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Conclusions from a Research Study based on Best Practices Analysis on Access to Land and Security of Tenure
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SUB-THEME I: SECURITY OF TENURE FOR ALL SOCIO-ECONOMIC GROUPS Extract from research study Pages 33-36

1.3 Lessons learned and the way forward Informal settlement is on the increase and has become one of the most common forms of land delivery in most developing countries. Informal settlements can no longer be marginalized or regularized only on an ad hoc basis as this approach is threatening the environmental sustainability of cities and is being found increasingly to be politically unwise. The sheer scale of informal settlement globally, and within urban areas, means that informal settlers need to be treated as having a right to the city.'

Instruments that have conventionally been utilized to supply tenure security need to be reassessed, used in more innovative ways, and new and more appropriate instruments created. This has to be done very quickly to avert even more serious problems. 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, and innovative approaches need to be developed (see section 2.2.6 below).

While secure legal tenure for all socioeconomic groups is the aim, it is likely that there will always be people who cannot afford any form of legal tenure. These people need to be able to start with a perceived form of tenure security and work their way up the tenure ladder in incremental steps. Perceived tenure can be based on a number of things and these can be used constructively by local authorities, NGOs and others to manage urban areas better and supply a form of temporary tenure security.

Anti-eviction laws have been very successful in giving millions of people tenure security in general. However, if the land is required, anti-eviction laws are often ignored by land owners, local authorities and others. NGOs play a critical role in explaining to people their rights when they are being evicted, mobilizing support, including international and political support, and assisting those who have been evicted to prove their occupation rights. The lack of records about occupation hampers those who have been evicted from proving their rights. The lack of knowledge of occupants about their rights, the lack of community based para-legals to assist people and problematic justice systems, make occupants vulnerable to eviction and exploitation. Anti-eviction laws should be passed by all countries to protect low-income groups, who should also be given training in their rights (city, housing, land, non-eviction). Capacity should be built in NGOs to supply technical assistance to people who have been evicted and to train communities about their rights. Simple record keeping of those in occupation should be undertaken at community and/or local authority level, and training done in this area. It is within the interests of the local authority to maintain such records both in terms of urban planning, as well as to protect itself from professional squatters, and a partnership between the community and local authority should be the way forward.

Adverse possession does not deliver in time or to scale for the poor when only individual applications are made. That is, having a prescriptive right does not easily become a secure property right. Applicants also need legal aid assistance to obtain a secure property right, but even when this is available it does not deliver in time or to scale. Adverse possession rights, if the community knows they have them, are a valuable perceived secure tenure. However, it is critical that residents can prove their occupation in the area for the correct length of time. Again, the role of NGOs in educating people about their rights and simple record keeping, describing those in occupation, undertaken by the community in partnership with the local authority, is critical. Also class actions linked to adverse possession claims might well be a way forward which should supply secure tenure more effectively, especially when used with other legal instruments such as special interest zones and land readjustment.

The nationalization of the land and the public ownership of all land does not give tenure security to low-income groups as, if no records are kept, it is not clear who has rights. Centralized land record systems, such as those in countries where land was previously

nationalized, cause tenure insecurity for customary and other occupants. Their land is often planned and allocated by the centralized system without checking to see if anyone is in occupation, and they have little protection from the encroachment of neighbors. Records of occupation rights to give tenure security are critical for any kind of politico-economic system, however to date land record systems have been based on the privatization of rights. A way forward is to create records and land information for a range of purposes such as negotiation, disputed occupation, temporary occupation, for regularization, and short and long term rights recordal where different partners have different responsibilities for the creation and maintenance of the information.

Customary areas adjacent to urban areas often supply tenure security to low-income groups and facilitate the extension of the urban area, albeit informally. Partnerships between local authorities and traditional leaders, instead of competition, facilitates the regularization of these customary areas and their incorporation into the urban area. Such partnerships help to strengthen weak administrative systems. To do this, national regulatory frameworks have to be adjusted to merge customary and statutory law, and traditional forms of land administration have to be allowed. Customary areas do not respond well to freehold and/or individualized titles, because of group based relationships and the lack of financial capacity. Locally administered group based leases are a much more useful tool, linked to innovative land readjustment mechanisms are the way forward.

The legalization of informal settlements can take many forms, but it has generally been done by giving individual freehold titles and been accompanied by individual servicing of the sites. This has led to problems of middle class down raiding, lack of affordability (especially when legalization is accompanied by service provision) and slow centralized delivery approaches. The move now is away from individual titles towards a form of group title, with individual rights administered by the group themselves, sometime in partnership with the local authority. This approach can be used both when settling vacant land and for regularizing informal settlements. Titles can be upgraded incrementally if so desired. Group titles and the identification of special zones in the city for low-income people, are complimentary land delivery instruments. Special zones also work well with anti-eviction laws as they allow the local authority to intervene in areas of land conflict.

Qualified titles are often considered as a way forward to deliver titles quickly and they have been used at a certain time in a country's history very effectively. However, if a country has a weak administrative system, qualified titles, which have to be upgraded administratively at some future point, will not solve the problems of large-scale informal settlement.

It is not possible for the majority of the population, and especially low-income groups, to have tenure security by using centrally registered rights such as freehold. Instead other approaches need to be considered. Given the bundle of rights associated with land and the different types of leases and rights available in different countries, it is suggested that:-

- Leases become the instrument of choice for publicly owned land and especially local authority land, rather than freehold. That is, in urban and peri-urban areas the state should preferably not transfer the land in freehold to occupants;
- Leases with different conditions of title should be utilized depending on the human and financial capital of the country, the urban area and the residents. The lease should be as simple to administer as possible, while giving the maximum tenure security required for the purpose intended. All leases should not be automatically designed for the purpose of mortgages, as this tends to increase the costs of land delivery and the time taken to deliver;
- Basic leases be used along with group tenure arrangements, whereby the block is registered in freehold, or under a strong lease agreement to the group or a local authority. The tenure security of the occupants is a result of the group right and their own internal land administration agreements. This approach probably still needs some technical development in relation to low-income groups, especially as most countries legislation is not set up to accommodate this approach in an affordable manner;
- Wherever possible the lease contracts between the local authority and occupiers should be linked to land records kept by the local authority and/or community. The record keeping should be a partnership between the local authority together with the community to ensure currency of the records and accessibility and transparency to the community (see section 2.2.6 below);
- Private land owners should be encouraged to set up lease contracts with occupiers which protect all parties, and dispute mechanisms should be developed which can be afforded by low-income groups;
- Capacity is built in NGOs to:- assist people in assessing and negotiating their lease conditions, setting up cooperatives associated with group tenure, assisting people in creating land administration rules for their group tenure and in sorting out their group tenure land disputes, and building social cohesion;

When comparing freehold and local leases, leases are better for mass delivery for low-income people for a number of reasons, in

general:-

- Leases are much cheaper than freehold title;
- Leases can be delivered faster than freehold title;
- Leases are more flexible as they do not necessarily fall under the national laws of the country and can be negotiated by the parties;
- Not only are delivery costs cheaper, but more importantly transfer costs are cheaper. Governments often subsidize land delivery but seldom subsidize transfers;
- Freehold requires a full adjudication and settlement of rights. Conflicting rights cannot be held on the registry record. Leases agreements can be made with occupiers of land still under dispute (UNCHS:1996b);
- There are many types of leases, and a range of costs are associated with their creation, and they can be upgraded incrementally as and when required. There is normally only one type of freehold;
- Both freehold and leases are amenable to information and communication technology. However, the technology system to handle leases can be much cheaper and simpler to use than a system for freehold;The reason many people want freehold is to protect themselves from the capricious behavior of landowners. Leases are only useful if the lessor is acceptable to the lessees. Partnerships, a user-friendly justice system, and the role of well informed NGOs is critical in the creation of good lessor- lessee relationships. Without well-balanced lessor-lessee relationships people will continue to demand freehold, no matter how unobtainable and unaffordable it is.

With respect to displaced and disadvantaged people and victims of natural disasters, it is suggested that, in the absence of available housing, priority should be given to settling them on vacant land, even if it is not serviced, and then supplying them with service networks. This should be done, by working with the local community, and especially the women, and by undertaking participatory planning. Land administration should be undertaken through partnerships between the community, NGOs and the local authorities.

With respect to promoting enabling practices regarding women's equal rights to security of tenure and the equal inheritance of women to land (housing), the regulatory frameworks of the country should be reviewed as a priority. This review should be gender sensitive and be done in terms of the range of international resolutions that have been passed, to establish women's equality and limit discrimination. One of the first steps in the review should include the development of a policy on women and land for the country, taking international resolutions into account as well as local conditions. Part of the process of policy development should also include research into best practices in other countries and these should be adapted to local conditions. Changing the laws of countries is necessary but however has not been sufficient to bring change to poor women, and campaigns, both to promote issues and to educate women, have to be conducted. Finally, women have shown themselves to be vital in participatory planning processes, especially in the resolution of conflict, and in generating the savings necessary to undertake regularization.

SUB-THEME II: ENSURING AN ADEQUATE SUPPLY OF LAND FOR ALL SOCIOECONOMIC GROUPS Extract from research study Pages 79-87.

2.3 Lessons learned and the way forward

At a general level, a number of lessons have been learned about what kind of approaches block rather than facilitate access to land by all socioeconomic groups namely:-

- The conviction that formal land delivery and land registration systems can keep pace with demand has been proven incorrect. Instead these systems serve to block land delivery to low-income groups who cannot afford them. Informal rather than formal systems are delivering the majority of land in the developing countries' cities. A diversity of land delivery mechanisms should be recognized to ensure that all socioeconomic groups have access to land;
- Centralized land management approaches limit access to land as central governments are often focused on political issues and/or are too weak to intervene successfully to scale at the local level. Land management functions, powers and responsibilities need to be decentralized, to enable local authorities to take responsibility for land management. Local authorities are more responsive to local demand and are more transparent as they are not at a distance from the communities;
- Centralized top down regularization done on an ad hoc settlement by settlement basis, where regulations are temporarily adapted to accommodate individual settlements, lead to more informal settlement as people are displaced through middle class down raiding and as people invade land in the hope it will be regularized. City wide regularization programs should be undertaken using affordable approaches;
- Centralized top down planning creates informal settlement both by setting up rules which are unaffordable to low-income groups, and also by planning areas which are already occupied without taking into account existing layouts.

The way forward is to start with the existing layout and through participatory planning, negotiate a final layout which is acceptable and affordable to the existing residents;

- Too often planning and servicing standards have created unaffordable services when areas are regularized. This leads to non-payment for services, middle class down raiding as low-income people leave the area, poor maintenance of the services and no sustainability. The way forward is through participatory planning and the careful design of affordable services. Focus should be on the supply of service infrastructure and not individual connections. Individuals can take responsibility for their own individual connections incrementally, when and if, they can afford it. Care also needs to be taken to ensure that the service design of the infrastructure networks uses community based approaches to ensure affordability of the whole system;
- Service sustainability has not been successful in many projects largely because the benefiting population has not been part of the design or implementation, and therefore has little knowledge about the services. The way forward is to build community capacity to maintain the services through participatory planning and knowledge transfer;
- With centrally driven regularization projects the community has been left out of the land administration of the project. This has meant that the sustainability of the project has been jeopardized, as weak central administrations have not had the capacity to remain involved in the area. In many informal settlements people are undertaking informal land administration and servicing and this capacity should be utilized and further developed, when regularizing informal settlement to ensure sustainability;
- Often central government and donor regularization projects have created unaffordable costs to the community. For example, the focus of the project has been on capital costs and has not taken into account maintenance and user costs and/or full services are provided from the outset creating a cash flow crisis for households. The way forward is for NGOs working with local authorities to participate in the design of affordable systems and encourage local savings clubs to save towards the servicing, rather than having to pay after installation, or take a loan. Also, incremental servicing allows households to manage their household finances better. Communities have been able to provide the necessary funding for regularization even before the local authority in some instances;
- Land delivery, regularization, land record and service maintenance, land administration have tended to involve government agencies without bringing the community into the process. Governments have struggled to supply these functions at scale and especially to the majority of low-income people. The way forward to ensure sustainability is to develop partnerships with CBOs and NGOs. Capacity needs to be further developed, especially in the NGOs, to facilitate regularization and sustainable management;
- Conflict is endemic in most countries in regard to land, especially in urban and fringe areas of the city. Conventional approaches are not solving the disputes rapidly enough and/or are too expensive for low-income groups to utilize. New dispute resolution mechanisms need to be developed whereby local level and simplified dispute resolution mechanisms are put in place. An aspect of this is to build legal capacity at the local level;
- Conflict among government departments over the allocation of land and land use is endemic. Coordinating mechanisms need to be put in place;
- Regularization has tended to involve the allocation of freehold and/or individual registered leases. Using local authority leases at mass scale, rather than freehold, could facilitate affordable dispute resolution, especially at the local level;
- Ineffective legal instruments exist for the acquisition of land for regularization. This, together with a lack of political will and poor financial capacity, means that land acquisition is a serious block. Privately owned land is especially problematic, with large proportions of some cities being held under private ownership, often for speculation. Legal instruments need to be reviewed, adapted, given political backing, enforced, and new instruments developed where necessary. Land readjustment is an important legal instrument to supply serviced land in the cities. It brings competing stakeholders together in partnerships (public-private, NGO -for profit private) and is a locally driven approach. Different approaches exist for land readjustment, only some of which are useful in supplying serviced land to low-income groups. Often governments have to subsidize some aspect of the readjustment (such as, becoming part land-owners or financing the servicing) if low-income groups are to benefit from this approach. Land readjustment works well with special zones for low-income people, regularization, the development of networks of infrastructure and the legalization of blocks;
- Land readjustment might not be possible for very poor countries. However, in an adapted form it could assist with the extension of urban areas into customary areas, providing there is capacity for planning and installation of the

infrastructure network. Land readjustment is critical in Asia and densely settled cities;

In terms of the framework developed in sub-theme 2 above, an approach is set out as a way forward for the regularization of informal settlements city-wide and to scale. Regularization approaches will vary from country to country in terms of the matrix of factors identified in the introduction to this report. However, based on the above, broad guidelines are given for regularisation, which take into account:-

- The immediate needs of communities for tenure security;
- Sound planning principles;
- The long term needs of the public sector custodians of the land record systems;
- Financial and cost recovery issues;
- The needs of local authorities in relation to service provision;
- The need for individuals to upgrade their services, houses and land rights in their own time, as and when they can afford it;
- Long term sustainability;

Phase 1.

Firstly, all the major stakeholders in the city should be identified and brought together in a forum (see section 2.2.5 above), to develop a vision of how to regularize the city's informal settlements and develop an inclusive city for all its citizens. Secondly, before informal settlements, either singly or city wide, can be considered for regularization, a land audit needs to be undertaken, to assess the legal status of the land that is occupied by informal settlements (Diacon:1997; de Castro:1999b, Payne:1997:27,48). It has to be ascertained whether the land is in public or private ownership, or both (see section 2.2.3.2 above) and the legal status of the ownership.

An assessment then has to be made prior to regularization as to which combination of instruments (see section 2.2.3.2 above) can be used to sort out cloudy titles and persuade landowners to become involved in regularization. The administrative processes should be put in place to be able to carry out the procedures (Banerjee:1999b:17). These will vary from country to country and city to city. The affected communities and NGOs can also strengthen the local authorities' hand by putting pressure on landowners to come to the negotiating table.

An assessment of the resources of the stakeholders and partners involved in the process should be made to establish the extent of their human and financial capacity to undertake the regularization. Plans should be put in place to increase this capacity where necessary. Land banking should be started where land for relocation/resettlement of informal settlers, is identified and acquired.

Phase 2.

A set of general incremental steps are proposed. Firstly, through the stakeholders' forum, with the low-income communities and NGOs setting the pace, special zones should be identified and designated for low-income people throughout the city. These zones should already contain the informal settlements that have been identified for regularization and/or vacant land where people can be relocated/resettled from over crowded or unsafe areas. Secondly, these special zones should be large areas or blocks (and super blocks containing a number of blocks -UNCHS:1999b). If they are large areas, the area should also be broken down into blocks (and super blocks) to improve social cohesion and management. Thirdly, the boundaries of these areas, special zones, blocks and super blocks, should be negotiated among the stakeholders, especially the low-income people living in the area. Every attempt should be made to include public and privately owned land into the designated areas, and enable the infrastructure network to be coordinated throughout the city, using the range of legal and administrative instruments outlined above, to ensure city wide coverage and economies of scale.

Fourthly, the block boundaries should be recorded in all the national and regional land record system/s, indicating that no dealings and land use allocations can be undertaken in these areas without consulting the local authority and its partners in the regularization. This should give immediate security of tenure to occupants with respect to the state, which can no longer allocate this land to other people. It would also mean that private landowners could not evict people easily, especially if there were anti-eviction laws in place. It would also mean that the landowners could not change the land use of the area, thereby strengthening the existing low-income land use arrangements. This approach is unlikely to give occupants sufficient tenure security to be able to obtain a mortgage either for individual sites or the whole block. Occupants would not have security from other individuals forcibly removing them from their land.

Individual security would only be obtained once a local land record system had been created. Such a system would need to identify occupants and their land use, but not their spatial extent. It should be tied to a 'starter title' giving short term, or perpetual lease rights, issued by the local authority, to a site within the block, though not necessarily the site presently occupied. This title, or some other form of group title such as those associated with housing associations, while strengthening the tenure security of individuals, does not break down the social cohesion of the group.

Fifthly, up to this point the only planning required is to identify informal settlement areas that would not be regularized and potential vacant land for resettlement, and to roughly plan the infrastructure networks. No detailed infrastructure network level, settlement

level, or site level planning (or surveying) has to be undertaken to give informal settlement occupiers security of tenure in this phase.

Sixthly, the land administration of the blocks in this phase is extremely critical. Processes should be put in place to build capacity in the informal settlement areas to be able to transfer knowledge between the community and professionals/local authorities. This knowledge will relate to land information, land development requirements, servicing options, the building of social cohesion and leadership. Para-legals and local land administrators should be trained in the community (Banerjee:1999b), and community training undertaken in the area of rights (human, land, housing) (de Castro:1999b) and dispute resolution mechanisms set up, both within the community and for the stakeholders and partners.

Land administration should also include the creation of a land information system, shared by the community and the local authority, both to increase the individuals' security of tenure, as well as to build information for the planning and servicing of the community. Housing consolidation is not advised in this phase as no planning has been undertaken. It should be actively discouraged until the infrastructure networks are in place, for cost effectiveness and conflict management. Seventhly, savings schemes should be put in place to prepare to fund servicing and further regularization.

Phase 3.

Planning the detailed infrastructure network of the city, with informal settlements as the major focus, can now be done utilizing:- land and other information gathered from the communities, based on the existing informal layouts, site sizes, floor ratios of the informal settlements as much as possible, using the Master Plan if one exists, but not as the key instrument for planning. The design should allow for individual self-funded incremental service connections and affordable capital, maintenance and user costs for services. The infrastructure network would need to be planned to extend outside of the city limits, to assist in the management of peri-urban growth. By planning at city level the bulk supply of services should be done automatically and to scale.

The planning should be done in a participatory way, using forums of stakeholders, and especially the community and NGOs, to make choices about whether to have, for instance, cheap straight line service corridors, which will involve the relocation of existing houses. The affordability of the various services, relative to the responsibility of the community in the upkeep of the services, would also need to be negotiated as part of the planning exercise. The role of professional knowledge is also a key input, as it is more difficult to plan regularized settlement than developments on vacant land.

Funding should be found for the infrastructure networks (sewerage, roads, electricity and water), with individual households taking responsibility for funding their own connections. Donor funding, cross subsidies, central and/or local government taxes, community funding, all different types of funding should be harnessed through partnering for the infrastructure networks. Communities tend to respond better to pre-savings than to post cost recovery for installation, either by governments or formal financial institutions.

The construction of the infrastructure networks, according to planned layouts, would involve the relocation of some individual households, either within the block or to vacant land in another block. This relocation should be done as a partnership between the communities, NGOs and the local authority. This partnership should also be responsible for ensuring that communities know how to make the individual connections to the networks and for maintaining the systems, both the service system and the land information system. The local land information system put in place in the second phase should also enable the local authority to cost recover on user charges.

Once the planned layout had been put in place, it would be possible to upgrade the tenure security of individual households, by giving more individualized titles, as sites could be surveyed and land leased in perpetuity for specific sites. All upgrades to individual title should be self-funded and would have to be with the agreement of the majority of the group. The consolidation of housing by individual households should be encouraged as soon as the planned layout and services are put in place.

Finally, regularization is an ongoing process using this approach as individual connections to services, housing consolidation and the upgrading of tenure to individual rights would take place incrementally. Also, it would involve the progressive servicing of informal settlements in the city and in the growing peri-urban areas. In addition, this form of regularization relies on community involvement for sustainability, both during the development and the ongoing maintenance of services and land records. This ongoing process would alter conventional city governance approaches.

This approach could also be used with vacant land or land only lightly occupied such as customary land. Essentially once the service network was completed blocks of land could be delineated by the primary and secondary networks and sold, rented or leased to other public or private developers (whether formal or informal). These people would then proceed with the details of the sale to individuals and/or the subdivisions and individual connections (FIG/Habitat:1998:11).

Aside from the detailed regularization approach outlined above, another vital area that needs to be addressed are the national regulatory frameworks, including the cadastre and land information system. Regulatory frameworks, instead of promoting access to

land, have rather limited access to land and served to block market mechanisms. This is because these frameworks have created centralized structures with poor government coordination, inappropriate and unaffordable master plans and building codes, inflexible and costly standards, regulatory complexity, ineffective enforcement and long delivery times. Regulatory frameworks need to be reviewed and made more simple, efficient, flexible, transparent and participatory. Also, standards should be lowered so that low-income areas can participate in the life of the city and not be excluded.

It is critical that a start is made to review all regulatory frameworks associated with land markets such as planning, building, justice, cadastre and land registration, financial, urban laws, including a gender sensitive analysis. The role of different institutions and their functions also needs to be reviewed to facilitate decentralization and the coordination of different government departments and levels of government. Also, many countries have more than one set of laws in place (statutory and customary) or more than one regulatory framework (some former Soviet Union countries) and these have to be drawn together to give simple guidelines for land development. Regulatory frameworks also need to be adjusted to allow the private sector, both the community and 'for profit' private sector (informal and formal), to become involved in land development, through public-private partnerships.

However, experience has shown that land development should not wait for the review and adjustment of regulatory frameworks as this can take years. A two pronged approach is suggested whereby, through some form of stakeholders' forum at national level, an understanding is developed of the regulatory framework in place and a start made on reforming it. At the same time, local authorities and their partners should adapt the regulations wherever possible to facilitate land delivery; and also focus on improving coordinating links between the different institutions involved in land delivery.

One of the most important blockages in land delivery is the cadastral and land information system. Yet at the same time it is seen to be critical for land development. Cadastral, land registration and land information systems are too centralized, expensive and not geared to the urban poor who are in the majority, as procedures are unaffordable, often based on colonial approaches, complex and not transparent. Countries all over the world, South America, Eastern Europe, Asia and Africa are struggling to improve their cadastres and land information systems. Few can claim to be at the point where their systems are good enough to service the majority of the urban poor.

The way forward is to focus land records, land information and land management at the local level and limit high level coordination and intervention requirements. In this way land information can be available at local level to facilitate regularization of informal settlements and the subsequent maintenance of the area. Local authorities generally have no land information about informal settlements as they are outside of the cadastre. Therefore a land record system needs to be developed where the community and the local authority are partners. This should also include the training of a community member as a land administrator to create and maintain the local records. Based on this approach, these land records can be used by the community to negotiate with other stakeholders in the area. Also, they can be used by the local authority to regularize the area and to maintain it, including cost recovery. This approach facilitates sustainability. Such a land record system should be set up to increase the tenure security of those in occupation and could also be useful in the case of eviction as a proof of occupation.

Aside from this approach, a range of innovative practices exist which could alter, improve and extend the cadastre and land registration system. Some of these practices include the adaptation of technology so that information and tenure security can be created in a more affordable fashion. Others relate to the development of more simple legal and institutional procedures, including more decentralized forms of land administration. Others again relate to the re-structuring of functions within government for better efficiency, including the restructuring of information flows.

The general national review and reform of the regulatory frameworks should also focus on the cadastral and land information system of the country, and a stakeholders' forum should also address this issue. Land information records, the management of information and the flow of land information between different departments, and to the public and market, has been seriously problematic. This aspect needs to be urgently addressed, by bringing together technical and non technical people to review the existing system, assess its affordability and gender sensitivity, reduce overlaps in government responsibility, find ways of decentralizing land information flows, improve the information and mapping system and undertake a user's requirement analysis to reorient the system.

Finally, another blockage to land delivery has been the public sector monopoly over land delivery. The private sector, including the community sector, has traditionally not been considered as part of the land delivery process. Yet most land delivery in developing countries' cities is being undertaken by the private sector, albeit informally. The way forward is for government to accept a diversity of land delivery approaches, including the informal and/or customary, adapt the regulations so that the formal and informal approaches can merge, and facilitate private sector land delivery, through the creation of public-private partnerships. The focus of government attention should be on the facilitation of the private sector's variety of land delivery approaches rather than on the supply of land through public sector delivery mechanisms.

The traditional public sector focus on land delivery has also meant that insufficient attention has been paid to maintenance issues. The

public sector has not been able to deliver land to scale let alone deliver land record and service maintenance to scale. The private sector, especially community involvement, in the supply of land and the subsequent maintenance of the records and services, is critical to the sustainability of low-income areas. That is, an efficient sustainable land market for all socioeconomic groups requires community involvement and the opening up of land delivery opportunities to a range of private sector actors. NGOs have a critical role to play in the process as:- mediators between different stakeholders, supplying technical assistance to communities, building social cohesion, building the awareness of rights, and facilitating public participation in the regularization and maintenance process.

3. CONCLUSIONS

3.1 Conclusions/lessons learnt/ way ahead /achievements and shortcomings

A range of lessons have been learned:-

- Governments should not focus on public housing and land delivery. They should instead facilitate the private sector (formal, informal, community, customary) to deliver land and housing. A number of countries have adopted public-private sector approaches in relation to land delivery with much success;
- Centralized systems of planning, conflict management and land administration are not delivering secure tenure and serviced land to the majority of urban people in developing countries. These functions should be decentralized, together with the powers and resources that will enable them to be undertaken. Often decentralization takes place without the necessary powers and resources being decentralized;
- A focus on individual informal settlements has not made it possible to solve the problem of informality, either city wide or globally. Also, ad hoc approaches do not encourage inclusive cities. New approaches which lower standards, spread resources and are designed at scale have been developed, which create inclusive cities;
- There are too few NGOs with sufficient technical knowledge in the field of urban land. Where they exist, they have been shown to be critically important for land delivery for low-income groups. Capacity needs to be built in NGOs to facilitate sustainable urban land management;
- Often public land delivery systems exclude the involvement of the community. More and more countries are involving the community in order to make development more sustainable, affordable and useful to the low-income groups;
- Regulatory frameworks designed for the middle class and commercial sector are excluding the majority of urban people in the city. The adaptation of regulatory frameworks is a slow process often with no apparent outcome. Resources and pressure need to be brought to bear in these situations;
- Often countries with weak administrations also have complex and contradictory legislation, often left over from the colonial period. This is a major block to formal land delivery and causes informal land delivery. Regulatory frameworks in these countries need to be reviewed and simplified, but this has not always proved easy;
- A lot of effort has gone into creating equal rights for women in relation to land and inheritance. Some legislative success has resulted. However, there are too few success stories of where poor women at the local level have been able to overcome discrimination either in terms of the law and/or custom in relation to land and/or inheritance. One area of success has been with cooperative savings;
- Centralized planning has proven unsuccessful. A number of countries have adopted participatory planning approaches which have proved successful;
- Service design is critical for affordability and cost recovery. Too often the focus has been on full servicing and titling without taking into account maintenance and user costs. A number of countries have opted for the development of only infrastructure networks. Individual connections are made incrementally and self funded. Also the design of the system is premised on user involvement with service maintenance (both individual connections and the infrastructure). This approach has been successful as it has made servicing both affordable and sustainable;
- Cadastral systems are not coping with demand throughout the developing world. Appropriate land information systems, and local land record systems are under development;
- It has not been possible to deliver freehold and/or registered leasehold rights to the majority of people in the developing world. Local authority leases are the way forward;

- Individual titling is costly, time consuming and often not sustainable for low-income people, where full surveying and registration is involved. A way forward is to use group registration, blocks and a form of individualized lease right managed by the group in conjunction with the local authority;
- Most local authorities have not been able to regularize and manage their informal settlements because of a reliance on cadastral information. A number of local authorities are using non cadastral land information, such as sketch maps, to regularize these areas;
- Where there are no land records and land has been nationalized, central governments frequently allocate land/land use to developers even when the land is occupied. Land information systems are under development which include all land information, formal, informal and customary;
- Conflict over land is endemic. Partnerships have gone some way to overcome this, and land readjustment partnerships have been particularly successful in some countries;
- Privately owned land remains one of the largest blockages to urban land management and regularization. In many countries local authorities are adapting legal instruments to regularize these areas;
- Adverse possession laws do not deliver to scale on their own, but need legal aid and/or the use of class actions to make them useful;
- Anti-eviction laws have given some tenure security to millions of people but they are a long way from completely secure. NGOs have played a critical role in fighting eviction in many countries;
- Compulsory land acquisition by the state is not delivering to scale, especially in relation to the extension of the city into agricultural areas. Public-private partnerships and the innovative use of legal instruments for dealing with cloudy title on private land has been found in a number of countries to be more useful;
- While a lack of human capacity remains one of the major problems, capacity building through stakeholder forums has made possible some technical transfer, as has the formal training of staff;
- While a lack of financial capacity remains one of the major problems, many projects have shown the ability of communities themselves to generate income, to scale, for regularization;
- While donor funded projects have often created unaffordable service costs to beneficiaries in the medium to long term, there is a movement towards managing this aspect better in project design, through increased community participation, incremental designs, co-financing, sweat equity and increased project ownership by the community;

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