indicator requires definitions adapted to the local context for several elements: Affordable: water should not take an undue proportion of the household income, i.e. less than 10%; Sufficient quantity: water should be available at a quantity of at least 20 liters per person per day; Without excessive efforts and time: obtaining water for the households should not take an undue proportion of the household's time (less than one hour a day for the minimum sufficient quantity of at least 20 liters per person per day).

<sup>29</sup> WHO, Guidelines for drinking-water quality (second edition), (1997)

## Technical Content of Access to Electricity

### 3b.5 Legal Accessibility of Electricity



In terms of legal accessibility of electricity provision, slum dwellers face same problems as discussed in the water section. Therefore, this indicator promotes a flexible tenure regulatory framework as well as simple administrative procedures, in order to improve the electrification rate.

0. Full property title and official documents (such as housing contracts, bank statements, or utility bills as ‘proof of residence’) are required to be connected to formal services.

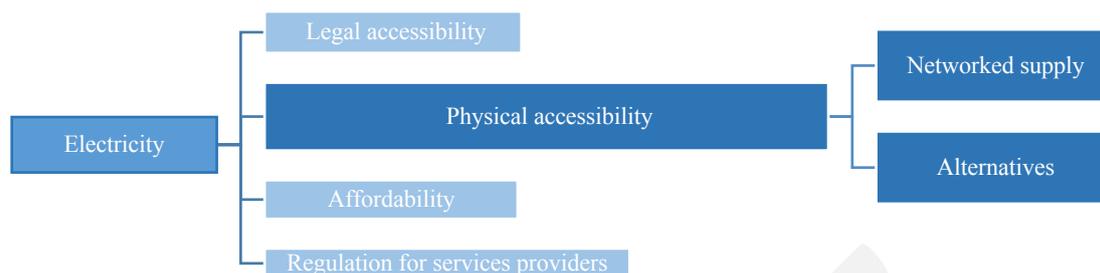
1. Full property title or title of occupation are required to be connected to formal services.

2. Any form of documentary (property title and occupancy certificate) and non-documentary forms of evidence (such as testimony of neighbours) are sufficient to be connected to formal services.

3. Any person holding an interest in immovable property is entitled to connect the property to the public electricity supply network. However, the complicated administrative procedures are time consuming and costly.

4. Any person holding an interest in immovable property is entitled to connect the property to the public electricity supply network. Efforts are paid to ease process.

### 3b.6 Physical Accessibility of Electricity



In general, people living in slums have access to fewer hours per day of electricity than people in formal settlements, but the gap is not large. The biggest challenge is for the service providers to extend the network in informal areas. The quality of service would be similar once the grid is in place.

Good practices also involve a regional approach coordinating both grid and off-grid systems. The New Urban Agenda also prioritizes smart-grid, district energy systems and community energy plans to improve synergies between renewable energy and energy efficiency.<sup>30</sup> Therefore, in this section, the indicators measure progress in creating an enabling environment for both grid and off-grid options. The average scenario requires the off-grid options to be available where people do not have access to grid system.

In scenario 3, apart from extension, the government should also specify standards of performance on reliability along with new connections (e.g., number of guaranteed hours per day, etc.).

0. No legal obligation to guarantee that all people have access to electricity.

1. The legal framework contains an obligation to guarantee that all people have access to electricity but there are no implementation mechanisms.

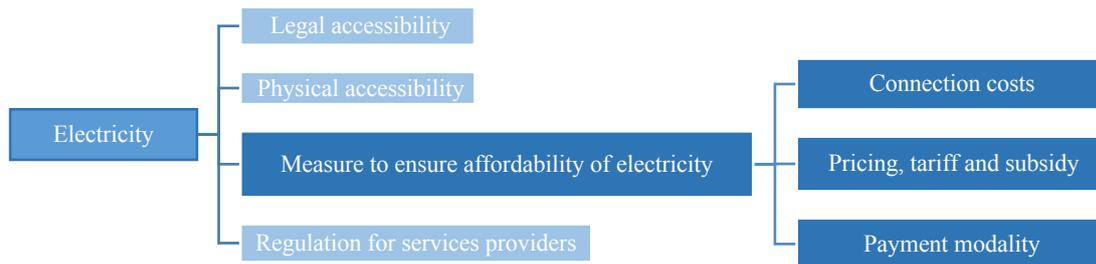
2. The legal framework contains an obligation to guarantee that all people have access to electricity and for utility companies to provide grid systems to all parts of the city.

3. The legal framework contains an obligation to guarantee that all people have access to electricity and for utility companies to provide grid systems to all parts of the city. When grid systems cannot be built, alternative off-grid options (mini-grids or individual systems) should be put in place and provided with safety and reliability concerns.

4. The legal framework contains an obligation to guarantee that all people have access to electricity and for utility companies to provide grid systems to all parts of the city. When grid systems cannot be built, alternative off-grid options should be put in place and provided with safety and reliability concern. Public investments are made to support the extension of the grid systems.

<sup>30</sup> UN, Resolution adopted by the General Assembly on 23 December 2016 - 71/256 New Urban Agenda, A/RES/71/256 (25 January 2017), para 121.

### 3b.7 Measures to Ensure Affordability of Electricity



Once expansion reaches informal settlements, people would still be reluctant to connect their households to grid if the price is not affordable. Or rather, they would like to illegally connect their wires to the formal wires and dilute the cost. Such dangerous action may pose a threat to their lives.

Therefore, expanding the network in slums needs a combination of a well-designed tariff levy. Good practice is found in the form of introducing measures targeting low-volume consumers that do not have enough paying capacity. Such measures typically include reducing connection charges, subsidizing household costs, setting lifeline tariffs, providing different payment modalities, or amortizing the cost through loans. Subsidies or consumer financing mechanisms include: financing mechanisms (i.e., utility loans, on bill financing, micro-loans, etc.) and/or direct subsidies available to support the payment of connection fees by consumers. Various payment modalities may such as: using banks, direct debit, mobile banking, mobile money, scratch cards and payments at points of sale like supermarkets and fuel stations.

0. The legal and regulatory framework does not have any mechanism to promote affordability of electricity services for low income groups.

1. Pricing, tariff and subsidy structures are in place but they are not adequate to ensure that electricity is affordable for low income groups.

2. Appropriate pricing, tariff and subsidy structures ensure that electricity is affordable for low income groups but connection charges represent a barrier for low income groups.

3. Appropriate pricing, tariff and subsidy structures ensure that electricity is affordable for low income groups. There are subsidies or consumer financing mechanisms available to support the payment of connection charges (include: initial installation fees, construction, operation and maintenance costs, etc).

4. Appropriate pricing, tariff and subsidy structures ensure that electricity is affordable for low income groups. There are subsidies or consumer financing mechanisms available to support the payment of connection charges. Various payment modalities are available for paying service charges.

### 3b.8 Regulation for Different Types of Enterprises



Similar to water services, disconnection would happen as a result of inability to pay and/or unwilling eviction. Regulations should safeguard people from such arbitrary disconnections.

Unlike water and sanitation, the quality of basic electricity service does not vary much as long as the supply of electricity are sufficient to meet the most pressing needs on cooking, lighting and refrigeration. The state should also set out safety standards for the installation and maintenance of the infrastructure.

The best scenario is when the regulatory framework has the conditions for adequate standards for operation, safety and quantity. Safety means that the electricity supplies must be not dangerous either through inadequate safety standards in their installation or through inadequate maintenance. Quantity means that the electricity supply should be enough to meet the most pressing needs of cooking, lighting and refrigeration. Moreover, disconnection of basic services due to unwilling eviction should be prohibited.

0. No clear and effective legislation regulates the operations, safety and quantity standards of electricity service providers (public, private, or community-based).

1. Operation, safety and quantity standards on electricity services exist but they are not adequate. Disconnection of electricity provision is not possible as result of inability to pay and/or unwilling eviction.

2. Appropriate pricing, tariff and subsidy structures ensure that electricity is affordable for low income groups but connection charges represent a barrier for low income groups.

3. Operation, safety and quantity standards on electricity services exist and are adequate. Disconnection of water provision is not possible as result of inability to pay and/or unwilling eviction.

4. Operation, safety and quantity standards on electricity services exist and are more than adequate. Disconnection of electricity provision is not possible as result of inability to pay and/or unwilling eviction.

## Technical Content of Access to Sanitation

### 3b.9 Physical Accessibility of Sanitation



Lack of sanitation is a major public health problem that causes disease, sickness and death. The definition of sanitation here refers to “a system for the collection, transport, treatment, and disposal or reuse of human excreta and associated hygiene.”<sup>31</sup> It requires not only the presence of a toilet or latrine but also includes the entire system. However, the human rights obligation on access to sanitation does not require that States provide everyone with access to a sewerage system. It calls for context-specific solutions.<sup>32</sup>

In relation to slums, the networked sewerage system is always encouraged but normally not in place as the land is not planned in advance. Where networked sewerage is not available, on-site sanitation is likely to be the preferable option. The ranking of the scenarios has been made according to the extent the legal framework allows and supports community and/or private shared sanitation facilities.

For those who receive their services from informal and/or small-scale providers or through self-supply, the range of type of services spans from: a. having no service at all, b. through substandard pit latrines (seldom emptied and often overflowing), to c. shared or community-level toilets, d. connections to a rudimentary sewage system, where wastes are not treated, and e. small-scale sewage systems with adequate treatment plants.<sup>33</sup> The average scenario aims to enable the “improved basic sanitation”,<sup>34</sup> which refers to the level of sanitation that people have access to facilities that hygienically separate human excreta from human, animal and insect contact. A facility is considered as “improved” if a. it is not shared by a maximum of two households; and b. the septic system has a sufficient capacity in order not to be clogged. It may include flush/pour-flush toilets or latrines connected to a sewer, septic tank, or pit; ventilated improved pit latrines; pit latrines with a slab or platform of any material which covers the pit entirely, except for the drop hole; and composting toilets/latrines are assumed to be improved, if they are not public.<sup>35</sup>

0. There is no legal obligation to provide sanitation facilities and no public support to change the quality of and access to sanitation facilities.

<sup>31</sup> UN, ‘Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation’, A/HRC/12/24 (1 July 2009) para 63.

<sup>32</sup> *Ibid*, para 67.

<sup>33</sup> UN, ‘Report of the Special Rapporteur on the human right to safe drinking water and sanitation’, A/HRC/30/39 (5 August 2015) para 42.

<sup>34</sup> The term was coined by the Joint Monitoring Program (JMP) for Water Supply and Sanitation of UNICEF and WHO in 2002 to help monitor the progress towards Goal Number 7 of the Millennium Development Goals (MDGs). “Access to improved sanitation” has also been used by UN Habitat as one of the urban indicators to monitor the Habitat Agenda and the MDG Goals of slum target. See UN Habitat, Urban Indicators Guidelines – “Better Information, Better Cities” (2009), page 16.

<sup>35</sup> UN Habitat, Urban Indicators Guidelines – “Better Information, Better Cities” (2009), page 16.

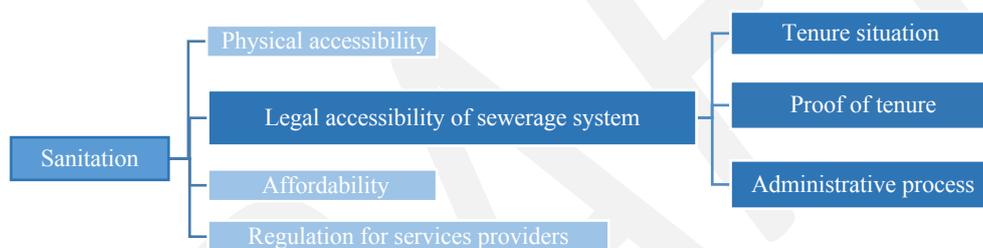
1. The legal obligation to provide sanitation facilities exists but there is no public support to change the quality of and access to sanitation facilities.

2. Legal obligation to provide sanitation services exists and there are mechanisms for public support to community and private unimproved sanitation facilities.

3. Legal obligation to provide sanitation services exists and there are mechanisms for public support to community and private shared sanitation facilities.

4. Legal obligation to provide improved sanitation services exists and there are mechanisms for public support to improved sanitation facilities. Public utility company have to support low-cost sewerage options, including small-bore sewerage and decentralized, neighbourhood-based treatment plants.

### 3b.10 Legal Accessibility of Sanitation



When networked sanitation is in place, people can still get rejected to connect to the sewerage system if they do not have required title and documents. In this case, regulations should lower the qualification standard and ease the procedures.

0. Full property title and official documents (such as housing contracts, bank statements, or utility bills as ‘proof of residence’) are required to be connected to formal services.

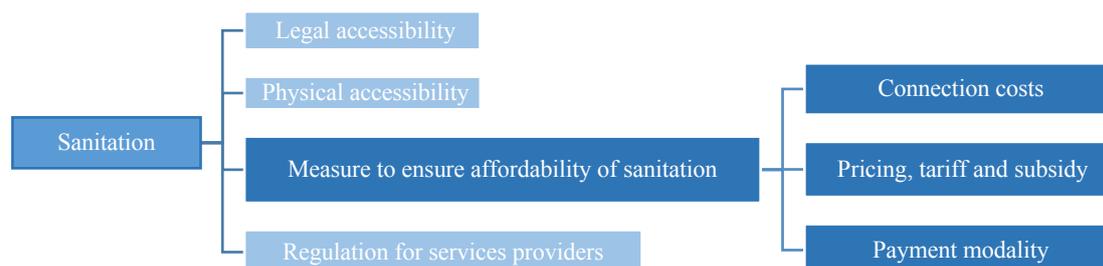
1. Full property title or title of occupation are required to be connected to formal services.

2. Any form of documentary (property title and occupancy certificate) and non-documentary forms of evidence (such as testimony of neighbours) are sufficient to be connected to formal services.

3. Any person holding an interest in immovable property is entitled to connect the property to the public sewerage network. However, the complicated administrative procedures are time consuming and costly.

4. Any person holding an interest in immovable property is entitled to connect the property to the public sewerage network. Efforts are paid to ease process.

### 3b.11 Measures to Ensure the Affordability of Sanitation



To ensure access to affordable sanitation services, regulations should design appropriate pricing, tariff and subsidy structures. Given the range of sanitation services that exists outside the formal system, the pricing, subsidy or tariff system can seem irrelevant to those who rely on informal services. States must look beyond tariffs toward a broader system for financing water and sanitation services, including taxes and transfers, and cross-subsidization through public finance or tariff systems.

The connection fees here include: construction of the toilet within the home, or the costs of on-site solutions such as the construction or maintenance of pit latrines and septic tanks. On-site technologies generally require regular cleaning and maintenance, including the emptying of pits or septic tanks, and the proper management and disposal or re-use of wastewater and excreta. Sanitation systems that require water for flushing, such as sewerage systems, will generally imply extra costs for the water needed for flushing toilets.

0. The legal and regulatory framework does not have any requirement to promote affordability of sanitation services for low income groups.

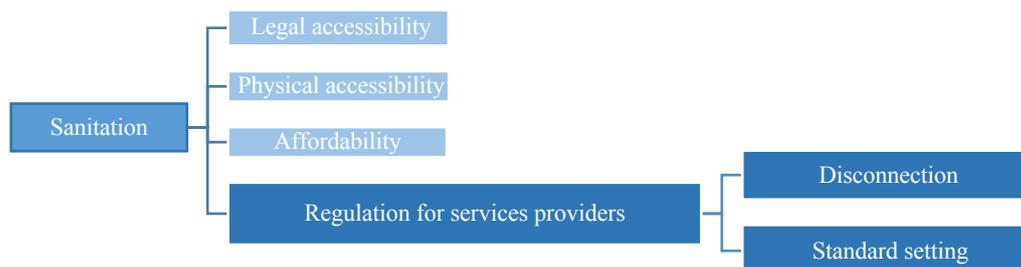
1. Pricing, tariff and subsidy structures are in place but they are not adequate to ensure that the sanitation service (including the collection, transport and disposal or reuse of human wastes) is affordable for low income groups.

2. Appropriate pricing, tariff and subsidy structures are developed to ensure that the sanitation service is affordable for low income groups.

3. Appropriate pricing, tariff and subsidy structures are developed to ensure that the sanitation facilities are affordable for low income groups. There are subsidies or consumer financing mechanisms available to support the payment of connection fees (include: initial installation fees, construction, operation and maintenance costs, etc) .

4. Appropriate pricing, tariff and subsidy structures are developed to ensure that the sanitation service is affordable for low income groups. There are subsidies or consumer financing mechanisms available to support the payment of connection fees. Various payment modalities are available for paying service charges.

### 3b.12 Regulation for Different Types of Enterprises



This section focuses on the safe construction and safe use of sewerage facilities, as well as safe waste management. States are obliged to ensure the access to sanitation, which is safe, hygienic, secure, socially and culturally acceptable, provides privacy and ensures dignity.<sup>36</sup>

In terms of safe construction, regulations should set standards not only relating to the construction and maintenance of a latrine alone, but also with consideration of collection, treatment and disposal or reuse of wastes. The regulations should also ensure that facilities are situated in an area where physical security can be safeguarded. Moreover, the physical construction of sanitation facilities should be encouraged in combination with substantial hygiene promotion and education.<sup>37</sup>

The highest score is given to the laws that guide the safe construction, safe use, physical accessibility and safe wastes management. Safe use here means the law promotes health and hygiene behaviors. Safe wastes management means it does not have an unacceptable impact on human health and the environment.

0. Guidance for the safe on-site treatment and use of human excreta from latrines are not in place.

1. Standards and guidance on sanitation exist but not sufficient.

2. There are standards and guidance relating to the construction and maintenance of a latrine, and also consideration of collection, treatment and disposal or reuse of wastes.

3. The standards and guidance include safety and quality concern. However, the regulations do not fully cover the consideration of safe construction, safe use, physical accessibility and safe management of wastes.

4. The standards and guidance include safety and quality concern. To be specific, it contains guidance on safe construction, safe use, physical accessibility and safe wastes management.

<sup>36</sup> UN, Resolution adopted by the General Assembly on 23 December 2016 - 71/256 New Urban Agenda, A/RES/71/256 (25 January 2017), para 63.

<sup>37</sup> *Ibid*, para 64.

## SECTION 4. HOUSING

### *Housing as a Preventive Approach to Slum Upgrading*

Housing is one of the essential component of every slum upgrading strategy. The New Urban Agenda emphasizes the importance of promoting adequate housing solutions for the needs of low-income groups.<sup>38</sup>

An effective city-wide slum upgrading strategy should combine slum upgrading with slum prevention putting in place mechanisms for the supply of affordable housing for rent and sale, regularizing informal housing, decreasing regulatory expense and clear criteria to identify beneficiaries. Each approach ultimately aims to extend the formal housing supply to embrace households with lower incomes. Although none of them it is deemed universally applicable, each has merits that should not be ignored.

### *Structure of the Assessment*

This section of the tool evaluates housing regulations through six indicators:

Indicator 1: Supply affordable housing for sale and rent;

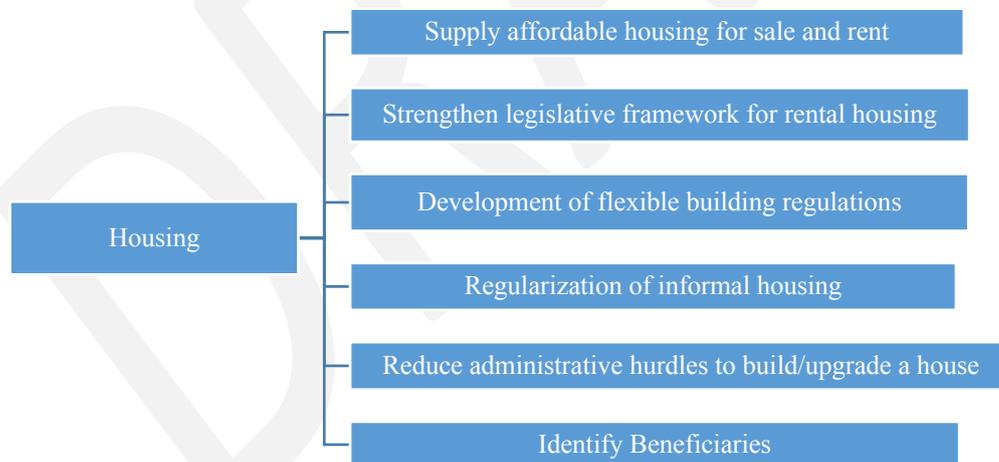
Indicator 2: Strengthen legislative framework for rental housing;

Indicator 3: Development of flexible building regulations;

Indicator 4: Regularization of informal housing

Indicator 5: Reduce administrative hurdles to build/upgrade a house (red tape); and

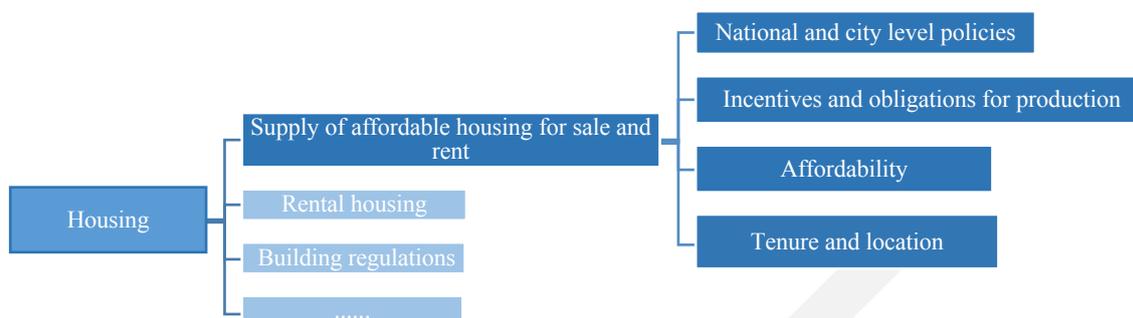
Indicator 6: Identify Beneficiaries.



<sup>38</sup> *Ibid*, para 111&112.

## Technical Content of Housing

### 4b.1 Supply of Affordable Housing for Sale and Rent



Historically, the first approach that dominated housing policies is often referred to as conventional or social housing. This approach is based on the idea that the government must intervene in the formal housing market to enable lower-income groups, excluded from it by poverty or lack of secure collateral, to join it. To do so, the public sector built dwellings and applied subsidies to make them affordable for low-income households to rent or buy with long-term repayment terms.

In recent years, several countries have adopted a different approach creating a legal framework that creates the conditions for the real estate market to supply affordable housing for sale and rent.

This indicator therefore assesses if there are clear mechanisms (incentives and disincentives) to ensure that an adequate amount of affordable housing (directed at the lowest income groups) is produced by the market. It also evaluates the mechanisms that reduce the cost of affordable housing and legislation that guarantees the proper tenure and location for affordable housing.

An average level is present as scenario 2, that the regulatory framework requires to develop national and city level policies to address housing shortage issues. The solution may include incentives or obligations for developers to produce the affordable housing, such as cross-subsidies (density bonuses for developers to fund affordable housing), outright subsidies (housing vouchers or developer tax incentives), creating and promoting higher-density urban land, or setting quota requirement for each new development projects.

Scenario 3 shows a better scenario that the regulatory framework not only dealt with quantity of affordable housing, but also contains mechanisms to reduce the cost of affordable housing. The measures include: reducing land prices, contractor profits, government charges and dwelling size; regulating the sale price and keep profits at certain per cent (such as house prices are around 50 to 60 per cent of market prices per square meter).

The best scenario under this indicator is that the regulatory framework imposes requirements on supply, affordability, as well as tenure security and appropriate location. Location is not adequate if it is cut off from employment opportunities, health-care services, schools, childcare centres and other social facilities, or if located in dangerous or polluted sites or in immediate proximity to pollution sources.

0. The supply of affordable housing for sale/rent is left to the market, no obligation for developers, and no state policy to address the housing shortage.

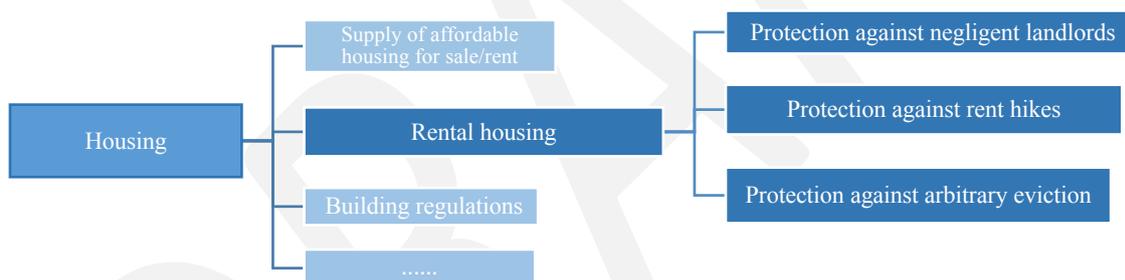
1. The regulatory framework requires the development of national and city level policies to address the housing shortage.

2. The regulatory framework requires the development of national and city level policies to address the housing shortage. There are incentives and obligations for developers to produce the affordable housing for sale/rent.

3. The regulatory framework requires the development of national and city level policies to address the housing shortage. There are incentives and obligations for developers to produce the affordable housing for sale/rent. The legal framework contains mechanisms to reduce the cost of affordable housing.

4. The regulatory framework requires the development of national and city level policies to address the housing shortage. There are incentives and obligations for developers to produce the affordable housing for sale/rent. The legal framework contains mechanisms to reduce the cost of affordable housing, to ensure adequate tenure options and the supply of affordable housing in appropriate locations.

#### 4b.2 Strengthen Legislative Framework for Rental Housing



In cities with very low income levels, an adequate solution to respond to housing needs is the presence of an adequate supply of rental housing. A well-regulated rental market can promote the goals of protecting tenants, particularly low income, and encouraging the construction of rental housing at the same time. When housing provision is transferred to third parties (the private rental market), the State should regulate the market in order to protect against human rights abuses (such as forced evictions or economic eviction and rental price “bubbles”) and to create an enabling environment for the realization of the right to adequate housing, with particular focus on the poorest and most marginalized. As indicated by the Committee on Economic, Social and Cultural Rights in paras. 8 (c) and 17 of its General Comment No. 4, tenants should be protected by appropriate means against unreasonable rent levels or rent increases. Therefore this indicator assesses if the regulations are adequate to protect low-income tenants. In addition, landlords have responsibility to arrange for immediate repairs when a tenant's health or safety is affected. The scope of the repair responsibility on landlord should be prescribed by

law. Therefore, the best scenario in this indicator includes the legal protection against arbitrary eviction<sup>39</sup>, rent hikes<sup>40</sup>, and negligent landlords<sup>41</sup>.

Some may also argue that the legal protection cannot apply to informal settlement as the dwellers often do not have a contract. However, this protection is contained in *implied terms*<sup>42</sup> which are set by contract law, rather than the contract itself. These terms form part of the contract, even though they have not been specifically agreed between the landlord and the tenant. In addition, these terms apply to both written and oral agreements. A tenancy agreement exists even if there is only an oral agreement between a tenant and a landlord. For example, it may have been agreed at the start of the tenancy how much the rent would be and when it is to be paid. Once the landlord has accepted rent from the tenant then a previous verbal agreement becomes legally binding. In the context of informal settlements, those who do not have a written agreement will also be protected by these implied terms, ideally.

0. The rental market has not been regulated.

1. The rental market has been regulated. However, regulations do not protect tenants against arbitrary eviction, rent hikes, and negligent landlords .

2. The rental market is regulated and regulations protect tenants against negligent landlords.

3. The rental market is regulated and regulations protect tenants against rent hikes and negligent landlords.

4. The rental market is regulated and regulations protect tenants against arbitrary eviction, rent hikes, and negligent landlords.

<sup>39</sup> Landlords need to be able to evict tenants for non-payment or other reasonable causes and be able to generate enough revenue to recover their cost of capital, but the regulation shall specify grounds for eviction and the ground should be reasonable.

<sup>40</sup> Tenants are protected from usury rents.

<sup>41</sup> Both tenants and landlords can claim that the other person has been negligent. But landlords have responsibility to arrange for immediate repairs when a tenant's health or safety is affected. Neglecting of such request may lead to serious penalties. In general, landlords have a duty to: a. properly maintain common areas; b. warn of hidden dangers which they are (or should be) aware of; and c. make safe furnished dwellings on short term leases. To be more specific, the immediate repairs may include a hole in the roof, wall or window; broken water heaters; faulty smoke detectors; bad electrical wiring; rodents or mold. The scope of the repair responsibility on landlord should be prescribed by law. The statutory repair responsibilities on landlord cannot be cancelled out by tenancy agreement.

<sup>42</sup> A tenancy agreement can be made up of: a) express terms which include what is in the written tenancy agreement, rent book, or what was agreed orally; b) implied terms which are rights given by law or arrangements established by custom and practice. An implied term will automatically form part of a contract even if it has not been agreed upon by the parties, since those terms include statutory rights given by law. A term in the tenancy agreement that gives less rights than what are contained in the law cannot be enforced.

### 4b.3 Development of Flexible Building Regulations



This indicator focuses on the construction sector, aiming at promoting the development of affordable or incremental housing for the lowest income groups. It contains regulations on the use of locally available building materials, requirements on minimum standards the possibility of incremental housing and exemption from permitting procedures. Due to the fact that some developing countries inherited their building code from developed country during the colonial period, often laws in African countries require the use of expensive building materials which are not locally available. In order to reduce the cost of the construction building codes should consider the implications that requirements have on housing affordability. Moreover, the rigid permitting system may exclude incremental housing from formal system.

0. The same building regulations apply to all houses in the country. No specific regulations for affordable/incremental housing.

1. The standards and regulations allow the use of affordable and readily available local building materials (wood, mud, soil, corrugated iron, etc.) for affordable housing and houses of limited size and elevation. However, incremental housing and self-construction is not possible (no building permit or occupancy certificate granted).

2. Building regulations permit procedural deviation on the construction of basic services and houses in slum areas and for affordable housing.<sup>43</sup> However, they must meet the minimum construction standards on floor plans, and mandatory building or apartment amenities and features etc.

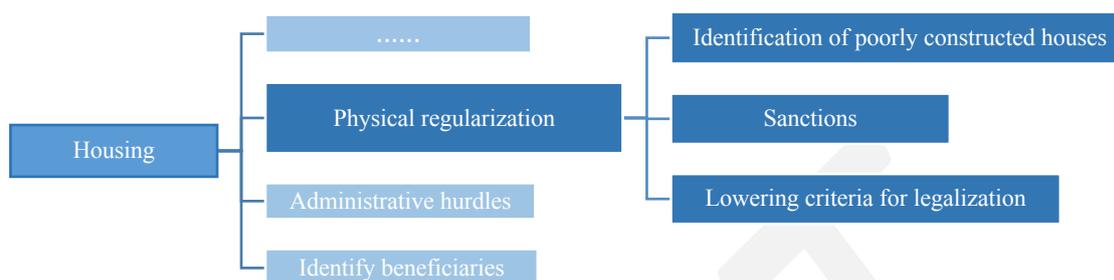
3. Building regulations permit procedural deviation on the construction of basic services and houses in slum areas and for affordable housing. The building regulations while being flexible must still meet minimum habitability standard such as those that guarantee physical safety or provide adequate space, as well as protection against the cold, damp, heat, rain, wind, other threats to health and structural hazards.

4. Building regulations permit procedural deviation on the construction of basic services and houses in slum areas and for affordable housing. The building regulations while being flexible must still meet minimum standard of adequate housing<sup>44</sup> regarding habitability and availability of services.

<sup>43</sup> For the informal builders, enterprises can obtain a business permit for operations in informally constructed facilities. Such premises in buildings with a legal construction permit are deviated from the approved project. Alternatively, they can be granted a building concession or amnesty authorization.

<sup>44</sup> See definition of adequate housing in Land Section, 1b.3.

#### 4b.4 Regularization of Informal Housing



As mentioned earlier, there are two types of regularization: tenure and physical regularization. This indicator assesses physical regularization, which refers to the process by which a municipality recognizes the existence of poorly constructed houses informally built without any building license, and puts in place a process to ex post formalize them where some basic safety and health measures are in place or can be put in place. Such regularization process should target poorly constructed informal houses, not well constructed houses built without building permit. Therefore, secondary laws should establish the criteria and terms upon which the municipalities to follow to identify and delimit the informally built, poorly constructed houses. Thus, this indicator covers the identification of such houses and ways of regularization. The worst scenario is when any non-compliant buildings need to be demolished. The best scenario would be when the legal framework would allow the in situ upgrading of the houses that are safe for inhabitation.

0. The regulatory framework does not allow the regularization of informally built houses ex post. Removal of the house remains as the main sanction for these construction.

1. The regulatory framework allows the regularization of informally built houses ex post. Financial penalty remains the main sanction, no identification of different types of informally built houses.<sup>45</sup>

2. The regulatory framework allows the regularization of informally built houses ex post. Financial penalty remains the main sanction which is imposed depending on the amount of time that the building has been in existence.<sup>46</sup> Poorly constructed houses have been identified for regularization.

3. The regulatory framework allows the regularization of informally built houses ex post. The legalization process applies to poorly constructed houses, including no sanctions against house owners<sup>47</sup>, and lowering criteria for legalization. For instance, poorly constructed houses could be recognized after upgrading the house to be habitable<sup>48</sup> and the basic services are available<sup>49</sup>.

<sup>45</sup> This means the same legalization process applies to both the poorly constructed houses and well constructed houses built without building permit.

<sup>46</sup> For instance, a building which has been built 20 years ago will apply lower penalty comparing with the one built in the past one year. This regulation should be combined with the regional laws which establish the criteria and terms to identify and delimit the informally built, poorly constructed houses.

<sup>47</sup> Granting to the owner of the illegal building a building concession or amnesty authorization.

<sup>48</sup> Habitability: housing is not habitable if it does not guarantee physical safety or provide adequate space, as well as protection against the cold, damp, heat, rain, wind, other threats to health and structural hazards.

<sup>49</sup> Availability of services, materials, facilities and infrastructure, including safe drinking water, adequate sanitation, energy for cooking, heating, lighting, food storage or refuse disposal.

4. The regulatory framework allows the regularization of informally built houses ex post. The legalization process applies to poorly constructed houses, including the extension of deadlines, lowering criteria for legalization, no sanctions against house owner, etc.

#### 4b.5 Reduce Administrative Hurdles to Build or Upgrade a House



This indicator focuses on regulatory challenges that could increase the cost of housing. We assess the procedures, time and cost to build affordable housing and upgrade existing settlement—including obtaining necessary the licenses and permits, submitting all required notifications, requesting and receiving all necessary inspections and obtaining utility connections. Currently, there are wide disparities between cities with regards to the time and costs of permitting services. The delays in permitting may raise the costs of development by as much as 20% in a 12-month period, due to the high cost of capital. These procedures may include: obtaining and submitting all relevant project-specific documents; Hiring external third-party supervisors, engineers or inspectors; obtaining all necessary clearances, licenses, permits and certificates; submitting all required notifications; requesting and receiving all necessary inspections, etc.

According to World Bank data on “doing business”, the average procedures numbers and time among 6 regions - South Asia & Pacific, Latin America & Caribbean, Middle East & North Africa, Europe & Central Asia, Sub-Saharan Africa (except OECD high income countries) - are 15 procedures and 160 days.<sup>50</sup> Therefore we choose the average procedure numbers as a satisfied situation. The best scenario under this indicator refers to the law that requires a maximum duration of 2 months, combined with measures to reduce the time, such as eliminating unnecessary steps or combining steps and centralizing authority, automating permitting processes, improving online access, adopting standards, privatizing permit processing, etc.

Moreover, the fees associated with procedures may include: 1) those associated with obtaining land use approvals and preconstruction design clearances; receiving inspections before, during and after construction; obtaining utility connections; and registering the warehouse at the property registry; 2) taxes required for the completion of the warehouse project are also recorded; 3) sales taxes (such as value added tax) or capital gains taxes are not recorded; 4) the deposits that must be paid up front and are later refunded; 5) the building code, information from local experts, and specific regulations and fee schedules are used as sources for costs; etc.

<sup>50</sup> See World Bank website: <http://www.doingbusiness.org/data/exploretopics/dealing-with-construction-permits>

0. Cities have long permitting timelines and complex and costly procedures. Complying with formalities to build affordable housing or upgrade existing settlement comprises more than 25 procedures, is very costly and takes more than a year.

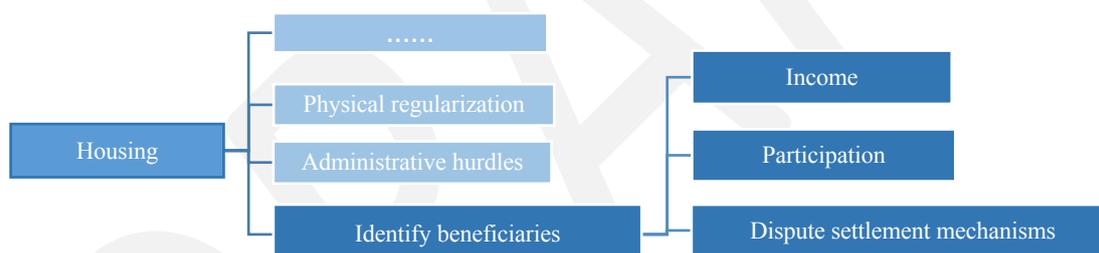
1. The regulatory framework requires to reduce the fees associated with procedures of building affordable housing and upgrading existing settlement.

2. The regulatory framework requires to reduce the time and procedures of building affordable housing and upgrading existing settlement. These may include eliminating unnecessary steps or combining steps and centralizing authority, automating permitting processes, improving online access, adopting standards, privatizing permit processing, etc.

3. The regulatory framework requires to reduce the fees, time and procedures of building affordable housing and upgrading existing settlement. Complying with formalities comprises less than 15 procedures and takes less than 160 days.

4. The regulatory framework requires to reduce the fees, time and procedures of building affordable housing and upgrading existing settlement. Complying with formalities takes less than 2 months.

#### 4b.6 Identify Beneficiaries



This indicator focuses on the selection of beneficiaries for affordable housing and slum upgrading. Getting the target beneficiaries right is an essential pre-requisite for the success of any program and an extremely important mechanism to ensure that public spending reaches the most needed group. In order to target the right group, there should be a transparent identification and verification system which includes a context-related and generally accepted eligibility criteria, community participation and dispute settlement mechanisms.

0. The regulatory framework does not require a transparent targeting system for identification and verification of beneficiary households.

1. The regulatory framework requires the establishment of a transparent identification and verification system but the eligibility criterion primarily benefits middle-income group.

2. The regulatory framework requires the establishment of a transparent identification and verification system and the eligibility criterion are context-related and are made for the most needed groups with taking into account beneficiaries' income and needs.

3. The regulatory framework requires the establishment of a transparent identification and verification system and the eligibility criterion are context-related and are made for the most needed groups with taking into account beneficiaries' income and needs. Moreover, the selection criterion and allocation process are generally accepted as it is undertaken in close collaboration with communities and their leaders, if not exclusively led by them.

4. The regulatory framework requires the establishment of a transparent identification and verification system and the eligibility criterion are context-related and are made for the most needed groups with taking into account beneficiaries' income and needs. The selection and allocation process is generally accepted as it is undertaken in close collaboration with communities and their leaders. Moreover, there are dispute settlement mechanisms which are simple, flexible and expeditious.

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## SECTION 5. FINANCING

### *Inclusive Financing Regulation and Policies*

Supporting participatory slum upgrading and affordable housing programmes requires sustainable fiscal systems to provide the required resources. The Sustainable Development Goals (SDG) seek to “ensure access for all to adequate, safe and affordable housing and basic services, and upgrade slums” by 2030 (Target 11.1). The New Urban Agenda also emphasizes the establishment of programmes which support effective, innovative and sustainable financing frameworks and instruments to strengthen municipal finance and local fiscal systems for affordable and sustainable housing and housing finance. It also calls for innovative and partnership-based financing arrangements and for governance arrangements that promote a range of financing options—both top-down and bottom-up. Moreover, investing in improving slum dwellers’ lives is an investment in human rights that ensure all urban dwellers can be engaged and included, and no one is left behind. It demands the full engagement of national governments, local government leadership, and people-centered approaches strengthened through locally managed funds and community cooperative structures.

This section focuses on inclusive and pro-poor financing regulations and policies for participatory city-wide slum upgrading. Resources for slum upgrading and affordable housing are normally scarce; therefore, a strategic, multi-level governance and multi-partnership approach is essential to bring together key players involved to address the challenge of financing and ensure financial viability of housing projects. Financial schemes which catalyze the integration of commercial finance into slum upgrading, cross subsidies and community finance innovations are needed to ensure the financial viability and sustainability of slum upgrading initiatives.

### *Structure of the Assessment*

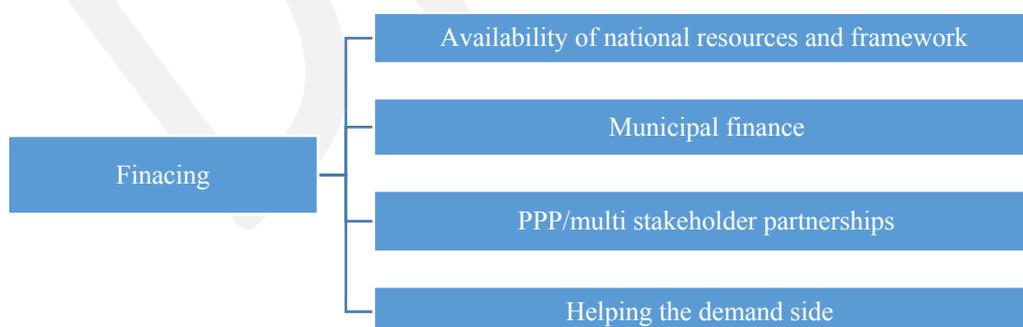
This section assesses the regulatory framework through four indicators:

Indicator 1: Availability of national resources and framework

Indicator 2: Municipal finance

Indicator 3: PPP/multi stakeholder partnerships

Indicator 4: Helping the demand side



## Technical Content of Financing

### 5b.1 Availability of National Resources and Framework



In many countries financing for housing programmes comes from the national level. This indicator assesses the availability of national resources and the level of involvement of local governments.

0. No regulatory requirement to dedicate national resources on slum upgrading and affordable housing programmes.

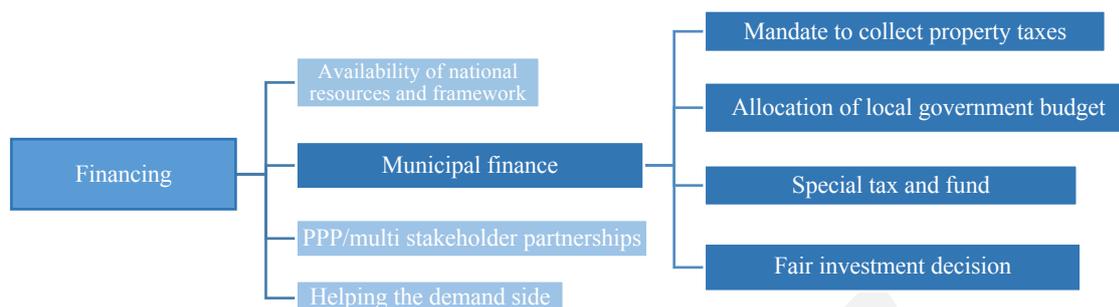
1. The regulatory framework requires the allocation of national budget for slum upgrading and affordable housing programmes.

2. The regulatory framework requires the allocation of national budget and sets out a special tax or a dedicated fund for slum upgrading and affordable housing programmes.

3. The regulatory framework requires the allocation of national budget and sets out special tax/fund for slum upgrading and affordable housing programmes. It also requires the slum upgrading and affordable housing programmes to be implemented in collaboration with or through local governments and aligned with local priorities and urban plans.

4. The regulatory framework requires the allocation of national budget and sets out special tax/fund for slum upgrading and affordable housing programmes. It also requires the national programmes to be implemented in collaboration with or through local governments and aligned with local priorities and urban plans. There is a clear and transparent decision making process and criteria on public investments. (For instance, the criteria should be based on fair regional representation, capacity of local governments, potential impact, etc.)

## 5b.2 Municipal Finance



While infrastructure and affordable housing provision has traditionally been the responsibility of national governments, the complexities, nuances, and dynamics of urban context have led local governments to play an increasingly prominent role. However, local governments still often lack the legal mandates, the organizational structures, and financing capacity needed to take on these functions. Therefore, this section reviews the possibility for municipal governments to generate revenue and the instruments commonly used to engage in land value sharing and land-based financing systems. The value of privately held land often increases as a result of public investments in infrastructure, and urban planning decisions. Governments can use taxes and fees to collect some share of this increase in value for public purposes, including funding infrastructure and service improvements.

Apart from revenue systems, this section also considers the criteria and the transparency of the investment decision making process. For instance, the criteria should be based on city plans and priorities.

0. Local government have the mandate to collect property taxes only.

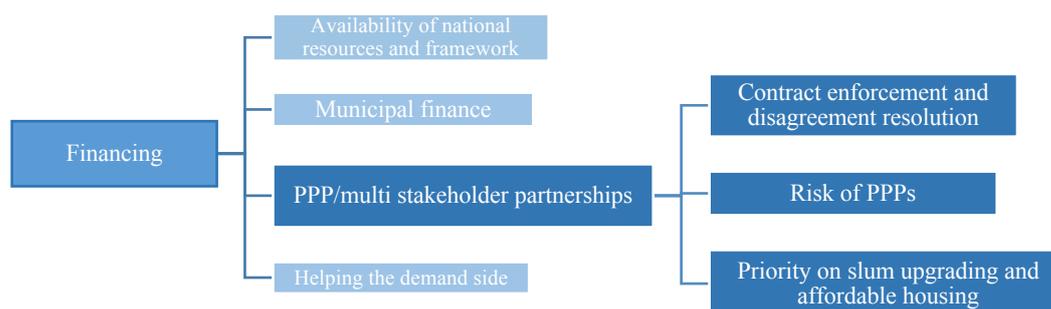
1. The regulatory framework allows for collection of property taxes, developer exactions and other land value sharing taxes. There is no regulatory requirement to dedicate local government resources on slum upgrading and affordable housing programmes.

2. The regulatory framework allows for revenue collection and requires the allocation of local government budget for slum upgrading and affordable housing programmes.

3. The regulatory framework allows for revenue collection and requires the allocation of local government budget for slum upgrading and affordable housing programmes. Special tax and fund exist to finance such programmes.

4. The regulatory framework allows for revenue collection and requires the allocation of local government budget for slum upgrading and affordable housing programmes. Special tax and fund exist to finance such programmes. There is a clear and transparent decision making process and criteria on public investments.

### 5b.3 PPP/multi Stakeholder Partnerships



PPPs are long-term contracts between a private party and a government entity, for providing a public asset or service, in which the private party bears significant risk and management responsibility. It also provides an alternative source of finance to traditional government borrowing and improves the efficiency and quality of public facilities and services. However, there is an increasing concern about the accountability and flexibility of PPPs. Commercial confidentiality and the work of closed companies may diminish the accountability of PPPs. Therefore, governments should stimulate and create institutional, legal and policy environments enabling non-State actors to play an active role in housing finance and supply, and also provide regulatory framework to safeguard the PPPs projects. This section is made to assess to what extent the government allows, guides and promotes PPPs projects.

0. The regulatory framework does not allow PPPs.

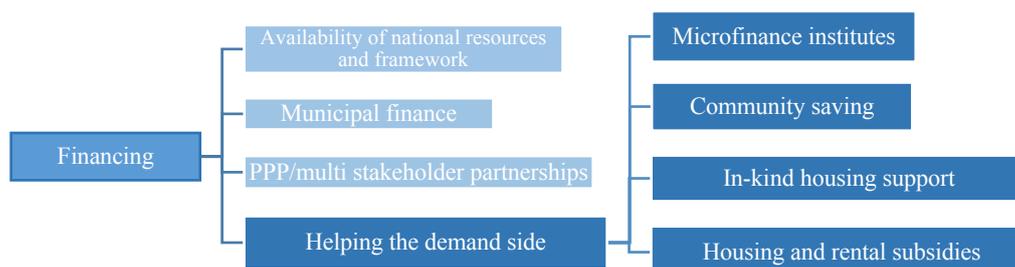
1. The regulatory framework allows national/local government to develop the project on PPPs but there is no detailed regulation to guide government and private sector in entering into PPPs.

2. The regulatory framework sets out rules to guide national/local government and private sector on PPPs projects, including laws regarding contract enforcement and disagreement resolution.

3. The regulatory framework sets out rules to guide national/local government and private sector, including laws regarding contract enforcement and disagreement resolution. It also establishes mechanisms to decrease the risk of PPPs (such as government repurchase, strict market entrance standards, transparency requirements).

4. The regulatory framework not only sets out rules to safeguard PPPs project, but also requires the government to give priority to PPPs on slum upgrading and affordable housing programmes. Financial mechanisms are in place, for instance, returns on bonds may be exempt from capital gains tax, thus reducing the financing cost of the PPPs deal.

## 5b.4 Helping the Demand Side



This section assesses if the legal framework has instruments to support the financial capacity of slum dwellers through subsidies, microfinance institutes, saving schemes and community finance schemes. Housing subsidies are used by many countries to help households purchase or slum upgrading. It has a major role in the strategy to extend formal housing to low-income groups. Therefore, states should support the low-income households and include in their housing programmes incentives and subsidies to assist small-scale landlords. Such types of subsidies include: (a) direct payments, either up front (to lower the amount of the loan, closing costs, down payment or insurance premium, or capital grant) or on a monthly basis; (b) subsidies tied to savings programmes; (c) interest-rate or interest-payment subsidies; (d) tax subsidies and exemptions tied to mortgage payments or real estate taxation. Regarding access to housing finance, low-income groups are usually excluded from the formal financial institutions due to the stringent loan conditions, irregular income and high management fees. Lack of a legal framework conducive for the emergence and sustainable growth of small-scale microfinance institutions and corresponding supervisory and regulatory systems have impeded the development of market-based microfinance services and limited their access to commercial sources of funding. This indicator intends to work towards a better access to microfinance. Micro-finance institutions (MFIs) offer loans and other financial services for micro and small enterprise development and their loan conditions are not as stringent as those given by the commercial banks. In this regard, they are better placed to serve informal sector operators. In addition, most MFIs are credit and/ or savings based. Microfinance for shelter as ‘a subset of microfinance, designed to meet the housing needs of the poor and very poor, especially those without access to the banking sector, including to formal mortgage loans. Microfinance is offered by a range of agencies including Microfinance Institutions, banks, and Non-bank financial institutions, cooperatives, credit unions and NGOs. Individual loans usually supported by group guarantees as well as other forms of guarantee provision. In addition, most providers of shelter microfinance have a requirement for mandatory savings over a specified period of time; mandatory membership in a savings group; previous success with microenterprise loans; etc. Furthermore, most providers of shelter microfinance provide technical assistance e.g. construction techniques, loan repayments, etc. to the loan beneficiaries.

When the slum dwellers in informal settlements do not have access to microfinance loans from formal financial institutions, a popular alternative is to develop community-driven housing cooperative to assist residents. The housing cooperative is an association formed for the purpose of providing housing assistance to its members on a continuing basis. The housing cooperatives can take various forms, including tenure cooperatives, rental cooperatives, finance cooperatives and building cooperatives.<sup>51</sup> Tenure cooperatives means the members own equity shares in the cooperative. For rental cooperatives, members pay rent to the cooperative. In a finance cooperatives, the cooperative usually provide loans to members for building construction or repairs. The collective structure also promotes affordability

<sup>51</sup> UN General Assembly, ‘Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and the right to non-discrimination in this context’, A/68/289 (2013), para 12.

and security of tenure by enabling group loans or savings or, in some cases, assistance funds for temporary defaults by members. Building cooperatives refer to a cooperative provides loans to members for building construction or repairs. Some cooperatives combine two or more of those functions. The collective organization enables cooperatives to assist communities in financing land regularization, basic service provision and home improvements, which would otherwise not be possible for an individual household.

0. The regulatory framework does not regulate microfinance institutes and community saving mechanisms.

1. The regulatory framework regulates and encourages the operations of microfinance institutes and community saving schemes.

2. The regulatory framework regulates and facilitates the operations of microfinance institutes and community saving schemes. In-kind housing (provision of building materials for example) support are provided for incremental housing and slum upgrading programmes.

3. The regulatory framework regulates and facilitates the operations of microfinance institutes and community saving schemes. A variety of housing and rental subsidies (in-kind and monetary) exists diversified based on income levels.

4. The regulatory framework regulates and facilitates the operations of microfinance institutes and community saving schemes. A variety of housing and rental subsidies (in-kind and monetary) exists diversified based on income levels. Financial incentives exist to develop and support diverse community finance schemes, which include: savings and loans schemes (generated internally)<sup>52</sup>; revolving funds (using internal or external funds and managed by community organizations); guarantee funds (to attract external private bank lending to communities for upgrading); community banking (internal savings managed by the community).

In summary, depending on fiscal resources and technical capacity, countries and cities can use different combinations of instruments to finance slum upgrading and affordable housing programmes. For poor and low capacity cities, housing programs will probably be solely financed by national governments. As technical capacity improves and more financial resources are mobilized, housing programmes can be financed by microfinance schemes, community credit, or through multi stakeholder partnerships. At the top of the ladder are national housing programs linked to financial sector and subsidy schemes that help the urban poor to leverage their savings and purchase or rent affordable houses.

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<sup>52</sup> Communities are required to set up savings and loans schemes; Loans are only provided to savings groups who have shown themselves capable of sustained saving and of managing funds; the loan is never provided to individuals. The group is responsible for the repayment of loans.

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## 1: Land and Security of Tenure

| Indicator                                      | Sub-indicator |  | Ranking   |  |   |   |   |
|--|---------------|--|---|--|---|---|---|
|  |               |  | 0   | 1  | 2   | 3   | 4   |
| Legislative Functional Effectiveness           | 1a.1          | Consistency of policy objectives   | The regulatory framework in this area has no policy and no clear objectives.  | Inconsistent policies exist and laws have diverse policy objectives.   | Consistent policies exist in this area but regulations have different objectives.   | Regulatory measures in this area have consistent objectives.  | Regulatory measures in this area have consistent objectives based on clear policies.  |
|  | 1a.2          | Transparency and efficiency of mechanisms and processes                            | Complicated and bureaucratic process with the outcome of the decision left completely to the discretion of public officers.   | Complex and non-transparent process. Some rules exist to guide the outcome of the decision but they can easily be manipulated.   | Processes are clearly defined with a fair amount of discretion but checks and balances (ex. hierarchical approval by different institutions, public participation, consultation, court appeal, etc.) are dysfunctional.   | Processes are clearly defined with a fair amount of discretion. There are functioning checks and balances (ex. hierarchical approval by different institutions, public participation, consultation, court appeal, etc.) | Processes are clearly defined and fully transparent such that the outcome of the decision does not involve any discretion.  |
|  | 1a.3          | Organization of institutional responsibilities and roles                           | Several institutions have responsibilities in implementing the regulations and no coordination mechanism is in place.   | Several institutions have responsibilities in implementing the regulations. Coordination mechanisms exist but they don't work.   | Several institutions have responsibilities in implementing the regulations. Coordination mechanisms exist but they work only occasionally.  | Institutional roles and responsibilities in this sector are concentrated in one institution that not always works efficiently.  | Institutional roles and responsibilities in this sector are concentrated in one efficient institution or in several well-coordinated institutions.  |
|  | 1a.4          | Clarity in standard of drafting  | Extremely unclear and ambiguous language with the interpretation left completely to the discretion of public officers.  | Unclear and ambiguous language with some rules or court decisions to guide the outcome of the decision but they can easily be manipulated.   | Unclear and ambiguous language with some rules or court decisions that aid the interpretation.  | Legislative texts are written in clear and unambiguous language understandable by professionals only.   | Legislative texts are written in clear and unambiguous language understandable by professionals and common citizens.  |
|  | 1a.5          | Capacity for implementation  | Human and financial resources are completely inadequate to implement the legislative framework.   | Human and financial resources are inadequate to implement the legislative framework but could be improved in several years (+5 years) with capacity development.   | Human and financial resources are inadequate to implement the legislative framework but could be realistically improved in a few years (2-3 years) with capacity development.   | Human and financial resources are barely adequate.  | Human and financial resources are adequate for the successful implementation of the legislative framework in this area.   |
| Land and Security of Tenure: Technical Aspects | 1b.1          | Flexible tenure systems  | Only individual freehold and leasehold land rights are recognized.  | Legislation only recognizes individual freehold and leasehold land rights; administrative recognition is granted to informal occupancy.  | Legislation only recognizes individual freehold and leasehold land rights; legal recognition is granted to informal occupancy by issuing temporary occupancy permits.   | Legislation recognizes individual freehold and leasehold land rights, customary land rights and occupation.   | Legislation recognizes individual freehold and leasehold land rights, customary, occupation and collective land rights.   |
|  | 1b.2          | Land regularization  | No legal mechanism present on land regularization.  | No mechanism present on land regularization. The legal system recognizes "occupancy rights" to land with non-documentary proofs such as street addressing, payment of property tax, utilities payment, housing contracts etc. without issuing any occupancy permits. | No mechanism present on land regularization. The legal system recognizes "occupancy rights" to land with non-documentary proofs such as street addressing, payment of property tax, utilities payment, housing contracts etc. by issuing temporary occupancy permits. | Land regularization mechanism exists through issuing long-term or renewable permits to occupy in informal settlements.  | Land regularization mechanisms exist: titling individual/collective freehold rights through shortened adverse possession with simplified process admitted for small plots, combined with issuing occupancy or use permits for short term residents in slums with simplified process admitted (both documentary and non-documentary forms of evidence are accepted). |
|  | 1b.3          | Eviction and involuntary relocation  | No rules governing how evictions should be carried out and no legal protection against forced evictions.  | Forced evictions are prohibited by law but no requirement of reasonable ground (public interests) to justify the evictions.  | Forced evictions are prohibited by law. Evictions can only be justified under reasonable ground (public interests).   | Forced evictions are prohibited. Evictions can only be justified under reasonable ground (public interests), and following due process. However, procedural obligations on evictions are not adequate.                  | Forced evictions are prohibited. Evictions can only be justified under reasonable ground (public interests) with due process. Procedural obligations on evictions are adequate, including: compulsory consultation for alternatives; adequate notice; legal remedies, compensation and relocation, etc.   |
|  | 1b.4          | Mechanisms to resolve disputes   | Only judicial dispute mechanisms are available for housing and land disputes. No legal aid is provided to low income group.   | Only judicial dispute resolution mechanisms are available, legal aid is available to low income and marginalized group.  | Judicial dispute resolution mechanisms and legal aids are available to low income and marginalized group. Special courts, collective mechanisms, or lowering applicable standards are applied for such disputes.  | Judicial dispute resolution mechanisms and legal aids are available to low income and marginalized group. ADR mechanisms for housing and land disputes exist.   | Judicial and ADR mechanisms are available. Legal aid is available. Special courts, collective mechanisms, or lowering applicable standards are applied for such disputes.   |
|  | 1b.5          | Reduce administrative hurdles and fees on land titling, registration and transfers | The regulatory framework does not have reduced fees and simplified processes for land-related services (such as land titling, registration and transfers) for slums and affordable housing. | The regulatory framework has reduced fees for land-related services (such as land titling, registration and transfers) for slums and affordable housing.   | The regulatory framework has reduced timeframes and procedures associated with land-related services for slums and affordable housing.  | The regulatory framework requires to reduce the fees, time and procedures associated with land-related services for slums and affordable housing.   | A streamlined, affordable and fast procedure exists on land-related services: include new technologies for surveying, automating processes; improving online access etc.  |

## 2: Inclusive Planning at Scale

| Indicator                                      | Sub-indicators |  | Ranking  |   |  |   |   |
|--|----------------|--|--|---|--|---|---|
|  |                |  | 0  | 1   | 2  | 3   | 4   |
| Legislative Functional Effectiveness           | 2a.1           | Consistency of policy objectives   | The regulatory framework in this area has no policy and no clear objectives.   | Inconsistent policies exist and laws have diverse policy objectives.  | Consistent policies exist in this area but regulations have different objectives.  | Regulatory measures in this area have consistent objectives.  | Regulatory measures in this area have consistent objectives based on clear policies.  |
|  | 2a.2           | Transparency and efficiency of mechanisms and processes                        | Complicated and bureaucratic process with the outcome of the decision left completely to the discretion of public officers.  | Complex and non-transparent process. Some rules exist to guide the outcome of the decision but they can easily be manipulated.  | Processes are clearly defined with a fair amount of discretion but checks and balances (ex. hierarchical approval by different institutions, public participation, consultation, court appeal, etc.) are dysfunctional.  | Processes are clearly defined with a fair amount of discretion. There are functioning checks and balances (ex. hierarchical approval by different institutions, public participation, consultation, court appeal, etc.)   | Processes are clearly defined and fully transparent such that the outcome of the decision does not involve any discretion.  |
|  | 2a.3           | Organization of institutional responsibilities and roles                       | Several institutions have responsibilities in implementing the regulations and no coordination mechanism is in place.  | Several institutions have responsibilities in implementing the regulations. Coordination mechanisms exist but they don't work.  | Several institutions have responsibilities in implementing the regulations. Coordination mechanisms exist but they work only occasionally.   | Institutional roles and responsibilities in this sector are concentrated in one institution that not always works efficiently.  | Institutional roles and responsibilities in this sector are concentrated in one efficient institution or in several well-coordinated institutions.  |
|  | 2a.4           | Clarity in standard of drafting  | Extremely unclear and ambiguous language with the interpretation left completely to the discretion of public officers.   | Unclear and ambiguous language with some rules or court decisions to guide the outcome of the decision but they can easily be manipulated.                                | Unclear and ambiguous language with some rules or court decisions that aid the interpretation.   | Legislative texts are written in clear and unambiguous language understandable by professionals only.   | Legislative texts are written in clear and unambiguous language understandable by professionals and common citizens.  |
|  | 2a.5           | Capacity for implementation  | Human and financial resources are completely inadequate to implement the legislative framework.  | Human and financial resources are inadequate to implement the legislative framework but could be improved in several years (+5 years) with capacity development.          | Human and financial resources are inadequate to implement the legislative framework but could be realistically improved in a few years (2-3 years) with capacity development.  | Human and financial resources are barely adequate.  | Human and financial resources are adequate for the successful implementation of the legislative framework in this area.   |
| Inclusive Planning at Scale: Technical Aspects | 2b.1           | Planning at scale  | The urban planning framework has no requirement to consider demographic and migratory trends, housing needs and income projections when developing new plans.  | The planning framework requires realistic projections to be made of demographic and migratory trends but no requirement to consider current and expected housing deficit. | The planning framework requires realistic projections made of demographic and migratory trends, housing deficit and income projections.  | The planning framework requires realistic projections to be made of demographic and migratory trends, housing deficit, considering income estimates, and urban plans need to address the projects planning for the supply of the needed serviced land for affordable housing. | The planning framework requires realistic projections to be made of demographic and migratory trends, housing deficit, etc. Mechanisms are in place to implement extension plans and city infills (such as unlocking vacant/idle land, public underused land, assembling or readjusting land such as land consolidation and re-parcelling, etc) and the production of affordable housing. |
|  | 2b.2           | Slum upgrading and city spatial planning                                       | Informal settlements are not integrated into city planning (only when they need to be demolished to build infrastructure).   | Informal settlements are included into city spatial planning but only for redevelopments that will evict current residents.   | Information on informal settlements is included into city wide spatial planning, slums identified and mapped only.   | Information on informal settlements is included into city wide spatial planning, slums identified, mapped and planned but not integrating the sites into the broader city structure.  | Planning frameworks establish the requirement to list, identify and map slums in order to integrate them into the city-wide plan.   |
|  | 2b.3           | Existence of planning instruments and land management tools for slum upgrading | No planning mechanisms exists to deal with slum upgrading and upgrading is dealt with on ad hoc basis (through projects)   | No planning mechanisms exists to deal with slum upgrading and standard planning tools (detailed and neighbourhood plans) are used across the city, including slum areas.  | No planning mechanisms exists to deal with slum upgrading and standard planning tools (detailed and neighbourhood plans) are used across the city, including slum areas. The legal framework has regulations to allow land consolidation and re-parcelling in slums. | Specific planning tools exist to deal with slum upgrading.  | Specific planning tools exist to deal with slum upgrading. The legal framework has regulations to allow land consolidation and re-parcelling in slums.  |
|  | 2b.4           | Community/stakeholders participation   | No framework for community engagement in the planning process.   | The regulatory framework requires the publication, notification and community communication of already developed plans.   | The regulatory framework requires the formal dialogue, face-to-face interaction and consultation with the community/stakeholders of already developed plans.   | The regulatory framework requires the community involvement in the planning formulation phase but the community is involved in the latter stages of planning.   | The regulatory framework requires the broad-based (gender balance and youth etc etc) community involvement in all planning phases with a variety of approaches including new technologies and ICT.  |
|  | 2b.5           | Planning standards   | Same planning standards apply for the whole city including informal settlements (plot size, building height limit, floor-area ratio, streets and public spaces requirements, plot coverage and set back, land use zoning, block length, infrastructure standards etc.) | Special planning standards exist but only on few planning elements.   | Special planning standards exist on several planning elements, but they are not adequate (too high) to support slum upgrading and affordable housing.  | Special planning standards exist on several planning elements, and they are adequate to support slum upgrading and affordable housing.  | All planning standards are adapted to the slum upgrading and affordable housing. The regulatory framework sets up flexible requirements regarding the minimum plot size, minimum parking requirements, floor-space ratios, height restrictions, plot coverage and set back rules, and allows greater density.   |

### 3: Access to Basic Services

| Indicator                                   | Sub-indicator | Ranking  |   |   |   |
|---|---------------|--|---|---|---|
|   |               | 0  | 1   | 2   | 3   |
| Legislative/Functional Effectiveness        | 3a.1          | The regulatory framework in this area has no policy and no clear objectives.   | Inconsistent policies exist and laws have diverse policy objectives.  | Consistent policies exist in this area but regulations have different objectives.   | Regulatory measures in this area have consistent objectives.  |
|   | 3a.2          | Complex and bureaucratic process with the outcome of the decision left completely to the discretion of public officers.  | Complex and non-transparent process. Some rules exist to guide the outcome of the decision but they can easily be manipulated.  | Processes are clearly defined with a fair amount of discretion but checks and balances (ex. hierarchical approval by institutions, public participation, consultation, court appeal, etc.) are dysfunctional.                         | Processes are clearly defined and fully transparent such that the outcome of the decision does not involve any discretion.  |
|   | 3a.3          | Several institutions have responsibilities in implementing the regulations and no coordination mechanism is in place.  | Several institutions have responsibilities in implementing the regulations. Coordination mechanisms exist but they don't work.  | Several institutions have responsibilities in implementing the regulations. Coordination mechanisms exist but they work only occasionally.  | Institutional roles and responsibilities in this sector are concentrated in one efficient institution or in several well-coordinated institutions.  |
|   | 3a.4          | Extremely unclear and ambiguous language with the interpretation left completely to the discretion of public officers.   | Unclear and ambiguous language with some rules or court decisions to guide the outcome of the decision but they can easily be manipulated.  | Unclear and ambiguous language with some rules or court decisions that aid the interpretation.  | Legislative texts are written in clear and unambiguous language, understandable by professionals and common citizens.   |
|   | 3a.5          | Human and financial resources are completely inadequate to implement the legislative framework.  | Human and financial resources are completely inadequate to implement the legislative framework but could be improved in several years (4-5 years) with capacity development.  | Human and financial resources are inadequate to implement the legislative framework but could be realistically improved in a few years (2-3 years) with capacity development.   | Human and financial resources are adequate for the successful implementation of the legislative framework in this area.   |
| Access to Basic Services: Technical Aspects | 3b.1          | Full property title and official documents (such as housing contracts, bank statements, or utility bills as 'proof of residence') are required to be connected to formal services. | Full property title or title of occupation are required to be connected to formal services.   | Any form of documentary (property title and occupancy certificate) and non-documentary forms of evidence (such as testimony of neighbours) are sufficient to be connected to formal services.   | Any person holding an interest in immovable property is entitled to connect the property to the public water supply network. However, the complicated administrative procedures are time consuming and costly.  |
|   | 3b.2          | No legal obligation to guarantee that all people have access to water.   | The legal framework contains an obligation to guarantee that all people have access to water but there are no mechanisms for implementation.  | The legal framework contains an obligation to guarantee that all people have access to water and for utility companies to provide piped water services to all parts of the city.  | The legal framework contains an obligation for utility companies to provide piped water services to all parts of the city. Where not, alternative solutions should be put in place (such as public standpipe, borehole, protected dug well, protected spring, water kiosk, rainwater collection etc).   |
|   | 3b.3          | The legal and regulatory framework does not have any mechanism to promote affordability of water services for low income groups.   | Pricing, tariff and subsidy structures to promote affordability exist but are not adequate to ensure that water is affordable for low income groups.  | Pricing, tariff and subsidy structures to promote affordability exist and they are adequate to ensure that water is affordable for low income groups but connection charges represent a barrier for low income groups.                | Pricing, tariff and subsidy structures to promote affordability exist and they are adequate to ensure that water is affordable for low income groups. Financing mechanisms support connection charges (initial installation fees, construction, operation and maintenance costs, etc). Various payment modalities are available for paying service charges. |
|   | 3b.4          | No clear and effective legislation regulates the operations, quality, safety and quantity standards of water service providers (public, private, or community-based).              | Standards on basic services exist but they do not meet the international standard: safe access to water facilities not more than 1km and 30 min walking time from home; minimum amount of 20 litres per person per day; safe and non-polluted water. Disconnection is possible as result of inability to pay or unwilling eviction. | Operation, quality, safety and quantity standards on basic services exist but they do not meet the international standards. Disconnection of water provision is not possible as result of inability to pay and/or unwilling eviction. | Operation, quality, safety and quantity standards on basic services exist and are higher than international standards. Disconnection of water provision is not possible as result of inability to pay and/or unwilling eviction.  |
|   | 3b.5          | Full property title and official documents (such as housing contracts, bank statements, or utility bills as 'proof of residence') are required to be connected to formal services. | Full property title or title of occupation are required to be connected to formal services.   | Any form of documentary (property title and occupancy certificate) and non-documentary forms of evidence (such as testimony of neighbours) are sufficient to be connected to formal services.   | Any person holding an interest in immovable property is entitled to connect the property to the public electricity supply network. However, the complicated administrative procedures are time consuming and costly.  |
|   | 3b.6          | No legal obligation to guarantee that all people have access to electricity.   | The legal framework contains an obligation to guarantee that all people have access to electricity but there are no implementation mechanisms.  | The legal framework contains an obligation to guarantee that all people have access to electricity and for utility companies to provide grid systems to all parts of the city.  | The legal framework contains an obligation for utility companies to provide grid systems to all parts of the city. When grid systems cannot be built, alternative off-grid options (mini-grids or individual systems) should be put in place and provided with safety and reliability concerns.   |
|   | 3b.7          | The legal and regulatory framework does not have any mechanism to promote affordability of electricity services for low income groups.   | Pricing, tariff and subsidy structures are in place but they are not adequate to ensure that electricity is affordable for low income groups.   | Appropriate pricing, tariff and subsidy structures ensure that electricity is affordable for low income groups but connection charges represent a barrier for low income groups.  | Appropriate pricing, tariff and subsidy structures ensure that electricity is affordable for low income groups. There are subsidies or consumer financing mechanisms available to support the payment of connection charges (initial installation fees, construction, operation and maintenance costs, etc).  |
|   | 3b.8          | No clear and effective legislation regulates the operations, safety and quantity standards of electricity service providers (public, private, or community-based).                 | Operation, safety and quantity standards on basic services exist but they are not adequate. Disconnection of electricity provision is possible as result of the inability to pay and/or unwilling eviction.   | Operation, safety and quantity standards on basic services exist but they are not adequate. Disconnection of electricity provision is not possible as result of inability to pay and/or unwilling eviction.                           | Operation, safety and quantity standards on basic services exist and are more than adequate. Disconnection of electricity provision is not possible as result of inability to pay and/or unwilling eviction.  |
|   | 3b.9          | Full property title and official documents (such as housing contracts, bank statements, or utility bills as 'proof of residence') are required to be connected to formal services. | Full property title or title of occupation are required to be connected to formal services.   | Any form of documentary (property title and occupancy certificate) and non-documentary forms of evidence (such as testimony of neighbours) are sufficient to be connected to formal services.   | Any person holding an interest in immovable property is entitled to connect the property to the public sewerage network. However, the complicated administrative procedures are time consuming and costly.  |
|   | 3b.10         | There is no legal obligation to provide sanitation facilities and no public support to change the quality of and access to sanitation facilities.                                  | The legal obligation to provide sanitation facilities exists but there is no public support to change the quality of and access to sanitation facilities.   | Legal obligation to provide sanitation services exists and there are mechanisms for public support to community and private shared/improved sanitation facilities.  | Legal obligation to provide improved sanitation services exists and there are mechanisms for public support to improved sanitation facilities. Public utility company have to support low-cost sewerage options, including small-bore sewerage and decentralized, neighbourhood-based treatment plants.   |
|   | 3b.11         | The legal and regulatory framework does not have any requirement to promote affordability of sanitation services for low income groups.  | Pricing, tariff and subsidy structures are in place but they are not adequate to ensure that the sanitation service (including the collection, transport and disposal or reuse of human wastes) is affordable for low income groups.  | Appropriate pricing, tariff and subsidy structures are developed to ensure that the sanitation service is affordable for low income groups.   | Appropriate pricing, tariff and subsidy structures are developed to ensure that the sanitation service is affordable for low income groups. There are subsidies or consumer financing mechanisms available to support the payment of connection fees (initial installation fees, construction, operation and maintenance costs, etc)                        |
|   | 3b.12         | Guidance for the safe on-site treatment and use of human excreta from latrines are not in place.   | Standards and guidance on sanitation exist but not sufficient.  | There are standards and guidance relating to the construction and maintenance of a latrine, and also consideration of collection, treatment and disposal or reuse of wastes.  | The standards and guidance include safety and quality concern. To be specific, it contains guidance on safe construction, safe use, physical accessibility and safe wastes management   |

#### 4: Housing

| Indicator                            | Sub-indicator | Ranking  |  |  |  |  |   |
|--------------------------------------|---------------|--|--|--|--|--|---|
|                                      |               | 0  | 1  | 2  | 3  | 4  |   |
| Legislative Functional Effectiveness | 4a.1          | Consistency of policy objectives                         | The regulatory framework in this area has no policy and no clear objectives.   | Inconsistent policies exist and laws have diverse policy objectives.   | Consistent policies exist in this area but regulations have different objectives.  | Regulatory measures in this area have consistent objectives.   | Regulatory measures in this area have consistent objectives based on clear policies.  |
|                                      | 4a.2          | Transparency and efficiency of mechanisms and processes  | Complicated and bureaucratic process with the outcome of the decision left completely to the discretion of public officers.  | Complex and non-transparent process. Some rules exist to guide the outcome of the decision but they can easily be manipulated.   | Processes are clearly defined with a fair amount of discretion but checks and balances (ex. hierarchical approval by different institutions, public participation, consultation, court appeal, etc.) are dysfunctional.  | Processes are clearly defined with a fair amount of discretion. There are functioning checks and balances (ex. hierarchical approval by different institutions, public participation, consultation, court appeal, etc.)  | Processes are clearly defined and fully transparent such that the outcome of the decision does not involve any discretion.  |
|                                      | 4a.3          | Organization of institutional responsibilities and roles | Several institutions have responsibilities in implementing the regulations and no coordination mechanism is in place.  | Several institutions have responsibilities in implementing the regulations. Coordination mechanisms exist but they don't work.   | Several institutions have responsibilities in implementing the regulations. Coordination mechanisms exist but they work only occasionally.   | Institutional roles and responsibilities in this sector are concentrated in one institution that not always works efficiently.   | Institutional roles and responsibilities in this sector are concentrated in one efficient institution or in several well-coordinated institutions.  |
|                                      | 4a.4          | Clarity in standard of drafting                          | Extremely unclear and ambiguous language with the interpretation left completely to the discretion of public officers.   | Unclear and ambiguous language with some rules or court decisions to guide the outcome of the decision but they can easily be manipulated.   | Unclear and ambiguous language with some rules or court decisions that aid the interpretation.   | Legislative texts are written in clear and unambiguous language understandable by professionals only.  | Legislative texts are written in clear and unambiguous language understandable by professionals and common citizens.  |
|                                      | 4a.5          | Capacity for implementation                              | Human and financial resources are completely inadequate to implement the legislative framework.  | Human and financial resources are inadequate to implement the legislative framework but could be improved in several years (+5 years) with capacity development.   | Human and financial resources are inadequate to implement the legislative framework but could be realistically improved in a few years (2-3 years) with capacity development.  | Human and financial resources are barely adequate.   | Human and financial resources are adequate for the successful implementation of the legislative framework in this area.   |
| Housing: Technical Aspects           | 4b.1          | Supply of affordable housing for sale and rent           | The supply of affordable housing for sale/rent is left to the market, no obligation for developers, and no state policy to address the housing shortage.   | The regulatory framework requires the development of national and city level policies to address the housing shortage.   | The regulatory framework requires the development of national and city level policies to address the housing shortage. There are incentives and obligations for developers to produce the affordable housing for sale/rent.  | The regulatory framework requires the development of national and city level policies to address the housing shortage. There are incentives/obligations for developers to produce the affordable housing for sale/rent. There are mechanisms to reduce the cost of affordable housing.   | The regulatory framework requires national and city policies to address housing shortage. There are incentives/obligations to produce the affordable housing for sale/rent. There are mechanisms to reduce the cost of affordable housing, to ensure adequate tenure options and supply of affordable housing in appropriate locations. |
|                                      | 4b.2          | Strengthen legislative framework for rental housing      | The rental market has not been regulated.  | The rental market has been regulated. However, regulations do not protect tenants against arbitrary eviction, rent hikes, and negligent landlords  | The rental market is regulated and regulations protect tenants against negligent landlords.  | The rental market is regulated and regulations protect tenants against rent hikes and negligent landlords.   | The rental market is regulated and regulations protect tenants against arbitrary eviction, rent hikes, and negligent landlords.   |
|                                      | 4b.3          | Development of flexible building regulations             | The same building regulations apply to all houses in the country. No specific regulations for affordable/incremental housing.  | The standards and regulations allow the use of affordable and readily available local building materials (wood, mud, soil, corrugated iron, etc.) for affordable housing and houses of limited size and elevation. However, incremental housing and self-construction is not possible. | Building regulations permit the construction of both basic services infrastructure and houses with some deviations to the normal permitting procedures. However, they must meet the minimum construction standards on floor plans, and mandatory building or apartment amenities and features etc. | Building regulations permit the construction of both basic services infrastructure and houses with some deviations to the normal permitting procedures. The building regulations are flexible but still meet minimum habitability standard on physical safety or provide adequate space, as well as protection against the cold, damp, heat, rain, wind, other threats to health and structural hazards. | Building regulations permit the construction of both basic services infrastructure and houses with some deviations to the normal permitting procedures. The building regulations are flexible but still meet minimum standard of adequate housing regarding habitability and availability of services.                                  |
|                                      | 4b.4          | Regularization of informal housing                       | The regulatory framework does not allow the regularization of informally built houses ex post. Removal of the house remains as the main sanction for these construction.   | The regulatory framework allows the regularization of informally built houses ex post. Financial penalty remains the main sanction, no identification of different types of informally built houses.   | The regulatory framework allows the regularization of informally built houses ex post. Financial penalty remains the main sanction which is imposed depending on the amount of time that the building has been in existence. Poorly constructed houses have been identified for regularization.    | The framework allows the regularization of informally built houses ex post. The legalization process applies to poorly constructed houses, including no sanctions against house owners, and lowering criteria for legalization. For instance, poorly constructed houses could be recognized after upgrading the house to be habitable and the basic services are available.                              | The regulatory framework allows the regularization of informally built houses ex post. The legalization process applies to poorly constructed houses, including the extension of deadlines, lowering criteria for legalization, no sanctions against house owner, etc.  |
|                                      | 4b.5          | Reduce administrative hurdles to build/upgrade a house   | Cities have long permitting timelines and complex and costly procedures. Complying with formalities to build affordable housing or upgrade existing settlement comprises more than 25 procedures, is very costly and takes more than a year. | The regulatory framework requires to reduce the fees associated with procedures of building affordable housing and upgrading existing settlement   | The framework requires to reduce the time and procedures of building affordable housing and upgrading existing settlement. These may include eliminating unnecessary steps or combining steps and centralizing authority, automating permitting processes, improving online access, etc.           | The regulatory framework requires to reduce the fees, time and procedures of building affordable housing and upgrading existing settlement. Complying with formalities comprises less than 15 procedures and takes less than 160 days.   | The regulatory framework requires to reduce the fees, time and procedures of building affordable housing and upgrading existing settlement. Complying with formalities takes less than 2 months.  |
|                                      | 4b.6          | Identify Beneficiaries                                   | The regulatory framework does not require a transparent targeting system for identification and verification of beneficiary households.  | The regulatory framework requires the establishment of a transparent identification and verification system but the eligibility criterion primarily benefits middle-income group.  | The regulatory framework requires to establish a transparent identification and verification system and the eligibility criterion are context-related and are made for the most needed groups with taking into account beneficiaries' income and needs.  | The framework requires to establish a transparent identification and verification system and the eligibility criterion are context-related and are made for the most needed groups with taking into account income and needs. Moreover, the selection and allocation process is undertaken in collaboration with communities.  | The framework requires to establish a transparent identification and verification system, eligibility criterion considered context, the most needed groups, income and needs. The selection and allocation process is undertaken in collaboration with communities. Dispute settlement mechanisms are simple, flexible and expeditious. |

## 5: Financing

| Indicator                            | Sub-indicators |  | Ranking   |  |   |  |   |
|--------------------------------------|----------------|--|---|--|---|--|---|
|                                      |                |  | 0   | 1  | 2   | 3  | 4   |
| Legislative Functional Effectiveness | 5a.1           | Consistency of policy objectives                         | The regulatory framework in this area has no policy and no clear objectives.  | Inconsistent policies exist and laws have diverse policy objectives.   | Consistent policies exist in this area but regulations have different objectives.   | Regulatory measures in this area have consistent objectives.   | Regulatory measures in this area have consistent objectives based on clear policies.  |
|                                      | 5a.2           | Transparency and efficiency of mechanisms and processes  | Complicated and bureaucratic process with the outcome of the decision left completely to the discretion of public officers. | Complex and non-transparent process. Some rules exist to guide the outcome of the decision but they can easily be manipulated.   | Processes are clearly defined with a fair amount of discretion but checks and balances (ex. hierarchical approval by different institutions, public participation, consultation, court appeal, etc.) are dysfunctional.   | Processes are clearly defined with a fair amount of discretion. There are functioning checks and balances (ex. hierarchical approval by different institutions, public participation, consultation, court appeal, etc.)  | Processes are clearly defined and fully transparent such that the outcome of the decision does not involve any discretion.  |
|                                      | 5a.3           | Organization of institutional responsibilities and roles | Several institutions have responsibilities in implementing the regulations and no coordination mechanism is in place.       | Several institutions have responsibilities in implementing the regulations. Coordination mechanisms exist but they don't work.   | Several institutions have responsibilities in implementing the regulations. Coordination mechanisms exist but they work only occasionally.  | Institutional roles and responsibilities in this sector are concentrated in one institution that not always works efficiently.   | Institutional roles and responsibilities in this sector are concentrated in one efficient institution or in several well-coordinated institutions.  |
|                                      | 5a.4           | Clarity in standard of drafting                          | Extremely unclear and ambiguous language with the interpretation left completely to the discretion of public officers.      | Unclear and ambiguous language with some rules or court decisions to guide the outcome of the decision but they can easily be manipulated.   | Unclear and ambiguous language with some rules or court decisions that aid the interpretation.  | Legislative texts are written in clear and unambiguous language understandable by professionals only.  | Legislative texts are written in clear and unambiguous language understandable by professionals and common citizens.  |
|                                      | 5a.4           | Capacity for implementation                              | Human and financial resources are completely inadequate to implement the legislative framework.                             | Human and financial resources are inadequate to implement the legislative framework but could be improved in several years (+5 years) with capacity development.   | Human and financial resources are inadequate to implement the legislative framework but could be realistically improved in a few years (2-3 years) with capacity development.   | Human and financial resources are barely adequate.   | Human and financial resources are adequate for the successful implementation of the legislative framework in this area.   |
| Financing: Technical Aspects         | 5b.1           | Availability of national resources and framework         | No regulatory requirement to dedicate national resources on slum upgrading and affordable housing programmes.               | The regulatory framework requires the allocation of national budget for slum upgrading and affordable housing programmes.  | The regulatory framework requires the allocation of national budget and sets out a special tax or a dedicated fund for slum upgrading and affordable housing programmes   | The framework requires the allocation of national budget and sets out special tax/fund for slum upgrading and affordable housing programmes. It also requires the slum upgrading and affordable housing programmes to be implemented in collaboration with or through local governments and aligned with local priorities and urban plans. | The framework requires the allocation of national budget and sets out special tax/fund for slum upgrading and affordable housing programmes. It also requires the national programmes to be implemented in collaboration with or through local governments and aligned with local priorities and urban plans. There is a clear and transparent decision making process and criteria on public investments. (For instance, the criteria should be based on fair regional representation, capacity of local governments, potential impact, etc.)                              |
|                                      | 5b.2           | Municipal finance  | Local government have the mandate to collect property taxes only.   | The regulatory framework allows for collection of property taxes, developer exactions and other land value sharing taxes. There is no regulatory requirement to dedicate local government resources on slum upgrading and affordable housing programmes. | The regulatory framework allows for revenue collection but requires the allocation of local government budget for slum upgrading and affordable housing programmes.   | The regulatory framework allows for revenue collection but requires the allocation of local government budget for slum upgrading and affordable housing programmes. Special tax and fund exist to finance such programmes.   | The framework allows for revenue collection and requires the allocation of local government budget for those programmes. Special tax and fund exist to finance such programmes. There is a clear and transparent decision making process and criteria on public investments. (The criteria should be based on city plans and priorities.)   |
|                                      | 5b.3           | PPP/multi stakeholder partnerships                       | The regulatory framework does not allow PPPs.   | The regulatory framework allows national/local government to develop the project on PPPs but there is no detailed regulation to guide government and private sector in entering into PPPs.   | The regulatory framework sets out rules to guide national/local government and private sector on PPPs projects, including laws regarding contract enforcement and disagreement resolution.  | The framework sets out rules to guide national and local government and private sector, including laws regarding contract enforcement and disagreement resolution. It also establishes mechanisms to decrease the risk of PPPs (such as government repurchase, strict market entrance standards, transparency requirements).               | The framework not only sets out rules to safeguard PPPs project, but also requires the government to give priority to PPPs on slum upgrading and housing programmes. Financial mechanisms are in place, for instance, returns on bonds may be exempt from capital gains tax, thus reducing the financing cost of the PPPs deal.   |
|                                      | 5b.4           | Helping the demand side                                  | The regulatory framework does not regulate microfinance institutes and community saving mechanisms.                         | The regulatory framework regulates and encourages the operations of microfinance institutes and community saving schemes.  | he regulatory framework regulates and facilitates the operations of microfinance institutes and community saving schemes. In-kind housing (provision of building materials for example) support are provided for incremental housing and slum upgrading programmes. | The regulatory framework regulates and facilitates the operations of microfinance institutes and community saving schemes. A variety of housing and rental subsidies (in-kind and monetary) exists diversified based on income levels.   | The framework regulates and facilitates the operations of microfinance institutes and community saving schemes. A variety of housing and rental subsidies exists. Financial incentives exist to develop and support diverse community finance schemes, which include: savings and loans schemes (generated internally) ; revolving funds (using internal or external funds and managed by community organizations); guarantee funds (to attract external private bank lending to communities for upgrading); community banking (internal savings managed by the community). |