



# SLUM UPGRADING FACILITY

## Land and Slum Upgrading

# LAND AND SLUM UPGRADING

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*Photo © Ruth McLeod, October 2008.*

Right: *Residents of Amui Dzor in Ghana, from a trip in search of water.*

*Photo © Ruth McLeod, October 2008*

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# Introduction

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**“The multi-stakeholder and multi-sector approach of the Slum Upgrading Facility provides a forum for the voices of poor communities and slum dwellers to be heard. Based on the experience of implementing the SUF pilot project in Indonesia, the first and single most important issue to resolve for slum upgrading is secure land tenure.”** *Marcel Pandin, Indonesia Slum Upgrading Facility Country Coordinator.*

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It is estimated that up to 1 billion people live in slums in the cities of the world – one sixth of humanity – and that the numbers are rising. The UN-HABITAT Slum Upgrading Facility Pilot Programme was established in 2004 to examine ways in which innovative finance mechanisms can help address this problem.

The Slum Upgrading Facility is a technical cooperation and seed capital facility with a central purpose: to test and develop new financial instruments and methods for expanding private sector finance and public sector involvement in slum upgrading on a large scale. It is funded by the governments of the United Kingdom, Norway and Sweden.

The Slum Upgrading Facility operates under the premise that slums can be upgraded successfully when slum dwellers are involved in the planning and design of upgrading projects and able to work collaboratively with a range of other key stakeholders. The Slum Upgrading Facility works with local actors to make slum upgrading projects “bankable” – that is, attractive to retail banks, property developers, housing finance institutions, service providers, micro-finance institutions, and utility companies.

The Slum Upgrading Facility has pilot projects in Ghana, Indonesia, Sri Lanka and Tanzania, where various approaches are being tested to support the purpose of the Pilot Programme. In order to facilitate this work, Local Finance Facilities<sup>1</sup> have been established in Ghana, Indonesia, Sri Lanka and Tanzania. These facilities are focused primarily on accessing commercial finance for slum and settlement upgrading, and they provide support that is referred to as “Finance Plus”.

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<sup>1</sup> For more information, please read Working Paper 8 on Local Finance Facilities available on the Slum Upgrading Facility website through [www.unhabitat.org](http://www.unhabitat.org).

Finance Plus is about much more than just money. By offering Finance Plus, Local Finance Facilities aim to do the following:

- bring together key players involved in city and national level slum upgrading strategies to address the challenge of financing;
- catalyse the integration of commercial finance into slum upgrading;
- provide mechanisms to blend different forms of funding to maximize affordability, and;
- provide a financial mechanism to support the implementation of city-based slum and settlement upgrading strategies.

At the same time, slum upgrading is about more than just houses. The Slum Upgrading Facility Pilot Programme supports local slum and settlement upgrading initiatives that improve residents' access to water, to sanitation, to durable and sufficiently spacious housing and to secure tenure.

### A. Land and finance in slum upgrading

Slum upgrading is very complex. Unequal access to land and insecurity of tenure contribute to the creation and persistence of slums. Historically, slums have been created by poor people occupying public or private land to build their houses and communities. Their land rights are not legally recognized by the Government, so they live in fear of eviction.

Conventional slum upgrading approaches have addressed land issues in a piecemeal fashion, usually with a preference for providing individual land titles to the poor. This approach can create problems. The poor often find themselves in a position where they need cash. Their land title, with its security of tenure, is valuable. They may sell their land to higher income groups and move further out of the city, creating new slums in the process.

Land values are rising in the countries where the Slum Upgrading Facility programme is being implemented, and that puts additional pressure on the land being occupied by slum dwellers. Any city-wide or national approach to slum upgrading, therefore, must come to terms with land issues in a way that ensures an adequate supply of land for all income groups.

The finance side of slum upgrading is equally challenging. In conventional housing finance approaches, building or buying a home usually assumes mortgage finance (a loan secured by property). People obtain a mortgage to access finance to buy a house or plot on which to build or improve their home. But mortgage finance is not appropriate to the needs of the poor, who have irregular, informal sector jobs, who prefer to build incrementally and who cannot afford (nor require) the building and planning standards of middle income neighbourhoods.



At the same time, from a land perspective, mortgage finance depends on legally recognized land rights and a functional land administration system. Unfortunately, neither of these conditions exists in the vast majority of developing countries, where instead the reality is that land administration systems are confused and often dysfunctional, and the majority of the poor possess only extra-legal or informal land rights.

There is a very real danger that without a clear strategy to promote access to land and security of tenure on a city-wide basis, informal settlements will continue to grow and poor people will be pushed further and further from their jobs and livelihoods. This is why the approach of the Slum Upgrading Facility, which recognizes the critical importance and complexity of land issues in slum upgrading and in accessing finance for slum upgrading, is needed more than ever.

A family in an informal settlement in Solo, Indonesia. Photo © Ruth McLeod.





This working paper aims to bring together the expertise of two different disciplines: land and financial services for the poor. This is done from the perspective of the Slum Upgrading Facility, and land issues and experiences drawn from the Slum Upgrading Facility country projects are used to both illustrate and understand these issues.

This paper does not seek to provide a comprehensive overview of land, housing finance or infrastructure finance, but rather to catalyse discussion and debate around emerging Slum Upgrading Facility experience, documenting some of the issues arising within the projects in Ghana, Indonesia, Sri Lanka and Tanzania.

It also aims to consider some important questions around land and finance for the poor. Are poor households able to access land through the market? Are Slum Upgrading Facility projects providing greater security of tenure through their pilot projects? How does security of tenure affect access to finance? How are rising land values affecting the poor and their communities? How realistic is it to expect functional land administration systems in developing countries, and how have Slum Upgrading Facility projects dealt with this issue? Finally, can the poor actually afford housing and infrastructure loans?

# 1 Understanding Land & Finance Issues

Market economies can be said to rely on three basic assets: land, labour and capital. Where access to all three is readily available for all income groups and an enabling institutional and regulatory framework exists to support it, a housing market can operate effectively<sup>2</sup>. In most developing countries, however, the poor have limited access to land and capital and are therefore forced to rely on their own labour to meet their housing needs.

This section of the paper provides an introduction to the land-finance challenge. Simply put, the majority of the world's urban poor do not have access to the conventional institutions responsible for providing secure land rights and affordable finance. Rather, conventional institutions have been designed to meet the needs of the middle- and upper-income clients on terms that are not accessible, appropriate or affordable for the poor. The failure of conventional systems is one of the reasons why the poor are faced with a choice between housing that is either affordable, but inadequate or housing that is adequate but unaffordable.

## The challenges of conventional housing finance and the poor

Neither conventional mortgage finance nor housing micro-finance have, to date, met the finance needs of lower or moderate income groups.

The problems of mortgage finance have been well-documented by many authors and can be summarized according to a three tier framework based on Ferguson (2004):

1. Macro-economic factors: instability and high inflation can create very high real interest rates that make lenders reluctant to lend large amounts over long periods of time. To manage this risk, lenders may limit the number of loans given out and/or target them to more 'reliable' clients. They may also invest in high-yield and relatively secure instruments such as

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<sup>2</sup> Other components are also required, for example, building materials industry, xx. For more information on the requirements of a functional housing sector, please see Acioly, Claudio yyy. Get quote from Claudio

Government Treasury bills. These strategies effectively shrink the available supply of money for housing loans and concentrate those loans on wealthier clients.

2. **Housing characteristics:** financial institutions prefer the certainty that comes from investing in newly built homes that often come with a manufacturer's warranty and which comply with local building and planning laws. If there is default on the loan, these homes can readily be repossessed and resold to enable the institution to recoup its investment. Lower and moderate income families, however, build incrementally or progressively – sometimes buying a plot, building a core unit and adding rooms over time. These homes rarely comply with building and planning laws. Furthermore, in most developing countries, inadequate legal frameworks, the complicated and time consuming procedures and the political and reputational risk of repossession act as a disincentive to risk-taking for conventional finance institutions.
3. **Underwriting or Risk Management Practice:** conventional financial institutions further manage their risks through requirements that are not appropriate for the poor, including: (i) regular and sizable monthly payments over a long period of time (15-25 years); (ii) a proven credit history with an established financial institution; (iii) a stable and verifiable income (typically in the formal, salaried sector); and (iv) full legal title to the land. Many lower and moderate income households, however, have relatively unreliable incomes, no formal credit history, a preference for short, small, sequential loans, and, as we will discuss below, no legally recognized land rights.

Life in Old Fadama informal settlement, Ghana. Photo © Ruth McLeod.



In short, conventional mortgage finance systems are simply not geared to the realities of the urban poor. Their risk perception, rather, is geared to the realities of middle- and upper-income people.

Housing micro-finance, by contrast, responds better to the needs of the urban poor. Ferguson (2008, pg. 1) summarizes the approach and products as follows: “the prototypical housing micro-finance loan consists of a small, short-term unsecured credit (US\$500-\$2,500) with a term of two to five years, depending on the context, to a home-owner to expand or remodel their informally-built house. Sometimes, micro-finance institutions offer somewhat larger loans (US\$3000-\$7000) at longer terms (five to 15 years) for a family to construct a new home (often on a lot that they already own), occasionally secured by a mortgage. Small home improvement credit, however, is the main market for which microfinance institutions have created a housing microfinance product.”

While housing micro-finance is also dependent on macro-economic stability, it goes significantly further in adapting itself to the realities of the poor in its appropriateness to progressive housing construction practice and in its underwriting/risk management practice. The main areas of innovation in reaching the poor include:

- ***Recognition of progressive or incremental building practice.*** According to Ferguson (2008, pg. 2) “50%-80% of the population in most emerging countries build their homes progressively.” Micro-finance institutions and housing micro-finance institutions accept the incremental building practice of the poor and structure their finance products to meet this demand. They do this by offering successive, small loans with short repayment periods. The vast majority (some 80%) of such loans are for home improvement, though there are signs that in more established markets as found in Latin America, some housing micro-finance institutions are providing loans for new construction.
- ***Acceptance of more appropriate building/planning standards.*** Full compliance with planning laws and building codes is less important than ensuring that housing quality is within the acceptable norm for that community. Some housing micro finance institutions provide technical advice for new construction as a way to ensure quality.
- ***Legal evidence of land ownership is not required.*** For home improvement loans, legal evidence of land rights generally is not required. The economic costs, the complicated and time-consuming process and social implications of repossession deter financial institutions from exercising this option.
- ***Group lending.*** To address the issue of high transaction costs compared to loan value and to mitigate risks related to default, significant innovation has occurred by ‘bulk lending’ to recognized community groups who take responsibility for regular collection and repayment.

Nevertheless, Ferguson (2008) and others have criticized current housing micro-finance practice on the following grounds:

- It does not meet effective demand, particularly for new housing. Ferguson (2008, p. 5) cites population growth data by Cohen (2005), to conclude that “even if housing micro-finance continues to grow at current rates within micro-finance institutions, the total loan volume will be trivial relative to demand in most contexts over the next 20 to 30 years – that is, the peak of the world’s low-income housing/urbanization emergency”. Ferguson (2008, p. 2) cites the World Resources Institute estimate that the global demand for home improvement loans is USD 331.8 billion. The demand for new housing construction is not included in this figure; the total figure, therefore, is likely to be higher.
- Housing micro-finance is not core business for micro-finance institutions. Ferguson (2008, p.3) cites a regional study of Latin America that concludes that housing micro finance has “proved useful to build customer loyalty, but is not a core product” of micro-finance institutions. While it helps diversify portfolios and build loyalty, it remains outside their core business. In fact, in many countries, micro-finance institutions will offer loans (or their clients will take loans) intended for small-business purposes, but will use them for housing.

While housing microfinance is more appropriate to the needs of the poor there are three related land issues that militate against its achievement of impact at scale. The first is that while home improvement loans may be appropriate for slum upgrading, the limited finance available for new home construction means that the sufficient supply of adequate land for housing (and therefore slum prevention) remains unrealistic for the near future.

Second, the systemic or structural failures for affordable land delivery must be addressed. In most developing country cities, authorities have never succeeded in making sufficient land available to accommodate the demand for housing or to effectively guide the growth of urban areas.

Third, housing finance alone cannot meet the needs of slum upgrading. Infrastructure and basic service needs must also be met, both the capital investment and the maintenance requirements. The approach to slum upgrading, therefore, must take a broader, more holistic approach to settlements finance, identifying comprehensively the costs and potential revenue streams from any upgrading or land delivery process.

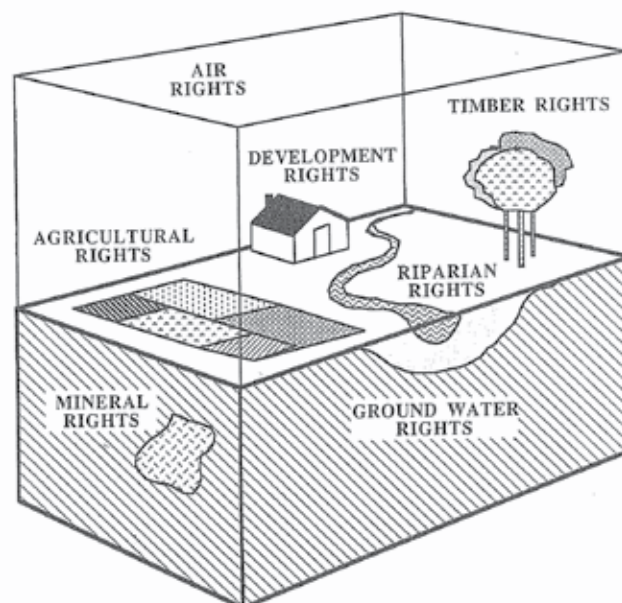
## Affordable land and security of tenure

Land is a complicated issue. It is technical, political and highly context-specific. Non-land professionals, particularly if coming from the private sector, aid agencies or non-governmental organisations, tend to shy away from land issues. This is unfortunate, as the reticence to address land issues helps perpetuate the status quo, namely, the persistence of slums and a failure to develop and implement effective strategies for slum prevention.

### Understanding land – five important concepts

First, land is a unique type of asset. *Land is finite, fixed and permanent in nature.* Unlike labour or capital, it cannot be (easily) created. Due to its fixed nature, each parcel has its own particular attributes, which in turn determines its value. For example, plots may be adjacent, but if one fronts the main shopping area in a city, its value will be significantly higher. Land is also a unique type of asset because it is closely linked to individual and community identity, history and culture, as well as being a source of livelihoods. For many poor people, land may be their only form of social security. As a result, poor people in particular tend to be quite risk averse with respect to their land.

**Figure 1** Different types of rights in land



Source: Dale and McLaughlin 1988, p. 3.



Second, *there is an important distinction between 'land ownership' and 'land use'*. As Dale and McLaughlin (1988, p. 19) note, “Although the term ‘land ownership’ is in common use, it is not possible, in a strict sense to own land itself. It is the rights to use the land that can be owned.” The different uses to which land can be put play a critical role in determining land values. What is farm land outside a city today, for example, may become the site of a new commercial or residential development in the future. Who captures the gains from changes in land-use is a critical issue for slum upgrading.

Third, there are *many different types of rights* in land, as illustrated in Figure 1. Sometimes these rights apply to the same piece of land. Dale and McLaughlin (1988, p. 19) state that “land rights have been described as a bundle of sticks, each stick representing something which may be done with the land. Each individual stick defines a way in which the land may be used, the profit which may be derived from it, or the manner in which some or all of the rights may be disposed of by transfer to other people or to organizations.” What Figure 1 does not show, however, is that these rights may be ‘owned’ by one individual, commonly owned, or that some of the rights may be contracted out to other people. Moreover, it should be noted that each right comes with clearly defined responsibilities regarding the exercise of that right.

Fourth, *a system of land tenure defines who has what rights over a piece of land*. Land relations exist in a “people-people-land” relationship called tenure. It is important to note, therefore, that land rights are socially constructed by people according to their norms and customs. In some parts of the world, primarily the North, these relations are documented in a single statutory (legal) regime; in other parts of the world, particularly the South, it is often the case that more than one regime exists to regulate relationships to land. Statutory regimes can co-exist with regimes based on traditional, customary and religious foundations (for example, in many Islamic countries, inheritance rights are determined according to a specific formula codified in the Shari’a). It is also important to note that in many countries, hybrid systems have emerged, blending elements of the statutory system with elements of the customary or religious tenures.

Finally, *security of tenure* refers to the confidence one has that their land rights will be respected. Conversely, insecure tenure refers to a situation in which there is a perceived or real possibility of eviction or a loss of use rights. While eviction was a common Government response to the growth of informal settlements from the 1950s through the 1970s, more recently evictions have been used to facilitate urban redevelopment. Urban growth puts pressure on informal settlements, both within and on the periphery of city boundaries, and eviction is increasingly being used to facilitate private sector investment<sup>3</sup>.

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3 For more information, please see UN-HABITAT (2007) Global Report on Human Settlements.

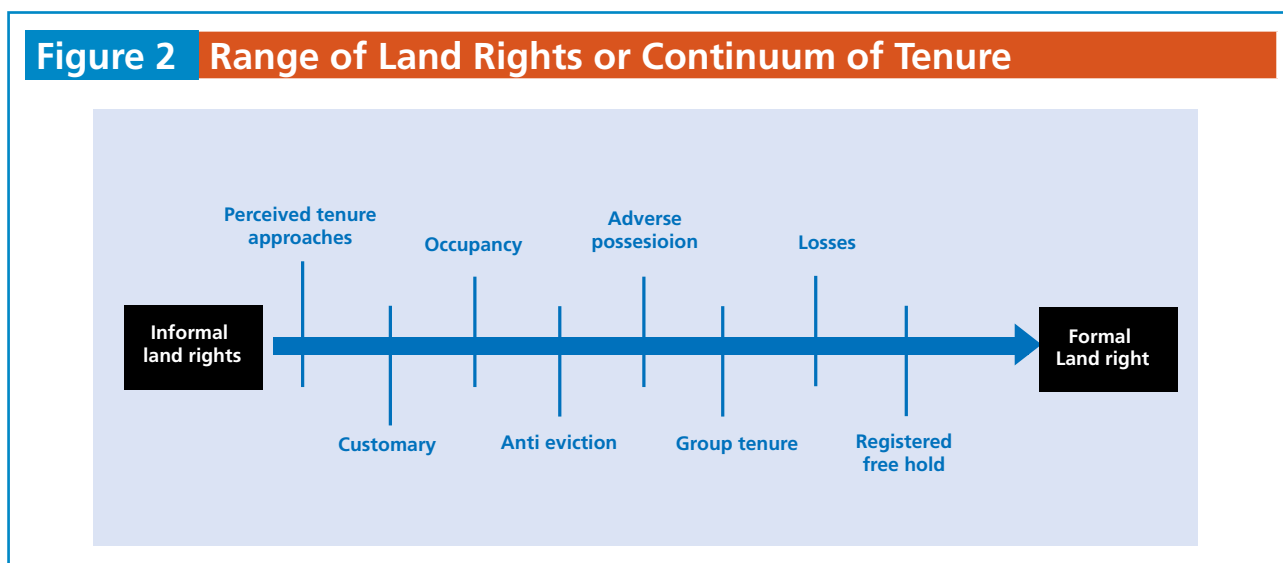


## A Framework for understanding land issues at country level

There are five important elements to understanding the land situation of any country: the country context; the range of land rights that exist; the operation of the land market; the institutional landscape; and finally, the quality of land governance. These factors affect how poor people are able to access land and influence the kind of finance that is available to them. These factors are described below.

Country context refers to a country's history, politics, geography, culture and religion. Some important issues include: natural resource endowments; geo-political or strategic location; history of war, occupation, colonization; traditional or religious leadership and institutions; etc. These factors determine the nature of land relations in a country and impact future attempts at reform.

Most importantly, the country context will determine the range of land rights or continuum of tenure that exists in any country. While forms of land rights such as freehold and leasehold may be well-known, the actual range of land rights is much broader, as illustrated by Figure 2 below.



Source: UN-HABITAT (2008)

Rights in land can be limited to the 'perception of tenure security' – a low risk of eviction, but a relatively informal and insecure form of tenure. Depending on the country context, customary rights may also afford some security, either to individuals or, more often, to individuals within a group or community context.

Some countries are coping with rapid urbanisation by providing temporary occupation rights (2-10 years) or by adopting anti-eviction laws. Some countries have strong 'squatter rights' or adverse possession legislation. These enable people to transform their occupancy rights into legally recognized land rights after a set period of time, usually after between 5 and 20 years of uncontested, continuous occupation.

A range of group rights also exist, including community rights, cooperatives and, in some countries, condominium arrangements. Long-term leases and individual freehold tenure represent the most secure forms of tenure and often represent the main tenure types within the statutory system.

Different types of tenure, however, have different strengths and weaknesses. Table 1 below summarizes the strengths and weaknesses of a select group of tenure types.

An important point to note is that while freehold tenure offers the greatest security, freedom of use, collateralization and potential to realize value increases, it is rarely a sustainable option for Governments or an affordable option for the urban poor. Applied in dysfunctional land markets in a project format targeting individuals, there are risks of gentrification and downward raiding by wealthier income groups. Intermediate forms of tenure and group tenures, on the other hand, have proven more appropriate to the progressive building practice of lower-income communities.

Understanding land issues at the country level also requires an appreciation of how *informal and formal land* markets operate. Broadly speaking, the land market enables people to buy and sell (transact) and convert land from one use to another. The factors affecting land market operation are, simply put, the forces of supply and demand, which affect households and developers differently.

On the demand side, population growth, urbanisation rates and household formation rates are major drivers of housing demand. Household choice is affected by several factors including price, access to finance, location (perceived tenure security, proximity to livelihoods, community etc.), access to information regarding land availability and purchase options and transportation costs.

Housing quality and its location relative to natural or other hazards are often of secondary importance to lower- and moderate-income households. Observance of zoning by-laws and building codes is less important. For many low-income households, rental is the most appropriate form of tenure, though many households may also opt for various non-formal types of tenure, including squatting. Other forms are normally too expensive and not an option.

In terms of supply, land markets are shaped by Government and developer activity. In general, developing country Governments have failed to supply a sufficient quantity of adequate land to match the demand across the income groups. While formal sector developers have catered for the middle- and upper-income groups, informal sector developers cater to lower- and moderate-income groups.

The factors affecting supply include land availability; Government spending on infrastructure and services; access to development finance at affordable interest rates; planning and land-use regulations (mostly for formal developers); administrative costs (formal land transactions); cost and availability of building materials and labour; and the potential for profit.

**Table 1: Tenure Systems and their Characteristics**

Tenure System	Characteristics	Advantages	Limitations
Freehold	Ownership in perpetuity	High security; freedom to use, dispose, inherit; use as collateral for loan; maximizes commercial value and enables holder to capture value-increases.	Expensive to access. Requires high technical standards, strong Government capacity to administer, clear incentives to register transactions. Risk of gentrification if applied piecemeal.
Registered Leasehold	Ownership for a specified period (up to 999 years).	Almost as secure as freehold, however, time-bound.	Requires legal framework and costs of access generally high.
Rental (Public or Private)	Two options (i) Public: occupation of state-owned land or house; (ii) Private.	Both have good security, however, legally enforceable contract more important for private rental. Mobility depends on supply, which is often better in private.	Public can be limited in supply and poorly located. Private may be open to abuse. Both have maintenance issues.
Cooperative	Ownership vested in cooperative or group of which residents are co-owners. Variation is Condominium.	Good security; maintains group cohesion; advantages for group repayment of housing loans.	Legal framework required; restrictions may reduce incentive to invest; double registration required – land and association.
Customary/ Traditional	Ownership vested in family, community, group or tribe. Land managed by leaders on behalf of community. Variation is religious tenure.	Wide acceptance and practice in certain parts of the world. Simple to administer. Social cohesion maintained.	Under pressure from rising land values and commercialization of land. Accountability of traditional authorities may be weak.
Intermediate tenures (eg. certificates, permits, licences, etc.) Pragmatic arrangements, often of short-term nature (eg. certificates, occupation permits, etc.)	Provide reasonable security, while protecting long-term public interest and options for change of land-use. Government becomes liable for compensation in event of relocation; this may inhibit redevelopment.	Non-formal tenure Squatting, unauthorized subdivisions, unofficial rental, etc. Often a response to failure of public land allocation; may operate with elements from 'formal' system (eg. contracts).	Risk of eviction; exposure to corrupt practices; hazardous location; inadequate shelter;

Source: Adapted from UN-HABITAT (2008)

It is important to recognize that the land market operates across the continuum of tenure and that land and housing prices are affected significantly by the type of tenure. Weaker forms of tenure will likely be priced lower than more secure forms of tenure in the same area. Similarly, tenure type also tends to correlate with the type of services available, with weaker forms of tenure found in relatively poorly serviced locations. In such cases, it is interesting to note, the land price constitutes the vast majority of the house cost. There is almost no cost for access to infrastructure and services as none are provided. Labour costs and building material costs are minimal as people tend to self-build with locally available materials and techniques. Zoning and planning regulation compliance costs, therefore, are minimal, as are transaction costs because they tend to occur outside the formal land administration system.

As the land market is shaped by the range of land rights that exist in a country, so too are the institutions established to regulate land relations and land markets. In terms of the statutory system, the main elements include the following:

- land policies, to determine the broad goals and objectives regarding access to land and land use;
- land laws and regulations, to create a legal framework for implementing land policies; and;
- and administration, including land information systems, cadastres, etc. as the tools for implementing land policies and laws.

There are currently three main statutory systems for recording rights in, and transfers of, land: the deeds registration system; the title registration system and private conveyancing system. These are described in Box 1 below and one vision of their geographic distribution is presented in Figure 3.

While useful conceptually, the statutory model often breaks down in practice. Some of the common challenges include:

- Institutional fragmentation: the responsibilities for land are divided between multiple Government ministries and departments (land registry, tax, mapping, sectoral ministries such as agriculture, housing, etc.). The institutional fragmentation is often mirrored by policy fragmentation. As a result, land sector coordination is often weak.
- Exclusion of traditional or religious institutions: the model does not recognize customary or religious institutions, structures or processes, despite the fact that these are powerful forces that affect who has what rights over land. Nor does this model recognize that in many countries, hybrid land institutions have evolved (particularly in land markets), borrowing elements from the statutory system (eg. informal documents stamped by Government representatives) as well as customary or religious systems (vesting authority for land allocation in traditional leaders or chiefs).

- Limited coverage and gender bias: it is estimated that only some 30 percent of the land area of developing countries is covered by the cadastre – the legal tool for recording land rights. Moreover, this 30 percent is concentrated in high-value urban areas – informal settlements are rarely included. The result is insecurity of tenure, uncertainty in land markets, the limited reach of mortgage finance and poor information for urban planning and management. A related point regarding land registry coverage is that only 2 percent of the recorded land rights are registered in the name of women.

### Box 1 Types of Land Registration Systems

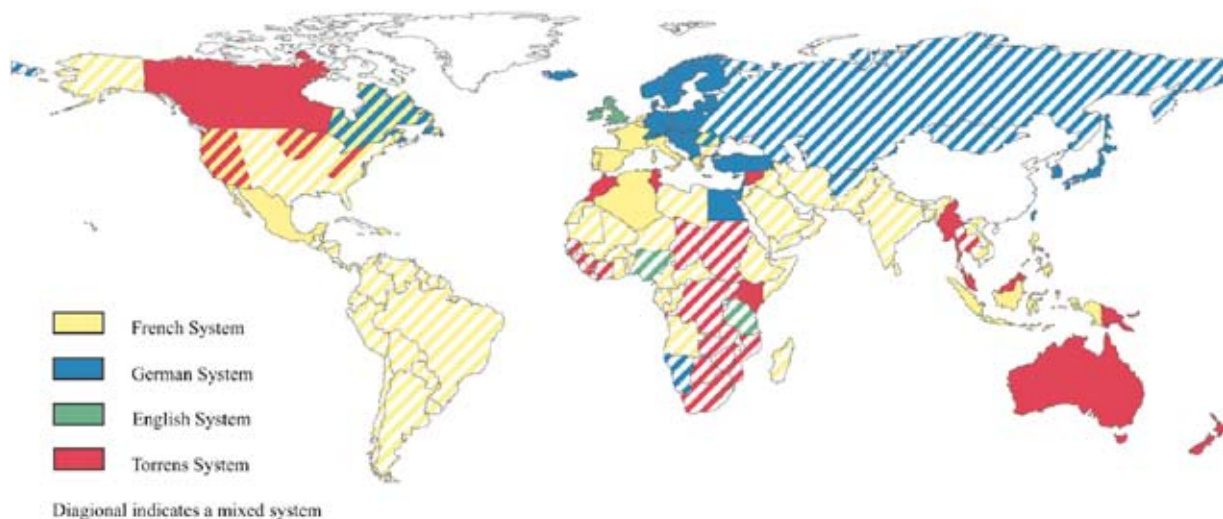
- **Deeds registration system** records the documents of transfer (sales documents, mortgages). Copies of land records and transactions are traditionally kept in a government office, often a courthouse. This system was introduced to the developing world during the colonial era and thus is the most common form of registration in most developing countries. In many deeds systems, however, registration of deeds is not compulsory. To ascertain that a deed is clear of claims, the chain of title, or history of transactions, is reviewed. The main problem encountered with the deeds system is that it is a “system for recording legal documents, not for registering title to land.” Simply put, a deed does not prove who owns the land rights, only what transactions have taken place involving that piece of land. Many data entry errors are possible and the information in the registry may not tally exactly with the facts on the ground. It should be noted that deeds registration systems, where well-maintained, are usually supported by detailed surveys that define the parcel concerned. In many countries, title insurance is also available, by which a private company agrees to underwrite any loss if the title is proved to be defective.
- **Title registration system.** By contrast, this system is parcel based, rather than document based, and the register itself is the legal evidence of rights in land. The register is divided into three parts: property (in which the boundaries are defined), proprietorship (in which the name and address of the owner is recorded); and encumbrances (in which any restrictions regarding use are listed). Significantly, the information on the register is guaranteed by the Government and, in the event of inaccuracies, compensation is provided. Over the past three to four decades, there has been a trend in the international community to promote the updating of deeds registration systems to title registration systems. While preferred by many donors, titling programmes are not without their pitfalls. They are expensive, may produce a land administration system that is ultimately unsustainable, do not automatically lead to increased access to credit for the poor, may result in increasing the insecurity of the poor through gentrification, may undermine the social integrity of groups and communities, and often require a capacity to manage that is beyond the reach of that available in developing countries. In short, many of the potential benefits of titling may be achieved by using other, intermediate forms of tenure, and the potential risks undermine the usefulness of this approach.

**Box 1** Continuation.....Types of Land Registration Systems

- **Private conveyancing system.** While the deeds registration system is most common in developing countries, most transactions are not registered with the Government. Rather, private conveyancing, in which the records and transfers of land are handled by private arrangement, is common. As Dale and McLaughlin note, “With private conveyancing, the full cost of transferring the title to the land is borne by the land owner. Agents such as notaries or solicitors may be paid to oversee any dealings in land, and private surveyors may be employed to mark out and record the spatial limits of any property. Security of title comes from the integrity of the professionals involved.” Dale and McLaughlin go on to list the flaws and risks inherent in the private conveyancing system: “duplication of effort... expensive, frequently slow and inefficient, and provide little or no access to the information by the state. They are also open to fraud; a vendor may sell his land to several different purchasers without knowing until too late that the vendor no longer has a right to sell.” The uncertainty of a deeds registration system is mitigated by the provision of title insurance, for those who can afford it.

Source: Dale and McLaughlin (1988, p. 19-24); Farvacque and McAuslan (1992), pp. 56-7

**Figure 3** Range of Land Rights or Continuum of Tenure



Deeds System (French): A register of owners; the transaction is recorded – not the title.

Title System (German, English, Torrens): A register of properties; the title is recorded and guaranteed.

Diagonal lines in Figure 2 indicate mixed systems.

Source: Enemark (2008)

- Land Information is often not up-to-date: Developing countries often lack the human, technical and financial capacity to maintain land records to a high degree of accuracy. Bureaucratic procedures, corruption and tax liabilities create further disincentives to record land transactions. Often, vested interests of professionals or bureaucrats conspire to perpetuate opaqueness in the system.

The final element in the framework for understanding land issues at the country level is the **governance perspective**. Land is an important source of political and financial power, and therefore a critical governance issue. As Quan (2007, p. 23) has noted, “in many societies, land provides a means of accumulating and allocating both political and economic power... the poor governance of land may be linked to social and political conflict and as well to economic development problems... Improving the governance of land at different levels is therefore a critical dimension in improving the overall governance environment”.

UN-HABITAT and FAO define land governance as “the rules, processes and organizations through which decisions are made about access to land and its use, the manner in which the decisions are implemented, and the way that competing interests in land are managed. It encompasses statutory, customary and religious institutions. It includes state structures such as land agencies, courts and ministries responsible for land, as well as non-statutory actors such as traditional bodies.” A land governance perspective facilitates critical insights into the stakeholders, their interests, their sources of influence and their constraints. This perspective can be useful to understand and manage the vested interests of stakeholders when negotiating complex financing packages for slum upgrading.

## Land-based Strategies for Slum Upgrading

When examining the Slum Upgrading Facility country experience, it is useful to contextualize the types of approaches being used. Listed below is a summary of five common land-based strategies presented by UNESCAP/UN-HABITAT (2008) that are being used to support slum upgrading initiatives. They should not be seen as stand-alone approaches, but rather as options to be used in the most appropriate combination for a specific country context.

- Land Sharing. Government or private sector owners negotiate with residents of informal settlements to prepare a joint strategy to develop public or private land occupied extra-legally. The community obtains rights to a portion of the land to be used for in situ upgrading, while the Government or developer uses a portion for commercial purposes. The developer avoids eviction or court and can profit from the development, while the community’s land rights are made secure; in some cases, relocation or some members and/or infrastructure investments can also be funded. The key to land sharing, however, is a context of rising land values.
- Land Readjustment (also called reblocking). Several adjacent pieces of land are joined, property boundaries are eliminated and a new development is planned and implemented, with



the original holders receiving a pro-rata share of their original land in the new development. In addition, services and amenities may also be provided as part of the scheme.

- Regularization. Regularization varies in implementation. However, it generally involves the granting of legal land rights to informal settlement occupants. On private land, regularization involves negotiating a purchase price/lease price for some or all the land. On Government land, long-term leases are usually granted. In both cases, individuals or communities may be the beneficiaries.
- Simplified land-use and planning regulations. Many well-intentioned zoning and land-use regulations intended to benefit the poor may have the opposite effect. They can drive prices out of the reach of lower- and moderate-income households. Locally-developed and flexible regulations can facilitate investment by communities and increase the supply of affordable land. These can include: use of multi-story or row housing models; reducing road size requirements; allowing for local materials and techniques, etc.
- Improved land valuation and taxation. Many local authorities are not able to collect the land tax to which they are legally entitled, let alone to appropriately value properties. Improving valuation and collection can create a reliable revenue flow that will enable local authorities to create multi-year investment plans, including, where possible, accessing capital markets.

## 2 Slum Upgrading Facility experiences from a land-finance perspective

The Slum Upgrading Facility pilot projects underway now in Ghana, Indonesia, Sri Lanka and Tanzania provide a good opportunity to bring real experience and theory together, as a means of understanding land and finance issues and considering the practical and policy implications. This section looks at Slum Upgrading Facility in-country experiences, identifying the range of land rights that operate in these countries, security of tenure, the operation of the land market and the impacts of the institutional framework for land on housing finance for slum and settlement upgrading activities.

A short overview of some of the current Slum Upgrading Facility pilot projects in the four countries is provided below.<sup>4</sup>

### In Ghana, two projects are being assessed

- **Amui Djor.** Located in Ashaiman Municipality, the project aims to build multi-storey mixed use facilities to accommodate 40 households (240 people) and some commercial shops in a well-located market area. The project has been conceived as a trust-building pilot to demonstrate the approach and facilitate the scaling-up to serve the entire settlement's needs. The settlement is relatively well served with water supply, public latrines and electricity. The project is situated on traditional stool land (vested in the state) and is to be transferred from the Tema Development Corporation to Tema Traditional Council to the project. 60 percent of residents are renters; owners have purchase receipts or land allocation documents (indentures) as proof of land rights. The total project cost is currently estimated at USD 130,000 and the loan is to be financed from a blend of several sources including community savings and the Urban Poor Fund. Currently, the financial feasibility of different construction options is being discussed with the community. Building materials and construction costs, inflation (18.9%), and interest rates (27-30%) are the main affordability issues. Project partners include: People's

<sup>4</sup> Not all projects referred to in the following narrative have been summarized: some were under study, while others have since been determined to be unfeasible. Some of the projects currently described may not evolve to be implemented by the Slum Upgrading Facility

Dialogue; Amui Djour Housing Cooperative Society, Ghana Homeless Federation, TAMSUF (the Local Finance Facility), Ashaiman Municipality, and the Tema Traditional Council.

- Sekondi Takoradi Metropolitan Assembly (STMA) Citywide Settlement Upgrading Fund. The project aims to secure a loan for a Build-Operate-Transfer partnership between the Kojokrom Market Women's Association and the Sekondi Takoradi Metropolitan Assembly to complete construction and rent out six market sheds. The revenue stream will enable them to build a strong capital base before building or improving their homes. The site sits on stool land that has been purchased by the Municipality and occupants have land allocation documents (indentures) or leases. Some 70 percent of the residents are owners and the settlement is relatively well served with water supply, public toilets and electricity access. The total loan cost for the six sheds is USD300,000 and an initial loan of USD50,000 is to be taken to complete the first shed. Affordability issues include inflation and interests rates, as mentioned above. Project partners include: Kojokrom Market Women's Association; STMA SUF (the Local Finance Facility); Municipality of Sekondi Takoradi Metropolitan Assembly; the non-governmental organisation African Women's International.

Locals in Amui Djour discussing on slum upgrading project, Ghana. Photo © Ruth McLeod.



## In Indonesia, four projects are at varying stages of development/ appraisal



Women in Solo Indonesia, preparing roofing materials for upgrading their housing, Indonesia Photo © Ruth McLeod.

- Karatonan, Surakarta (Solo City). The project is a multi-stakeholder partnership to provide housing and infrastructure for 11 houses (35 people). Despite its relatively small size, the project has been an important demonstration of the Slum Upgrading Facility approach. In return for transferring the land to the occupants (individual freehold with contracted limits for re-sale), the community was required to improve their housing and settlement conditions. While the plots varied in size, the community agreed to a land-consolidation scheme by which they re-planned the community, dividing the available land equally among themselves, while reserving some land for a park and future public toilets. Based on the Slum Upgrading Facility commitment additional investments were mobilized, including from the water company to improve the public toilet, making electricity connections legal and improved

sanitation. Residents now pay service fees to access utilities. A USD 222 Municipal grant was combined with a USD 750 loan taken for a 36 month term with an effective interest rate of 25 percent, using the titles as collateral. The average cost of a house is USD 1000 for 15 m<sup>2</sup>, with a monthly repayment of USD 30/month. An internal cross-subsidy scheme has been implemented to ensure that the lowest income houses can also participate.

- Kean (Ketelan), Surakarta (Solo City). Ketelan is a riverbank settlement that sits on reserved land along the edge of a canal. The land is unregistered public land and the municipality has arranged for the transfer of the land through individual titles to the 44 low-income households that occupy the houses. Unlike the Karatonan case, the titles were issued before a compromise was agreed to equally share the land, making compromise on the distribution of the land impossible. Nevertheless, the community has reduced its encroachment onto the reserve area and is increasing the density of their settlement. The Municipality has negotiated the contribution of an additional 15 m<sup>2</sup> of privately-owned land to accommodate additional owners. As yet, the three renter-families have not been accommodated. Individual home improvement loans have been approved by a saving and loan cooperative; all are unsecured. The loan size is varied as the need and design of the upgrading is different from one house to the other.
- Stabelan (Setabelan). Setabelan is a riverbank settlement adjacent to Ketelan. The land was also unregistered public land that then had been transferred to the existing dwellers for 48 eligible homeowners. Similar to Ketelan, Setabelan was granted freehold land without land consolidation. Three homeowners have taken commercial construction loans from local commercial banks for their house upgrading secured by the newly granted freehold land. The loan size is also varied according to the homeowner's upgrading plan.
- In Yogyakarta, the Slum Upgrading Facility is exploring a development intended to take place on land owned by the Sultan – sultan ground. The community rents the Sultan ground from the Sultan's land office (Panitikismo). There is no secure land tenure for the existing dwellers even if they pay rent to the Sultan as at any time the land can be transferred to another party without permission or consultation from the existing dwellers. There are several historical cases where the Sultan granted his land to the existing dwellers. But in recent years, many similar land transfer application have been turned down as the Sultan ground becomes strategic and increasingly commercially valuable. A recent development in this situation is that the National Land Authority believes that if existing dwellers submit an application to convert the land as long as they have paid in full the land and building taxes and dwelled more than 5 years then these applicants have a right to the land. The office of Sultan land has a different opinion on this, however, and this is something that Slum Upgrading Facility supported projects will attempt to resolve.



## In Sri Lanka, three projects have been under development



Credit Guarantee signing & Kirulapona project launch – Sri Lanka Photo © SUF Sri Lanka

- **Moratuwa, Colombo.** A land-sharing scheme was proposed in Moratuwa by which two different communities would consolidate their existing residences, while a portion of the land would be set aside for commercial development. The land is located adjacent to the court house and was believed to have been vested in the local authority by the national government. It was agreed that a portion would be transferred to the community in return for the commercial development. After significant delays, it was discovered that the land had not been vested in the municipality. The land relating to this settlement is in the relatively lower-value suburbs of Colombo and for this reason the project was unable to find a buyer for the land in order to make this land sharing process work. However, the Municipality along with the Slum Upgrading Facility, continues to try to find a buyer.
- **Kuriniyawatta, Kolonnawa Municipal Corporation.** This project will combine housing improvement, improved security of tenure, infrastructure improvements and flood mitigation in a community of 67 households and a population of approximately 235 people. The number of beneficiaries is 52 households or 214 people. The community is supported by the Women's Bank of Sri Lanka. The land is public land, however, the community has occupied the land for some 10 years. Most of the Orgodawatta community had been resettled in this land with no legal documents to claim the rights. It is reported that these people had built their dwellings

overnight due to the fear of any kind of interruption from members of the opposition party in parliament. At the beginning the dwellers used public water lines, but were without electricity. During the election period the settlers had been able to demand water (2001) and electricity (2003) from different politicians. However, due to their illegal occupation of the land, the National Electricity Board and the National Water Board had given the amenities only with a letter stating that the settlers would not ask for any compensation in the event of a forced eviction. Without proper documentation, over the past 10 years these people had been living in this piece of land with minimum disturbance and interruptions. With this project the beneficiaries will obtain the collective ownership of the land title as a cooperative through the Women's Bank, who will retain the title until the loan is repaid by the community. Hatton National Bank is providing a loan of LKR 11 million (or approximately USD 96,000).

- **Wallauwatta, Galle District.** Walluawatta is a settlement of 45 households or 170 people. About 20% of the houses in the settlement are threatened by landslips from the steep hillocks surrounding the settlement. The slopes became unstable following the tsunami in December 2004. The housing in the settlement is a mixture of semi-permanent and permanent. About 20% of the houses within the settlement do not have toilet facilities, 10% of the houses do not have water supply. There are no mains sewers and the existing storm drains in the settlement are prone to flooding, due to a lack of maintenance. The land that the settlement is built on is owned by Galle Municipal Council. The settlement is dense and there is little open 'public' space. The road that passes through the settlement is perceived as congested as it is used as a short-cut.

### In Tanzania, three projects are under preparation:

- **Chamazi Project, Kurasini Ward, Temeke, Dar es Salaam.** Kurasini Ward is located close to the port and the land occupied by eight mostly informal settlements has come under redevelopment pressure. The land is not under private lease arrangements and the Government has exercised its authority to relocate some communities to make way for private investment. An eviction of 1000 households was carried out in 2006. In this process the government decided to compensate structure owners, but renters, who comprise up to 70 percent of the population, have not been compensated. The implication of this is that the majority of tenants have relocated in other unplanned settlements, which only moves the problem elsewhere. The Centre for Community Initiative has mobilized the affected community to start their savings scheme (federation). Through this federation, they were able to purchase of 30 acres of land at Chamazi area for USD 24,000 from a private landlord occupying unsurveyed land. The purchased land has been vested in a cooperative under cooperative laws. A project is currently being developed that will include the following components: new house construction, surveying of the land, issuing of land lease, the development of rental housing and markets. Two types of houses have been agreed by the community which will include single and double storey houses. Adoption of incremental construction will be considered in order to address the affordability of the community which ranges from US \$1000 – US \$ 5000 for houses sizes ranging from 20sqm – 60sqm. Discussions with Temeke Municipality have indicated their willingness to support infrastructure services such as water services and roads although such support will depend on fund availability. A cross subsidy arrangement which will include



provision of rental houses, a market stalls, and light industrials is also being considered to ensure that the needs of the poor are considered.



Locals of Chamazi, with drawings of a housing plan Ghana Photo © Ruth McLeod.

- **Temeke Mwisho, Dar es Salaam.** Temeke Mwisho is a colonial era settlement scheme occupying a large land area. The old urban quarters is comprised of 257 households of medium density located in a prime area of Temeke Municipality. The owner of the land is Temeke Municipality, who wish to redevelop the area by demolishing the old urban quarters as an integral part of the redevelopment plan of Temeke Central Business District. Temeke Municipality has accepted the need to involve the tenants in the redevelopment process, many of whom some have stayed in the area for more than 40 years. An enumeration study conducted by the Centre for Community Initiatives shows that the houses at Temeke Mwisho are critically dilapidated with poor water and sanitation services. Currently the project is being conceptualized to consider cross-subsidy from the business centers to support housing construction for the urban poor. The success of the Temeke Mwisho project has some potential to influence redevelopment of similar settlements in other two Municipalities of Ilala and Kinondoni in Dar-es-Salaam who are also facing similar situations.
- The Tanzania Women Land Access Trust (TAWLAT) is a financial intermediation platform through which poor women in urban areas are organised into housing cooperatives in order to access affordable institutional mortgage finance. The Tanzania Women Land Access Trust has purchased land located in Kinondoni District about 6 kilometers from Dar es Salaam city centre. Service infrastructure available includes a muram service road, a pipe line for clean water supply and a three phase electric power line. The pilot project is an apartment block of 32 residential flats of five storey height expected to house a minimum of 48 families and

including commercial areas for cross subsidy. In this case, the land was purchased in advance and support was provided from the Government of Tanzania in terms of amalgamation of plots of originally two plots into one, under a single title deed; extension of lease period from thirty three years to ninety nine years; change of use of land from single dwelling into multiple dwellings; and issuance of tax exemption which allow the project to enjoy waving of Value Added Tax, Import duty and other related taxes as well as issuance of a building permit. When the construction is complete, members of the TAWLAT Cooperative will buy their units, and the cost of the land will be built into the price.

With this overview of some of the potential SUF projects, this section now turns to an assessment of the land-finance situation using the framework developed in Section 1.

## Access to housing finance

Community members from across the Slum Upgrading Facility pilot countries do not have access to affordable housing finance. No member from a Slum Upgrading pilot project, for example, has access to mortgage finance. The principle mechanisms for obtaining finance include personal savings, community-based savings schemes, or relatives, whether in-country or working overseas.

### Indonesia

Few, if any, local banks in Yogyakarta and Surakarta, Indonesia, provide housing loans for the poor. They are familiar with financing micro businesses but the loans involved are quite different from those required for housing improvement and area upgrading. Banks are relatively unenthusiastic about the idea of providing loans for housing for low income groups because they see the risk of non-performing loans as high given the low repayment power of the low income borrowers and the land status of slum settlements.

In general, state-owned banks in Indonesia will lend to the poor without collateral, but in the context of micro and small businesses, not housing upgrading or construction. Land tenure affects the final decision of banks in lending. When very small land lots are used as collateral for mortgage finance, the function of the land as collateral is not to recover a non-performing loan but rather to discipline borrowers discipline to repay their loan. The land value and the cost for foreclosure may exceed the loan size and the cost for recovery. Local banks instead tend to assess home loan applications for small lot housing development based on the applicant's household cash flow. Although the cash flow shows high capacity to repay banks, they may still ask for fixed assets as collateral and to encourage the discipline for repayment. The result is that in many cases, loans end up being over-collateralized.

### Tanzania

In Tanzania, there is progress towards affordable housing finance with two Mortgage Finance Acts passed by Parliament in 2008, which will open opportunities for lending and borrowing. Significant debate took place regarding the issue of foreclosure. Initially it was proposed that ownership of a

mortgaged property should remain with the borrower, not the bank, as is the usual practice. The financial sector lobbied effectively and currently mortgaged land is legally owned by the financial institution offering the loan.

The Government of Tanzania is also revising the 1999 Land Act to facilitate foreclosure on defaulting borrowers, without necessarily going through the legal system. The Business Environment Strengthening in Tanzania programme, funded by the World Bank, the Governments of Denmark and the United Kingdom (DANIDA, and DFID) and others is supporting the Ministry of Land to develop a residency licensing system, as a temporary solution to the lack of proper land tenure. “Residential Licences” are being provided for two years, with a potential five year extension, are being issued by teams from the Ministry of Land.

As in many countries, the mortgage market does not meet the needs of the poor, who often do not have secure land rights. One of the aims of the Tanzanian Government’s 2004 introduction of the programme of “residential licences” (short term occupancy rights) was to provide sufficient security of tenure to encourage financial institutions to lend to low-income groups. To date, however, very few financial institutions have expressed an interest in offering loans against these licences due in part to their short term nature. Another part of the answer, however, lies in a more general reluctance of lower-income groups to take on asset-based debt. Several recent studies have demonstrated that many financial products are not suitable to the needs of the poor: loans are over-collateralized and repayment periods of 10 years are perceived to be too long for people who perceive their tenure as insecure and whose income streams are irregular or variable.

### Sri Lanka

In Sri Lanka, housing loan access is largely available only for the middle and upper income households. Low-income households are often excluded from housing finance by the formal financial institutions. Further, most of the micro-finance institutions that are involved in providing loans assist the low income sector in providing finance for small business, not housing. There are organisations like Real Estate Exchange (Pvt) Ltd (REEL) and Arunonada, which will offer housing finance but these institutes are most of the time tied up with a grant. There is a gap, then, in the opportunities for housing finance assistance for the low income settlers in Sri Lanka.

### Ghana

In 1992 in Ghana, there was an initial attempt to introduce commercially viable mortgage operations that led to the establishment of Home Finance Company Limited. This was initially established as a secondary mortgage mechanism and later evolved into a primary mortgage origination and servicing entity. However, since then, little progress has been made in supporting low-income households obtain affordable housing finance.

The establishment of the Home Finance Company Ltd., which was accompanied by the passage of the Home Mortgage Finance Law PNDCL 329, essentially looked to protect financiers rather than consumers. Mortgage activities have since then been marginal and have supported middle- to high-

income formally employed households. In spite of much talk about providing affordable housing finance for low income households, such pronouncements have turned out to be more rhetoric than substantive as the details provided to support these claims have proven technically and financially unsustainable.

A National Shelter Strategy review initiated in 2005 also elaborated the state's intention to develop innovative housing finance instruments responsive to down market demand. Good intentions notwithstanding, nothing has emerged from the Shelter Strategy to improve access to housing finance for the poor in Ghana.

Relative improvements in the general macro-economic environment between 2003 and 2006 led to a rapid rise in the launch of micro finance institutions. All of these institutions, with the exception of one, are primarily offering small enterprise loans. The Home Finance Company wholly owned subsidiary Boafo Microfinance Services Limited provides specific housing micro-finance loans in addition to micro-enterprise credit. However, the current global and local financial climate has fostered unaffordable rates, making it difficult for low-income borrowers.

Virtually all the banks and micro-finance institutions in Ghana require legal land title as collateral, or in lieu of that a substantial fixed asset, for any transaction. One critical condition for satisfying the account opening requirement prior to the provision of loans by micro-finance institutions is the provision of utility bills in the name of the prospective borrower. Since most of the Slum Upgrading Facility clients are renters, this is a very difficult requirement (renters rarely have their name on the bills and in some cases they are illegally connected anyway).

Although the availability of a utility bill offers some comfort, it is not enough to grant either a business or home improvement loan. Most micro-finance institutions demand a mandatory savings programme with their institution for prospective borrowers. Savings performance is a major factor, and a loan is given as a multiplier of the quantum of savings. Most often, micro-finance institutions deal with individuals rather than groups, with few examples of group lending. One of those examples is the People's Dialogue for Human Settlements, a non-governmental organisation, which was able to access the government's micro-credit funds at a more subsidized rate and terms for some members of its groups.

## Range of land rights

The SUF pilot countries demonstrate a rich and varied tapestry of land tenure, heavily influenced by the countries' history, geography, politics, religion and culture. This section describes the general country context and highlights the specific types of tenure encountered.

In Sri Lanka, "urban land tenure is regulated by four different sets of laws, ranging from Roman Dutch Law (regulating private lands, held on a 'fee simple' freehold basis) to the Muslim Sharia Law (regulating succession of properties owned by members of the Muslim community)" (Asian Development Bank, 2000). Modern land tenure policy dates from the Land Development Ordinance of 1935, which forbade the transfer of crown lands for purposes of cultivation except to enlarge the landholdings of near-landless or landless peasants. The intent of this ordinance was to help small

farmers whose livelihood was seen to be at risk from the exploitation by rich landowners. The Land Reform Law of 1972 imposed a ceiling of twenty hectares on privately owned land and sought to distribute lands in excess of the ceiling for the benefit of landless peasants. Because of the ceiling on Housing Property Law all the urban slum landlords had to give away the excess houses above the ceiling to be vested with the government for eventual transfer of ownership to the occupants.

In Ghana, there are essentially four main forms of land ownership. They are: (i) stool/skin lands, where the chiefs/skins hold land in trust for the community; (ii) family lands, where the family holds land in trust for the family members; (iii) state lands, where the government has acquired lands from stool or family for public interest, and; (iv) private land, which is individually held under freehold arrangements. An estimated 80 percent of the land area is held under customary tenure and is administered by traditional authorities on behalf of their communities (Wily and Hammond 2001, pg. 27). Use rights to customary land, or ‘stool land’ – so called “in reference to the carved wooden stool which is believed to contain the souls of ancestors and is a traditional symbol of chieftanship” – have been given traditionally to members of the community for farming or building purposes (Ubink 2006, pg 4).

In Indonesia, land is divided into land which is the responsibility of the National Land Agency, which is about 30 percent of the land and which is administered according to the Basic Agrarian Law of 1960; and land which is under the responsibility of the Ministry of Forestry, which is about 70 percent of the land and which is administered according to the Basic Forest Law of 1967. Under Basic Agrarian Law and the Basic Forestry Law the state does not have ownership of the ‘state land.’ Instead the ‘people’ own the land. The state therefore only allocated use rights when it titles the land. In effect the state completely controls state land.

Indonesia has some 17 types of land tenure including the following: Hak Milik, the strongest right in Indonesia, is in perpetuity and is like freehold in that it includes most of the bundle of rights but without ownership; Hak Milik Adat is customary tenure protected under Basic Agrarian Law but in reality people can lose their land and it is not always considered a strong right. There are a range of local rules for adat tenure which varies across communities –and adat is common both in rural and urban areas; Hak Garap is adat tenure not considered by the National Land Agency to have a legal basis and is considered to be something like ‘squatting’ on state land. Prior to 1960 people were considered to have land rights if they were paying land tax and the tax receipt was the evidence of girik rights. After 1960, girik was no longer considered to be a legal right, but people often still think they have such rights because they pay land tax. Other forms of tenure include: Hak Guna Bangunan also known as Right of Building; Hak Guna Hutan also known as Land use permits; and Hak Pakai (Right to use).

In Tanzania, all land is owned by the public, but is vested in the President who functions as the trustee. The 1999 Land Act defines three broad categories of land: village land, reserve land (land reserved for forests, parks, infrastructure, etc.) and general land. Urban land falls under the heading of general land. Three tenure types are recognized: statutory tenures (mainly long-term leases); customary tenures (traditionally held clan land); and informal tenures, which are not defined but are intended to encompass all individuated land rights that are neither statutory nor customary. In urban areas, the Government approach to tenure has been contentious.

Even as late as 1998, for example, the Court of Appeals ruled that “no person has the right to own urban land under customary law [and that] anyone who owns land in an urban area without a granted



right of occupancy was a squatter without title” (Kironde and Lusugga, 2009). This effectively made the majority of urban land-owners squatters and overlooked the fact that de facto urban boundaries had expanded over time to occupy land traditionally held under customary law. In Dar es Salaam, for example, only an estimated 30 percent of the municipal area is legally recognized as planned; the remaining 70 percent is ‘informal’.

The 1999 Land Act in Tanzania addressed issues of informality by creating a mechanism to facilitate the issuance of Residential Licences – temporary occupation licences issued by a local authority for a minimum of six months and a maximum of two years (renewable). The Land Act also provided for the large scale regularization of unplanned areas with the intention to “facilitate the recording, adjudication, classification and registration of the occupation and use of land by those persons living and working in the area... with the ultimate aim of issuing them certificates of occupancy” (Kironde 2009: 21). The residential licence project was initiated in 2004 with the aim to provide short-term security of tenure while settlements were upgraded. It was envisioned that within 6 years all areas would be upgraded and longer-term leases (33 years or more) would replace the licences. This time horizon for upgrading has since proved to be unrealistic and the Government is reviewing options to extend the certificates from 2 years to 5 years. The licensing process would be the first stage towards issuing longer term (30 years) certificates of occupancy, although the programme has yet to reach this stage. It was envisioned that 400,000 households would have been issued with residential licences; some 270,000 have been issued as of 2008.

The following range of land rights have been encountered in Slum Upgrading Facility project work:

**Squatting/Informal Land Rights:** Land or housing that has been occupied in the absence of any formal agreement with the legal owner. In Sri Lanka, squatting and adverse possession have become quite common methods of land delivery. The Government has proved relatively tolerant to informal settlements and community members can use evidence of utility bill payment or property tax payment to assert their land rights. At present most of the slum dwellers do not have formal security of tenure, although about 40% of them have a lease certificate which gives them the right to occupy the land. They have been given a household enumeration card by the National Housing Development Authority of Sri Lanka. With this card, ownership can be transferred to a descendant or sold by transferring the name in this card.

Interestingly, in the Slum Upgrading Facility settlement areas in Sri Lanka, people have felt relatively secure on their land, even without legal documentation. (Sri Lanka CPIP June 2007). In Solo, Indonesia, residents use tax and property receipts to assert their land rights.

**Adverse Possession:** In some cases people may have lived as squatters for many years, and their right to occupy the land in question may never have been challenged. In Indonesia, according to the Basic Agrarian Law, if a person is informed that they are ‘squatting’ on state land they can apply to the courts for ownership rights if they can demonstrate that they have been in occupation for 10 years. In Sri Lanka, at Bombay Castle, the private land owner has not appeared for over thirty years and steps are now being taken for the community to be able to legally claim the land under adverse possession. In Tanzania, adverse possession is legally recognized on private land after 12 years of uncontested occupation; adverse possession is not legally recognized on Government land. Nevertheless, recent

trends suggest that the Government will provide compensation even in cases in which ‘squatters’ are required to relocate from Government land.

**Rental:** In many low income and informal settlements in Slum Upgrading Facility pilot countries, renters make up a significant proportion of the communities in which SUF is active. In Tanzania, the Kurasini community is 70 percent renters, while in Temeke Mwisho, it is 99% percent, as the land and houses are owned by the Municipality. In Ghana, some 60 percent of the occupants of Amui Djor are renters. In Indonesia, by contrast, the majority of the project sites are owner-occupied: all beneficiaries in Kratonan, and all but three beneficiaries in Katelan. In Sri Lanka, there are a few houses in the pilot projects where the owners have rented their houses or even rooms. This is an additional income earning method for these communities. As these settlements are located near city centres, the demand for rental accommodation is high and houses can be rented out at significantly high prices.

In many of the pilot countries, houses or even single rooms are rented out. The owner may live in the same structure, or in another structure in the same settlement, or be an absentee landlord living outside the area altogether. In many countries rent must be paid for one or two years in advance in order to secure the space in question. In Ghana, for example, it is standard practice to pay at least 12 months rent in advance. In Tanzania, tenants can be expected to pay up to two years in advance. This is a basic means of using property to release capital.

**Customary/Traditional/Religious Tenure:** Traditional chiefs play a critical role in land delivery in Ghana, while ‘sultan land’ is being discussed in Indonesia. In Ghana, the chiefs have been responsible traditionally for land management on behalf of the entire community; however, with rising land values and the increasing commercialization of land, this is changing. In Tanzania, customary land is being converted to residential licences on a pilot basis in Dar es Salaam. In Sri Lanka, there is no recognized customary land in the Colombo area. In Indonesia, as illustrated above, customary forms of tenure are widespread and in some cases overlap with royal principalities.

**Intermediate forms of tenure:** In Tanzania, the Government has initiated a programme of residential licences for a period of up to 5 years with the intention that these land rights would be upgraded and made more secure over time. In Solo, Indonesia, where the Slum Upgrading Facility is supporting a home improvement programme, the Municipality has granted households land certificates for those dwellers who occupy unregistered public land (land that has not been registered in the Municipality’s financial balance sheet). The ‘land occupiers’ send a request letter asking the Municipality to grant them the unregistered land as they have been dwelling there more than five years. The Municipality, through a mayoral decree, approves the request for the land ownership transfer from public land into free-hold land, but only for eligible low income families.

If there is a family living in the area not eligible because of their higher income, the Solo Municipality asks them to buy the land at market value. Upon providing the approval letter, the Municipality requests the land occupiers to improve the quality of their houses and settlement. With the approval letter in hand, the occupiers register their request and pay official processing fees for land transfer to the National Land Authority. Along the way, the Municipality assigns a sub-district administrator to provide assistance until the free-hold land certificate is issued by the National Land Authority local branch. This secure land tenure motivates the community to improve their homes and settlements and can be used as collateral for housing loan from local banks or cooperatives.



**Collective/Cooperative Tenure:** There are various forms of collective tenure. The most common of these is probably land that is held under co-operative law. One of the big advantages of such an arrangement is that it provides a means to control speculation with assets that are intended to benefit a group rather than just individuals. Under co-operative law, individuals can have the right to sell or transfer their share in the collective asset, for example a housing unit or a sub-plot of land. However, this must be done via the Co-operative which has rights regarding valuation of the asset and its reassignment to one or more other members.

There are different types of collective tenure arrangements that have proved successful in Ghana. An area-based housing cooperative acquired land in Tema and developed it progressively for all of its membership. In the process, related management costs that arose, such as ground rents and property rates, were collectively surcharged and paid for by the group. Although the land was sub-divided among members, the title to the land was held in the name of the society.

In urban areas of Indonesia, no legal provision exists to facilitate group tenure (such a provision exists, however, for rural areas under the Basic Agrarian Law). In Katonan, this meant that the Slum Upgrading Facility worked to arrange for individual titles to be issued to the eleven beneficiary houses. The City Mayor signed an agreement with the community that no one could sell their land for 10 years. The financial institution also signed an agreement that no one may sell their land until they have completed the second floor of their house. Unlike a cooperative or business approach, such agreements are relatively weak and may result in gentrification. A shop in the neighbourhood has already expressed an interest in purchasing all eleven of the new units.

Another type of communal tenure approach that is quite common and has proved relatively successful is the vocational-based cooperative land purchase. Staff of companies form a cooperative for the sole purpose of acquiring land for housing development, using the reputation of the company as a form of guarantee of the credibility of the collective. Several companies and professional associations have used this mechanism to acquire housing. To the extent that lower ranked staff have also been able to participate in this scheme, it can be argued that it has had a marginal effect on enabling the poor, albeit formally employed, to gain access to secure tenure.

Condominium law provides yet another means of regulating the way in which people who share common facilities resolve property transactions such as maintenance, sales and so on. This is more commonly associated with middle and upper income groups living in apartment blocks. In Tanzania, condominium legislation was recently passed as the Unit Titles Act of 2008. However, there has been limited experience with its operation. There is no condominium law in Ghana, thus making joint ownership and management of land or any form of property an unregulated minefield, even when it is clear that the land is owned by the cooperative.

## Security of tenure

As can be seen from the range of land rights found in Slum Upgrading Facility Pilot Countries, the majority of members of Slum Upgrading Facility pilot project communities do not have formal individual title to their land. In fact, most residents of pilot project communities do not have formal security of tenure. Simply put, they do not have legally recognized land rights and, as a result, are at some risk of eviction. In many cases, the risk is due to rising land values that put development pressure on the land they occupy. They have, nevertheless, made investments in their homes. In some cases, such as Sri Lanka, these investments have been significant. A conclusion from the Slum Upgrading Facility experience is that intermediate forms of tenure, or even the perception of security of tenure, is sufficient to catalyze individual investment in homes.

In Indonesia, ‘illegal’ slum dwellers in the Pringgolayan area of Suryakarta (Solo) have no proof of ownership. Very few of them pay land and building taxes (Pajak Bumi dan Bangunan), but those that do receive a receipt for paid taxes. In many cases these receipts are perceived by the receipt-holders as evidence of land ‘ownership’. In fact, the receipts have no legal value in terms of claim on the land. In reality the security that the slum dwellers have over their ‘occupied land’ is through building up their social bargaining power and selling their votes to support the ruling party in the hope of protection. The bigger the number of slum dwellers in an area, the higher their perception of security and the lower their fear of being evicted. However, fear of forced eviction for slum dwellers is still prevalent where households are occupying railway company land or individual land.

Slum Upgrading Facility pilot projects, however, are providing an opportunity to formally recognize land rights. In the case of Tanzania, for example, residents have been relocated from a site allocated for Port development at Kurasini. The first relocations were carried out with structure “owners” receiving compensation from Government based on the “value” of their property and the length of time that they were there. One major issue, however, was that 70 percent of the occupants were not owners, but tenants. As tenants, however, they were not eligible for compensation and had to find alternative solutions. In general, tenants are simply forced to find accommodation elsewhere, often expanding other informal settlements. With the support of the Centre for Community Initiatives, the members of the Kurasini scheme managed to buy land to develop in an area called Chamasi. The tenants collectively identified a site twenty kilometres away that they believed to be suitable for resettlement and development. As a result, they negotiated the collective purchase of 30 acres of land at Chamasi under cooperative law. The community is now planning to develop the land with support from the Slum Upgrading Facility.

Another project in Dar es Salaam also involves potential relocation. A large area of land owned by the Temeke Municipality is in an ideal location for major development. The 1940’s rental housing stock on the land is in bad condition and needs replacing, but there is also sufficient space to consider a range of social and commercial building options, including relocation of existing residents to new housing located on the existing site. The first step in exploring development options in this case is a full

survey of the structures currently there and a full socio economic survey to determine who lives in the structures. The Tanzanian Federation of the Urban Poor and their support organisation, the Centre for Community Initiatives, will also help people living there to form savings groups and to form the kind of organisational base that is needed for a successful negotiated solution to emerge from discussions between the Municipality and the residents.

In the Kirulapona settlement in Sri Lanka, residents live on land owned by the National Housing Development Authority. They have no title deed to the land but have been given household enumeration cards as proof that they have a right to the land. They cannot sell the land, but are able to transfer this “ownership” to a descendent. In this area, a dispute over ownership with a private owner was resolved with the community obtaining the right to stay. They then obtained official legal title to their section of the land, although this has not been the case for the rest of Kirulapona, which uses enumeration cards as described earlier.

In Orgodawatta in Sri Lanka, the communities live without security of tenure and only obtained water and electricity services once they agreed they would not ask for compensation in the event of a forced eviction. The land they occupy is prone to flooding and other disasters, but they have lived there for over ten years with minimal political disruptions. Majid Place in Sri Lanka is more valuable, privately owned land, which the settlers have managed to obtain in some portion over the years. Community members living there have a card from National Housing Development Authority, but do not have any legal claim to the land they occupy.

In Amui Djor in Ghana, the Tema Traditional Council required compensation for the land that they had “given up” for the demonstration phase of a project being supported by the Slum Upgrading Facility, but it was not initially clear what form this compensation should take. The compensation took the form of a cash amount of \$4,000 being a token for the drink and knocking fee rights for the land. After these rites were performed, the agreement to release the land with clear terms and conditions were signed by all parties involved.

Due to an initial challenge of confusion over the clear boundaries of the plot, a full physical survey of the entire Amui Djor area was commissioned. This helped clarify the boundary issue and pave way for the Tema Traditional council to initiate the transfer process. Although the agreement was signed and sealed in October 2008, the parties are yet to receive the transfer land documents because of the process it still has to go through. The Tema Traditional Council has to formally write to the Tema Development Cooperation to revert the land back to them before they can also transfer it to the Amui Djor Housing Development Cooperative Society, the local finance facility and the People’s Dialogue. This is a time consuming process that requires stamina and persistence to ensure the traditional council hands over the documents.

## Land markets

Given their history and land tenure contexts, it is not surprising that land markets are not functioning effectively in the Slum Upgrading Facility pilot countries. Three main sources of land market dysfunctionality in SUF pilot countries are (i) the failure of formal land delivery mechanisms; (ii) unaffordable planning regulations and building codes; and (iii) weaknesses in land administration systems.

All four countries face difficulties in delivering an adequate supply of affordable, serviced land. In Tanzania, for example, land and housing supply has not met the demand. In 2002, the Government initiated the 20,000 Plots Project in Dar es Salaam. By 2008, over an eight year period, the project had in fact delivered some 40,000 plots. While clearly a significant achievement, this initiative still only met 25 percent of the annual demand for housing: the project delivered an average of 5,000 plots per year, while demand is closer to 20,000 plots per year. In Sri Lanka, an Asian Development Bank survey of 53 towns in Sri Lanka (ADB, 2000, pg. 15), for example, found that “on average the price for serviced residential land is almost 2.5 times higher than that for unserviced land in the same year.”

Inappropriate planning regulations and building codes represent another major constraint on land markets. In Tanzania, for example, the minimum legal lot size is 400 m<sup>2</sup>, while informal settlement occupants in Slum Upgrading Facility areas are between 80 and 100 m<sup>2</sup>. In Sri Lanka, the minimum legal plot size is 6 perch (150 m<sup>2</sup>), while the de facto standard is 2 perch (50 m<sup>2</sup>) for low-income settlements.

As a result of these and other factors, land delivery happens largely informally – that is, outside the law, unrecorded in land registries and through informal markets. In Indonesia, for example, the failure of formal land delivery mechanisms has created a thriving informal land market. The main actors of the informal land market are local land mafia and in most of the cases there is involvement from front-liners of sub-district administration. The real transaction is not the transfer of land ownership but the service of providing a ‘secure feeling’ or ‘being protected’ while occupying land illegally.

The land mafia issues a receipt for the money for service of protection and not for the ownership of the land. The role of the frontline sub-district administration is to legitimise the transaction by his or her attendance during the hand-over of the payment (mostly in cash). This type of transaction includes all types of occupied land, whether public or private. The supply and demand of this illegal occupied land is very high and increasing over time for three reasons: one, the absence of a slum upgrading strategy in the local government unit; two, weak law enforcement with no political commitment to improve slum areas, and; three, the increasing bargaining power of the occupiers through the advocacy of local activists. In some cases, the occupiers of the land are asked by the tax office to pay building and land taxes. The receipt of the tax payment is used as the ‘perceived quasi’ of land ownership, although it is clearly stated in the receipt that it cannot be used as prove of ownership. The land mafia manipulates

the occupiers' lack of knowledge over the land rights and fears of being evicted through the receipt of the tax payment as if it is a legal occupation.

Slum dwellers in the Pringgolayan area of Suryakarta (Solo) use receipts from land and building tax payments to transact in land among slum dwellers. These dwellers are not living on the land illegally, as they have a right to lease the land for a limited time until the municipality requests that they leave.

In Ghana, the price of a serviced plot is higher than those purchased on the informal market. Informal transactions are done either through the stools, families or individuals, whereas formal sale of serviced plots are done through estate developers such as the Tema Development Corporation, etc. The difference, however, is that plots purchased through these developers tends to have secure tenure, whereas with the informal arrangement, one has to personally process formalization with its attendant challenges.

On the land administration side, the Ghana experience provides important insights. The process and procedures to obtain title in Ghana are tortuous and time consuming. Individuals have found that it can take more than three years to try and formalise a piece of land. There are also high levels of reported corruption so most people are not prepared to go through the formal processes of tenure registration because it is simply too expensive. In practice people have to pay 80% of the cost of land they are buying before searches to determine historical ownership and any lien held on the land are done. Building permits are time consuming to obtain and it is frequently the case that a building is completed prior to the building permit being provided. However, you need a building permit before you can be connected to the national grid. At the same time it is important to actively occupy and develop land in order to be sure of retaining its use. If land is left bare, someone else will take over.

In countries with strong customary land tenure systems, traditional leaders play a major role in land delivery. Urbanisation and rising land values, however, are changing the way this allocation takes place. In Ghana, traditional peri-urban 'stool lands' is being treated as a "transferable commodity" (Wily and Hammond 2001, pg. 15). Chiefs have begun allocating land to people from outside the community for commercial or development purposes. In cases where population pressures create land scarcity, two issues manifest: livelihood insecurity as members are not able to use the land for subsistence or productive purposes; and the capturing, and retaining, of profits by the Chiefs, often with the limited distribution of profits to the community members (Wily and Hammond 2001, pg. 15; and Ubink 2006, pg. 5).

In Tanzania, while all land is public land, people may legally buy and sell both leases and residential licences. In the past, it used to be a condition that land must be developed before it could be sold so as to avoid speculation. These conditions have been relaxed somewhat in that land can be sold twice provided that the buyer agrees to abide by the development provisions. Undeveloped land, however, cannot legally be sold a third time.

Tanzania faces an additional complication in terms of its land administration system: information sharing. The Government has taken the proactive step of decentralizing land administration responsibilities to five zonal registries. Information sharing between these registers, however, remains problematic and someone seeking land information in any area must physically travel there to obtain the data.

## Institutional relationships

In all four Slum Upgrading Facility countries, responsibilities for land management are fragmented. In Sri Lanka, for example, the Asian Development Bank (2000, pg 15) found that “there is little consistency and reference between cadastres, land title registration and land registration for taxation purposes. Land title deeds are not officially registered.” The absence of a functional land registry has several consequences for Sri Lanka. It “complicates the task of compiling precise land tenure data on a municipal or regional basis and it acts as a constraint on the land market; the lack of a clear title constitutes a barrier to market entry for many landowners, as it prevents them from using their land as collateral for a mortgage loan. Title insurance is required to mortgage land without a perfect title; the premium is substantial.”

In Ghana, the land administration system remains complex, with traditional (customary) and statutory practices operating simultaneously. The Government, with support from the World Bank, has initiated measures to streamline the land administration system. However, it is relatively easier to undertake housing upgrading in the areas where the traditional land ownership and administration system exists. The Land Administration Pilot Project, a 15-year initiative, financed by the World Bank, under the Ministry of Lands and Forestry, is attempting to streamline the land titling and registration under the Land Title Registration Law of 1986. Currently, there is a proposal to merge all seven land bodies into one unit. The complexity of the land issue in Ghana is said to be one of the main hindrances for deepening and broadening of housing finance market in the country. (Ghana CPIP, 2007)

In Tanzania, one of the main institutional challenges for slum upgrading and prevention is the complicated relationship between central and local authorities regarding land issues. The Ministry of Land, through the Commissioner, is responsible for mapping, surveying, planning and land administration within municipalities. Municipalities may allocate land, give leases and prepare detailed plans, but only with the consent of the Ministry. This can be cumbersome and in the worst cases may actually undermine efforts to guide urban growth. For example, if a municipality wishes to declare an area for a detailed plan, Ministry approval can take up to three years, by which time the area is likely to be occupied by informal settlements.

Land administration is also complex in Indonesia. There are seven different types of land rights ranging from ownership to short term limited use rights. Often, the same parcel of land is issued with multiple certificates. Most of the urban land is not documented. It is estimated that only 10 percent of the country is recorded by cadastral maps and 20 percent of estimated 70 million land parcels



are registered (World Bank, 2003). The cost of obtaining certificates for the land is high. The land registration system also prevents land from being used as collateral. The banks bear the risk of disputed titles, reducing the penetration of housing finance market. In order to improve land registration and titling, the Government of Indonesia initiated the 25-year Land Administration Project in 1995 to title and register all non-forest land parcels, which account for 30 percent of the nation's land. The Land Administration Project is being supported by the World Bank and AusAid.

In Surakarta, Indonesia, the main challenge for area development using government land is obtaining local parliamentary approval to transfer land from local government into free hold land for individual slum dwellers. Apart from being time consuming, the process for doing this also consumes a considerable budget to cover preparation for events such as public hearings and parliamentary approval.

### Land governance context

The land governance context is problematic in the Slum Upgrading Facility countries. Rising land values create opportunities for capturing windfall profits from redeveloping land or changing its use. Poor communities are rarely in a position to capture these gains as they are often excluded from decision-making processes. Mobilized communities, such as the Kurasini tenants in Tanzania or the women's market group in Ghana, however, are better able to negotiate with Government to promote their own interests.

Participation in decision-making processes related to land is a key issue across all Slum Upgrading Facility pilot countries. In a context of rising land values, there is often limited trust between communities and Government. In the Kurasini area of Tanzania, for example, the Government sought to acquire land to promote private economic investment in the Port. This creates the perception of a conflict between the 'public interest' of ensuring adequate housing for all, and the 'private interest' of business. In the Kotte Scheme in Sri Lanka, there is competition between potential uses of land occupied by informal settlements – residents want low-cost accommodation, the Mayor would prefer more expensive apartments. The quality of participation in decision-making is critical in such circumstances to ensure that competing interests are enabled to make their case and that some type of acceptable compromise can be reached.

The role of traditional authorities is also changing. In Ghana, for example, traditional leaders are legally responsible for land management, on behalf of their communities. Some leaders do manage the land to protect the long-term interests of their communities; others may be tempted by the windfall profits to be made by land sales and conclude deals without the full participation of the community. In Tanzania, traditional leaders are feeling that they are being marginalized in the development process. Enlightened leaders feel they could positively contribute to guiding urban growth and enforcing land-use decisions or simple planning requirements (such as ensuring road reserves are preserved), but they are not institutionally integrated into the land management system.

## Land based slum upgrading approaches

Slum Upgrading Facility experiences demonstrate a variety of approaches to slum upgrading. All projects include an aspect of regularization, that is, providing formal security of tenure to communities. Whether the original land tenure is based on adverse possession (e.g. Sri Lanka), customary or religious tenures (Ghana, Tanzania, Indonesia), or rental (Tanzania), all SUF projects explicitly aim to secure the existing land rights as part of the upgrading process. In some cases, the arguments used also include explicit reference to the linkage between regularisation and increased revenue for local authorities due to increased property taxes.

The level of project finance required, however, suggests the need for more innovative approaches, such as land sharing. The need for banks to be confident that loans can be repaid often means that projects have to be designed with a component of internal cross subsidy. Some of the development within the project may have to be designed specifically to generate revenue, which can provide the level of subsidy needed. Building and renting commercial shop and workshop space is one obvious option. Another is that of building and selling or renting housing stock for low income households or for better off households who can afford to pay a little bit more.

This is an area that is being explored in some of the projects that the Slum Upgrading Facility is supporting. In the Chamazi and Temeko Mwishu projects in Tanzania, some of the purchased land is being considered for the development of rental housing or a market area to create a revenue stream. In Amui Djoj, a provision for retail space is also being considered in the development of the area development proposal. This kind of development within the project has both advantages as well as disadvantages. In Sri Lanka, renting out space within the settlement would generate revenue and provide cross subsidy for the project. However, if the space is rented out to outsiders the community would perhaps reject this idea proposed. Therefore, there are issues that need to be addressed before actually allocating and mobilise the community around these ideas.



## 3 Lessons-learned from the SUF experience

The UN-HABITAT Slum Upgrading Facility is still relatively new<sup>5</sup>. However, lessons are beginning to emerge with respect to how land issues are addressed within local slum and settlement upgrading initiatives. This section seeks to identify specific lessons regarding land that have emerged from the pilot programme so far.

### Formal land delivery mechanisms fail to meet the needs of the poor

Historically, there has often been an assumption that Governments should take responsibility for ensuring a supply of land for the public good and, more specifically for low income groups. However, none of the Slum Upgrading Facility pilot countries have demonstrated that the Government is able to provide sufficient, suitably located, serviced land to meet the demand.

Somsook Boonyabancha (2008), drawing on the Asian experience, has succinctly noted why a Government-led approach is no longer tenable .....“the basic thinking on land has persisted in following the same assumption that land for housing the poor should be provided by the government - through the use of public land, or through legal means by expropriating private land or purchasing land for resettlements so far away or regularizing the land occupied by existing slums. In most Asian countries, land has increasingly become a commodity to be bought and sold to the highest bidder - especially urban land. It's no surprise that this commercialization of land and control over both public and private land by the ruling elite has dampened the enthusiasm for most governments to set aside urban land - either public or private - for housing the poor. As a result, the strategy of government providing land for social housing is more or less defunct across Asia”.

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<sup>5</sup> The Slum Upgrading Facility Pilot Phase began in November 2006.

### Recognizing land rights can leverage investments from both individuals and institutions

Intermediate forms of tenure, or even the perception of security of tenure, are often sufficient to catalyze individual investment in home improvements. When land tenure is regularised, however, opportunities can be created that benefit both communities and local government.

Communities would normally be expected to become regular property tax payers, as long as their property has a value that is eligible for tax. This tax revenue contributes to local government budgets, providing a base for infrastructure investment. For local government to plan for slum upgrading, it is also useful to be able to project the kind of tax stream that upgrading projects are likely to generate and how those funds will be used. For example, in Indonesia, the Slum Upgrading Facility pilot projects involve an explicit trade-off of increased security of tenure and infrastructure supply, in return for home improvements and payment of utilities. As a result of these projects, other investments have been leveraged from both utilities and the private sector.

In Ghana, in Tema and Sekondi Takoradi, the local Assemblies have agreed to put a set percentage of increased property tax collection into the local finance facility. If this maintained on an annual basis it provides a strong foundation for the long-term sustainability of local finance facilities. In New Takoradi, Ghana, where a new market scheme is being planned, a change of use will need to be agreed by the Metropolitan Assembly. This is seen as a relatively straight forward agreement as it is well known that the area in question has been used as a market for more than twenty years and the situation simply needs to be formalised. The formalisation, however, is critical to enable the local Market Vendors Association in New Takoradi to obtain commercial financing.

One of the main assumptions of land-based upgrading strategies, however, is that land values have to be increasing so that changes in land use generate windfall gains. However, rising land values are not always certain.

### Land transactions are complex; Slum Upgrading Facility needs a strong pipeline of projects

In Ghana, it proved difficult to reach agreement on the way forward for the Amui Djor project. Some years back, water mains work was being done in the area and some people had to be relocated. As part of the relocation deal they were compensated and relocated to Adjei Kojo. However, not everyone went to Adjei Kojo as agreed. Some sold the parcels of land given to them there and stayed in the settlement. Some claim to have paid for the parcels of land that they occupied in Amui Djor.

This created historical precedent significant difficulties when the Chief promised five plots of land for a demonstration project to test potential building design, materials and technologies prior to moving to a larger scale intervention with the Slum Upgrading Facility. People living on the proposed site asked

for compensation despite the fact that they had been among the original beneficiaries from the earlier compensation arrangement. In addition, the Tema Traditional Council required compensation for the land that they had “given up” for the demonstration but it was not initially clear what form this compensation should take until after several meetings before the details of the “land rights” were finally agreed.

The matter was made even more complex by the fact that the boundaries had not been clearly demarcated on a site plan and the Chief’s version of the boundaries varied significantly from that of the surveyors. A full physical survey consequently had to be commissioned. Even when this began there were concerns and anxiety. However, agreement was finally reached regarding the five plots and the land transfer agreement signed accordingly in October 2008.

In Suryakarta, Indonesia, the main challenge for area development using government land is obtaining local parliamentary approval to transfer land from local government into free hold land for individual slum dwellers. Apart from being time consuming, the process for doing this also requires a considerable budget to cover preparation for events such as public hearings and parliamentary approval.

In Yogyakarta, the main issue is to secure the Sultan’s consent to grant the land to the existing slum dwellers along the riverbank. Secure land tenure could be granted by the Sultan through various internal offices within the palace and in conjunction with the National Land Authority. According to the marketing director of a local bank, it will be difficult to make the proposed upgrading project in Yogyakarta’s Tegalpanggung river based slum settlement a bankable proposition. To speed up the land transfer, an intensive approach to the Sultan has been made through royal family networks.

In Sri Lanka, considerable confusion arose over the ‘ownership’ of land that the Colombo Municipality had intended to contribute to a SUF pilot project in Moratuwa. The Municipality had assumed the plot of land had been formally transferred from the central Government to the Municipality. Over time, it emerged that the land was never formally transferred. Before the project could proceed, therefore, the land had to be legally vested in the Municipality.

## **Accurate, up-to-date and accessible information is necessary to underpin slum upgrading projects**

One of the key messages emerging from Slum Upgrading Facility experience is that land information is rarely accurate. Whether deed-based or title-based, land registries have limited coverage and are often not up to date, which can undermine the security of land transactions. Fraud, out of date records, lack of administrative capacity, etc. can render sophisticated land registries out of date within a few years after the completion of a land titling project.

Finance institutions should incorporate these risks into their calculations. At the same time, they should develop more nuanced risk-pricing for different types of tenure, based on a deeper



understanding of the relative security that is offered. A new generation of loan products can be developed to suit different levels of security. Finance institutions should also look at what is happening in the informal land market to determine whether existing institutions and practices can be strengthened and incorporated into the formal system.

The Slum Upgrading Facility experience also demonstrates that land information systems do not serve the needs of the urban poor. Current information management tools are based on a type of land right (individual title) and technological standards that are unaffordable to the poor and unsustainable to maintain in the long-term. More positively, however, there are signs of innovation, both at the grassroots level, as well as from the surveying community.

A crucial part of the Solo home improvement programme in Indonesia has been the detailed household data base that has enabled local government to identify which homes need improvement and which households meet the income eligibility criteria so that they can access subsidies as well as loans. In Ghana, similar databases have been prepared with high levels of community involvement using the enumeration and mapping techniques promoted by Shack Dwellers International. These have been complemented by detailed physical and infrastructure surveys which have utilised skilled surveyors and provided boundary and ownership details.

The information that results from this basic data collection provides the detail necessary for communities to make decisions about what they can afford to do and how they want to do it. It supports constructive negotiations not just with local government but also banks and other financial institutions that are approached to provide loans. Similar enumeration methodology is being used in Tanzania by the Centre for Community Initiatives in the communities of Chamazi and Temeke Mwisho.

On the technical front, new land administration tools are being developed. The Global Land Tool Network, for example, is supporting the work of the International Federation of Surveyors (FIG) and the International Institute for Geo-information Science and Earth Observation (ITC), to develop a social tenure domain model that is capable of registering the intermediate forms of tenure and group tenures that are critical to supporting pro-poor upgrading programmes. The social tenure domain model is being designed to ensure that grassroots techniques such as enumeration and the information they generate, can be incorporated within the formal land administration system.

## Scalable solutions require the development of city level policies and strategies for slum upgrading

One of the most important features of sustainable slum upgrading is that initiatives address future as well as present needs. This requires a broad strategy for planning land allocation and use as well as the provision of infrastructure at a city-wide level. Piece meal projects simply don't provide this foundation.

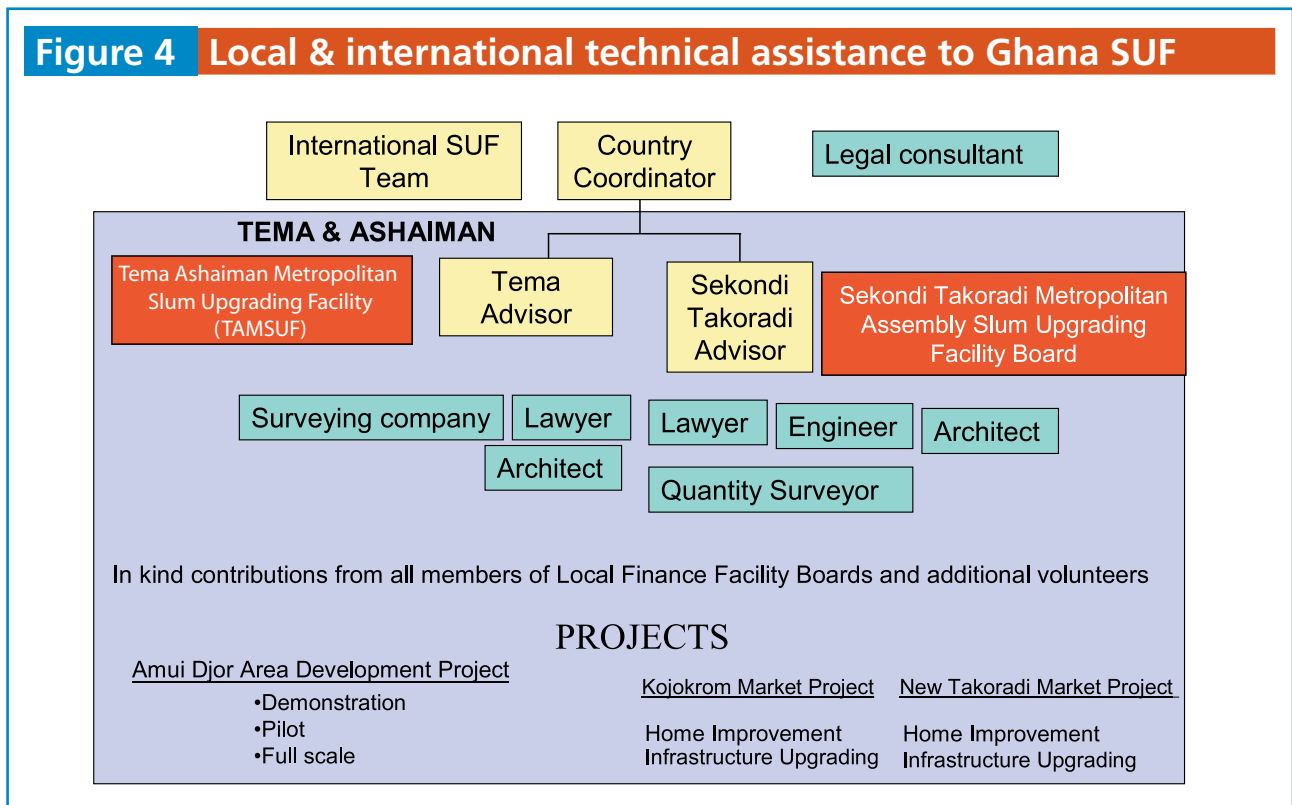
Achieving scale also requires that practical initiatives on the ground are linked to, and supported by, appropriate policy interventions that provide a basis for systemic reforms. Projects successfully address the needs of the beneficiaries, but often simply on an exceptional basis. The underlying planning norms, building codes, land administration systems, financial legislation, etc. are not reformed in order to enable a wider group to access the same benefits. A conscious effort needs to be made to link the design of projects to wider systemic reforms.

In Tanzania, a draft housing policy is now being developed within the Ministry of Lands which should help in this area. Cities Alliance has drafted a strategy for development of “unplanned areas” within Dar es Salaam. Similar developments are underway in Ghana, with a draft Shelter strategy completed in 2007 with Slum Upgrading Facility input. However, the pre-condition of a strategic environmental assessment by Cabinet led to a delay in the passing of the strategy. The assessment process was led by the Environmental Protection Agency and concluded in 2008. However, the draft National Shelter Strategy as a policy is beleaguered by the lack of an accompanying legal framework that would enforce policy.

In Solo and Yogyakarta in Indonesia, the local Mayors have insisted on a clear city-wide approach being taken and this helps considerably in ensuring that the new local finance facilities can set realistic and achievable goals.

In Sri Lanka, the Government has shown support and interest in Slum Upgrading. They have joined hands with UN-HABITAT with a Memorandum of Understanding in order to support Slum Upgrading Facility activities. The government intends to show their support with monetary funds in order to carry out Slum Upgrading Facility projects. Further, the development policies of the government are focused on minimizing slums in the country. Support is always given, even for individual projects. In the Kuruniyawatta settlement, for example, the local government has promised to bear the infrastructure cost and the cost of a community centre.

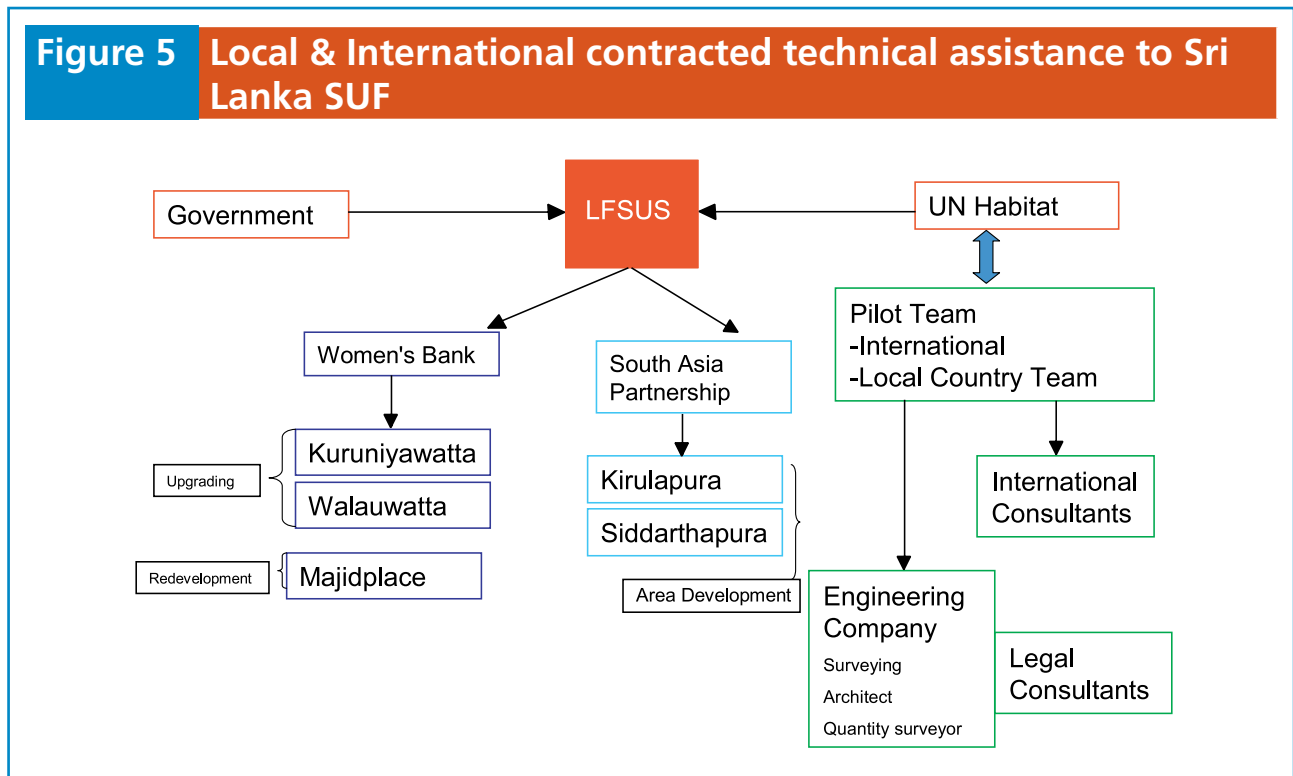
## A multi-stakeholder approach enhances options for sustainable land development



Resolving land issues is easier when all the key parties, including customary authorities, are able to meet to share information and opinions. A multi-stakeholder approach enhances the chance of creating solutions that benefit everyone and also provides the basis to develop a city level and long-term land development strategy that everyone can invest in. This has been one of the main advantages of the way in which the Slum Upgrading Facility Local Finance Facilities have been established. The facilities have also provided a way for people to work together more efficiently, avoiding duplication. As long as the facilities continue to operate in the longer term they also provide a means for a wide range of individuals and agencies to learn as projects are initiated, implemented and completed.

It is also important to ensure a multi-stakeholder approach within the technical delivery of projects. When technical inputs are well coordinated, it helps people to work together effectively and keeps costs under control because duplication is avoided. In Ghana, the Slum Upgrading project, and, in particular, the creation of two local finance facilities in Sekondi Takoradi and in Tema and Ashaiman, have brought together a range of agencies with an interest in making the land administration and development process work better. Community, local government, professionals, banks and non-governmental organisation representatives regularly meet on the Board of these facilities to plan and

support local slum and settlement upgrading projects and programmes. There are different opinions and interests and reaching consensus takes time, but there is a commitment to on-going negotiating as different options regarding land allocation, construction design and project implementation emerge. The kinds of technical inputs used are shown illustratively in the Figure 4



## Learning and sharing knowledge is crucial for change

Most of the projects are using new approaches. They are setting precedents. Having a means to learn from these precedents and transforming successful precedents into the mainstream is crucial to ensuring the longer term scaling up of the approaches used. Local Finance Facilities provide a kind of living laboratory that can link practice and policy on an ongoing basis. As long as the learning that takes place is documented, it can be used to influence policy and development strategies at national as well as local levels.

In all the countries the facilities will, hopefully, provide a means to keep slum upgrading in a key position within national Poverty Eradication Plans, local government land development plans and to have those position reflected in committed budget allocations at the relevant levels.

### **Decentralisation: local government can add and obtain significant value through slum upgrading strategies**

The global trend towards political decentralisation has resulted in expectations that major components of land administration, allocation and management are to become part of the remit of local government. In many cases this has already happened, although with varying levels of local capacity being in place.

Local government can add significant value by providing land, assisting with surveying (land and boundaries; topographical, hydrological) and providing and/or facilitating off site and on site infrastructure such as roads, water and sewage. However, it is important to identify the responsibility for infrastructure provision off site, on site, and on plot in advance of developing detailed housing and commercial development plans so that everyone knows what to expect and the real costs to everyone are known. It is also important to be clear about what is envisaged with respect to tax as a source of revenue and capital and to understand what kind of tax stream the projects will generate and how it will be used.

Since 1998, Indonesia has been in a transition period from centralized governance to a decentralized administration system. Local government is developing significant autonomy including a remit to manage land. However, the institutional adjustments for this local autonomy have not harmonized well and there are currently two different institutions with different policy orientation responsible for land management. Two institutions register land, issue land tenure rights, and control land use. The two institutions are the National Land Authority and the Municipal branch of land administration. Each institution operates on the basis of different laws and regulations, resulting in considerable confusion. Indeed in the large cities, conflict, confusion, and contradictory policy orientations over land use and land registration are common. In addition, some central government branches retain authority over certain type of lands such as protected forest or industrial zones, and the national tax office has its own map and information system to collect land and building taxes.

### **Appropriate land use zoning, plot sizes, and building standards are critical to ensuring land development that is affordable to urban low income settlements**

Appropriate plot sizing is crucial to ensuring affordability. Large plot sizes can make infrastructure provision and housing development unaffordable. Smaller plots allow for a greater degree of efficiency in infrastructure and can reduce costs by using the shared walls typical of terrace housing. Where densities are high it may be necessary to plan for vertical developments. However, once vertical housing is developed to heights above ground plus 1, the costs can rise rapidly; again making the solutions unaffordable if internal project cross subsidies cannot be introduced.

In Tanzania, plots sizes and building code standards have been a big obstacle to affordability. The Government has expressed flexibility where settlement upgrading is concerned, and this is something the Tanzania Local Finance Facility will be in a position to pursue on behalf of the communities. The impact of such project-based exceptions to planning norms, however, is confined to the area being upgraded. A major challenge for the Slum Upgrading Facility will be to explore how the lessons learned from its pilot projects can support policy and legal reforms that can enable others to access the same benefits without the need for project-type investments.

Building standards also impact on affordability. If standards are too high they can put solutions out of reach for lower income households, especially where there is a demand that these standards be met from the start rather than making provision for improved standards to be reached over time. Many low income households depend on improvements being made in an incremental manner so that the work can be taken on over time as financing becomes available. The materials used for construction can also make a huge difference to affordability and it is important that a range of building materials are encouraged to ensure that people can afford to build.

Within informal or unplanned settlements high proportions of households tend to be dependent on earning generated by “informal” enterprises, many of which are home based or which rely on facilities being available very close by. Planning for mixed developments, which incorporate the provision of facilities for livelihoods as well as for housing, is an important means of facilitating affordability. Not only are households able to save on transport but the settlements become efficient in terms of access to important services and products.

One of the ways of facilitating affordability is ensuring that developments are designed for a range of income groups and not restricted solely to low income families. Where middle income developments are integrated into developments they potentially provide a means to generate funds that can be used for internal cross subsidies which can make solutions more affordable to less well off groups.

Many informal settlements are characterized by their vulnerability to disasters such as flooding and landslides. In both Indonesia and Sri Lanka in particular, Slum Upgrading Facility projects have to deal with this reality. In Jogjakarta, Indonesia, the river-based slum settlements along the river Code are the case in point. One of the alternative solutions is to develop the area by in-situ relocation to a vertical residential area that also includes development of commercial space. This opens opportunities for cross subsidy for low income housing and the soil improvement to prevent landslide and deal with annual flooding. Creating disaster preparation, prevention and mitigation strategies that protect the investments that low-income households make in improved shelter and infrastructure is important for ensuring the sustainability of the settlements.

In Sri Lanka, most settlements are prone to disasters. A major reason for the floods in these settlements has been the lack of proper infrastructure in terms of pipe lines and sewage lines that are necessary for proper disposal of rain water. The other reason is that some of the settlements that are near canals do not have the protecting gabion wall for surrounding the canal; even a little rainfall means the canal will



overflow. With regard to the settlements that have the threat of land slides, the project aims to build in a retention wall that would safeguard the houses.

### In some contexts the urban poor need support to purchase land

While it is preferable for the state to ensure that adequate land with secure tenure is provided for the urban poor, there are contexts in which the urban poor have no option but to purchase land for resettlement and this needs to be facilitated. Purchasing land in the context of relocation due to Government redevelopment plans, however, should normally present a strong case for Government support to lower-income communities. Where the community is made up of renters, few satisfactory solutions have been applied and sometimes land purchase is the only option.

As mentioned earlier in this paper, in Tanzania, residents living on land adjacent to the Port at Kurasini in Dar es Salaam were relocated in order to make way for new developments. Structure owners were compensated but tenants were not. Many of the tenants affected have become organised within the Tanzania Federation of the Urban Poor which is supported by a local NGO the Centre for Community Initiatives. The tenants have formed a Housing Society and used pooled savings and a loan from the Centre for Community Initiatives in order to purchase thirty acres of land at Chamasi. They plan to develop their new homes there. The land previously belonged to the Municipal Council who also surveyed it. The land is being held in Trust by the Centre for Community Initiatives until the loan for its purchase has been fully repaid. The Housing society will eventually take ownership of the site.

One of the big challenges is regulations for minimum plot sizes, which currently require a plot of at least 400 square metres. To get around this, and on the advice of Temeke Municipal Council, the Cooperative has obtained one block title for the land as a whole and plans to develop smaller plots of 150 to 200 square metres. Chamasi is not too far from electricity and there are good options to create a bore well based water supply. The plans for Chamasi's development are exciting but it is important to note that the current global financial crisis and associated inflation in building costs in developing countries will make this a challenging project from an affordability perspective. Having to pay off loans for land purchase, water supply and housing construction mean that initial options may have to be restricted and a focus placed on developing facilities that can generate revenue for cross subsidising the bigger project as well as homes that can be improved and enlarged incrementally as more finance becomes available.

## It is important to address the needs of renters

Land and housing ownership is neither appropriate nor necessary for everyone. It is important to make provision for rental accommodation which can meet the needs of households not in a position to purchase or for whom ownership does not make sense. It is also important to recognise that room rental provides an excellent means of enhancing loan repayment capacity for low income households.

In addition, renters are more vulnerable to gentrification in the context of slum upgrading. In the Kurasini example from Tanzania, for example, some 70 percent of the community were renters; they received no compensation as a result of the relocation of their community to another settlement. Specific approaches should be developed to ensure the needs of lower-income renters are incorporated into the design of Slum Upgrading Facility project financing through such mechanisms as cross-subsidy. In Tanzania, a development being implemented by the Tanzania Women's Land Access Trust has allocated a portion of building for rental income, to help cross subsidize the overall cost. Similar cross-subsidy schemes are being explored in Chamasi and Temeke Mwishu in Tanzania, as well as in Amui Dzor in Ghana.

## There is a need to develop the capacity and systems for collective ownership and management

As Somsook Boonyabancha has pointed out (2008), the poor do not stop being poor the instant they get secure tenure. There is a need to build collective capacity to withstand the economic pressure to sell off and move back to the slums. This may entail recognizing that it is not appropriate or necessary for all households to own their housing or the land that it stands on. At certain stages of a person's life or for reasons to do with family locations being elsewhere, many households find renting a more strategic option. It may also entail building in collective forms of tenure and support so that low income households that do want to own housing are not squeezed out in because of economic pressure. Support in maintaining savings and loans and creating new livelihood options are clearly important in this respect.

In Sri Lanka the land is transferred to the cooperative and it is distributed to the community after the loan is repaid. For example the Government transfers the ownership of the Kuruniywatta land to the Women's Bank where by they will transfer it to the community after the loan is paid.

Creating collective ownership and management systems for development and management of rental accommodation is a challenge that has received little attention to date in recent developing country contexts. However, it may have excellent potential not only for fulfilling housing needs but also for generating the kind of internal cross subsidy flows that have been referred to earlier in the paper.

By and large in Indonesia there is no system of communal ownership of urban land except for the strata title (vertical flats or apartments,) so transferring land into collective rather than individual ownership is

potentially problematic. Land transfer also costs money. These matters normally get handled politically and this can be effective especially when the mayor and vice mayor are from the local ruling party. However when there are differing political allegiances things can become much more difficult.

Another concern expressed in Indonesia regarding the creation of collective land ownership and management approaches is that there should be a real 'community' in the area and not just a bunch of people called community for administrative purposes. Building a real community takes time and is often dependent on cultural ties being built and advanced over several years. When artificially created, communities expected to operate in a collaborative fashion the project may end up causing new social conflicts instead.

The most innovative development in the local Market Women's Association in Kojokrom is negotiating with the Metropolitan Assembly to manage the construction of new market facilities that the women would finance with a commercial loan and then run on a Build Operate and Transfer basis. In this case, the women involved will finance the development with a bank loan, and, as a consequence, be relieved from paying standards taxes and fees during a period to be negotiated and specified within the contractual agreement between the women and the local Assembly.

However, for this arrangement to be sufficiently robust to attract bank finance, the women have recognised that they will need a special development and management company which will enter into a series of contractual agreements that specify clearly the responsibilities and entitlements of the banks, the women who own the company, the Metropolitan Assembly and other relevant parties such as building contractors.

## **Strong intermediary organisations are crucial in bridging informal and formal land markets in order to access finance for development**

The role of intermediaries is crucial in negotiating and implementing land development projects. Residents need appropriate and competent technical assistance so that community inputs can be effectively leveraged. This is particularly so when new approaches are being tried which may be high risk but also have the potential to establish new precedents that can be scaled up.

Groups initiating and implementing projects usually need help to accurately identify project costs, to plan implementation, to determine the kind of cash flow requirements that a bank will need to see in order to provide financing and so on. This is not to say that community members cannot take a very active role in all these areas, but it is often the case that initially they do need help from professionals. Over time community level capacity does develop and can then be shared with others facing similar types of challenges.

All too often the technical help that communities need has to be sourced from multiple agencies and individuals. It can help considerably if help is made available through a kind of “one stop shop”. The Slum Upgrading Facility Local Finance Facilities can help to provide this kind of service because they bring such a range of stakeholders together.

The case of Amui Djor in Ghana has already been referred to. It illustrates the need to ensure that intermediary organisations are available with the capacity to broker complex political, financial and technical transactions. It helps when organisations of the urban poor are able to access people and organisations with the technical skills required as well as the necessary sensitivity to work effectively with community-based organisations.

Finally, intermediary organisations can play an important role by sharing their credibility. Banks may be unwilling to lend directly to slum dweller organisations that have no track record of formal borrowing. Organising a loan through an intermediary that either has an established reputation or that is governed by individuals that are seen as credible and reliable may be much more feasible.

This was the case in Sri Lanka in the community of Kirulapona. Kirulapona community has had a long relationship with the project partner, South Asia Partner Sri Lanka, who in turn has been involved with other micro finance development projects with a commercial bank. This involvement, along with the capacity building activities and community empowerment that has taken place, enabled the communities in Kirulapona and Siddharthapura to mobilize and improve their earnings and their savings habits. Their strengths in saving and their financial stability played a crucial role in convincing a commercial bank to provide a loan. The 50% guarantee that was negotiated for a \$100,000USD loan in January 2009 is also a sign that the lending bank has confidence in this community.

## **Savings and loan systems provide a means to access commercial capital for land development**

Without clarity on land tenure there is little potential for accessing commercial financing for slum upgrading. However, the need to bridge land tenure and access to credit with a strong savings and loans system is crucial. Savings and loan systems not only build financial capacity but also organisational and management competence, which is important when communities are taking on complex upgrading and development projects. The Sri Lanka Kirulapona project mentioned above is an example of this. Savings schemes also provide a system through which individual households can save for and make deposits. Such deposits demonstrate the level of repayments that households can afford. They also provide a means to buffer against late repayments which inevitably arise at some stage during the term of a loan.

In addition, savings and loan systems are important because, whatever the rhetoric, most banks do not lend to low income households on an asset security basis. In other words, if people prove unwilling or unable to repay their loans, banks do not always expect to foreclose and take the asset in recompense.

Banks are much more likely to lend on the basis of the information that they have that indicates that the loans can be repaid. Savings and loan records are an excellent means of demonstrating repayment capacity. Banks do, however, welcome secure tenure arrangements because it gives them confidence that households are serious about the investments they are making and have a real stake in making sure that projects are completed.

### **Make land allocation and development gender-sensitive in slum upgrading schemes**

It is important that slum and settlement upgrading initiatives make provision to protect the tenure of women and children. Where there are joint heads of households it is important that the woman's name is included on any land record or legal agreement governing the housing improvement or land development. By-laws adopted by Housing Co-operatives should also be very clear regarding inheritance arrangements so that women and children are not excluded in the case of a male head of household dying or leaving the home.

The tsunami in Sri Lanka in 2004 affected many women in a very negative manner. Even their own property, which they owned before the tsunami struck, was not replaced. After the tsunami, all houses were given to heads of the households, which excluded women.

There are certain barriers that the Slum Upgrading Facility has to overcome in terms of women's rights to land and finance. Women may be subjected to cultural or legal barriers to acquire land rights through markets, inheritance and transfer. Further, there are discriminatory policies at the central or local level and poorly drafted regulations and laws governing land and property rights. The right to land must be both legally and socially recognized to be enforceable.

In order to minimize these differences, the Slum Upgrading Facility in Sri Lanka educates low income communities (women in particular) to understand the law as well as social barriers. The national Finance Facility in Sri Lanka (Lanka Financial Services for Under-served Settlements) further works to influence policies to be fair to low-income settlements and women. They attempt to influence the Government and communities to change discriminatory administration practices. Promoting bankable projects among women in low-income settlements and conducting legal awareness programmes for women to make them knowledgeable about the land rights are a part of Slum Upgrading Facility work. The Slum Upgrading Facility in Sri Lanka aims to build a strong network among the women of the community, providing direct technical assistance where necessary.

## 4 Conclusion

At the beginning of this paper, we asked a series of questions. As a conclusion, we summarize the UN-HABITAT perspective on those questions below, in light of experience from Slum Upgrading Facility projects on the ground. But remember: there are no simple answers to these complex problems.

As Slum Upgrading Facility experience grows in implementing this kind of slum upgrading finance approach, however, lessons, like the ones outlined above, are emerging. With time, policy solutions will become more evident.

### 1. Are poor households able to access land through the market?

Yes, but normally, not through the formal land market. Formal land delivery mechanisms have not been able to keep pace with the rapid urbanisation in any of the Slum Upgrading Facility countries. Inappropriate and unaffordable planning and building regulations, moreover, push many households and neighbourhoods into accessing land through informal mechanisms, particularly occupation of public land and informal sub-division of peri-urban land.

This informal land delivery, however, comes at a price: insecurity of tenure in all Slum Upgrading Facility countries, irregular settlements, location on hazardous land and limited or informal access to infrastructure and services. As a result, slum and settlement upgrading means addressing access to land for the poor as a major part of the approach.

### 2. Are SUF projects providing greater security of tenure through their pilot projects?

In general, Slum Upgrading Facility projects are leading to greater security of tenure, because all projects include an aspect of regularization (that is, providing formal security of tenure to communities). Whether the original land tenure is based on adverse possession, customary or religious tenures, or rental, all projects explicitly aim to secure the existing land rights as part of the upgrading process and as a means to make projects more 'bankable' as they attempt to secure affordable housing finance.

In some cases, the arguments used also include explicit reference to the linkage between regularisation and increased revenue for local authorities due to increased property taxes. However, experience also



highlights the complexity of efforts to increase security of tenure through upgrading projects. Each project requires its own solution in its own context.

In most cases, pilot project communities had only fairly insecure forms of tenure – informal occupancy rights – prior to the advent of the project. In some instances, Slum Upgrading Facility intervention will provide individuals to the most secure form of land rights – long-term leases or individual freehold (Indonesia and Tanzania have examples of this). In a dysfunctional land market, however, such forms of land rights are very highly valued and increase the potential for gentrification.

Collective tenure approaches, such as found in Sri Lanka, Tanzania and Ghana, can mitigate the risk of gentrification and provide greater long-term security of tenure. They can also improve the possibility of increasing the tenure security of renters through internal cross-subsidy mechanisms. Group forms of tenure, however, are not always legally available, as is the case in Indonesia.

### **3. How does security of tenure affect access to finance?**

Conventional mortgage finance requires forms of tenure not accessible to the poor. None of the Slum Upgrading Facility households are able to access mortgage finance, but this is not the type of finance (asset-based; using land or home as collateral) that the Slum Upgrading Facility promotes. And while banks rarely intend to repossess individual homes and plots, security of tenure is used to discipline repayment and reduce risk.

At the same time, individuals require a certain level of security in order to invest in housing loans or home improvement loans; if the risk of losing their house is high, they will not invest, nor will banks provide long-term loans in this situation.

Alternatively, poor households may invest in their housing as part of their strategy to increase their security of tenure (Tanzania and Sri Lanka). The terms for the loans in these cases, however, are not favourable to the poor.

As a community, cooperative or group, however, poor people have two specific advantages: first, they are able to take group loans of sufficient size and term to interest commercial finance institutions, while reducing transaction costs for loan management; and second, they can blend housing finance with commercial and infrastructure finance to be able to capture the benefits of cross subsidy.

There is a clear need to engage with financial institutions to develop loan products to groups at different points on the tenure continuum. Risk can be priced according to the relative insecurity or security of

land rights, and the guarantees that the Slum Upgrading Facility Local Finance Facilities are able to offer can help address that risk<sup>6</sup>.

#### **4. How do rising land values affecting the poor and their communities?**

Land values have been rising in all Slum Upgrading Facility pilot countries. In many countries, settlements are located on relatively high-value land and this brings their communities under tremendous development pressure. As in the case of projects in Tanzania, the pressure can result in outright eviction. In wealthier cities or cities more conscious of housing rights, forced relocation may be accompanied by financial compensation from the Government.

More positively, rising land values can create opportunities for communities to capture the gains of land-use changes to allow mixed development, to increase the density of settlements or to improve access to infrastructure or basic services. The risk of gentrification due to rising land values or more secure land rights, however, must be addressed

#### **5. How realistic is it to expect functional land administration systems in developing countries, and how have Slum Upgrading Facility projects dealt with this issue?**

It is unrealistic to expect functional land administration systems, yet such systems are fundamental to effective land markets and to slum upgrading. A multi-stakeholder approach helps, but in general there has been no alternative but to take the necessary time in any given project and try to establish clarity of ownership, deal with delays in administrative procedures for transfers, etc. Keeping a large project portfolio is critical to keep Slum Upgrading Facility projects moving forward. Where the generally inevitable delays related to land tenure arise, other projects may be moving forward.

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<sup>6</sup> For more information on Guarantees and Risk, and on how Slum Upgrading Facility Local Finance Facilities work, please visit [www.unhabitat.org](http://www.unhabitat.org) and go to the Slum Upgrading Facility website to obtain working papers on these topics.

## 6. Can the poor actually afford housing and infrastructure loans?

The poor can afford loans for housing and infrastructure, where those loans are well understood and are, indeed, genuinely affordable. Ensuring that they are means working closely with communities to demonstrate the true costs of upgrading and make decisions on priorities with the group.

The forces of inflation and high interest rates alone will mean there is likely to be the need for some element of subsidy. At the same time, slum dwellers are not expected to pay the full cost of slum upgrading themselves. The Slum Upgrading Facility works to blend various forms of finance – whether they be internal cross subsidies, loans or grant elements in the form of land, infrastructure or reduced interest rates. What is important is that the result is upgraded communities, with improved land tenure and living conditions, and confidence in the financial savings and repayment capacity that will be developed as the projects unfold successfully.

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INFORMAL LAND RIGHTS	Non-formal	Customary	Intermediate or temporary	Group tenure	Leases	Registered Freehold	FORMAL LAND RIGHTS
GHANA							
Amui Djor	Squatters Tenants of squatter	Structure owners belong to stool & pay land rent to Chief Land owned by stool overseen by Chief	Transit housing for demo project	Potentially Amui Djor Housing Cooperative	Registered land owned by the stool but vested in the state. Stool would transfer land lease to Coop from the TDC		Land actually held by Tema Development Corporation. Requires formal transfer to TTC and then to Housing Coop
New Takoradi Market development	Squatter vendor on public land	Land acquired by government	Temporary market but formalized with the board and SUF intervention.	STMA land	Planned Group lease under BOT arrangement		Land re-zoned and formalized as market by the STMA. Vendors have use rights and pay taxes to STMA
Kojokrom market development	Squatter vendor on land zoned for market		Market with some sheds provided by assembly, while others operate in temporary sheds		Planned Group lease under BOT arrangement		STMA land. Market Women's Association has use rights and venture into a BOT arrangement with STMA for a period of time.



INDONESIA	Non-formal	Customary	Intermediate or temporary	Group tenure	Leases	Registered Freehold	Formal land rights
Solo Home Improvement					Unregistered public land effectively owned by the state		Land can be formally registered and entered on local parliaments balance sheet but required fees limit transactions
Solo mixed development					Municipal asset 10. Release to community requires Parliament resolution		
Yogja							
Riverside development	Squatters						
Tenants of squatters	Land owned by sultan						

INFORMAL LAND RIGHTS	Non-formal	Customary	Intermediate or temporary	Group tenure	Leases	Registered Freehold	FORMAL LAND RIGHTS
<b>SRI LANKA</b>							
Kuraniyawatta							State owned
Kollonnawa Majidwatta	Mixed ownership – more detail needed						
Bombay Castle							One private owner who has disappeared for 30 years
<b>TANZANIA</b>							
Kurasini Chamasi	Originally tenants of squatter structure owners on land purchased from Government by private developer for port development			Purchased by savings group under a collective block title			
				Possibility of tenants forming housing cooperative to manage, occupy & rent new housing on site	Rental properties – 1940's municipal rental stock		
Temeke							Municipal Council Land
Buguruni							Municipal Council Land

# FINANCING SLUM UPGRADING

✓ DO

✗ DON'T

Ensure that financing for slum upgrading is recognised as a priority within national development planning and as a key investment element contributing to economic growth. This emphasis should be reflected in a slum upgrading budget line within national and local authority budgets.

Don't rely on one off poverty-focused upgrading projects.

Encourage local and international banks and micro finance institutions to become active participants in financing upgrading as part of their core business.

Don't rely solely on housing or government finance institutions.

Ensure that guarantees are available to encourage banks to lend to slum upgrading projects.

Don't provide guarantees that support interventions based on political patronage.

Build investment in slum upgrading on a firm foundation of community based savings and loan systems and local authority commitments to provide in kind and monetary allocations on an annual basis.

Don't assume that community involvement is best restricted to cost recovery and loan repayment and that local government has no responsibility for planning investment in upgrading.

Recognise that financing for slum upgrading requires a mix of short, medium and long-term loans, integrating finance for building, infrastructure and livelihoods.

Don't assume that one financial product fits all.

Provide mechanisms to blend municipal finance, cross subsidies and beneficiary contributions to ensure financial viability of upgrading projects and home improvement programmes.

Don't rely on government subsidies or on full cost recovery from slum dwellers.

Develop a process for sharing risk analysis and planning for risk mitigation and management with all the key stakeholders.

Don't expect residents of slums to be the only risk takers in developing new approaches to upgrading.

Plan projects on a mixed-use basis with revenue generating elements such as saleable residential units and rentable commercial space in order to maximise financial viability.

Don't assume that lending for slum upgrading will necessarily be asset-based. Where banks do lend for this purpose lending is more than likely to be revenue based.

Ensure that subsidies are effectively targeted so that the benefits reach those for whom they are intended and build on the basis of long term engagement.

Don't assume that all the problems of a slum can be addressed quickly with the framework of a single project.

Recognise that not everyone who lives in a slum is poor. Where an area upgrading strategy is to be implemented provision needs to be made for a range of income groups with steps taken to ensure that the poorest are not excluded.

Don't insist that interventions should only benefit low-income families.

Recognise that home ownership is not the solution to everyone's problems. Provision for the development of affordable rental property is an important component of financing slum upgrading.

Don't restrict interventions to developments based on clear land title and private ownership of property.

Make the real cost of finance very clear so that people clearly understand the commitments they are making to loan repayment.

Don't hide the real cost behind misleading promotional messages.

Where appropriate establish local upgrading finance facilities so that funding is locally available.

Don't assume that existing finance institutions will have the capacity to deliver the full range of financial services required.

Explore options to use land allocation, readjustment and sharing methods to release finance for upgrading.

Don't place unnecessary restrictions on land use.



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