



# HABITAT III ISSUE PAPERS

## 9 - URBAN LAND

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## ISSUE PAPER ON URBAN LAND

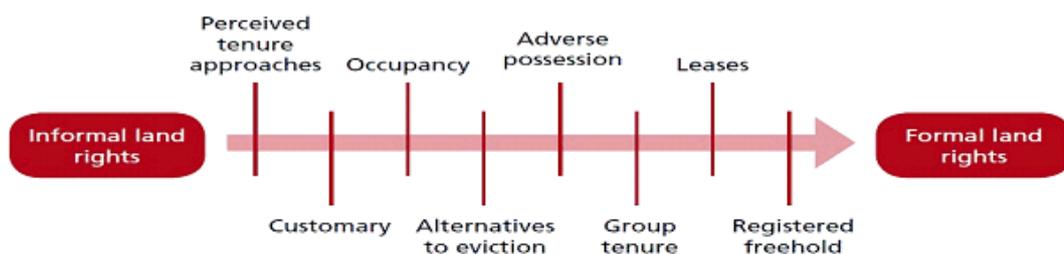
### KEY WORDS

Land governance, tenure security, sustainable urban expansion, plurality of tenure, slums, inclusive cities, food security, gender, urban-rural linkages, housing, informal settlements, land administration, land rights, land financing, global population growth, loss of land base, displacement, land grabbing, public space.

### MAIN CONCEPTS

1. Land Governance concerns the rules, processes and structures through which decisions are made about the use, access to and control over land, the manner in which the decisions are implemented and enforced, and the way that competing interests in land are managed. It encompasses statutory, customary and religious institutions. It includes state structures such as land agencies, courts and ministries responsible for land, as well as non-statutory actors such as traditional bodies and informal agents. It covers both the legal and policy framework for land as well as traditional and informal practices that enjoy social legitimacy.<sup>1</sup>
2. Continuum of land rights approach is based on recognition of the validity of a plurality of land rights lying on a continuum between formal and informal. (See Figure 1) It shows that a wide range of rights can exist in between the extremes of informal and formal. In reality, the rights do not lie on a single line and may overlap with one another.<sup>2</sup>

Figure 1



<sup>1</sup> UN-Habitat and FAO (2009): Land Governance

<sup>2</sup> UN-Habitat (2012): Handling Land



3. Land value sharing are public actions, either through public investments or simply decisions taken by government, which often result in increased private wealth as the value of privately held land increases in response to the public action. “Unearned” increment in private wealth generated by increasing land values should accrue to the public to help defray the cost of the needed infrastructure investments and improved services.<sup>3</sup>
4. Security of tenure is the right of all individuals and groups to effective protection by the state against evictions, i.e. the permanent or temporary removal against their will of individuals, families and communities from the home and the land they occupy, without the provision of, and access to, appropriate form of legal or other protection. Security of tenure can be defined as an agreement or understanding between an individual or group to land and residential property, which is governed and regulated by a legal and administrative framework. There are three components to security of tenure:
  - a. Perceived tenure security refers to an individual’s or group’s experience of their tenure situation or their estimate probability that their land rights will not be lost as a result of eviction by the state, land owner or other authority, or because of other factors that may cause involuntary relocation or curtail their use of the land, such as threats of land conflicts.
  - b. Legal tenure security refers to the legal status of tenure and its protection backed up by state authority.
  - c. De facto tenure security is based on the actual control of land and residential property, regardless of the legal status in which it is held. It can best be defined by the elements that compose it or contribute to it, such as the length of time of occupation, its socially accepted legitimacy and the level and cohesion of community organization.<sup>4</sup>

## FIGURES AND KEY FACTS

1. Land has been a central focus of human settlements and UN-HABITAT starting with Vancouver, Canada in 1976, where land was a key tenant of the Vancouver Action Plan (agenda item 10(d) on land). Article 75 of the Habitat Agenda spells out clearly the link between poverty and land. It states that ‘legal access to land is a strategic prerequisite for the provision of adequate shelter for all and for the development of sustainable human settlement affecting both urban and rural areas. The failure to adopt, at all levels, appropriate rural and urban land policies and land management practices remains a primary cause of inequity and poverty.

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<sup>3</sup> Walters, Laurence et.al. (2014): Medellín Report on Land Value Sharing

<sup>4</sup> Working definition is based on General Comments 4 and 7 of the CESR, the work of the Special Rapporteur on Adequate Housing and the Global Land Indicators Initiative (2015): Concepts and Definitions, Final Working Paper



2. Some estimation of land document system suggests that 30% coverage in most developing countries while the 70% are covered under social tenures – group, informal and overlapping rights. This has caused enormous problems for example in cities, where over one billion people live in slums without proper water, sanitation, community facilities, security of tenure or quality of life. This has also caused problems for countries with regard to food security and rural land management issues.<sup>5</sup>
3. Ensuring that women have secure rights to their land and property, including inheritance, is essential to addressing poverty and hunger. However, while women produce as much as 60 to 80 percent of food in the developing world, they often do not have sufficient secure rights to the land they farm.<sup>6</sup>
4. It is estimated that there are around 6 billion land parcels or ownership units world-wide, but currently only 1.5 billion parcels are formally registered and have security of tenure (Zimmerman, 2011). Within many of the 4.5 billion unregistered parcels, 1.1 billion people live in the squalor of slums.<sup>7</sup>
5. Conflicts and natural disasters, including those exacerbated by climate change, also trigger displacement and can undermine security of tenure. Over 38 million people were internally displaced at the end of 2014 due to armed conflicts, violence or human rights violations, while nearly 22 million were displaced due to natural hazards in 2013. In 2014, IDPs were living predominantly in urban settings in 16 of the 60 countries monitored by IDMC.<sup>8</sup> Displacement has clear dimensions on housing, land and property rights.
6. In the 12 years from 1999 to 2011, the global population increased by 1 billion reaching 7 billion in 2011, leading to demands for land for food and bio-fuel production, and resulting in the displacement of the poor and vulnerable.<sup>9</sup> There are three main urbanization drivers: rural to urban migration (25%); natural population increase (50%); and reclassification of land into urban land (25%).<sup>10</sup>
7. In the 20 years from 1995 to 2015, the urban population increased by 1.4 billion from 2.5 billion to 3.9 billion.<sup>11</sup> In 2000, estimates for urban terrestrial land surface ranged from 0.2% to 2.4% of the global terrestrial surface. 5 million new urban residents per month in the developing world and 93% of urbanization are happening in developing countries. This growth in urban footprint has massive land delivery and management implications.
8. Urban expansion is happening faster than proper planning and infrastructure installation are done resulting in unplanned settlements, diminished public spaces, and housing markets that are

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<sup>5</sup>FIG Publication 52, 2010, The Social Tenure Domain Model - A Pro-Poor Land Tool

<sup>6</sup>Landesa: <http://www.landesa.org/wp-content/uploads/2011/01/landesa-factsheet-landesacenter.pdf>

<sup>7</sup>RICS Report 2011, Crowd Sourcing Support of Land Administration

<sup>8</sup>IDMC, 2015, Global Overview: People internally displaced by conflict and violence

<sup>9</sup>UNFPA, State of World Population 2011

<sup>10</sup>UN-Habitat, State of the World Cities Report, 2007.

<sup>11</sup>United Nations, Department of Economic and Social Affairs, Population Division (2014). World Urbanization Prospects: The 2014 Revision, CD-ROM Edition.



overburdened. It is estimated that annual growth rate of urban land cover was twice that of the urban population between 1990 and 2000. At present rates of density decline, the world's urban population is expected to double in 43 years, while urban land cover will double in only 19 years. The urban population of the developing countries is expected to double between 2000 and 2030 while the built-up area of their cities can be expected to triple.<sup>12</sup>

## ISSUE SUMMARY

1. Land tenure takes on a variety of forms. A particular form such as registered freehold should not be seen as the preferred or ultimate form of land rights, but as one of a number of appropriate and legitimate rights. Depending on context other land tenures can be stronger, easier to administer and more appropriate. A person or household can be said to have secure tenure when they are effectively protected from involuntary removal from their land or residence, except in exceptional circumstances and in the public interest, and then only by means of a known and agreed legal procedure, which must itself be objective, equally applicable, contestable and independent.<sup>13</sup> Secure tenure is foundational to the realization of a broad range of human rights and to economic development, poverty reduction, women empowerment, youth engagement, children's rights, health, investment, peace, stability, improving housing services and living conditions for marginalized groups.
2. In some developing countries, rapid urbanization is often associated with increase in tenure insecurity particularly for people living in slums and peri-urban areas. Urban land management and administration institutions face the additional challenge of high number of people who live and work informally in urban and peri urban areas. In most countries, there is a lack of reliable land information that negatively affects urban planning and design, infrastructure and socio-economic development. When properly functioning, fit-for-purpose land administration systems support tenure security improvement, urban planning, service delivery, agricultural development, environmental management, city management, land taxation and land management.
3. Effective land management and administration initiatives are frequently hampered by complex and non-transparent legal and institutional frameworks, and inadequate capacity, including human and financial resources, thereby priorities focus only on immediate survival requirements. Improving land governance is an urgent issue because pressures on and competing interests for land is intensifying due to rapid urbanization, growing population, economic development, food insecurity, water and energy shortage, and the effects of conflicts and disasters. Some local governments do not take the opportunity to assess their functional needs from land and therefore are failing to adopt balanced and locally relevant approaches to land management.

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<sup>12</sup> Shlomo, Angel et.al. Making Room for A Planet of Cities, Lincoln Institute of Land Policy, 2011

<sup>13</sup> CESCR 1991 and 1997: General Comments 4 and 7 the right to adequate housing (art. 11 (1) of the Covenant); UN-Habitat, 2004; FAO, 2003).



4. In some regions, urban sprawl on cheap land results from lack of integrated, proactive and inclusive urban planning and implementation. Sustainable urban expansion is therefore an important process to mitigate urban sprawl, unsustainable land use and land tenure insecurity.
5. Climate change and different land-use patterns affect urban and rural areas including human settlements, farmland, drylands, wetlands and forests. Cities all over the world need to adapt to pro-poor land administration in urban expansion using participatory and inclusive approaches. There is an urgent need to prepare for urban growth and related land needs, which requires realistic projection of urban land needs based on current land information and population growth thus develop innovative responses. Failure to do so will only worsen slum development and poverty in cities. However, there are also immense opportunities for tapping the positive transformation of cities, including the potential of economies of scale, good governance, and land and property tax systems to self-finance cities.
6. As the pace of urbanization accelerates and more investment flows into cities through land markets, it is important to consider the implications for urban-rural linkages and the level of investments flowing into rural areas. Problems and inequalities will only increase if there is no balance in investments into cities and their surrounding areas. Due to urban-rural migration in addition to the ongoing population growth in most cities in developing countries, changes of land use and land users occur much more often and at a faster rate, sometime over night, than in rural areas. The implications of the expansion of urban areas for agricultural producers and smallholder farmers, especially with regard to their livelihoods need to be addressed. The land rights of rural people and smallholders living around urban centres need to be recognised and respected and impartial, effective conflict resolution mechanisms put in place.
7. Sea level rise -as well as extreme weather events – is projected to intensify with climate change. Coastal cities should factor in these trends, to be reflected in land development strategies, planning and activities, which requires access to expert knowledge. Land loss due to sea level rise means that alternative locations will be needed. In the case of larger acute stresses and shocks, competition for land may escalate to conflict.
8. Effective land value sharing has the potential for generating wealth for the cities but needs to be balanced with equitable policies and approaches that will benefit all, especially the poor and vulnerable. Land value sharing may also strengthen supply chains and increase productivity.
9. The demand for serviced and productive land is constantly increasing in many cities in developing countries, not just because of the increasing number of urban inhabitants but also because of the demand from international investors. This leads to a shortage of land and high increases of land value, which both discriminates against the poor for whom access to land – be it for housing, food production and processing or trading becomes increasingly difficult. Well-planned land-based financing policies can incentivize compact and connected development while keeping rents down by minimizing speculation and encouraging an adequate supply of built space. Planned extension of serviced buildable plots and planned infill can prevent informal development and sprawl along with its consequences for agricultural land, mobility, health, and the environment.
10. Public spaces, public land and land held in common, including natural resources, which the poor disproportionately depend on; become the first to be grabbed. For many of the urban poor, the



formal land market, as the entire formal economy, is not accessible or affordable. These challenges often result in displacement and gentrification.

11. Some local authorities misinterpret public interest and the slogan on “cities without slums” to perpetuate inhumane evictions. Incidences of evictions have been countered by increasing advocacy and communities’ awareness of their rights and obligations, as well as successful litigation where the evictions were in violation of national or international law. Informal settlement upgrading and other alternative development initiatives have used participatory and inclusive approaches where the communities contribute to the solutions.
12. Power imbalances in urban and peri-urban areas are prevalent. Urban and peri-urban areas host poor population, often without any formal education and no knowledge about their rights next to the most educated and best-informed individuals who sometimes misuse their positions for their own private individual benefit. In such an environment, it is difficult for the vulnerable and marginalized to realize and defend their rights.

## KEY DRIVERS FOR ACTION

1. Secure tenure rights of people and communities as a means to achieving sustainable urban development. Doing so will necessitate a broader approach to urban land development and solutions that consider partnership-based collaborative community driven approaches, protection of public land, development of affordable planning standards, capacity development of state and non-state institutions around land policy, management and governance and other comprehensive interventions.
2. Encourage equity in urban land use and planned urbanization to avoid urban sprawl, reduce the unsustainable consumption of land and land-related conflicts.
3. Ensure transparency and accountability in land transactions, combat corruption and land-grabs by adopting and implementing sound land governance approaches and an institutional framework for judicious implementation of the rule of law.
4. Enact and implement urban policies that support plurality of tenure and continuum of land rights to enhance tenure security for the urban poor and human dignity for all.
5. In case of situations where evictions are unavoidable, develop viable alternatives to forced eviction including participatory and inclusive land readjustment and slum upgrading and ensure that relocation is done in accordance with national and international law applying the free prior and informed consent (FPIC) approach.
6. Encourage land tools and land administration solutions that are fit for the purpose and provide incremental improvement of land tenure security for urban poor.
7. Implement equitable land-based financing, land and property taxation where the land poor can benefit through the cost-effective release of land for human settlement.
8. Implement land value sharing policies that encourage compact and connected development, discourage speculation, raise revenues for critical infrastructure and services, and find innovative



ways to finance the expansion and infill of serviced buildable plots to accommodate urban growth in a sustainable way.

9. Integrate conservation or restoration of ecosystems as a component into urban land considerations, including in the upgrading of slums, to support the provision of ecosystem services to all urban communities.
10. Promote gender-responsive and age-sensitive policies that respect, protect and promote the rights of all, particularly smallholders and rural producers based in areas directly connected to urban centers and their hinterlands in the development and implementation of urban land use strategies.
11. Encourage the establishment of functioning multi-stakeholder fora that will mediate on issues related to urban and rural land so that small holders and small-scale food producers are not excluded. This could also refer to the need to coordinate municipal and local government authorities in rural and peri-urban areas regarding land use planning and management to avoid conflicts of interest and mediate disputes over land between urban dwellers and smallholders and the setting up of independent, efficient and accessible grievance mechanisms to address land disputes and access to justice.

## PLATFORMS AND PROJECTS

1. The Global Land Tool Network (GLTN) is an alliance of more than 67 global, regional and national partners contributing to poverty alleviation through land reform, improved land management and security of tenure particularly through the development and dissemination of pro-poor and gender-sensitive land tools. Key UN Agencies involved in GLTN are: UN-Habitat, UNECA, UN-ESCAP, UN-Women, FAO, IFAD, World Bank (<http://www.gltn.net>)
2. The Global Land Indicators Initiative (GLII) is a collaborative and inclusive process for the development of the Global Land Indicators started by the Millennium Challenge Corporation (MCC), UN-Habitat and the World Bank. Key UN Agencies involved in GLII are: UN-Habitat, FAO, IFAD, World Bank (<http://www.gltn.net/index.php/projects/global-land-indicator-initiative>)
3. Committee on World Food Security. The CFS was set up in 1974 as an intergovernmental body to serve as a forum for review and follow up of food security policies. One of the landmark laws that the CFS passed is the Voluntary Guidelines on the Responsible Governance of Tenure, Land, Fisheries and Forests (VGGTs). The VGGTs are an unprecedented international soft law instrument in the area of tenure. Coordinated by FAO, the VGs are supported by a number of UN agencies, including UN-Habitat.  
(<http://www.fao.org/cfs/cfs-home/en/>)  
(<http://www.fao.org/nr/tenure/voluntary-guidelines/en/>)



4. Global Donor Platform Working Group on Land aims to improve exchange of information, coordination and set joint actions on land governance. <http://www.donorplatform.org/land-governance/global-donor-working-group-on-land>
5. UN and the Rule of Law Platform Key United Nations entities engaged in issues relating to land and property include UNEP, UN-Habitat, UNDP, DPKO, FAO and UNCITRAL. (<http://wwwdev.un.org/ruleoflaw/thematic-areas/land-property-environment/land-and-property/>)
6. World Bank Conference on Land and Poverty is a key global event where representatives from governments, civil society, academia, the development community, and the private sector come together annually to discuss new developments and progress on land policy and implementation. The conference aims to foster dialogue and sharing of best practices on the diversity of reforms, approaches and experiences that are being implemented in land sectors around the world <http://www.worldbank.org/en/events/2014/08/06/landconference2015>
7. Special Rapporteur on the Right to Adequate Housing, Guiding Principles on Security of Tenure for the Urban Poor, A/68/289, available at: <http://www.ohchr.org/EN/Issues/Housing/Pages/AnnualReports>.
8. Regional Platforms
  - The Land Policy Initiative-Africa is a joint programme of the tripartite consortium consisting of the African Union Commission (AUC), the African Development Bank (AfDB) and United Nations Economic Commission for Africa (ECA). Its purpose is to enable the use of land to lend impetus to the process of African development. Coordinated by UNECA supported by other UN agencies including UN-Habitat (<http://www.uneca.org/lpi>)
  - The Land Tenure Initiative for Asia-Pacific is a joint programme consisting of UN-ESCAP, UN-Habitat, FAO and other institutions in the Asia-Pacific region Key UN agencies involved are UN-ESCAP, UN-Habitat, FAO

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