Chapter 4: Strategies that improve tenure security
Lack of secure tenure can reinforce the vulnerability and disadvantages experienced by already disenfranchised groups. Strengthening poor people’s land rights and easing land transactions set in motion a wide range of social and economic benefits, including reducing poverty and empowering women and other marginalized people. However, special attention must be paid to safeguard the rights of vulnerable groups, including the development of pro-poor, pro-gender sensitive policy framework and programs.

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

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

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

**Building political will**

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

*International response and pressure*

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

- In 1990, the U.N. Committee on Economic, Social and Cultural Rights (CESCR) issued the first declaration that a state party violated the International Covenant on Economic, Social and Cultural Rights, declaring that the Dominican Republic had violated internationally recognized housing rights. The CESCR has made similar decisions on other countries since then.
- In 1997, the CESCR’s General Comment No. 7 on forced evictions significantly expanded protection against eviction.
Chapter 4: Strategies that improve tenure security • Shelter Report 2008

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

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

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

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

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

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

Examples of tenure work

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

National government commitment and action

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

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

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

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

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

USAID also has worked in post-conflict countries like Afghanistan to resolve issues around secure tenure. In Afghanistan, USAID helped to ensure that Afghan citizens in informal settlements around Kabul had clear transfer of title and documentation of ownership for their properties.

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

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

In the context of the World Bank’s Land Management and Administration Project (LMAP) involving non-judicial means of resolving land disputes through cadastral land commissions, there is no guarantee of fair support for the poorer and vulnerable communities in their respective disputes against those with money, power, and influence so LMAP is introducing free legal aid for the poorer and vulnerable groups in their land disputes.
The U.S. Congress plays an important role through authorizing legislation, appropriating money and providing oversight to the numerous agencies and programs focused on international affairs which both help reduce poverty and increase U.S. security. Within this broad framework, issues relating to secure tenure are dealt with in the U.S. Congress.

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

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

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

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

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

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Congress’s bipartisan understanding of the importance of property rights should continue in the years ahead and become a foundation to leverage a broader understanding of secure tenure—especially in urban settings.
In Uganda, for instance, the president directly intervened to stop evictions in Kampala City and urged the local government to build housing units for low-income people instead.\textsuperscript{85}

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

**Pressure from civil society**

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

NGOs working at the international level include:

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

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

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

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

**Legal and regulatory framework for secure tenure**

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

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

In urban areas, this gradual approach may best promote the needs of poor residents. Steps toward establishing tenure security
Habitat for Humanity Argentina (HFH Argentina) began a legal literacy program when the organization realized 95 percent of the individuals who applied for Habitat homes in Argentina were not legal owners of their land. Because they were not legal land owners, they were unable to participate in the Habitat Argentina program, which requires title deeds for the mortgage.

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

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

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

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

Source: Excerpted from an article by Ana Cutts in the Habitat for Humanity publication, “The Forum” (2006: Volume 13, Number 3)
include improving protection against forced eviction and adopting workable, intermediate strategies.

1. **Improving protection against forced eviction.** Before legislative and regulatory solutions are enacted, a public statement or decree by a ruling authority can carry great weight toward assuring residents in informal settlements that their housing rights are secure. The problem with these statements is that they have no legal weight, and so may not survive past the term of the politician who issued them. Therefore it is important to follow the statement or decree with actual changes to legislation. The United Nations recommends that: “Anti-eviction laws should be passed by all countries to protect low-income groups, which should also be given training in their rights…”

International human rights law offers clear guidelines for countries seeking to establish better legal protections against forced eviction.

2. **Recognizing a spectrum of solutions for formalizing rights to land and housing by the poor.** These solutions seek to establish some degree of perceived and actual tenure security in slums and informal settlements without the detriments that sometimes accompany full titling and formal registration. By establishing a threshold of tenure security, these solutions achieve many benefits, including: allowing residents to spend less time defending their rights and more time in productive activities; encouraging families to invest in and improve their housing; establishing an information database that can be used to deliver basic services, taxation and development of more complex cadastre systems in the future; and aiding an increase in property values gradually, over time, to minimize rapid displacement of the poor by middle-income families. Any of these approaches will only work if poor residents are included and the approach is easy for the poor to use. This requires a commitment to low costs and minimal bureaucratic barriers.

3. **Adopting workable strategies.**
   - The government assigns numbers or addresses to houses in an informal settlement. This gives a sense of permanence to residents and makes it easier for municipalities to levy user fees for infrastructure and service upgrades. Street addressing has been successfully introduced in 20 African countries.
   - The government issues occupancy certificates or licenses to households in informal settlements. This system has proven effective in strengthening tenure security in Botswana.
   - The government issues non-transferable leases to residents of informal settlements. Municipal programs in Brazil, for example, attempt to increase secure tenure at reduced costs by transferring long-term use rights, rather than full ownership rights, to settlement inhabitants.

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

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

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

Second, formal, state-backed titles require legal and administrative capacity that many developing countries lack. For example, in his study of regularization projects in Brazil, Edesio Fernandes in a report for Lincoln Development Institute found the
focus on transferring and formally recognizing freehold rights in informal settlements was the reason that tenure regularization programs had failed, due to legal and technical difficulties as well as high financial costs.  

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

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

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

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

Develop a legal and regulatory framework that better supports tenure security for women and children.  
This requires at least four areas of action:

- Change tenure-related laws and regulations that explicitly discriminate against women and children.
- Change tenure-related laws and regulations that are gender-neutral on the face, but are discriminatory when implemented. For example, one of the most pervasive channels for discrimination against women in housing rights is naming only the "head of household" on titles and other official documents for property held in common by spouses. One alternative to naming the head of household only is joint titling, which gives spouses (or partners by consensual union) equal joint ownership of the marital property. Joint titling works best when it is compulsory, meaning that the law presumes joint titling applies to any marital partnership.
• Better implement existing laws and regulations that already protect women's and children's tenure security.
• Gain a better understanding of how a wide variety of laws and regulations—not just those specifically related to land and housing rights—affect women's tenure security. Establishing legal and regulatory support for women's tenure security will require changes to many areas of personal and civil law, including marriage law, contract law and inheritance law. Achieving a workable and clear legal regime for gender-neutral tenure security will require a thorough overhaul of related civil legislation.

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

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

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

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

The Hand Claim with Property Taxes is a parallel system used to tax urban land. Under this system, the ministry of finance, through its local revenue administration units, identifies and records buildings and levies an annual property tax on all occupiers regardless of who has claim to the land. Tax rates are small, and are reassessed every 10 years through field surveys that produce detailed property descriptions. These descriptions, and payment of the taxes, are prerequisites to both metered electricity service and application for formal property rights. The Hand Claim with Property Taxes system has several advantages: it legitimizes squatters’ rights, assists urban land management and tax revenue collection, and provides a basis for property transfers.
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• Encourage small, self-help landlords through: (1) incentives and subsidies; (2) adding rental incentives to upgrading programs; (3) providing microfinance; and (4) creating appropriate planning regulations.
• Adopt standardized written leases.
• Establish local tribunals to handle landlord/tenant dispute resolution and make them easily accessible to the poor.

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

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

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

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

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

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

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HFH Inheritance Planning on Inhaca Island, Mozambique

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

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

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

Source: Excerpted from an article by Yvonne Coleman in Habitat for Humanity’s publication “The Forum” (2006: Volume 13, Number 3)
In many cases it will be appropriate to target assistance for women and other traditionally marginalized groups of people. Establishing local tribunals to resolve disputes related to land and housing rights is another way to increase justice for the poor.

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

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

**Build administrative capacity and systems**

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

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

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

Effective land administration also requires strong and fair institutions and should include an element of enforcement to ensure all actors—from individuals to government bodies—comply with tenure rules and regulations.

Proper housing, land and property registration systems can play a vital role in remedying severe human rights violations including forced evictions, arbitrary land confiscations and ethnic cleansing.

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

For example, in South Africa, the issue of the quality of land administration was given prominence when the Constitutional Court held that an otherwise reasonable local housing policy was in breach of the constitution because it failed to provide for those most desperately in need. This decision stressed that the state is obliged to act to improve housing conditions in South Africa. The state is required to not only start these programs, but also to ensure they are well directed and implemented.

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

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

Legal literacy programs for property rights

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

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

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

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

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

For example, in South Africa, the issue of the quality of land administration was given prominence when the Constitutional Court held that an otherwise reasonable local housing policy was in breach of the constitution because it failed to provide for those most desperately in need. This decision stressed that the state is obliged to act to improve housing conditions in South Africa. The state is required to not only start these programs, but also to ensure they are well directed and implemented.

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

- Report the characteristics of land access to the government;
- Identify critical issues on access to land requiring immediate responses from governments and others, e.g. the particular difficulties faced by vulnerable groups;
- Develop policies for access to land and land administration as part of a total, cohesive framework rather than a number of isolated policy initiatives;
• Listen to the arguments of stakeholders in developing policies that anticipate future needs;
• Promote justice and fairness in administrative processes by making procedures simple, transparent and fair for all users including vulnerable groups; and
• Provide information about land rights and land administration services to affected groups.

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

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

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

Community-based land negotiation

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

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

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

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

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

Source: Rural Development Institute “Land ownership changes lives, and that can change our world.” Seattle: RDI. http://www.rdiland.org/OURWORK/OurWork_LivesChanged02.html
communities showing where properties were, what type of property it was, who lived there and how much damage there was. The early well-intentioned efforts toward community land mapping varied in approach and quality. These had to be standardized so that the community land mapping could ultimately be formally processed by the National Land Agency (BPN) so that legal titles could be issued following the necessary adjudication, legal land survey and public advertising. In June 2005, a Community Driven Adjudication (CDA) manual was prepared in collaboration with the government, NGOs, CSOs and donors. The national agency subsequently gave the CDA manual legal status, and it became the standard approach for community land mapping during reconstruction. CDA training was given to NGOs and other agencies involved in reconstruction. If community land mapping abided by the CDA manual standards, communities could start constructing houses and infrastructure before titles were formally issued by the national land agency.

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

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

**Performance-driven land adjudication**

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

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

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


Improving land administration in Nigeria through an integrated approach

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