

Based on
the Handbook
on Best Practices,
Security of Tenure
and Access to Land

PRO POOR LAND MANAGEMENT

INTEGRATING SLUMS INTO CITY PLANNING APPROACHES



UN-HABITAT

UNITED NATIONS HUMAN SETTLEMENTS PROGRAMME

UN-HABITAT MISSION STATEMENT

The mission of UN-HABITAT is to promote socially and environmentally sustainable human settlements development and the achievement of adequate shelter for all.

History and Background

Originally established in 1978 as an outcome of the United Nations Conference on Human Settlements held in Vancouver, Canada, in 1976, UN-HABITAT is charged with coordinating and harmonizing human settlement activities within the UN system. It facilitates the global exchange of information on shelter and sustainable human settlements development, and gives countries policy and technical advice. At the second UN conference on Human Settlements, in Istanbul, Turkey in June 1996, governments agreed on the Habitat Agenda and Istanbul Declaration, committing themselves to the goals of adequate shelter for all and sustainable human settlements development in an urbanizing world. Five years later, in June 2001, the Declaration on Cities and other Human Settlements in the New Millennium, endorsed by the General Assembly, entrusted the organisation, then called the United Nations Centre for Human Settlements (Habitat), with continued responsibility for supporting implementation of the Habitat Agenda. In 2002, the General Assembly transformed the organization into a fully-fledged programme of the United Nations and renamed it UN-HABITAT: United Nations Human Settlements Programme.

Strategy

UN-HABITAT bases its activities on four main strategic objectives:

- **Advocacy** – Drawing the world's attention to crucial human settlements problems and spurring governments and other organisations into action. UN-HABITAT conducts its advocacy through the Global Campaign on Secure Tenure, the Global Campaign on Urban Governance and World Habitat Day
- **Research and Monitoring** – Coordinates global efforts that monitor human settlements conditions and progress in the implementation of the Habitat Agenda by identifying innovative solutions and practices. The results are disseminated through two flagship publications, the Global Report on Human Settlements, and the State of the World's Cities Report, as well as other specialised technical publications
- **Training and Capacity-Building** – UN-HABITAT strengthens the capacity to plan, develop and manage human settlements, particularly at local government level. Important tools include training for local leaders as well as development, testing and dissemination of training materials
- **Technical Cooperation** – UN-HABITAT provides national and local governments advisory services and technical support, including assistance with mobilising financial and human resources to implement sustainable projects. UN-HABITAT is involved in hundreds of such projects in over 54 countries world-wide.

OTHER RECENT PUBLICATIONS

Women's Rights To Land, Housing and Property in Post-Conflict situations and During Reconstruction

HS Number: HS/589/99E, 1999

Rights & Reality: Are women's equal rights to land, housing and property implemented in East Africa

ISBN No.: 92-1-131663-4

HS Number: HS/667/02E, 2002

Housing rights legislation: Review of international and national legal instruments

HS/638/01 E; ISBN 92-1-131628-6 (printed) [126+xvi pp.];

ISBN 92-1-131507-7 (electronic version).

UN-HABITAT and OHCHR, Nairobi and Geneva, 2002.

International instruments on housing rights

HS/639/01 E, ISBN 92-1-131508-8 (electronic version only).

UN-HABITAT, Nairobi, 2002.

National housing rights legislation

HS/640/01 E; ISBN 92-1-131509-9 (electronic version only).

UN-HABITAT, Nairobi, 2002.

Compilation of selected adjudication on housing rights

HS/641/01 E; ISBN 92-1-131510-7 (electronic version only).

UN-HABITAT, Nairobi, 2002.

Handbook on Best Practices, Security of Tenure and Access to Land - Implementation of the Habitat Agenda

ISBN No: 92-1-131446-1

HS Number: HS/588/99E, 2003.



Pro Poor Land Management

Integrating slums into city
planning approaches



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Authors: Clarissa Augustinus, Ulrik Westman, Sylvie Lacroux and Absolute Proof.

Design by: Kathy Arbuckle

Photographs by UN-HABITAT, Robert Appleby, Rauri Alcock and Digital Globe

Acknowledgements:

This booklet simplifies information produced by UN-HABITAT in the Handbook On Best Practices: Security of Tenure and Access to Land, which was published in 2003. The Handbook reviews information produced by UN-HABITAT partners in terms of the implementation of Habitat Agenda.

The publication of this booklet was funded by the Global Campaign for Secure Tenure, with funds provided by the government of Belgium and the Netherlands.

Reference to the Handbook (H) is made by page number and section number.

Nairobi 2004
HS/728/04E
ISBN 92-1-131710-8

Foreword

Abject poverty is the plight of so many of our fellow humans. One in five spends their life in urban slums. One in two lacks basic sanitation. Governments around the world have formally recognized universal rights to adequate housing and living standards. Yet increasing numbers only manage to trade rural for urban destitution. This is because institutional frameworks deny them the opportunities to which we are all entitled.

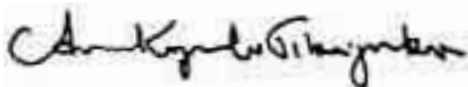
Lack of access to land, and fear of eviction, epitomize a more pervasive exclusion from mainstream social, economic and civic opportunities, especially for women. Precarious conditions generate poverty as people have no future in which to invest. As their numbers keep mounting, the prospects for our collective sustainable urban development look bleak.

The urban poor need safer grounds on which to leverage a future and this is what UN-HABITAT is looking to achieve with its Campaign for Secure Tenure. Since its launch in 1999, a number of countries have joined the tenure campaign and agreed to implement, at local level, a set of recognized universal principles.

This booklet on Pro Poor Land Management is designed to help all the stakeholders actively involved in the campaign, including multilateral institutions, central and local government, non-governmental organisations, the private sector and grassroots action groups. It seeks to provide them with the information they need in their own efforts to implement national strategies, and outlines specific action plans for every category.

In this, as in other respects, the Campaign for Secure Tenure complements UN-HABITAT's ongoing Campaign on Urban Governance. Both aim to deliver on the commitments made at the 2000 UN Millennium Summit and the 2002 World Summit on Sustainable Development. Both promote a vision of an urban future based on inclusion, social and economic development - a future based on human opportunity and on hope.

I trust users of this UN-HABITAT booklet on Pro Poor Land Management will find it an effective tool in our collective endeavour to promote universal housing rights.



Mrs. Anna Kajumulo Tibaijuka
Executive Director
UN-HABITAT

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How to use this booklet



1. Reference

These numbers will refer you to the section in the Handbook where you will find more information about the issue.



3. Example of Best Practice

When you see this symbol, it means the information contained in the box is an example of best practice from the Handbook.



Did you know?

4. Did you know?

This symbol tells you that this information is a fact about the issue being discussed.



5. Definitions

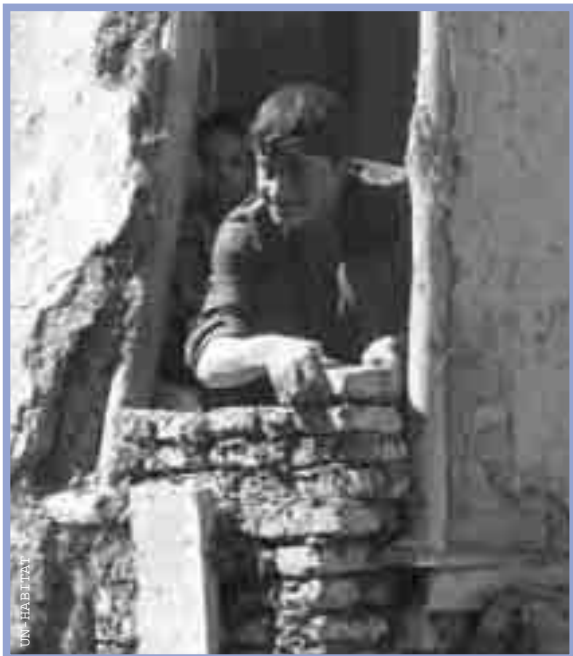
This symbol tells you that this information will explain some of the difficult concepts and terms contained in the Handbook and this booklet.

Introduction

This booklet is based on UN-HABITAT's Handbook on Best Practices, Security of Tenure and Access to Land. You will find a copy of this handbook on <http://www.unhabitat.org/programmes/landtenure> under publications.

In 1999, UN-HABITAT launched the Global Campaign for Secure Tenure. A number of countries joined the campaign and agreed to implement a set of universal principles at local level. The need for such a campaign arose from a growing recognition that the way land and housing access is regulated in the west does not work well for the poor in developing countries. This has caused many concerned people to try to develop land management tools that meet the needs of developing countries.

This booklet supports the campaign by providing stakeholders with information about how to implement national strategies. It attempts to introduce the key concepts that are dealt with in the handbook and is intended to give readers a starting point for future reading and action around the Global Campaign for Secure Tenure.



What is UN-Habitat?

UN-HABITAT is the United Nations Human Settlements Programme, which started in 1978 when half of the world's population was rural. Today, as our towns and cities grow at unprecedented rates, sustainable urbanisation is a pressing challenge for the global community. More than 50% of the population in developing countries are slum dwellers who have little or no access to shelter, water, and sanitation. This is where UN-HABITAT is mandated to make a difference. The Millennium Declaration, which expresses the commitment of Member States to improve the lives of at least 100 million slum dwellers by the year 2020, guide the work of UN-HABITAT. Key activities in this work are two worldwide campaigns – the Global Campaign for Secure Tenure and the Global Campaign on Urban Governance.

For more information, see www.unhabitat.org.



Did you know?

The Global Campaign for Secure Tenure aims to deliver on commitments made at the UN Millennium Summit in 2000 and the World Summit on Sustainable Development in 2002. These summits both promote a vision of an urban future based on inclusion and social and economic development – a future based on human opportunity and on hope.

Chapter One

- How can legal access to land start to address urban poverty?
- Why are the poor excluded in city developments?
- Why can't the poor access land in the city legally and become visible?
- How do governments make land available for settlement and development?
- What would you see in a pro poor land management system?

What is pro poor urban land management?

**“Centralized systems for planning, conflict management and land administration are not delivering secure tenure or serviced land to the majority of urban people in developing countries.”
(Handbook: page 88)**

How can legal access to land address urban poverty?

Half of the people living in cities in the developing world live in slums. Around the world up to 30 percent of people live in poverty in cities, and UN-HABITAT estimates that this will increase during the next fifteen years to a massive 50 percent by 2020.

The city authorities view most people living in slums as illegal. Because of this, cities do not plan for or manage slums, and the people living in them are overlooked and excluded. They receive none of the benefits of more affluent citizens, such as access to municipal water, roads, sanitation and sewage. This attitude to slum dwellers and approaches that disregard them, perpetuate the levels and scale of poverty, which impacts on the cities as a whole.

Urban human settlements require a more inclusive approach to planning and land management if they are to sustain all the people who live in them. A basic need for all people living in cities is shelter. Cities that want to meet this need will have to integrate all people and recognize all city dwellers as citizens of the city.

The first step then in creating sustainable urban settlements is for cities to recognize that people living in the slums have a right to be in the city. This recognition will begin to make slum dwellers legitimate citizens, which will start to legalize their tenure.



Slum Networking India

Slum Networking is a project which aims to upgrade cities in India. It has an innovative approach. Instead of ignoring and denying the reality of slums, it uses slums as urban nets to upgrade the whole city in an integrated way. The project identifies where slums are, their spatial spread, and where they are in relation to each other, and city planners use this to strengthen the infrastructure networks of the whole city. The project has shown that it is possible to undertake large-scale urban renewal programs sensitively, if partnerships are created between government agencies (including local government), NGOs (including women's NGOs) and local professionals. Slum dwellers themselves also showed they were willing to mobilize resources despite their poverty.



Why are the poor excluded in city developments?

Many of the women, men and children who live in slums arrived in the cities unnoticed by the authorities. This is because they did not buy or lease houses through the formal government channels. Many obtained sites through informal local processes or family members and used whatever materials they could find to erect a house to live in.



People living in these slums usually do not receive, nor pay for water in their homes, for refuse removal, electricity and for other municipal services as they are either not available to that area or they are obtained through informal (illegal) channels.

Since cities do not formally plan these slums, they have no maps or layouts showing streets and sites and so people living in slums have no officially recognized street addresses.

A vast number of slum dwellers will also probably not be employed or formally employed and up to 60-70 percent of them will probably be women and children.

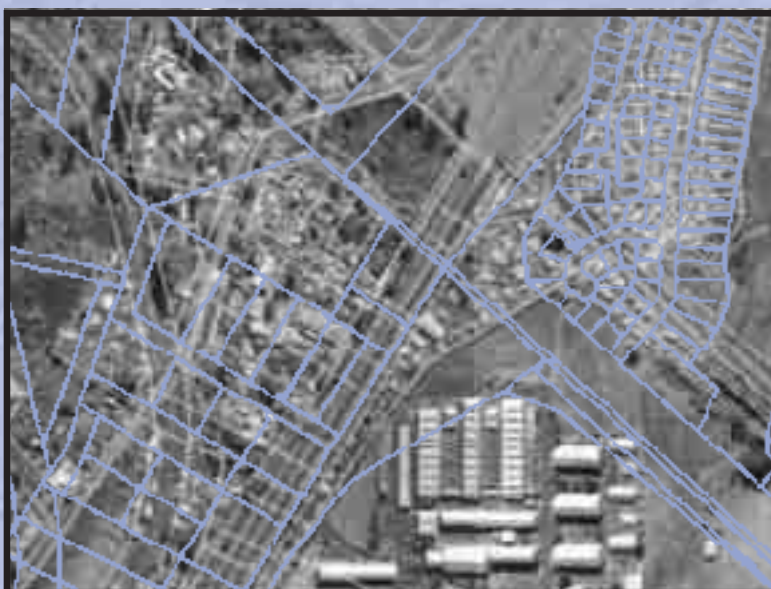
In effect, the women, men and children living in the slums become invisible to the state, while the slums themselves remain highly visible. The people are invisible because they never followed any formal/legal processes to live in the city and they remain invisible because of this. Women also have little economic and political power, which contributes to their invisibility.

The inability to access or afford the formal/legal processes to take up legal residence in the cities is further entrenched by the practice of local authorities to exclude slum dwellers from development and services. This exclusion is a result of their initial illegal access to land in the city.



Did you know?

Women head nearly one third of all households in the world but they are discriminated against when they try to access land and housing. The discrimination is found in laws, administrative practices, custom and tradition. Many countries have no laws or guidelines on how to deal with land and property access for women or the discrimination against women.



The image at the top is a typical representation of a map showing the cadastre (surveyed portions which can be assigned geographical space and ownership). The map on the left shows the same area, but now highlighting settlement patterns. Note how they do not match the surveyed areas. Often slums spread across 'boundaries'.

Why can't the poor access land in the city legally and become visible?



Did you know?

Already countries such as Benin, Burkino Faso, Cameroon, Cote d'Ivoire, Guinea-Bissau, Lesotho, Mali, Nigeria and Zimbabwe in Africa, Bolivia, Ecuador and Paraguay in Latin America, as well as Bhutan, Pakistan and Philippines in Asia have undertaken reviews of land delivery systems, and embarked on programs to decentralize land management responsibilities.



Did you know?

Private sector land developers can include people who work informally to provide land to the poor and to develop it.

The ways in which land is currently supplied for development by government is not pro poor.

In many developing countries the supply system is ineffective and inefficient. This is caused by:

➤ Centralized decision-making



Centralised decision-making refers to the situation where national government retains all the authority, functions and programs around land management. Local authorities play little or no role.

➤ Inefficient use of urban space



Urban space refers to the land in and around the city and how that land is organized, planned and used. It is a space that provides people with places to build houses, factories, shops and social and service facilities (like schools, hospitals and movie houses). This space needs to be organized in an efficient way. This includes making it easy to reach different parts of the city (considering where these parts are in relation to one another and the road and transport network is organized) and cost effective to build necessary infrastructure for millions of people (like water and sewage systems).

➤ Public sector dominated approaches



Public sector dominated approaches often go with centralized decision-making. These approaches rely on the state to make land available for people to live on and for determining standards and procedures for developing this land. Alternatives to public sector dominated approaches would be to recognize private sector land developers, including informal developers, as performing an important service and to include them in decisions about procedures and standards.

➤ **Rigid and costly regulatory frameworks**



Regulatory frameworks mean the laws, policies and procedures that dictate how land can be made available and how it should be developed. These laws include laws on how people are allowed to hold land in order to have that land developed – which often is ownership. Laws determine standards that developers must use when they develop services – for instance, taps in every house or water based toilets. The frameworks also define which government departments must be consulted and have to give consent, the criteria they must use to give consent or approval and who in a department can approve development and in which forum.

➤ **Poor land recording systems and centralized information systems**



Land recording systems refer to ways of identifying who is using a particular piece of land and what they are using it for. Very formal and expensive ways of recording rights to land are title or deed registration systems that are linked to a cadastre. Less formal systems can include membership lists of communities who live in informal settlements and maps or photographs linked to community registers. Recording systems can also be linked to municipalities, which may wish to record who is living where in the city for the purposes of planning, service delivery and as a way of recognizing the rights of people who can't afford registered rights. Poor land records make it difficult for cities to plan their space efficiently and to make land available for urban settlement.

All these lead to long delays in delivery, which encourage informal settlements.



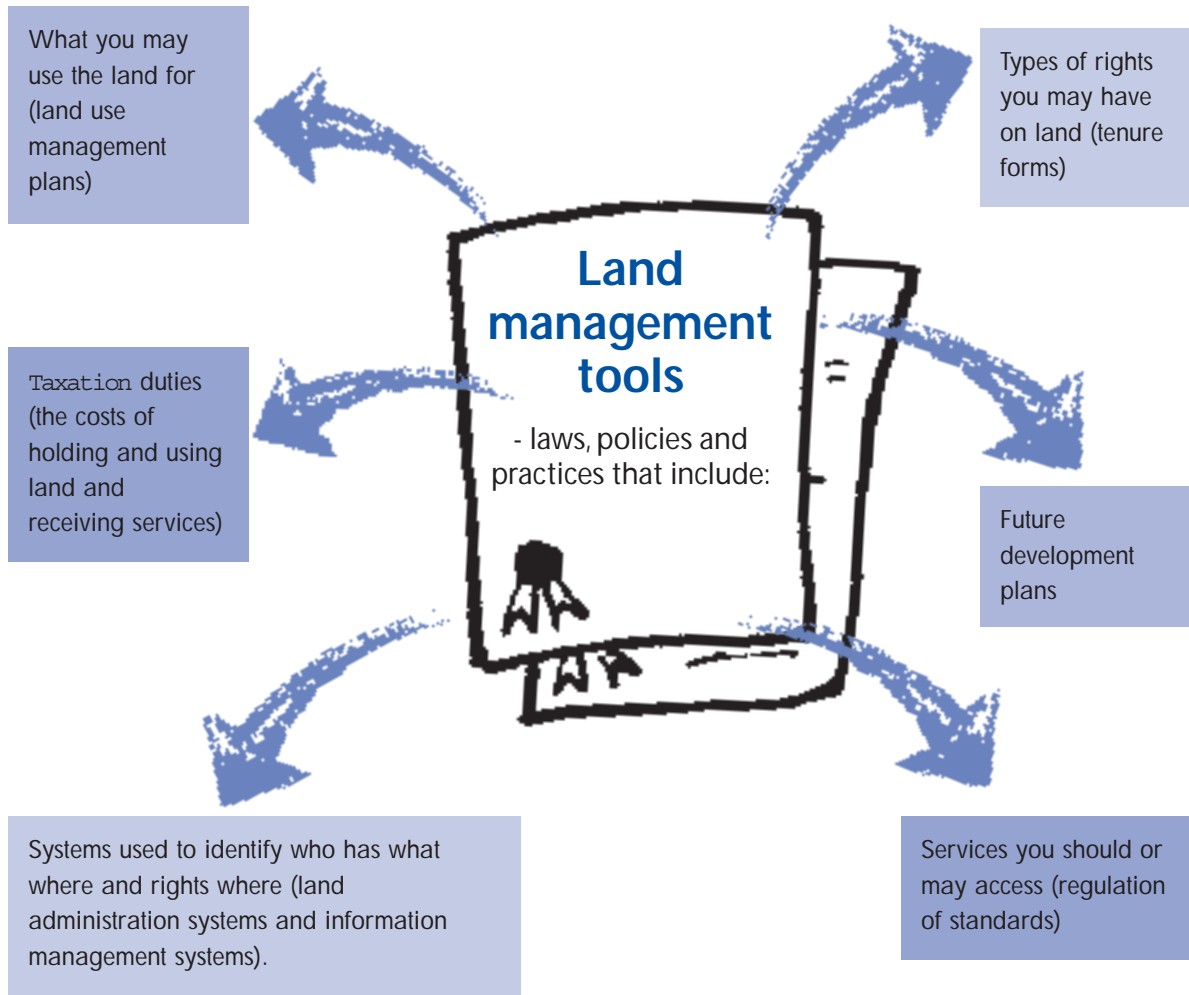
Did you know?

The Indian government has started to recognize informal settlements, regularize unauthorized construction and change planning standards to meet the needs of the poor better.



How do governments make land available for development?

Governments make land available for human settlements through various land management tools.



The laws, systems and processes for the way in which land, that can be serviced, is supplied and/or upgraded and developed in any country is called a **Land Management System**.

Land administration is different from land management. Land administration involves the implementation of land management, through the use of land records and land information.

What would you see in a pro poor land management system?

A pro poor land management system would:

- ✓ Make the poor visible, legal citizens of the city,
- ✓ Enable the settlements where they live to be included in city planning,
- ✓ Develop standards and procedures for securing tenure, building houses and providing services that the poor find accessible and affordable.

Such an approach would allow a diversity of land delivery systems and actors and would include the current informal processes being followed. The land delivery systems of the poor would be seen as an asset, not a liability.

A pro poor system would decentralize land management responsibilities to local authorities. This is already happening in many countries where central land management policies have not met expectations.

Decentralized systems should allow for more accountable and transparent processes. They should also improve access to land and assist in solving land disputes. The capacity of local authorities would, however, need to be developed for this potentially large task.

A pro poor system would implement programmes that include the poor by regularizing the settlements and integrating them into the city's development plans.

Some innovative ways to regularize include:

- The development of additional or alternative sustainable forms of tenure that meet the needs of the poor. At the moment, individual titling is generally used;
- The adoption of a city-wide participative planning approach, which accommodates the informal land delivery processes;
- Linking innovative service design to the communities' capacity for sustainability;



Regularizing is a way to bring slums into the formal systems. There are many tools to do this, including sorting out the tenure, applying building standards and delivering development and services. Innovative ways of regularizing informal settlements are required in order to meet the needs of the urban poor.



- A decentralized, efficient land administration system that uses local capital, partners with local authorities and, where necessary, accepts customary leaders as partners;
- Cost recovery methods that factor in capital and maintenance cost, affordability and cost recovery charges.



A pro poor system would not rely only on land assembly methods that require acquisition of land. A number of innovative methods, which include input from the private sector are being tested world wide.



A pro poor system would have appropriate cadastral and land registration systems. The systems developed to record property rights would be affordable and accessible to the poor. This means they should be closer to people using them and be simple enough to keep the running costs very low. At the same time, these systems must supply effective information on land transactions as well as current and planned use so that city authorities can use them in land management strategies. You can read more about proposals on alternative land delivery processes and the creation of land records for informal settlements in the Handbook.



Developing countries need to aim for arrangements that enhance tenure security through simplified procedures that promote transparent, accessible, user friendly and accountable land administration.

Finally, a pro poor system would require a participative review of the urban land laws, but innovative delivery within the existing frameworks should keep happening even before the review is undertaken.



Robert Appleby

Land Readjustment



Urban land management needs to identify and prepare land for development purposes. LAND ASSEMBLY is a term used to describe legal processes used to acquire parcels of land from neighbouring owners for development purposes. Land assembly processes would simplify the ownership of land to one owner. It is based on purchasing land and so is very slow and costly. Governments are moving away from being the inadequate sole supplier of this land.

Rather, creative ways are being found to re-arrange current land ownership and land use patterns to ensure an adequate supply of land for development and the protection of natural resources. These approaches are referred to as LAND READJUSTMENT (Consolidation). It involves the reuse of adjoining sites or plots which are held by different owners, by putting them together, developing them and then making available serviced plots.



Examples of land readjustment include land sharing, land pooling, reblocking and the transfer of development rights.

In India, private land owners have been encouraged to build apartments for slum dwellers on their land, using only a portion of the land. Development incentives are offered to the land owner for the remaining area. Similar approaches have been used effectively in Thailand.

Another option being used in India is to lease out “slum lands” owned by government to developers for 30 years at a nominal amount. A condition of the lease is that they build subsidized tenements for members of registered slum cooperatives etc.

In Japan, Korea and Taiwan land readjustment is a key instrument for urban development. In Korea land owners are attracted through the increased value of their property from the services they receive. Every land owner gives up a portion of land in proportion to the increased value.

However, for the poor to benefit it has been found that public land needs to be included in the readjustment. Land readjustment can effectively bring in a range of new partners, complement regularization and zoning for low income groups, bring tenure security and services.



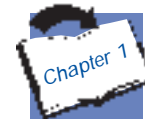
Chapter Two

- What is legal access to land?
- Why is it a problem for the poor to get secure tenure and to keep it?
- What would you see in pro poor tenure options?
- What measures are available to improve women's tenure?

What are pro poor urban tenure types?

“Rights such as freehold and registered leasehold, and the conventional cadastral and land registration systems (paper or digital), and the way they are presently structured, cannot supply security of tenure to the vast majority of the low income groups and/or deal quickly enough with the scale of urban problems. Innovative approaches need to be developed.” (Handbook: page 33)

What is legal access to land?



The provision of shelter and the development of sustainable human settlements require legal access to land.

The concept of tenure is often interpreted as legal access to land. This notion is based on the understanding that a person has a legal right to be on that land or be using that land. It is often assumed that this right is derived from existing law. Governments and landowners regard most people living in informal settlements and slums as being there illegally.

However, it is not a simple process to separate different types of land rights into those that are legal and those that are illegal. Many countries have a range of land rights. A number of these rights can even be held on the same plot - that is, they overlap.

It is more useful to view the various land rights' types as existing along a continuum, with some settlements being more consistent with law than others. This view makes it possible to include the people with the weakest tenures in the idea of sufficient legal access. Since most of the people affected are in low-income households, broadening the scope of legal rights means cities can recognize the rights of the poor to be on the land. This recognition of rights is often the first step in providing secure tenure for all.

What this means is that secure tenure can come from aspects and instruments other than formal laws. These aspects include the perceptions and beliefs of neighbours and local authorities. Important political figures can also back up these perceptions with public statements about poor people's rights to land.

A simple definition of tenure is therefore:

The fact that other people believe the land you occupy and use is the land that you are allowed to live on and use.

Adopting this idea of a continuum of land rights allows for a step-by-step approach to securing tenure. Rather than trying to effect wholesale change in the forms of tenure in a country (as is implied by individual title or deeds) or leaving the status quo (no recognition), it is possible to make functional adaptations for specific contexts and in accordance with needs.

An incremental approach allows government, with the help of communities, to build technical and administrative procedures over time and within their own resource capacity. This helps to ensure the institutionalization of the new approaches.



Tenure security

The Federation of International Surveyors (FIG) and the United Nations Centre for Human Settlement (UNCHS) define tenure security as:

- (i) protection against eviction;
- (ii) the possibility of selling, and transferring rights through inheritance;
- (iii) the possibility... (of having a)... mortgage; and
- (iv) access to credit under certain conditions.

CONTINUUM OF RIGHTS



It is necessary to review what we consider to be legal tenure if we are to integrate the poor into cities, and to consider a range of tenure options that are more accessible to the poor and that can be used to develop more secure tenure incrementally as costs and affordability allows.

Land information systems for innovative land management



Any land management system must supply information on land rights and use, land transactions, as well as current and planned land use. This requires an effective land information and record system that can be administered easily, and is clear and user friendly to those that it services.

Many land information and record systems are built on a cadastral and formal land registration system that is centralized, expensive, inflexible, colonial, individualized and inaccessible to the poor.

As alternatives, local land management systems are being seen as more effective as they are simpler and clearer to maintain, and are more transparent, affordable and accountable.

Such local systems would include developing land information systems that collect relevant information, developing and keeping records that reflect existing accepted practices of land management, establishing locally acceptable structures and staff to administer the system.

Innovative approaches include:

Local land registers, effective central-local information and function linkages, more inclusive registers, parallel land registration, digital access, better public awareness, privatized services and simplified recording of spatial representation.



Land information - can include information on what land (spatially), size of the land, boundaries, what land rights exist on it, what it is used for or what it can be used for etc.

Land records - is the way in which land information is captured in writing as legal evidence of right and use.

Cadastre - is a type of map or diagram (spatial representation) of where plots are in the country. It can be linked to registered land records.

Registration system - is the way in which information about rights on pieces of land is recorded, and kept as legal evidence.



Why is it a problem for the poor to get secure tenure and to keep it?



Legal ownership is often called freehold title and is created by law (often including a registration law) or is recorded in a private system that property lawyers maintain. These systems create legal evidence that supports the tenure of owners. Freehold or legal ownership means that a person holds all rights to land except those limited by law. These limits are usually about how the land can be used. Owners have many other rights, such as the right to sell, mortgage, bequeath, lease and to use land the way they see fit within the limits of the law.



Did you know?

In most developing countries less than 30 percent worldwide and 1 percent in sub-Saharan Africa of land sites or plots are documented. (UNCHS: 1998).

Many countries regard legal ownership as the most effective way of securing tenure and recognizing legal access. This bias in favour of freehold is especially true in the former Soviet Union countries where the World Bank is involved in land market reform.

The problems with accessing this type of tenure are:

- It is expensive due to the use of professionals to create, transfer and maintain property records over time;
- There is a lengthy registration (first titling) process as it requires absolute clarity on who has a right to what;
- It creates individualized rights that exclude extended families and group rights and are often contrary to customary forms of tenure;
- Land values increase, affecting rentals, speculation, professional squatting and informal land markets.

For low-income groups, freehold:

- Is too costly, both in terms of acquisition and maintenance;
- Is not a necessity for accessing services;
- Does not necessarily offer more tenure security than other more familiar forms;
- Is not administratively easily accessible;
- Is not viable where countries lack the capacity to uphold this expensive system.

What would you see in pro poor tenure options?

A pro poor strategy for securing tenure is incremental, building on what people have. Such an approach recognizes a range of tenures in the continuum of legal or illegal. It also puts in place measures to ensure women's access to land and housing is improved.

The following types of tenure could be used:

➤ **Perceived or de facto tenure**

This arises when people residing on land illegally are able to remain on the land for an extended period, for example, when court orders to remove them cannot be obtained easily or when a local authority provides services. This is often a first step the poor take to access to land, but the tenure is still weak because the evidence is circumstantial and people remain subject to evictions.



➤ **Anti-eviction laws**

Some countries have adopted anti-eviction laws, such as South Africa, Brazil, Philippines and India. These laws serve to regulate relations between landowners and occupiers by providing rules that parties must follow. However, they do not provide sufficient protection because the poor struggle to leverage expensive and inaccessible legal services to defend their rights. While these laws could be a step towards more secure tenure types, identifying who has occupancy rights should what land remains a key difficulty.



➤ **Adverse possession**

This procedure allows occupiers to acquire property they have lived on and used without opposition over a prescribed period of time. For example, in Brazil squatters can obtain rights over private land after 5 years of peaceful occupation. While this is a useful step to follow in that it signals that informal settlement residents have a right to land, it requires special regulations and procedures to make it cost effective for low-income groups. This could include government subsidizing land professionals to clean up titles and resolve disputes. Another way to strengthen this step would be to bring class action cases rather than individual cases.





Local registers

Namibia has an example of an incremental approach to legalizing tenure using a block system. The model offers a “starter title”, evidenced by a certificate, a “landhold title” also evidenced by a certificate and freehold. The starter and landhold differ in terms of the types of rights granted and the accuracy of the spatial definition. The starter gives secure occupational and inheritance rights relative to the block while the landhold gives rights in perpetuity to a specific site. Each type can be upgraded to the next level.



Types of legal entity

Co-operatives, community land trusts or associations and housing associations can become juristic bodies that can own or lease land on behalf of a group or community. Rules within these bodies determine the types of rights members can have to the land.

► Customary lands



Governments often regard land tenure acquired through customary land administration practices as unlawful. This can be because the settlement does not conform to local authority land use plans or that there is no plan yet. Some countries also do not recognize customary leaders as having legal authority over land administration and allocation matters. This can decrease tenure security.

Improving tenure for low-income groups in these areas requires the participation of a range of stakeholders, as traditional concepts of land tenure often do not include individualization of land sites.

► Group tenure

Group tenure options allow groups of poor people to own or lease property as a group. This option is known as block or group tenure. It gives cities flexibility on how to record the rights of poor individuals and households affordably in the short term. For instance, the community can keep its own records or the municipality can issue leases or a local registry can be developed. These records can be improved over time.

Group tenure also avoids the problems of individualization, especially damaging social cohesion.

However, although group tenure allows incremental improvements, it has some problems. It is often difficult to work out who is a member of the group and who is not. It is also difficult to determine what rights each member has. For example, some member's rights come from their position or status in a family or in a community. These are not always equal.

Group tenure options also require partnerships between the community, local authority, NGOs and landowners to set up effective land administration methods that keep tenure affordable and secure.

► Leases (rentals, leaseholds and leases)



There are many types of leases. Some are agreements or contracts between people and other people, corporations or even the state. Other leases are created by statute. They all refer to a person or group living on and/or using land that belongs to someone else for a specified period of time under agreed conditions, like rental. The key characteristic of leases is they can transfer all rights except actual ownership. Leases involving a transfer of most rights tend to require professional assistance and are registered whereas those transferring fewer rights do not. Leases are cheaper to create and maintain

than ownership and are more flexible, transparent and accessible than freehold. Cities can also manage development and land use changes more easily with lease tenures.

➤ **Provisional, conditional and/or qualified titles or deeds**

A very strong legal tenure is conditional or qualified title or deed. This is almost the same as ownership but the title/deed is subject to some conditions and restrictions. Once these are met, legal ownership can be transferred.



This option also requires a land administration system that is equal in capacity to ownership or registered lease. Because it is so similar to ownership, another problem is that some people behave as though they are owners from the beginning, which makes the conditions a burden to a system that is sometimes already weak.



Did you know?

The latest policy in India on how to regularize unauthorized settlements recommends that residents' co-operatives are formed to make proposals and manage settlement development.



Hauri, Alcocok

What measures are available to improve women's tenure?

There are more poor women headed households in the world than men headed households. The women and children in these households are extremely vulnerable to hunger and homelessness. They are also the most likely to use informal systems for accessing land and housing. As a result, they are easy victims of eviction.

Pro poor land management and tenure security options therefore have to look at the situation of women.



A number of policies have been developed to improve the situation of women on land.



- The Universal Declaration of Human Rights of 1948 stated that the right to housing is a universal human right.
- The Fourth World Conference on Women held in Beijing, China, in 1995 stated, “men and women should have equal access to economic resources, including the right to inheritance and ownership of land and property”
- The New Delhi Declaration (UNCHS) developed founding principles for securing the tenure of women and men, including equal access and treatment, legal reform, local level land records, elimination of discriminatory customary and legal restrictions, inclusion in the management of land resources.
- The Habitat Agenda also includes resolutions to projects, programmes and policies that remove all barriers to women’s inclusion and that develop methods for working and evaluating that are gender sensitive.
- In 1997, the United Nations passed a resolution on women and the right to adequate housing, land and property that noted that women suffer the most from forced evictions and displacement. The Human Rights Commission used this resolution to ask two African states to remove discriminatory provisions from their Constitutions.



Did you know?

Rwanda has proposed a law on inheritance and marriage that will allow a daughter to inherit property from her parents and women to inherit the property of their deceased husbands.

In India the inheritance law was changed in 1956 to allow mother, widow and daughter the same share of inheritance as the son. However, this doesn't apply to ancestral property. It only applies to self-acquired property.

Chapter Three

- What would a pro poor approach to slum upgrading include?
- What is the role of key stakeholders?
- What could a consultative process of upgrading look like?

What is a pro poor approach to slum upgrading?

What would a pro poor approach to slum upgrading include?

Slums can be upgraded most effectively when city wide approaches are adopted. These approaches should include consultation with a broad range of stakeholders and the use of participatory planning methods.

Various phases in upgrading result in land re-adjustment, legalization or regularization of tenure and provision of services. These phases are sometimes parallel because different aspects can happen at the same time. They can also be incremental in that they build on previous developments.

Identifying local tools and methods

The first phase in slum upgrading involves identifying local tools and methods for land management. To ensure that these tools and methods are appropriate, an important first step is to gather stakeholders and create a stakeholder forum. Consultation with, and participation of stakeholders is also necessary to ensure that the approach used to upgrade is sustainable and meets the needs of poor people.

The stakeholder forum could begin the upgrading process by identifying all the slums in the city and conducting a land audit to assess the legal status of the land that is occupied by the slum dwellers. The forum can then decide on tools to regularize and adjust the land (see page 13 of this guide) such as compulsory acquisition, the swapping and sharing of land and the provision of services before tenure transfer.

Because slum upgrading is a very expensive exercise, a key aspect of this phase is to ensure that the resources are planned for and made available. In addition to approaches that reduce costs, such as the use of private and informal land developers and the decentralization of decision-making to local authorities, partnerships can be developed between local and central governments and slum communities that draw on multiple funders including foreign donors and community saving schemes.

Readjustment of land

Phase two would deal with the readjustment of land and the establishment of appropriate tenure frameworks. This could entail the designation and creation of special zones around slum areas. Such zones allow for the adoption of special regulations relating to tenure and development that is appropriate for the people in the slums. This will help to sustain the developments by ensuring consideration for their long-term maintenance. The zones also help by providing the preliminary spatial information that is necessary for planning infrastructure development



and service delivery. Together with approaches that develop infrastructure networks for the whole city, zoning can help focus resources and reduce costs of upgrading.

Many methods for legalizing tenure arrangements in slums have been tried ranging from accommodation of traditional and group systems, community or city run recording systems and upgrading to individual ownership. (See chapter 2 of this booklet). It is best if the option adopted has been negotiated with, and agreed to by the landowners.

Reaching agreements with owners to sell, swap, share or lease their land are some ways of regularizing and adjusting the land inside the zones. However, these agreements can be difficult to reach; in such cases the government can pass anti-eviction laws, expropriate land with compensation and use land taxes to force sales or development. In some places land use controls have been deployed to encourage landowners and private developers to upgrade slums.

Detailed planning and implementation

The third phase of slum upgrading deals with the detailed planning, implementation and long-term maintenance issues.

The tenure rights of individual slum dwellers and their families can now be secured and land administration systems that will record and update information about these rights can be implemented. An integrated infrastructure plan for the whole city is developed including options for diverse standards according to what slum dwellers can afford. A key consideration in these plans and how they are implemented is sustainability: slums are often upgraded on an ad hoc basis without consideration of on-going maintenance and affordability and begin to collapse some time after completion.

To ensure these issues are dealt with, legislation review and amendments may be necessary. Such a review could incorporate the decentralization of decision-making, locally administered tenure records, the acceptance of private and informal developers, enabling innovative practice, setting aside master plans and changing standards and the establishment of stakeholder forums.

What is the role of key stakeholders?

A number of stakeholders must be involved in city-wide planning to ensure a sustainable supply of land for the poor that can be serviced and developed. These stakeholders include different sections of government, the private sector and civil society.

The government sector includes both national and local governments as well as city authorities. The private sector is both formal developers as well as people experienced in providing land informally to the poor; and civil society involves both NGOs and CBOs such as slum organization structures and leadership. Together, these stakeholders can make decisions that meet the needs of all citizens of the city.

National government decides policy frameworks and law on planning and tenure, while local government is concerned with the details of land management and development. NGOs and CBOs can build bridges between community groups, local authorities and landowners by facilitating interaction and communication. The private sector has technical knowledge of how to deliver and develop land and will become key agents of implementation once frameworks are agreed to.



What could a consultative process of upgrading look like?

There are many ways to regularize and upgrade slums. Choices on how to proceed will vary from country to country depending on local conditions and laws. In the following pages, we show one possible way of organizing upgrading activities into phases and some of the methods that could be used.

Phase 1

Identifying relevant local tools for land management

- Identifying major stakeholders
- Preliminary land audit
- Identifying instruments and processes
- Identifying available resources

Phase 2

Establishing relevant tenure framework for future development

- Designate special zones
- Create zones
- Negotiate boundaries
- Record boundaries
- Outline minimum planning requirements
- Capacity building of those that will do land administration

Phase 3

Integrating the poor into the city and developing a pro poor Land Management System

- Defining infrastructure networks
- Participatory planning
- Sources of funding for infrastructure
- Relocation, connection and costs
- Upgrading tenure
- An incremental process
- Vacant or customary land inclusions incrementally
- Amending centralized framework
- Reviewing all frameworks
- Reform and adaptation
- Refocusing land information
- Putting land records to good use
- Inclusive innovative practice
- Information management reform
- Reckoning with land delivery variety (private sector roles)
- Critical role for private sector/NGO

Phase 1

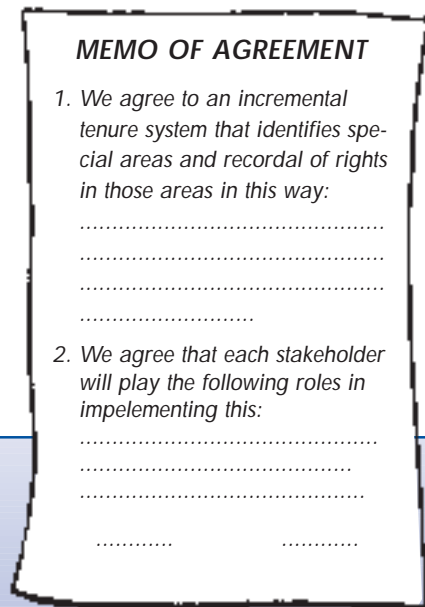
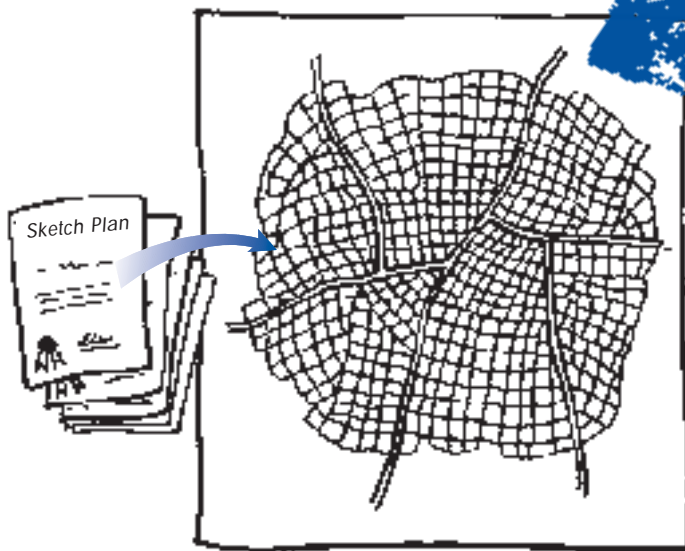
Identify relevant local tools for land management in each area

Identify stakeholders and create stakeholder forums

- Public sector
- Local authority
- Traditional or customary authority
- Informal settlement representatives
- Religious groups
- Private sector
- NGOs and CBOs



Link each area to ownership



Results or impact of Phase 1

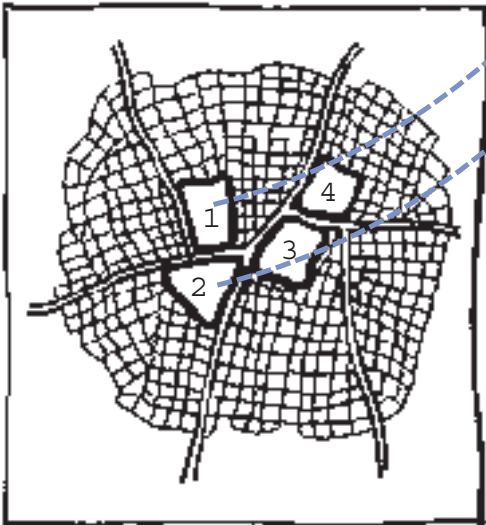
- Create stakeholder forum
- Local participation
- Clarified land ownership
- Clarified relevant/appropriate approach to integration

Phase 2

Establishing relevant tenure framework for future development



Informal settlement zones



AGREEMENT MEMORANDUM

We agree that these areas will be special zones and that these are the properties affected:

- Zone 1 – Block 1
 - B 2
 - B 3
- Zone 2 – Block 1
 - B 2
 - B 3
- Zone 3 – Block 1
 - B 2
 - B 3

PUBLIC NOTICE

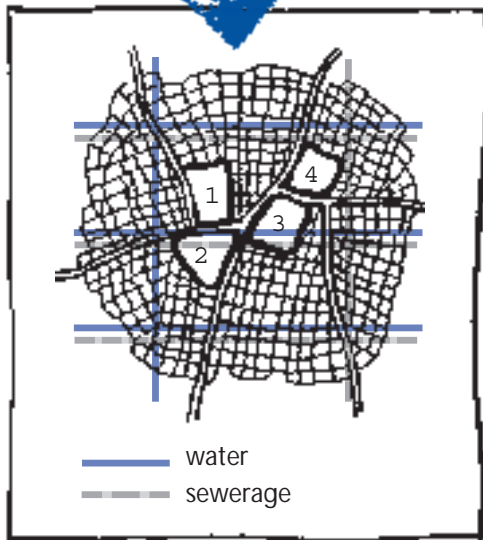
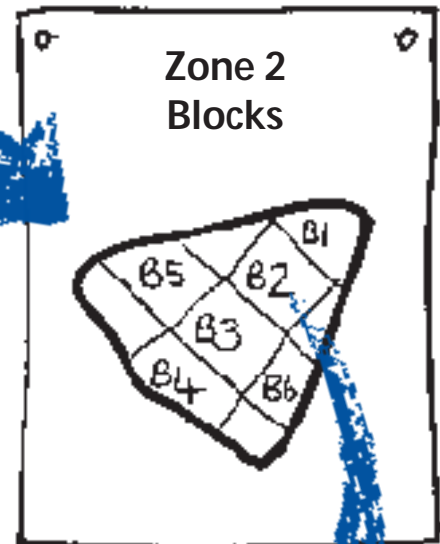
The following properties have been zoned and blocked for the following purposes only:

- Low cost housing
- Communal water infrastructure
-
-
-
-

- Results or impact of Phase 2**
- Improved secure tenure for group
 - Increased local capacity to manage new land administration system
 - Land affected clearly identified for type of land use.

Phase 3

Integrating the poor into the city and developing a pro poor Land Management System



Block 2 Plots

Incremental land records

- 1 = *Surveyed plot, purchased, serviced.*
- 2 = *Surveyed plot, leased, not serviced.*
- 3 = *Unserviced site, no connections, leased.*
- etc.

- ### Results or impact of Phase 3
- Integrated infrastructure plan.
 - Participation.
 - Upgraded tenure and services as finances allow.
 - Lessons for reviewing legal frameworks.
 - Appropriate land information systems.



Chapter Four

- What should be incorporated into national action plans?
- What should be incorporated into local action plans?
- Multi-lateral and bilateral cooperation agencies

What are the next steps?

What should be incorporated into national action plans?

- Governments enabling a range of actors to supply land and provide housing. Coordination between departments and devolved authorities improve on land delivery, land information and land use management
- Land and housing legislation and policy reviewed to ensure it is gender sensitive and meets the needs of the poor, including anti-eviction laws, special zones for low-income people, innovative tenure options and appropriate land readjustment and development instruments
- Land administration and decision-making decentralized to local authorities
- Plans as inclusive of all stakeholders as possible, including women, communities, NGOs/CBOs and the private sector



What should be incorporated into local action plans?

- Local authorities to do participatory, city-wide planning with a range of stakeholders, including communities, NGOs and private sector
- Capacity for decentralized land management functions to be built
- Land audits to determine legal status of land rights
- Land records and administration shared through partnerships between local authority and community
- NGOs and CBOs develop capacity to run local land record systems

Multilateral and bilateral cooperation agencies

- Shift strategic focus to intervene at city rather than only country level and encourage and support adoption of pro poor regulatory frameworks
- Encourage and support governments to adopt private sector land delivery, decentralized land management approaches and civil society partnerships
- Support gender programmes financially and through lobbying
- Support research into solutions that work for supplying land and securing tenure for the poor

Other resources

Women's Rights To Land, Housing and Property in Post-Conflict Situations and During Reconstruction.

HS Number: HS/589/99E, 1999.

Rights & Reality: Are women's equal rights to land, housing and property implemented in East Africa.

ISBN No.: 92-1-131663-4.

HS Number: HS/667/02E, 2002.

Housing rights legislation: Review of international and national legal instruments.

HS/638/01 E; ISBN 92-1-131628-6 (printed) [126+xvi pp.]; ISBN 92-1-131507-7 (electronic version).

UN-HABITAT and OHCHR, Nairobi and Geneva, 2002.

International instruments on housing rights.

HS/639/01 E, ISBN 92-1-131508-8 (electronic version only).

UN-HABITAT, Nairobi, 2002.

National housing rights legislation.

HS/640/01 E; ISBN 92-1-131509-9 (electronic version only).

UN-HABITAT, Nairobi, 2002.

Compilation of selected adjudication on housing rights.

HS/641/01 E; ISBN 92-1-131510-7 (electronic version only).

UN-HABITAT, Nairobi, 2002.

Guidelines for the improvement of Land Registration and Land Information Systems in Developing Countries (with special references to English-speaking countries in Eastern, Central and Southern Africa).

HS/215/90E.

UNCHS, Nairobi 1990.

Urban Land Management, Regularization Policies and Local Development in Africa and the Arab States.

HS/379/95E.

UNCHS, Nairobi 1995.

Ameliorer les systemes Dénregistrement foncier et de reconnaissance des droits sur le sol dans les villes d'Afrique sud-saharienne francophone.

HS Number: HS/286/93 F.

UNCHS, Nairobi 1993.

This booklet on Pro Poor Land Management identifies recent innovations at the global level in the field of land management and pinpoints land tenure trends. It shows how governments, including local government and other stakeholders, are coming to grips with implementing the land related principles enshrined in the Habitat Agenda at a practical level in the cities and towns. The work can help to assess at the global level the tools, methods and approaches that exist for the implementation of the Global Campaign for Secure Tenure, and to identify the gaps, blockages and problems that still need to be addressed.



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