

**World Bank Experience in  
Land Management  
&  
The Debate on Tenure Security**

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The World Bank

**URBAN**  
& LOCAL GOVERNMENT

***World Bank Experience in Land Management  
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The Debate on Tenure Security<sup>1</sup>***

*Draft - July, 2002*

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### Abbreviations

CIDA	Canadian International Development Agency
DFID	Department for International Development (UK Development Agency)
GTZ	German Development Agency for Technical Cooperation (in German Deutsche Gesellschaft fur Technische Zusammenarbeit)
GOP	Government of Peru
IADB	Inter American Development Bank
LARI	Land and Real Estate Initiative
OED	Operations and Evaluation Department
PHARE-EU	European Union Enlargement Programs
TUDUR	Transport and Urban Development Department, Urban Development Unit
UN	United Nations
USAID	United States Agency for International Development

## Foreword

The Transport and Urban Development Department (TUDUR) of the World Bank has undertaken a research project on “Low-Income Land and Housing Strategies”, funded by the Netherlands and Bank Partnership Program. The objective of the research is to help mainstream low-income housing and land market development issues into the broader, more comprehensive approach to development that is embodied in the *Poverty Reduction Strategies*. The aim of the research is to assist professionals and policy makers in client countries as well as in the World Bank and other donor agencies in improving their pro-poor land and housing policies and programs.

Land management and tenure security is one of the areas on which the research focuses<sup>2</sup>. The paper presented here aims to extend our knowledge of the World Bank’s efforts in urban land management and on the current debates on secure tenure, and thus to set the stage for the land management part of the research. The paper is based on a desk review of some 30 Bank supported urban land management projects, and review of the literature on tenure security.

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<sup>2</sup> Housing finance is the other main component of the Housing Research on Low-Income Land and Housing. A paper on “Housing Finance Experience of the World Bank and Recent Debates” that will be finalized soon, and this paper will complement each other in setting the stage for research questions.

## Abstract

The paper reviews World Bank experience in urban land management with the aim of understanding the impacts of the Bank's projects on the poor through their effects on land and housing subsidies, institutional development, and property markets. The paper also appraises the current debate on tenure security to understand new thinking, and to identify knowledge gaps. The objective is to present a basis for further research to improve pro-poor land and housing strategies.

Property rights and land regularization efforts by the World Bank and other donor organizations have been driven by the objectives of development of property markets, and increasing access to the land and secure tenure by the urban poor. As far as the impacts on development of property markets are concerned, large-scale titling and cadastre projects contribute to the supply of land with clear property rights and lead to increases in prices of those properties. Development of property markets, however, is also very much dependent on regulatory and institutional reforms which require long-term consistent efforts, and several of the Bank projects have only modest impacts on institutional development. Regarding the impacts on poverty reduction and on increasing the tenure security of the poor, Bank projects, both nation-wide registration programs and slum upgrading projects with tenure regularization components, serve their purposes by targeting the poor and providing them with an economic asset, i.e., property with a clear title. This also means rational subsidization of the poor. Those projects also serve to empower the poor politically and socially by providing them with a legitimate base, i.e. tenure security, in cities.

Nonetheless, tenure security means different things in different contexts. Two questions become important for policy makers and practitioners: (i) What difference does titling make in the lives of the poor? and (ii) What are the other options of providing tenure security to the urban poor? The case examples and debates reviewed on the one hand suggest that titling may not be necessary, provision of services, and/or recognition of use rights, and existence of political will are sufficient to improve the living conditions of the poor and provide them with a sense of security. Dynamic property markets can also exist in informal settlements. On the other hand, however, in some cases even titles are not enough to give the poor security of tenure and allow them to enjoy the market value of their property. The regulatory framework on land development and taxation, and political contexts, are the important determinants. Existing analyses, however, do not provide systematic and comparable quantified data. There are several gaps in the existing knowledge.

Rather than discussing whether or not titling is necessary, it is important to know what the poor want to do with their property. Pros and cons of different tenure options in different contexts are not known thoroughly to make policy judgments. It is imperative to know what forms of tenure arrangements are able to support the poor by means of: improving the welfare distribution; improving their living conditions; facilitating their empowerment, and access to the market value of their property - without distorting urban property markets or over extending limited public capability. It is also important to know to what extent are different tenure arrangements able to equip local authorities to respond increasing demand for shelter and land, in addition to providing existing informal settlements with secure tenure.

## 1. Introduction

This paper draws on a review of World Bank experience in urban land management over the last decade (since the last housing policy paper, “Enabling Housing Markets to Work”, was published in 1992), and a review of the debate on tenure security which has increasingly become a focal point of pro-poor housing policies and urban land management strategies.

The objective is to answer questions such as: (i) How do the Bank urban land projects affect the poor through their impacts on land and housing subsidies, institutional development, regulatory changes, and property markets? (ii) What are the policy discourses and perspectives outside the World Bank?; and (iii) What are the knowledge gaps and the most pressing questions in addressing tenure security for the urban poor?

This study is therefore a preliminary effort to extend our knowledge of the Bank’s efforts in urban land management, as well as to define pressing questions and priority areas for pro-poor tenure policies and research. The paper targets staff of the World Bank and other donor organizations, as well as the research community. The paper also endeavors to set the stage for a research project carried out by the Urban Development Unit of the Transport and Urban Development Department (TUDUR) of the World Bank on Low-Income Land and Housing Strategies, of which urban land management and tenure is one of the two major components.

The following (second) section reviews World Bank projects to understand Bank experience in/contribution to: (i) regulatory changes; (ii) institutional development; (iii) development of property markets; (iv) targeting and empowering the poor; and (v) rationalizing subsidies. After a brief summary of examples of projects carried out by other donor organizations, current debates (literature review) on land management, in particular on tenure security, are presented in the third section. The section is structured around two basic questions: What difference does titling make in the lives of the urban poor? and What else can be done to address tenure security? Conclusions and suggestions for priority areas for research and pro-poor strategies are presented in the last (fourth) section.

It should be noted that the purpose of this paper is different from that of OED evaluations that assess projects in terms of outcome, sustainability and institutional development. Although OED results will be referenced in this paper, the aim is to present experience to date, and to understand how and to what extent the land management programs have an effect on the urban poor, rather than to appraise their level of success.

## 2. World Bank Experience

### 2.1. Project Types and Objectives

Property rights and land regularization efforts by the World Bank and other donor organizations have been driven by the correlation between land distribution, economic growth and poverty reduction. This has translated into two main objectives: (i) supporting economic growth in general and the development of property markets in particular; (ii) poverty reduction and empowering the poor.

#### *Supporting the development of property markets*

The 1970s witnessed a wave of nationalization of land in many developing countries. As Payne 2001 indicates, 20 out of 40 countries in sub-Saharan Africa, and some in Asia, had nationalized all land and eliminated private freehold ownership. Subsequently, however, several of these countries have reversed this approach, and needed new land management perspectives and techniques to be responsive to market forces. During the 1990s yet another change in the world, i.e., the fall of the Soviet Union, resulted in an additional perspective on shelter and land policies in the developing world, including but by no means restricted to, the countries of the former Soviet Union and Eastern Europe. In these countries certainly, but also in many developing countries such as Algeria, Ghana, Brazil and India, land regulations, including tenure, were not designed to be responsive to market forces and the increasing demand in cities for shelter, nor were households freely able to finance house purchases using long-term contracts and secure property rights. In a word, the fall of Communism led to an increased emphasis on the regulatory barriers to land market functioning, and on the important role of property rights and tenure security. This emphasis was described in the Bank's last review of its shelter and land market policy, i.e., Housing Policy Paper – Enabling Housing Markets to Work (1993) – (Box 1). The property rights issue was defined as one of the main pillars of the housing sector policy. The Bank's assistance to reform in the housing sector has since evolved into a wider focus on the development of land and real estate markets, as well as poverty reduction. Support for the development of private property rights and registration is a crucial part of such a task.

#### **Box 1: Do's For The Property Rights**

Systems of private, tradable, and enforceable property rights should be developed. Programs of land registration and regularization of insecure tenure should be undertaken. Whenever possible, programs for regularizing tenure should go hand in hand with infrastructure improvement in slum and squatter settlements.

Do's with respect to property rights:

- Regularize land tenure
- Expand land registration
- Privatize public housing stock
- Establish property taxation

Source: Enabling Markets to Work - 1993

*Poverty reduction and empowering the poor*

At the same time, in view of the increasing urbanization of poverty, urban poverty reduction efforts had become a priority on the agenda of many donor organizations, including the World Bank. Since land and housing are the single most significant vehicle for saving, and the largest item of expenditure for the majority of households but particularly for the poor, access to land and property rights has been recognized as an important means for poverty reduction. Research done by Dowal and Leaf (1990) and Hernando de Soto (1989) presenting the price differences between titled and untitled land, was an important catalyst in this respect. De Soto's work particularly, justified the benefits of titling to support the poor and increase local revenue generation. Upgrading and tenure regularization projects aimed to improve the living conditions of the poor by encouraging investment in home improvement, and to increase their access to credit, while increasing the local revenue generation basis was an auxiliary objective.

Project Types:

Since the late 1980s, the World Bank has been deeply involved in property rights and land management, in three broad categories:

***Nation-wide titling and cadastre projects:*** The objectives of these projects are to clarify the land tenure situation, especially through accelerating the pace of land registration. Institutional development and land policy development are to establish (or support) efficient land administration systems and to decrease backlogs in land titling. Twenty-seven land registration and cadastre projects, supported by the Bank since the late 1980s, were identified<sup>3</sup>. Several of them were defined as national cadastre projects (e.g., the El Salvador Land Administration Project and the Guatemala Land Administration Project), exclusively structured on agricultural reforms. The Indonesia Land Administration and Thailand Title Registration projects cover both rural and urban settlements. Several of the projects are in finance, environment and the public sector, but include urban land to varying degrees. Since the mid-1990s, there has been an increase in the number of land titling and cadastre projects due to demand from East Europe and Central Asia. Examples of this are the Moldova, Romania, Armenia, Kyrgyz Republic and Kazakhstan projects. The only example exclusively on urban land management and titling at national level is the Peru Land Titling Project<sup>4</sup> (Table 1).

The main components of this group of projects include:

- Land policy analyses and advice
- Improvement of legal framework and statutes
- Cadastral surveying and mapping
- Regularization of adjudication, title issuance and registration

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<sup>3</sup> World Bank, Land and Real Estate Initiative (LARI) Thematic Group database was used to identify projects, and only those that focus on property registration and cadastre as the major components were chosen for the review. Due to limited time and resources, more extensive research could not be performed. Therefore, we cannot claim that all the Bank land management projects carried out within the last decade were reviewed for this paper, but our aim was to review the large majority of them.

<sup>4</sup> The project did not address rural titling since IADB had a program focusing on rural land titling in Peru.

- Information technology support
- Institutional development (including other capacity building, e.g., human resource development, etc.)

***Land management and tenure regularization as a component of urban development projects:*** Land regularization was a component of several urban development and housing projects to support development of property markets and market-based housing finance. The Ghana Urban II, Côte d'Ivoire Urban Land Management and Housing Finance Reforms, Mali Second Urban Development Project, and Mexico Low-Income Housing II projects are examples of this category (Table 2). Given the complicated land ownership structures, especially in African countries, these projects had to limit their scope to one or two cities, and generally used a piecemeal approach as opposed to regularizing property rights and establishing nation-wide cadastre and registration systems. A primary concern was to avoid conflicting with prevalent traditional systems. Simple methods were used such as *adressage* (street addressing) in countries where local capacity is limited and land ownership structures are complex. *Adressage* is used to locate a plot of land or dwelling, i.e., to define its address by means of a system of maps and street signs indicating the numbers and names of streets and buildings<sup>5</sup>. It has been applied in 15 African countries, several of which, including Cameroon, Guinea, Mozambique, and Burkina Faso, were supported by the World Bank.

***Tenure regularization as a component of slum upgrading projects*** (Table 2): The objectives are: (i) supporting access to land and housing which is an important physical and economic asset for the urban poor, and thus empowering them; (ii) supporting home improvements and resource mobilization; and (iii) (perhaps a more auxiliary objective) facilitating low-income groups' access to credit. The scope of this group of projects is limited to the project areas. Caution was required to avoid any conflict with the existing land ownership system of the country. For example, in the Caracas Slum Upgrading Project, the design of the land titling component attempts to avoid potential opposition from the state and the private sector by limiting the project scope to those barrios on public land, and requiring agreement from all agencies that land titles may be given (Box 2). In the recent Mauritania Upgrading Project, the magnitude of the problem, i.e., a virtual lack of any land records, has necessitated addressing land tenure as a main component of the project. However, there are various slum upgrading projects in which land tenure could not be addressed due to complex land ownership structures and a contentious legal framework. The Kampung Improvement Project is an example: in project areas, third generation families now inhabit settlements, and many still have no rights to the land (Box 3). But the areas have nonetheless improved dramatically, suggesting that the provision of services and access roads have, in themselves, increased de facto security and encouraged local investment. It can also be argued that the lack of titles has helped the residents by reducing the attractiveness of the areas to developers or

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<sup>5</sup> It is in fact an urban management tool for local authorities to facilitate service provision and increase local revenue generation, e.g., occupancy or property tax. In environments where land cadastre does not exist and land tenure structures are complex, *adressage* provides local authorities with an easy-to-apply and relatively low-cost technique of land management aiding service provision. *Adressage* can also be seen as a first step towards more comprehensive cadastre and titling (or use rights) systems.

higher-income households. On the other hand, the fact that third generation families are living there can be a sign of forced immobility due to the lack of titling (Box 4).

**Box 2: The Caracas Slum Upgrading Project**

The project addresses the three main factors which were previously identified as significantly reducing the quality of life in barrios: (i) the lack of adequate definition of property rights; (ii) the absence of collective action mechanisms to resolve the problem of providing public goods; and (iii) the lack of credit to facilitate housing construction. Surveys and focus groups were conducted as part of the project assessment, confirmed that title to property was a priority for barrio dwellers

Strategies in relation to the definition of property rights:

- ✓ Full property rights should be granted to barrio-dwellers to the sites that they currently occupy;
- ✓ In case of extreme difficulty in defining individual properties, titles will be condominiums;
- ✓ Titling should be done through proper, conventional, titling procedures according to existing Venezuelan legislation;
- ✓ No attempt will be made, as proposed in many projects, either to improve the current system of registry of titles or to establish a parallel system. This could be valid if extension of titling and the improvement of titling procedures were the sole objectives of the project;
- ✓ Disputes concerning property rights should be resolved within the community and the resolution will be incorporated in the neighborhood improvement plans;
- ✓ Expectation of title will be used as an incentive to recover part of the costs of project investments. Beneficiaries will be charged a one-time combined land transfer/improvement levy to partially recover the costs of the package of goods and land transfers;
- ✓ The transfer of title would be dependent upon the household's willingness to enter into an agreement to pay the levy, and would be provisional until the debt had been paid.

Source: Caracas Slum Upgrading Project Appraisal Document - 1998 (Rep no: 17924)

**Box 3: The Kampung Improvement Program - KIP**

In 1990 and until 2000, the Bank started again to help the KIP as part of an integrated assistance program. The KIP is one of the world's largest urban programs. More than 800 cities throughout the country have been implementing this program, reaching almost 20 million people. The KIP programs have been successful in increasing the quality of life in slums: they enhanced the existing residential stability of the Kampung. Residents are now healthier and better-educated, household size has declined, residents have higher incomes, and women have taken a more active role in meeting the needs of their families. Nevertheless, formal tenure security still remains a challenge. The complexity of land rights in Indonesia sometimes stops projects such as KIP from entering areas where land rights issues are contentious.

Source: World Bank Services to the Poor Thematic Group Web-site  
- <http://web.mit.edu/urbanupgrading/>

**Box 4: Job Access and Lack of Titling in Jakarta, Indonesia**

In Jakarta, Indonesia, the pattern of industrial growth is resulting in the movement of low-skill manufacturing jobs to distant suburban locations. Jakarta has already made street vending illegal by severely restricting the informal food-processing and service industry. Many low-income residents in Kampung would be financially better off selling their land and moving to the suburbs where job and business opportunities are located. But the system of land rights prevents migration. Since Kampung residents typically lack secure titles to the lands, they cannot sell their land to developers for new uses. Hence, many workers must make a long commute to the suburbs each day, and many others remain under- or unemployed. The result is a no-win situation for both workers and the city.

Source: World Development Report 1999/2000

**Table 1: Project Examples: Nation-Wide Land Management (Titling and Cadastre) Projects**

<b>Project contents</b>	Thailand Land Titling I 1984	Thailand Land Titling II 1990	Thailand Land Titling III 1994	Thailand Land Titling IV 2000	Indonesia Land Admin. 1994 <sup>6</sup>	Philippines Land Administration and Management 2000	Russia Land Reform Support 1996	Armenia Title Registration 1998 <sup>7</sup>	Romania Cadastre & Registration 1997 <sup>8</sup>	Kazakhstan Real Estate Pilot Registration Project 1996	Kazakhstan Real Estate Registration 1999 <sup>9</sup>	Slovenia, Real Estate Registration and Modernization 1999	Bulgaria Real Estate Registration and Cad. 1999	Kyrgyz Rep. Land & Real Estate 2000	Moldova First Cadastre 1998	Peru Land Titling 1998
Policy work on property rights																
Regulatory framework changes																
Cadastre and registration systems																
Titling																
Alternative forms of Security																

<sup>6</sup> Policy work on property rights had already been done by the Government of Indonesia. The Bank project carried out a follow-up on regulatory changes regarding the implementation of regulations.

<sup>7</sup> Both the policy work and regulatory framework changes had been carried out by USAID prior to the World Bank project.

<sup>8</sup> Both the policy work and regulatory framework changes had been carried out by CIDA prior to the World Bank project.

<sup>9</sup> Cadastre and registration systems were implemented only through a pilot project.

**Table 2: Project Examples: Urban Development Projects and Slum Upgrading with Land Management Components**

	Urban Development projects with land titling and regularization components										Slum upgrading projects			
<b>Project contents</b>	Mexico Low Income Housing II 1989	Tunisia Urban V	Ghana Urban II 1990 <sup>10</sup>	Ghana Urban V 2000	Mali Urban Development Project II 1987	Russia Housing 1995	Poland Urban Development 1992	Côte d'Ivoire Urban Land Management and Housing Finance 1997	Guinea Second Urban Development 1990	Albania Land Management - upgrading 1998	Caracas Slum Upgrading 1998	EI-Mezquital Upgrading	Mauritania Urban Development Program 2001	
<b>Policy/sector work</b>														
<b>Regulatory changes</b>														
<b>Cadastre &amp; registration</b>														
<b>Titling</b>														
<b>Alternative forms of Security</b>								Addressage	Temporary title					

<sup>10</sup> Policy work done by the Government of Ghana before the project starts.

<sup>11</sup> The project has a component for land allocation for slum prevention.

## 2.2. Project Contributions

Project contributions are considered in terms of:

- (i) Regulatory changes and improvements;
- (ii) Institutional development;
- (iii) Development of property markets;
- (iv) Targeting and empowering the poor;
- (v) Rationalizing subsidies (what does tenure security mean in terms of subsidies?).

### 2.2.1 Regulatory changes and improvements

Most of the World Bank's ongoing nation-wide land titling projects are in countries where property rights are subject to broad analysis and design, particularly in transition countries. However, having basic policy frameworks and laws in place was usually required before World Bank could begin. In many instances, governments had dealt with policy and regulatory reforms, generally with support from donor organizations, before the Bank projects began. The Bank projects usually supported regulatory adjustments, initiated implementation decrees and helped in the passage of new laws based on the policy reforms already launched. The Russia Land Reforms Support project, for example, helped in the passage of a federal law on private property rights. The Slovenia Real Estate Registration and Modernization Project supported regulatory changes in mortgage finance. Other projects, e.g., the Philippines Land administration and Management projects, and the Mali Second Urban Development project, the Bank involved relatively more regulatory analysis, and assisted the governments in reviewing and drafting land laws and regulations to support more efficient and transparent land transactions. By the same token, the ongoing Peru Land Titling project initiated two new laws with respect to the establishment of an alternative titling system, based on the policy analyses, and a pilot project carried out by the Bank together with the Government of Peru prior to the beginning of the current project.

In nation-wide projects regulatory reforms and new laws on property rights are broadly inclusive and designed to apply to all income groups and tenure types/categories. They set the basis for pro-poor policies. But, pro-poor land policies require more specific tenure reforms in consideration of problems encountered by the urban poor.

The land management and regularization components of urban development and slum upgrading projects (the second and third category projects), e.g., the Ghana Urban II, Tunisia Urban IV and Mexico Low-Income Housing Projects, the Second Urban Development Project in Mali, and the Urban Land Management and Housing Finance project in Côte d'Ivoire experienced various complications due to: multiple and overlapping tenure systems, widespread traditional systems<sup>12</sup>, and ownership by the state.

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<sup>12</sup> In Ghana, for example, the notion of individual ownership is quite foreign. "*Land belongs to a vast family of which many are dead, few are living and countless members still unborn*" (Ollenu 1962). This

Therefore they have either not considered regulatory revisions and adjustments, or could not implement them expansively (Box 5).

**Box 5: Land Concessions in Côte d’Ivoire**

The land management component of the Côte d’Ivoire project, for example, aimed to (i) set up a Land Management Agency for providing land to developers; (ii) establish a regulatory environment allowing private developers to have access to and develop land, then sell plots; and (iii) regularize the legal status of a large fraction of existing properties, including squatter settlements. A new type of land transfer (or concession) was introduced. The public authorities conferred a double mandate on the concessionaire, (a) to undertake a specific urban development project; and (b) to make an investment on a plot allotted by the government - against delivery of a clear title that allows sale of the land after it has been developed, and thus recovery of funds invested. The concession or transfer agreement specifies the rights, obligations, and reciprocal undertakings of the state and the concessionaire. Once the agreed works have been completed, the concession on the land would be definitive rather than provisional, and the concessionaire can then transfer the title to the final user. The land development and sales chain would thus be considerably simplified. Although the principle has been recognized, it could not be put into practice at length.

Source: Cote d’Ivoire Urban Land Management and Housing Finance Reforms Project Appraisal Report - Technical Annex 1997 (rep no: T-7108 –IVC); Farvacque-Vitkovic and Godin 1998.

## 2.2.2 Institutional development

One of the most prominent contributions of the Bank titling/regularization projects is expected to be improving institutional development<sup>13</sup>, since land reforms are institutional in nature, and these projects should principally be intended to strengthen the institutions that define property rights, and the ability to exercise such rights (Gallal and Razzaz 2001). Nation-wide programs such as those of Indonesia, Thailand and Peru, are the successful examples. The Third Thailand Project, for example, received the World Bank Excellence Award. However, earlier experience, particularly in Africa, is mixed. The Bank’s lending for land titling and cadastral systems in Africa goes back to early the 1980s. “Several cadastral projects were undertaken in the early 1980s by the Bank at great expense, in the hope that they might become a magic instrument for managing the land and lead to institutional development. Several of those projects failed or were abandoned halfway through - e.g., Cameroon, Mali and Senegal. However, enthusiasm for such projects is still strong. Governments see the chance to modernize via computerization, outfit themselves with new machines and vehicles, and upgrade staff and recycle their skills and knowledge” (Farvacque-Vitkovic and Godin 1998). In many countries, the context was poorly understood; or priorities were often skewed, e.g., too much emphasis was given to cartography and the graphic aspects, while other aspects

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concept compels the living members of the family to hold in trust the ancestral family land, for the benefit of future generations (Ghana Urban II project land component final report 1997).

<sup>13</sup> Institutional development is defined as the extent to which a project has improved an agency’s or a country’s ability to make effective use of its human and financial resources (OED, and also see Gallal and Razzaz 2001).

such as recording specific information, and building capacity to use the system on a sustainable basis, received little attention (op. cit.).

OED evaluations also suggest that while many urban land management projects are well designed in relation to their objectives, they are not necessarily effective in institutional development. In many cases, perhaps the “*rigidity*” of the approach (i.e., the assumption that a single approach can solve complex land ownership structures) was a factor preventing projects from reaching maturity and hindering institutional development at the local level.

Furthermore, both institutional development and functioning of property markets are dependent on processing institutional and policy reforms, and they take a long time. In Thailand, for example, the whole process took around 20 years, and Indonesia is embarking on a 25-year program. Experience in the sector also shows that processes are often politically charged, complex and requiring sustained commitment to address reforms.

Like regulatory reforms, institutional reforms are also inclusive and thereby consider the low income groups along with others. Despite being inclusive, long, complex and generally political nature of institutional reforms, can easily undermine specific consideration need to be given to low income groups.

One of the prime lessons learned from the land management and regularization components of urban development and slum upgrading projects was to focus on key areas and adopt incremental approaches to avoid challenging prevalent traditional systems, particularly with respect to regulatory adjustments and institutional reforms. Many of the more recent land management and regularization components of urban development and slum upgrading projects (the second and third category projects), focused on a few key policy and institutional improvements rather than a broad-based reform agenda.

*Adressage* applied in several African countries is an example of an easy-to-apply method, and its institutional development impact can be built incrementally. Auctioning of plots through an independent agency is a specific approach taken in the Mali Second Urban Development project, but it needs to be worked out further through consistent efforts to scale it up and to accomplish institutional development objectives. These efforts should be regarded as primary work towards more sustainable, pro-poor and broader-scoped efforts.

### **2.2.3. Development of property markets**

A decrease in backlogs in land titling (i.e., an increase in the number of plots with transferable rights), an increase in property values and tax collection levels, and increased access to credit by beneficiaries, are the primary indicators of contributing to the development of property markets. Although supporting the development of real estate markets is among the main objectives of the urban titling and regularization projects in

the urban sector, there are not many studies analyzing and quantifying such impacts. Rudimentary data exist only for a few nation-wide land management projects.

The cadastre and registry system structured in Thailand, for example, has contributed to a significant decrease in the backlog. About 6 million plots had been registered (both rural and urban) through three nation-wide consecutive projects. Increased access to mortgage (by farmers)<sup>14</sup> and an increased level of tax and fee collection are among the project impacts. The completion report of the first project indicates that the net increase in fee and tax collection was 14% to 278% higher for project areas than for non-project areas. The fourth project is currently under implementation. It is reported by GTZ that land markets in regions with systematic land registration are more dynamic than in regions without, and Thailand is a primary example. The Thailand projects set an example for the Indonesia Land Administration Project that decreased the backlog in Java where more than 60% of Indonesia's total population lives by registering 1.2 million parcels (including urban areas).

The Peru land titling project which is still under implementation did not attempt to re-structure the old system that covers only around 20% of the existing properties, but tackled registration of the remaining majority of untitled and unregistered properties. There were 1.2 million properties unregistered in urban areas (Panaritis 2001). The project has led to a significant increase in the supply of registered land. Since the beginning of the project, more than 1,000,000 properties have been registered<sup>15</sup>.

It is a well-known fact that titles are translated by the market into higher prices, and an increase in property values is considered as a contribution to the development of land markets. A study done by Dowall and Leaf (1990) in Indonesia - independent of the World Bank project - shows that the premium placed on registered parcels over unregistered parcels was more than 50% in Jakarta's central business district, and land values are positively correlated with security of tenure (Table 3). The premium ratio was 45% for residential plots in Jakarta (Dowall 1998). Jimenez (1984) reports that in Davao, the Philippines, formal sector unit prices are about 18% (renters) and 58% (owners) more than in the informal sector. These figures also suggest that insecure tenure is a price the urban poor have to pay in order to obtain access to land in locations that they could otherwise not afford.

**Table 3: Relationship Between Tenure and Land Price per sq.m. in Jakarta**

Distance from CBD (km)	High level of infrastructure			Low level of infrastructure		
	Registered title (Rp)	Weak claim (Rp)	Percent difference	Registered title (Rp)	Weak claim (Rp)	Percent difference
0 – 5	514,828	324,662	58.6	403,702	232,162	73.9
5.1 – 10	206,783	160,934	82.5	143,304	102,878	39.3
10.1 – 15	98,660	79,185	24.6	45,338	433,352	30.0
Over 15	48,070	41,292	16.4	27,031	18,069	49.6
<b>Overall</b>	<b>199,083</b>	<b>145,845</b>	<b>36.5</b>	<b>139,642</b>	<b>92,323</b>	<b>51.3</b>

Source: Dowall and Leaf (1990).

<sup>14</sup> There is no analysis for the urban areas.

<sup>15</sup> Including the property registered by local authorities, which were then taken into the cofopri system.

A study carried out shortly after titling began in Peru showed that the majority of households perceive increases in the value of their properties. Titling is also effective on home improvements and investments, which also has a positive impact on property values. Not only the *cofopri* titles given by the project, but also the municipal titles (provided before the *cofopri* titles), as well as sales documents, have motivated investments (Box 6).

**Box 6: Impacts of Peru Land Titling Project on Property Markets**

Increase in values: The survey results indicate that around 65% of households perceive that possession of a property document increases the value of the property. It should however be noted that there is not much difference between the *cofopri* titles (provided through the project) and the municipal titles (given before the project) and other titles, in terms of the households' perceptions. The percentage of households who believe that the value of their properties with *cofopri* titles had increased is 75.3%; the percentage is 68.5% for units with municipal titles, 67% for units with other titles; 50.8% for units purchase agreement title; and 39% for untitled properties. Still, most of the property transactions appear to take place within in an informal market, and 55% of the buyers reported that mutual trust between the parties was the principal transaction guarantee.

Housing improvements: The results of the surveys show that households with some type of property documents have better housing quality than those with no documents. For example, on average 42% of households with a property document (including municipal titles and *cofopri* titles) had concrete roofs, in comparison to 13% households without any documents.

Source: Baseline statistics and preliminary project evaluation results, and GRADE study on "Demand and Supply of Formal and Informal Credit" 2000.

Evidence shows that the Bank's national titling programs have contributed to the development of markets according to the criteria, i.e., by increasing the supply of titled and registered land, and thus supporting people to have access to the market value of their property. However, the scale of projects is critical in terms of their impact on markets. If titling were limited to a small area in a region where a considerable part of the property stock does not have titles, scarcity premiums for titled land would lead to market distortions and speculative activities. Large-scale (generally nationwide) efforts, on the other hand, require series of coherent work, both project and sector work, and as was indicated earlier many of the national cadastre and titling projects consisted of long-term efforts<sup>16</sup>.

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<sup>16</sup>The Indonesia Land Administration Project was also built on the experience of several Bank projects. The Bank conducted a sector study on Indonesia's land management and land use planning in 1991, which basically recommended the use of market mechanisms based on appropriate pricing and acceleration of land registration. The Urban Sector Development project supported a productive sector dialogue, and also financed a pilot project for collecting the land and property tax. The Fourth Urban Development Project produced large-scale photomaps for 100 cities, aimed at supporting land registration, physical planning and property taxation. As in the Indonesia and Thailand projects, the Bank had fairly substantial non-lending activities in Peru before the current project started in 1998. At the end of the 1980s, the government of Peru (GOP) introduced a new system of property administration to reach poorer, informal property owners. To support the government, a pilot project was funded by the Bank in 1992. Some 300,000 titles were registered in urban Lima from 1991 to 1995. In 1995 the World Bank presented policy notes on property

Another critical issue that often received less attention from World Bank projects is the fact that titling, even on a large scale, cannot induce/ensure much positive impact on property markets if not accompanied by proper financial instruments, land development, and tax and sales regulations. Many Bank land titling projects did not consider possible constraints such as rigid land development regulations or fiscal regulations, which can impede land development, or the lack of availability of financial instruments, when development of market development was set as the objective. Only a few of them, such as the Russia Housing project, consider a comprehensive approach including reforms in several other areas in addition to property rights through subsequent phases of the project.

If land development regulations and construction codes are not relevant to actual practices and local needs, an increase in the supply of land would not necessarily lead to increases in land development – at least in the formal sector. If tax regulations are not supportive, titling programs would not lead to increases in property transactions. In the Peru Property Rights Project, for example, an increase in access to credit was expected to be among the prime impacts of the project, and 50% of households acquired *cofopri* titles and 40% acquired municipal titles applied for loans (Panaritis 2001). But, further analysis showed that title is not the prime determinant in access to credit: the financial regulatory infrastructure, common practice, and perceptions of people do not encourage such an impact (Box 7).

**Box 7: Access to Credit in Peru**

It was found that the *cofopri* titles and the municipal titles do not significantly explain the access to credit in Peru. Regression analyses showed that education level and household income were far more important variables to explain the variation in the dependent variable, i.e., access to credit. Furthermore, in-depth interviews showed that micro and small businesses in particular resisted the idea of using their property as a guarantee. Only a few said they might consider it if the loan amount was higher than US\$5,000. More importantly, the study found that *cofopri* titles were not often used or accepted as guarantees by financial institutions. Although access to formal credit went from 14% in 1985 to 35% in 1997 in Lima, the increase in formal credit can be explained by the emergence of banks tailored to the needs of micro and small businesses (e.g., MiBanco and micro-finance institutions, and also the Banco des materials which was set up specifically for this purpose).

Source: Baseline statistics and preliminary project evaluation results, and GRADE study on “Demand and Supply of Formal and Informal Credit” 2000

Above findings are also supported by other studies. Calderon-Cockburn (2002) reported that in Peru the number of bank loans to already titled landowners in Lima were 12,750 in 1998 and 9,993 in 1999. However, in 1998 alone, 70,725 houses were awarded land titles by *cofopri*. Economic recession, the 10 percent default rate on private bank loans, fear of giving loans to lower-income sectors, and fear among these residents of mortgaging their property, were all influential. Calderon - Cockburn also reports that of

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rights in urban Peru, recommending that the GOP urgently commit itself to a particular national program of property formalization, under the authority of an independent agency. The current project was based on previous efforts to make take property registration to the national level.

the 12,750 households officially registered and regularized in Lima in 1998 that also receive bank loans for renovations and improvements, but 100% obtained their loans from two public entities that grant subsidized loans. The same study also argues that informal households gain more access to loans from private banks than do regularized households. In 1998 and 1999, 100 percent of the loans for improvements to housing units regularized by *cofopri* in Lima were public loans, whereas 28 percent of non-regularized housing units obtained private loans. This finding also suggests that people in established, authorized settlements have over time improved their economic situation to the point where they can afford a formal loan irrespective of their tenure situation.

As Gallal and Razzaz (2001) suggest, “in some cases there is the possibility that the individual reform was intended to relax a constraint that was binding in the first place – e.g. providing titles in areas with strong communal property rights. But it is also possible and even likely that reforms to secure property rights may not lead to the full benefits because mortgage finance is missing, or the prices of goods and services derived from land and real estate are distorted”.

The land regularization components of urban development and slum upgrading projects (second and third category projects) usually do not lead to significant increases in the titled land supply due to their limited scope, compared to nation-wide titling projects. In the Ghana Urban II project, for example, Accra and Kumasi were selected for titling and only 800 titles were issued<sup>17</sup>. In fact, the primary objective of such components is to improve local capacity by introducing new management techniques and concepts through mostly pilot projects. There are land management components of urban development projects, however, that impacted the supply of land in a city and thus contributed to the development of the property market, e.g., the Second Urban Project in Mali (Box 8).

**Box 8: Progress in Land Tenure in Mali**

The Second Urban Project in Mali supported the creation of a privately managed agency to auction large tracts of formerly public land for sale as individual plots with secured titles. The large scale of the auction avoided speculation. The most notable achievement of the project was the increase in Bamako’s total urbanized area, which grew by more than 25%. The project paved the way for the auctioning of plots through an independent agency, which may be able to play a major role in Bamako’s future development.

Source: Mali Second Urban Development Project Completion Report 1995 (rep no: 15213) and Farvacque-Vitkovic and Godin (1998)

#### **2.2.4 Targeting and empowering the poor**

Nation-wide land administration titling and cadastral projects do not target particular groups, but aim to decrease backlogs in general. Nevertheless, these projects are self-targeting since people who have been excluded by previous systems by and large are the

<sup>17</sup> Although the limited scale of titling projects can have a distorting impact on property markets, such as speculative trends, no such results have been encountered for any of the projects reviewed in the second and third categories.

low- and lower-middle income groups. In land regularization components of urban development and upgrading projects (second and third category projects), however, the poor are the specific target group.

Land titles provide owners with legal and transferable rights of ownership. Furthermore, recognition of the residence, independent from the type of certificate offered, provides low-income groups with a sense of security and makes them less vulnerable to risks, such as: loss of physical capital and social and informal networks for jobs and safety nets, and inability to use the house as a resource when other sources of income are reduced (Urban Poverty Chapter of Poverty Reduction Strategy Sourcebook – WB 2001). *Adressage*, for example, is not a tool to provide tenure security, but since it recognizes the occupancy, in some contexts it provides the poor with perceived security. In Rio, Brazil, when it was first applied through the support of the electricity company in 1982, it was very much supported by the residents of favelas since they perceived it as a first step to full tenure title. In Burkina Faso, on the other hand, where the land was nationalized and there is no private property, *adressage* does not mean much security to households since they believe that the state can always take the land away. In Peru, the survey results (carried out by the Bank’s property rights project) show that the residents perceive a high level of security, regardless of the type of document they hold (Box 9).

**Box 9: Sense of Security and Titling in Lima, Peru**

In Peru, households perceive the same level of security regardless of whether their title is registered or not. Although sampled households with *cofopri* and municipal titles reported higher levels of tenure security (94% and 87% respectively), households seem to feel highly secure with other types of property documents as well.

Level of security by property type

	Secure (%)	Insecure (%)	Do not know (%)	Total (%)
<i>Cofopri</i> title	94	5	0	100
Municipal title	87	13	0	100
Purchase sale documents	78	22	1	100
Other documents	71	27	2	100
No documents	47	46	7	100
Total	81	18	1	100

Source: Baseline Survey Results – November 2000 *Apoyo Consultoria*

Tenure security programs, being concrete evidence of recognition of the urban poor presence in the city, can also contribute to social and political empowerment of the poor.

Ortiz (1999) reports that in the completion report of the Bank supported slum upgrading project in Guatemala City, it was reported that residents, when asked how did the project change their lives responded: “we live in a *colonia* (formal neighborhood) and not in a *asentamiento* (informal settlement)”. Ortiz indicates that “the objective difference between formal and informal neighborhoods is given by degree enforceability of the property contracts . But the difference between *colonia* and *asentamiento* goes beyond enforceability degrees, it includes a difference of social status.” In addition to social

status, in many places having access to property rights or use rights can lead the poor to have access to decision making and thus urban citizenship.

### 2.2.5 Rationalizing Subsidies

The World Bank’s approach to subsidies is summarized as follows:

Do’s	Don’ts
✓ <i>Make subsidies transparent</i>	✓ <i>Build subsidized social housing</i>
✓ <i>Target subsidies to the poor</i>	✓ <i>Allow for hidden subsidies</i>
✓ <i>Subsidize people, not houses</i>	✓ <i>Let subsidies distort prices</i>
✓ <i>Subject subsidies to review</i>	✓ <i>Use rent control as a subsidy</i>

Source: Housing Policy - Enabling Markets to Work (1993)

#### What does tenure regularization mean in terms of rationalizing subsidies?

When squatter settlements are upgraded, and occupants are given legal title and secure tenure, property values often increase by between 20 and 200 percent (see Jimenez and Mayo 1988, Strassman 1982, Struyk and Linn 1983). Furthermore, titles (and some other forms of tenure security) allow the poor to obtain an asset that can then function as a financial safety net in emergencies, or, in many cases, as a means for accumulating wealth.

What does that mean in terms of rationalizing subsidies? Granting of tenure on government land is a form of subsidy, which is progressive (an accumulating wealth), tending to focus benefits on low-income groups<sup>18</sup>. Since the majority of the people occupying land and erecting houses illegally are lower-income groups, tenure security and titling programs are generally targeting the poor. However, subsidies in the form of increases in property value involve implicit amounts of wealth accumulation within uncertain time frames, and therefore cannot be considered as straightforward and transparent<sup>19</sup>. But on the other hand, tenure security is underprovided by markets because of its public good nature, and this justifies the provision of subsidies by either *de jure* or *de facto* enhancement of tenure security (Mayo 1999).

Furthermore, it is assumed that tenure security will support the supply of rental units, since owners are likely to improve their houses and add units to rent out once they attain tenure security. In terms of such an indirect effect, subsidization through provision of tenure security is also justified.

<sup>18</sup> It should be indicated however, in some cases beneficiaries pay for titles, but a lot less than the increases in the values of their properties.

<sup>19</sup> Unlike upfront subsidies in social housing programs, or housing allowances.

### 3. Experience Outside the World Bank: Approaches to Tenure Security and Regularization

#### 3.1. The approaches of other donor organizations – a brief summary

The programs and projects of other donor organizations can be classified into three groups:

*Land management – titling, registration and cadastre projects* aim to support the development of land markets by establishing a unified property registration and titling system with a broad geographical scope - usually at the national level.

The "Immovable Property Registration System" project in Albania, financed by USAID and PHARE-EU, is an example of this category. Nearly 90% of the properties built in Albania following the establishment of the new regime, particularly in cities, are illegal, as people seemed to take advantage of the collapse of regulatory agencies during the transition period. The project addresses the problem of the lack of a unified system of property registration (Box 10). The Asian Development Bank's program in Mongolia, which is aimed at establishing a land information system and a cohesive cadastre, is another example in this category.

#### **Box 10: Registration of Immovable Property System in Albania**

The existing cadastral system in Albania is not able to cope with all land transactions and newly emerged property rights. The Project aims to establish a system and incorporate all types of property rights, called *property kartela*. It is a form that represents a legal document and contains necessary information on an immovable property such as location, type of property, actual processor of property rights, mortgage and restrictions. The project aims to register around 3 million properties, train registration employees, and rehabilitate 34 registration offices in the country.

Source: Notes of the meeting with the Project Management Unit - August 2000, Tirana

*Tenure security projects:* Tenure security schemes in squatter settlements have generally been carried out as a sub-component of slum upgrading projects. Numerous slum upgrading projects with tenure regularization components have been executed by multilateral and bilateral donor organizations within the last two decades. IADB is among the most experienced organizations in this field, since its lending in the housing sector until 1995 was confined to slum upgrading, and site and services projects. Although less widespread, in certain cases, such as GTZ's project on community land ownership in Tanzania, tenure security is taken as a project in itself. Although many tenure regularization projects have been successful, the sheer magnitude of the problem necessitates seeking ways of scaling up such efforts. This, however, cannot be done without broad scoped and long-term efforts, i.e., regulatory and policy reforms.

*Tenure security at the policy level:* In scaling up tenure security, the problem must be considered at a policy rather than a project level. Furthermore, the approach to the security matter needs to be diversified and flexible rather than unified and rigid, in order to be able to address the problem in different contexts. In the last quarter of 1999,

UNHCS launched a program - Habitat *Global Campaign for Tenure Security* -which brought up those two important dimensions: (i) addressing tenure security through different forms requires policy reforms; (ii) provision of tenure security to the poor does not necessarily mean provision of free-hold titles (Box 11).

**Box 11: What Is Secure Tenure?**

A person or household can be said to have secure tenure when they are protected from involuntary removal from their land or residence, only in exceptional circumstances, and then only by means of a known and agreed legal procedure, which must itself be objective, equally applicable, contestable and independent. The campaign focuses primarily on the strength of the *security*, rather than on the precise nature and form in which the tenure is applied. It is often assumed that security of tenure implies individual freehold, which is but one of many ways in which security can be effected.

Source: <http://www.unchs.org/tenure/tenure.htm>

### 3.2 Current debates and research

Tenure security has increasingly become an important aspect of poverty reduction. Recent studies and debate are structured around two questions: What difference does titling make in the lives of the urban poor? and What is the most viable way of addressing tenure security?

One standpoint is that low-income families suffer disproportionately from the inability to access the value of their housing because of a lack of clarity as to their property rights (de Soto 1989 and 2000). De Soto indicates in his recent work, *The Mystery of Capitalism*, that “any asset whose economic and social aspects are not in a formal property system is extremely hard to move in the market” (2000 - p: 47). This statement stems from Adam Smith’s argument that value of wealth has to be fixed before it is realized, and it leads to a policy recommendation that informal settlements need to be provided with property rights to enable the poor to enjoy the actual market value of their property and to have access to credit (also see Fink and Panaritis 2001). Although this is not a new argument, it has gained momentum since the late 1980s perhaps due to the unprecedented increase in poverty in several Third World cities.

Such an approach is sharply criticized – e.g., by Burgess (1982), Payne (2001 and 2002) and Gilbert (2002) who advocate addressing tenure security through means other than freehold titles. Several case examples have been presented suggesting that land titling does not necessarily mean that the poor would enjoy the real value of their property. Those critics argue that de Soto’s work is nothing more than a right wing romanticism, and the reason that many governments are very much in favor of titling is that it is an easy solution (more precisely, a simplification of the low-income housing problem) which pays off very well at election time. Donor organizations, primarily the World Bank and USAID, are also criticized because of their support to titling policies and projects. Gilbert 2002 wrote, “It (titling) is one policy area where today national and local governments are in full harmony with developmental Washington”. Far left

academics such as Burgess (1982) argued against titling by stating that it is an ideological promotion rather than an attempt to improve the living conditions of the poor, since ownership is a primary means to support capitalism, and insert conservative values among the poor. It is also argued that titles generally bring costs like unaffordable property taxes, and more importantly tenants of the legalized settlements can be hurt by increasing prices and rents (Ward 1989 and Durand-Lasserve and Clerc 1996). Burgess (1982) wrote that even owners will lose out through rising property values, by opening up poor settlements to downward raiding from higher income groups. It should, however, be noted that there is no systematic and quantified data to make international comparisons possible, and most of the above-mentioned suggestions are based on a few case examples with limited qualitative analysis and observations.

Leaving the ideological aspects of these studies aside, two questions need to be answered: (i) What difference does titling make in the lives of the urban poor? and (ii) What are the other viable options for supporting tenure security?

### **3.2.1. What difference does titling make in the lives of the poor?**

Sense of security: It is a very well known fact that lack of tenure security is a cause of inconvenience for the poor. Occupants of newly formed settlements, female headed households and minority groups in particular, feel insecure without a formal title. Several studies nevertheless suggest that security of tenure does not necessarily require a legal title (Mc-Auslan 1985 Durand-Lasserve and Royston 2002; Payne 2002; Gilbert 2002). A survey carried out by the World Bank Peru Land Titling Project also supports this argument. As presented earlier (see section 2.2.4; Box 9), while around 90% of the titleholders feel secure in terms of tenure, the sense of tenure security is also very widespread (78%) among the households that do not have titles, but do have some kind of sales document.

Several case examples and studies point to a continuum of security in illegal settlements that depends less on the exact legal status and more on occupants' perceptions of the probability of eviction and demolition, as well as the availability of services and passage of time (Razzaz, 1993; Strassman 1984; also see Payne 2002). There are cases on the other hand, where the provision of titles is not sufficient in itself to achieve increased levels of security. Willcox (1991), for example, indicated that title documents in Pakistan are worthless, since the state does not guarantee that possession alone provides security of tenure. Thus, while in some contexts even a title does not guarantee tenure security, in others signals from the public authorities and political context enable the poor to have sufficient confidence about their tenure status. But, there are also contexts where the poor need to have some form of official recognition – whether a title or another type of certificate. Furthermore, on the social side access to real estate assets is linked with sense of pride, citizenship and political empowerment (see section 2.2.4).

Home improvements: Evidence from different cases leads to an argument that although a freehold title is an important determinant, economic and political contexts, as well as informal rules and networks, are effective on the perception of tenure security and

therefore on decisions for home improvements. Payne (2001) writes, “It is undeniable that security of tenure is widely accepted as a precondition for households to invest in house construction or improvements. This is not the same thing however as saying that full titles are the only means of achieving acceptable levels of security. Numerous examples exist of considerable investments being generated simply by an official statement that settlement will not be removed, by the provision of services, or by the issuance of certificates”. In Cairo, residents of a squatter settlement rejected offers of freehold titles because they considered the cost too high. Yet the mere offer of titles, together with the provision of services, stimulated considerable investment in house construction and improvement. In addition to signals from authorities, signs by the economy, practices and informal rules influence peoples’ perceptions and therefore decisions to mobilize their savings for home improvements (op. cit.). During the 1960s and 70s, residents of illegal settlements (*gecekondu*) in Istanbul preferred to wait for elections and titling programs to make substantial investments after they built their makeshift shacks. But, only a few decades later, two- or three-story buildings are constructed in Istanbul as soon as plots are acquired in newly forming illegal settlements. The sheer magnitude of the scale of illegal settlements and the high yield real estate market during the 1980s and 90s encouraged the residents of illegal settlements to erect multistory *gecekondu*s without titles. Informal networks (including developers, estate agents and lobbyists) and regularization laws issued in the past two decades also support the sense of security and thus motivate improvements. Similarly in the pirate urbanizations of Bogotá, security of tenure also seems to be assumed from the start as settlers build homes when all they have is a receipt for their payments for the plot of land. Once water and electricity are available, there is no real barrier to self-help construction and improvements. Two- or three-story buildings appear despite the lack of a legal title (Skinner et al 1987).

Access to services: It is true that informal settlements do not have access to basic services, at least during initial phases of formation of such settlements. Regulatory frameworks frequently constrain service provision to informal areas. Limited access to basic services increases the vulnerability of the poor. However, in many rapidly growing cities, inadequate service provision to newly forming areas is not only a result of the lack of legitimacy, but also a result of limited capacity and resources at a local level that cannot cope with the unprecedented growth of the city. In such circumstances, the lack of legitimacy often creates a good excuse for service delivery failures. On the other hand, it is not unusual to have cities where informal settlements receive basic services despite their illegal status. For many municipalities, political pressure is a key factor behind delivery of infrastructure to illegal areas. There may also be a pervasive sense of moral obligation to provide infrastructure to citizens regardless of the legal status of their dwellings. Municipalities therefore develop informal rules to cope with the lack of effective formal ones as well as to deal with political and moral pressures. Baharoglu and Leitmann (1998) report that in Turkey there is a consensus among mayors and service providers to provide services to informal settlements irrespective of regulations – as long as financial resources permit (Box 12). Service providers: On the other hand, utility companies, concerned with cost recovery have a financial incentive to formally provide services to informal areas that connect themselves to city networks illegally. Technical

risks from illegal connections create another incentive to bring service formally to residents of informal settlements. The pressure by the electricity company in Rio in the 1980s to bring services to *favelas*, when finally the local authority had to agree to give street and unit numbers to illegal houses to enable them to become the official subscribers of the electricity company, is a perfect example.

**Box 12: Service Provision to Informal Settlements in Turkey – interviews with mayors and service directors**

A provincial energy director serving a secondary city noted that:

*If we have enough money in our budget, we immediately provide the service. Informal settlement residents are better payers.*

One metropolitan mayor from a leftwing party in the Southeastern part of the country criticized the regulations preventing service provision to informal settlements (*gecekondus*) and explained his approach:

*Obviously I bring water and sewerage to *gecekondus*. We have to bring services to places where people are living. Legally it is a crime, but I use my own initiative. If there will be an epidemic in one of the *gecekondu* areas, it will effect not only the whole city but also the region. Then it will be my problem again and it will be a huge problem.*

A director in a major metropolitan municipality in Western part of the country indicates:

*The law forbids the provision of infrastructure to informal settlements. But it is impossible to execute this law because there is more informal than legal housing. So, in such a situation providing services to *gecekondus* is a must.*

Source: Baharoglu and Leitmann (1998)

Impacts on property markets: Contrary to the viewpoint that official titling and registry of informal settlements will contribute to the development of property markets and thus enable the poor to access the value of their property, there are findings that informal and illegal markets function effectively without any titles. Gilbert (2002) reports dynamic property markets in illegal settlements in Latin America. One can cite other examples: Istanbul is another case where illegal real estate markets operate and people buy, improve and also rent out units in illegal settlements. But the existence of dynamic markets does not mean that prices are not affected by lack of titles. There is strong evidence that when squatter settlements are upgraded, and occupants given legal title and secure tenure, property values often increase (see sections 2.2.3 and 2.2.5).

Furthermore, although in some countries the lack of titles or any use rights does not have much effect on market operations (apart from lessening prices), in some others - particularly in African countries - unclear or non-existent property rights obstruct the land markets seriously. In Mauritania, for example, private real estate development is virtually non-existent. The poor with no official titles are the worst effected. Large subdivisions in Mauritania are made by the State, and from time to time parcels are distributed, but no precise records are kept. The poor rarely have access to land with legal tenure. A survey conducted in slums shows that 98% of households are willing to build a home if they had a piece of land with secure title. Côte d'Ivoire is another example where the lack of official titles is a threat to the poor (Box 13).

**Box 13: Tenure Insecurity in Côte d’Ivoire**

Under the law dated July 20, 1900 and still enforced, the State owns all the “vacant” or “unused” land, and can sell it for private use such as housing. However, before selling it, the land has to be registered in the land book. To do so, customary rights over this land have to be paid off to customary chiefs by the State. However, negotiations with the customary chiefs can take years, postponing land registration. About 3,000 applications come to the land department every year and more than 78,000 applications are pending. The poor who do not then apply, often buy directly from customary chiefs, which is illegal, and allow the State, under the pretext of regularizing the land tenure, to demand the destruction of constructions on such plots.

Source: Cote d’Ivoire Urban Land Management and Housing Finance Reforms Project Appraisal Report - Technical Annex (rep no: T-7180-IVC).

On the other hand, there are also concerns that titling programs can distort markets rather than improving them - by motivating speculation and the development of new illegal settlements. Increases in property values are presumably realized through the sales of properties. This poses a question of what people do with their newly acquired capital assets. Does this encourage them to go and squat in order to repeat the process? Another frequently expressed concern is that if titles are granted to residents in squatter settlements it sends a signal to landowners and developers that significant and sudden increases in land values can be realized by subdividing the land illegally (Payne 2001). But, one can argue that if the increase in illegal subdivisions and/or repetition of the squatting process are matters of concern, then regulations should be adjusted in order to accompany the trend/increasing demand, rather than avoiding titling. In fact, both tenure and regulatory reforms are needed: tenure reforms to improve tenure security for existing informal settlements, and regulatory reforms to facilitate access to legal alternatives for the future, making the growth of unauthorized settlements less necessary.

In view of the debate and case examples, it is possible to conclude that titling (or any other tenure security) programs do/can neither bring effective operation and development of property markets by themselves, nor enable the poor to have access to the value of their property, as long as the regulatory framework and economic context are not supportive. As Gilbert 2002 states, “*You cannot accumulate capital if there is no market in which to trade your asset...*”. He also cites Bogotá as an example of a dynamic market without legality, and reports that sales are more frequent where there is no legality, and illegal sub-dividers offer four-year loans.

Better functioning of property markets cannot be ensured simply by providing tenure security (whether by titling or use rights, etc.). Sales and tax regulations, transaction costs, land development regulations and so on are all influential factors. One can assume that in an environment where real estate is an important investment avenue, sales taxes and other regulations do not obstruct buying and selling, and transaction costs are reasonable, titles or other types of arrangements to ensure tenure security will definitely improve the value of properties, provide the poor with an economic asset, and contribute to a better development of markets. As was pointed out earlier, scale of titling or tenure

security programs is also an important factor in motivating or restraining speculative activities and down raiding. Payne (2001) writes that tenure regularization programs that operate on a large scale, e.g., at city level, are likely to reduce market distortions, but require administrative and technical capacity to cope with demand and registries, while those at a limited neighborhood level are likely to increase market distortions.

#### Access to formal finance:

One of the objectives of titling programs is often to increase access to credit by the poor. However, there is increasing evidence that invites us to be more cautious and realistic about such an expectation. First of all there may be reluctance on the part of both parties - the poor as well as financial organizations - to use titles as guarantees. Poor people may not want to take out large loans: large debts and long repayment periods can be scary for them. Using their titles or property as a guarantee is even more frightening. As presented earlier (Box 7), in Peru for example, micro and small businesses in particular resisted the idea of using their property as a guarantee<sup>20</sup>. Some studies also suggest that neither public nor private financial organizations want to deal with those types of collateral. In the case of public sector financial agencies, it is difficult to foreclose on defaulting loans, even when they possess the title deeds to a property, because it is politically unacceptable for public authorities to be seen to forcibly remove poor people from their modest houses (Payne 2001), while for private sector organizations, the primary criterion is the ability to repay. Collateral is irrelevant unless households can satisfy the initial criterion. But even if the incomes have been verified and reasonable collateral mechanisms have been formulated, private finance organizations may still not be interested in lending to low-income groups because of the lack of profitability on those small loans (Ferguson 1999; Rojas and Greene 1995). Furthermore, private sector finance organizations do not have experience in that segment of the market, and in cases of default they would not like to deal with that type of property.

A review of recent studies and case examples leads to a conclusion that titling is not the magic touch: it leads to neither an automatic access to credit nor to better functioning of property markets, if the link to finance is missing, and regulation on taxation, sales transaction and land development regulations are not supportive. By the same token, although tenure security is important for the poor, and in many cases freehold title is supposed to be an ultimate proof of such security, unless there is political commitment and will by the authorities, a title cannot provide a sense of security.

#### **3.2.2. What are the other options to address tenure security?**

There is a range of examples, offering different levels of security and rights, applied in different parts of the world. In Bangkok, private landowners often allow slum dwellers to rent their undeveloped land, but insist on maintaining the dwellers' status as temporary occupants (Mohit 2002). In Botswana, *Certificate of Rights* was introduced. The grantee may transfer his right, collecting from the transferee a sum for the improvement on the

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<sup>20</sup> Access to credit in Peru after the project is discussed in detail in section 2.2.3.

plot. The grantee has a right of appeal against any decision of the local authority that administers the scheme in relation to his right. In return, the grantee must pay the local authority a service charge for services rendered. Although a certificate of right is not acceptable for mortgage security, it can be used to obtain a building material loan from the local council (Dickson 1990; Yahya 2002). In Zambia, “*Occupancy Licenses*” are granted providing for 30-year occupation of a plot on which households can build a house. The land belongs to the State, but the house itself can be improved or sold. Communal ownership is another option being tried in a few countries (Box 14). And there are other examples offering different levels of formality<sup>21</sup>.

Nonetheless, there is little known about the impacts of such different tenure formulations on property markets, and on perceptions of the poor with regard to security of tenure; on their living conditions; on access to urban citizenship and gender equity; on access to credit. In other words, we do not know what they enable the poor to do with their property. Furthermore, these formulations have not been applied on larger scales. Is it because they are not as practical as they seem to be, or is it because of lack of political will and administrative capacity to incorporate such practices into regulatory frameworks and scale them up?

**Box 14: The Community Land Trust Project in Tanzania-Bodeni Settlement in Kenya**

This is an innovative land tenure model enhancing sustainable security of tenure for the beneficiaries by ensuring that the land remains with the community. The residents occupied land owned partly by the Government, the Kenya railways and a private sisal factory. Without security of tenure, the residents who were living in homes constructed from mud and wattle, had the permanent fear of being evicted. The concept developed to upgrade the settlement was based on two major principles. First, to carry out physical improvements in the settlement, the needs of the squatters had to be identified. Second, beneficiaries had to pay for infrastructure improvements and security of tenure. The basic idea of the *Community Land Trust* (CLT) is to make the land market accessible to the poor by putting the land into the hands of the community, with individual members owning the developments and improvements they have undertaken on their plot. They can inherit and bequeath these developments. If a member wants to move out of the settlement, however, he can sell the development but not the land. For the CLT to succeed, the community was organized into a legally recognized entity with its own constitution and rules that are consistent with the concept of the CLT. It was then registered as the "Tanzania-Bodeni Settlement Society". On behalf of the Society, a trust deed was prepared to guide the Board of Trustees on how to manage the community land.

Source: Yahya 2002

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<sup>21</sup> See “Land, Rights and Innovations”, a book edited by G. Payne and supported by UN and DFID, presents several other examples and addresses the various ways in which tenure security can be achieved.

Also see “Holding Their Ground” a book edited by A. Durand Lasserre and L. Royston compiling case examples and policies on tenure security.

## 4. Conclusions & Priority Areas for Research

### 4.1. Conclusions

Titling and registry programs decrease backlogs in untitled land considerably and contribute to supply of land with transferable property rights, but this does not guarantee development of property markets. Collaborating conditions - such as convenient transaction, taxation and land development regulations - need to be in place. Many titling and registry programs have started out with ambitious scopes and objectives without considering such conditions. Titling programs can even have regressive impacts on markets if not carried out consistently and at appropriate scales, and accompanied by regulations supporting market development.

Although titles can be a requisite in many cases, they do not guarantee access to credit. Evidence suggests that title may not be a sufficient guarantee for granting loans. Stability and level of income can be far more important determinants. Furthermore, poor people may not be willing to use their property as collateral.

Titling projects provide the poor with accumulating wealth, but there is little known about possible regressive impacts of titling, such as on tenants. Titling projects are self-targeting and contribute to rationalization of subsidies by providing the de-facto owners with accumulating wealth. But regressive impacts of titling have not been researched systematically.

Nation-wide titling and cadastre projects in several countries have contributed to the local capacities and institutional development; however, experience in some others shows the need for caution. In Africa in particular, it is recommended that one begin with the simplest and most practical methods, incremental and local approaches, rather than attempting to introduce broad policy reforms and re-structure the whole land ownership structure. As Farvacque and McAuslan (1992) also suggest, where a national code for land law is inapplicable, the best approach is to build on what exists and develop local forms of regulation.

Titles are not the only way of addressing tenure security, and systems need to be flexible. A housing sector strategy that is embodied in poverty reduction needs to incorporate a more diversified approach to tenure security with reference to different contexts and local preferences (see Payne 2002). However, there is little known about the pros and cons of alternative forms of tenure.

### 4.2. Knowledge gaps and priority areas for research

Rather than discussing whether or not titling is necessary, it is imperative to know what forms of tenure arrangements are most able to support the poor by means of:

- (i) Improving the welfare distribution and living conditions of the poor;

- (ii) Facilitating political empowerment of the poor and gender equity;
- (iii) Supporting development of property markets and enabling the poor to have access to the market value of their property;
- (iv) Impacting institutional and regulatory frameworks; and to what extent are different tenure arrangements able to equip local authorities to respond increasing demand for shelter and land, in addition to providing existing informal settlements with secure tenure.

Although most of these themes have been analyzed broadly, they have not been examined and documented systematically to allow comparisons between the impacts of different tenure arrangements in different contexts.

Examples of questions need to be asked and examined within a comparative structure are as follows:

What do the poor need to do with their property? And; What can titles or other forms of tenure rights enable them to do with respect to such needs - under which circumstances? If tenure arrangements other than titles are sought it is important to know what is it that the poor cannot do with other tenure arrangements that they can do with titles?

Why is there a strong trend to seek other options than titling to address tenure security? What are the disadvantages or regressive impacts of titling that lead policy makers and researchers to seek and apply other forms of tenure? We do not know much about the disadvantages of titling apart from its costs, which can be unaffordable for the poor, and administrative aspects which may be too complex to apply where local capacity is limited. Not much is known about its regressive impacts, e.g., on other groups such as tenants, or about possible downward raiding impacts.

What do other forms of tenure enable the poor to do? What are the pros and cons in terms of improving their economic and physical asset, i.e., the value of their property, and the possibility to improve their housing, and sell or sub-let?

What would titles and other forms of tenure add to already active informal markets? There are a number of studies answering this question. But as they have been carried out without statistical controls, their results are not very useful. In active informal markets like Bogotá, Istanbul or Cairo, the answers to questions such as “to what extent would property values increase”, and to “what extent would people shift from informal lenders to formal banks for their credit needs, and increase their investments for housing if titles are provided”, are not known?

To what extent are innovative land management mechanisms and alternative tenure arrangements able to improve security and access to livelihoods for the poor without further distorting urban land and property markets or over-extending limited public sector capability? The objective should not be only to address existing backlogs and to provide existing slum settlements with titles or use rights, etc., but also to create replicable

mechanisms to equip local authorities to be able to respond increasing demand for shelter and land.

How may a continuum of tenures and rights be integrated in a property regime? In reality, property systems comprise a range of tenure forms with different types of security and rights (see Payne 2002). In legal terms, a property regime should be able to recognize and protect the continuum of tenures and related rights and provide flexibility to individuals and communities to choose the ones best fitting their needs. This will provide a range of options from which formal approaches can evolve.

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