

INFORMAL LAND MARKETS

CITY GOVERNMENT
INTERVENTIONS FOR
ENHANCING LAND ACCESS
AND TENURE SECURITY

Cities Alliance
Cities Without Slums

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Coordination: Cities Alliance

Editors: Anaclaudia Rossbach and Anthony Boanada-Fuchs (GIMLA, University of St.Gallen).

Authors: Warren Smit

Technical Team: Felix Kariba, Susana Rojas Williams, Pablo Sebastian Mariani, Patricia Rodriguez Gryciuk, Yamila Castro, Roxanne Le Failler. The publication includes inputs from various practitioners working in the field, as well as Cities Alliance members.

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KEY MESSAGES



The paper starts with a discussion of urban land and a review of different types of tenure security on the formality-informality continuum, ranging from informal land rights, through occupancy certificates and other temporary rights (e.g. rental or long-term leasehold), full individual or communal ownership. The paper then discusses key segments within informal land/housing markets (informal occupation in informal settlements, informal rental/subletting, and informal sale of formal residential properties), and the challenges associated with informality, such as inadequate security of tenure and overlapping land rights.



Informal land markets are the way in which most households in cities in the global South get access to land and housing. Although these markets can function fairly well, they have a number of disadvantages related to their lack of documentation, and there are a number of interventions that should be undertaken to improve informal land markets



Enhancing informal land markets is an important strategy for reducing poverty. City governments can undertake a wide range of interventions to make land markets function better and enhance the security of tenure for residents.



Six key interventions are examined through which city governments can intervene in informal land markets to improve security of tenure and access to land: Data collection is often the first step in being able to intervene in land markets. Reforming the formal/legal/State-recognised land system to be more widely applicable and useful for the poor; Upgrading tenure; managed land settlements; supporting owners of formal residential to undertake formal transactions; and improving security of tenure for informal tenants and promoting the supply of adequate small-scale rental housing.



Ultimately, we need to work towards land markets that work better for the poor, where households can access a variety of different options with adequate shelter and adequate services in suitable locations at an affordable cost and with a reasonable de facto security of tenure, and where more households can have legally-recognised tenure so that they have greater long-term security and that owners of property can sell their properties at reasonable prices when they wish to.



The key principle is that interventions need to be based on a good understanding of existing informal market processes and participatory engagement with the residents concerned.



Cities Alliance - Global Programme on Informality

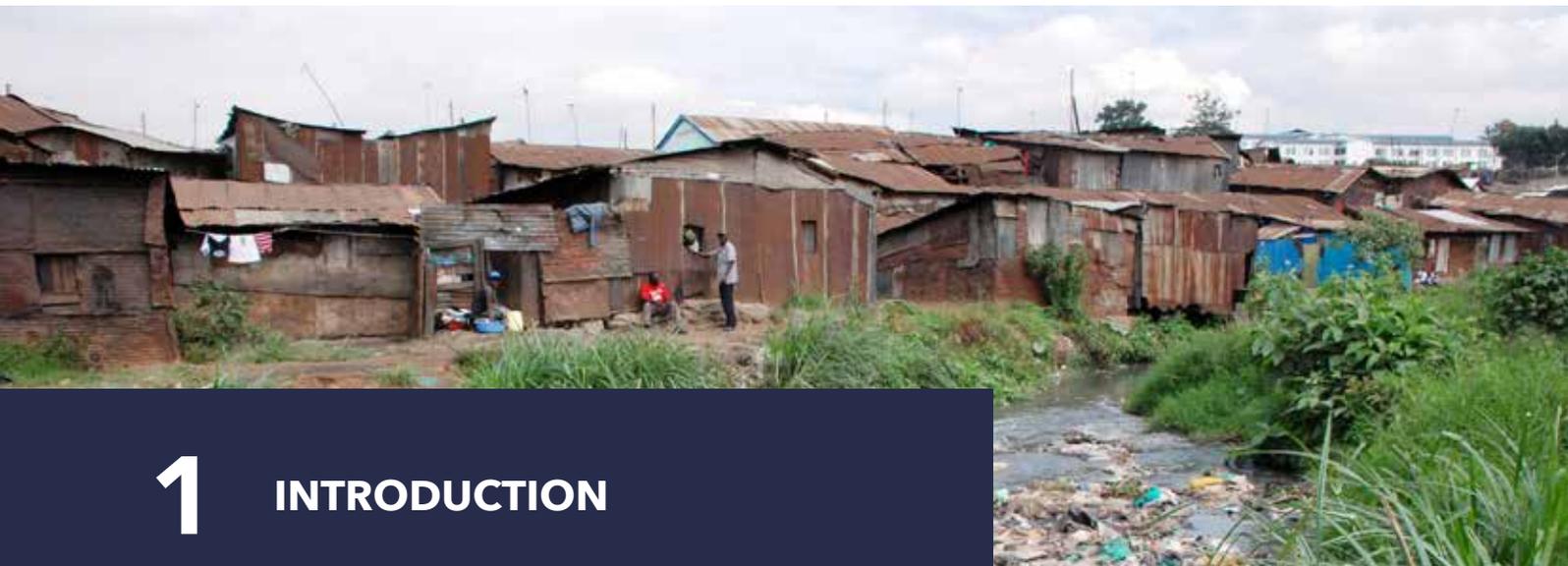
Two billion informal workers and one billion slum dwellers worldwide remain exposed to hostile policy environments and the sharpest impacts of poverty, social exclusion, climate change, and inadequate public health systems.

The COVID-19 pandemic coupled with already insufficient public service provision have exacerbated the vulnerability of low-income communities, elderly, children and women. The COVID-19 pandemic has revealed long-overdue structural problems derived from inequality and sets the momentum for a radical shift in the way cities are planned and managed. It is no longer acceptable that a major part of the world's population does not have access to minimum safe living conditions to deal with the pandemic. Thus, there is a strong need to address slums and informality on a permanent basis, with a fair and equitable allocation of resources, services, and land and public spaces.

Cities Alliance has been working to both highlight and improve the living conditions of slum dwellers for two decades, and can play a relevant role promoting this radical shift, legitimated by its institutional trajectory and robust membership.

The Global Programme on Informality seeks to build a coalition to globally overcome the political, knowledge and resource gaps for addressing informality of land, labour and citizenship at scale, on a permanent basis, with three specific objectives:

- 1) Mobilise Cities Alliance members, their constituencies and development partners to promote joint efforts and increased knowledge on addressing and harnessing informality and responding to COVID-19 in cities.
- 2) Identify key knowledge gaps and produce knowledge products that distil the results and learning from the dialogues and peer-learning and disseminate them to a global audience.
- 3) Facilitate a joint narrative and Cities Alliance coalition to deliver an advocacy and outreach campaign to a global audience to raise awareness on effective COVID-19 responses and demonstrate solutions to informality.



1 INTRODUCTION

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Informality is a complex topic with a long history.

Five decades ago, a study in Ghana resulted in the first comprehensive discussion on informality in a development context.¹ Hart coined the term informal economy that became an important concept to describe national economies in the developing world.² The idea of informality has been used in different knowledge domains and discourses. Several have made important contributions to improving our understanding of the Global South's urbanization processes: informal economy, informal housing, informal land markets, informal law, and informal institutions.

This paper is part of a larger review series on informality launched by Cities Alliance. Since its creation in 1999, this multi-institutional platform has been at the forefront of the debate on slums, slum upgrading, and the role of informality in cities of the Global South. Cities Alliance has recently launched the Global Program on Informality. The overall aim is to fundamentally alter how knowledge is created and shared on informal settlements and related topics. One of its objectives is to build a coalition to globally overcome the political and geographic as well as knowledge- and resource-related gaps for addressing the issue of informality in housing, land, economy, and citizenship at scale, on a permanent basis.

The "Practice Review of Informality" is embedded in the **Global Program on Informality** and proposes a new take on cross-sectoral knowledge sharing. Each paper addresses an important topic of informality by reviewing the literature produced by Cities Alliance, its members, and other important knowledge stakeholders whenever needed. Developed in close collaboration with the restructuring of

the knowledge library, several elements have been developed to enable better access and more targeted impact. The paper and its content have been tagged to unlock the potential of text-based online searches to make the content more accessible.

Our world is changing at an unprecedented pace.

This also imposes new demands on knowledge creation. The authors of this paper perceive the paper as a current snapshot of the practitioner's knowledge on the given topic. We encourage the readers to get in touch with us for further suggestions and comments. This feedback is very valuable to us and may include, among others, specific references to new projects and case studies, missing concerns, and proposals for future review topics. Interested parties can also sign up for the mailing list of the Global Programme on Informality. The papers shall be updated regularly (traceable in the version index) to keep pace with the evolving knowledge of the Global Community of Practice.

by Anthony Boanada-Fuchs, Vanessa Boanada Fuchs, Anaclaudia Rossbach and Susana Rojas Williams

1 – Hart, 1973.
2 – Chen, 2012.



2 SETTING THE STAGE

Stanley Dullea - stock.adobe.com

Informal land markets are the way in which most households in cities in the global South get access to land and housing. Although these markets can function fairly well, they have a number of disadvantages related to their lack of documentation, and there are a number of interventions that should be undertaken to improve informal land markets. It is also important for city governments to consider urban land markets in their totality to ensure sufficient affordable land within cities. This paper reviews the literature on informal land markets and discusses different approaches to engaging with informal land markets to improve land access and tenure security.

The paper starts with a discussion of urban land and a review of different types of tenure security on the formality-informality continuum, ranging from informal land rights, through occupancy certificates and other temporary rights (e.g. rental or long-term leasehold), full individual or communal ownership. The paper then discusses key segments within informal land/housing markets (informal occupation in informal settlements, informal rental/sub-letting, and informal sale of formal residential properties), and the challenges associated with informality, such as inadequate security of tenure and overlapping land rights. The paper then examines six key interventions through which city governments can intervene in informal land markets to improve security of tenure and access to land:

- Collecting data on land through participatory processes and innovative use of technology.
- Reforming urban laws and adopting a “whole of market” approach to monitoring and intervening in the urban land/housing market to make it work better for the poor.
- Upgrading the security of tenure of informal settlement residents (for example, through a moratorium on evictions

and through documenting current rights and issuing occupancy certificates).

- “Replicating” the advantages of informal land market processes through managed land settlement programmes.
- Supporting owners of formal residential properties to undertake formal transactions.
- Improving the security of tenure for informal tenants while promoting the supply of adequate small-scale rental housing.



3 URBAN LAND

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The uses of urban land include residential purposes (space for family life, eating, sleeping, social interaction) **and income-generation purposes** (for example, providing space for home-based micro-enterprises or providing the opportunity for generating income through renting out rooms or backyard accommodation). Outdoor space can be used for various purposes, such as a recreational garden or the growing of food (for own use or for sale). The nature of the claim to urban land and the location of that land can obviously have a major impact on households' livelihood strategies in terms of access to physical/natural assets, economic opportunities, and social networks.³

Over and above the different uses of land, there are different meanings attached to land. Wallace and Williamson have suggested at least five different "registers" within which meaning may be attached to land.⁴ These different registers co-exist, resulting in competing meanings for specific pieces of land.⁵ The possible meanings of urban land⁶ include the following:

- Land for survival: The land, or access to the products of land, is seen as a way to provide for the basics for survival.
- Land as a bundle of rights: Land is seen as subject to claims by various individuals or groups in terms of a particular set of practices, and these claims bestow certain rights and responsibilities on individuals or groups.

- Land as a simple commodity: If there are relatively secure rights, land is able to be traded (i.e., bought, sold, rented).
- Land as an investment asset: Land is linked to, or forms part of, an investment strategy.
- Land as a complex commodity: Land that is linked to abstract financial instruments and corporate entities.
- Land as a social asset: Land plays an important social function for households, communities, and society as a whole.⁷
- Land as an ecological asset
- In addition, there are also political meanings that may be attached to land.

Urban land markets can be defined in various ways. A typical definition is "a framework in which those seeking land, and those owning or controlling land, are brought into a transaction in order to effect access to land by the land seekers."⁸ It is important to note that urban land markets and urban housing markets are closely interlinked: "although in theory there are distinct markets for land and for housing, in practice, the two markets can seldom be viewed in isolation."⁹ Urban land/housing markets consist of a number of distinct but inter-related submarkets or delivery systems which may be either public or private, commercial or non-commercial, legal, extra-legal, or semi-legal. The different modalities of land supply in residential land markets in cities in the global South include the state-run modality, which supplies land through administrative allocation; the commercialised modality, which operates in the form of the profit-orientated private land market (including quasi-formal development such as "illegal subdivisions"); and the non-commercialised modal-

3 – Mariani and Lokhande, 2020.

4 – Wallace and Williamson, 2006.

5 – Isandla Institute et al., 2007.

6 – based on Wallace and Williamson, 2006.

7 – Ondetti, 2016.

8 – Kironde, 2000 p.153.

9 – Sivam, 2002, p.523-524.

ity, which supplies land without charging for it, for example, through the establishment of informal settlements.¹⁰ Informal land/housing markets (e.g. informal settlements, informal rental, informal sale of formal property) are the

main way the majority of households in cities in the global South access land/housing. These are complex processes often managed by community-based organisations.

Text Box 1: Urban land markets in South Africa

An in-depth survey of the ways that low-income households access land and housing in South African cities showed that urban land markets in the poorer parts of South African cities are a complex mix of financially-driven processes, processes mediated by local community-based organisations and processes mediated by the state. The survey also showed a wide variety of sub-markets in the poorer parts of South African cities. These sub-markets include ownership of a shack in an informal settlement, rental of a shack (or of a room within a shack) in an informal settlement, rental of a backyard shack in a township (or having one's shack in rented backyard space), rental of a room in a township and formal ownership of a state-subsidised house (either in an upgrading project or a greenfield project). Each option has various advantages and disadvantages, and respon-

dents usually made conscious choices between different options (except with regards to subsidised housing, where choices were limited). Different options are suitable at different stages in the history of households and individuals, and there is frequent movement between options. For example, one of the respondents in the survey, in the Somalia Park informal settlement in Gauteng province, had lived in more than 20 different places in Gauteng since moving there in the 1970s (including other informal settlements, renting rooms or backyard shacks in townships, staying in domestic workers' quarters, and living in hostels). Household decision-making about accessing urban land is closely linked to livelihoods; for example, accessing urban land in a suitable location can result in increased access to jobs and income-generating activities and lower living costs.¹¹

A well-functioning land market has ease of entry and ease of performing transactions, which depend on adequate land information, secure tenure arrangements, and an appropriate registration and recording mechanism.¹² In terms of working for the poor, the first requirement of a market that works for the poor is that it must function efficiently.¹³ Over and above market efficiency, broader social and economic objectives are also important, i.e. serving "the economic and social needs of urban inhabitants and enterprises."¹⁴ From an end-user perspective, an urban land market that works for the poor can be defined as one in which poor households are able to relatively easily access and securely hold a variety of reasonably adequate and reasonably affordable land/housing options in different locations.¹⁵

Although there are functioning land markets in most cities of the global South, with a range of options available to poor households, urban land markets generally don't work well for the poor as they usually don't satisfy all of these criteria (affordability, adequacy, location, ease of access, security of tenure). Although de facto security of tenure can be relatively high in many cases, informal occupants are always at risk of eviction with little legal recourse.¹⁶ While informal land markets can provide adequate security of tenure for many households, it can also result in the exploitation of tenants by landlords and the displacement of poor households,¹⁷ and can facilitate "land grabs" by powerful individuals.¹⁸ Women can be particularly disadvantaged by informal tenure, for example, in cases of divorce or inheritance.¹⁹ Urban land markets also often don't work well for city governments in terms of their revenue base, as informal occupants of land generally do not pay property tax (and property tax is often a significant proportion of local government revenue).²⁰

There is a need for state intervention to improve urban land markets to make them work better for poor households. Possible interventions include:

- Market incentives such as housing subsidies and property tax.
- Regulatory measures, such as zoning.

10 – Mitra, 1990; Sivam, 2002.

11 – Based on Isandla Institute et al., 2007; Smit, 2007.

12 – Kironde, 2000.

13 – Porteous, 2004.

14 – Gough and Yankson, 2000, p.2485.

15 – Smit, 2007.

16 – Rakodi and Leduka, 2004.

17 – Yunda and Sletto, 2017.

18 – van den Broeck et al., 2020.

19 – Wineman and Liverpool-Tasie, 2017.

20 – Chirisa, 2008.

- Making access to formal land processes easier and cheaper.
- Direct involvement in buying, developing and disposing of land.

These interventions can help ensure that land/housing markets provide a range of affordable options in different locations.

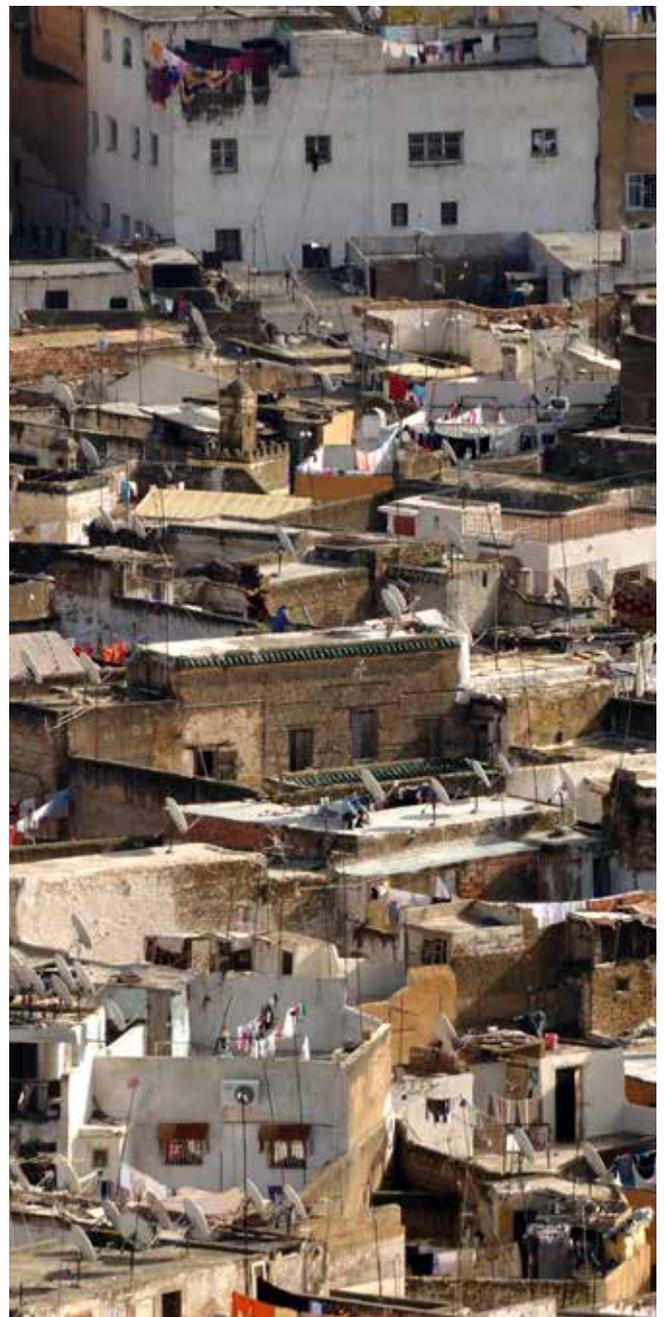
One of the main priorities is to ensure that the security of tenure in informal land processes is enhanced without displacing people. Land tenure can be defined as “the mode by which land is held or owned, or the set of relationships among people concerning land or its product.”²¹ The UN-Habitat Expert Group Meeting on Defining Slums and Secure Tenure, held in Nairobi, November 2002, defined secure tenure as “the right of all individuals and groups to effective protection by the State against unlawful evictions.”²² In addition to protection against unlawful eviction, being able to use the property in appropriate ways is also an important part of the security of tenure, as land tenure is not just about who owns and uses land, it is also about who defines and regulates what is owned and how the rights to use the land are defined and guaranteed.²³

There is a continuum of informal/formal tenure ranging from a high level of security to very low levels of security, often with overlapping layers of formality and informality.²⁴ UN-Habitat identifies the following main types of tenure, ranging from registered/documented freehold ownership of authorised subdivision/ dwelling to homelessness (e.g. pavement dwellers):

- Formal rights:
 - Registered (including ownership, leasehold and use/occupancy rights).
 - Unregistered but documented (e.g. rental, rent to buy, unregistered leases, etc.).
 - Group/family/household rights (e.g. customary/tribal/clan family rights, Islamic tenure types, community land trusts, etc.).
 - Unregistered and undocumented (e.g. adverse possession, use or occupancy rights without certificate, customary rights).

- Irregular tenure:
 - Documented (e.g. written agreements between irregular owners and tenants, de facto recognition, illegal subdivisions, customary rights, tenancy at will, etc.).
 - Undocumented (e.g. as above but without documents).
- Homelessness (e.g. pavement dwellers)

It is important to note that formality and informality can overlap. For example, there can be unregistered/undocumented freehold ownership of an authorised subdivision/ dwelling, or there can be a tenant in an unauthorised room/dwelling with a contract. In both formal and informal forms of tenure, the distinction between individual owner-occupation, communal tenure and tenants is important.



21 – Payne, 2001, p.416.

22 – United Nations Human Settlements Programme, 2004, p.25.

23 – van den Broeck et al., 2020, p.4.

24 – Payne, 2001, 2004.



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4 INTERVENTIONS TO ENHANCE INFORMAL LAND MARKETS

4.1 Data Collection

The first step in being able to intervene in land markets and upgrade tenure is having adequate data on actual land occupation, which can then form a basis for protecting and upgrading tenure. Many municipalities lack adequate records of who actually owns or occupies land, and they urgently need to collect (and regularly update) urban land databases. There has been innovative use of technology and participatory processes to help collect data on who occupies land where to help build up a local

database, which can then be used for the issuing of land rights - see the case studies below from Tanzania and the Democratic Republic of the Congo.

It is essential that women's land rights are included in land databases.²⁵ Many formal deeds registries do not include the names and details of wives or cohabiting partners, therefore ignoring their current land rights and placing them at risk of eviction in the event of the relationship ending or the male partner dying.

Text Box 2: Land Data Collection in Zanzibar, Tanzania

Formal records such as title deeds do not exist for many thousands of properties in Zanzibar. Without land records and data, the government of Zanzibar has struggled to produce certificates of occupancy for residents or to effectively manage public lands. The lack of title deeds to their properties affects landowners' ability to use, improve, and manage their properties most effectively. The lack of data also affects the government's ability to effectively implement new land development projects. The government of Zanzibar, therefore, needed to collect data on land, but conventional methods of data collection are slow and costly. Working closely with the government, an organisation called Spatial Collective developed a data collection method that used ubiquitous digital technology (mobile phones,

tablets, and drones) that was considerably faster and more efficient than conventional paper-based methods. They set up a data model and data collection protocols, trained community members on data collection and management, and carried out data collection in a pilot area in Shikani. In 6 weeks of fieldwork, 10 data collectors mapped 492 plots in the town of Shikani and documented 230 men and 85 women as landowners. Of these, only 170 had any existing form of documentation asserting their claim to the land they occupied; the most common (76%) method of land acquisition was by purchase. As a complement to the community data collection, high-resolution drone imagery (with an accuracy of less than 1 metre) was also used to confirm location data.²⁶

25 – Downie, 2020.

26 – Based on Cities Alliance, 2021b

Text Box 3: Land data Collection in Kasangulu, Democratic Republic of the Congo

Kasangulu is a small city 35 km from Kinshasa in the Democratic Republic of Congo. The absence of land data needed to produce official title documents, combined with outdated land management tools and the lack of spaces for dialogue between local land stakeholders, are aggravating the constant threat of land grabbing and land conflicts for residents of peripheral areas who lack formal land titles for their properties. This further weakens the situation for women, often with large families, who are the main breadwinners. The local organisation IRDAC SARL implemented a project to ensure dialogue between land authorities and local communities and trained local residents and land officials to collect data to help construct a land database. The establishment of a space for participatory multi-stakeholder dialogue enabled various stakeholders concerned by land issues in Kasangulu (communities, concessionaires,

customary and traditional leaders, and the land authority) to respond to land governance challenges and to propose joint solutions to the authorities. In addition, new geographic information technologies were introduced to help the land administration digitise the land registry. As part of this process, 31 young people, land registry agents and local residents were trained on data collection using drones and topographical surveys. Data on 4,824 plots were extracted from the drones' aerial (orthomosaic) images. This enabled the creation of a complete land registry plan of four target districts covering 622,000 hectares. The IRDAC SARL Kasangulu pilot project demonstrates that combining the tools of participatory dialogue between land tenure stakeholders with the use of innovative digital technologies can facilitate the process of securing informal land rights.²⁷

4.2 Reforming Urban Laws and Adopting a Whole of Market Approach

Intervening in informal land markets requires, firstly, reform of laws relating to land to ensure that land tenure options and land administration processes are appropriate for local contexts, and, secondly, a "whole of market" approach needs to be adopted to ensure that the whole land market is monitored.

Urban land laws are usually mainly the responsibility of national governments, but city governments can play an important role in lobbying national governments.

Key features of successful national urban land policies acknowledge the right to property but subordinate it to public policies and urban regulation in order to guarantee social and public interest rights.²⁸ The most notable national urban policy that has attempted to do this is the Federal Urban Policy Law of 2001 in Brazil, also known as the City Statute. This sought to provide universal access to Brazil's cities, charged the local governments with a range of duties to achieve this new vision, and privileged the social use of land.²⁹

Successful national urban land policies such as the City Statute allow for a range of instruments and tools to create fairer and more sustainable cities, for example, "zones of special interest" and "onerous building rights."³⁰ These instruments have been implemented in both Brazil and Ecuador. "Zones of special interest" are special zones that relax usual zoning, land and planning laws to facilitate upgrading and redevelopment, with guaranteed land tenure for low-income families.³¹ "Onerous land rights" are a grant of the right to build against payment. The value of land use rights represents a largely-untapped source of city government revenue. City governments such as that of São Paulo have been able to reduce land rights across the city and then auction off higher land uses rights, with the funds going into a special fund for social housing and infrastructure.³² Another tool for helping ensure more equitable access to land is the compulsory parcelling, use and construction of unbuilt lots and unutilized/underutilized properties, used in Brazil.³³

At the local scale, city governments need an overall strategy for monitoring urban land and housing markets and making them work better so that a range of affordable options in different parts of cities are available, as ultimately, the persistence of informal land markets are mainly the result of a dysfunctional land market.³⁴ It is important to have a "whole of market" approach, as neglect of higher-income land and housing options can impact lower-income options, both through a lack of upward mobility and through downward raiding (i.e. where higher-income households purchase low-income options due to a lack of suitable options in their desired price range).

27 – Based on Cities Alliance, 2021a.

28 – Cities Alliance, 2017.

29 – Rossbach et al. 2016.

30 – Cities Alliance, 2017.

31 – Cities Alliance, 2017; Rossbach, 2020.

32 – Smolka, 2018.

33 – Mello Franco, 2021.

34 – interview with Martin Smolka, 11 October 2021.

Key indicators for monitoring urban land and housing markets at the city scale include:³⁵

- Ratios between the median price of 1 square metre of highly-developed, developed and raw land and the median household income per month.
- Percentage of the total housing stock in compliance with current land and building regulations
- Ratio of the median free-market price of a dwelling unit and the median annual household income
- Ratio of the median annual rent of a dwelling unit and the median annual household income of tenants.
- Average annual number of men-headed and women-headed households evicted from their dwellings during the past five years.

The main types of city government interventions in land markets can include:³⁶

- Market incentives (for example, for inclusionary housing), both positive and negative, such as housing subsidies and property tax.
- Regulatory measures, such as zoning, subdivision controls, etc.
- Direct involvement in buying, developing and disposing of land, e.g. government bodies acquire and develop land in order to provide low-income housing, infrastructure and community facilities.

In addition, land value capture instruments to capture the increased value of land resulting from public investments can be an important tool for mobilising additional resources for infrastructure and social housing.³⁷



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35 – UN-Habitat, 2004.

36 – Lim, 1987.

37 – interview with Martim Smolka, 11 October 2021.

4.3 Upgrading Tenure

One of the key characteristics of informal occupiers of land is inadequate security of tenure, with residents often at risk of eviction, and improving residents' tenure security is usually regarded as an essential part of upgrading initiatives. There has, however, always been a debate about the extent to which security of tenure is equated to formal individual ownership in which the heads of households occupying each plot get a title deed (i.e. titling). There are two broad approaches to upgrading informal tenure.³⁸ The first approach emphasises legal tenure regularisation based on individual ownership rights. This approach is often complex to implement and takes a long time. The most notable proponent of this approach was Hernando de Soto, who argued that title deeds can trigger development, stimulating access to finance, economic activity and residential upgrading.³⁹ As Yunda and Sletto note, however, there have been frequent shifts (and overlaps) between market-driven approaches to land titling and state-driven approaches that emphasise regulatory controls to ensure greater equity in access to land.⁴⁰

The most notable large-scale land titling programme has been the COFOPRI programme in Peru, which issued over 1,5 million individual freehold titles to informal settlement residents between 1996 and 2006.⁴¹ Results of such titling programmes have been fairly modest, though,⁴² and this approach has been criticised by many.⁴³ There are a number of lessons from experiences of land titling programmes.⁴⁴ Firstly, land titling has not led to significant changes in access to formal credit. In practice, employment status seems to be much more important for obtaining credit than land titles. Secondly, while titling helps encourage owners to invest in their housing (and businesses), any sense of security of tenure (for example, a moratorium on evictions) can have the same effect.⁴⁵ Thirdly, municipal revenues have not increased noticeably more than other tenure regimes.⁴⁶ Finally, there is no significant evidence of reduced poverty levels.⁴⁷ In reality, therefore, other cheaper and more flexible forms of tenure can often be more appropriate than land titling.

The second broad approach to land tenure emphasises tenure security rather than ownership and stresses that such security in informal settlements derives from many factors and circumstances. This second approach argues that it is possible to achieve substantial – and often sufficient – tenure security through mechanisms other than individual land titles, including administrative recognition or local community witnessing processes. Many upgrading projects in Brazil have adopted this second approach, starting with the Favela Bairro programme in Rio de Janeiro as one of the first examples.⁴⁸ In these projects, “managers increasingly realize that there is an important distinction between providing security of tenure and issuing land titles... Security of tenure will spur investment and housing improvement; land titles may simply raise project costs and bring unwanted secondary effects.”⁴⁹

There are a wide variety of ways in which de facto security of tenure can be provided without undertaking expensive and time-consuming titling processes. For example, there could be an initial moratorium on relocations and evictions, followed by issuing temporary occupation certificates.⁵⁰ This process involves both administrative and legal recognition.⁵¹ Administrative recognition includes things like a city government keeping a register of residents and providing basic services; legal recognition entails undertaking a legal procedure in terms of some recognised law to grant legal status to an area. It usually results in declaring the area in terms of this law which permits certain other actions to take place legally. Gulyani and Bassett note, however, that stronger legal rights (such as full individual or communal ownership) may indeed be preferred by vulnerable groups at risk of eviction or displacement.⁵²

If more security of tenure is required, the next steps could be some form of communal tenure (e.g. community land trusts) or individual freehold ownership where appropriate.⁵³ Community or group titles can be a good way to legalise tenure while trying to avoid some of the negative impacts of individual land titles.⁵⁴ For example, communal tenure can reduce the risk of “downward raiding” (i.e., where people with higher incomes purchase plots from lower-income households, who then typically move to another informal settlement).

38 – Payne, 2001, 2004; Durand-Lasserve and Royston, 2002.

39 – de Soto, 2000.

40 – Yunda and Sletto, 2017.

41 – Fernandes, 2011.

42 – for example, Fernandes, 2011.

43 – for example, Gilbert 2002, 2012; Kingwill et al., 2006; Payne et al., 2009.

44 – Fernandes, 2011.

45 – Fernandes, 2011.

46 – Payne et al., 2009.

47 – Payne et al., 2009.

48 – Handzic, 2010.

49 – Gulyani and Bassett, 2007, p.495.

50 – Payne, 2005.

51 – Smit and Abrahams, 2010.

52 – Gulyani and Bassett, 2007.

53 – Payne, 2005.

54 – Gulyani and Bassett, 2007.

Text Box 4: Cambodia

In May 2003, the prime minister of Cambodia announced a plan to upgrade 100 settlements a year in Phnom Penh for the next five years. The project was supported by Cities Alliance, GTZ and UN-Habitat. There was a six-month moratorium of relocations and evictions while decisions were made on which informal settlements should be relocated and which should be upgraded; for the upgrading of settlements, 12-year community leases and 10-year

sub-leases were introduced, with the option, at the end of the 10 years, for extending or upgrading the lease or of terminating the lease with market-related compensation for improvements.⁵⁵ "This is considered adequate to encourage those with funds or access to credit to invest in home improvements without raising land values to the level at which 'downward raiding' by higher income groups would become widespread."^{56 57}

Text Box 5: Programa de Aceleração do Crescimento (PAC), Brazil

There have been a number of innovative slum upgrading programmes in Brazil since the 1990s. The first notable large-scale slum upgrading programme was the Favela Bairro Programme, launched by the city government of Rio de Janeiro in 1994 to integrate the favelas into the city's social, economic and physical fabric through infrastructural improvements.⁵⁸ These projects typically focused on infrastructure and social/economic development rather than on tenure regularization. The Growth Acceleration Programme (*Programa de Aceleração do Crescimento* - PAC) was launched in Brazil in 2007. Federal government funding for infrastructure development was transferred to states and municipalities. For the first time, the federal government allocated significant resources for slum upgrading through the Informal Settlements Urbanization programme (UAP). The Programme funds are used for urban projects

(infrastructure, sewage treatment, drainage systems and geotechnical containment structures), community facilities, new housing units, housing upgrading, social services, and land tenure regularization. Within the programme, slum upgrading can occur on both private and public land. Infrastructure may be built without necessarily holding legal status over the land tenure. However, a land regularization plan must be presented. The regularization itself often occurs after the completion of the physical intervention. In those cases, there is usually the granting of "concession of actual right to use" in the interim until the legal system is resolved. Within the ABC Region (around São Paulo) alone, 49 settlements with 49,000 households received some sort of intervention within the PAC- UAP Programme. The projects typically involved building housing units within settlements with some relocation of some residents to other areas.⁵⁹

4.4 Managed Land Settlement

It is important to have a "twin track" approach, in which urban upgrading initiatives to provide security of tenure and infrastructure in existing settlements are accompanied by a programme to ensure that new informal settlements do not form.⁶⁰ The only way to prevent the growth of new informal settlements through new household formation and rural-urban migration is through the rapid provision

of serviced land for settlement or "managed land settlement" programmes. These areas can be laid out and basic services provided so that health and safety can be considerably better than in informal settlements. They are also considerably easier to upgrade than spontaneous, unplanned settlements. The key elements of such a strategy are that it must be simple and quick for households to access land. Therefore it must replicate the key benefits of informal tenure as far as possible (see the case study of the Hyderabad Incremental Development Scheme in Pakistan below). The LandFirst initiative in South Africa is a more recent example of a managed land settlement approach, in which households first get access to land, secure tenure and basic services, and the settlement is then upgraded over time.⁶¹

55 – Payne, 2003.

56 – Payne, 2005, p.141.

57 – Based on Payne, 2003, 2005.

58 – Handzic, 2010; Riley et al., 2001

59 – Based on Moretti et al., 2015; Siedel et al., 2020.

60 – Payne, 2005.

61 – Afesis-Corplan, 2008.

Text Box 6: Hyderabad Incremental Development Scheme in Pakistan

Although implemented decades ago, the Hyderabad Incremental Development Scheme in Pakistan still provides a good model of managed land settlement in order to avoid the growth of unplanned and unserved informal settlements. The key to the project's success was that administration and allocation procedures were very simple and rapid: households applied for a plot by submitting a photocopy of their ID card, and they were allocated a plot within 12 days. A reception area was set up in the scheme where households could erect a temporary shelter or rent a room while they waited for their application for a site to be processed. Beneficiaries were required to complete the construction of a house immediately (no building standards were applied in the project). This was a major departure from previous projects, where there had been periods of up to a year for beneficiaries to build a house on their plots, which had often resulted in plots being allocated to people who never occupied them. The legal transfer of tenure did not

take place immediately, as there were instalment sale agreements. In this way, the Hyderabad Development Authority had a way of cancelling the allocation of beneficiaries who left the project (beneficiaries leaving the project could be paid a proportion of the money they had paid for the plot).

The Hyderabad Incremental Development Scheme was successful in many ways: it was able to reach the poorest 10% of the population; the time lag in implementing projects was eliminated because households were immediately allocated plots, which were then subsequently upgraded while the household was living there; and the continuous supply of plots ensured that there was never a shortage of land in the area, which could have resulted in speculation (people with housing elsewhere obtaining plots to rent out accommodation) or land invasions resulting in overcrowded informal settlements.⁶²

4.5 Supporting Owners of Formal Residential Properties to Undertake Formal Transactions

The informal buying and selling of "formal" houses are very common because of complex and expensive formal land administration processes. For example, in sub-Saharan Africa, the registering of a property involves an average of about seven steps, takes an average of about 100 days, and on average costs 10,5% of the value of the property.⁶³ As a result, many buyers and sellers of legally subdivided properties bypass formal sale processes that go through the deeds registry, and buy and sell (or transfer in other ways, e.g. through inheritance) these properties informally.

This results in decreased security of tenure for the buyer (or inheritor) and reduces the asset value, and also ultimately weakens the integrity of the formal land administration system. In the short term, there is a need to disseminate information and raise awareness about formal land transfer processes and help people access formal title deed processes (see the case study of the Transaction Support Centre in South Africa). In the long term, there is a need to decentralize and simplify the land tenure administration system to make it quicker, easier and cheaper to formally transfer property. One example of this is the concept of "initial ownership" in the Development Facilitation Act (South Africa), which allows for a provisional certificate of ownership to be signed off at a local level.⁶⁴

62 – Based on UNCHS, 1991; Walker et al., 1993.

63 – IFC, 2009, cited in Urban LandMark, GLTN and UN-Habitat, 2010.

64 – Smit and Abrahams, 2010.

Text Box 7: Transaction Support Centre, South Africa

Formal title deeds processes are complex, time-consuming and costly, and for a variety of reasons, title deeds are not issued in many cases. The Transaction Support Centre provides support to the following types of problems involving title deeds:

- **Deceased estate:** When the registered owner of a property dies, the property has to be transferred out of the deceased estate to heirs. This can be complicated where there is no will in place – a common problem in the low-value property market.
- **Informal cash sales:** A property sale where buyers and sellers do not use a conveyancer to register the transaction in the deeds registry. Typically, buyers and sellers will sign an affidavit endorsed by a street committee or police station. These affidavits are not legally binding documents. They are often not dated and can easily be forged. Buyers who have bought houses this way can be evicted by registered owners or heirs of deceased registered owners.
- **Primary transfers:** This occurs primarily in government-subsidised stock, where the property has not yet been transferred from the State to the beneficiary. The beneficiary may have been living in the house for many years but is not the registered owner and cannot legally sell the property. If the beneficiary dies, heirs cannot inherit the property. Beneficiaries also cannot interact with the municipality about their properties because they are not recognised as owners. This means that the municipality cannot directly bill for services delivered, and the beneficiary cannot get approvals for building work they wish to undertake on the property.
- **Administrative:** Includes cases where the original title deed has been lost/damaged or where the name or ID number on the title deed needs to be corrected (e.g. name misspelled). Other administrative cases may involve the TSC following up with City officials on title deeds that are registered in the Deeds Office but which have never been handed over to clients.
- **Divorce:** Where a wife or husband wants to remove their spouse from a title deed following a divorce.
- **Donation:** Typically involves cases where parents want to transfer properties to their child/children before relocating to a different area to retire.
- **“X” cases:** This is particular to government-subsidised housing stock where the title deed was issued in the name of a beneficiary, but someone else moved in, in many cases over twenty years ago. Registered owners have never lived on the property and often do not know the properties are registered in their names. Occupants of the properties are, therefore, not the registered owners.⁶⁵

4.6 Improving Security of Tenure for Informal Tenants and Promoting the Supply of Adequate Small-scale Rental Housing

Informal renting can take many forms, from occupying backyard shacks in public housing in South Africa to subtenants in informal housing in the favelas of Brazil.⁶⁶

The nature of the rental accommodation can vary considerably, including backyard shacks, rooms within houses and multi-storey blocks of flats. Informal small-scale rental provides accommodation for large numbers of people and is often well-governed by community rules. Although informal tenants typically do not have a formal lease agreement, tenure security is usually fairly high, and the risk of eviction is usually not a notable concern.⁶⁷ There are

sometimes problems, though. For example, quality of the accommodation is variable, infrastructure networks can be overloaded by higher occupancy levels than planned for, and tenants can be at the mercy of landlords suddenly increasing rents or denying access to services. Informal rental should therefore be enhanced through the following government interventions:

- Support for better construction (credit, materials, plans, design of subsidised housing).
- The upgrading of infrastructure networks to meet *de facto* population densities.
- Making pro forma rental agreements available.
- Ensuring access to “rental tribunals” to mediate potential conflicts between landlords and tenants.

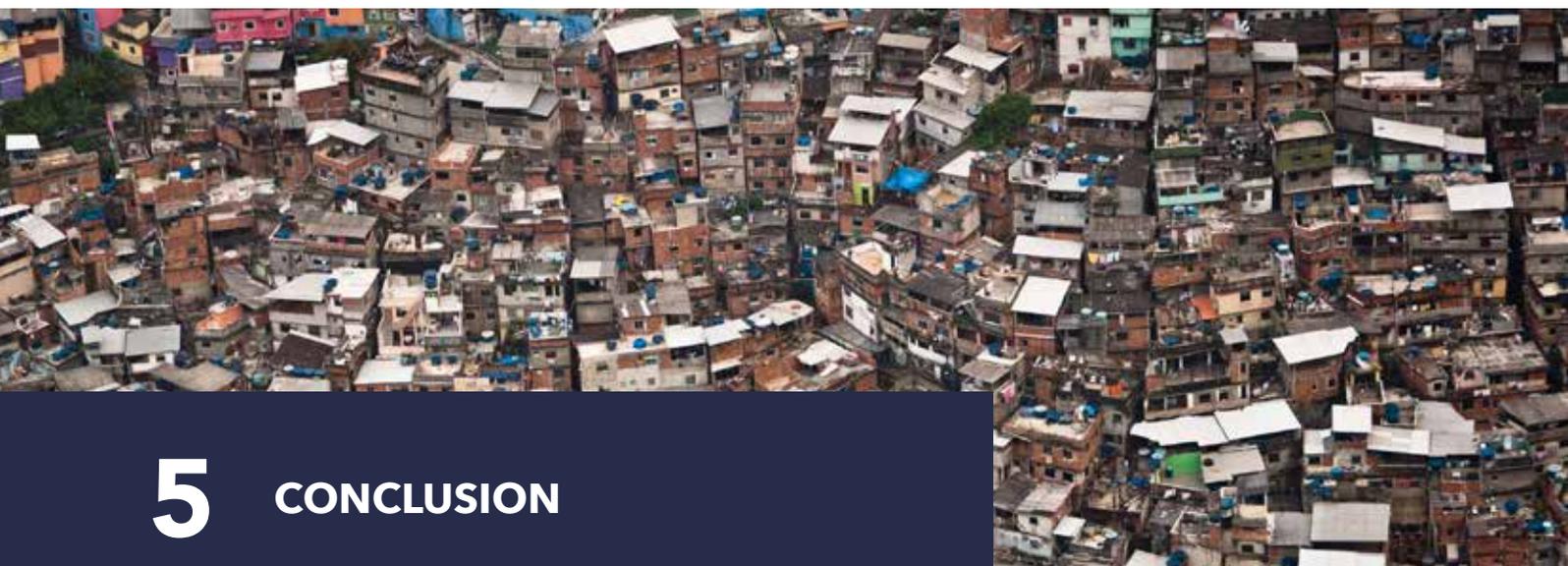
65 – Based on Cities Alliance, 2021c; Melzer and Robey, 2020.

66 – UN-Habitat, 2003.

67 – Isandla Institute, 2021b; Smit, 2007.

Formalised lease agreement templates may help safeguard tenants' rights, particularly where there are no familial relationships between landlord and tenant.⁶⁸ In addition, "rights education (for both landlords and tenants) and access to recourse when rights and responsibilities are not adhered to are important."⁶⁹

Supply-side subsidies for rental accommodation are usually open-ended and very costly (i.e. subsidies paid to landlords to enable them to build more rental accommodation), tend to drive up rents, and usually result in middle-income rather than lower-income groups being the major beneficiaries of supply-side subsidies. Supply-side subsidies for rental housing should rather be avoided in favour of broader strategies to create a more enabling environment for affordable and adequate rental housing with enhanced security of tenure.⁷⁰



5 CONCLUSION

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Enhancing informal land markets is an important strategy for reducing poverty.⁷¹ As discussed in this paper, city governments can undertake a wide range of interventions to make land markets function better and enhance the security of tenure for residents. Through the above recommendations (reforming the formal/legal/State-recognised land system to be more widely applicable and useful for the poor, providing a wider range of subsidised housing options for all categories of need, incrementally upgrading informal settlements where appropriate, and stimulating the provision of good quality backyard rental accommodation) it will be possible to ensure that land markets provide more options in poorer areas and that these options are more adequate.

Ultimately, we need to work towards land markets that work better for the poor, where households can access a variety of different options with adequate shelter and adequate services in suitable locations at an affordable

cost and with a reasonable *de facto* security of tenure, and where more households can have legally-recognised tenure (whether rental, communal ownership or individual ownership) so that they have greater long-term security and that owners of property can sell their properties at reasonable prices when they wish to.

The key principle is that interventions need to be based on a good understanding of existing informal market processes and participatory engagement with the residents concerned.

This paper is part of a larger review series on key topics of informality published in 2021. We encourage the readership to also engage with the review of slum upgrading programs, National approaches to slums, informal land markets, informal rental solutions, informal economy, the impact of COVID-19 on informal settlements, and informality concepts.

68 – Isandla Institute, 2021a.

69 – Isandla Institute, 2021a, p.14.

70 – Carey, 2009.

71 – Marx, 2009.



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