



Shelter Report 2008:

**Building a secure future  
through effective land policies**



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# Foreword



## Let us work for secure tenure together

In my travels, I am dismayed to see the pain of so many families who cannot legally claim the house in which they live or the land in which their lives are rooted.

In fact, more than 20 percent of our neighbors in this global village wake up daily to the threat of losing either their homes or their land—or both. Secure tenure—the freedom to live without fear of eviction—is fleeting, at best, for one in five of us. Such a lack of security makes poverty housing worse, depriving people of even the most basic physical, economic and psychological stability that we know adequate shelter creates.

Without support from the international community, many poor families in developing countries will never have the same secure tenure that so many of us in the developed world enjoy—and even take for granted. So it may seem amazing that secure tenure, a legal title or something like it, can become a building block for a poor family and community.

Secure tenure brings so much more than legal ownership: If a family doesn't have to move repeatedly, energy can turn to education for children; if a community gets the permanent recognition of secure tenure, it can demand clean water and sanitation which bring better health. The United States can be a global leader in helping poor people by focusing on secure tenure, a foundation for reducing poverty.

Nowhere is the issue more pressing than in slum communities where secure tenure not only helps families overcome barriers to better housing, but also fosters other social and economic benefits, creating greater opportunities for families who need them the most.

In this report, we take a look at what stands in the way of secure tenure for millions of people around the world. We examine how secure tenure is growing on a global scale and what solutions will nurture that growth. We also recommend specific measures the U.S. government can take now to inspire and support an upward spiral of awareness and work toward secure tenure worldwide.

Until the issue of secure tenure is successfully addressed, millions of people around the world will continue to be displaced, unable to secure adequate shelter or to claim land and housing that are rightfully theirs, unable to claim the stability that brings better education, health, hope and future promise. But we can help short-circuit the cycle of poverty for many families. Strengthening tenure security is an enormous step, but a step we can take together.

A handwritten signature in black ink that reads "Jonathan T.M. Reckford".

Jonathan T.M. Reckford  
CEO, Habitat for Humanity International



# Executive summary





# Insecure tenure locks millions in poverty

**I**nsecure tenure often lies at the heart of poverty housing, depriving the poor of even the most basic physical, economic and psychological security of adequate shelter. More than 20 percent of the world's population struggles, on a daily basis, to stay in houses or on land where they live and more than 80 percent of the world's population does not have legal documentation of their property rights.

Security of tenure, or the ability to live in a place without fear of eviction, can increase economic growth, address inequalities, and reduce poverty in developing countries. Security of tenure can provide opportunities for investment and the accumulation of wealth and in some cases can encourage business development. Furthermore, security of tenure is about more than just economic assets. Secure tenure can provide a source of identity, status and political power and serve as a basis for the pursuit and acquisition of other rights.

Still, barriers to tenure security remain in many countries. These barriers include insufficient legal and regulatory systems, excessive land regulation, gender discrimination, corruption, inefficient or inadequate land registration systems, the disintegration of customary and traditional protections and the lack of political will around the issue. In addition, millions of people are displaced each year by natural disasters and violent conflicts.

While the poor are disproportionately affected by tenure insecurity, some groups are more vulnerable than others. For example, women and children are greatly affected. Written laws and customs often fail to protect them. Even if protections are available, women and children are more likely to lack the education or resources necessary to assert their rights. Urban dwellers are also seriously hindered by lack of tenure security. As land values in cities continue to increase and affordable land becomes scarce, more poor urban dwellers choose to locate in informal settlements without secure tenure. This leaves them vulnerable to potential disputes and conflict over land, forcible eviction by local government and natural disaster.

## Solutions come slowly

Tenure security for the poor is flexible and varied. It includes a politician with the will to issue a proclamation against eviction, a city or government extending basic infrastructure and services to informal settlements, and issuing state-backed titles to every individual homeowner in an informal settlement.

Legal literacy training and writing wills, a program currently of Habitat for Humanity Argentina, can be an effective means of improving tenure security.

While all of these solutions are viable and realistic, change will not come easily or quickly. An incremental strategy focusing first on increasing the perception of tenure security (*de facto* tenure security) and moving slowly toward formal, legally protected tenure security (*de jure* tenure security) should be most effective. This gradual process would channel initial benefits to current residents while giving the market time to fully mature so current low-income residents who decide to sell their rights might receive greater compensation.

Without international support, the poor in many developing countries will never come close to realizing the degree of tenure security enjoyed in the developed world. It's imperative the United States government, through development assistance funding and other appropriate channels, sets measurable goals and increases resources to support the poor's access to secure tenure around the world. Nowhere is this issue more pressing than in informal and slum communities where secure tenure will not only strip away a key barrier to better housing, but would be the catalyst for other key social and economic benefits for the world's poor.



## Habitat for Humanity on secure tenure

Tenure security is a vital part of a multi-prong approach to improve housing conditions for the poor. It more effectively fights poverty when implemented gradually in tandem with basic services such as water and sanitation.

- Efforts to improve tenure security should prioritize the most vulnerable populations—the urban poor, women and children, and those affected by disasters.
- Education, advocacy and awareness of individual rights are key to improving tenure security for the poor, especially for these populations most at risk.

National and local laws that create a framework for granting tenure security, including an accessible, transparent and accountable land administration system to combat corruption and inefficiency in government, are vital to increasing tenure security. Tenure security also is important to rehabilitation and reconstruction after a disaster and should be a top priority in disaster response.

## Habitat for Humanity urges the U.S. government to help ensure tenure security for people around the world by:

*Increasing awareness in the U.S. Congress of the urgent need for tenure security, which could include:*

- Holding House and Senate hearings with panels of experts on tenure security, with a specific focus on urban areas and slums, to increase awareness of members of Congress and to highlight ways the U.S. Congress can address this issue.
- Creating a congressional commission to research tenure security, and make recommendations on how Congress can and should address the issue.
- Passing a resolution affirming the importance of tenure security in countries around the world.
- Passing authorizing language to focus on the issue of tenure security within U.S. foreign assistance programs.

*Increasing focus within U.S. foreign assistance on tenure security, which could include:*

- Increasing staff at the U.S. Agency for International Development (USAID), the State Department, and the Millennium Challenge Corporation who are dedicated to the issue of secure tenure, with a specific focus on land, housing and slums.
- Increasing the capacity of the Urban Programs office at USAID.
- Creating or designating a high-level position to coordinate issues within and across agencies relating to tenure security.
- Allowing local NGOs working on tenure security to design and implement innovative approaches.
- Creating an index to measure national housing policies in an effort to create an incentive and framework for improved housing policies.
- Developing an annual report to document the U.S. government's progress on addressing tenure security.
- Allowing for flexibility in programming that recognizes the importance of secure tenure and how it can directly impact other development efforts such as health and education programs.

*Increasing diplomatic pressure on other countries to address the issue of tenure security, which could include:*

- Using the U.S. government's leverage with national governments to promote tenure security as a crucial ingredient for good governance and democratic practices, to improve protection for residents of their countries against forced eviction, and to put clear systems and processes in place.

Until the issue of secure tenure is successfully addressed, millions around the world will continue to be displaced, unable to secure adequate shelter or claim land and housing that is rightfully theirs. Breaking the cycle of poverty can be done. Strengthening tenure security is an enormous step in the right direction.





# Chapter 1: Introduction



# Decent housing matters

**A**ccess to safe, decent shelter is one of the most basic human needs. Improving such access creates an important doorway to alleviating poverty.

The U.N.'s Millennium Development Goals underline that importance by addressing water, sanitation and slum improvement in working toward a better life for the poor.<sup>1</sup> Furthermore, secure, affordable housing both influences and reflects a society's overall well-being and is a prerequisite to political stability and the development of a strong civil society.<sup>2</sup>

Despite what is known about the importance of adequate housing, soaring urban populations and deepening rural poverty have contributed to a worldwide shelter crisis for the poor. Even as income levels in some developing countries have risen in recent years, housing for the poor has gotten worse. Slums and squatter settlements are growing daily in urban areas, sprawling farther and farther from city centers as land prices continue to rise. The price of even the cheapest home in the formal sector excludes the majority of residents in many cities. These residents are forced to build, buy or rent in informal (or "squatter") settlements, where housing is neither restricted nor protected by laws and regulations. Such informal settlements now house an estimated 1 billion people.

Conditions in informal settlements vary. Older, established settlements may be home to middle-class families living in well-built houses. Other settlements are huts and shacks built of scrap material, offering no sanitation or clean drinking water. In some countries, laws prevent local governments from delivering services to communities without formal land and housing titles. Some settlements are built on centrally located, valuable urban real estate, while others occupy flood plains, cliff sides or garbage dumps.

Residents of informal settlements do share one common trait: not one of them has a formal, legally recognized right to live where he or she is, in fact, living. For some, this means the constant fear of forced eviction. For others, it means the inability to establish a secure home-based business or to use their housing rights as collateral for a loan.

## Tenure security can break the cycle

Insecure tenure often lies at the heart of poverty housing, depriving residents of even the most basic physical, economic and psychological security that comes with adequate shelter.<sup>3</sup> Indeed, experience shows that strengthening tenure security can be an important tool for breaking the cycle of poverty.<sup>4</sup>

For this reason, Habitat for Humanity has chosen tenure security as the topic for this year's annual housing report. Through its role developing housing with low-income partners around the world, Habitat has experienced first-hand the importance of tenure security and the cost of its absence.<sup>5</sup>

We offer this report not as a comprehensive resource on tenure security, but rather as an introduction to the most pressing issues related to tenure security in the parts of the world where we work. Our goals are to increase awareness about the unfair housing practices in developing countries and to present a case for raising the priority of improved tenure security as a way



to alleviate poverty. This report focuses primarily on tenure security in developing countries and is devoted, in large part, to tackling the problem in urban areas due to the pronounced growth of slums and the heightened demand for urban land.

Finally, in this report, we do not address in detail the systems causing underlying disparities in land and housing ownership, nor the complex factors that drive low- (and often middle-) income people into informal settlements in the first place. Tenure insecurity is often a reflection of deep-rooted problems, including gross income inequity and socio-economic and political imbalances. While we understand that improving tenure security will not, in itself, solve these underlying problems, we believe that a carefully implemented, pro-poor tenure security campaign can and will make significant inroads.

In focusing this report on current tenure conditions and possible channels for improvement, we recognize tenure security is not an end in itself, but rather a means to improve housing conditions for the poor.

## Global overview: Tenure around the world

Tenure arrangements for housing vary around the world. In highly urbanized Asia, the growth of informal settlements drives the need for improved tenure security. These settlements house upward of 70 percent of the population in many urban centers. While many of the poor people living in the informal sector own their houses, an estimated one-third of all urban residents rent, mostly in the informal sector.<sup>6</sup> Small-scale landlords in the informal sector are increasingly important providers of housing for the poor. In some countries, like China and Vietnam, the state still technically owns and controls land for housing, although individual rights to housing have grown in recent years.

**Table 1: Comparative Urbanization Rates<sup>7</sup>**

	Estimates and projections				Rate of change in % of increasing urbanization by year of each decade.		
	2000	2010	2020	2030	2000-2010	2010-2020	2020-2030
<b>World</b>	2,844,802	3,474,571	4,177,106	4,912,553	2.0	1.8	1.6
<b>Africa</b>	294,392	407,900	556,191	742,188	3.3	3.1	2.9
<b>Asia</b>	1,363,035	1,755,006	2,191,963	2,636,623	2.5	2.2	1.9
<b>Europe</b>	522,108	528,889	537,145	546,462	0.1	0.2	0.2
<b>Latin America and the Caribbean</b>	394,212	473,561	546,342	608,968	1.8	1.4	1.1
<b>North America</b>	249,242	284,289	317,346	346,918	1.3	1.1	0.9
<b>Oceania</b>	21,813	24,925	28,119	31,394	1.3	1.2	1.1

In Latin America and the Caribbean, more than 60 percent of all urban residents lack tenure security. The percentage of poor people who rent housing is generally lower than in other areas of the world since even some of the poorest households have built their own makeshift houses in the informal sector. However, as urban land supplies for housing dwindle, more and more poor people are likely to turn to renting.

In Africa, many poor people are landless rural laborers who often own no house of their own, while the urban poor live as squatters or renters in informal settlements. Tenure systems are often based on customary laws and practices, which vary between and within countries. Between 90 and 98 percent of residential land in Africa lacks formal tenure, the World Bank estimates.<sup>8</sup> More than 40 percent of the population in most of Africa's urban centers rent, and renters are often among the most poor. Shared housing is a common tenure form in some countries, such as Ghana. In North Africa and the Middle East, the state owns much of the urban land available for housing and imposes strict regulations on use of privately held lands.<sup>9</sup> In Egypt and Algeria, the state also owns the majority of the urban housing stock.<sup>10</sup>



In Eastern Europe and the former Soviet Union, housing and land rights in many countries transferred over the past two decades from state ownership and control to individual ownership rights and allocation based on the market. Public rental housing, once common throughout Eastern and Central Europe, now comprises at most 10 percent of the housing market in the region.<sup>11</sup> While this transition to private ownership and a market economy for housing has benefited some, it has removed an important safety net for the poor and other vulnerable groups.

In Western Europe and North America, tenure regimes are mixed and even the poor generally enjoy a high degree of tenure security relative to that found in the developing world. However, soaring housing costs and shrinking rental options have displaced many poor people from urban housing due to economic considerations.

## Chapter 2: The causes of tenure insecurity



# Impediments to tenure security

Concerns relating to tenure insecurity affect more than 20 percent of all people in the world daily. The problem is getting worse as urban land values rise, and governments invest less in housing for the poor, relying instead on markets to fill this need. Informal settlements and slums grow exponentially; structural discrimination against women persists; and millions are displaced each year due to natural disasters and violent conflict. Rising poverty and inequality, large informal labor sectors, and the inability of municipal governments to cope with rapid growth or their own inefficiency or corruption further undermine tenure security. Even in those areas of the world realizing marked gains in economic growth in recent years, tenure insecurity persists or has, in many cases, gotten worse.

Tenure insecurity underlies many social, political and economic ills. It can lead to displacement and the loss of livelihood or property, especially for vulnerable groups like women, children, the elderly, indigenous people and the poor. Residents who fear displacement are less likely to invest in their homes or develop home-based businesses. Those without tenure security are also less able to leverage their property rights as collateral for a loan, or profit from the sale of their home.

In some areas, laws or municipal regulations even prevent the delivery of basic services to households or entire settlements without documentation of formal tenure rights. Such laws severely compound the harm caused by insecure tenure by withholding services such as clean drinking water and adequate sewerage. In some cases, the legal regime leaves residents in a total quandary, as regulations require that a site be serviced before it receives tenure documentation. On a macro level, tenure insecurity both reflects and contributes to the widespread social, political and economic marginalization of the poor.

## Impediments to secure tenure for the poor

This section examines five major impediments to tenure security for the poor.

- Lack of political will undermines laws and regulations established to protect tenure security for the poor.
- Insufficient legal and regulatory frameworks fail to provide tenure security for the poor.
- Customary and traditional laws governing land and housing tenure rights are disintegrating in some areas, leaving residents vulnerable to conflicting claims and forced eviction.
- Corruption pervades and corrodes legal and regulatory systems governing tenure security in many developing countries.
- Insecurity of tenure can be the result of faulty or inadequate administrative systems.



## Lack of political will

The lack of political will at the international, national, and sub-national levels is perhaps the most difficult issue facing security of tenure for the world's poor and is the largest roadblock for those working to bring awareness to the issue and correct it.

Security of tenure often remains underemphasized by policymakers. Absent from most government decision-making bodies is any sense of urgency about the need to provide adequate housing and documentation for all people. Public expenditure on housing is minimal in most countries and has markedly decreased over the past 20 years. While many developing country governments are aware of the need for land reform, efficient and equitable land administration, and secure tenure, their performance in addressing these issues is poor.

The inequality of land distribution is a particularly challenging political issue in developing nations because the more unequal the distribution of land, the more difficult it is to reform. This diminishes the incentive for governments to attempt positive change, even if they are willing to do so at the outset. Moreover, unequal distribution of land is often strongly linked with broader inequalities, such as those based on ethnicity, and are potentially explosive issues that politicians may be unwilling to tackle.<sup>12</sup>

Another challenge is political pressure to use land for profitable ventures instead of poverty housing and land tenure. Local governments often perceive that allocating land for profitable endeavors is in their interest (at least in the short term) because it generates tax revenue, especially where land values are increasing. Also, where bribes and kickbacks are the norm, commercial development may offer lucrative incentives to individual bureaucrats and lawmakers. It is not surprising, then, that commercial development—especially in fast-growing urban environments—tends to enjoy government support at the expense of housing for the poor.

Few governments recognize the important role played by the rental-housing sector and their failure to support it is a major shortcoming in many national housing policies because a large proportion of the residents of cities and towns in many countries are tenants. Although some multilateral agencies do recognize the importance of the rental housing sector, the majority of them rarely mention rental housing or develop loan programs to encourage it.<sup>13</sup>

## Insufficient law, regulations

### Eviction for development

The formal legal framework in many countries fails to adequately protect poor people from forced eviction. Despite a policy trend away from forced eviction in many parts of the world,<sup>14</sup> it is common to evict people to allow for commercial development and redevelopment of urban areas, and for large-scale infrastructural projects in rural areas.<sup>15</sup>

When housing settlements are expropriated for redevelopment, legal homeowners are given little compensation (rarely enough to buy a home of comparable size to the one they owned); tenants and squatters are given nothing. While it is important for governments to retain a right of eminent domain, or the authority to expropriate privately held land and housing if it is for the public good and fairly compensated, safeguards for residents are few and far between. The way in which people are evicted from their homes often causes unnecessary harm.<sup>16</sup>



### Protecting landlord and tenant

The legislative and regulatory framework governing landlord/tenant relations causes great concern. Laws and regulations are often ineffective, leaving tenants vulnerable to forced eviction or undermining the financial viability of landlords. In developing countries, most renters live in the informal sector, have no written contract and lack any legal mechanism to protect their tenure rights. Even in areas where laws do exist, they are seldom enforced. On the other hand, some legal frameworks go to great lengths to protect tenants' rights but fail to protect landlords' rights, thus preventing their economic viability for landlords and diminishing rental for the poor.

### Tools for transfer

In many countries, the legal framework for transferring rights to squatters from private landowners is inadequate or nonexistent. In some developing countries, no legal tools formally transfer land rights from the registered owner to the de facto possessor of that land. This means households living in informal settlements on private property have no way to formalize their land and housing rights, even if they have possessed the land for long periods of time and have invested scarce resources in building their own house on it.

Fear of displacement is common because the land and housing rights of current residents or possessors are constantly open to claims connected to generations past, as long as any person or corporation can trace a legal thread of ownership through some distant relative or earlier transfer of land or property.

Where laws and some framework do exist for transferring rights from owners to long-term possessors, often they are not used. In some cases, laws give squatters legal tenure rights after a certain number of years (often 10) of continuous occupation.<sup>17</sup> However, these rights are usually not officially acknowledged or registered, making them easy for developers to supersede to drum up a pretext of tenure rights to get a building site.<sup>18</sup>

## Roofs Over Heads: Habitat's advocacy campaign in Poland

A Polish couple and their two children live in a small communal flat in a municipality-owned building in Warsaw. The father works as a policeman and the mother as a part-time school teacher, yet Warsaw's high prices prevent them from renting a larger place for their family.

Last year, the previous owner of the land on which their multi-family housing unit sits, claimed his right to the property and said he intended to take it over. So the municipality froze any repair and renovation on the building despite its inadequate condition. A lawsuit over ownership of the land was filed, endangering the stability and living conditions of the 40 families occupying the communal flats.

The threat of eviction that the family now faces is a result of what is known across Central and Eastern Europe as the law of restitution, an instrument to provide for homeowners whose houses were nationalized by communist governments. In Poland, the government adopted restitution laws without protecting existing tenants. Large-scale privatization and restitution programs have left millions of people facing unaffordable rent increases or even eviction.

In response, Habitat for Humanity Poland joined forces with 12 other nongovernmental organizations in 2005 to start a social campaign against poverty housing called "Roofs Over Heads." The campaign aims to engage the public and increase awareness of the inadequate living conditions that affect as many as 6.5 million Poles. The ultimate goal is a national housing program that would include solutions for low-income families unable to afford houses through conventional means.

## Beyond tenure: Bad laws, regulations reduce housing for the poor



A comprehensive list of legal/regulatory impediments to adequate housing for the poor would include:

- Current zoning and land-use planning regulations—such as minimum lot sizes, mandatory set-backs and servicing standards—restrict the amount of formal sector urban land available for low-income housing.
- Unduly restrictive regulations for obtaining development permits limit the amount of urban land available for low-income housing and create costly bureaucratic barriers to building low-income housing.
- Construction regulations established by colonizers do not reflect the real limitations facing most low-income builders in the developing world. (For example, some regulations prohibit progressive, self-help building.)
- Many housing subsidies (such as interest rate subsidies) are not transparent and fail to target the poor. Excessive regulation of financing institutions precludes potential.<sup>19</sup>

### Discriminatory laws

Laws and regulations often discriminate against women, children and other vulnerable populations. Any group that has been traditionally marginalized or disadvantaged is especially vulnerable to tenure insecurity, including the poor (particularly the urban poor), women, children (including orphans and street children), elderly people, the chronically ill or disabled, indigenous people, ethnic or religious minorities, refugees, internally displaced persons (IDPs) and migrant workers. In some cases, these vulnerable populations are unable to effectively assert legal rights. In other cases, laws and regulations actually discriminate against them.

For example, laws commonly fail to establish and protect women's secure tenure rights in one or more of three ways:

- Legislation explicitly discriminates based on gender;
- Legislation appears gender-neutral on its face, but in fact discriminates in practice;
- Legislation explicitly prohibits discrimination based on gender, but is not implemented or not enforced. Women in many developing countries have little if any access to laws that favor equal access to housing rights.

### A culture of corruption

In many countries, corruption makes even the best-drafted laws and regulations for tenure security irrelevant. In many of the world's fastest-growing cities, soaring land values have strengthened the nexus between real estate developers, politicians and bureaucrats, leading to an environment of corruption in which laws and regulations are easily violated.

In developing countries, law-making and implementing laws and regulations lack transparency and enforcement is sporadic at best. Such an environment often acts against the housing interests of low-income communities. On a smaller but equally destructive level, corrupt officials require bribes to issue or register tenure documents. Where bribery is the norm, the poor are disproportionately hurt compared to the rich, whatever the best interests of the community as a whole.

Moreover, growing evidence points to corrupt or complicated registration processes contributing to a redistribution of assets toward the wealthy. Red tape and corruption in land administration make it costly and time-consuming for people to register land. Powerful elites often use their discretionary power and influence over land allocation for political and personal advantage, while landowners and land professionals with vested interests often obstruct simple, accessible and efficient systems for land transfer, land survey, and the registration and collection of land information.<sup>20</sup> In Ukraine, for instance, a state-run monopoly for land survey services attempted to profit by charging villagers excessive fees to register their new land ownership rights, denying them secure tenure.<sup>21</sup>

### Eroding protection of custom

Customary and traditional laws governing land and housing tenure rights are disintegrating in some areas, leaving residents vulnerable to conflicting claims and forced eviction. Where customary or traditional land systems are functioning, they can provide important protections for residents. In many developing countries in Asia, the Pacific, and Africa and the Middle East, customary laws have long held sway over housing rights. In recent years, however, acute socio-economic changes—including a high incidence of HIV/AIDS, and a rise in extreme poverty and urbanization—have dislodged many traditional systems governing tenure, eroding people's rights.

In some cases, current tenure registration systems are the products of historical tension between two or more different systems. In Africa, for example, most governments inherited a dual land tenure system upon independence; some areas within the country were governed by European administration systems and others by traditional systems.<sup>22</sup> As a result of overlapping tenure systems, current land rights in many parts of the region are subject to multiple claims. Formalizing or transferring these rights can be difficult and costly. Colonial land registration systems in many sub-Saharan African countries have fallen into complete disuse, both reflecting and contributing to the widespread failure of formal sector urban land markets.<sup>23</sup>

## Tradition governs tenure rights in Africa



Kinship continues to be the basic principle underlying most land rights systems in Africa. Under these systems, family members are allocated rights to use the land that cannot be

sold or given to non-family members, but rather revert back to the family upon death or marriage.

Customary laws, although altered by colonial rule, continue to govern land tenure systems in many parts of the continent and can provide important protections for residents. They are almost always unwritten, and often co-exist uneasily alongside formal written systems. In many cases, customary laws (e.g., those prohibiting rights through sale, mortgage, etc., outside the family and thus protecting the extended family) are eroding under pressure for land development in urban areas.

Until recent years in West Africa, communal housing was based on the right of any person to live with his or her relatives. As a result of customary tenure patterns reflected in family compounds, poor households were usually able to find basic shelter, and squatting was not as common as it was in other parts of the world. A greater problem was provision of basic services, almost non-existent in communal housing arrangements.

While this traditional form of family tenure shelters some of the most poor, it also prevents the transfer of rights that could create land markets for those who want to sell their share of rights and those who have no right to shelter because they lack kinship relations. As economic tensions (and the demand for urban housing) rise and core family structures begin to shift, extended families have become less willing to share their housing. In some cases, family leaders have sold the rights out from under their extended relatives.<sup>24</sup>





## Inadequate, faulty administrative systems

Land administration is essential to any effort to ensure secure tenure best serves the interests of the poor. The term “land administration” refers to how civil authorities run and enforce tenure rules and regulations.

Good property and housing registration systems are crucial to secure tenure, as they facilitate legal transfers of security of tenure, public and transparent record of ownership and tenant rights, and the protection of rights related to housing.<sup>25</sup>

In many countries, however, the lack of resources makes local authorities unable to keep pace with developments on the ground. Deficiencies in the land administration institutions responsible for boundary demarcation, registration and record keeping, adjudication of right, and resolution of conflict can prevent secure tenure.

One administrative function in particular—making land tenure formal by issuing titles—can actually reduce secure tenure. While titling has its advantages (See the solutions section of the report, page 45.), it also has many drawbacks.

The trend toward decentralization of land administration in many developing countries also strains these systems. In most countries, even where land responsibilities are vested with local bodies, the central government retains some control, responsibilities and decision-making powers. Decentralized land bodies depend largely on financial and technical support from the central government. While such oversight might be good, if local government does not receive adequate financial and technical resources from the central government, it can't do the job. Therefore, the key challenge is building the capacity of local land institutions.<sup>26</sup> In Ghana, for instance, the central government controls revenue and some use of land managed by local chiefs.<sup>27</sup> In metropolitan Manila in the Philippines, officials and civic leaders recognize the rights of the poor to housing and basic services. However, local government lacks resources with which to respond and meet those needs.<sup>28</sup>

Accountability is another key challenge in land administration and registration systems. How accountable a land administration system is correlates with whether or not its members are elected.

In the great majority of developing countries, high costs, illiteracy and bureaucratic barriers keep the poor from asserting their legal rights to get titles or access to land. In countries where all residents are fortunate enough to have protection under the law, the poor often do not have the knowledge or legal aid to exercise their rights. Even when poor people have legitimate, long-term tenure rights to land and housing, they often fail to formally register these rights. Their rights are thus less secure against any claim.





## Chapter 3: Specific groups and tenure



*Tenure security can vary depending on gender or age, whether the location is urban or rural, whether property is owned or rented, and whether a natural disaster or conflict has affected tenure. Insecure tenure is not a one-size-fits-all problem. This chapter seeks to explore secure tenure within these specifics.*

## Tenure security: How it affects women and children<sup>29</sup>

Improving tenure security for women is important for several reasons. First, traditional protections for women are failing in many parts of the world. Historically, customs in many countries gave women access to land through their relationship to a male family member, a husband or father. Under pressure from extreme poverty, crumbling traditional family structures, urbanization, death and illness due to HIV/AIDS, and rising urban land values, customary rules that once helped to protect women's access (if not their right) to land and housing in the past are often weakened. Sometimes this happens because women lose their connection to a male family member (e.g., the husband dies of AIDS, migrates to the city, or divorces his wife). Extreme poverty often prevents birth families from taking in female relatives who have lost housing with their husband. In other cases, men unilaterally decide to sell the family's house and land to profit from rising land values. This means that in many countries, a woman's access to housing through a household male's rights to that housing is less secure now than ever before.

Second, households headed by females—especially single mothers, girls, widows, divorcees, wives of migrant workers and women who are older or have a disability—are considered among the most socially and economically vulnerable. These households are at an even greater disadvantage if they lack secure tenure to their housing.<sup>30</sup>

Third, women often experience the damage from insecure tenure and inadequate housing more deeply than men. Women without secure tenure have fewer economic options making them and their children more likely to face homelessness, poverty and violence. Poverty can also encourage high-risk behavior such as having unsafe sex for money, housing, food or education.<sup>31</sup> Women who are unlikely to receive rights to their land and housing upon divorce or separation are more likely to remain in abusive relationships.<sup>32</sup>

Fourth, improving tenure security for women gives children added security to their home. Research shows forced eviction wreaks havoc on the physical, mental and emotional health of children, creating a level of trauma similar to that experienced in war. Unfortunately, evictions often strategically take place when women and children—but not men—are likely to be at home. When women have strong tenure security, children are less likely to be evicted and more likely to benefit from improvements to the home and land made by their mother. Children are also more likely to have better access to healthy and adequate food and educational opportunities when women control the household's economic assets, including housing.

## Discrimination in inheritance, divorce

Customary laws and practices often discriminate against women in inheritance of housing rights. In some parts of Africa, for example, even where formal laws require women take some portion of the housing estate upon death of the husband or father, customary practices and social pressure usually preclude this. Under many customary practices in the region, in-laws evict a widow from her house upon death of the husband. Muslim traditions typically allow women to inherit housing rights although in smaller shares than those designated to comparable male heirs. Both formal laws and customary norms in many countries discriminate against women in the event of divorce, separation or desertion.

## Law and practice toward women

Written laws often fall short of adequately protecting women's tenure rights. Often countries that protect women's housing rights in their constitutions or laws do so only partially, leaving many ambiguities and contradictions to undermine these rights.<sup>33</sup> For example, legislation often excludes from protection large groups of women, including unmarried women, women in cohabitation, and women married under certain religious or customary regimes.<sup>34</sup> The lack of representation by women on decision-making bodies and courts often perpetuates discriminatory practices. In many developing countries, the "head of household" is the person legally designated to manage and transact household business with the greater community. Under written, customary and religious laws, this head of household is almost always male. Although formal laws giving authority to the head of household may appear gender-neutral on their face, they in fact bestow authority within the household exclusively to the husband.<sup>35</sup> Rights held by a household may not be rights held by the woman of the house.

In some countries, formal national laws explicitly discriminate against women. In Swaziland, for example, laws prohibit a married woman from registering a title in her name. The laws in some countries consider married women "minors," unable to enter contractual obligations without an accompanying male relative. In other cases, laws prohibit married women from entering into contracts without authorization of the husband or other male relative.<sup>36</sup>

Where formal, written laws do establish women's housing rights, they are seldom enforced for a variety of reasons. Women may be illiterate or unaware of their rights, and policymakers may fail to disseminate laws to reach women. Even if women do recognize their rights, they are often not able to assert them. Women frequently lack access to lawyers, legal aid and unbiased courts and are unable to seek redress even if they know that a right has been violated.<sup>37</sup>

Land and housing reform and improvement programs, including regularization and titling, can jeopardize women's housing rights. Women's housing rights and access are at risk in at least three housing and land rights "improvements": (1) individualization of communal property rights that may have benefited women; (2) titling programs granting property rights to the head of household (or allowing for





co-ownership or joint ownership but requiring consensus by both spouses or some other condition that in practice keeps women from benefiting from enhanced rights); and (3) slum upgrading programs that occur in a liquid housing market, because men are more likely to unilaterally decide to sell the family home in this circumstance.<sup>38</sup>

### **Disasters often worse for women**

In post-disaster rehabilitation and reconstruction, women face particular hurdles to secure tenure and shelter. Women usually stay in temporary shelters and camps for a longer time, often lacking basic shelter and being subjected to violence. Women are not fairly represented on relief teams and reconstruction policies, explaining why very little rehabilitative efforts adequately reflect women's concerns. Not surprisingly, compensation for damaged or destroyed shelter seldom reaches entitled women, but is allocated instead to male relatives. Furthermore, rights to land and housing allocated through shelter reconstruction programs are sometimes transferred to the male head-of-household, leaving the women of the household without any formal rights. This may be true of housing donated by assistance organizations, and of land rights from the government. In Aceh, Indonesia, for example, the Reconstruction of Aceh Land Administration System project, designed and supported by the World Bank, allowed for but did not require joint titling of land parcels.<sup>39</sup> Initial reports indicate that less than 5 percent of the 20,000 land parcels transferred to individual households by May 2007 were recorded in the name of both husband and wife.<sup>40</sup> Most are recorded in the name of the man only.



# Renters and insecure tenure



The private rental market is an important option for the poor in many parts of the world.<sup>41</sup> In most regions, rentals offer less expensive housing, are nearer to urban centers and are more flexible for households in the midst of a rural-urban transition or that need mobility to make a living.<sup>42</sup> For those living in extreme poverty, owning a house will probably never be a viable financial option. Renting or shared housing increasingly may become the only options to the poor in fast-growing urban centers due to the rapid decrease in “free” or inexpensive land on which to build informally. For example, in Nairobi, Kenya, and Cairo, Egypt, poor families cannot afford even the cheapest illegally subdivided plot, and squatting is no longer an option.<sup>43</sup>

While ownership generally offers more tenure security than renting, renting can provide an acceptable protection given the right political and legislative environments. Also, long-term rental agreements can provide some of the same tenure security benefits of ownership, such as the stability to invest in a home-based business. Healthy housing markets will contain a number of secure options, including ownership and renting.

**Table 2: Percentage of renters by region<sup>44</sup>**

Region	% of renters
Southern Africa	16 %
Rest of Africa	30 %
China	2%
East Asia and Pacific, excluding Australia	26%
South and Southeast Asia	31%
Middle East	28 %
Western Europe	19 %
North America and Australasia	10 %
Latin America and the Caribbean	17 %
World	17 %



The percentage of the population that rents varies considerably in different regions of the world, with rates especially high in urban centers. The percentage of renters in some major urban areas in developing countries is more than 70 percent.<sup>45</sup> Prevalence of one form of tenure over another does not necessarily correspond with the overall wealth in a given city or country. While many of the world's poorest rent, so do some of the world's most well-off. Renting attracts a significant portion of the housing market in some of the world's richest cities.

In the developing world, most rental housing for the poor exists in the informal sector, where it operates without regulation. Landlords seldom use contracts or pay taxes on rental income and what legislation does exist is not enforced. In this context, tenure security for renters often depends on the social relationship between landlord and tenant. While perceived and actual tenure security may be quite strong among tenants of small-scale landlords,<sup>46</sup> the opposite is often true among tenants of large-scale absentee landlords or "slum lords".

In rental markets, one of the greatest challenges to improving secure tenure for the poor is how to do so and keep rent affordable. Low rental market prices reflect the lack of regulation and security in these markets, especially in the informal sector. If tenure security improves without a corresponding improvement in the income level of the poor, rising prices are likely to displace the poor from their current rental homes. For example, if a landlord must pay for the increased tenure security through titling and registration requirements, he will more than likely pass those costs on to tenants.

Programs and policies to improve tenure security have focused almost exclusively on housing ownership, rather than on renting. In some instances, efforts to improve tenure security for homeowners have come at the expense of renters, who may be displaced as home values rise.<sup>47</sup>

### High costs keep low-income renters from city centers<sup>48</sup>



Although low-income households in many developed countries enjoy a relatively high level of legal protection for tenure security,<sup>49</sup> they are increasingly excluded from urban centers due to soaring urban land values.

When the supply of private rental housing constricts, low-income households are the first to lose out. For example, the combination of high urban land values and low home mortgage rates in many U.S. cities in the last decade has fueled the massive conversion of rental apartments to condominium units, leaving low- and middle-income people with few affordable rental options near city centers.

In affluent countries in Asia and the Pacific region, such as Australia, New Zealand and Japan, low-income people face increasing difficulty in the private rental sector. A 2002 parliamentary report from Australia notes that housing affordability is at an "all-time low," resulting in a continuing decline of low-income housing stock, which affects private sector renters most severely. Other consequences include homelessness and overcrowding.

# Rural poverty feeds tenure problems



Research into the causes and dynamics of rural poverty frequently confirms a close correlation between secure land access and poverty levels around the world. In fact, about half of those living in rural areas suffer from some form of tenure insecurity. Because land rights underpin most rights to other resources, access and security of tenure is at the heart of the rural poor's ability to subsist, earn an income and overcome poverty.<sup>50</sup>

Pastoralists and indigenous people, two rurally based groups generally living on or using communal lands, common property or open access areas, are especially affected by tenure insecurity. These and other groups living in rural areas in developing countries are at the mercy of the following trends which continually derail their chances to strengthen their tenure :

- Large-scale projects like dams and mining result in the loss of homes and livelihoods and can also lead to forced evictions and forced migration.
- Globalization has increased the sphere of private property and private responsibility while decreasing government's role with respect to the private sector and civil society.<sup>51</sup>
- Decentralization, which has devolved land management to local authorities in rural areas, can undermine the tenure security of the rural poor when it doesn't lead to accountable, representative local institutions or transfer meaningful power to them.<sup>52</sup>
- The rural poor's ability to participate in decisions that affect their lives is often limited by more powerful and politically connected parties with interests in the same land resources.
- Overlapping claims, land grabbing and conflicts over land abound.

## Secure tenure—a way out of poverty in India



Almost 80 percent of the Indian poor live in rural areas. India has the largest number of poor people on the planet, as well as the greatest concentration of rural households—17 million in total—that are totally landless. Research by the Rural Development Institute (RDI) in India has shown that house-and-garden plots as small as 1/15th of an acre can produce substantial benefits for formerly landless families, including improved nutrition and health, increased income, access to credit, and community status.

Jiyappa and his family live on a 5,400 square foot house-and-garden plot they have owned since 1993 in the Indian state of Andhra Pradesh. Jiyappa is a former bonded laborer—an indentured servant who lived and worked in his master's house and farm fields in exchange for basic food, a primitive shelter and 700 rupees (US\$16) per year. That was before he was hired by the Deccan Development Society (DDS), a local NGO working to economically empower the poorest of the rural poor. In 1993, the DDS employee's association helped Jiyappa and fellow DDS workers purchase small house-and-garden plots of about 1/10th of an acre.

Jiyappa, his wife and three of their six children now live in a small house they have constructed on the plot. The plot produces 90 percent of the family's annual vegetable and fruit needs, plus 6,000 rupees (US\$133) a year from the sale of what they can't eat themselves. The 20 chickens the family keeps on the plot help feed the family and earn about 3,000 rupees (US\$67) a year from the sale of poultry and eggs. When their teak trees begin to reach maturity, the wood from each tree will fetch at least 25,000 rupees (US\$556), giving the family's 42 trees a total value of roughly 1,050,000 rupees (US\$23,333) in today's rupees/dollars—an enormous sum for a poor, rural family in India.

Through micro-ownership of house-and-garden plots, agricultural laborers throughout India have been able to increase their income, family nutrition and status. Strong supporting evidence on the benefits of owning small house-and-garden plots exists from such diverse settings as Russia, Indonesia, and the Caribbean as well.

*Source: The Rural Development Institute*

# The urban challenge: Unprecedented growth



The year 2007 marked a turning point in human history: for the first time ever, more people lived in cities and towns than in rural areas. Many—if not most—new urban residents live in slums.<sup>53</sup> In fact, nearly one-third of the people living in cities around the world live in slums. In some countries 90 percent of the urban populations live in slums.<sup>54</sup>

Tenure security for the urban poor is deteriorating; as land values within cities continue to increase, affordable land becomes increasingly scarce, and housing solutions are increasingly left to market forces. Urban population densities, land values and competition over land rights are much higher than in rural areas—increasing the potential for disputes and heightening the risk of conflict.

Additionally, the attitudes of local and national governments toward the urban poor are becoming increasingly intolerant. Many governments are receiving pressure to “beautify” their cities in order to become more competitive in the global economy—an economy in which the gap between the rich and poor has widened

and the price of land has increased drastically. More and more, the poor are being forcibly evicted and pushed to the edge of cities to unplanned and poorly serviced areas.<sup>55</sup>

Evidence also indicates society-wide economic growth can make it more difficult for the poor to access secure and affordable housing. The economic boom in China, for instance, has significantly reduced secure tenure for urban residents. Some 50 million urban residents (not including migrant workers), are subject to eviction from affordable homes they have occupied for decades and are unable to find, much less afford, new housing.<sup>56</sup> In metropolitan Manila in the Philippines, a formerly successful state poverty housing and tenure security program is no longer viable in highly urbanized areas due to the scarcity of affordable land.<sup>57</sup>

The number and form of evictions varies throughout the world. The magnitude of urban evictions is currently highest in sub-Saharan African cities where outdated colonial laws prohibit many of the housing practices most often used by the poor to live in the city.

In Asian cities, strong civil society action and better laws have improved the tenure status of slum dwellers; however, globalization pressures exist in many of the more economically successful cities and land and housing prices are escalating, which could lead to further evictions and socio-economic exclusion.



In the cities of Latin America, progressive slum upgrading and regularization programs have increased the tenure security of the urban poor, but evidence suggests that the most vulnerable groups are not being reached.<sup>58</sup>

Because the formal housing market in urban areas is neither affordable nor accessible to the urban poor, an increasing number of people have no choice but illegal or informal land markets. Many governments now accept the inevitability of the informal settlements much more than ever before.

Many international finance institutions and aid agencies have emphasized urban development options that meet the interests of governments and formal private investors, primarily through regularization programs that involve the allocation of property titles.<sup>59</sup> Yet examples from around the world show that formal titling is just one option, and not necessarily the best option, for helping the urban poor gain secure tenure. While titling has benefited many slum communities, it has not lifted them from poverty. In many cases, incremental approaches based on the right to a secure livelihood have proven to be more effective in the long-term.<sup>60</sup>



# Natural disasters add to tenure insecurity



Natural disasters affect about 188 million people each year.<sup>61</sup> Poor and marginalized communities, including those without secure tenure to their homes, are among the most vulnerable. In a recent survey of humanitarian and development professionals conducted by the International Institute for Sustainable Development, respondents agreed “clarity over private and communal land ownership is key to the effective reconstruction of disaster-affected regions.”<sup>62</sup> Having a secure “sense of home” helps disaster victims deal with psychological trauma and allows individuals and communities to focus on rebuilding their homes and their livelihoods. Secure tenure also helps people to more quickly move away from life in refugee camps and dependency on humanitarian assistance.

Unfortunately, the poor seldom realize the benefits of secure tenure in the wake of a natural disaster. Rather, tenure insecurity prior to a disaster often compounds the disaster in poor communities. Tenure insecurity following a disaster can slow or prevent shelter assistance and the long-term development potential for affected families and communities.

**Because the poor cannot afford regulated, tenured housing markets in urban areas, they are more vulnerable to death, injury or housing loss from natural disasters.**

Poor people living in unregulated squatter settlements are more prone to death, injury and loss of housing after a disaster for a variety of reasons. First, squatter settlements are often located in areas vulnerable to natural disasters, such as steep slopes and flood plains. Squatters on the banks of the Lyari River in Karachi, Pakistan, for example, lose life and property to frequent flooding, as do the people living in 300 slums alongside waterways in Colombo, Sri Lanka.<sup>63</sup> Informal settlements are often located on marginal lands not included in government surveys and disaster risk assessments.<sup>64</sup>

Second, housing in informal settlements most often does not comply with construction and safety standards and is usually unable to withstand the force of a natural disaster. When one



of these disasters strikes, it commonly affects a high number of people because informal settlements have no density regulations and are usually overcrowded due to the high demand for affordable housing.

Third, when clear and strong land rights exist, people are encouraged to invest in disaster mitigation measures for their house and land. Such measures include constructing windbreaks, building flood barriers and using better materials and sound construction methods for their homes.<sup>65</sup> When people live with the threat of eviction, they are less likely to invest in these life- and property-saving measures.

### **Disasters bring new fear of eviction**

Because the poor often lack documented, registered tenure rights to land and housing, disasters often bring new threats to their underlying claims and they may not be able to access critically needed shelter assistance.<sup>66</sup>

The 2004 Indian Ocean tsunami killed more than 180,000 people and left at least 1.8 million people homeless.<sup>67</sup> Most of the damage occurred in Indonesia, Sri Lanka, India, Thailand and the Maldives. Many of the affected families had lived for years along the coastlines of these countries in fishing villages without formal, registered tenure rights. Of the 300,000 land parcels affected by the tsunami in Aceh and North Sumatra, Indonesia, only 60,000 were titled.<sup>68</sup> When families finally returned to their coastal lands to begin rebuilding, they were faced with yet another threat, this time to their tenure security. In some cases this threat came from de jure, or legally recognized, owners of the land who saw damage and destruction of houses built by squatters as an opportunity to permanently evict them. In other cases the threat came from the government, in the form of a “coastal building regulation zone,” prohibiting families from rebuilding their houses on land within a specified distance from the coastline. In Thailand, Sri Lanka and India, these regulations resulted in plans to evict many of the poorest coastal communities.<sup>69</sup>

Due to the fear of displacement, people often try to remain on, or return to, their land after a natural disaster. Following the tsunami, many coastal people disregarded safety





warnings and returned to their land in order to establish a physical presence of some sort and reduce the chances of eviction. In northern Pakistan, approximately 70,000 people remained in their “devastated and remote” villages in the mountains following earthquakes in Bam (2003) and Kashmir (2005) for as long as possible in order to defend their property rights.

**Destruction of tenure rights documentation and registration services can slow shelter recovery following a disaster.**

Sometimes disasters destroy records of tenure by physically wiping out registration documents, personal identification documents, physical boundary markers and even the institutions charged with keeping track of tenure rights.<sup>70</sup> This was the case in the Indian Ocean tsunami, which killed up to 30 percent of the staff of the National Land Registry (BPN) offices in Banda Aceh, left four BPN offices severely damaged and two BPN offices completely destroyed.<sup>71</sup>

**Tenure insecurity may delay or prevent needed shelter assistance in post-disaster reconstruction.**

Individuals and organizations choosing to rebuild on land with shaky tenure rights in a post-disaster environment risk increased vulnerability.

If communities rebuild on land to which they have weak legal claim the land may later be taken away—leaving them worse off than before. And if government, humanitarian and development agencies are not aware of or ignore such local land ownership systems, they risk increasing disaster vulnerability.<sup>72</sup>

The absence of secure tenure has the potential to delay or shut down post-disaster shelter assistance. Perhaps the worst impact of tenure insecurity for disaster victims is that it may prevent them from getting needed aid. Governments and assistance organizations often condition aid on proof of secure land ownership. Also, some programs offering credit to households for reconstruction exclude those who cannot offer documented tenure rights as collateral.<sup>73</sup> Women may suffer most profoundly from the use of land and housing



rights as leverage for reconstruction aid, since they often lack clearly defined rights within their household.<sup>74</sup>

Not surprisingly, renters and squatters typically cannot get permanent shelter assistance in post-disaster reconstruction efforts and remain in temporary camps for long periods of time because finding housing is difficult due to the reduced supply of affordable rentals.<sup>75</sup>

When a disaster damages or destroys tenure records, or when these records were not well-documented to begin with, governments, aid organizations and communities must act quickly to reestablish land rights. While systematic titling may prove useful in the long term, it is far too cumbersome and time-consuming to use as a prerequisite to post-disaster housing reconstruction.<sup>76</sup> A better approach may be community mapping, creating a visual representation of tenure rights. This process is most effective when trained surveyors are used and community members support their work. This approach helped provide a threshold level of tenure security in some communities in Aceh and Nias, Indonesia, after the 2004 tsunami.<sup>77</sup>



## Chapter 4: Strategies that improve tenure security



# Remedies must protect the vulnerable

Lack of secure tenure can reinforce the vulnerability and disadvantages experienced by already disenfranchised groups. Strengthening poor people's land rights and easing land transactions set in motion a wide range of social and economic benefits, including reducing poverty and empowering women and other marginalized people.<sup>78</sup> However, special attention must be paid to safeguard the rights of vulnerable groups, including the development of pro-poor, pro-gender sensitive policy framework and programs.

Improving secure tenure for the poor may take many different forms including a government proclamation against eviction or the extension of basic infrastructure and services to informal settlements and the issuance of state-backed titles to every individual homeowner in an informal settlement.

Improved tenure security is most effective as one prong of a comprehensive strategy to increase access to affordable housing by the poor.

Although no one program or solution will best answer this question in every case, an incremental strategy that focuses first on increasing the perception of tenure security (*de facto* tenure security) before moving slowly toward formal, legally protected tenure security (*de jure* tenure security) is ideal because change rarely ever happens easily or quickly. This strategy would allow initial benefits to be channeled to current residents while giving the market time to fully mature so that if current low-income residents transact their rights, they are in a position to receive greater compensation. Several channels strengthen secure tenure for the poor, including building political will, improving the legal and regulatory framework, and developing administrative capacity for pro-poor housing rights systems.

## Building political will

Generating political will to tackle insecurity of tenure requires the efforts of the international community, national and local governments, and civil society.

### *International response and pressure*

Several international bodies promote secure tenure at the international level. Official human rights bodies, including courts, at the national, regional and international levels scrutinize the tenure practices of governments, the private sector and international institutions, paying special attention to records of forced eviction. International standards addressing the practice of forced evictions with violations of human rights, particularly housing rights, grew considerably during the 1990s:

- In 1990, the U.N. Committee on Economic, Social and Cultural Rights (CESCR) issued the first declaration that a state party violated the International Covenant on Economic, Social and Cultural Rights, declaring that the Dominican Republic had violated internationally recognized housing rights. The CESCR has made similar decisions on other countries since then.
- In 1997, the CESCR's General Comment No. 7 on forced evictions significantly expanded protection against eviction.

It detailed what governments, private landlords, developers and international finance institutions like the World Bank must do to prevent forced evictions. Also, it made explicit that individuals and institutions are subject to legal obligations regarding tenure laws against them if they carry out forced evictions.

- The CESCR also criticized international agencies for development projects resulting in forced evictions and displacement.<sup>79</sup>

U.N.-Habitat initiated the Global Campaign for Secure Tenure in 1999 with the objectives of upgrading slums through negotiation, instead of eviction, and monitoring forced evictions and advancing tenure rights. The campaign works with member states to replace the practice of evicting people with negotiating with the affected populations and the organizations representing them. It supports tenure systems that are both favorable to the poor and feasible for local land administrators, helping to make it more appealing to the government. The Advisory Group on Forced Evictions, which is closely linked with the Global Campaign for Secure Tenure, monitors forced evictions, identifies alternatives like *in situ* (or on-site) upgrading, and works with governments to propose alternatives to forced evictions.<sup>80</sup>

In 2005, the U.N. for the first time appointed a special envoy to address the consequences of mass forced evictions in Zimbabwe. The action was widely welcomed by the world's human rights community as an important precedent.<sup>81</sup>

Other ways that the civil sector can support national governments in improving tenure security are to:

- Help governments understand that addressing insecurity of tenure within their borders helps contribute to their overall national security.
- Help governments understand that even the poor and disenfranchised can, and often want to, contribute to the health and wellness of society and of their country.
- Link with anti-corruption programs to combat government corruption involving tenure.

## Examples of tenure work

The boxes on the following pages introduce examples of how international development organizations and foreign governments have attempted to promote tenure security in developing countries.

### *National government commitment and action*

The commitment of the political leadership within a country is essential to fight insecurity of tenure and promote adequate shelter for the poor.<sup>82</sup>

A top-level government proclamation against forced evictions can increase people's perception of security and provide some short-term security. In Brazil, Egypt and Turkey, official tolerance of illegal settlements has been followed by the legalization of informal settlements through amnesty. Such approaches provide at least political security of tenure.<sup>83</sup>

Government proclamations may be the most feasible and inexpensive instrument in granting secure tenure to a large number of people occupying government-owned land—a pragmatic approach to limited government capacity and financial resources. In the Philippines, for instance, land proclamations have allowed a large number of urban poor to have better tenure security despite minimal resources.<sup>84</sup>

Ideally, a government proclamation should be just the beginning step in a spectrum of measures to eventually provide state-backed legal security of tenure—such as issuing informal tenure rights at first, followed by state-endorsed formal titles. In a few cases, central governments have put into place policies and practices to prevent forced eviction.



## Government, multi-lateral efforts



The United States Agency for International Development (USAID) has funded legal advocacy projects relating to tenure security in several countries, including for the Community Legal Education Center in Cambodia. This organization helps local residents assert their rights in the Cambodian Constitution and the Land Law. In particular, the organization has benefited victims of land grabbing throughout the country.

USAID also has worked in post-conflict countries like Afghanistan to

resolve issues around secure tenure. In Afghanistan, USAID helped to ensure that Afghan citizens in informal settlements around Kabul had clear transfer of title and documentation of ownership for their properties.

Governments of other countries have also worked to improve tenure security for the poor. For example, the United Kingdom's Department for International Development (DFID) currently supports tenure security projects in more than 20 countries.

Multilateral agencies, like the World Bank, also fund programs to improve secure tenure in countries around the world. For example, the World Bank funded a \$34.96 million land administration and management project in Albania. This project supported the Albanian government's efforts to enhance secure tenure and improve land administration. The World Bank has also funded a land registration system in Laos that includes providing titles to land owners. This project is expected to register more than 250,000 land parcels and benefit low-income residents the most because they are less likely than higher income residents to have their land registered.

In the context of the World Bank's Land Management and Administration Project (LMAP) involving non-judicial means of resolving land disputes through cadastral land commissions, there is no guarantee of fair support for the poorer and vulnerable communities in their respective disputes against those with money, power, and influence so LMAP is introducing free legal aid for the poorer and vulnerable groups in their land disputes.

## Up close: U.S. Congress promotes secure tenure internationally

The U.S. Congress plays an important role through authorizing legislation, appropriating money and providing oversight to the numerous agencies and programs focused on international affairs which both help reduce poverty and increase U.S. security. Within this broad framework, issues relating to secure tenure are dealt with in the U.S. Congress.



The overall budget for U.S. foreign assistance has increased significantly over the past decade, reversing a trend throughout the 1990s when funding for U.S. foreign assistance declined relative to the overall U.S. budget. Congress appropriated \$38 billion to foreign assistance in 2008, representing less than 1 percent of the total U.S. government budget. Of this, about half focused on programs to reduce poverty. While Congress appears to be positioned to continue making foreign assistance a priority, competition for funding for domestic programs will only increase in the coming years. Furthermore, while increasing U.S. foreign assistance allows for the potential to create a greater focus on secure tenure, health programming, specifically HIV/AIDS programs, will likely remain the highest priority of Congress for years to come.

Congress also has focused extensively on the narrower issue of property rights—especially individual property rights. There is no doubt that Hernando De Soto’s book, “The Mystery of Capital,” has been a significant and positive influence as Congress has focused on the issue of property rights more than ever in the recent past. Unfortunately, this is a double-edged sword because many solutions De Soto promoted have been ineffective—and in some cases detrimental—to the needs of the poor who are without secure tenure.

Congress should be commended for its increasing focus on property rights. At the same time, grasping the broader issues associated with secure tenure, also requires understanding the relationship among property rights, rapid urbanization and slum formation. While the lack of focus on urban slums remains a mystery, the reality is that the limited number of property rights programs continues to have a heavily rural focus, even as urban slums increase at an incredible pace, especially in Asia and Africa.

Congress’s bipartisan understanding of the importance of property rights should continue in the years ahead and become a foundation to leverage a broader understanding of secure tenure—especially in urban settings.

In Uganda, for instance, the president directly intervened to stop evictions in Kampala City and urged the local government to build housing units for low-income people instead.<sup>85</sup>

Responsible governments need to do more than simply accept that a growing portion of their populations are forced by circumstances to find housing outside of what is legally recognized. Governments must acknowledge that the poor choose such options precisely because the legal housing sector does not provide them with options that they can afford where they need to live.<sup>86</sup>

## Pressure from civil society

A growing number of nongovernmental organizations (NGOs) at the international, national and local level are working to support secure tenure and oppose forced evictions.<sup>87</sup> Their work ranges from lobbying national governments and delegates at international conferences and meetings to providing advice and support to local communities and, in the case of this report, getting the word to decision-makers as well as the general public about how important secure tenure is.

NGOs working at the international level include:

- The Asian Coalition for Housing Rights (ACHR).
- The Centre on Housing Rights and Evictions (COHRE).
- The Habitat International Coalition (HIC).
- Oxfam.
- Rural Development Institute (RDI).
- Slum/Shack Dwellers International (SDI), a network of national urban poor communities and their support NGOs working at the local level to create community-driven change from the bottom up.

An array of national-level NGOs and community-based organizations are also working to promote secure tenure and fight forced evictions. In the examples shared below, the efforts of civil society groups have led to government action or improved policies:

- In Zambia, at least 85,000 people were spared planned eviction in 1991 due to the efforts of the Zambia Women and Shelter Action Group. This group was able to obtain a suspension order from the minister for local government and housing, who went on national television and radio to announce the suspension and urge local authorities to refrain from carrying out forced evictions.
- In Brazil, national housing movements have had a major impact on policies related to security of tenure.
- In Pakistan, the Urban Resource Centre regularly prepares alternative plans to government plans involving forced eviction.<sup>88</sup>

Once political will is in place, along with some degree of government capacity to administer pro-poor tenure assistance, the most important question becomes what set of laws and regulations will best deliver tenure security to the poor.<sup>89</sup>

## Legal and regulatory framework for secure tenure

In this section, we introduce several approaches to improving the legal and regulatory framework for pro-poor tenure security. These approaches do not have to be mutually exclusive. In fact, the best approaches may incorporate several of these strategies.

Adapt progressive legal and regulatory protections for tenure security, beginning with improving the perception of secure tenure, moving toward establishing formal tenure security over time.

In urban areas, this gradual approach may best promote the needs of poor residents. Steps toward establishing tenure security

## Habitat for Humanity Argentina provides legal literacy

Habitat for Humanity Argentina (HFH Argentina) began a legal literacy program when the organization realized 95 percent of the individuals who applied for Habitat homes in Argentina were not legal owners of their land. Because they were not legal land owners, they were unable to participate in the Habitat Argentina program, which requires title deeds for the mortgage.

The complex bureaucratic system involved in obtaining land titles discouraged many families from even trying to obtain legal land titles. While the government has provided discounts or exemptions for taxes and payments required to legalize the land, the large majority of families qualifying for these benefits are either unaware of their existence or daunted by the seemingly complicated procedures. Also, predatory lenders can take advantage of uninformed borrowers which puts poor families at risk of losing the land and homes that they worked so hard to earn.

In Argentina, many loan transactions require property as a form of collateral. Families often lose their properties due to the lack of payment by friends or relations who have used their property as collateral. The legal literacy program is designed to educate families about how to prevent losing their land or home due to predatory loans.

HFH Argentina's legal literacy program is an education and awareness program aimed at providing low-income families with the basic knowledge of procedures, rights, dangers and opportunities in the process of applying for loans and purchasing homes. HFH Argentina contracted with two lawyers to produce an attractive, simple manual on the legal rights of the families and also produced a course on legal literacy. Volunteers with HFH Argentina and other nongovernmental organizations are trained so they can offer the course to as many families as possible.

HFH Argentina also provides course participants with a folder for "important documents" to encourage families living in poverty housing to value and protect things such as title deeds and medical reports. The success of this course has prompted the municipalities in the areas where HFH Argentina is working to request that the training be open to the entire community—an outreach that HFH Argentina welcomes with open arms.

*Source: Excerpted from an article by Ana Cutts in the Habitat for Humanity publication, "The Forum" (2006: Volume 13, Number 3)*



include improving protection against forced eviction and adopting workable, intermediate strategies.

1. **Improving protection against forced eviction.** Before legislative and regulatory solutions are enacted, a public statement or decree by a ruling authority can carry great weight toward assuring residents in informal settlements that their housing rights are secure. The problem with these statements is that they have no legal weight, and so may not survive past the term of the politician who issued them. Therefore it is important to follow the statement or decree with actual changes to legislation. The United Nations recommends that: “Anti-eviction laws should be passed by all countries to protect low-income groups, which should also be given training in their rights...”<sup>90</sup> International human rights law offers clear guidelines for countries seeking to establish better legal protections against forced eviction.<sup>91</sup>
2. **Recognizing a spectrum of solutions for formalizing rights to land and housing by the poor.** These solutions seek to establish some degree of perceived and actual tenure security in slums and informal settlements without the detriments that sometimes accompany full titling and formal registration. By establishing a threshold of tenure security, these solutions achieve many benefits, including: allowing residents to spend less time defending their rights and more time in productive activities; encouraging families to invest in and improve their housing; establishing an information database that can be used to deliver basic services, taxation and development of more complex cadastre systems in the future; and aiding an increase in property values gradually, over time, to minimize rapid displacement of the poor by middle-income families.<sup>92</sup> Any of these approaches will only work if poor residents are included and the approach is easy for the poor to use. This requires a commitment to low costs and minimal bureaucratic barriers.
3. **Adopting workable strategies.**
  - The government assigns numbers or addresses to houses in an informal settlement. This gives a sense of permanence to residents and makes it easier for municipalities to levy user fees for infrastructure and service upgrades.<sup>93</sup> Street addressing has been successfully introduced in 20 African countries.<sup>94</sup>
  - The government issues occupancy certificates or licenses to households in informal settlements. This system has proven effective in strengthening tenure security in Botswana.
  - The government issues non-transferable leases to residents of informal settlements. Municipal programs in Brazil, for example, attempt to increase secure tenure at reduced costs by transferring long-term use rights, rather than full ownership rights, to settlement inhabitants.<sup>95</sup>

**Issue individual, state-backed titles to regularize informal settlements and establishing a property rights registration system.** This approach provides a very high level of secure tenure for those who receive titles.<sup>96</sup> Full titling and registration paves the way for purchase, sale, mortgage and other transactions. These market transactions can produce economic gains for homeowners. For example, a household migrating from a rural village to an urban center might be able to sell its (titled and registered) rural home, thus providing the household with more resources to use for a new home in the city. Or an urban household might be able to use its (titled and registered) housing rights as collateral for a mortgage or a micro-loan.

However, experience suggests several reasons why formal titling may not be the best approach to securing tenure for the poor.

First, titling is expensive. High costs per person make large-scale titling improbable in most developing countries and asking the poor to repay these costs can cause economic hardship for those who participate and exclusion for those who do not.

Second, formal, state-backed titles require legal and administrative capacity that many developing countries lack. For example, in his study of regularization projects in Brazil, Edesio Fernandes in a report for Lincoln Development Institute found the



focus on transferring and formally recognizing freehold rights in informal settlements was the reason that tenure regularization programs had failed, due to legal and technical difficulties as well as high financial costs.<sup>97</sup>

Third, formal titling, especially in slum upgrades, may cause a swift increase in property value. While this sometimes brings economic gain for low-income title-holders, it often results in displacement of the poor from their current neighborhoods and can encourage absentee ownership and speculation.<sup>98</sup> Displacement happens because current poor homeowners sell to middle-income buyers, then move further out to the cheaper informal settlements on the urban periphery. The increased prices of the newly titled houses also become too expensive for future poor people to buy a home in the neighborhood and also cause increased prices on the urban periphery as displaced families seek new housing. This cycle of displacement is even more pronounced where urban population growth is high.

Fourth, titling raises housing values and market prices and may actually jeopardize the tenure security of women and children, especially when these actions are taken in the context of developing real estate commodity markets. Many titling and registration programs result in formal transfer of property rights to the male head of the household, excluding women entirely.<sup>99</sup> While traditional customs, including collective tenure arrangements, may have protected women and children's access to the

family home, many of these customs are eroding under market pressure and social and demographic changes.

#### **Establish the legal and regulatory framework needed for a fair, simple local tax on land and housing.**

If done correctly, establishing a low-level real property tax can help raise political will for regularizing rights to land and housing in informal settlements, bolster the legitimacy of informal settlers' tenure rights in areas where taxes are assessed, and raise much-needed revenues for local governments.

The most effective local property tax systems establish a broad base, keep rates low, make payment very easy and retain almost all revenues at the local level. (In some current systems in developing countries, property taxes must be administered by local government but revenues flow upward to regional and central governments.) Property owners are motivated by seeing tangible evidence their contributions are well-spent by local governments. In the interest of transparency, local revenues should be spent locally and local governments should tell people exactly how their revenues are spent.

#### **Develop a legal and regulatory framework that better supports tenure security for women and children.**

This requires at least four areas of action:

- Change tenure-related laws and regulations that explicitly discriminate against women and children.
- Change tenure-related laws and regulations that are gender-neutral on the face, but are discriminatory when implemented. For example, one of the most pervasive channels for discrimination against women in housing rights is naming only the "head of household" on titles and other official documents for property held in common by spouses. One alternative to naming the head of household only is joint titling, which gives spouses (or partners by consensual union) equal joint ownership of the marital property. Joint titling works best when it is compulsory, meaning that the law presumes joint titling applies to any marital partnership.

- Better implement existing laws and regulations that already protect women's and children's tenure security.
- Gain a better understanding of how a wide variety of laws and regulations—not just those specifically related to land and housing rights—affect women's tenure security. Establishing legal and regulatory support for women's tenure security will require changes to many areas of personal and civil law, including marriage law, contract law and inheritance law. Achieving a workable and clear legal regime for gender-neutral tenure security will require a thorough overhaul of related civil legislation.

#### **Improve the legal and regulatory framework governing landlord-tenant relationships**

The most effective means of improving secure tenure for renters will depend on a number of variables, including the average income level of renters, area market trends, local administrative capacity and the relative bargaining power of renters and landlords. Effective solutions minimize the direct impact on raising rents. They may not directly regulate tenure, but may instead be geared toward increasing the rental housing affordable to the poor to provide a greater choice in tenure options and giving renters greater bargaining power in the market.

The following recommendations may improve rental tenure security for the poor in developing countries:

- Focus on ways to increase household income of renting families. Otherwise, increasing the regulatory burden on landlords may hurt the poor as the landlord responds by either raising rents to cover costs or giving up on renting and removing the property from the market.
- Increase the supply of low-income rentals on the market by committing housing subsidies equally to both homeownership and rental markets, including subsidies directed at improving secure tenure.
- When upgrading slums, study the housing needs of the existing tenant population before upgrading and include renters in planning and implementation.

### **Egypt's solution: Hekr land rents, Hand Claim with Property Taxes**



Simplifying tenure and registration systems can increase access to the formal housing sector by the poor, both improving security for low-income homeowners and expanding the tax base for local governments. Egypt's system of Hekr land rents and Hand Claim with Property Taxes are models for how this can be done.<sup>100</sup>

The Hekr land rent, set forth in the civil code, applies primarily to rural areas. It allows for 60-year leases of public land and provides that the leaseholder owns all improvements made over this time. By establishing a low ground rent for the occupier of the land, this system legitimizes the rights of squatters who pay this rent, and provides the basis for a land registry in the absence of other proof of occupation.

The Hand Claim with Property Taxes is a parallel system used to tax urban land. Under this system, the ministry of finance, through its local revenue administration units, identifies and records buildings and levies an annual property tax on all occupiers regardless of who has claim to the land. Tax rates are small, and are reassessed every 10 years through field surveys that produce detailed property descriptions. These descriptions, and payment of the taxes, are prerequisites to both metered electricity service and application for formal property rights. The Hand Claim with Property Taxes system has several advantages: it legitimizes squatters' rights, assists urban land management and tax revenue collection, and provides a basis for property transfers.

## HFH inheritance planning on Inhaca Island, Mozambique

Olga lives with her four children on the island of Inhaca, Mozambique. She shares her husband with two other women. Because she is considered third in the pecking order of the wives, she has no legal rights as a spouse. Olga recently became the beneficiary of a Habitat for Humanity house and was concerned about the future of the property when she dies, knowing it was possible for her husband and his other wives to take possession of the house, leaving her own children with nothing.

While the law of Mozambique recognizes the rights of widows and orphans to retain their house when the male head of household dies, it is common for the man's brother and family to come and either tell the widow that she is his new wife, or order the woman and children to leave the house so the brother's family can take it for themselves. Women and children can lose everything and become extremely vulnerable, even abused. This traditional practice, although it is illegal, remains because the actual law has not been enforced in the majority of rural communities.

Habitat for Humanity Mozambique (HFH Mozambique) is working to ensure land and asset security upon the death of one or both parents by training homeowners in inheritance law and helping with the writing and legalization of their wills. As an incentive for women to take part, they are offered six months' worth of mortgage payments. The project began when HFH Mozambique discovered, through a survey, that women were worried about the future of their homes and were interested in preparing legal documentation to protect their rights. In the first course in 2006, 21 women (all Habitat homeowners) participated in the inheritance rights seminar, created wills and had them notarized. HFH Mozambique hopes to expand this success in the future.

*Source: Excerpted from an article by Yvonne Coleman in Habitat for Humanity's publication "The Forum" (2006: Volume 13, Number 3)*

- Encourage small, self-help landlords through: (1) incentives and subsidies; (2) adding rental incentives to upgrading programs; (3) providing microfinance; and (4) creating appropriate planning regulations.
- Adopt standardized written leases.
- Establish local tribunals to handle landlord/tenant dispute resolution and make them easily accessible to the poor.

### **Integrate the doctrine of adverse possession into laws and regulations, thereby creating a legal tool for transferring tenure rights from de jure owners to long-term de facto possessors.**

The legal doctrine of "adverse possession," as codified in many parts of the world, allows for the legal transfer of land or housing rights to the actual possessor in certain circumstances. For adverse possession to apply, the current possessor must have occupied the land or housing exclusively and continuously for a certain period of time (often 10 years), and must have done so against the explicit or implicit wishes of the registered owner and in a way that this owner could have known and taken action against the possessor.

Adverse possession laws strike a balance between the tenure needs of the de jure owners and the de facto possessors, allowing ample time for owners to protect their rights from an intruder, but acknowledging the need for possessing households to protect their housing investments over time. Adverse possession laws create a sort of statute of limitations against former legal claims to land, allowing society to recognize and grant formal rights to the actual possessor.

### **Enforce existing laws and regulations that support secure tenure for low-income households.**

The poor will not benefit from improved laws and regulations unless they are well-implemented. For example, legal recourse such as adverse possession exists in many countries around the world and could prove valuable for transferring secure tenure to squatter households. However, the poor often have little access to enforcing adverse possession laws because they are not informed of their rights or lack access to judicial enforcement of their rights.

Programs that help the poor to access legal and judicial help, such as legal literacy and legal aid programs, can optimize new and existing pro-poor legislation and regulation.



In many cases it will be appropriate to target assistance for women and other traditionally marginalized groups of people. Establishing local tribunals to resolve disputes related to land and housing rights is another way to increase justice for the poor.

**Improve tenure security for land, including recognizing both the individual and collective land rights of low-income people.**

Rights to land and housing are inextricably linked: Strengthening secure tenure for housing will mean little without also strengthening poor peoples' rights to land. In rural areas, a small plot of land can provide opportunity for both shelter and subsistence farming. Also, successful approaches to improving land tenure security for the poor can help to guide efforts to improve housing tenure security for the poor.

**Build administrative capacity and systems**

Comprehensive, regularly updated housing, property and land registration systems are crucial to secure tenure. Substantial progress is needed to build the capacity, accountability and responsiveness of administrative institutions responsible for land and secure tenure. If security of tenure is a right and if expanding this right is ever to be realized, then affordable, reasonably simple and culturally sensitive forms of registering lands and homes and outlining property boundaries must be in place. Regularly updated and properly maintained land registries allow housing and tenure rights to gain recognition and, therefore, stand a greater chance of enforcement in disputes over land. Land registries can function equally well in both systems of formal and customary land administration. Evidence from a number of countries indicates that new, creative, innovative and process-oriented approaches have considerable merit compared to those that focus on large-scale provision of freehold titles.<sup>101</sup>



Clearly, there is a need for more relevant, context-appropriate, flexible forms of land registration that can aid secure tenure. One approach involves recognizing the process by which the urban poor have acquired land for housing, which focuses on negotiations between landowners and residents instead of government regulation. This requires simpler procedures for registering land rights; property becomes a political rather than a legal right. Local authorities are involved by approving the use, location and layout of the residential area.<sup>102</sup> In cases where land registries are not operational or effective, it may be best to establish land inventories that simply record claims of landownership and property rights without the legal authority to determine them.<sup>103</sup>

## Legal literacy programs for property rights

Insecure tenure can result from legal barriers including informal or customary systems, cultural or traditional norms, gender discrimination, and corruption in the legal system.

When individuals are unaware of their legal rights, this problem is exacerbated. Legal literacy programs increase knowledge and awareness of legal rights and empower individuals to exercise these rights. Legal literacy programs demystify legal systems, identify and simplify relevant laws, and help individuals understand their rights. Legal literacy can mobilize individuals to define their rights, defend those rights and increase control of their situation.

In many developing countries, legal literacy programs combat corruption, educate women and make citizens aware of their rights by addressing gender inequalities, property rights and how to use the legal system. For example, the U.S. Agency for International Development (USAID) launched a public education campaign in the Ukraine to convince the public that collecting fees for registering land titles was inappropriate. Local, regional and national institutions advocated against paying fees for land registration by using national and regional radio, TV, national publications, and hosting local and regional seminars. The government then issued an order establishing that citizens should not pay fees for the registration of land titles.

The following is a list of main components for a new and flexible land registration approach to secure tenure:

- Decentralized technical processes that are transparent and easily understood by local people;
- Land information management systems accommodating both cadastral, or formally registered parcels, and non-cadastral land information;
- New ways of providing tenure security to the majority through documentation of rights and boundaries for informal settlements or customary laws without using cadastral surveys, centralized planning, and transfer of land rights by property lawyers;
- Accessible, easy-to-use records;
- New technical, administrative, legal and conceptual tools.<sup>104</sup>

Effective land administration also requires strong and fair institutions and should include an element of enforcement to ensure all actors—from individuals to government bodies—comply with tenure rules and regulations.<sup>105</sup> Proper housing, land and property registration systems can play a vital role in remedying severe human rights violations including forced evictions, arbitrary land confiscations and ethnic cleansing.<sup>106</sup>

While writing new laws is a crucial step in promoting secure property rights for the poor, it is insufficient to bring about change without two important components: (1) effective enforcement of the laws and (2) education of all stakeholders. Civil servants in any bureaucratic office – from the police to the land titling officials to the judiciary – should be well trained in the new law so there is less confusion regarding the new obligations and rights under it.<sup>107</sup>

For example, in South Africa, the issue of the quality of land administration was given prominence when the Constitutional Court held that an otherwise reasonable local housing policy was

in breach of the constitution because it failed to provide for those most desperately in need. This decision stressed that the state is obliged to act to improve housing conditions in South Africa. The state is required to not only start these programs, but also to ensure they are well directed and implemented.<sup>108</sup>

Moreover, the U.N.'s Food and Agriculture Organization (FAO) points to the role that land administrators can play as technical advisers to ensure land problems are well understood and that appropriate policies are developed and implemented. Land administrators can help in the following ways:

- Report the characteristics of land access to the government;
- Identify critical issues on access to land requiring immediate responses from governments and others, e.g. the particular difficulties faced by vulnerable groups;
- Develop policies for access to land and land administration as part of a total, cohesive framework rather than a number of isolated policy initiatives;

- Listen to the arguments of stakeholders in developing policies that anticipate future needs;
- Promote justice and fairness in administrative processes by making procedures simple, transparent and fair for all users including vulnerable groups; and
- Provide information about land rights and land administration services to affected groups.<sup>109</sup>

These points raise the issue of creating stakeholder investment and empowerment through participation, a necessary aspect of effective and sustainable development programming. Perhaps this same concept holds true for including land administrators in the process in an effort to help create valuable, empowered land administration officials and institutions.

*In situ* upgrading without disturbing settlements has been widely used as an entry point for improving living conditions. Practical negotiations and dialogues between authorities and communities in a number of settlement upgrading initiatives have contributed to the exploration and establishment of more acceptable and viable country-level tenure systems. U.N.-Habitat upgrading projects in Afghanistan, Cambodia and Sri Lanka, for instance, have provided people with a sense of security of tenure by establishing the framework necessary for continued development and improvement of the physical conditions of the settlements.<sup>110</sup>

Geoffrey Payne, a housing expert, advocates for a “twin-track” approach toward existing and potential future slums, which provides secure tenure and better living conditions to existing slums while also reducing the administrative burden and buying time to revise regulations to reduce the need for future slums. Payne finds that intermediate tenure options, when combined with regulatory audits of planning regulations, standards and administrative procedures, can improve living conditions using the resources available.<sup>111</sup> Several innovative land administration projects undertaken by the World Bank in Southeast Asia seek to improve secure tenure and efficiency of land markets through the development of efficient, gender-responsive systems of land titling and administration based on clear and consistent policies and laws and supported by appropriate institutional structures.<sup>112</sup>

### Community-based land negotiation

After the December 2004 Indian Ocean tsunami, donors, NGOs and other civil society organizations (CSOs) started very early on helping survivors in Aceh, Indonesia, prepare maps of their

## Micro-loans help women in Andhra Pradesh, India, buy land

A program providing micro-loans for land purchases is making it possible for the poorest of the rural poor in India's Andhra Pradesh state to own land; the new landowners are mostly women.

The Rural Development Institute designed micro-lending for a state-sponsored poverty alleviation program, Velugu, for 2.9 million rural poor in villages throughout Andhra Pradesh. Through the loan plan, qualifying small self-help groups of the poorest villagers are eligible to receive Velugu funds to finance purchases of land available on the market. The groups, with help from Velugu staff, develop farm business plans on how they will use land parcels for sale in the vicinity. If the plans are sound, Velugu helps the groups negotiate with sellers and provides affordable loans for land purchases with funds from the World Bank.

Through the program, Panchala, Kummari and Kurma, three landless women who earned 50 cents a day as agricultural workers—were able to acquire two and a half acres of good farmland. As new landowners, Panchala, Kummari and Kurma will grow rice and sunflowers and be able to reap the full rewards of their labor. After costs, the value of each of the women's annual crops will be about 8,333 rupees (US\$185). The women will also have a much more reliable food source, get access to other credit and government services, and gain status in their village. After negotiating the land purchase, they wept with joy, saying the land would be “like gold” to them. The Velugu program has put land into the hands of hundreds of other landless poor women like Panchala, Kummari and Kurma, and it anticipates eventually making land ownership a reality for up to 5,000 of the state's rural poor.

*Source: Rural Development Institute “Land ownership changes lives, and that can change our world.” Seattle: RDI. [http://www.rdiland.org/OURWORK/OurWork\\_LivesChanged02.html](http://www.rdiland.org/OURWORK/OurWork_LivesChanged02.html)*





communities showing where properties were, what type of property it was, who lived there and how much damage there was. The early well-intentioned efforts toward community land mapping varied in approach and quality. These had to be standardized so that the community land mapping could ultimately be formally processed by the National Land Agency (BPN) so that legal titles could be issued following the necessary adjudication, legal land survey and public advertising. In June 2005, a Community Driven Adjudication (CDA) manual was prepared in collaboration with the government, NGOs, CSOs and donors. The national agency subsequently gave the CDA manual legal status, and it became the standard approach for community land mapping during reconstruction. CDA training was given to NGOs and other agencies involved in reconstruction. If community land mapping abided by the CDA manual standards, communities could start constructing houses and infrastructure before titles were formally issued by the national land agency.

#### **Integrated and transparent service delivery; one-stop shops**

The World Bank's Land Management and Administration Project (LMAP) in the Philippines adopted one-stop shops designed to provide: (1) registration of land transactions; (2) approval of survey plans; (3) issuance of first-time titles; and (4) collection of various fees and charges related to titling. In these one-stop shops, LMAP has established uniform service standards that are to be independently monitored. Although not without its challenges, LMAP's one-stop shop concept has reduced the processing time for title transfers and issuing certified copies of titles.

#### **Performance-driven land adjudication**

In Cambodia, the World Bank's Land Management and Administration Project (LMAP) introduced a system of productivity-based field allowances for registration teams to encourage high performance. In a country with low salaries and wages, this incentive is very attractive. In most of the 11 provinces of the project, the performance-based incentive has increased quality and quantity of work.



### Gender equality

Gender equity and equality should be a core part of land administration policies, systems and procedures. The Philippines has gained more gender equity than many other Asian countries, both in law and practice. In mainstreaming gender, LMAP pursued the following objectives:

- Integration of gender concerns in the proposed Land Administration Reform Act;
- Development and testing of procedures for land titling and land records management that are equally accessible and equitably beneficial to women and men;
- Creation of ways both women and men can participate in LMAP implementation (i.e., policy reform agenda formulation, land titling, land records management improvement and project management); and
- Development of project management systems that ensure gender mainstreaming in all parts of the project.

### Improving land administration in Nigeria through an integrated approach

The United Kingdom Department for International Development (DFID) is working in five states in Nigeria on security, access to justice and reducing corruption. DFID aims to reduce the time it takes for courts to settle land disputes. It is also working to improve the slow and costly business of registering and transferring land in the country. The number of days to register a property has fallen from 274 in 2005 to 80 in 2006. DFID also is working with Nigeria's Federal Ministry of Lands to develop best practice standards and to build the capacity of institutions that deliver land registration services to achieve these standards.

*Source: DFID (2007) Land: Better Access and Secure Rights for Poor People. London, England: Department for International Development. p.12. <http://www.dfid.gov.uk/pubs/files/LandPaper2007.pdf>*



## Chapter 5: Conclusions and trends





# Knowledge and political will needed to improve housing conditions

**D**o not underestimate the role secure tenure plays in the lives of poor people living in developing countries. With more than a fifth of the world's population in danger of not being able to find even the most modest of shelter, it is not someone else's problem. We must come together to address the injustices and sensitively offer continuous guidance and support during a long and, at times, rocky road. We have the opportunity, right now, to play a vital role in ensuring people can obtain – and retain – adequate and affordable housing as well as provide for themselves and their families.

Though income levels in some developing countries have risen in recent years, housing for the poor has declined. Issues surrounding secure tenure are becoming more dire as land, particularly in urban areas, becomes more scarce and more expensive; governments invest less in housing for the poor; and the poor are left to live in slums or squatter settlements with the fear of forced evictions and without services like water and sanitation.

The causes of tenure insecurity are diverse, ranging from insufficient legal protections and inadequate land administration, to political unwillingness and corruption, to the erosion of customary laws and the conflicting claims that can result. Tenure insecurity is both caused by and can cause, or exacerbate poverty, the marginalization of vulnerable groups like women and children, and susceptibility to violence and natural disasters. Tenure insecurity is both a symptom of poverty and a contributor to the widespread social, political and economic marginalization of the poor.

While improving tenure security will not, in itself, solve these underlying problems, a pro-poor secure tenure campaign can make significant inroads toward improving housing conditions for the world's poor. To be effective, any strategy needs to recognize – in principle and practice – the diverse factors that lead to tenure insecurity and to consider a spectrum of solutions rather than focusing only on individual property rights. This includes treating renting as equally important as homeownership and tackling the problem incrementally through informal land and housing options to meet the immediate needs of the poor while more formal solutions are sought. These alternatives, while not fail safe, deserve more attention for their practical ability to provide the poor with some perception of tenure security.

Varied work by Habitat for Humanity, other NGOs and the international aid community has made progress toward increased secure tenure for the poor. These efforts help the poor better navigate complex bureaucracies and understand and exercise their legal rights. They target assistance toward women and the poor, advocating for gender equity in both policy and practice, assisting the poorest of the poor in buying small land plots, helping people gain formal land titles or restore land documentation following a disaster or conflict, and helping improve government accountability and land administration.

Several United Nations bodies worked to elevate the importance of tenure security as a human rights issue, working with member states to replace forced evictions with negotiated slum upgrades and censuring state-sponsored forced evictions and development projects that have led to forced evictions and displacement. Several host governments improved the tenure security of the poor in their country through official proclamations against forced evictions, intermediate formalization of informal settlements, simplified registration procedures, and affordable, long-term leases of public lands.

This work requires increased support to help more of those in need. The international community must continue to seek better ways to address the underlying problems affecting secure tenure and to explore innovative, multi-pronged approaches toward the goal of tenure security for all.

In support of this goal, United States foreign assistance, through the funding priorities set by Congress should focus on the following strategies:

- building political will and political action at local, national, and international levels;
- implementing legal and regulatory protections for tenure security in stages, including integrating adverse possession into legal doctrine, with the final stage being individual, formal, regularized titles;
- enforcing existing laws and regulations that support tenure security for low-income households;
- streamlining laws and regulations and building administrative capacity and systems for registration of housing and land rights;
- developing legal and administrative frameworks that are fair, justly executed and better support tenure security for vulnerable groups, including women, children, and the poor; people living in post-disaster or post-conflict situations; low-income renters; and people living in urban slums and informal settlements;
- recognizing both the individual and collective land rights of low-income people; and
- understanding that the perception of tenure security is often more important to people than formalized legal security of tenure.

The next, and final, chapter of this report presents Habitat for Humanity's principles and specific policy recommendations for the U.S. Congress and for the executive agencies it funds.







## Chapter 6: Policy recommendations



# Principles and recommendations for improved tenure security

The United States government, through development assistance funding and other appropriate channels, must increase resources to support the poor's access to secure tenure around the world. This is particularly important in informal and slum communities where security of tenure will not only strip away a key barrier to improved housing, but will support other key social and economic benefits for the world's poor. The U.S. government should set specific and measurable goals supporting the poor's access to secure tenure. A special focus must be given to informal and slum communities.

## Habitat for Humanity on secure tenure

Tenure security is a vital part of a multi-prong approach to improve housing conditions for the poor. It more effectively fights poverty when implemented gradually, and in tandem with basic services such as water and sanitation.

- Efforts to improve tenure security should prioritize the most vulnerable populations—the urban poor, women and children, and those affected by disasters.
- Education, advocacy and awareness of individual rights are key to improving tenure security for the poor, especially for these populations most at risk.

National and local laws that create a framework for granting tenure security, including an accessible, transparent and accountable land administration system to combat corruption and inefficiency in government, are vital to increasing tenure security. Tenure security also is important to rehabilitation and reconstruction after a disaster and should be a top priority in disaster response.

## Habitat for Humanity urges the U.S. government to help ensure tenure security for people around the world by:

*Increasing awareness, in the U.S. Congress, of the urgent need for tenure security, which could include:*

- Holding House and Senate hearings with panels of experts on tenure security, with a specific focus on urban areas and slums, to increase awareness of members of Congress and to highlight ways the U.S. Congress can address this issue.
- Creating a congressional commission to research tenure security, and make recommendations on how Congress can and should address the issue.
- Passing a resolution affirming the importance of tenure security in countries around the world.
- Passing authorizing language to focus on the issue of tenure security within U.S. foreign assistance programs.

*Increasing focus within U.S. foreign assistance on tenure security, which could include:*

- Increasing staff at USAID, the State Department, and the Millennium Challenge Corporation who are dedicated to the issue of secure tenure, with a specific focus on land, housing and slums.
- Increasing the capacity of the Urban Programs office at USAID.
- Creating or designating a high-level position to coordinate issues within and across agencies relating to tenure security.
- Allowing local NGOs working on tenure security to design and implement innovative approaches.

- Creating an index to measure national housing policies in an effort to create an incentive and framework for improved housing policies.
- Developing an annual report to document the U.S. government's progress on addressing tenure security.
- Allowing for flexibility in programming that recognizes the importance of secure tenure and how it can directly impact other development efforts such as health and education programs.

*Increasing diplomatic pressure on other countries to address the issue of tenure security, which could include:*

- Using the U.S. government's leverage with national governments to promote tenure security as a crucial ingredient for good governance and democratic practices, to improve protection for residents of their countries against forced eviction, and to put clear systems and processes in place.

Until the issue of secure tenure is successfully addressed, millions around the world will continue to be displaced, unable to secure adequate shelter or claim land and housing that is rightfully theirs. Breaking the cycle of poverty can be done. Strengthening tenure security is an enormous step in the right direction.







# Endnotes



- <sup>1</sup> The U.N. defines the Millennium Development Goals as follows: “The eight Millennium Development Goals (MDGs) – which range from halving extreme poverty to halting the spread of HIV/AIDS and providing universal primary education, all by the target date of 2015 – form a blueprint agreed to by all the world’s countries and all the world’s leading development institutions. They have galvanized unprecedented efforts to meet the needs of the world’s poorest.” <http://www.un.org/millenniumgoals/>. See also U.N. Special Rapporteur 2007: 4.
- <sup>2</sup> As Martin Lux summarizes, “Housing is also perceived as a basic social need of human beings and its standard greatly influences the standard of welfare of the whole society.” (Lux 2003: 9. Martin Lux is the author and editor of several books on social housing in Central and Eastern Europe.
- <sup>3</sup> U.N.-Habitat articulates the link between insecure tenure and inadequate housing as follows: “When security of tenure—the right to feel safe in one’s own home, to control one’s own housing environment and the right not to be arbitrarily and forcibly evicted—is threatened or simply non-existent, the full enjoyment of housing rights is, effectively, impossible.” (U.N.-Habitat 2007: 115.) U.N.-Habitat also notes the strong correlation between poverty and tenure insecurity; as poverty has increased in much of the world, so has tenure insecurity (U.N.-Habitat 2007: 131).
- <sup>4</sup> United Nations Human Settlements Programme (U.N.-Habitat) Global Report on Human Settlements 2007: Enhancing Urban Safety and Security (Earthscan): 114, citing the World Bank.
- <sup>5</sup> In most cases, Habitat now requires that family partners own secure rights to the land upon which their house will be built. While this policy excludes a large percentage of those most in need of improved housing, it is born of necessity: when Habitat has not required secure tenure, it has too often discovered competing claimants to the underlying land once construction has begun or after it is completed. In many developing countries land registries offer little clarity, fair arbitration courts do not exist, and laws and regulations bend to the wealthy given high levels of corruption and bribery.
- <sup>6</sup> Sheng, Y. (undated) “Sustainable Strategies for the Provision of Low-Income Housing in Cities in Developing Countries,” urbanicity ([www.urbanicity.org](http://www.urbanicity.org)) 4.
- <sup>7</sup> United Nations Human Settlements Programme (2007) Global Report on Human Settlements 2007: Enhancing Urban Safety and Security. U.N.-Habitat: 348-51, Table B.2.
- <sup>8</sup> United Nations Human Settlements Programme (2007) Global Report on Human Settlements 2007: Enhancing Urban Safety and Security. U.N.-Habitat: 95, citing to World Bank (2003) Land Policies for Growth and Poverty Reduction.
- <sup>9</sup> Baharoglu et. al (2006) MENA Region—The Macroeconomic and Sectoral Performance of Housing Supply Policies in Selected MENA Countries: A Comparative Analysis (2005): vii.
- <sup>10</sup> Baharoglu et. al (2006) MENA Region—The Macroeconomic and Sectoral Performance of Housing Supply Policies in Selected MENA Countries: A Comparative Analysis (2005): vii.
- <sup>11</sup> Mandic, S. (2004) Housing: The Social Problem Approach (paper presented at ENHR Conference, University of Cambridge): 7.
- <sup>12</sup> Department for International Development (DFID) (2007) Land: Better Access and Secure Rights for Poor People. London, England. <http://www.dfid.gov.uk/pubs/files/LandPaper2007.pdf>.

- <sup>13</sup> United Nations Human Settlements Programme (2003) *Rental Housing: An essential option for the urban poor in developing countries*. Preface. Nairobi: U.N.-Habitat. <http://www.unhabitat.org/pmss/getPage.asp?page=bookView&book=1125>.
- <sup>14</sup> Many municipal governments in Asia, for example, have shifted policies in recent years toward tolerance of illegal settlements (Satterthwaite/ACHR 2005: 21). Some governments opt for alternatives to forced eviction because it is often not physically or politically easy to evict poor families, especially when communities are organized. For both government and private landowners, eviction is “messy, time-consuming, expensive, bad for the conscience and bad for the image.” (ACHR 2005: 38, noting the case against eviction in Thailand; see also Habitat for Humanity 2007: 43.
- <sup>15</sup> For a list of recent large-scale evictions in Asia, see Habitat for Humanity 2007: 43-44. For evictions in Africa, see Habitat for Humanity A/P 2008: 40-41; see also U.N. Special Rapporteur 2005: 10.
- <sup>16</sup> See Satterthwaite/ACHR 2005: 12. It is also important to balance anti-eviction measures in both the rental and ownership sectors with reasonable legal protections for landlords and financing institutions. A private rental sector is unlikely to develop if landlords do not have recourse against tenants who fail to pay rent, and commercial financing institutions will not risk mortgage loans if they are not reasonably protected against borrowers who fail to make payments.
- <sup>17</sup> Asian Coalition for Housing Rights (ACHR) (August 2005) *Housing by People in Asia*, No. 16 ([www.achr.org](http://www.achr.org)): 35.
- <sup>18</sup> Asian Coalition for Housing Rights (ACHR) (August 2005) *Housing by People in Asia*, No. 16 ([www.achr.org](http://www.achr.org)): 35.
- <sup>19</sup> Information based on Habitat for Humanity AME 2008: 40; see also Satterthwaite ACHR 2005: 12 and Angel 2000: 157-8.
- <sup>20</sup> Department for International Development (DFID) (2007) *Land: Better Access and Secure Rights for Poor People*. London, England: <http://www.dfid.gov.uk/pubs/files/LandPaper2007.pdf>.
- <sup>21</sup> Chemonics International (September 20, 2006) *Ukraine Land Titling Initiative (ULTI) 2001-2006: Final Report*. Washington, DC: USAID. [http://pdf.usaid.gov/pdf\\_docs/PDACA1600.pdf](http://pdf.usaid.gov/pdf_docs/PDACA1600.pdf).
- <sup>22</sup> Rakodi, C. (1997) “Residential Property Markets in African Cities,” in *The Urban Challenges in Africa: Growth and Management of its Large Cities* (U.N. University), 2 et seq.; Adams, M. & S. Turner (2005) *Legal Dualism & Land Policy in Eastern and Southern Africa*; and Habitat A/ME 2008: 38.
- <sup>23</sup> Mbogunje, A.L. (2005) *Global Urban Poverty Research Agenda: The Africa Case* (paper presented at a seminar on “Global Urban Poverty: Setting the Research Agenda,” organized by the Comparative Urban Studies Project of the Woodrow Wilson International Center for Scholars, held in Washington, D.C. (Dec. 15, 2008), 11.
- <sup>24</sup> Excerpted from Habitat for Humanity A/ME 2008: 11 (citing Radoki 1997: 2; and Adams & Turner 2005).
- <sup>25</sup> World Bank (2003b) *Land Policies for Growth and Poverty Reduction: A World Bank Policy Research Report*, World Bank and Oxford University Press, Oxford, 70.
- <sup>26</sup> Food and Agriculture Organization of the United Nations (FAO) (2005) *Access to Rural Land and Land Administration After Violent Conflicts*. FAO Land Tenure Series, No. 8. p. 22-24, 26. Rome. <ftp://ftp.fao.org/docrep/fao/008/y9354e/y9354e00.pdf>.



- <sup>27</sup> Cotula, L., et al. (February 2004) *Land Tenure and Administration in Africa: Lessons of Experience and Emerging Issues*. London: International Institute for Environment and Development. p. 12-14.
- <sup>28</sup> Porio, Emma (2007) "Urban Poor Communities in State-Civil Society Dynamics: Constraints and Possibilities for Housing and Security of Tenure in Metro Manila."
- <sup>29</sup> For a comprehensive discussion of women's rights to land and housing, see U.N.-Habitat's 2007 report titled *Policy Makers Guide to Women's Land, Property and Housing Rights Across the World*, available at [www.unhabitat.org/pmss/getElectronicVersion.asp?nr=2355&alt=1](http://www.unhabitat.org/pmss/getElectronicVersion.asp?nr=2355&alt=1).
- <sup>30</sup> Habitat for Humanity A/ME 2008: 59, citing to U.N.FAO/ IFAD 2004: 9.
- <sup>31</sup> Food and Agriculture Organization/IFAD 2002: 1.
- <sup>32</sup> Habitat A/ME 2008: 25.
- <sup>33</sup> Lastarria-Cornhiel and Giovarelli 2005: 10; U.N.-Habitat 2007, *Policy Makers Guide to Women's Land, Property and Housing Rights Across the World*: 27.
- <sup>34</sup> Centre on Housing Rights and Evictions (COHRE) (2004) *Bringing Equality Home: Promoting and Protecting the Inheritance Rights of Women*, 21; U.N.-Habitat 2007, *Policy Makers Guide to Women's Land, Property and Housing Rights Across the World*: 17, 27.
- <sup>35</sup> Lastarria-Cornhiel, S. and R. Giovarelli (2005) *Shared Tenure Options for Women: A Global Overview*, Fitzpatrick, D. (April, 2008) *Women's Rights to Land and Housing in Tsunami-Affected Aceh, Indonesia* (Asia Research Institute Aceh Working Paper No. 3, published in conjunction with Oxfam): 23.
- <sup>36</sup> U.N. Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, Miloon Kothari, 2006 Annual Report: 12.
- <sup>37</sup> Food and Agriculture Organization of the United Nations /IFAD 2004: 11.
- <sup>38</sup> Lastarria-Cornhiel, S. and R. Giovarelli (2005) *Shared Tenure Options for Women: A Global Overview* .
- <sup>39</sup> Fitzpatrick, D. (April, 2008) *Women's Rights to Land and Housing in Tsunami-Affected Aceh, Indonesia* (Asia Research Institute Aceh Working Paper No. 3, published in conjunction with Oxfam): 33.
- <sup>40</sup> Fitzpatrick, D. (April, 2008) *Women's Rights to Land and Housing in Tsunami-Affected Aceh, Indonesia* (Asia Research Institute Aceh Working Paper No. 3, published in conjunction with Oxfam): 33.
- <sup>41</sup> The following discussion on tenure security for renters refers to the private, rather than public, rental sector. The public rental sector is not a viable option for most poor families around the world, due to the steady decrease in public resources dedicated to public rental housing and the historic shortcomings of this sector. (Shortcomings included: failure to target the poor; corruption; high demand by the non-poor; factors that prevented financial viability, such as rents set too low, failure to pay by tenants, and social impediments to foreclosure; lack of government resources for building new public rental stock or maintaining existing stock.) (U.N.-Habitat 2003: 30, and see Habitat for Humanity 2008: 18-19, n. 16.

<sup>42</sup> Where the fixed costs of ownership (such as maintenance and service delivery) are high, ownership may not always be the best tenure goal for low-income families. In Eastern Europe and the former Soviet Union, for example, the phenomenon of “poor ownership” that followed privatization has escalated housing deterioration patterns and created a situation in which many people owning homes are unable to pay the normal costs of homeownership, such as utility fees (Balchin 1997: 240; and see Habitat for Humanity 2006: 28-30).

<sup>43</sup> Habitat for Humanity A/ME 2008: 12; U.N.-Habitat 2003: 60.

<sup>44</sup> Flood, J. (2001) Istanbul +5: Analysis of the data collection, Report for U.N.CHS (Habitat).

<sup>45</sup> U.N.ESCAP Agenda 21 2003: 4.

<sup>46</sup> Small-scale landlords comprise a significant portion of the rental market in many regions of the world. These landlords—often nearly as poor as their renters—may rent out a single room or a shack attached to their house (U.N.-Habitat 2003: 42-3). Rental income is often an important source of livelihood for older people (Ibid: 70).

<sup>47</sup> Davis 2006: 78-81. Under the World Bank’s Philippines Land Administration and Management Project (LMAP), a progressive approach to improving the formalization of tenure security has been to address both ownership and leasehold rights simultaneously during the systematic registration process of agricultural lands. This has been undertaken as a way of ensuring that the relative power and rights of both the owner and tenant are protected. Durrand-Lasserve, A. (May 2002) Secure Tenure for the Poor (Draft). CNRS-France. P. 5. <http://www.citiesalliance.org/doc/events/2002/alain.pdf>.

<sup>48</sup> Habitat for Humanity A/P 2007.

<sup>49</sup> This is not to say that all people in developed countries enjoy secure tenure. In its 2007 Human Settlements Report, U.N.-Habitat notes that millions of rental tenants in the U.S. lack tenure security, and many facing eviction lack the right to legal counsel. In Ontario, Canada, a 1998 “Tenant Protection Act” significantly weakened a historically strong legal framework for tenant rights. (U.N.-Habitat 2007: 122).

<sup>50</sup> World Resources Institute (2005) World Resources 2005: The Wealth of the Poor—Managing Ecosystems to Fight Poverty. Washington, D.C.: WRI.

<sup>51</sup> World Resources Institute (2005) World Resources 2005: The Wealth of the Poor—Managing Ecosystems to Fight Poverty. Washington, D.C.: WRI. p. 56.

<sup>52</sup> World Resources Institute (2005) World Resources 2005: The Wealth of the Poor—Managing Ecosystems to Fight Poverty. Washington, D.C.: WRI. p. 64.

<sup>53</sup> United Nations Human Settlements Programme (2007) Global Report on Human Settlements 2007: Enhancing Urban Safety and Security. U.N.-Habitat. p. 111.

<sup>54</sup> United Nations Human Settlements Programme (2007) Global Report on Human Settlements 2007: Enhancing Urban Safety and Security. p. 352. Nairobi: U.N.-Habitat.

- <sup>55</sup> U.N.-Habitat (2006) *State of the World's Cities 2006/7*. Nairobi: U.N.-Habitat. p. 92.
- <sup>56</sup> United Nations Human Settlements Programme (2007) *Global Report on Human Settlements 2007: Enhancing Urban Safety and Security*. U.N.-Habitat. p. 131.
- <sup>57</sup> Porio, Emma and Christine Cristol (2004) "Property Rights, Security of Tenure, and the Urban Poor in Metro Manila." *Habitat International*, 28:209.
- <sup>58</sup> U.N.-Habitat (2006) *State of the World's Cities 2006/7*. Nairobi: U.N.-Habitat. p. 92.
- <sup>59</sup> Durand-Lasserve, A. (May 2002) *Secure Tenure for the Urban Poor (Draft)*. CNRS-France. p. 5. <http://www.citiesalliance.org/doc/events/2002/alain.pdf>.
- <sup>60</sup> U.N.-Habitat (2006) *State of the World's Cities 2006/7*. Nairobi: U.N.-Habitat. p. 95.
- <sup>61</sup> U.N. International Strategy for Disaster Reduction, "General Information about Trends of Natural Disasters," at [www.unisdr.org](http://www.unisdr.org).
- <sup>62</sup> International Institute for Sustainable Development (IISD) (2006) *Addressing Land Ownership After Natural Disasters—Agency Survey* (O. Brown & A. Crawford): 5.
- <sup>63</sup> Habitat for Humanity A/P 2007.
- <sup>64</sup> International Institute for Sustainable Development (IISD) (2006) *Addressing Land Ownership After Natural Disasters—Agency Survey* (O. Brown & A. Crawford): 2.
- <sup>65</sup> International Institute for Sustainable Development (IISD) (2006) *Addressing Land Ownership After Natural Disasters—Agency Survey* (O. Brown & A. Crawford): 2.
- <sup>66</sup> Oxfam cites improving tenure rights for the poor as one of the critical ways to avoid post-disaster chaos (Oxfam International 2005).
- <sup>67</sup> Oxfam International (2005) *A Place to Stay, A Place to Live: Challenges in Providing Shelter in India, Indonesia, and Sri Lanka after the Tsunami*: 1.
- <sup>68</sup> World Bank, "Rebuilding a Better Aceh and Nias," 2005: xvi.
- <sup>69</sup> Especially in Thailand and India, suspicion that the government planned to use the vacated land for tourist development created furor among the affected communities, fanning widespread protests (see International Institute for Sustainable Development (IISD): 4; and Asian Coalition for Housing Rights, at <http://www.achr.net/000ACHRTsunami/index.htm>). In Indonesia, the government did not establish a no-build zone, opting for other approaches to disaster mitigation.

- <sup>70</sup> International Institute for Sustainable Development (IISD) (2006) Addressing Land Ownership After Natural Disasters—Agency Survey (O. Brown & A. Crawford): 5.
- <sup>71</sup> Fitzpatrick, D. (2007) Access to Housing for Renters and Squatters in Tsunami-Affected Aceh, Indonesia (Asia Research Institute Aceh Working Paper No. 2, published in conjunction with Oxfam International): 3.
- <sup>72</sup> International Institute for Sustainable Development (IISD) (2006): 6. Habitat for Humanity requires home-owner partners and disaster response beneficiaries to have documented land ownership rights, due to the risk of losing newly constructed or repaired houses and land to de jure land owners.
- <sup>73</sup> International Institute for Sustainable Development (IISD) (2006) Addressing Land Ownership After Natural Disasters—Agency Survey (O. Brown & A. Crawford): 5; Fitzpatrick 2007: 4.
- <sup>74</sup> Fitzpatrick, D. (April, 2008) Women’s Rights to Land and Housing in Tsunami-Affected Aceh, Indonesia (Asia Research Institute Aceh Working Paper No. 3, published in conjunction with Oxfam.
- <sup>75</sup> Fitzpatrick, D. (2007) Access to Housing for Renters and Squatters in Tsunami-Affected Aceh, Indonesia (Asia Research Institute Aceh Working Paper No. 2, published in conjunction with Oxfam International): 8-10.
- <sup>76</sup> Fitzpatrick, D. (2007) Access to Housing for Renters and Squatters in Tsunami-Affected Aceh, Indonesia (Asia Research Institute Aceh Working Paper No. 2, published in conjunction with Oxfam International): 7.
- <sup>77</sup> Fitzpatrick, D. (2007) Access to Housing for Renters and Squatters in Tsunami-Affected Aceh, Indonesia (Asia Research Institute Aceh Working Paper No. 2, published in conjunction with Oxfam International): 4-6.
- <sup>78</sup> World Bank (June 2003) Land Policies for Growth and Poverty Reduction. Washington, D.C.: World Bank.
- <sup>79</sup> United Nations Committee on Economic, Social and Cultural Rights (CESCR) ‘General Comment No. 7: The right to adequate housing (Article 11 (1) of the Covenant): Forced evictions, adopted at the 16th session, 1997.
- <sup>80</sup> United Nations Human Settlements Programme (2007) Global Report on Human Settlements 2007: Enhancing Urban Safety and Security. p. 152-153. Nairobi: U.N.-Habitat.
- <sup>81</sup> United Nations Human Settlements Programme (2007) Global Report on Human Settlements 2007: Enhancing Urban Safety and Security. p. 130. Nairobi: U.N.-Habitat.
- <sup>82</sup> United Nations Human Settlements Programme (2006) State of the World’s Cities 2006/7. p.43. Nairobi:U.N.-Habitat.
- <sup>83</sup> United Nations Human Settlements Programme (2007) Global Report on Human Settlements 2007: Enhancing Urban Safety and Security. p. 140-141. Nairobi: U.N.-Habitat.
- <sup>84</sup> Porio, Emma and Christine Cristol (2004) “Property Rights, Security of Tenure, and the Urban Poor in Metro Manila.” Habitat International, 28:210.



- <sup>85</sup> Cabannes, Yves and Leticia Orsorio (April 2007) Finding Solutions to Forced Evictions Worldwide: A Priority to Meet the MDGs and Implement the Habitat Agenda. Executive Summary Report of the Advisory Group on Forced Evictions (AGFE) to the Executive Director of U.N.-HABITAT. Nairobi: U.N.-HABITAT. p. 7. [http://www.unhabitat.org/downloads/docs/5152\\_68295\\_AGFE\\_Executive\\_Summary\\_Report\\_April\\_2007.pdf](http://www.unhabitat.org/downloads/docs/5152_68295_AGFE_Executive_Summary_Report_April_2007.pdf).
- <sup>86</sup> United Nations Human Settlements Programme (2003) Rental Housing: An essential option for the urban poor in developing countries. Preface. Nairobi: U.N.-Habitat. <http://www.unhabitat.org/pmss/getPage.asp?page=bookView&book=1125>.
- <sup>87</sup> United Nations Human Settlements Programme (2007) Global Report on Human Settlements 2007: Enhancing Urban Safety and Security. p.151. Nairobi: U.N.-Habitat.
- <sup>88</sup> COHRE (2000) Successfully Resisting Forced Eviction: Case Studies, COHRE, Geneva.
- <sup>89</sup> United Nations Human Settlements Programme (2003) Rental Housing: An essential option for the urban poor in developing countries. Preface. Nairobi: U.N.-Habitat. <http://www.unhabitat.org/pmss/getPage.asp?page=bookView&book=1125>.
- <sup>90</sup> United Nations Human Settlements Programme (2003) Handbook of Best Practices, Security of Tenure and Access to Land: Implementation of the Habitat Agenda: 27.
- <sup>91</sup> International law documents defining the procedural safeguards for forced evictions include: General Comment No. 7 on the Right to Adequate Housing (E/C.12/1997/4); the Committee on Economic, Social and Cultural Rights, General Comment No. 4 on the Right to Adequate Housing; Commission on Human Rights Resolution 1993/77 on Forced Evictions; Sub-Commission on the Protection and Promotion of Human Rights Resolution 1998/9 on Forced Evictions; and the International Covenant on Economic, Social and Cultural Rights. The Centre on Housing Rights and Forced Evictions (COHRE)([www.cohre.org/feframe.html](http://www.cohre.org/feframe.html)). See also proposed guidelines for strengthening existing legal protections against forced evictions and procedural safeguards (with a focus on women's rights), U.N. Special Rapporteur on Housing 2007: 9, and Annex 2.
- <sup>92</sup> The World Bank promoted intermediate solutions for tenure security in its 2006 report reviewing 30 years of bank involvement in housing policy. According to the report's authors, "Simpler approaches to tenure insecurity are often available and, depending on the existing constraints, there are a variety of tenure instruments that can be employed to convey property rights or freedoms. In addition, because many of these instruments do not require prior physical planning, infrastructure, servicing and surveying of the settlements, they are often an advantageous strategy from the perspective of widespread coverage at reduced costs." (World Bank 2006: 30-1).
- <sup>93</sup> International Housing Coalition (2007) Housing and Urban Infrastructure in Sub-Saharan Africa Challenges and Opportunities and how the US can respond (working paper): 23.
- <sup>94</sup> World Bank (2006) Thirty Years of World Bank Shelter Lending: What have We Learned (eds. R. Buckley & J. Kalarickal): 30.
- <sup>95</sup> United Nations Human Settlements Programme (2007) Global Report on Human Settlements 2007: Enhancing Urban Safety and Security. Nairobi: U.N.-Habitat, 118.
- <sup>96</sup> Formal legal recognition of housing rights may not guarantee tenure security, but it is the solution that comes closest to this goal (U.N.-2007: 115).

- <sup>97</sup> Fernandes, E. (2002) *The Influence of De Soto's The Mystery of Capital* (paper for the Lincoln Development Institute: 5.
- <sup>98</sup> World Bank (2006) *Thirty Years of World Bank Shelter Lending: What have We Learned* (eds. R. Buckley & J. Kalarickal).
- <sup>99</sup> Brown, J. & J. Uvuza (2006) *Women's Land Rights in Rwanda: How Can They be Protected and Strengthened as the Land Law is Implemented?* (Rural Development Institute Reports on Foreign Aid and Development No. 123): 4; Lastarria-Cornhiel & Giovarelli 2005; and Fitzpatrick 2008.
- <sup>100</sup> This box is excerpted from *Habitat for Humanity A/ME 2008*: 43.
- <sup>101</sup> United Nations Human Settlements Programme (2007) *Global Report on Human Settlements 2007: Enhancing Urban Safety and Security*. p. 144. Nairobi: U.N.-Habitat.
- <sup>102</sup> Durand-Lasserve, A. (1998) 'Law and urban change in developing countries: Trends and issues', in E. Fernandes and A. Varley (eds) *Illegal Cities: Law and Urban Change in Developing Countries*, Zed Books, London, pp176–190.
- <sup>103</sup> Deininger, K. (2003) *Land Policies for Growth and Poverty Reduction*. Washington, D.C.: The World Bank.
- <sup>104</sup> Fourie, C. (2001) "Land and Property Registration at the Crossroads: A Time for More Relevant Approaches." *Habitat Debate* 7(3):16 as cited in United Nations Human Settlements Programme (2007) *Global Report on Human Settlements 2007: Enhancing Urban Safety and Security*. p. 145. Nairobi: U.N.-Habitat.
- <sup>105</sup> Food and Agriculture Organization of the United Nations FAO (2005) *Access to Rural Land and Land Administration After Violent Conflicts*. FAO Land Tenure Series, No. 8. Rome. <ftp://ftp.fao.org/docrep/fao/008/y9354e/y9354e00.pdf>.
- <sup>106</sup> United Nations Human Settlements Programme (2007) *Global Report on Human Settlements 2007: Enhancing Urban Safety and Security*. p. 144-145. Nairobi: U.N.-Habitat.
- <sup>107</sup> Joireman, Sandra (2006) "The importance of security property rights in Africa." *The Forum: Property rights and land tenure issues*, 13(3):7. Habitat for Humanity International.
- <sup>108</sup> United Nations Human Settlements Programme (2007) *Global Report on Human Settlements 2007: Enhancing Urban Safety and Security*. p. 156. Nairobi: U.N.-Habitat.
- <sup>109</sup> Food and Agriculture Organization of the United Nations FAO (2005) *Access to Rural Land and Land Administration After Violent Conflicts*. FAO Land Tenure Series, No. 8. p. 73-74. Rome. <ftp://ftp.fao.org/docrep/fao/008/y9354e/y9354e00.pdf>.
- <sup>110</sup> United Nations Human Settlements Programme (2007) *Global Report on Human Settlements 2007: Enhancing Urban Safety and Security*. p. 139-140. Nairobi: U.N.-Habitat.
- <sup>111</sup> Payne, G. (April 2005) "Getting Ahead of the Game: A Twin-Track Approach to Improving Existing Slums and Reducing the Need for Future Slums." *Environment and Urbanization*, 17(1):135. <http://eau.sagepub.com/cgi/reprint/17/1/135>.
- <sup>112</sup> Bell, Keith Clifford (2005) "Land Administration and Management: The Need for Innovative Approaches to Land Policy and Tenure Security." [http://www.fig.net/commission7/bangkok\\_2005/papers/1\\_1\\_bell.pdf](http://www.fig.net/commission7/bangkok_2005/papers/1_1_bell.pdf).



# Acronyms and glossary





## Acronyms:

Habitat for Humanity International

- A/ME—Africa and Middle East area office
- A/P— Asia and the Pacific area office
- E/CA—Europe and Central Asia area office
- GRA—Habitat’s Government Relations and Advocacy office
- LA/C—Latin America and Caribbean area office
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GROWTH Act—Global Resources and Opportunities for Women to Thrive Act

IHC—International Housing Coalition

MCC—Millennium Challenge Corporation

MDG—Millennium Development Goals

NGO—Nongovernmental organization

ODA—Official development assistance

U.N.-Habitat—United Nations Human Settlements Program

USAID—U.S. Agency for International Development

## Glossary:

**Adequate housing.** The most widely accepted definition of adequate housing is set forth in General Comment 4 to Article 11(1) of the International Covenant of Economic, Social and Cultural Rights (CESCR). The covenant sets forth seven requirements for adequate housing, the first of which is tenure security. (the other six requirements are: affordability; adequacy; accessibility; proximity to services; availability of infrastructure; and cultural adequacy).

**Cadastre.** A cadastre system is a register of real property, generally including information on the parcel of land and the owner depending on the country. It is used to track land.

**Forced eviction.** International law defines forced eviction as “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.”

**Homelessness.** No one definition of homelessness is globally accepted. The United Nations uses the following working definition of homeless households: “households without a shelter that would fall within the scope of living quarters. They carry their few possessions with them while sleeping in the streets, in doorways or on piers, or in any other space, on a more or less random basis.”

**Illegal subdivisions.** Illegal subdivisions are created by developers who use political and bureaucratic connections to occupy and subdivide land on the urban periphery. These developers either rent or sell the subdivided plots. In a user-rented subdivision, the illegal owner subdivides the land and rents it out to low-income tenants. In some cases, plots have access to infrastructure such as water or electricity. In user-purchased subdivisions the developer divides and sells the plots, which have no access to infrastructure, to low-income buyers.

**Informal settlements/squatter settlements.** The distinguishing characteristic of informal (or “squatter”) settlements is a lack

of legal tenure. Squatter settlements include housing that is of poor quality and temporary materials, and more established housing that lacks official title. Squatter settlements are usually laid out in a haphazard way.

**Poverty.** The international community distinguishes between three levels of poverty: extreme (or absolute) poverty; moderate poverty; and relative poverty.

- Extreme poverty means that households cannot meet basic survival needs. They cannot afford food, healthcare, safe drinking water and sanitation, education for their children, and, sometimes, basic shelter and clothing. The World Bank uses the income level of US\$1 or less per person per day, at purchasing power parity, to define those in extreme poverty.
- Moderate poverty means that households just barely meet their basic needs. The World Bank uses the income level of US\$1 to US\$2 per person per day to define this group.
- Relative poverty is generally defined as an “income level below a given proportion of average national income.” In high-income countries, the relatively poor often lack access to quality healthcare, education, recreation and entertainment.

**Slums.** A slum household is a group of individuals living under the same roof in an urban area that lacks one or more of the following five conditions: durable housing; sufficient living area; access to improved water; access to sanitation; and secure tenure (further defined as the right to effective protection against forced evictions).

**Tenure.** Tenure refers to the bundle of rights that define the relationship of an individual or group to housing or land. Tenure systems vary throughout the world, but usually fall into one of these types: freehold, leasehold, conditional freehold (“rent to buy”), rent, collective forms of tenure and communal tenure. For a description of many of the different forms of tenure recognized internationally, see page 116 of U.N.-Habitat’s 2007 Global Report on Human Settlements.

**Tenure security.** Tenure security is defined by international law as “the right of all individuals and groups to effective protection from the state against forced evictions.” U.N.-Habitat refines this definition with two additional components: (1) proof of documentation (documents that could be used to prove occupancy, and could be comprised of a variety of documents including utility bills, tax receipts, voter registration, or identity forms and ration cards); and (2) the perception of tenure security (a subjective indicator based on a household’s experience and perceptions). Many different forms of tenure, including individual ownership, collective ownership and renting, can offer high levels of security. No one particular type of tenure, however, guarantees security if it is not buttressed by a supportive policy and legal environment.

**Urban.** This report uses the U.N. definition for “urban agglomeration,” which is: “The built-up or densely populated area containing the city proper, suburbs and continuously settled commuter areas. It may be smaller or larger than a metropolitan area: it may also comprise the city proper and its suburban fringe or thickly settled adjoining territory.”





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