



## Managing the Land Access Paradox in the Urbanising World

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**Abstract:** *In the midst of rapid urbanisation and economic growth, the developing world faces challenges in the relationships between land, poverty, and security. Rising social and economic exclusion and insufficient land regulations have spawned an informal housing sector. Given the risk to the broad base of middle- and low-income households in developing countries and the growing demands in urbanising land markets, it is imperative that governments develop a more fine-grained understanding of their land and housing policies. Local authorities must also begin to consider innovative ways to preserve affordability in a market-responsive way. Community land trusts (CLTs) provide one means of resolving the paradox between formalising land ownership and mitigating exclusion from an increasingly unaffordable land market. CLTs seek to balance private property rights, which are the cornerstone of modern land markets and individual wealth, with the affordability and accessibility needs of the community.*

**Keywords:** community land trusts, land tenure, land markets, developing countries



## Introduction

Global urbanisation is creating challenges and opportunities for developing countries across the globe. As of 2008, the majority of the global population lives in urban areas (UN-Habitat 2010). The United Nations predicts this trend will continue; by 2030, every region of the world will be home to urban-majority populations - including Asia and Africa, which are currently the least urbanised regions. By 2050, 70% of the world's population will live in cities, with the most rapid growth occurring in the developing world.

Fuelled by globalisation, high population growth rates, and migration patterns, urbanisation is having a profound impact on the physical, social, and economic conditions of cities. As GDPs rise, social and economic exclusion become more prevalent and governments, while accommodating the expanding middle and upper classes, must also meet the needs of a burgeoning lower class. This tension is most visible in the struggle to provide adequate infrastructure and housing to meet demand. Insufficient land regulations, housing policies, and funding have spawned an informal housing sector. The physical and social pressures of urbanisation collide with the economic pressures of capitalism and globalisation, posing a number of serious questions about land in the developing world.

## The land problem

In developing countries, urban land is at the centre of change. Globalisation alters the economic engines of cities (Sassen 1998) and land values in the central city increase, driven by speculative development (Herring and Wachter 2005). Simultaneously, in response to expanding economic opportunities, rural-to-urban migration places more demand on land, further increasing its value (McGee 1998). These pressures present two primary challenges for cities as they struggle to meet current and future housing demand: *land tenure* and *land security*. While distinctly separate issues, they are also inexorably linked with neither providing a sufficient remedy without the other.

### *Land tenure*

Land tenure refers to the ownership rights over a piece of land (Durand-Lasserve 2006). It consists of a 'bundle' of distinct entitlements, which may be split apart and assigned to different parties (Institute for Community Economics 1982). While property rights represent a complex web of interests, the bundle is most commonly conceived of in fairly narrow terms (Meinzen-Dick and Mwangi 2008) – either as a freehold ownership, where an individual possesses the full bundle of rights, as is most common in the US; or leasehold, where entitlements are split into use and ownership rights, as in a landlord and tenant relationship. Leasehold can be short-term (e.g. annual) or long-term (e.g. a 99-year renewable lease). In developing countries, where land tenure is undergoing formalisation, there is generally a movement towards this narrow, Western-based definition of property rights (Payne 2001).

Land tenure relies on a legal structure that identifies, validates, and protects a claim to property (Grover, Munro-Faure, and Soloviev 2000). The degree to which government



acknowledges and enforces tenure rights directly influences landowner confidence, thus impacting the use of the property and the degree of investment owners are willing to make (Durand-Lasserve 2006; Payne 2004). Where households lack confidence in their tenure status, they are less likely to invest in their property, hindering long-term community development, distorting land markets, and increasing service costs. Furthermore, informal housing settlements often develop in dysfunctional land markets, representing the formalised system's inability to respond to demand or provide a solution.

Land tenure shapes the development pattern of urbanising cities, influencing the existence and liquidity of mortgage markets, the urban density gradient, and the quality of housing stock. The UN's Millennium Development Goals (MDGs) employ land tenure status as an indicator for measuring urbanisation and progress in developing countries (Payne 2004); specifically, the MDGs reference the connection between land tenure and slums, which are believed to be a result of land market and housing policy failures, seeking 'by 2020, to have achieved a significant improvement in the lives of at least 100 million slum dwellers.' However, slum populations are anticipated to reach 1.5 billion by 2020 and the MDG indicator leaves much to be desired for the 1.4 billion slum dwellers unaccounted for in the goal.

### *Land security*

Land security relates to legal protections extended to individuals to inhabit their property (Payne 2001). While inherently tied to tenure, land security is defined more broadly, as occupants do not require ownership to be secure. An individual with clear land *tenure* (i.e. ownership) does not automatically possess a high degree of land *security*. Ultimately, security depends on the assurances granted to individuals from regulatory provisions, government policies, and/or social norms.

According to Durand-Lasserve, 'a person . . . [has] secure tenure when they are protected from involuntary removal from their land or residence by the State, except in exceptional circumstances, and then only by means of a known and agreed legal procedure' (2006). However, for the urban poor, there are advantages to insecure tenure. Insecure conditions can make land more accessible to needy populations, manifesting in squatter settlements. In scenarios where squatters have some expectation of protection from eviction, either due to legislation that formalises squatter rights or weak enforcement, settlements can become more permanent (Payne 2001).

Over time, informal settlements can develop into vibrant neighbourhoods with locally observed 'laws' and economies, often shadowing those in the formal marketplace (Davis 2006). However, any advantages are transitory without acknowledgement and structural support from government, leaving individuals imperilled by their insecure tenure status. A regime change or a development plan can erase a settlement without recourse. Furthermore, the unsanctioned status of these settlements often means that they are underserved by infrastructure, forcing them to rely on unreliable services stretched beyond capacity or to incur significant costs to procure services from private purveyors (Ashley and Cashman 2006).



## *Land and housing: how they are connected and why they are important*

The preceding section defines land tenure and security issues in developing countries. Together, unclear tenure and insecure land rights impact urban settlement outcomes, as cities struggle to manage increasing demands for land and housing. As an emergent issue, governments often do not have the means to stabilise land markets, regulate tenure, or meet housing demand (Buckley and Kalarickal 2006), leaving poor households little choice but to seek shelter under insecure conditions (Durand-Lasserve 2006).

Most countries do not substantially invest in public or subsidised housing capable of meeting low-income household demands, nor are they able to provide adequate infrastructure to service informal settlements (Durand-Lasserve 2006; Ashley and Cashman 2006). Furthermore, the private sector is often unable to produce housing for any but the wealthiest households (Buckley and Kalarickal 2006). This is likely attributed to: (1) stringent building codes and development standards that make it infeasible for developers to construct housing products affordable to low- and middle-income households; (2) a lack of incentives for investors in nascent housing markets; and (3) the perceived investment risk. As such, large population segments in emerging markets, including the poor and middle classes, are prevented from participating in formal housing markets (Durand-Lasserve 2006). Without the chance to reliably invest in their land or shelter, households are inhibited from migrating into better housing over time.

The growing pressure on urbanising land is also a concern (Angel et. al. 2011). As demand for urban land grows, so does its value. Speculation drives up prices with investors relying on backward-looking expectations that values will trend consistently upward (Herring and Wachter 2005). This pressure increases the risk of market-based evictions and decreases affordability for urban households. Upgrading schemes, intended to improve the living conditions in recognized informal settlements, often have the unintended negative effect of pricing out the lowest income households through significant increases in service fees (Durand-Lasserve 2006). Even when households possess a freehold title to their land, in the absence of government protections, market evictions pose a serious threat. For example, in Peru many households were unable to retain ownership of their land upon receipt of a freehold title, as the expenses were too burdensome and the cash incentives of selling were too great to ignore (Kagawa and Trukstra 2000).

Given the risk to the broad base of middle- and low-income households in developing countries and the growing demands in urbanising land markets, it is imperative that governments develop a more fine-grained understanding of their land and housing policies. Local authorities must also begin to consider innovative ways to preserve affordability in a market-responsive way.

## **One approach: land regularisation**



One of the most prominent, as well as the most debated, approaches to the land tenure and security problem has centred on land regularisation. This policy integrates the informal housing sector into the formal market by establishing a land titling system. Initially heralded by Hernando De Soto, an economist, many governments have pursued land regularisation strategies over the last decade.

De Soto points to capital formation as the weak link in developing countries (De Soto 2000). Based upon his research in Asia, Africa, the Middle East, and Latin America, De Soto believes that ‘the poor already possess the assets they need to make a success of capitalism.’ However, land insecurity and ambiguous land systems, including the lack of a clear title and/or documentation, inhibit the poor from leveraging property assets to access credit or investments. Consequently, they are prevented from accumulating household wealth in traditional ways, which constrains capitalism in emerging markets (De Soto 2000; Payne 2002). De Soto surmises land regularisation schemes that provide property titles to individual households are the most effective, market-supported means for capital formation in developing countries.

More broadly, scholarship supports land regularisation policies for more effective slum upgrading; without land titling, scholars find that slum-upgrading investments are perceived as short-lived and unsustainable (Kagawa and Trukstra 2000). Households cannot improve their dwelling units through government-led improvements alone. They must be able to access financing and, thus, require the ability to leverage their assets as collateral. Without parallel investments in infrastructure *and* dwelling units, government has little hope of sustaining their investments absent substantial subsidies (Durand-Lasserve 2006).

However, as countries have pursued urban land titling schemes, the promise of De Soto’s regularisation model has been called into question. There is an increasing awareness of the ‘perverse social effects of . . . [land titling] policies, and especially of the limitations of urban development strategies based predominantly on the formalization of urban land markets’ (Durand-Lasserve 2006). One of the greatest pitfalls of regularisation policies is the explicit government endorsement of land ownership, which ‘may result in the creation of a large under-class that is denied access to any form of affordable or acceptable housing’ (Durand-Lasserve 2006). A one-size-fits-all approach to land tenure is short-sighted, neglecting to recognise social traditions of tenure or the diversity of households. Freehold tenure, most commonly used in land regularisation schemes, is a specific tool and does not guarantee protection to all income levels (Durand-Lasserve 2006; Payne 2001). For low-income households, freehold tenure may require spending beyond their means, while also substantially limiting their mobility.

Land regularisation is an important tool for establishing clear titles and formalising land ownership systems in developing countries. However, it is also clear that land titling policies do not address tenure concerns and land insecurity for all households, particularly the urban poor. Thus, a complementary approach is required. One alternative is to emphasise tenure security without exclusive reliance on freehold ownership. This transforms land titling into an incremental rather than a one-size-fits-all scheme. More importantly, alternatives should



establish legal pathways to occupancy, eliminating forced evictions and granting use rights with the provision of basic services. While freehold land titling may be an outcome, it is not necessarily the goal.

## **An alternative: community land trusts**

Community land trusts (CLTs) represent an alternative approach to stabilising land tenure and security in unpredictable markets. In a CLT, land is owned communally, via a non-profit steward, and property-derived wealth is split between the individual and community, whose share is used to keep housing affordable and accessible for other low-income families. In other words, the use rights acquired by a household at an affordable price are restricted, so that they may only be sold back to the CLT, which preserves affordability for the next homeowner.

CLTs have grown out of a longstanding conversation about land — the responsibilities and moral obligations entrenched in land, the value of land in a capitalist market, and the retention of land value for community betterment versus individual wealth. The model draws upon religious principles and customary tribal land traditions reaching back to the nomads, where land is viewed as a common resource that predates humankind and, thus, cannot be owned by an individual. CLTs seek to balance private property rights (i.e. land tenure), which are the cornerstone of modern land markets and individual wealth, with land stewardship obligations to the community (i.e. land security).

Nearly a century after Henry George decried the wealth gap fuelled by speculative land markets during 19th-century Western industrialisation (1879), the US CLT movement formed in the 1960s to address the incongruities between land tenure and wealth. CLTs are described as being ‘one model – [with] a variety of forms’ (Davis 2010). In the US, CLTs exist in rural and urban settings, acquiring land through strategic purchases, donations, and public-sector grants. The land uses in CLTs are diverse, ranging from single-family homes and limited equity co-operatives to rental apartments to farming, common open spaces, and commercial developments. The leasing structure, although based on a standardised framework (Institute for Community Economics 1991), is designed to meet the needs of a community. For example, some CLTs utilise resale formulas, while others employ limited equity agreements or deed restrictions. Similarly, many CLT programmes establish ground-lease payments based upon land repayment requirements, while other programmes subsidise ground-lease fees based upon homeowner need.

In many respects, CLTs address several weaknesses of land regularisation schemes. As a development model, CLTs offer households a means of building equity, while retaining wealth and access to land for the community and minimising speculative market pressures. The CLT model is also reminiscent of some traditional modes of land tenure in developing countries, particularly sub-Saharan Africa (Payne 2001). Communal or customary land systems have long been a socially acceptable means of allocating land to individuals, while preserving the long view of stewardship within the community (Yahya 2000). In addition, collective land ownership fosters a sense of identity, which is of critical importance to low-



income settlements participating in community-organising efforts to upgrade dwelling units, expand access to basic services and infrastructure, and generally improve their neighbourhoods.

However, while there is a precedent for communal land ownership, there are few instances of CLTs being adapted for emerging markets. In essence, there are two forces that keep the CLT development model on the sidelines. First, many governments continue to pursue a Westernised development model where capitalism and freehold ownership go hand in hand. Given the recent experiences of many developed countries during the Great Recession of 2008, as well as developing countries pursuing land regularisation policies, this appears to be a flawed argument. The second reason for the relative neglect of CLTs on the international stage is simpler — it is unfamiliar. Governments have had little to no exposure to CLT terms and conditions, much less benefits.

## **Conclusion: CLTs as a new frontier**

In the midst of significant economic challenges, policy-makers must reconsider the relationship between land, poverty, and security in the developing world. Poverty needs to be understood anew and solutions devised to reach a broad spectrum of households at lower levels of income. CLTs provide one way of resolving the paradox between formalising land ownership and mitigating exclusion from an increasingly unaffordable land market. Many governments and international aid organisations, including UN-Habitat, perceive CLTs to be an innovative method of introducing security, while avoiding the pitfalls of moving towards individual freehold titling (Durand-Lasserre 2006).

The CLT model provides a framework upon which a local organisation can accommodate the social, cultural, and economic context of a community. Its greatest strength is its ability to remove speculative forces from the home ownership equation, thereby preserving affordability for the community. As a result, title-holders are not evicted due to an inability to shoulder escalating land prices, instead earning modest equity on their investment.

The CLT model's deep roots in participatory processes make it an appropriate strategy for responding to housing demands in culturally diverse emerging markets. A successful CLT requires a dedicated third party that is willing to operate the CLT, including owning the land in perpetuity, and to work closely to educate the community as well as local authorities, institutions, and banks. In theory, this level of engagement should be a benefit; however, in practice, these conditions may limit the CLT model's ability to penetrate some developing markets due to embedded mistrust and lack of transparency.

Despite the obstacles, CLTs represent one viable alternative to solving the land security and tenure problem. As countries undergo rapid economic expansion and urbanisation, affordability and land accessibility will continue to pose a problem for the poor and middle classes alike. Innovative approaches that operate within the confines of a private-property



market, while also meeting the growing needs of the poor, are worth exploring for the developing world.

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