

Land Tenure Security: Is Titling Enough?

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Anisha Sharma*, Shayak Barman*
and
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Abstract

Tenure insecurity and poverty have come to characterise scores of rapidly growing cities, existing, in fact, as two sides of the same coin. While it is empirically evident that it is mainly the poor who are forced into informal, even illegal, land settlements, it is also true that tenure insecurity itself powers the vicious cycle of poverty. According to the United Nations Human Settlements Program (UN-Habitat), “*the worsening state of access to shelter and security of tenure results in severe overcrowding, homelessness, and environmental health problems in most cities.*”

Access to secure land and shelter is, thus, widely accepted as a precondition for access to other services, basic amenities and livelihood opportunities, and a necessary foundation for all efforts to reduce urban poverty. Above all, it is only through the provision of security of tenure that residents, particularly the urban poor, may be motivated to participate in investment in land and housing markets; therein lies the secret of sustainable urban development. In this analysis, however, the crucial observation is that it is *security of tenancy*, which encourages investment and consolidation, which is not necessarily the same thing as *ownership*.

The first part of the paper covers basic concepts of land tenure, existing tenure structures, the vicious cycle of insecurity of tenure and poverty, the need for and objectives of a comprehensive land tenure policy, ownership-based and rights-based approaches to tenure policy, comparison of some innovative approaches to the problem of tenure security around the world. In the second part of the paper we examine the relation between insecurity of tenure and the urban poor in India with specific focus on selected cities where innovative approaches have been made to address the problem. In particular, we look at Indore, Bhopal, Visakhapatnam, Hyderabad, Delhi, Ahmedabad, Mumbai, and Shillong; discussing, for each city, the specific problems, attempted solutions, future prospects and recommended policies.

Keywords: Tenure security, urban poverty, land tenure, India, housing policy, slums.

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Land Tenure Security: Is Titling Enough?

A study of urban tenure issues and comparison of policy options in developing countries of the world, with emphasis on Indian cities

Anisha Sharma, Shayak Barman and Paramita Datta Dey

Part I: Overview

1. Land tenure: Basic concepts

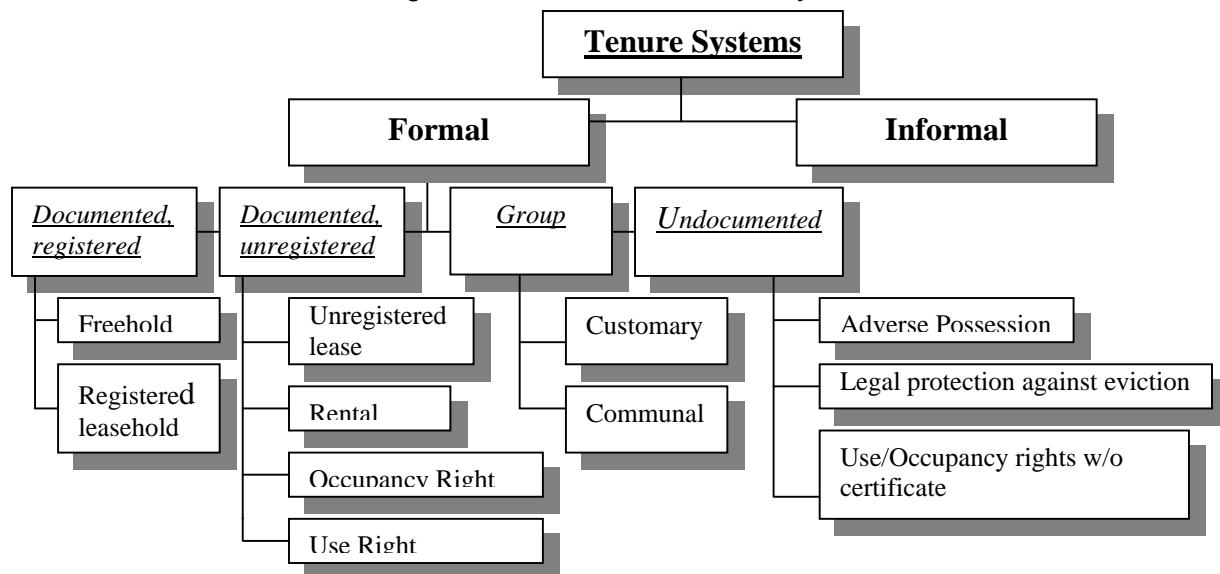
Land tenure is the mode by which land is held or owned, or the set of relationships among people concerning land or its product.

The land tenure system may be formal or informal. A **formal** system is one created by statute while an **informal** system is an unwritten and customary one. It is important to note the crucial distinction between *formality* of a tenure system and *security* of tenure.

Insecure tenure covers a wide range of local situations, from total illegality to various forms of tolerated occupation, or occupation legitimised by customary practices. According to UN-Habitat, *security of tenure describes an agreement between an individual or group for the rights to use land and residential property*. The security of tenure derives from the fact that these rights are underwritten by a known set of rules, and are justifiable. In summary, secure tenure is *the right of all individuals and groups to effective protection by the state against forced evictions*.

Thus, while a formal system of tenure is always secure, an informal system may be secure as well. In addition, what is of the greater importance from the point of view of poverty alleviation is security, rather than formality, as discussed later in the paper.

Fig.1: Classification of Tenure Systems



2. Existing tenurial structures

Similarly, a distinction between legal and illegal tenure systems is made on the grounds of whether the State recognizes the settlement in question or not. Once again, while the categorization in practice between formal and informal settlements often coincides with the legal definition of a settlement, it does not necessarily have to. Informal settlements are frequently tolerated by the State particularly as a stepping-stone towards an ultimate goal of complete formalisation of all tenure systems.

Forms of tenure

Freehold and registered leasehold (including co-ownership)

Freehold is the system of full private ownership, free of any obligations to the state other than payment of taxes and observance of land use controls issued in the public interest.

Leasehold is the system of tenure for a specified period for payment of rent, conferred by the owner, whether state or private. In general, the ownership on the basis of which the lease is issued cannot be transferred, but all and any other right that is part of the lease can be transferred. Land leases that include most of those rights are generally *registered*.

Documented, unregistered rights

Tenure types in this category are: unregistered lease or leaseholds, rental, occupancy right, use right (including sub-lease, sub-rental and co-tenancy, and co-occupancy right). Local authorities often administer Land leases that include only a few rights. The level of tenure security attached to each type of lease depends on a variety of factors. Compared to freehold, leases are much cheaper, can be delivered faster, are more flexible and can be made even if a land ownership dispute is ongoing, can be upgraded incrementally as and when required and the technological system to handle leases can be much cheaper and simpler to use.

Group tenure

The unit of group registration can be the land parcel (block), a building or plot of land or the area belonging to a *customary group* or sub-group. This unit can be registered in freehold or lease, for example in the name of a cooperative, community land trust or housing association, while individual occupation rights/sub-leases are granted by the group. Lease length and conditions, inheritance rights, rules on transfer of rights outside the group, maximum area, decision-making process etc are then decided by the group. This is much more affordable than individual tenure, as it does not require such specialized land administration approaches to secure individual rights. It diminishes the number of registration units and, thereby, also the survey, registration and public land administration costs.

Communal land tenure systems

The traditional forms of tenure in Islamic countries:

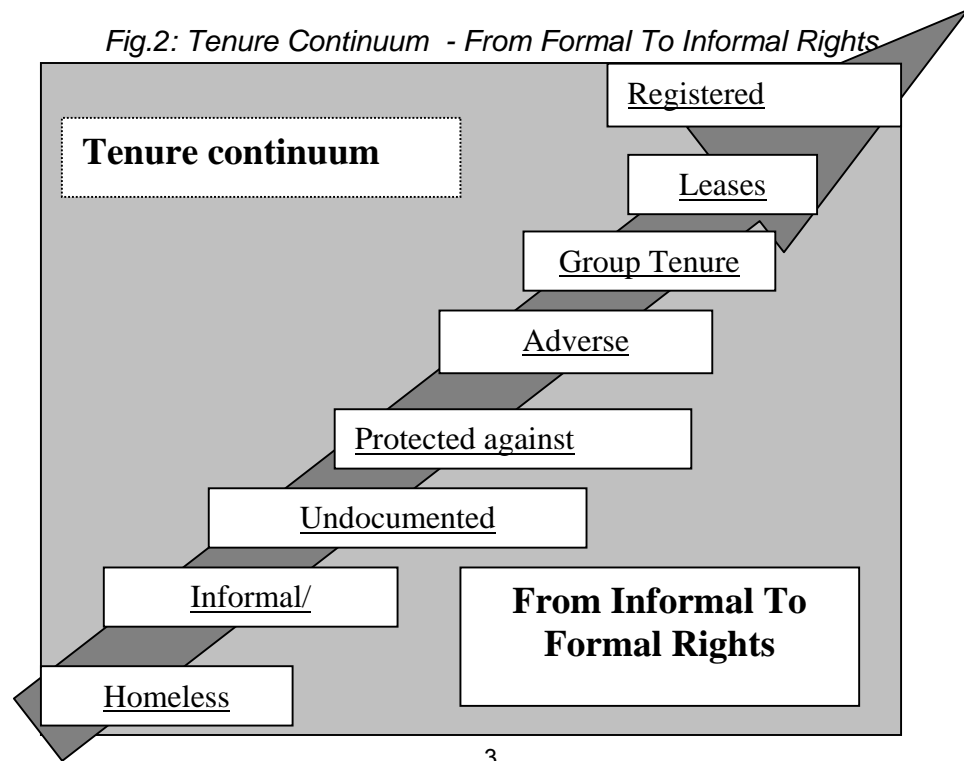
- *Waqf*: Land 'held for God'. The religious foundations of the Waqf hold substantial areas of land in some cities, notably Baghdad and Beirut, which are protected from legislative encroachment. Since they are outside the commercial land market, waqf lands are often inefficiently managed (as in Lahore).
- *Mulk*, or private lands, are also protected in law.
- *Miri*, or state controlled land, carries `tassruf' or usufruct rights
- Musha, or communal lands, are gradually ceasing to be a major factor under the requirement by land registries that ownership of land parcels has to be proven.

Formal, undocumented tenure types

Adverse possession, legal protection against forced eviction and use/occupancy rights without certificate are some examples of tenure types in the land rights continuum that provide a certain degree of security of tenure.

Informal tenure types

As stated above, these include a wide range of categories with varying degrees of legality or illegality. De facto recognition of occupation (e.g. political patronage, proof of payment of utility bills, oral evidence, informally recognized customary rights, perceived secure tenure etc.) form a major part of the tenure types found in slums and informal settlements. They include regularized and un-regularized squatting, unauthorized subdivisions on legally owned land and various forms of unofficial rental arrangements. Neo-customary land delivery systems have also been detected in Sub-Saharan African cities, where, rather than allocating a right of use on communal lands, customary owners at the periphery of cities are selling plots of land for housing.



Some of these non-formal categories, such as squatting, started as a response to the inability of public allocation systems or commercial markets to provide for the needs of the poor and operated on a socially determined basis. However, as demand has intensified, even these informal tenure categories have become commercialized, so that access by lower income groups is increasingly constrained.

Land tenure systems may also be classified as:

Private tenure

This system permits the almost unrestricted use and exchange of land and is intended to ensure its most intense and efficient use. Its primary limitation is the difficulty of access by lower income groups.

Public tenure

The concept of public land ownership is largely a reaction to the perceived limitations of private ownership in that it seeks to enable all sections of society to obtain access to land under conditions of increasing competition. Although it has frequently achieved higher levels of equity than private systems, it has rarely achieved high levels of efficiency due to bureaucratic inefficiency or systems of patronage and clientelism.

3. Global trends in urban development

In 2001, 924 million people - **one-third of the world's urban population- lived in slums**. The majority of these people are in the developing regions, accounting for 43 percent of the urban population. A representative case is Mumbai, which today has over 3,000 slum pockets, which provide housing to 6.8 million people, in addition to least 27,000 families living on the streets. It is projected that without serious mitigating action, in the next 30 years the global number of slum-dwellers will reach 2 billion.

UN-Habitat defines slums as 'contiguous settlements' where inhabitants are characterized as having

- Insecure residential status;
- Inadequate access to safe water;
- Inadequate access to sanitation and other basic infrastructure and services;
- Poor structural quality of housing;
- Overcrowding

In effect, this refers to three kinds of *informal* settlements:

- Squatter settlements on public or private land.
- Illegal commercial suburban land subdivisions on private or customary land.
- Occupation of overcrowded, dilapidated buildings in city centers or densely urbanized areas.

There are several reasons for this failure of the formal land delivery system to cater to the needs of the poor. With the advent of globalization, **governments have reduced their stake in the housing sector**, particularly in the provision of low cost housing to lower-income groups; while the private sector caters primarily to high and middle-income groups. The only realistic alternative for low-income families is the informal sector.

In addition, the policy of formalizing these informal settlements through **large-scale land titling** and deed registration has often backfired. Due to poorly thought out implementation, this process has largely resulted in spiralling prices, and through market forces, the eviction of the poor, forcing them into new informal settlements.

4. Insecurity and Poverty: A Low Level Equilibrium Trap

In most developing countries, empirical observations indicate that there is a very **high correlation, and a vicious cycle between poverty and insecurity of tenure**.

Poverty induces insecure tenure primarily because of a poor formal land delivery system, which fails to cater to the needs of the low-income group. The tenure choices of the poor in urban areas are driven by two major needs:

- That the costs of acquiring and occupying land are low
- That their homes be located close to their place of work.

When the formal land delivery system does not satisfy these requirements, the **poor are forced into informal settlements**. These informal settlements include both irregular occupation and irregular rental tenancy. While in the short run these informal settlements are cost-saving arrangements for the poor, in the long run the poor suffer several blows to their already precarious economic standing.

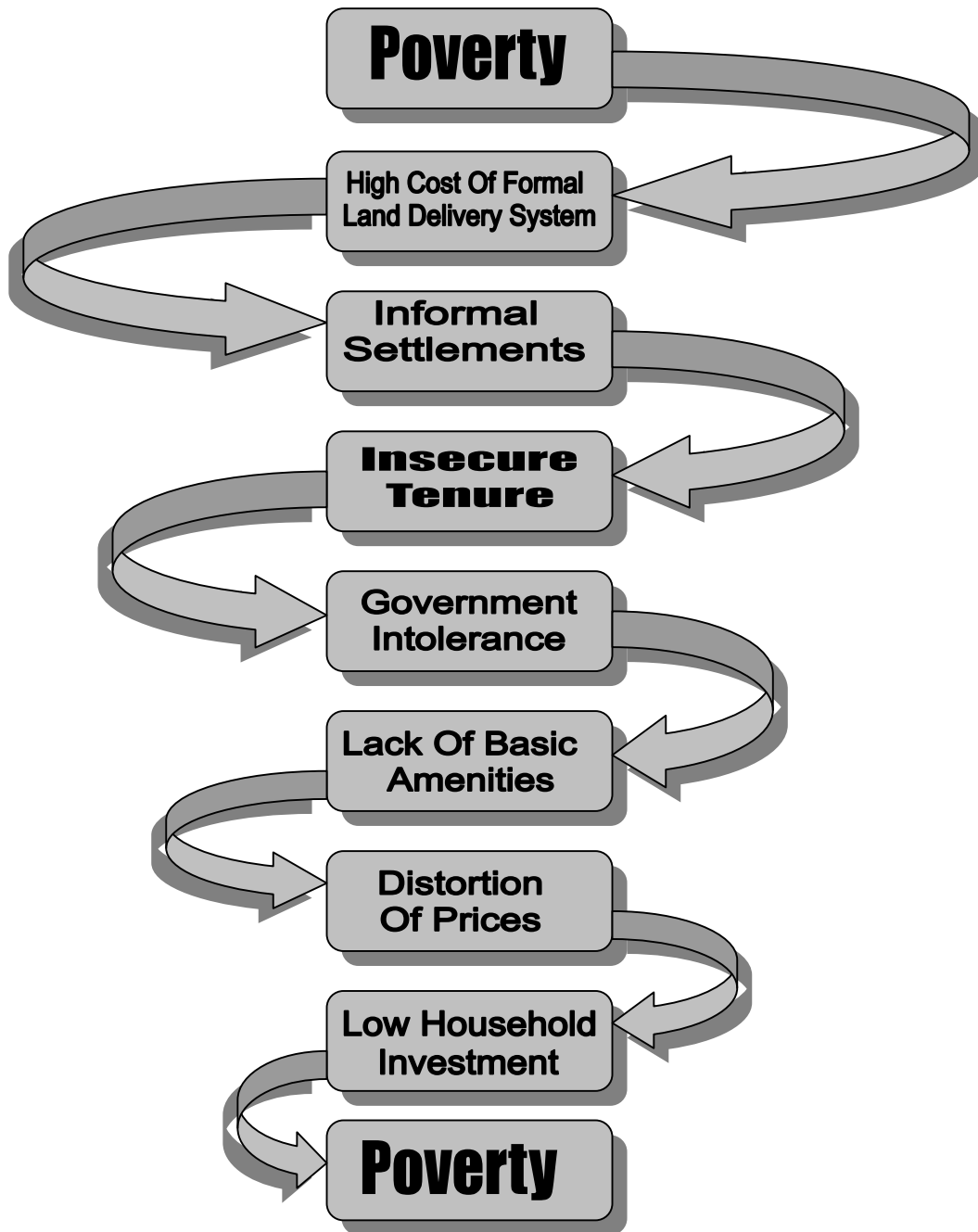
In the first place, insecure tenure has a negative impact on the provision of urban services, and consequently on the economic situation of the urban poor. **Governments are frequently reluctant to provide basic services** in informal settlements because they view such actions as a first step toward legal recognition of the settlements and tenure regularization. Slum-dwellers have no choice but to rely on informal service providers at a cost that is much higher than that which other urban households pay, leading to **distorted prices: both of land and services**.

Crucially, **lack of secure tenure discourages household investments** and investments in home-based activities. In short, when people are uncertain about their future in a particular settlement, they are far less likely to invest in it. This has a detrimental effect on poverty alleviation. It exacerbates the problem of irregular settlements since it reduces much needed investment in the household sector, and fails to improve living standards.

From the point of view of governments, **insecure tenure also has a negative impact on the rate of tax recovery** through local taxation on property and on economic activities. In addition, without proper identification of urban services beneficiaries, cost recovery for services and infrastructures is made difficult or impossible.

Fig. 3:

The Vicious Cycle Of Tenure Insecurity And Poverty



Above all, the insecurity of tenure and the associated poverty reinforces **social exclusion** and makes squatters, particularly **women and children, vulnerable to harassment**.

The flipside, however, of this vicious cycle of poverty, is that **security of tenure is one of the most powerful tools of poverty alleviation**. According to the World Bank, land, for the urban poor, is the primary means for generating a livelihood and the main vehicle for investing, accumulating wealth, and transferring it between generations. Land is also a key element of household wealth. Providing poor people with access to land and improving their ability to make effective use of the land they occupy is central to reducing poverty and empowering poor people and communities.

5. Evictions

Under international law, **forced eviction** is defined as: *'the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to appropriate form of legal or other protection.*

Forced evictions have received a lot of attention in the past from human rights groups, NGOs and international organisations like the United Nations. A more alarming phenomenon, however, is that of **market-driven evictions**.

Most market-driven displacements or evictions are usually the result of speculative activity in real estate by major investors – who buy the land below market price, and sell it back at a higher price with or without development. Our focus in this paper, however, will be on the **displacement which arises out of in situ tenure regularization, settlement upgrading and basic service provision without community organization or appropriate accompanying social and economic measures** (such as credit facilities, advisory planning or capacity building at community level).

The origins of the eviction problem lie in the following factors:

- The *scarcity* of prime urban land for development
- *A persistent imbalance* between demand and the supply of land for housing,
- *Increases in the market value* of urban land, and
- *Increasing commodification* of informal land markets

The granting of titles and the corresponding increase in tenure security of the previously informal settlement leads to a dramatic increase in the market value of the land. If the process of upgrading has taken place without poverty alleviation measures, the poor cannot afford to hold on to their newly granted titles; they are forced to sell their property and move out. In addition, the increased market value of land is also transmitted to the rents paid by tenants in newly upgraded settlements; an increase which they usually cannot afford. This commonly observed progressive form of displacement results in the gradual *gentrification* of inner city and suburban low-income settlements.

Market-driven displacements are frequently observed when *several types of property rights coexist*, and each has a different value, depending on the type of protection it

affords, with the result that the economically weaker households are exposed to market pressures. This usually happens either when

- Tenure situations are covered by a *dual legal system*, with various forms of reinterpreted customary laws and practices inherited from the pre-colonial period coexisting with modern law (sub-Saharan African countries), or
- When *multiple forms of tenure status and occupancy rights coexist* (legal titles coexisting with other types of document with varying degrees of legitimacy, such as administrative permits to occupy, deeds of sale, bills, ration cards, registration books, etc.).

Settlements exposed to market eviction may be located on private or public land. Those living on prime land or land located in areas suitable for profitable housing or commercial development projects are particularly vulnerable to pressures from the administration or investors, especially if they do not have full security of tenure. Poverty and weak community organization usually increase the risk of market eviction. In all cases, households headed by women are more vulnerable to market-driven forms of displacements or evictions than those headed by men.

The World Bank's Land Titling program in northern Thailand, for example, introduced in the 1970s, has issued land titles to 8.7 million poor farmers, most already deeply in debt. Twenty years later, millions of them have been driven off their land and entire belts of farmland transferred through buy-outs and foreclosures.

Main Implications

Without a well-directed policy including proper resettlement options market-driven displacements or evictions have two main impacts:

- i) Establishment of new informal settlements, particularly in peripheral urban areas, defeating the purpose of attempts to integrate formal and informal markets and increasing commuting costs for the displaced poor
- ii) Increase in population pressure in informal inner-city settlements that have not yet been targeted for development, resulting in deterioration in housing conditions.

Policy responses

Policy responses to this phenomenon take on two aspects:

- *Increasing the supply* of available land. In most cities, lack of transparency in the management, use and allocation of public land reserves favours the upper segments of the demand, to the detriment of the low-income groups.
- Accompanying *poverty alleviation measures* for communities benefiting from in situ upgrading programmes.
 1. These include various forms of protection against forced market evictions
 2. Especially in informal settlement upgrading (tenure upgrading and the provision of infrastructures and services), *incremental processes* should

be promoted as they leave communities time to adapt to new situations and be less vulnerable to market pressures

3. *Collective rights* should be provided rather than individual rights, at least for a certain period of time, in order to limit pressure from investors on those settlements that are being regularized
- Check on speculative activity in real estate, which has the devastating effect of leaving many privately owned plots vacant.

6. Land tenure policy – need and objectives

While security of tenure is widely agreed upon as a necessary goal for every government to strive towards, there is no one optimal path that will succeed in all-social structures. Religions, customs, traditions, laws, scope of the government and income levels of the people all vary from country to country, resulting in a number of tenurial systems, and a wide range of controversies, misunderstandings and disputes over land. Consequently, tenure security is considerably compromised, which eventually has a detrimental effect on access to other basic services and livelihood opportunities, and thereby, social welfare. This clearly underlines the need for a comprehensive land tenure policy, capable of addressing the specific tenurial issues in each country, so as to provide its people with secure tenure.

Widely accepted objectives of such a policy

- Encouraging investment in **housing construction and improvements**: The rate at which rural immigrants enter fast developing urban areas, along with the deplorable condition of slums in these areas, emphasize the need for more, and better, housing. Tenure security is the basic prerequisite for any person to undertake new construction or housing improvements on his occupied land.
- Improving **access to formal channels of credit**: Such construction needs to be aided by adequate availability of credit, otherwise builders have to resort to informal sources at higher rates, or refrain from undertaking any construction or improvement work altogether. Since real estate is often used as collateral for such loans, security of tenure is essential for access to formal credit.
- **Widening property tax revenue base** of local authorities: Large numbers of government recognized, legal settlements automatically increase the tax base of local authorities, and this increased revenue can be used to augment the supply of basic amenities.
- **Increasing public sector influence** over land and housing markets: Urban development authorities are not driven as strongly by profit motives as private developers. Increasing the influence of such authorities, which aim primarily at social welfare, benefits the poorer sections greatly.
- Improving the **efficiency** of land and housing markets: Policy should be so shaped, as to make the best possible use of available land.

- Improving the **equity** of land and housing markets: Policy should not just cater to the elite, but should award equal land rights to all sections of society, by granting secure tenure to all.

7. Conventional approach

In light of the above objectives, the conventional approach to the land tenure problem, as endorsed by the World Bank, focuses on developing market-oriented systems of property rights and **allocating priority to land titling and regularising tenure in squatter settlements** (Housing Policy Paper, 1993). The form of tenure proposed, as a long-term objective, is **individual freehold titles, or private ownership**.

Advocates of this strategy believe that secure individual property rights are critical in establishing a structure of economic incentives for investment in land-based activities. The more these rights are restricted, the weaker will be the investment incentives and the lower the productivity of land. Thus, the role of governments in land markets is to remove regulatory constraints to the free operation of land markets.

It is instructive, however, to examine this policy in the context of the above objectives:

Encouraging investment in housing

The importance of this particular objective cannot be underestimated. *It is, however, inaccurate to assume that land titles are the only means of granting security of tenure.* Numerous examples exist of considerable investments being generated simply by an official statement that a settlement will not be removed, by the provision of services, or by the issuance of certificates of use.

In one case notable case during the 1980's, the government of Pakistan offered freehold titles to about 100,000 households living in Karachi's squatter settlements. Merely by *offering* titles, however, the residents considered that they would be free to enjoy permanent occupation of their plots. Consequently, only 10 per cent eventually took up the offer; the remainder presumably considered the administrative charge for the title deeds was not worth paying, or they did not wish to expose themselves to paying property taxes.

In another case in Cairo, residents of a squatter settlement rejected offers of freehold titles because they considered the cost too high; yet the offer of titles, together with the provision of services, was sufficient to stimulate considerable investment in house construction and improvement and increase land values substantially.

Improving access to formal credit

In the first place, the poor rarely demand the kind of large loans that require mortgage of property as collateral. Instead, they demand *smaller loans* for which other forms of collateral are accepted.

Secondly, *the real impediment to the access of the poor to formal credit is not the absence of collateral but the reluctance of credit institutions to lend to them.* The primary consideration in approving a loan is the ability to repay it. Thus, the poor get

automatically excluded from the formal market for loanable funds, and the provision of titles will not solve this problem

Improving the property tax base

The provision of titles does not always generate a corresponding increase in tax revenues. This may be because households who perceive that they are secure, refuse to pay taxes, or because the high tax thresholds make it difficult in practice for them to meet the costs. As in the Karachi example above, the responsibility to pay taxes proved to be a large enough disincentive to not accept the titles at all.

Increasing public sector influence over land and housing markets

Title provision or regularisation may often *encourage the very processes of unauthorised development they seek to prevent* and, therefore, reduce, not increase, public sector influence over land and housing markets. For instance, if full titles are granted to residents in squatter settlements, it sends a signal to land-owners and developers that significant and sudden increases in land values can be realised by subdividing land illegally.

A further consequence of granting full individual titles is to further distort urban land and property markets. *Downward raiding* by residents in other sub-markets is often encouraged as the poor who have been granted titles cannot afford to hold on to them. The market-driven eviction that follows leads to further encroachment in other areas.

Improving the efficiency of land and housing markets

The process of formulating appropriate land tenure policies is a daunting one. The registration of millions of tenements may well be impossible. *The strain that this places on the administrative system is immense, as is the pressure of the invariable litigations on the legal system.* The burden on the government of purchasing land from private holders may also be untenable.

Increasing the equity of land and housing markets

This process, more often than not, has a detrimental effect on the level of equity of housing markets. *By providing the poor with titles they cannot afford, without any accompanying measures of poverty alleviation* ensures that the process of market displacements renders thousands homeless. In addition, this measure fails to protect the high proportion of the rental class in informal settlements.

The pros and cons of a titling-centred policy may be summarized as follows:

7.1 Advantages

1. Directly tackles the problem of lack of integration between formal and informal land markets by *regularizing the irregular* and bringing these settlements under the ambit of the existing legal and administrative framework on land tenure.

2. *Improves rate of tax recovery* for the government through the increased registration of individual plots.
3. *Improves cost recovery* for the government or municipal bodies engaged in the provision of basic amenities since it allows for improved identification of served households.
4. Titles allow their holders to use their land and *access mortgage finance*. This is particularly useful in the sanction of large loans, such as loans for further investment in the housing sector.

7.2 Limitations

Technical difficulties

The process of registration places a *huge stress on the administrative and legal structures* of the government concerned.

Political and administrative reasons:

The process results in large-scale litigation and requires a sound administrative and regulatory environment. At an institutional level, the implementation of regularization policies requires powerful specialized institutions and political and administrative reforms. Implementation may else prove difficult.

Economic reasons

1. Very few families can afford plots at market price. A policy approach, which emphasises owner-occupation, creates a *large under-class, which is denied access to any form of affordable or acceptable housing*.
2. Administered or subsidized prices introduce *major distortions into the property market*, reduce the already inadequate supply of land, and encourage corruption and illicit practices.
3. A titling approach ignores the plight of the large *rental class of tenants in the informal sector*.
4. The *costs of regularization* to the government can prove very large if the bulk of the informally settled land is privately owned, and needs to be bought by the state.
5. With titling, land becomes an attractive investment and hedge against inflation, especially in countries where financial institutions are not well enough developed to attract and channel domestic savings into more productive sectors. This leads to the *holding of vacant property*, which reduces the supply of land available and paves the way for increased squatting.
6. Attracts heavy in-migration from rural and other urban areas, which can often choke available infrastructure and lead to further deterioration in standard of living.

Cultural reasons

1. Such a policy underestimates the *importance of social links* established by age-old tenure systems. Mass titling may give rise to considerable friction in the affected settlements

2. The conventional approach to tenure security does not allow for the possibility that ownership is not, in fact, the highest priority for a large number of the urban poor. On the contrary, many *tenants prefer different systems better suited to their peculiar needs*. Many low-income households prefer the social cohesion which customary systems, or the mobility offered by rental tenure systems, provided they enjoy adequate security and legal protection. Such protection may be easier to achieve in land markets, which encourage a variety of tenure options, rather than one at the expense of others.

Above all, titling is an unpredictable and inflexible tool. Empirical studies conclude that the process of titling has served only the interests of the more powerful to the disadvantage of others. Land markets have not emerged on the scale expected, land has been held increasingly for speculative purposes, registration has not increased access to credit and titling has worked against the interests of women and children.

8. Rights-based Approach

It appears, therefore, that the process of large-scale registration and transfer of ownership rights is fraught with many dangers that threaten to undermine it. An alternative approach, today widely recommended by a range of experts, beginning with the United Nations, is to regard every step along the continuum from complete illegality to full property rights as a move in the right direction, to be made incrementally.

In the United Nation's Istanbul Declaration of 1996, Member States committed themselves to the objective of:

- Providing *legal security of tenure* and equal access to land to all people, including women and those living in poverty
- Ensuring *transparent, comprehensive and accessible systems* in transferring land rights and legal security of tenure
- Increasing the *supply of affordable housing*, including through encouraging and promoting affordable home ownership and increasing the supply of affordable rental, communal, cooperative and other housing through partnerships among public, private and community initiatives, creating and promoting market-based incentives.

This approach emphasizes the fact that the extension of secure tenure is but one part of an integrated approach to improving the access of the urban poor to improved shelter and basic services.

8.1 Advantages

1. This consolidation process is *participatory* and tries to identify legitimate community leadership, and effect the resolution of conflicts within the community and between the community and other actors involved (land owners, local authorities, planning authorities, central administration in charge of land management and registration, etc.).
2. With a *focus on rights rather than ownership*, this process improves the economic conditions of the settlements by using the time between the decision to

guarantee security and the delivery of property titles to improve the quality of services in the settlement.

3. It gives communities time to *consolidate their settlements*, and allows households to define a strategy, and to save or raise funds to pay for the next steps in the tenure upgrading and regularization process.
4. In addition, being given security of tenure without transferable or negotiable property titles reduces the scope of market-driven evictions. This is an essential advantage of options emphasizing incremental regularization procedures, where occupants are granted occupancy rights that can, at a later stage, be *incrementally upgraded to real rights*, such as freehold or long-term leases, if so desired.
5. By basing its treatment of every settlement on the original tenure system in place rather than on a rigid rule, this approach *caters to the specific needs* of every community.

8.2 Limitations

1. This method *does not lead to the immediate integration* of the two markets. A wide range of tenure systems continues to exist for a long while through this process.
2. The *legal recognition* of the intermediate systems is often ambiguous with the result that many formal institutions, particularly credit institutions, do not accept the validity of these rights, especially as collateral against which loans might be advanced.
3. Regularisation or acceptance in the eyes of the law brings with it the responsibility to pay taxes. If the *tax burden* is high enough, the very poor may be deterred from further regularization; choosing instead the cheaper informal alternative.
4. This approach depends, to a large degree, on the *trust people repose in the government*. They must be sufficiently secure in the knowledge that they will not be forcibly evicted in order for them to participate in any upgrading process.

Secure tenure alone cannot address the needs of the urban poor. Any tenure upgrading or regularization project must be accompanied by the provision of basic infrastructure and services. Conversely, provision of basic infrastructure and services requires some form of secure tenure.

However, it must be understood that provision of basic infrastructure and services combined with secure tenure will frequently generate various forms of market evictions from informal settlements, unless

- (i) Upgrading projects are implemented incrementally,
- (ii) Backed by an organized community, and
- (iii) Accompanied by measures aiming to improve the economic situation of the households.

Fig.4: Comparison of Two Different Approaches to Improving Tenure Security

	Conventional Approach	Innovative Approach
<u>Aim</u>	<i>Formal registration</i> through the provision of individual property rights	<i>Providing security of tenure</i> , through either the consolidation of occupancy rights or by giving preference to collective interests rather than individual ones
<u>General Principles</u>	<ol style="list-style-type: none"> 1. Formal tenure regularization of land and housing in informal settlements 2. Delivery of individual freehold and, more rarely, of leasehold titles. 	<ol style="list-style-type: none"> 1. <u>Recognition of occupancy</u> 2. Provision of basic amenities
<u>System of Tenure:</u>	Freehold	Accepts a continuum of systems ranging from freehold, to informal, unregistered tenancy.
<u>Key Actors</u>	Government	Participatory process involving government, NGOs and CBOs and the affected poor
<u>Execution</u>	One-time change in legal provisions, granting titles	Incremental process
<u>Advantages</u>	<ol style="list-style-type: none"> 1. Integrates formal and informal land markets 2. Improves rate of tax recovery 3. Improves cost-recovery for service-providing authorities 4. Allows owners access to mortgage finance 	<ol style="list-style-type: none"> 1. Gives communities time to consolidate their settlements 2. Being granted security of tenure without transferable rights reduces market pressures 3. Caters to specific needs of every community by recognizing a range of systems
<u>Limitations:</u>	<p>Not always <u>possible</u>:</p> <ul style="list-style-type: none"> • <i>Technical difficulties</i>: stress on legal and administrative systems • <i>Political and administrative problems</i>: <ol style="list-style-type: none"> 1. Requires sound institutions and reforms <p>Not always <u>desirable</u>:</p> <ul style="list-style-type: none"> • <i>Economic reasons</i>: <ol style="list-style-type: none"> 1. Poor cannot afford land at market prices 2. Subsidized prices lead to market distortions and corruption 3. Ignores rental class in unauthorized settlements 4. Pressure on public funds, due to purchase of privately-owned land which is informally settled 5. Encourages speculation in real estate • <i>Cultural reasons</i>: <ol style="list-style-type: none"> 1. Fails to consider social links developed over years as a result of prevailing land tenure systems 2. Does not cater to specific needs of each community 	<ol style="list-style-type: none"> 1. Limited integration of the two markets 2. Not accepted by formal (particularly credit) institutions 3. Responsibility of paying taxes dissuades people from further regularization 4. Depends on level of faith or people in government
<u>Effects of Policy Implementation</u>	<ul style="list-style-type: none"> • Increased market pressures leading to displacements • Increase in the cost of services. 	Varied, depending on specific strategy deployed. (Refer case studies)
<u>Success/Failure of Policy</u>	Highly limited success	Globally results have been mixed. However, this is largely due to poor implementation rather than flawed principles.

9. Comparison of innovative policy instruments across the world

Fig. 5: Comparison of different innovations in Kenya

Country	Kenya		
Policy Instrument	Temporary Occupation Licenses	Community Land Trusts	Land-Buying Company
Description	Enables allocation of public land for a short period and specific purpose to meet social needs	Land is owned by whole group and improvements are made by individual members	Company or co-operative society acquires large farm for subdivision to members
Location	Widespread in municipalities	Voi, other places being implemented	Nairobi, also widespread in the highlands region
Main Participants	Small businesses, NGOs and other operators in residential areas	Slum dwellers, but new settlements on virgin land also possible	Poor people, lower middle class and newly urbanized people (Trade union members, teachers, civil servants)
Advantages	(i) Simplicity of the administrative procedures (no surveys are involved), (ii) Payment is spread over the year, (iii) Building standards are flexible, and (iv) The public authorities retain control of the land.	(i) Makes the best use of the collective strengths of local communities in obtaining permits and infrastructure, (ii) Keeps all land under one simple title, and (iii) Encourages members to invest in their homes and in environmental improvements. (iv) These land trusts also enable communities to remain in areas that may otherwise be too expensive if conventional individual titles were provided.	(i) Members start building soon after allocation. (ii) Value appreciates as settlement consolidates. (iii) Enables poor people to pool strengths and resources. (iv) Certificate recognized by banks. (v) Women can join in their own right.
Limitations	(i) Over time, temporary occupation effectively becomes durable. Purpose is lost. (ii) Limits the amount of available public land.	It is not well understood yet by administrators, (ii) It requires lengthy documentation, (iii) Communal land ownership may also be a disincentive to invest, especially when people are not free to sell directly to outside buyers. (iv) Potential to create ethnic or elitist enclaves	(i) Directors power open to abuse, (ii) Excessive control by politicians. (iii) Few women in leadership position
Degree of Success/ Future Prospects	Fairly Popular (About 1200 plots allocated nationwide). Being a highly specific arrangement, it is not likely to see appreciable increase, but will continue to be a useful instrument.	Movement growing steadily since the 1990's despite certain structural bottlenecks. Can spread countrywide if procedures are streamlined and simplified.	Successfully implemented, several million urban residents settled this way. Good prospects for further growth.

Fig. 6: Comparison of Tenure Policies in representative African Nations

Country	Egypt	South Africa	Botswana
Policy Instrument	Tenure through acquired documentation	Cooperative housing	Certificates of Rights (CORs)
Description	Intermediate recognition, in particular, application of property tax and service charge regime to supply legitimacy to informal settlements.	Most popular form of social housing; financed by a capital subsidy, owned by state housing corporations and managed by residents	A COR provides holders with the right to use and develop land, while retaining State ownership.
Main Participants	Long-term residents in informal urban settlements	Urban lower middle class blacks	CORs benefited two-thirds of all urban households in Botswana.
Advantages	By the sheer weight of numbers, this can (i) significantly increase perceived levels of security and (ii) stimulate substantial levels of investment in home improvements. (iii) Property held under such tenure systems cannot command the full price which formal tenure would entail, so low-income households are able to live in areas that would otherwise be beyond their reach. (iv) Property Taxes increase state revenue substantially	(i) Participants are protected by open rules and regulations about deprivation; (ii) residents play a major role in management of their settlements; (iii) government subsidy used to provide basic services; (iii) administration of rights is simple and localized, (iv) residents can access credit, (v) existence of an exit route with repayment allows residents financial return, (vi) housing is tax-exempt	(i) Certificates can be upgraded to Fixed Period State Grants on payment of survey and registration fees. (ii) Affordable shelter (and access to basic services) in prime locations of the city with low initial cost, (iii) simple deed as evidence of ownership, (iv) option to upgrade services and develop the property, (v) value of property appreciates with time, and (vi) property is transferable through sale and inheritance.
Limitations	(i) It is vulnerable to changes in government policy, and (ii) programs of forced eviction can seriously erode their advantages. (iii) Weak record keeping, lack of maps, feeble survey capabilities, general apathy of public employees and susceptibility to abuse pose problems to the efficient functioning of the property tax system.	(i) Requires high degree of dependence on external financial support; (ii) difficult to scale up and replicate; (iii) scope for income generation through home-based enterprise and sub-letting is restricted	(i) It has not been accepted by formal private sector financial institutions as acceptable collateral for loans (ii) The administrative work involved is about the same as for allocating full property titles, although computerization has significantly reduced this burden. (iii) The system also has to compete with customary land allocation procedures that are already well known and active in peri-urban areas.
Degree of Success/ Future Prospects	The informal tenure security has greatly benefited the urban poor, especially between 1970-85, but since then, there have been fewer opportunities.	Strong tenure model: however, it remains to be seen whether titles will be sold en masse upon expiration of four year lock- in period designed to prevent market evictions.	Presently discontinued (since the 1990s), due to gradual predominance of forces against the COR (inferior housing, lack of defenders and advocates, new national priorities for government).

Fig. 7: Comparison of Tenure Policies in representative Asian Nations

Country	Thailand	Indonesia	Cambodia
Policy Instrument	Temporary Land Rental	Recognition of Illegal Settlements	Land Titling and Relocation
Description	The first is a mutually beneficial system that enables the poor to live for a short while in expensive inner city areas	Change in government attitude towards informal settlements, leading to gradual recognition	Relocating illegal settlements as close as possible to their original location, and upgrading others.
Location	Bangkok	Jakarta	Phnom Penh
Main Participants	Landowners and low income groups	Squatters, aided by NGOs and the Government	Immigrants arriving post 1979, when all land ownerships were nullified
Advantages	(i) Poor obtain easy access to employment centers. (ii) Land owners receive income till they decide to develop their site.	(i) Dwellers in previously illegal settlements get formal access to basic infrastructure, education, jobs, credit and long-term certainty of occupancy. (ii) Government views the urban poor not simply as welfare beneficiaries, but partners in a process to improve their communities and overall well-being of the city.	More pragmatic approach compared to previous times. After 1979, all vacant plots were chaotically occupied, till government policies attempted to impose order by evicting residents of unauthorized settlements and providing them with individual titles on land outside the city. This caused massive social disruption, and the present approach is more practical.
Limitations	(i) Communities are only given 30 days to vacate the land; low degree of permanence. (ii) Not accepted by formal institutions. (iii) Highly dependant on patron-client relationship.	(i) Very gradual process, and not widespread at all. (ii) Hostility and highly limited co-operation between Government and the active NGOs, leading to insecurity of the NGOs themselves.	(i) Drastic one step attempt at solving a long standing problem. (ii) Relocations raise government expenditure and cause city-wide riots disruptions by the abruptly displaced people. (iii) Relocations are not very effective, since they are often too far away from workplaces
Degree of Success / Future Prospects	This offers opportunity to improve security of tenure for the urban poor, but supply of basic services remains inadequate.	Very limited results, but with considerable future scope, provided there are greater efforts towards consciousness raising, spreading awareness of rights and community mobilisation.	This method of relocating settlements has come under heavy criticism. Proposed alternatives include a MORE (moratorium on relocations and evictions) for all settlements, and individual and communal leases

Fig. 8: Comparison of Tenure Policies in representative South American Nations

Country	Brazil	Bolivia	Peru
Policy Instrument	Concession of the Real Right to Use (CRRU)	Anticretico (Against a credit)	Individual titles
Description	A form of registered leasehold granted, usually on the basis of adverse possession, to people living in designated 'special residential zones'	Contract between home-owner and tenant in which former receives sum of money from latter in exchange for use rights to the property in question	Titles issued through three-step process: planning, registration of possession rights, issuance of titles. Execution by an autonomous agency – COFOPRI
Location	Introduced in <i>favelas</i> (squatter settlements), in cities like Recife, Porto Alegre	Widespread use throughout urban areas	Mainly Lima
Main Participants	Mainly slum dwellers	<i>Home owners</i> : high and middle-income groups. <i>Tenants</i> : lower middle class groups, particularly the newly urbanized.	1 million titles have been distributed to poor squatters, mainly on public land
Advantages	(i) No relocation of slums, reducing public expenditure, (ii) no distortionary effect on land market prices by controlling land use, (iii) tenure regularization programme launched simultaneously with broader urban planning legislation, (iv) creation of zones gives people security against evictions	(i) Makes efficient use of available housing stock; (ii) each party is protected as money and property act as collateral; (iii) has wide-spread social acceptance; (iv) inexpensive, simple procedures; (v) Boost to housing investment as owners use paid-up funds for development.	(i) Distribution of a large number of titles in a short period of time; (ii) the setting up of an autonomous body purely for this purpose ensures that operations are efficient and motivated.
Limitations	(i) Most settlements have not qualified for tenure legalisation; (ii) the program has been opposed on environmental grounds in some places given that some of the chosen settlements occupy environmentally sensitive areas; (iii) lack of titles creates problems of conflict resolution;	(i) Rise in tax fees payable has discouraged people from going through formal channels. (ii) Without a supporting legal framework, tenant stands the chance of being cheated. (iii) Value of deposited money is eroded by high inflation. (iv) No support from formal credit institutions, insurance companies	(i) Only 1% of the beneficiaries have been able to access credit; (ii) limited attempts to formalize settlements on private land, (iii) lack of comprehensive approach restricted provision of basic services, (iv) there are instances of market-driven displacements, with beneficiaries selling their parcels on entitlement.
Degree of Success/ Future Prospects	Highly successful mechanism implemented as a part of broad public policy focused on improved urban standards of living	Extremely popular system, which has been an important tool in improving living conditions. However, it threatens to be undermined by stifling legal framework.	Although the implementation of the plan has been rapid, it failed to prove that provision of individual titles could enable the urban poor to lever themselves out of poverty.

Part II: India

The housing problem in India can be decomposed into two aspects:

- First, the markets for land and housing do not function efficiently, leading to a severe underproduction of new housing – both for ownership and rental purposes – in relation to the demand for it.
- Second, the available housing, particularly low-income housing, suffers from a chronic lack of basic amenities and infrastructure.

Any housing policy, or policy for urban development, which aims to solve the problem of tenure insecurity, must address both of the above aspects. The provision of tenure may either be granted in-situ, on the land already occupied by the irregular settlement, or through relocations on alternative sites. Since there is obviously a limit to the amount of in-situ upgradation that can be carried out in already densely populated slums and unauthorised colonies, the state must also rely on the building of new housing stock. At the same time, basic amenities must be provided – either directly by the state or through the encouragement of community-based initiatives – on both new and existing sites.

This India section first addresses the barriers restricting the smooth functioning of the land and housing markets in the country. Thereafter, it tackles the problems of regularisation – either in-situ or through resettlement – with the provision of infrastructure in different parts of the country.

10. Barriers in the Indian land market

According to the McKinsey Report, 2001, land market distortions account for close to 1.3 per cent of lost growth a year. The artificial scarcity of land created by these barriers has helped make Indian land prices the highest among all Asian nations, relative to average incomes. The housing construction sector in India is small and unproductive, contributing only 1% of GDP in India, as compared to 3% in Russia and 6% in Brazil.

External factors responsible for low productivity

1. **Unclear ownership:** Most land parcels in India — 90% by one estimate — are subject to legal disputes over their ownership. The lack of clear titles affects price-based competition in two ways:
 - First, it **limits land access to a few organised developers**. As a result, most new housing developments are constructed either on land already owned by the developers, or by the few insiders who know how to speed up the bureaucratic title-clearing process. Unclear titles also make it difficult for organised developers to consolidate large plots of land, thus limiting production of large-scale developments.
 - Second, it **limits the scope for collateral -based financing**, only to those owners with proper titles. Limited housing financing affects price-based competition by restricting new construction activities.
2. **Lack of infrastructural development in suburban areas:** New construction is invariably restricted to within city limits due to the lack of government-financed suburban developments. Infrastructure investment is financed largely by

revenue from property tax and user charges for utilities. In India these are very low.

- **Property tax collection is highly inefficient** for two reasons: first, property valuations, particularly in city centers, are outdated and often linked to the controlled rents paid by existing tenants. Second, in city suburbs, where rents are not controlled, the lack of efficient, computerised records of titles leads to greater tax evasion and unauthorised construction.
 - **User charges are mostly subsidised** and unrelated to the real cost of providing infrastructure services. This affects local government incentives to invest in new infrastructure.
 - In addition, **financial mismanagement** has often resulted in widespread deficits and mounting debt for most local governments, limiting their ability to raise funds even for profitable investments.
3. **High stamp duty:** While property taxes in India are severely undervalued, stamp duties are extraordinarily high, close to 8-10% of the property value. This too discourages land and real estate transactions.
In addition, the **lack of tax enforcement** encourages developers to focus on small-scale projects; being less visible, these facilitate tax liability evasion.
 4. **Prevalence of red tape/corruption:** Red tape and corruption stand in the way of obtaining building permits. Frequent site inspections and regulatory harassment often result in work stoppages, making work planning difficult.
 5. **Cumbersome land registration procedures:** To avoid the inconvenience of going through numerous bureaucratic channels and providing extensive documentation, owners often avoid the land registration process.
 6. **Inflexible rent and tenancy laws:** Rent control and stringent tenant laws reduce competition among developers in two ways: First, they directly hamper the size of the rental market by artificially freezing the availability of houses in city centres. Second, rent control and other tenancy laws demotivate people from constructing houses that they could put out on rent.

Policy recommendations

Clarify ownership rights of land titles: In order to solve the unclear ownership rights on land titles, the government must expedite all the existing land dispute cases, which are languishing in courts all over the country. To this end, the government could **set up specialised courts to handle land title disputes.**

1. **Lower stamp duties** to 2-3 per cent. This can be done gradually as collections from property taxes and user charges increase so that government revenues are not affected.
2. **Increase collection from property tax and user charges:**
 - a. The **assessment base of property tax should be changed** from historical cost to the capital value of the property as fixed by the government for the area in which it is located.

- b. **Minimise evasion of property taxes** through computerised land records and clearer valuations.
 - c. **Raise user charges on water and other municipal services** to cover the economic cost of delivering these utilities.
3. **Privatise, as far as possible, the provision of utility services**, so as to eliminate pricing distortions and increase user charge collection. It is a fallacy to believe that current property owners who are enjoying subsidized rates will be severely hurt by an increase in charges. These owners are currently bearing high costs anyway, as high government deficits leads to high stamp duties, interest and inflation rates. Also, if these owners were to pay higher charges, then the provision of quality infrastructure services would lead to an increase in the valuation of their properties.
4. **Reform tenancy laws to bring rents in line with market value.** Specifically, the government should:
- Allow the termination of old tenancies at the death of the tenant.
 - Remove restrictions on the escalation of property rentals for all tenancies.
 - Empower owners to reclaim their property at the end of the tenancy period.

Implementation

Building support by communicating the benefits of reform

Many of the proposed reforms are likely to be resisted by groups with vested interests. Clearly communicating the need for reforms and their benefits to the Indian people will, therefore, be critical to ensure their smooth implementation. The communication programme should stress that the regulations being removed have failed to achieve their intended social objectives and have proved counterproductive in many cases.

Providing guidance and implementation support at all levels

Almost all land market and power sector reforms fall under the ambit of state governments. The central government should steer the state-level reforms. This will involve creating awareness among state governments on the critical areas for reform, helping design model laws and procedures that the state governments can replicate, and providing financial incentives to the states to implement reforms.

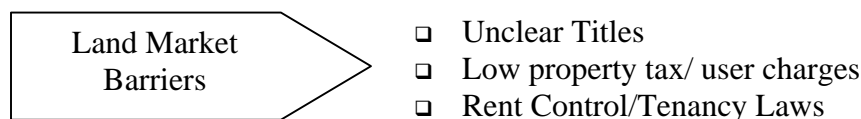


Fig. 9: Policy recommendations

External Factor	Impact	Policy Recommendation	Winners	Losers
Unclear Ownership	<ul style="list-style-type: none"> Reduces competition by limiting land to a few developers Limits housing finance 	<ul style="list-style-type: none"> Simplify registration procedure Computerise recording system Establish fast-track courts to address litigation 	Land Owners	Petty officials, illegal owners
Lack of Suburban Infrastructural Development	<ul style="list-style-type: none"> Construction restricted to within city limits on already developed land 	<ul style="list-style-type: none"> Adopt market-driven property valuation system Minimise tax evasion Privatise water/ sewerage/ electricity services 	Suburban dwellers, rural migrants	Current subsidized tax and user charge payers
High Stamp Duties	<ul style="list-style-type: none"> Discourages land transactions 	<ul style="list-style-type: none"> Lower duties to 2-3% 	Housing customers	Local government, until other revenues can be increased
Rent Control/ Tenancy Laws	<ul style="list-style-type: none"> Reduce size of rental market Discourages housing investment 	<ul style="list-style-type: none"> Allow increase of rents for new tenants Terminate old tenancy with tenant's death Allow reclamation of property by owners 	Home owners, rural migrants	Old tenants
Red Tape/ Corruption	<ul style="list-style-type: none"> Discourages development 	<ul style="list-style-type: none"> Simplify building codes Introduce single-window clearance for building permits Simplify valuation system 	Housing customers	Petty officials

11. Legal view on slums

Ensuring the human right to housing

The Committee on ESCR (Economic, Social and Cultural Rights, 1991) emphasizes the 'right to live in security, dignity and peace' as the central principle of the Right to Adequate Housing. It also elaborates on the key factors that make for adequate housing, which includes legal security of tenure, the availability of public and environmental goods & services (including water and land), affordability (including access to finance), habitability, accessibility, viable location and cultural appropriateness.

Constitutional guarantees for housing rights: The example of South Africa

The Constitution of the Republic of South Africa, Act 108 of 1996, is widely regarded as the most progressive constitution in the world with respect to housing rights. Article 26 of the Constitution guarantees the Right to Housing which ensures universal access to adequate housing and the responsibility of the state for the progressive realization of this right. The most unique component however, is its strong position against forced evictions, stating "No legislation may permit arbitrary evictions."

India: Housing rights dependent on judicial interpretation

India is signatory to the Universal Declaration on Human Rights (UDHR), where the right to housing was first recognized formally, as well as the International Covenant on ESCR. The Indian Constitution, however, provides no guarantees of the Right to Housing. Instead, the country relies on judicial interpretation for any kind of guarantee to shelter. These interpretations, however, have proved to be inconsistent.

In the eighties, the right to housing was established as a judicially derived right through a Supreme Court verdict in *Olga Tellis vs the Bombay Municipal Corporation* (1985). In the case, filed on behalf of pavement dwellers in Mumbai, the court held that the right to livelihood was an integral part of the right to life - as guaranteed by Article 21 - and concluded that "in terms of the constitutional phraseology, the eviction of the petitioners will lead to deprivation of their livelihood and consequently to the deprivation of life".

In 1990, it went a step forward in stating that "reasonable residence is an indispensable necessity" for human development and the fulfillment of the 'right to life'¹. In another case², the court held that the "right to life guaranteed in any civilised society implies the right to food, water, decent environment, education, medical care and shelter". It went even further a year later and ruled: "Article 19(1) (e) accords right to residence and settlement in any part of India as a fundamental right. Article 25(1) of the Universal Declaration of Human Rights declares that everyone has the right to a standard of living adequate for the health and well-being of himself and his family; it includes food, clothing, housing, medical care and necessary social services."³

It is important to note that in most of these cases the courts underscored the need to rehabilitate elsewhere those settlers removed from government land. In fact, in the *Olga Tellis* case Chief Justice Y.V. Chandrachud held that the pavement-dwellers might be moved to an alternative site.

In recent years, however, the tone of Supreme Court has hardened considerably, taking a firm line on the 'illegality' of settlements, and using this definition to pronounce verdicts.

A case in point is the petition filed in 1995 in the Bombay High Court by the Bombay Environmental Action Group. The petition was to 'remove forthwith' informal settlement dwellers (described as 'encroachers') adjacent to the Sanjay Gandhi National Park, to ensure protection of 'the environment and all its aspects'. In its judgement, the Bombay High Court not only directed the relevant authorities to evict persons from their homes, but also explicitly ordered the demolition of homes prior to provision of resettlement. The Court's summary eviction order eventually affected half a million slum-dwellers⁴.

Justice B.N. Kirpal's observations in *Almitra H. Patel vs Union of India* (2000) are often cited as constituting the most telling example of a qualitative shift in the judiciary's

¹ *Shantistar Builders v. Naryan Khimalal Totome & Others*, 1990

² *Chameli Singh vs State of Uttar Pradesh* (1996)

³ *Ahmedabad Municipal Corporation, Appellant vs Nawab Khan Gulab Khan And Others*, 1997

⁴ Indian People's Human Rights Tribunal

approach to the urban poor. The court stated "rewarding an encroacher on public land with a free alternate site is like giving a reward to a pickpocket".

The Almitra Patel verdict proved so popular that in the case of *Okhla Factory Owners Association vs Government of National Capital Territory of Delhi*, the Delhi High Court used Justice Kirpal's observations to explain that as encroachers, slum-dwellers were ineligible for alternative accommodation and thereby quashed a Delhi State government law that forbade slum demolition without rehabilitation.

Another controversial verdict related to *NBA v. Union of India (2000)*, over the construction of the Sardar Sarovar Dam, where the Supreme Court ruled that '*...displacement of the tribals and other persons would not per se result in the violation of their fundamental or other rights...*' This, too, contradicted previous Supreme Court rulings that have upheld the right to shelter related to the right to life.

As recently as April 28, 2006, the Supreme Court said that 'a policy of appeasement' had led to a "systemic failure of planning in the city". Earlier this year, the court ordered the demolition of a 35-year-old settlement in Nangla Machi, and a 20-year-old one at Bhatti Mines, alongside Kapaskhera and Yamuna Pushta, both with inadequate resettlement. Thus, in the eyes of the law, the "humbler being" of Justice Chandrachud has been transformed into a "pickpocket". The slum-dweller is no longer seen as a helpless victim of circumstances but a cynical manipulator of the system - a usurper and land-grabber - living off the taxpayer's money, and so inviting the wrath of the law.

Implementation

The institutional approaches in India to enable people to access housing have been through measures for poverty alleviation, credit and subsidies for housing as well as incentives for shelter improvement or relocation. These are implemented through national and state level policies and programs. Notable functions at the central level are policy preferences and resource allocations made through the Five Year Plans for national development and the regulation of public finance for housing, infrastructure, land acquisition/development, and urban development through the National Housing Bank and Housing & Urban Development Corporation (HUDCO). Governments at the state and local levels (village/city) are also empowered to determine policies and undertake programs and practices in relation to housing. This includes the administration of aspects such as land regulation, ownership, transfer, upgradation or eviction.

Trends in housing interventions in India

The 1950s-60s: Clearance of Settlements

This period was characterized by the clearance of settlements. The Slum Areas (Improvement and Clearance) Act, 1956 facilitated re-housing in subsidized projects. Informal settlements were provided basic minimum services as a temporary measure.

The 1970s: Slum improvement

Slum improvement was recognized as a long-term solution to informal housing. The Environmental Improvement of Urban Slums (EIUS) was launched by the central

government in 1972. Indirect security of tenure provided by a pre-condition that municipalities would not clear settlements in which improvements were made for at least 10 years. The Urban Land Ceiling Act (ULCA, 1976) was introduced to allow vacant lands and land in excess of stipulations to be available for housing the poor. The Act was eventually repealed in 1998. The Urban Basic Services for the Poor (UBSP) scheme was initiated in 1977 and was implemented successfully for two decades.

The 1980s: Security of tenure

The importance of security of tenure in solving the problems of informal settlements was recognized, largely due to the international developments in the understanding and articulation of housing rights. Recommendations for increase of supply of land for housing in cities were made by the Task Force on Housing and Urban Development (1983). The Land Acquisition Act was amended in 1984 and was extensively used to acquire lands for public housing. The Draft National Housing Policy was formulated in 1988, which attempted to reflect the international perspective on housing.

The 1990s: National housing policy & programs

Increase in land supply, review of land use norms, provision of basic services and role of government in increasing access to land and housing for the poor were key themes of this decade. The National Housing and Habitat Policy were adopted after long debates and mobilization by civil society to reflect the housing as a human right. It commits to the prevention of forced eviction, promotion of in-situ upgradation and slum renovation, conferment of occupancy rights where feasible, and selective relocation. The policy due to vigorous campaign also provided, for the first time, the joint ownership and entitlement of land/housing between men and women. The attempt in the 1990s to involve the private sector on a land-sharing basis (private land owners were encouraged to build apartments for slum dwellers on one part of the land, in exchange for greater flexibility in developing the remaining portion for market purposes) in facilitating housing for the poor introduced a new, though only partially successful, approach to resolving the economic contradictions governing the availability of land and housing in the city.

The draft National Slum Policy of 1999 reflected a more comprehensive understanding of the housing issue. It advocated the integration of informal settlements with the rest of the city and the right of residents to participate in decision-making. It indicated that tenure could be collective, such as group tenure or co-operative tenure and restricted the practice of slum clearance only in exceptional cases. Further, it outlined steps for the government to acquire private land on which 'tenable' slums exist, and recommended measures like land use classification and the comprehensive listing of informal settlements. What was left out was a comprehensive definition of a 'tenable' – and, hence, permissible slum.

The power of civil society organizations in advocating the human right to housing emerged in the second half of the eighties, in response to various large-scale violations through forced evictions and displacement across the country. Their significance dramatically increased in the first half of the nineties, primarily through the formation of national networks such as the National Campaign for Housing Rights (NCHR) as well as regional and global alliances such as the Asian Coalition for Housing Rights (ACHR),

Center on Housing Rights and Eviction (COHRE) and Habitat International Coalition (HIC).

The new millennium (2000 onwards): Changing realities

On a global level, the adoption of the Millennium Development Goals has given an increased significance to housing rights. In India, however, the issue seems to have become somewhat clouded. The high-pitched activism of the early nineties has given way to a mixture of complacency and confusion. Contradictions in purpose have been highlighted with the shift in the role of civil society actors from people's advocates to consultants of State and Multilateral Development Banks; from engaging with the right to housing as a process of empowerment and democratic participation to implementing housing programs through seemingly efficient transactions. The challenge for housing rights is the transition from Housing as a verb, to Housing as a noun. The former embodies the holistic view of housing as a place of social production and reproduction, while the latter, represents access to the physical structure of four walls and a roof.

The above is also accompanied by the realization that the urban 'battlefield' for the right to housing has shifted from big cities to the smaller, but rapidly developing towns. Here the muscle flexing of the local mafia in connivance with Contractor-Politician-Bureaucrat nexus to prevent the poor from accessing public spaces for both housing and livelihood is both brutal and a complete violation of human right to housing.

12. Madhya Pradesh – Bhopal and Indore – A legislative approach

Patta Adhiniyam, 1984

Tenure regularization was first adopted as a statewide policy in Madhya Pradesh. Under the Patta Act of 1984, leases, or pattas, have been granted to the landless poor in urban areas. Under the Act, all persons occupying up to 50 square metres of land for residential use are eligible for leasehold rights. These rights may be inherited but to check gentrification they have been made non-transferable. The title may either be over the land already occupied (in-situ regularisation) or in another location. Thus, the State Revenue Department issues two types of *pattas*; a 30 years *patta (patta 'kha')* to those who are living in settlements that are to be improved and rehabilitated, and an annual *patta (patta 'ga')* that is given to those who are living in settlements that are to be relocated.

The projects that require relocation to alternative sites have been supported by the land reservation for the shelterless scheme, a Madhya Pradesh government programme in effect from 1982 to 1988 whereby 5% of the gross area of all residential projects – private, public and cooperative – were compulsorily reserved for the poor without shelter. This land would be handed over to the slum clearance board or the revenue department for allotment.

The main target group has been squatters on land owned by the State government or local authorities in major cities like Indore and Bhopal. The issue of pattas on private, disputed and Central Government land, however, has been non-effective. At least 8000 families in Bhopal have been adversely affected by this lack of resolution.⁵

Criticism

With respect to urban planning and development, the Patta Act has ignored all regulations and master plans. Zoning laws, subdivision regulations, and building by-laws have all had to defer to the Patta Act provisions. As a result of this violation of urban legislation, regularization processes have often ignored critical dimensions such as the feasibility of infrastructure extension and service provision. In many areas, only partial solutions have been arrived at, leading to the creation of more poorly serviced settlements and a regeneration of slums.

In addition, a major criticism of the Madhya Pradesh approach has been that the whole housing programme was calculated to achieve short-term political gains. As a result, the provisions of the Act were not well researched and thought-out and this has led to major fallout in terms of environmental degradation and poor cost recovery.

In real practice, it is claimed, the *patta* has, at best, provided recognition of the slum for purposes of receiving municipal services. No effort has been made to integrate these areas within the city and to network them into the city systems.

12.1 Bhopal

In Bhopal, the issue of pattas was combined with a programme for the provision of municipal infrastructure and services, as well as the supply of housing loans under the Slum Rehabilitation Scheme (SRS) of the National Housing Board (NHB), implemented by the Madhya Pradesh State Housing Board. Under the Act, about 20,000 households received lease titles and documents.

Relocation – Damkheda housing project

A lot of the leases, however, were on land to which slums had to be relocated. The Bhopal Municipal Corporation (BMC) follows a two-pronged housing strategy

- Providing serviced land, and
- Constructing houses for slum families.

As an example, the Damkheda housing project currently underway has provided 400 plots to residents who have moved in batches of 25, over a period of 2 months to Damkheda - outside the Bhopal city limits on State land. Residents have been provided a loan of Rs25000 per family for reconstruction. Of the total amount, the Corporation has retained Rs1500 per house for provision of a power connection. It has also retained the original lease deed as a loan guarantee. While some residents have been able to add to the above amount from savings, others have only partly constructed their house. A formal second loan is not available as the lease deed is with BMC. People are therefore borrowing from informal financial intermediaries at high interest rates. Families

⁵ Bannerjee (1994)

opting for constructed houses have been provided one room, bathroom and toilet with open courtyards on either side of the house.

Several rounds of consultation with slum residents have preceded the relocation. Slum residents were asked to choose between the two options; built housing or plot. On reaching a consensus, BMC very quickly leveled the plot of land, marked the plots and shifted the residents even as some services (piped water supply, sewerage, roads) had yet to be provided. Water was being provided through hand pumps and water tankers. In the absence of underground sewerage, people were being encouraged to construct septic tanks, with overflows into drains. However, since the relocation was far from the city and the original site, livelihood displacement was inevitable. Earnings were said to have dropped sharply, daily wage rates were lower in the new area and men were hunting for alternate employments. Women however, continued to travel to the city to carry on with previous jobs as domestic workers, albeit with an additional burden of transport costs. As incomes have dropped, though there was a reported decrease in alcohol abuse and consequent domestic violence in the area. Residents have formed a welfare society, which settles family disputes. Schools were also about 30 minutes walk from the new site. School dropout as a consequence of the resettlement was not very clear.

In-situ upgradation – crusher settlement

The Crusher settlement in Bhopal is called so because most of its residents work as stone crushers. It began with 100 houses that were granted *pattas* under the 1984 Act. Since then, it has grown into a neighborhood of nearly 2500 households. Over time, some of the better-off families have sold their huts to move into better (LIG) housing in the city. A one-room hut in the settlement can be purchased from the previous owner for Rs20000, and a two room set with a private toilet and bathroom is available for Rs47000. Housing here is largely pucca albeit with few basic services. Women work as domestic helpers, or roll *bidis* or *papads* in home based occupations. The community is not organized.

Two years back, the slum was selected for upgrading under the slum-networking project and provided cemented roads and underground sewerage connections with sanitation chambers. Upgrading, instead of improving the area only altered the nature of problem for residents. The sewerage system is blocked with sewage overflowing onto roads and seeping into homes built below the road level. Hand pumps are built without proper platforms and sewage water collects and seeps into the ground, mixing with ground water. Choked chambers have dissuaded people from connecting to the system in the fear that sewage will flow back in to their homes even though there is willingness and affordability. Only a very small number of the initial settlers have toilets with sewerage connections, the remaining used the Community Toilet Complex provided by the Corporation on payment of a monthly family fee of Rs50. Even this toilet has no water supply. Piped water supply was available through community stand posts once a day at 4PM, but not all lanes have a stand post. Water taps were missing and large quantities of drinking water was flowing down the drain and mixing with the sewage overflows to compound the problem. The settlement did not have a waste disposal system and waste was largely dumped in the drain with open spaces accumulating filth.

12.2 Indore

A major slum upgradation project – the largest in Indore – was also carried out under the Slum-Networking Programme financed by the Department for International Development (DfID) of the British Government and implemented by the Indore Development Authority (IDA).

Slum networking

Slum Networking is a holistic approach to urban improvement in which slums are seen as an integral part of the city – a settlement network that presents an opportunity for change rather than a problem for the city.

The concept of slum networking works at two broad levels – slums and the city.

□ At the level of *slums* it aims at substantive up-gradation in the quality of life through engineering innovations, notably the creation of individual infrastructure and improvement in the overall ambience of the slum environment. These are combined with community development interventions for sustainability of impacts.

□ At the level of the *city*, the concept aims at making sustainable improvements to the city infrastructure and environment. Instead of upgrading slums on a slum-by-slum basis, it envisages networking of slums so that the matrix of slums becomes an opportunity for augmenting city infrastructure. This is based on the fact that watercourses, which are major locations of slum settlements, also represent the most efficient lines for infrastructure provision. Through concerted improvements in slums, sustainable improvements to city environment can thus be secured in a cost-effective manner.

Thus, the Indore project had three components: physical infrastructure, health and community development. The physical infrastructure component invariably included individual or community water supply, individual or community toilets, street lighting, paving of streets, and some amount of solid waste management. The health component focussed on preventive health care and environmental health awareness, though primary health services were also provided in many projects. The community development component included creation of neighbourhood groups, vocational training (especially for women), adult literacy, pre-school and non-formal education, and development of community saving mechanisms. Community halls were constructed for all slums in all the projects.

The projects were implemented through local bodies – either the municipal corporation or the development authority with monitoring and steering committees at the state level.

Unimpressive results

DfID commissioned an impact assessment study of the project in 1997. The results of the study appeared to suggest that up-gradation had not been the success it was cracked up to be.

Infrastructural development was at best patchy, at worst a deterioration from earlier conditions. The biggest complaints have been with respect to the water and sewage systems. To begin with, water availability is highly restricted and, as a result, most of the beneficiary slums have choked drains. The resultant filth, squalor, and contamination of whatever little water the slums receive has led to several outbreaks of disease, particularly malaria and jaundice.

Besides infrastructure problems the performance of neighbourhood groups, and the revolving funds were not in order. Maintenance of Community Halls was poor. Colour TVs were often found in private homes rather than in the Community Hall. There was evidence of considerable political hijacking. In addition, slum residents alleged use of poor quality materials and even wastage of project funds.

Flawed assumptions

It was assumed that all slum households could and would connect toilets and wet areas to the underground drainage, once that was provided. Only then would all sewage generated in slums across the city find its way into piped sewerage, eliminating the need for open drains and making way for the citywide benefit of river cleansing.

This assumption seems flawed to the extent that, as found by the impact survey, there are bound to be large numbers of slum houses in which there is really no space to clearly demarcate wet areas or build toilets. There are also cases of tenants who may not be interested in making housing investments.

A related assumption was that *loans would be made available to help slum dwellers pay the small connection charge and also to carry out the construction of the toilet*. This assumption regarding availability of credit to slum dwellers is also flawed. In Indore a substantial effort was made to mobilise bank loans for toilet construction. Eventually, however, only a limited number of loans were actually forthcoming.

Since the assumption that all slum dwellers, with or without loans, can and will make toilets if underground sewage is provided does not seem to hold, the further assumption that Slum Networking can provide a superior toilet option in a cost-effective manner also fails. In Indore only a third of the households have connected to the underground drainage. Thus effective cost per family is three times what was intended.

Underground sewage systems require large amounts of water to work. Most cities, however, including Indore, do not satisfy this requirement even if other assumptions hold. In many places, the project even installed sewage mains without installing water ones. The impact survey found that 84 percent of the total households surveyed, including three fourths of those with private toilets, did not have private water supply. In fact, in its Annual Review Report of October 1996 (very near the end of project) the IDA says, "Water connection data not available." (p.22).

Regarding soft landscaping, it was assumed that people would be willing to take initiative and responsibility. The impact survey found slum-dwellers quite indifferent towards landscaping. The landscaping was intended, among other things, to help prevent soil washing into the drainage system thereby reducing the likelihood of blockages, the absence of landscaping has probably contributed to the choking.

Reasons for failure

The major reason for failure seems to be the inability of the project to deliver a complete package of infrastructural components. One important factor was the lack of secure tenure, despite the existence of the Patta Act, in many of the project slums. This is particularly crucial since the success of the project hinges on the initiative, drive, and financial contribution made by the slum-dwellers themselves.

One example of insecurity created out of contradictory policies is the case of a centrally located riverside slum. It houses about 500 families, mostly employed as rag-pickers. Under the 1984 Act, they were granted temporary tenure rights in the slum, which was later selected for improvement under the DfID scheme. Initially this had a salutary effect on household investment. In June 1994, a cleanliness effort through community contribution was launched and people started making investments in toilet construction and shelter consolidation. In 1997 residents launched a massive community effort to de-silt the river. In July 1998 the state cabinet announced its decision to grant permanent tenure rights to all the project slums. By the end of the year, however, a riverfront development scheme had been given priority over the slums, which were now required to be relocated. It was argued that even at the start of the project it had been clear that the slum would have to be relocated, but it was decided to install infrastructure works in it nevertheless so that in the mean time people could benefit from an improved standard of living. Unfortunately this was not communicated to the people.

13. Andhra Pradesh - Visakhapatnam and Hyderabad

State legislation

Like Madhya Pradesh, Andhra Pradesh, too, has adopted tenure regularisation as a state policy. The procedures in this case are determined by the land revenue code and other government orders. Starting from 1980, house sites have been allotted to the poor, with the most recent policy of 1995 earmarking as eligible all tenants who have occupied state-owned land for over 5 years. The poorest families are given freehold pattas free of charge while others pay the market price. The issued pattas have the following characteristics: they are given in the name of women, they may be inherited but not transferred, and can be used as mortgage for housing loans.

By combining investment in housing and the legal issue of pattas, the AP government has ensured that most plots are reconstituted in-situ. The exceptions to this are slums located on 'objectionable' land – which is environmentally unfit for habitation, or essential land – which is required for some public purpose. In such a case, squatters need to be relocated. As a first step they are issued with identity cards as a guarantee of plot allotment on an alternative site. Consequently they are relocated mostly on government-owned land by the revenue department of the state government.

Thus, the Andhra Pradesh method is engaged in an integrated approach which combines tenure security with housing investment – either in terms of building new houses, or repairing existing ones. The example of Indore suggests that there is only so much of improvement that in-situ regulation can effect. If land can be made available, then relocation is a better option in terms of service provision. Also, instead of ignoring urban

legislation like Madhya Pradesh does, this state attempts to use existing laws and regulations in an innovative manner. The biggest success in Andhra Pradesh has been the scaling up of city-level practices into a statewide policy.

Unauthorised layouts

In Andhra Pradesh, unlike in other parts of the country, the regularisation of illegal subdivisions and unauthorised layouts are also a part of state policy. While in most parts of the country this is left to individual municipal corporations, the AP state government has issued a set of guidelines and regulations to these corporations and encouraged them to go on massive regularisation drives to earn funds for the municipality.

The procedure for regularising layouts was established through a 1987 order. First, the local body responsible for urban development must proceed with legal charges against illegal developers and plot holders. If penal action is not possible, then regularisation must be undertaken by suitably modifying the illegal layout or construction and exacting a regularisation charge from the guilty parties. This charge not only includes the layout approval charge, but also covers the cost of service provision – including roads with external connections, and common open spaces and community halls. The procedure does not always follow through as, predictably, people will pay for services, but are reluctant to pay regularisation and registration charges. This has led to political lobbying in a bid to get services without approval.

13.1 Visakhapatnam – An integrated approach

The slums of Visakhapatnam, or Vizag, have experienced some of the more successful upgradation attempts in India. In 25 years infrastructure and service provision has developed rapidly, mostly through a participatory process involving the community. The most impressive feature of the Vizag approach is the blending of the different aspects of slum improvement into a unified strategy: tenure security provided through regularisation programmes of the state revenue department, housing programmes of the APSHCL⁶, infrastructure development by the MCV⁷, and other programmes on varied issues such as health, education and women’s empowerment by NGOs.

Fig. 10: Types of tenure

<i>Nature of Intervention</i>	<i>People</i>		<i>Remarks</i>
	<i>Numbers</i>	<i>Percentage</i>	
Housing loan, patta, infrastructure improvement	88062	37	Housing in progress for 6334 of these
Shelter upgrading, possession certificates, infrastructure improvement	6243	2.6	
Title deeds and infrastructure	1650	0.7	
Infrastructure improvement	39877	16.8	
House site patta, infrastructure improvement	27907	11.8	Issue of house site patta going on for 2663 of these

⁶ Andhra Pradesh State Housing Corporation Limited

⁷ Municipal Corporation of Vishakhapatnam

<i>Nature of Intervention</i>	<i>People</i>		<i>Remarks</i>
	<i>Numbers</i>	<i>Percentage</i>	
Patta	12608	5.4	Of these, pattas approved for 1230, to be issued
Identity Card	205	0.1	
No intervention but other indications of secure tenure	47832	20.1	Own plot, proposed for relocation, disputed property, litigation
No intervention, no tenure security or official infrastructure improvement	13053	5.5	On private, railway and defence land, endowment land
Total slum population in Vizag	237437	100	

Source: Compiled from MCV and APSHCL records, 1999, by Banashree Banerjee

- The central element in the tenure security theme is the **patta**. The records indicate that well over 50 % of Vizag's slum population has received a patta of some kind. According to a 1995 state Government Order, all those living on government land for more than five years are eligible to apply for the patta. A committee of members drawn from the state revenue department, the MCV and VUDA, considers applications. The cases recommended by this committee receive pattas.
- At the top end of tenure security chain is the package of the patta and a housing loan.
- If the deed is mortgaged against the loan, then possession certificates are granted to the family to establish residence till the loan is paid off.
- Title deeds are specific to villages which have recently entered city limits and been notified as slums.
- Just short of the regular patta is the provisional patta awarded by the municipal commissioner at his discretion, which may eventually be made permanent.
- As an intermediate procedure, identity cards may also be issued to establish residence as of a particular date for the eventual issue of pattas.
- Finally, at least 20 % of the slum population receives informal recognition of tenure through positive or negative factors. Positive factors include political assurances, investment in infrastructure and the issue of identity cards, which establishes residence and is later used as a guarantee of relocation. Negative factors relate to poor site conditions, property disputes and litigation, all of which make the land undesirable to public or private developers, and by default, provide secure tenure to site occupants.

Relocation vs. in situ

A striking characteristic of the slum regularisation practices is that most pattas are issued on-site – on the land already occupied. A corollary of this is that most of the beneficiary slums are those on state government and municipal land. Since the authority regulating the programme and the land-owning entity are the same, procedures for in-situ regularisation are highly simplified and third party interests limited. Thus, relocation of slums on government land becomes necessary only in two cases: where the land is required for the building of essential infrastructure, and where the proposed

in-situ upgradation cannot accommodate all the original occupants. In the first case, slums on 'objectionable land' are relocated these residences to less precarious sites. Due to the spike in demand for real estate, however, the state faces an acute shortage of land. It is becoming increasingly common for the government to issue pattas on steep hill slopes, city drains and beaches.

In the latter case relocation has been limited by a policy of building two and four storey houses to replace the original single-storey housing.

- ❑ In the allocation of government land, slum clearance schemes by the municipalities are given priority. In this process, municipalities issue possession slips to the eligible squatters, which may subsequently be replaced by revenue department pattas.
- ❑ In the case of slums on privately owned land, the government first notifies the settlements it selects for relocation. These notified slums are put onto a list and, under the Andhra Pradesh Slum Improvement (Acquisition of Land) Act of 1956, the government acquires the land that these settlements occupy. Once this is done, individual pattas are issued. Private land presents a more formidable obstacle to regularisation. The process of acquiring the land under the Slum Act takes many years: the case of five slums, which was initiated in 1984, is not even halfway through. The authorities often settle for the intermediate position of a negotiated land-sharing arrangement between owner and slum community. Most slums on private land are located in inner city areas, close to places of work, and slum dwellers are naturally loath to move out. They do, however, receive some de facto tenure security through the countless litigations over ownership and boundary disputes.
- ❑ The tenure security of squatters on central government land, however, remains in a critical state, and very little has been done to improve their situation.

Tenure security, housing and infrastructure

The success of Vizag housing initiatives can be mainly attributed to the use of a three-pronged approach combining tenure regularisation, housing finance and provision of infrastructure. The standards of living in slums where in-situ upgradation has been carried out has improved dramatically. The provision of housing finance through loans from HUDCO has induced housing investment; in some cases even several times the amount of the loan.

Community development

If anything has acted as a check on the rapid real estate transactions following regularisation, it has been the formation of strong community organisations at the slum level. These neighbourhood communities (NHCs) are well organised and dominated by women. They facilitate the regularisation process, help keep the residents together, and even undertake the operation of many services.

This has created a high level of trust between the government agency and the people. Together, the municipal corporation and the community development have achieved:

- ❑ convergence of different state programmes;
- ❑ coordination between departments in implementing these programmes;
- ❑ a high degree of participation

Various evaluation studies indicate that there is not only a major investment in shelter, but an improvement in health conditions which can be directly related to this strong community base

Gentrification

The threat of commodification of land and its consequential turnover from the hands of the poor to the middle class was recognised at the very outset by the AP state government. The Assigned Lands (Prohibition to Transfer) Act of 1977 outlaws the transfer of pattas allotted and registered by the state revenue department. Another practice to restrict market driven evictions is to award pattas in the name of women, since empirical evidence suggests that women are more attracted to secure tenure rather than financial gains from real estate transactions.

Even so, the single biggest problem of an otherwise successful tenure regularisation strategy is the failure of the state government to prevent gentrification. Property values in rapidly developing and well-located areas have shot up to levels well beyond the reach of the average slum dwelling family. Many of the sales are 'distress' sales by families caught in spiralling debt traps. Others are those who sell their houses to realise more money than they could have spent in the first place. For example, in 1982, a self-help housing scheme was introduced in Ganeshnagar. Only 48 % of the original allottees were still living in their homes in 1993. 26.5 % of the houses were rented out and 25.5 % illegally sold.

13.2 Hyderabad - Land-sharing approach

In the twin cities of Hyderabad and Secunderabad there were 455 slums recorded in 1979, increasing to 662 by 1986. To improve living conditions in these slums, the Urban Community Development cell of the Municipal Corporation initiated a slum improvement programme in over 600 slums in the city in the early 1980s, concentrating upon the upgrading and installation of basic infrastructure such as latrines, water, drainage and community halls, coupled with health education and economic support activities, such as training and credit for income generation schemes.

The programme, widely regarded as a model in the field of community empowerment, was characterised by the Andhra doctrine of integrated development combining tenure regularisation, shelter construction, and infrastructure development. Above all, Hyderabad good practices with respect to laying down a clear administrative framework, official procedure, and channels of funding must be replicated elsewhere.

In fact, the only doubts raised over the sustainability of some of the improvements made under the slum improvement programme, pertained to slums where **access to basic infrastructure was not backed by housing support.**

Land-sharing initiative

To generate land for relocation and development of housing for the poor, Hyderabad has successfully introduced land-sharing schemes. All private developers of land are required to hand over a fixed percentage of the total land purchased to the state. The revenue department of the state government then allots the land to slum dwellers that are eligible for relocation. Experience shows that this is an effective strategy for alleviating the social housing problem.

14. Delhi

The land market in Delhi is marked by the dominant position of the government in the role of land-owner. Right from the drafting of the first master plan in 1960, it was agreed that the only way to solve the intractable housing problem in Delhi was for the state to establish a monopoly in land supply. Under the Land Acquisition Act, 1959, the government began acquiring large amounts of land, and disposing of them through allotments made to individual residents on a leasehold basis. Higher income groups would pay the market price for the leases while poorer households would receive subsidised housing. Transfers of the subsidised housing were to be prevented through strict regulation, at least for the first ten years.

However, the formal system has failed to cater to millions of citizens due to delays in land acquisition, development and allotment, and the prohibitively high cost of housing. The city has witnessed intensive private development outside the government monopoly in the form of informal land delivery systems. This resulted in the number of slum households increasing from fewer than 40000 in 1981 to over 250000 by the late 1990s.

The following are the different types of informal delivery systems and the official responses to their rapid growth.

1. Squatter settlements

These are encroachments on public land by the poor. Land tenure is illegal but perception of tenure varies. Provision of services is very poor.

POLICY

As of 1990, the MCD has adopted a three-pronged strategy to tackle the problem. As a first step, the unauthorised area is declared as a slum. Also called 'notification' of the slum under the Slum Act, this puts the settlement in question onto a list and provides a de facto recognition of tenure, facilitating the provision of services. Thereafter, one of the following strategies is employed:

Strategy I: Relocation of those households where the land owning agency (LOA) submits a request to the Slum and JJ Department, MCD (S&JJ) for clearance of the JJ cluster to enable project implementation in the "larger public interest". The LOA is also required to contribute towards relocation.

Strategy II: In-situ upgradation of JJ clusters. However, this is only done where the LOA issues a No-objection Certificate (NOC) to S&JJ for utilization of the land.

Strategy III: Extension of minimum basic civic amenities for community use under the scheme of environmental improvement in JJ clusters. This is done irrespective of status of the encroached land till their coverage under one of the above two strategies.

2. Unauthorised colonies

These are created by the illegal subdivision of land and are found on land owned both by the government and on private land. A few are on land notified for acquisition by the government; in some cases, compensation has already been announced and paid.

POLICY

Policy aims at regularising those colonies established before a stipulated date – which is repeatedly brought forward. This involves modifying layout, reorganising the settlement, cutting back on violations of zoning laws and reclaiming land that has been encroached upon. Also, the government intends to supply these regularised colonies with basic services. The residents are bound to pay a regularisation fee or charge.

3. Urban villages: These are rural settlements, which, through rapid urbanisation, have been swallowed up by the city. While not illegal, these are informal and largely on private land. There is heavy demand for land in these areas as regulation is not so stringent.

POLICY

The government has tried to regulate these areas by preparing development plans. These include restrictions on land use and transfer, as well as government undertakings to provide services. It has also targeted land acquisition, particularly of communal use areas.

Tenure continuum

1. Formal title to land: In the early days of the regularization process, households were granted 99-year leases on their allotments – either plot or tenement. Unfortunately, due to rigid planning regulations the plots were prohibitively large – often upto 80m² – and expensive, and attracted higher-income consumers. Consequently, there has been large-scale resale of property by the resettlers. Gentrification of the early resettlement areas has led to their interaction with neighbouring colonies.

2. Licenses to households permitting residential use of land in resettlement colonies based on monthly payment of rent and subsequent bestowal of leasehold rights: As slums burgeoned in the 1970s, resettlement with the granting of leaseholds became something of a myth. Many slums were evicted only to be resettled in 'temporary camping sites' with monthly occupation licenses, as opposed to title deeds, on plots and basic amenities. A land sharing arrangement was devised to create the desperately needed space for shelter: the DDA began to allocate 20 % of the land in all its urban development projects to this end.

In 1998, the state government once again offered leasehold rights to people already settled in the resettlement colonies in exchange for their licenses on payment of a one-off fee. The leaseholds were given mostly in the name of the couple.

The scheme, however, evoked a lukewarm response from the residents; indicating both that the temporary security was perceived to be far more permanent by the slum-dwellers than the government, and that price was deemed too high. Only a small segment of the resettled households have leasehold rights to their property. Most of them are still covered under the licensing system, although only a few pay the monthly fees.

3. Leasehold titles through co-operative societies in resettlement colonies: After 1990, the MCD has been trying to allot plots in resettlement colonies through a system of cooperative tenure. Occupation rights are given directly to a cooperative society, which in turn grants leases to individual families.

4. Licenses to co-operative societies in slum colonies taken up for in situ development: In Delhi, the emphasis appeared to shift from resettlement to in situ upgrading after the late 1980s. The beneficiaries covered were to be organized into multipurpose co-operative societies through NGOs and CBOs. Households were given the right to use the land through licenses issued to their co-operatives and each received a plot of 12.5 m² on payment of a nominal license fee. Each family could obtain a loan of Rs7500 from Delhi Co-operative Housing Finance Corporation (DCHFC), recoverable in equal instalments over a period of 15 years. However, only the Slum Wing of MCD on an experimental basis took up a few colonies for development, and the experience threw up plenty of problems. First, unauthorised selling of plots to higher-income families has not been checked. Second, landowning agencies themselves have been loath to issue approval certificates for undertaking upgrading on illegal settlements on their land.

5. Individual photo identity cards, ration cards, formal or informal document of ownership of the dwelling unit:

i) Photo identity cards issued to individuals based on official surveys establishing residence in the city on or before a cut-off date.

There are a large number of households in Delhi that possess identity cards as a result of their being listed in certain comprehensive surveys, conducted by state or local governments with the objective of covering them under a slum development programme.⁸ People with these cards would be entitled to certain plot sizes on relocation.

ii) Ration cards, voter's identity card or other documents establishing the residence of the household in the city on or before a certain date.

The legal system in the country gives importance to the duration of residence at a place in deciding about eviction and provision of alternate sites. As a consequence,

⁸ The most important among these is the survey conducted by the Food and Civil Supplies Department in 1990 for the issue of ration cards at the initiative of the then Prime Minister VP Singh.

households with ration cards, voter's identity cards feel relatively secure compared to more recent arrivals.

iii) Stamp paper receipts from the so-called owner of the plot or the prior occupant with signatures of local leaders, or legal personnel such as notaries.

Many of the households have 'purchased' land or their dwelling units from the previous resident, or middlemen, by getting the signature of the latter on stamp papers, with some local leaders standing as witnesses. These papers confirm the 'transfer of the structure of a house' following payment by the present to the previous occupant. Most of these papers have no legal validity, but enjoy a degree of respectability among the community and are even used to settle disputes.

6. No formal tenure, but perceived security existed due to the provision of electricity, water supply, sewerage: Several slum colonies have been formally covered under governmental programmes providing certain amenities, or have informal access to these through personal or political connections. The launching of a governmental programme or the extension of a service is often seen as the initiation of a process of regularization of the colony, or at least the recognition of the possibility of its becoming regularized in the near future. Conversely, at camps like the Sonia Gandhi Camp at Smalkha (SCS) and Indira Camp behind Safdarjung Hospital (ICH), levels of basic amenities are low, and confirm the residents' suspicions that they can be evicted at any time

7. Other incidental factors that influence tenure security:

i) Connections with the local leaders, councillors and functionaries of political parties: Many people in the slums have linkages with important personalities in the locality or the local governments and often act as conduits to the vote bank. As a consequence, they have access to amenities provided by public agencies. This gives them a feeling of security against eviction.

ii) Location of slum: prime area and neighbourhood conflict: If the slums are located on land that is likely to be taken up for certain planned activities such as road construction or commercial complexes, households will feel less secure. Similarly, within the colony, people residing in houses that are encroaching on roads, or overlooking a railway track or formal housing colony feel more threatened by eviction.

The case of ICH in Delhi may be cited in this context. Here, the inhabitants feel threatened because of the plans for expansion of the circular ring road, which passes through the colony. Police come to the locality every now and then, increasing their level of insecurity. In the past, the courts have given stay orders on many of the developmental works, following suits filed from the slum.

A similar situation exists in SCS. Here, a large percentage of the people feel the threat of eviction due to their constant conflict with the thakur community in the nearby village. Azad Camp in Sarita Vihar (ACS) is yet another slum where the feeling of threat is high due to the imminent construction of a flyover. Still another example of high insecurity would be Part III of Srinivaspuri Camp (ICS). People here feel vulnerable because the

colony has encroached on the road connecting the circular ring road and the nearby DDA flats. Unlike phases I and II, all the houses in this phase are of katcha construction

iii) Public & Private Land: People occupying private land feel relatively secure compared to those on public land. This can be largely attributed to the legal process of slum eviction, which for a private agency is not only highly cumbersome, but, because the LOA has to bear 70% of the costs of relocation, very expensive. As an example, due to ambiguity regarding the land-owning agency, the Smalkha slum colony enjoys a high level of security, which manifests itself in the conversion of katcha structures to pucca and semi-pucca houses.

Criticism of policy

Despite the three-pronged strategy, Delhi has been less successful than many Indian cities in providing housing for its people. The biggest problem is the lack of unity or purpose and any clearly defined slum or housing policy. While on the one hand, the government might attempt to provide tenure through the regularisation of illegal settlements, the Supreme Court often cracks down on any violations to urban legislation such as the city master plans. If it resorts instead to relocation, all of the resettlement colonies invariably violate standards regulating plot size, services and zoning. The end result is a parallel housing delivery system with highly varying degrees of security of tenure. This has serious repercussions on the level of housing investment and the success of community based projects.

Where the resettlement colonies are uncontroversially established, experience shows that land values have spiked so dramatically that illegal transfers take place in large numbers. To restrict this practice, the government has resorted to cooperative tenure, and occupation license tenure with no transfer rights. This has not managed to dent the market for real estate transfers, however.

The Slum Wing – the agency entrusted with the resettlement and/or upgradation of squatter settlements – is a hamstrung body continually caught between the overlapping and sometimes conflicting powers of the DDA and MCD. The implementation of improvement schemes has been poor with inefficient use of resources. It is, today, incapable of scaling up any of its pilot projects to citywide practice. It must be armed with the necessary powers to fulfil its mandate, as a part of the local municipal authority as per the 74th Constitutional Amendment Act.

Attempts to crack down on unauthorised constructions have been remarkably unsuccessful. Only 5 of Delhi's targeted 800 illegal colonies have been entirely regularised with respect to layout, lease terms, services, facilities and the payment of charges. People are reluctant to pay the high regularisation charges, and plots continue to be transferred illegally. Most of the areas lack basic services.

In urban villages, while the government has succeeded in improving service provision to these areas, tenure has remained largely out of the control of the DDA, as it has been unable to acquire most of the land.

A major policy shift in recent times has been to liberalise the housing and land markets. First, private builders have been allowed to enter the market. Through private-public

partnerships, housing for the poor will be taken care of through cross subsidies: private developers are required to sell 20% of their plots at a subsidised rate to the low income group. Second, the government has decided to permit leasehold owners to convert to freehold owners – with full freedom to transfer land – in exchange for the payment of a charge. In fact, the government has even begun to recognise the controversial power of attorney transfers. In addition, the new resettlement areas and proposed layouts for unauthorised colonies relax the earlier restrictions on plot size, and make housing more affordable and attainable.

However, access to basic services and credit remains limited. Whatever services are provided are at highly subsidised rates, straining the infrastructural capacity of the city. Conditions of regularisation continue to be violated and plots are commonly resold.

15. Ahmedabad

Attempts to improve land tenure security in Ahmedabad have been largely city driven initiatives, with no overarching state government policy directing these efforts. Also, unlike many other urban centres in the country, much of the land is privately owned. Such a lack of ownership rights vested in local authorities or the state government is expected to pose difficulties in giving titles or formal occupancy rights to slum dwellers, and so, creates a very different challenge for policy makers.

There are two dominant types of low-income residential areas found in the city: residential units in chawls, originally built on the textile mill premises for workers, and slums that represent illegal occupation of marginal areas of the city. The chawls were the earliest form of low-income housing in the city, and, as a result of rent controls, have deteriorated rapidly. Recent urban growth has largely taken place in peripheral areas, where illegal occupation of vacant private or government land has led to the growth of slums. These typically lack facilities and basic amenities and are found along riverfronts and in low-lying areas.

Relocation

Ahmedabad has been a slow growing city and the threat of eviction of squatters was never very great until recent years. It was only in the 1970s, when, in response to a flood, the government launched the **Integrated Urban Development Project (IUDP)** and created a temporary resettlement colony to house the dispossessed. Subsequently, houses were built under the IUDP on a plot 29 m² (292 ft²), and allotted on a freehold basis. Services such as tap water and electricity were provided to each house. Importantly, the beneficiary families were involved in the project at every stage, from planning to implementation.

In-situ upgradation

In 1984, as a part of a World Bank sponsored programme for urban development, the Ahmedabad was tasked with acquiring land under a **town planning scheme** and granting tenurial rights. The slum dwellers registered under the 1976 slum census were eligible for the allotment of plots and improvement loans from commercial banks. They were charged the cost of development and made to pay a betterment tax for providing improved roads, drainage, street lighting and other facilities. The scheme ran into

difficulties because of obstacles in land acquisition, as about 70 per cent of the slum population in the city were occupying private land. As a result, only 17 slums covering about 4000 families could be taken up for upgrading, and those too with enormous delays. The scheme was implemented during 1990-93, with a reduced outlay of Rs40 million against the expected figure of Rs460 million.

An innovative participatory approach to urban development in Ahmedabad, the **Slum Networking Project** (SNP), was launched in the early 1990s and has been hailed as a major achievement. This project was a continuation of the slum working project first initiated in Indore and the concept has already been elucidated in these pages. Since ownership rights to the land on which the beneficiary slums were situated are either held by private owners or are ambiguous, the Ahmedabad Municipal Corporation (AMC) has given an assurance to the slum dwellers that they will not be evicted in the next ten years. Pravinagar-Guptanagar Phase I (PGN) is an example of a slum located on private land belonging to a number of self proclaimed owners. The majority of the settlers possess some kind of stamp papers, signed by so-called owners, local leaders, and notaries, which may not stand up in court. Nonetheless, the AMC announcements have reassured the slum dwellers to the extent that housing investment is higher here than in most other slums.

Existing levels of tenure security

1) Formal title to land : Formal land titles were given to households in Ahmedabad until the mid-1980s but there were a few who got land titles through the in situ upgrading project of the World Bank as late as the early 1990s.

2) Licenses to co-operative societies in slum colonies taken up for in situ development: The households in slum pockets covered under the SNP project in Ahmedabad have obtained the right to the residential use of land through the license issued to the Association of Residents by AMC for a period of ten years. No individual has any document whatsoever indicating his or her ownership, even for a limited period. However, the registration of the households with the associations that have the certificate has given quite a high level of tenure security among the people.

3) No formal tenure, but perceived security existed due to the provision of electricity, water supply, sewerage, and non-binding assurances by the AMC: The most successful upgrading of slums has taken place under this form of tenure security. Several slum colonies have been formally covered by the SNP and the provision of services has extended a perception of security to the poor.

Gentrification

The conversion of temporary houses into permanent structures, coupled with land tenure security, has led to higher rental values. Despite this, there has not been much displacement of the original inhabitants. Since the AMC did not give licenses to individuals, the risk of land changing hands was minimal. In a survey, it was found that over 95% of the original residents were still residing in their homes four years after the SNP was launched (Kundu 1999). Community networks built by setting up committees at the locality and street levels has helped in this regard. In some cases, old tenants do not mind paying higher rents because of the improved standards of living and security of

tenure. For example, the rents of the single-room houses have increased by about three times in PGN, but the displacement of tenants has been limited.

Subdivision and fragmentation

A large-scale subdivision of plots and an increase in the number of dwelling units are observed in many cities where the 'license to use the land' has been given to slum dwellers. This occurs because adults other than the head of a household claim additional plots, taking advantage of the tenure security. This has been noted only to a small extent in Ahmedabad due to the limited issuance of the license.

Impact of security

It may be noted that despite years of residence, over 85 per cent of the households in the non-SNP colonies in Ahmedabad have not built *pucca* structures. Conversely, in SNP colonies the percentage of *pucca* houses is over 90. This unmistakably reflects the impact of perceived tenure security on investment in housing. Within three years of the launch of the SNP around 80 per cent of the houses in PGN have been upgraded, leading to conversion of *katcha* units to *pucca* houses. About 5 per cent of the households have added a room, resulting in an increase in their plot size from about 20m² to 60m².

With perceived tenure security, CBOs have emerged and made investments in improving amenities. Here, the SNP project has offered assurance against eviction for a period of time and envisages the provision of many of these amenities under its physical improvement component. Each household, for example, has toilet, water and sewerage connections. At the local level, road development is undertaken. In accordance with official requirements, Rs6000 is spent per household for physical improvements, the amount to be shared equally by the individual beneficiary, AMC and a private agency involved in the project. Understandably, none of them would have come forward to commit their resources had there been no tenure security.

Maintenance of the amenities is also linked with tenure security. In the SNP slums of Ahmedabad, the result has been improved maintenance. Rs.100 per household has been collected and retained at the community level. It is expected that the interest accruing from this money will meet the cost of maintenance, at least partially. The discussions with local NGOs, and slum leaders reveal that the assurance from the AMC has been extremely important in building awareness and group feeling. This is a major factor behind the households paying all their dues.

Some of the improvements have been entirely community-driven and supported by NGOs and CBOs. For example, the SNP only provides street lighting and not individual electricity connections. However, through a community-organized initiative, households have been able to obtain their own connections with a one-time payment to Ahmedabad Electricity Corporation (AEC). The necessary amount was deposited with the AEC within a very short period. This is because the residents believed that besides the advantage of using electricity, getting a connection would reduce the risk of eviction. They consider electricity bills to be a proof of their residence, usable in a court of law. In other words, the electricity connection greatly enhanced the perceived security among the slum dwellers.

Availability of credit

In several other projects, people have been unable to upgrade their houses for the simple reason that they do not have enough funds. The possibility of securing loans from the financial institutions has been low and consequently they have been forced to borrow from moneylenders. This has put households in serious debt traps and resulted in their being dispossessed of land. Improvements in the dwelling units in the SNP areas, however, have been possible largely due to the availability of loans provided by the SEWA Bank. Securing loans is not a problem under the SNP as the provision of credit through community networking is fundamental to the project.

Problems

Upgrading attempts have, so far, been greatly dependent on donor funds. Suggestions to increase the contribution of slum dwellers to the development projects to at least 50 % of costs have been floated and are being taken very seriously by the AMC. Although successful where implemented, the SNP only covers 24 of 1000 slums in Ahmedabad. This is due to the lack of clarity with respect to ownership of land in large parts of the city, as well as the largely private nature of ownership. Bringing even these slums under the coverage of the SNP has attracted extensive litigation and this problem will continue to dog the AMC in all its attempts to upgrade other areas.

16. Mumbai

Mumbai, within an area of 437 sq. kms, accommodates 12 million people, well over 50 per cent whom live in informal settlements or slums. These slum pockets, spread throughout Mumbai, have reasonably developed infrastructure in their neighbourhoods and are usually located adjacent to developed housing colonies and industries. Incidentally, the slum settlements, more than 50 per cent of which are on privately owned lands, occupy only 6 per cent of the total land area of Mumbai, signifying the extremely high density of these settlements.

There are three broad types of tenure arrangements in Mumbai, namely, tenancy, ownership (freehold and shareholding) and leasehold. A variance in the system of tenancy is the "pugree" system, which involves a mutually agreed upon, illegal transfer of tenancy rights.

Interestingly, even in land-scarce Mumbai, the problem of housing is said to be that of affordability and not availability. The city is said to be entangled in the paradox of three As: Affordability, Availability and Acceptability

- The housing stock that is available in plenty conforms to the acceptable building by laws but is not affordable to a majority of the population.
- The informal dwelling units that are also available and affordable too are not acceptable to the local authority.
- The challenge therefore lies in creating a synergy where shelter becomes available, affordable and acceptable.

The prohibitively high rents and prices of houses limit the housing options available to the urban poor to squatting on vacant land (including pavements and already congested slums) or participating in the social housing schemes of the state. It is by increasing the coverage of such schemes and relaxing their eligibility criteria that the government attempts to tackle the issue of inadequate housing for the urban poor in Mumbai.

The first attempt made by the BMC to regulate and formalize all housing in the city was in the form of a legally binding title deed, known as **vacant land tenancy** (VLT) in 1956, after relocating families from prime areas of South and Central Mumbai to open patches (15 x 20 feet) within the Janata squatters colony, Jogeshwari. These were governed by strict regulations, none of which were easily enforceable, and were constantly violated. Subsequently, innovative approaches were adopted, with suitable legal changes made. A summary of these legislative measures and housing initiatives are tabled below:

Fig. 11: Programs for Social Housing Applicable to Mumbai

Fig. 11: Programs for Social Housing Applicable to Mumbai			
Scheme/ Program	Main Features	Criteria for Eligibility	Additional Comments
1. Rehabilitation of Slum Dwellers	Aims at providing an impetus for private landowners and for slum dwellers to redevelop existing slums. FSI has been used as an instrument for promoting housing for the poor.	Inclusion in slum census of 1976, Possession of a photo pass as provided by the BMC, enlisted in the electoral rolls of 1980 or 1985.	Tenements provided at a subsidized cost and land made available on a thirty year lease basis.
2. Prime Minister's Grant Project (PMGP)	Objectives were of slum re-development, improvement and urban renewal, including provision of water, public toilets and elementary schools. Tenure security was provided to dwellers on government, BMC, MHADA lands.	The allotted fund of Rs. 1 billion was to be dedicated to the areas of Dharavi and the reconstruction of dilapidated buildings (pre-1940) of the Island city.	Apartment units in Dharavi are relatively high priced which may prevent the benefits of the scheme from reaching those it was targeted at.
3. Bombay Urban Development Project (1985)	Implemented by MHADA and one of the largest urban development projects funded by the World Bank. Aims at providing affordable shelter to the urban poor based on mechanisms such as differential pricing, full cost recovery and replicability. Consists of two operational components known as the Slum Upgrading Program and the Land Infrastructure Servicing Program. Other aspects of the program related to technical and administrative assistance provided to the local government.	The Land Infrastructure Servicing Program aimed at providing serviced sites for EWS and LIG groups, while the poor are expected to construct their own houses through individual efforts, mutual self-help or the employment of small contractors. Plots are priced through internal cross-subsidy and allotted through lottery.	The Slum Upgrading Program aimed at reaching 100000 households but has proved only partly effective. The first part of the project involved granting of tenure provisions to encourage housing investment. The second part of the program had an initial target of providing 40,000 serviced sites, later revised to 52200. The actual average yearly supply has been around 5,000 units: a backlog of 40000 houses in the city.

Fig. 11: Programs for Social Housing Applicable to Mumbai

Scheme/ Program		Main Features	Criteria for Eligibility	Additional Comments
4.	Reconstruction of Cessed Buildings	Under provisions made under the Bombay Rents Act and PMGP, incentives were provided to the developer and builder through the sale of extra developmental rights, and to tenants in the form of collective ownership of the reconstructed structure (co-operative society).	17000 buildings were identified for repair or reconstruction.	The ownership related incentive for tenants may provide temporary momentum for reconstruction but does not ensure maintenance. FSI related incentives to builders should not override primary aim of rehousing existing tenants.
5.	Slum Redevelopment Scheme (SRD)	Initiated in 1991, by the State govt, the SRD looked to increase private sector involvement in social housing through incentives of cross-subsidy, increased FSI, and transfer of Development Rights (TDR)	To provide houses to 5 million slum dwellers.	Overestimation of the interest of developers in taking up work on slum lands. Desire on the part of the High and Middle Income groups for spatial barriers separating them from LIG families has led to a reduced attraction for such units. Lack of trust between the builders and slum dwellers has also
6.	Slum Rehabilitation Scheme (SRS)	A revival of the Slum Redevelopment Scheme in 1995. Main features are on-site relocation, cross-subsidization. Finance for the scheme was to be mobilized through the utilization of legal and administrative provisions. The State government also floated a corporation – the Shiv Shahi Punarvasan Prakalp Limited	Slums occupied prior to Jan 1, 1995 were regularised	Criteria for eligibility do not include ration cards and birth certificates as proof of residence. Inadequate coverage of the homeless; high-density settlement without matching provision for infrastructure, informal work activities and social amenities. Participation of slum dwellers not sought in the preparation of policy.
7.	Access to Housing Finance	For individual loans, predetermined criteria in the form of certificates, approved plans, guarantors, are accepted. An alternative method is the provision of a loan jointly to an organized community group. Major actors are HUDCO, LIC and HDFC.	The HUDCO allocates 55% of its sanctioned loans to EWS/LIG families. Projects are financed through cross subsidies and differential pricing, whereby the Middle/High income groups are provided with housing at the market rate that subsidizes the investment made in the lower priced houses for the poor	Poor prevented access to individual loans due to inability to produce documents such as life insurance policy or proof of income. Nationally established norms for eligibility for Housing finance do not account for the elevated prices of housing. One proposal to resolve this discrepancy is the setting up of a Revolving Fund with the effect of ensuring accessible housing finance for the urban poor. Not a foolproof method for financiers due to possibility of inadequate variation between the costs of construction and the money paid per HIG unit, inadequate number of HIG investors.

As far as urban tenure security and housing conditions are concerned, Mumbai has been prolific on certain fronts where the rest of India has been largely inactive or unsuccessful. The instances detailed below show that Mumbai's relative successes are largely due to the following factors:

- The Slum Rehabilitation Authority (SRA)
- The National Slum Dwellers Federation (NSDF), a people's organization.
- Co-operation between Government, SRA, NSDF, NGOs and slum-dwellers
- Co-operative Housing Societies
- Housing Credit from HUDCO and World Bank
- Most importantly, there is a law in place in Maharashtra, which gives people residing in structures that have come up prior to 1995, the right to be rehabilitated in-situ or the right to be resettled and relocated in case the land they occupy is required for a public purpose. This provides legal security from forced evictions.

Community planning - the resettlement of Bhabrekar Nagar

The formation of people's organizations for the negotiation of rights with the government on one hand, and the management of community resources on the other, has been the guiding principle of the community action process. Housing cooperatives of 15-20 families each are seen as the nuclei for the management of infrastructure and services. These groups support the development of housing and infrastructure, through capacity building of members, liaisoning for access to government finance schemes and the formation of savings groups.

The demolition of Bhabrekar Nagar in June 1997 resulted in the forced eviction of 12,000 families who won the right to resettlement only after a prolonged battle against the authorities. The State government allotted vacant land, three kilometers away from the original site, for the resettlement of 732 eligible families who received 150sq.ft each. The government also committed Rs. 9.8 million for the development of civic amenities, including transport. Further, the plan proposed individual amenities for each household in contrast to the government norm of providing shared facilities to slum communities. It also envisaged the reorganization of houses into clusters of 20-30 households as opposed to the characteristic linear allocation of plots that restricts interaction among households and prevents the development of a sense of community.

Community Action Planning was emphasized in the period of resettlement. The process of planning for housing and the utilization of allotted land involved the community to a great extent.

The Kanjurmarg Experiment

In the late 1990s, a remarkable effort saw 900 families, who were living on land owned by the Indian Railways, get resettled in Kanjurmarg. The State government provide the land, the Railways paid for infrastructure and an alliance of the NGO, SPARC (Society for Promotion of Area Resource Centres), and a people's organization, National Slum Dwellers Federation (NSDF), was tasked with the implementation of the relocation.

Loans were organized, houses were built and people shifted in record time. The entire operation was coordinated by SRA (Slum Rehabilitation Authority).

The Kanjurmarg experiment became the basis of a two-stage relocation and resettlement strategy adopted by the Government of Maharashtra and the World Bank in the Mumbai Urban Transport Project (MUTP). Under this, more than 10,000 families were resettled in 2000-2001 without the use of any municipal or police force. MUTP funds paid for the accommodation for these project-affected-households.

17. Shillong: An example of customary tenure

While much of the focus on insecure tenure in India is directed at slums and unauthorised constructions, a situation where the traditional system is in wide use but not endorsed by the law also leads to chronic insecurity of tenure. Traditional or customary tenure systems, widely prevalent in sub Saharan countries, are those where the community administers land and use rights are allocated to individuals. Though socially accepted, these tenurial systems often fall outside the formal land delivery system; social definitions of occupation rights clash with legal ones and create conflict between the administration and the community.

In India, customary systems are restricted to tribal pockets in the Northeast. Although there are indigenous peoples in Bihar, Kerala and Madhya Pradesh as well, in these states government policies have largely superceded tribal systems. In the Northeast, however, there are over a hundred tribes, which are further divided into sub-tribes, each struggling to follow their own tenure systems within a government imposed policy framework.

Shillong: Parallel administrative systems

In Shillong, as an example of a northeastern urban city, a parallel multi-level system of land administration has emerged. The 3 main categories of land ownership are:

- ❑ Government land:
- ❑ Community land;
- ❑ Private land that is further divided into clan land and individual land.

The city is segregated into zones: there is the area where all laws and acts of the government apply, both in theory and in practice, and mostly consists of areas acquired by the British and formally transferred to the Indian Union. These include administrative zones within the municipal limits. There is a cantonment area that has select laws and access rights. Then are town areas and urban agglomerations, which are also covered by formal laws of the Municipal Board, but contain, scattered within them, at least 200 tribal localities that follow some form of customary tenure.

Limited land registration

With the inclusion of ambiguously titled land under municipal limits, local authorities are trying to promote formal registration of land with the Revenue Department. The tribal people are, however, largely suspicious of the Municipal Board, which is viewed as a

land grabber, seeking to usurp their land for development purposes. As a result, most of these tribes are loath to register their land in the face of increasing urbanization. Instead, they function on their own system of pattas issued by a community council headed by the tribal chief. The council is widely held to be the custodian, though not the owner, of the community land; and the pattas it offers are informal documents, sometimes even verbal agreements. Perception and widespread practice make this informal land delivery system more reliable, stable and secure, as far as the community members are concerned, than the formal titles issued by the government. The problem, of course, is that the local authorities do not recognise these documents. In any kind of litigation, government policy supercedes all customary rights, and the two systems come into conflict.

Inhibited development

This ambiguity of ownership has particularly serious repercussions on the initiation of development projects, which depend greatly on perceived security of tenure. With no formal mapping of land, registration or records, urban planning institutions like the municipal board are reluctant to develop the new areas. Master Plans are drawn up but rarely implemented; a new township in Shillong is a case in point. The government stubbornly adheres to the idea that ownership issues must be settled before any kind of infrastructure can be built. Private-public partnerships are limited because of ambiguities over the ownership of land.

The land markets themselves are barely commercialised. The Land Transfer Act of 1971 prevents the sale or transfer of land in certain areas to outsiders, and, in some cases, non-tribals. The only transfers of land that take place are those between different tribal communities, which are not always equipped to invest in infrastructure projects. The little development that does take place is through the issuing of illegal leases, which adds another dimension to an already complex land ownership structure.

Success of community-based projects

Even so, the most successful infrastructural development projects have been community-based initiatives. Within an easily recognizable system, people are far more likely to hand over land to the community council, which makes all decisions with respect to its development. Outside the municipalities, the community itself has provide most of the roads, street lighting, drainage, and other infrastructure services. Funds for development are raised by the community, which, in fact, takes stern action against difficult members, submitting to social ostracism those people who refuse to contribute financially to a development initiative. In the space of twelve years prior to 1999, the government succeeded in implementing 12 projects, compared to 261 projects that were carried out by the communities themselves.⁹

Policy measures

The eventual objective of any policy must be to create self-sufficient communities though the provision of tenure security. The need of the hour is to integrate the traditional system within the larger framework of the legal system. Since the biggest tenure

⁹ Lyngdoh, 1999

problems in Shillong arise out of a lack of title records, an attempt must be made to create a formal registration system within the customary settlement. Since people are reluctant to register their land with the municipality, the community council headed by the chief must be made responsible for maintaining a detailed and accurate land records system. This is necessary not only because large chunks of land fall outside the purview of local authority but also because of the diversity in tenure systems within the different tribes. Reform commissions must be set up to guide the councils in completing this process.

As a result, not only will the security of tenure increase, urban planners will be better equipped to direct development. Again, the role of the communities themselves must not be ignored in this context; with financial support they must be involved in the development process until they are capable of building and maintaining infrastructural facilities for their own members.

18. Other States

Rajasthan

In 1971, the Rajasthan state government introduced a system of regularization of tenure. Starting with Jaipur and moving on to 146 other municipal towns, squatter settlements have been regularized, mostly through in situ upgradation. Slum dwellers are granted 99-year leases at different prices available to different income groups. The regularization process is not programme driven, but an ongoing function of the revenue department of the state, which sets annual targets. Between 1982 and 1995, 7 million people were covered.

Orissa

With the passing of the Orissa Government Land Settlement Act in 1962, tenure rights have been granted to slum dwellers both on a freehold and licensed basis. Unlike in Rajasthan, tenure is granted on a case-by-case basis, and directed by specific government orders. To prevent displacement transfer of plots has been restricted and land use is also under strict control. The Act is theoretically applicable throughout the state but has been implemented only in five cities. The biggest problem is related to ownership of land: Settlements on private land have not been regularized, and nor have those in sensitive areas such as canal banks. The state is currently under pressure of intensive industrialization, which has increased displacement.

West Bengal

West Bengal has no statewide policy of regularization. However, the Calcutta Thika Tenancy (Acquisition and Regulation) Act of 1981, amended in 1994, represents an innovative approach towards provision of tenure security, specifically aimed at protecting rental tenants. The act covers *bustees*: settlements with a distinctive three-tier arrangement, wherein, *bustee* dwellers, or *bharatias*, rent space in huts built by *thika* tenants on land leased to them by land owners. The act protects *bharatias* against eviction by legally recognizing their status. Under this act, land can be inherited but not alienated. Under the Premises Tenancy Act, *bharatias* are assured of private water supply and metered electricity connections.

Another kind of squatter settlement peculiar to Bengal is the refugee colony, inhabited largely by political refugees. These are mostly situated in peripheral areas, on marshy or agricultural land. The land has been occupied either in the form of organized squatting or through the purchase of informal use rights from the owner. Most of these refugee colonies have been regularized in situ and provided with subsidized services.

Tamil Nadu

Tamil Nadu has adopted a programme-specific approach towards regularization. Under the Madras Urban Development Project (MUDP) and Tamil Nadu Urban Development Project (TNUDP) - both World Bank funded programmes – *pattas* have been issued in the form of lease/sale deeds. Unlike in other parts of the country, home-based economic activities are permitted by the deed. Additionally, upgrading of the slums is undertaken and the costs incurred are recovered from the beneficiaries. These programmes have covered 150000 households.

One innovative approach adopted by the state government relates to regularization of unapproved layouts. Chennai, for instance, has a large number of illegal layouts in scattered locations, particularly on its periphery. The guided urban development (GUD) component of the TNUDP aims at checking these layouts by increasing competition in the supply of cheap plots. Small developers are encouraged to develop layouts in accordance with guidelines issued by the Chennai Metropolitan Development Authority (CMDA). The CMDA buys land reserved for common facilities and roads as well as plots for low income housing, while the developer can sell the remaining plots for housing and shops in the market. However the scheme has not attracted a great response, probably on account of lengthy procedures, lower profit margins, and higher plot prices compared to unapproved layouts.

19. Implementing a tenure regularisation policy

1. *Land management responsibilities must be decentralized* and, in accordance with the 74th Constitutional Amendment Act, urban municipalities should be tasked with formulating appropriate land use policies.
2. The *legal recognition and protection of secure tenure* is one of the first steps towards protecting marginalized sections of society. Categorization of settlements as legal or illegal should be replaced, as far as possible, with formal or informal.
3. *Protection against evictions* is a prerequisite for the integration of irregular and informal settlements into urban life. A stop to forced relocations should be announced, where they are currently a part of policy.
4. *Survey all extra-legal settlements and identify those that need to be relocated* - in areas subject to environmental hazards, or required for strategic public purposes. These should be subject to review by independent experts. Offer residents of all such settlements priority for relocation to sites that offer equally close access to existing livelihood opportunities and services. Temporary occupation permits should be provided for a limited period till the relocation may be effected.

5. *Designate all other extra-legal settlements as entitled to other forms of secure/intermediate tenure* with increased rights, but not full titles. Occupation licenses have proved to be a successful alternative as they provide the necessary perception of security without attracting intensive rural migration. Where possible, the precise form of such tenure and rights should be based on tenure systems already known to local communities. This will:
 - a. Allow such areas to receive services and environmental improvements through a participatory process
 - b. Increase security without stimulating rapid increases in land prices,
 - c. Provide urban development agencies and communities with time to develop a range of viable and acceptable alternatives.

6. *Make legal provisions for and implement processes of adverse possession* – which is the allocation of property rights, following the continuous and peaceful occupation of land over a certain period of time. However, case-by-case court procedures are time-consuming processes, requiring the advertising of the adverse possession to establish legal claimants to the land, and involving the intervention of numerous lawyers.

7. *Explore innovative land management techniques* to facilitate tenure regularization of informal settlements. Provision of property titles should only be a long-term policy objective.

8. *Promoting community ownership and group titling* is an important option, where:
 - The title to the land is held by trustees, and individual members hold leases;
 - The community's focus is on resource mobilization, land acquisition, obtaining official permits, and getting the authorities to provide infrastructure;
 - With no surveys for individual plots, land acquisition costs are cut;
 - Local management of the settlement is in the hands of the community.
 - It is possible to control transfers and discourage speculation.

9. Secure tenure alone cannot address the needs of the urban poor, but must be accompanied by the *provision of basic infrastructure and services*. Conversely, provision of basic infrastructure and services requires some form of secure tenure.

However, the provision of security and services will generate market evictions from informal settlements, unless:

- a. **Projects are implemented incrementally**
 In Namibia, for instance, first, a simple, affordable *starter title* is allocated, that may be upgraded to a *landhold title* and then to a *freehold title*, in accordance with the needs and resources of individual households and the processing ability of the administration.

b. **Executed through a participatory process**

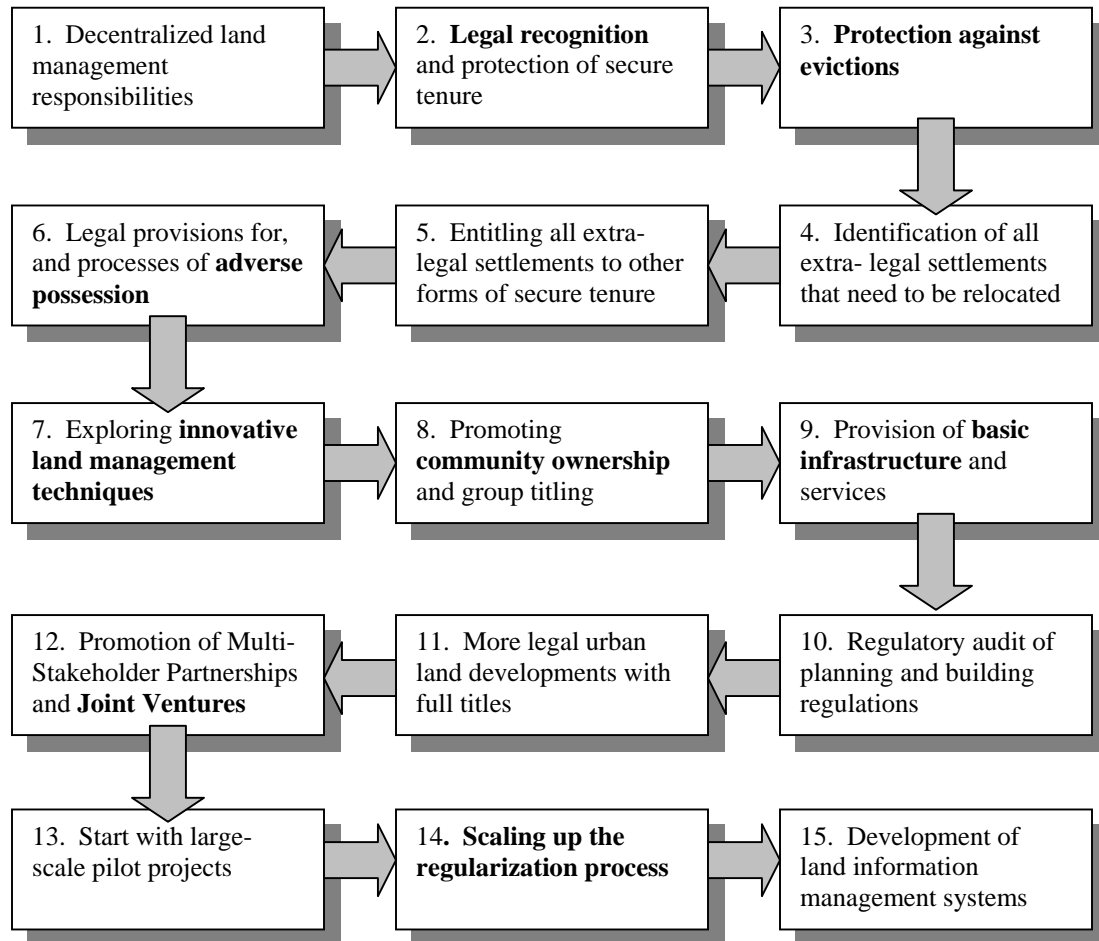
Community organization is essential for the successful implementation of any tenure-upgrading project. Decades of grandiose housing schemes have yet to come close to the efficacy, energy and urgency displayed by the poor themselves. Most governments do not have the resources to provide housing for all, nor can the formal private sector be expected to deliver. Hence, an enabling strategy must be deployed in the provision of shelter.

c. **Accompanied by poverty alleviation measures**

Primary among these measures is the provision of *housing finance and micro-credit*. Some of the most successful poverty reduction and housing credit models have been based on the poor organising themselves into savings collectives and accessing micro-loans from a rotating fund.

10. Simultaneously undertake a *regulatory audit* of planning and building regulations, standards and administrative procedures to identify options for reducing costs and time required for developing legal shelter options.
11. *Increase the supply of legal urban land developments* with full titles and other tenure options in a range of locations and prices to suit the needs of different socio-economic groups.
12. Promote *Multi-Stakeholder Partnerships* (not just Public-Private Partnerships) and *joint ventures* to extract a public benefit from private sector investments; and also help generate internal cross-subsidies to facilitate low-income access.
13. Start with *pilot projects* at as large a scale as possible.
14. *Scaling up* the regularization process is the biggest challenge so far. It requires:
 - a. A unified strategy at the national and municipal levels of government;
 - b. An appropriate and compatible legal and regulatory framework at both the national and municipal levels;
 - c. Financial resources and mobilization mechanisms (financial mechanisms adapted to the resources and needs of the populations concerned);
 - d. Political will and continuity
15. The development of *land information management systems* can supply some kind of tenure security by providing legal evidence to support people's claims of adverse possession or protection against eviction. Whenever possible, land records and registration must be carried out by municipal governments, rather than being centralized at the national government level. Also, the system of land records should be open to the public.

Fig.12: Implementing a tenure regularisation policy



20. Conclusions

A perception of tenure security has a significant bearing on investments in housing, basic amenities and quality of life. Empirical data suggests that the poor are both willing and able to invest their limited savings in housing and basic amenities when they get some kind of assurance, formal or informal, against eviction.

Besides this, perceived tenure security in slums also encourages CBOs, NGOs and even private agencies to launch infrastructure development projects such as construction of pavements, community toilets, sewerage and water lines. Even the management and maintenance of the basic amenities becomes better when informal land security is provided at an individual or group level. With the granting of licenses, even for a short period, co-residents of a slum immediately feel a part of a community rather than 'co-passengers in a night coach'. Since they are mostly organized and run by women, CBOs also empower women by elevating them to decision-making roles. They are also extremely useful for raising finances and improving micro-credit flows.

However, the support of the government in the form of guarantees of security of tenure seems to be sorely lacking. In a sharp reversal of trend from the pro-poor attitudes of

the 1990s, court orders post-2000 have taken a very hard line on irregular settlements. With large-scale evictions making a comeback, the perception of security of slum dwellers has been shattered. Social and political connections, identity cards proving residence of several decades and a host of semi-legal documents cannot stand up in a court of law. This has discouraged further investment in housing and amenities, and led to deterioration in the quality of life of slum-dwellers. Cities are rapidly becoming exclusive metropolises, which have no space for the poor. In the face of evidence that slum dwellers are capable of improving the micro-environment on their own, if only some kind of informal security is granted, this new hardened attitude must be re-examined.

Formal titles to land in the past have exposed the slums to market forces and further marginalized the poor by pushing them to city peripheries. Furthermore, formal tenure tends to attract massive inflows of population from outside the area, as opposed to the occupation license. On the other hand, intermediate tenure, such as the temporary licenses, or even informal assurance against eviction has led to growth of informal settlements in and around regular colonies. It has also facilitated substantial investments in housing and amenities in these settlements. If the government desires that households, communities and NGOs step up to the crease and invest in housing and the local environment, then it must create a supportive environment through appropriate policy.

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