Regulatory Guidelines for Affordable Shelter

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Rules and realities

This Report is the second publication[1] addressing some key questions facing both urban planners and the low-income groups. These ask why do so many people in the urban areas of developing countries live in housing which is classified as illegal? Is it because they are inherently defiant or delinquent? Are they intent on challenging the authority of the state and undermining respect for law and order? In Manila, you were recently encouraged to put a blue ribbon on your car aerial if you supported the plans of the MMDA Director to remove illegal settlements and street traders and the campaign won considerable support. In Delhi and many other cities, similar campaigns are being launched by determined officials to "clean up" their cities and ensure the rule of law.

But what if you are too poor to afford a car to put a ribbon on? What if you cannot afford the cost of conforming to the numerous rules, regulations and administrative procedures required by many urban authorities before they will grant planning and building permission? What if the rules are written in a form only professionals can understand? If ten percent of the population do not conform to legal requirements, it might be reasonably assumed that they are at fault. However, if 90 percent of the population do not conform, is it not equally reasonable to assume that the law itself is at fault – or more accurately those who framed the laws?

Of course, there are many external constraints preventing the urban poor from accessing legal shelter. These include intense competition for land in and around urban areas which prices it above their level of affordability, increasing international emphasis on market based development strategies, which adds more fuel to these fires, the sheer scale of demand and the limited resource base of many urban development agencies, corruption and a lack of transparency in resource allocation. Nonetheless, the regulatory framework of planning regulations, planning standards and administrative procedures involved in obtaining legal shelter are a major barrier in many countries and it is these that the project seeks to identify and address.

It is also important to note that the planning regulations, standards and administrative procedures by which urban authorities seek to manage the processes of urban development are not value free or politically neutral. They inevitably express the world view of political elites and professionals who seek a form of urban development conditioned by the world they are familiar with, or seek to emulate or aspire to. This puts them at odds with the mass of largely poor people already in the urban areas and those who join them daily from even less developed rural areas – people who want a better life for themselves and particularly their children, but do not have the wherewithal to satisfy the norms of a wealthy minority.

In most developing countries, the proportion of urban populations living in settlements considered illegal or unplanned is large and increasing. Efforts to stem migration from rural areas have proved futile as the funds needed to boost rural incomes are invariably generated from the urban areas where jobs – and therefore opportunities – are concentrated. Similarly, programmes to demolish illegal settlements simply move the problem somewhere else. Both approaches deal with symptoms rather than causes. The central cause is a fundamentally narrow economic base in which an urban elite has the lion's share of what wealth exists and finds it impossible - or unacceptable – to adapt its norms to those of a poor majority. The situation is compounded by the increasing impact of market forces which increase the commercial value of land and accord rising prices to even marginal sites. As land loses its historically based 'use' value, (as exemplified in the customary land tenure systems of sub-Saharan Africa and other parts of the world), and is regarded increasingly as an economic asset to be traded and exploited like any other, the cost of conforming to official norms becomes daily

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[1] The first publication was a resource paper produced at the inception of the research project on 'Regulatory Guidelines for affordable shelter.' The project is funded by the UK government Department for International Development (DFID) and is being undertaken by an international team led by Geoffrey Payne and Associates. The paper was published as 'Lowering the ladder: regulatory frameworks for sustainable development 'Development in Practice, Vol 11, Nos 2 and 3 May 2001 pp308-318.

more unaffordable. The result is that the cost of getting on the bottom rung of the legal ladder has been raised too high – and is getting higher.

Assessing the costs of conformity

It is impractical to deny the penetration of market forces in land when they are permeating all other sectors of the global economy and being forced on developing countries by strictures from the International Monetary Fund (IMF) and the World Trade Organisation (WTO). Land and property prices are conditioned by the same demand and supply forces which condition all other transactions and the ever increasing demand for land in growing urban areas is not being met by planned development.

This is not to say that there is necessarily a physical shortage of land in and around urban areas which could be developed for affordable and legal housing. The shortage is often market driven in that it is increasingly attractive for better-off households to acquire plots for future speculation and keep them out of the market for twenty years or more, as an asset to finance retirement or other expenses. Naturally, those who benefit from such practices are un-attracted by the prospect of paying property taxes on their unused assets, so poor households are forced ever further from the urban areas and sources of livelihood, thereby accelerating price increases. In Hyderabad, India, it is apparently common for middle and high income households to own three or more residential plots for future speculation. Increasing the supply of planned land through property taxation would certainly help bring unused land into the market and contain land price increases, though sites need to be developed in conjunction with employment opportunities and services to be effective.

If market forces cannot be stopped, what *can* be done to increase access to legal and officially acceptable shelter? Apart from introducing or increasing property taxes on used *and* unused land, one major option is to review the regulatory framework of planning standards, regulations and administrative procedures which together impose a range of access costs. Once the major cost elements and other constraints have been identified it will then be possible to see where changes can best be made.

In early 2000, the UK Department for International Development (DFID) approved funding for a regulatory review, or audit, of urban planning regulations, standards and administrative practices for new urban land and shelter developments in five countries in different parts of the world. Each country was at different levels of economic development and with different legal and political systems. Since then, a sixth country has been added to the project. The countries are Bolivia, India, Lesotho, South Africa[2], Tanzania and Turkey. The project is being carried out in conjunction with a parallel project being undertaken by a team at the Intermediate Technology Development Group (ITDG) which is reviewing regulatory frameworks for upgrading existing urban settlements.

The project is being carried out in three phases. Phase 1, which was carried out between September and December 2000, involved the collection of information on planning regulations, standards and administrative procedures in all selected countries except Bolivia, which joined the project in mid 2002. Phase 2 started in January 2001 and involved a regulatory audit to assess the imputed costs of access to legal shelter and was due for completion in March 2002. Following this, work started on Phase 3 to negotiate options for initial implementation. This report contains the findings of the regulatory audits carried out in each country, together with a series of recommendations for initial changes[3]. It is later intended to produce a manual and training materials to enable urban authorities to undertake regulatory audits as part of efforts to increase access to legal shelter and reduce urban poverty. These outputs will be produced in conjunction with the parallel project being undertaken by ITDG.

The countries covered by the report represent a wide geographic, economic, cultural and political range. What is considered normal or acceptable practice can vary considerably from one country to another. For example, in the Indian context, it is officially permitted – and common practice – to find

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[2] Work on the South African case studies ceased at the end of Phase Two.
[3] This article forms part of a larger report which includes case studies of each country. Copies of the full report can be obtained from Geoffrey Payne and Associates, 34 Inglis Road, London, W5 3RL, gkpayne@gpa.org.uk

residential plots of 18m^2, whereas in Lesotho, the official minimum is 600m^2 and those less than 900m^2 are considered undesirable. Clearly, cultural factors are significant when assessing what is appropriate in any given context. Such varied attitudes also appear to reflect different economic approaches to sustaining livelihoods among the urban poor. For example, in India and many other countries, land prices create pressure to reduce plot sizes in order to be able to live in areas near employment centres. However, in Lesotho people prefer to have large plots on which they can keep cattle, poultry or pigs and grow their own vegetables as a means of minimising expenditure, while one or more family members travel to the city proper and contribute to household cash incomes.

The project has sought to assess the social, economic and environmental cost implications of increased travel to work and infrastructure provision associated with low density developments and the more compact urban settlements characterised by medium rise, mixed land use and medium to high density. The evidence of the project so far makes it difficult to draw firm conclusions on this issue, and it may be that no concrete recommendations can be formed from the disparate range of factors involved, since weighting the variables involves too many assumptions about the acceptability or otherwise of individual cost components.

If it proves impossible – or inappropriate – to arrive at general conclusions on regulatory standards, regulations or procedures, the process of undertaking a regulatory audit has nonetheless proved extremely useful within each local context in highlighting the areas in which change might be most effective in increasing access by low-income households to legal land, shelter and services. Interestingly, planning regulations and standards appear to be less of a constraint than administrative procedures. As the work of de Soto (1989) has demonstrated in the case of Peru, the number of steps which applicants for planning permission need to undertake in order to obtain approval frequently creates delays and raises costs to levels which a large proportion of people find impossible to follow.

This suggests that governance issues are central to the problem of access to legal shelter. The case studies reveal that it can require many steps to obtain planning permission to develop a residential plot and that this can easily take several years. To 'facilitate' a more rapid processing of applications usually requires a 'consideration' or payment to officials on the basis that 'a favour granted requires a favour returned'. Whilst such payments can be seen as endemic corruption, for low paid officials in government offices they represent the only option for achieving a reasonable income and the only incentive to provide an efficient service. Any attempt to reduce the need for such payments is likely to require approaches which gain acceptance from the officials involved and this suggests that other inducements or incentives will be needed. Given the inability of most governments to provide 'across the board' increases in civil service pay or terms of employment, other options deserve consideration. For example, in Johannesburg it was recently decided to charge fees for those applying for various types of building or planning permission. Staff were paid a bonus according to the number of applications processed, as a result of which the number of applications processed increased dramatically. Unfortunately, managers who had been excluded from such payments suddenly found that junior clerical officers were earning more than they were and the scheme was abandoned. Perhaps widening the basis of benefits, or outsourcing such activities to a specialist organisation might have enabled the approach to continue.

It should not be assumed that unauthorised forms of shelter are themselves without costs. A plot of land without planning permission may command a price not far below that of one with planning permission and even when in occupation, residents are vulnerable to exploitation by local mafia groups. They also invariably pay more and receive a poorer quality of service than legal residents for access to basic public utilities, such as water. People would therefore not logically seek unauthorised shelter options if legal ones were available and affordable. The key issue is therefore how to revise the regulatory framework in ways which enables them to continue protecting the public interest without denying access to large sections of the urban populations, and forcing them into the very situation the regulatory framework was intended to prevent.

Principles and procedures in regulatory audits

These experiences suggest that there is a potential benefit to policy makers, practitioners and especially the majority of low-income households in undertaking a review, or audit, of the regulatory framework governing what is officially acceptable practice in urban development. The intention of such a review should be to identify the components of planning regulations, planning standards and

administrative procedures that constitute the key constraints impeding access to legal shelter by low-income groups.

Any regulatory audit of the planning system has to be seen as part of the wider urban land and housing markets. Analysis of such markets can be said to follow one of two main schools of analysis, that of the neo-classical tradition, or that of the political economy approach (Jones and Ward 1994). Proponents of the first include Dowall (1991, 1994) who undertook a land market analysis (LMA) of Bangkok and Karachi in the 1980s. This approach assumes that the land market is fundamentally a competitive mechanism for distributing land. Competition between users sets prices and determines the pattern of land use and the market operates to allocate land on the basis of price (Dowall 1994:25). He goes on to claim that unlike stock, bond and commodity markets around the world, land markets are disorganised and offers the LMA as a new tool for urban management. Dowall argues that the LMA can indicate the level of housing or property demanded in the market by determining the state oif sales of housing units or commercial units over the past year (ibid:30). His comparison of Bangkok and Karachi found that the absence of strict planning and development controls in Bangkok has led to an incentive to an aggressive private sector and lower overall land prices than in Karachi, where the authorities under-priced residential plots and were consequently unable to meet the scale of demand (ibid:25).

The political economy approach adopts a wider perspective than the neo-classical one advocated by Dowall. Its proponents include Durand-Lasserve (1994), Rakodi (1994) and Ward, Jimenez and Jones (1994). For Durand-Lasserve (1994:55), "the land market is not seen to result directly from demand and supply, in the abstract, but rather as being deeply tied up with the process of distribution and politics. Thus, it is argued that the land price may depend as much on with whom one is dealing as on "pure" supply and demand. In this way, it is possible to appreciate that land prices are as much a social construction as they are the technical interaction of demand and supply factors. Land price may not, therefore, be necessarily constructed in the same way for each type of land or land market. Moreover, the same land price may reflect wholly different procedures whereby those prices are fixed". Using evidence from Conakry, Guinea, Durand-Lasserve concludes that the political economy approach stresses the interaction of an economic model and an understanding of the structure of power in society and that a failure to appreciate fully the mechanism of land delivery means that the range of prices for land on the market becomes taken as a matter of fact when, in reality, the price of transferring the right to occupy a plot in a public land-development scheme and the price of that plot on the market can be in the ratio of 1:10 or even as much as 1:40 (1994:67).

In countries where land markets operate in much the same way as other markets, it may be appropriate to adopt the neo-classical approach. However, experience suggests that this is rarely the case in developing countries where the State or traditional chiefs have traditionally exerted a powerful – if not necessarily benign – influence over all matters pertaining to land. As Rakodi (1994:85-86) notes, "neo-classical economic approaches to the study of land markets are rarely of immediate use in policy evaluation, especially for a commodity as atypical as land".

The present study has adopted a political economy approach to the analysis of land and property markets and the role of the regulatory framework in attempting to manage them. This is particularly appropriate given that Tanzania and Lesotho both have strong traditions of customary land management in which all land is vested in the Head of State in trust for the population and these allocation systems make a market based system of analysis inadequate. The role of informal developers, NGOs and state suppliers of land and housing in the other countries, suggested that it was equally important to adopt a political economy approach in these also.

The first step in reviewing the regulatory framework involved a desk review of all existing legislation, regulations, standards and administrative procedures relating to urban land development and housing. This was carried out in Phase One and provided a framework for the primary research. This involved interviews with a wide range of stakeholders, including government officials, NGO staff, community organisations, professionals active in the sector, academics and especially low-income residents themselves.

One major issue that then had to be addressed was the extent to which constraints can be measured in quantitative terms. The approach adopted in the research has been to create a matrix of components against which the perceived extent to which each component represents a constraint

would be shown on a scale of one to five. This was preferred to listing them as an imputed sum of money, though quantifiable items were also listed where applicable.

A further consideration was how to collect information on regulatory constraints. Intense discussions between team members during workshops compared the relative merits of quantitative and qualitative research methods. In deciding on how to collect information, practical considerations weighed heavily. A major objective of the research was to establish the principle that regulatory audits could form a useful management tool for urban managers and a means of holding them to account and increasing transparency on behalf of civil society. It would be difficult to achieve this objective if the resources and skills needed exceeded those routinely available to local urban authorities or development agencies. To be accurate, quantitative research requires a statistically significant sample and a control group against which to compare samples. It also requires professional data analysis to extract the significance of the findings and prepare correlations or more sophisticated outputs such as multiple regression analysis. Inevitably, such skills or the financial resources to access them are not always available.

These considerations mean that qualitative research methods, such as focus groups discussions and participatory appraisal, may be more suitable to certain contexts[4]. Qualitative methods are usually used to gain an in-depth understanding of people's experiences and attitudes using less rigid forms of analysis and focusing more on identifying the themes and meanings which emerge from what respondent say or do. These techniques can often produce complex and varied in-depth data in cost and time-effective ways.

For instance, focus group discussions enable the researcher to assemble a number of people together and gather information from them at one time. They can be used to gain a quick impression of the pertinent issues or themes without arduous or expensive analysis and do not have to involve extensive prior preparation. However as with all methods the extent of the costs involved depend on the aims and design of the research. If optimum results are to be achieved focus group discussions need a clear purpose and agenda, as well as a skilled facilitator who is able to steer discussions in the right direction and within the given time.

Similarly quantitative surveys, which are costly in time and training at the formulation and analysis stages, whether based on questionnaires or highly structured interviews, are an efficient way of collecting information on a large and/or scattered population or area. The principal of creating short questions with categorised answers results in ease of use in the field, meaning that those with little training and briefing may carry out the process of data collection. In this case mechanisms such as using students from the local area to collect data can be used to both cut the costs of the survey as well as develop local capabilities. However this may not be possible where surveys rely on informed observation e.g. a survey of household conditions in a neighbourhood and therefore need to be completed by trained, experienced and fully briefed personnel. The decision of which methods should be used is therefore highly influenced by the resources that are available in terms of time, personnel, capacity to analyse and the ability to train.[5]

Another important selection criteria depends on the type and quality of information which must be gathered. Quantitative methods are very good at revealing regularities of action or general patterns in large data sets, which is often essential for understanding the extent and character of a phenomenon. However they cannot *explain* the structures and processes that influence strategies or the complexity of motivations which lie behind those actions (Mullings 1999). The strength of qualitative methods lies in their ability to uncover the complex and often contradictory meanings and processes which underlie these wider trends or patterns, for instance identifying causes and effects (Dwyer & Limb 2001). In policy and development focused research the aim is not only to show how things are but also how things *should* be which requires rich contextualised and explanatory data, which can only be provided by qualitative methods. As such qualitative approaches are often better at 'describing' and 'explaining' while quantitative approaches are better at 'measuring'[6]. Both of these dimensions are pertinent when attempting to map the regulatory constraints people face when trying to access legal housing and the strategies they develop to overcome these difficulties. Qualitative and quantitative methods can

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[4] The following notes on research methodology were prepared by Evelyn Mari.
[5] See Annex A1 for the benefits, negatives and resource implications of a range of methods
[6] Further information on qualitative methods can be found in Bryman & Burgess 1994, Burton 2000, Denzin & Lincoln 1998, Sayer 1984, Silverman 1993

therefore be approached as highly complementary and the use of both is often ideal to gain a holistic understanding of an issue.

Quantitative methods, such as surveys and questionnaires, and the associated methods of analysis such as coding and statistical analysis, are often considered less 'messy' than qualitative approaches. A hypothesis, set of questions and even possible answers are pre-defined and universally applied to allow for quantification. This, as well as the emphasis on statistically significant samples and results as a means for verification, means that it is easier to tabulate, generalise and compare quantitative data. This often lends quantitative data an air of authority, and it continues to command more respect in policy arenas. This often means that quantitative data has a higher potential for determining policy and is therefore useful to include in any research project.

However, this highly structured approach also means that the complexity of experience must be forced into the categories and codes that have been pre-defined by the researcher (we have all, unfortunately, had the frustrating experience of filling in questionnaires which do not allow space for our alternative answer or particular situation)[7]. Therefore, as a vast range of feminist and post-modern literature has been at pains to point out, though quantitative research is often considered to be more objective and reliable, it is in fact strongly shaped by power relations and often constructs the world which it purports to measure (Banister *et al* 1994; Dwyer & Limb 2001; Mullings 1999; Oakley 1981).

Qualitative methods are based on a more free-flowing 'iterative' research process, for instance semi-structured interviews, in which the respondents have more control over how they answer, and the questions and analysis are constantly revised by the researcher in response to what the informants say. Therefore the perceptions, ideas and motivations of those being studied become more central. This can help to avoid the top-down imposition of results and can uncover new issues or dimensions that the researcher was not previously aware of. However, it must be remembered that bias is still just as possible in qualitative approaches such as selection biases which may result from small, homogenous samples (Oakley 1998). Quantitative approaches have the advantage of being statistically representative, which is difficult to achieve with the small samples covered by qualitative methods, and they can just as often open up new areas for investigation.

Participatory methods are now increasingly seen as essential for building successful development programmes (Chambers 1983, 1994a, Nelson & Wright 1995, UNDP 1993). This emerges from the recognition that power relationships shape the research process and often result in the exclusion of experiences, understandings and needs of certain groups, who are often the most vulnerable. This not only results in a distorted understanding of the context, misleading results and the disempowerment of already vulnerable groups, but also limits the ability of policy to respond to their needs. As Graham Tipple observed in a project workshop, these needs will vary even among low-income groups and it "is quite likely that policies that will assist the very low-income households will actually cause either no improvement or have a harmful effect on those further up the low-income ladder" or vice versa. It is therefore important to clearly define which specific groups are the focus of research and, through sampling and the inclusion of participatory methods which allow maximum input by informants, ensure that all different stakeholders are represented.

Participatory approaches emphasise increased involvement, control and leverage by target groups in the design and implementation of development projects, beginning at the research stage of a project. Participatory research methods aim to limit the influence of researcher biases and categories, as well as the dominance of other elites, on the research process. They also attempt to build up local capabilities and empower vulnerable groups not only by actually listening to what informants feel is important, but also by enabling people to develop skills and capabilities. Therefore, though many participatory methods may be more labour intensive and take more time, the initial extra costs are far outweighed by the long-term benefits of responsive policy formulation and increased local capability. It is important to remember that while qualitative methods tend to have a stronger affinity with participatory principles, all methods can be designed to be more participatory. This can be done using

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[7] Mechanisms can be included in survey and questionnaire based research to try to minimise the 'leading' of informants to specific answers or to ensure respondents are not simply filling in boxes they do not understand. An example of this is the use of non-existent categories in David Hall's research in Lesotho (see below).

techniques such as piloting and asking informants for their views of methods, constantly adjusting the focus and design of research in response to informant feedback, and encouraging participation of target group members in the design, implementation, and outcomes of the research.

An example of the participatory approach is 'Participatory Appraisal', a community-based method which prioritises the views of local people and their active involvement in deciding what happens in their communities. Participatory Appraisal is increasingly used in policy formulation and practical development due to its reputation as a quick, cheap, simple and socially inclusive method of uncovering pertinent issues and needs within communities. Groups of people from a community are gathered together and discuss issues they feel are pertinent in the community. This is combined with the drawing up of visual maps, mind maps, charts and diagrams by the participants, which visually represent such issues as community needs, services, interactions between institutions, livelihood strategies and resources. This produces a range of data which can be analysed both quantitatively and qualitatively, or can be used directly.

This visual dimension is good for representing many complex issues that would be difficult to verbalise or write-down coherently, as well as overcoming language and literacy barriers. The tools used are varied and highly flexible so they can be shaped to every context and everyone can participate regardless of their background. As a technique it does not require expensive technologies or programmes, and even pens and paper can be replaced with a dirt road and stone or chalk, whatever is available. With this approach it is the members of the community themselves who carry out and define the research, while the facilitator simply ensures everyone is able to participate and explains the tools available. This is a cheap, quick and effective method, however it must be remembered that, as with all participatory methods, much of the costs in time and effort are transferred to the participants themselves. If participants' contributions are not acknowledged during policy formulation, not only will it not be 'participatory', the exercise will have wasted vulnerable people's valuable resources and they are unlikely to contribute to future projects.[8]

In conclusion, there is no single research method or approach that can be considered a panacea to the problems of designing research. The choice of research methods for any particular project should be based on its appropriateness to the available time, money, labour, training and other inputs, as well as the particular issue which is being researched, the context in which research is being carried out and, of course, the quality and scope of the data which is gathered. Each method has different strengths and limitations therefore a multi-method technique is often ideal. Social researchers from both qualitative and quantitative traditions have stressed the need to incorporate aspects of both approaches in measuring overlapping and different facets of social phenomena. The use of multiple methods can allow the researcher to capture different aspects of a phenomenon, widen an understanding of the issues involved and increase confidence in the results obtained (Fielding & Fielding 1980; Findlay & Li 1999). For instance, the use of both quantitative techniques, such as surveys, and qualitative techniques, such as focus group discussions, can uncover both micro and macro structures and processes. Equally the use of qualitative case studies may help reconcile apparent anomalies that may emerge in quantitative survey data or provide more detail to the broad brushstrokes emerging from the survey. Different qualitative and quantitative methods are therefore very often complimentary and mutually reinforcing[9]. A combination of the two might therefore be seen as ideal, though this can often be highly demanding in terms of time, money and staff inputs.

During project workshops, Tipple emphasised a number of detailed methodological issues. These include the need to place regulatory frameworks in their historical context in the development of housing from colonial periods in order to assess how we got to where we are today. When preparing questionnaires, he also recommends that care be taken when translating questions into local languages and back again. Thirdly, it is important to train surveyors in how to use language so that they all ask the questions in the same way.

For the current project, different team members opted for different approaches to collecting and analysing information. Decisions were based on their personal and professional backgrounds and their assessment of what would be appropriate for local urban managers and other stakeholders. For

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[8] More information on participatory methods can be found in Chambers 1994a, 1994b, 1994c, Davis & Whittington 1998, Mosse 1994, Moser & McIlwaine 1999, Nelson & Wright 1995
[9] More information on multi methods can be found at Bryman 2001, Creswell 1994, Pratt & Loizos 1992.

example, the Lesotho team made extensive use of social surveys in a number of informal settlements and compared these with information from a formal settlement planned for low-income groups. The survey used simple, but effective ways of establishing priorities by inviting respondents to select from a range of factors covering regulations, standards and procedures. To test respondents' awareness of the regulatory framework, some non-existent options were included with the real ones. This demonstrated that a substantial proportion of those interviewed were completely ignorant of the official regulations, standards and procedures applicable to urban development. In Lesotho, Hall also used participatory methods to identify key issues of local concern. This approach, whilst more labour intensive in data collection, was feasible even within a limited budget by making an arrangement with the local university to employ postgraduate students and incorporating the project into their academic course, so giving the students a valuable opportunity to gain practical experience.

More informal methods were adopted in other countries. For example, the South African team carried out a series of ongoing case studies in a formal settlement and with a low-income community, plus detailed discussions with the NGO responsible for its development. This enabled the key issues concerning the residents to be identified which took into account their economic, social and environmental aspects.

Both quantitative and qualitative methods of obtaining and analysing information therefore have their strengths and limitations. Both also require a degree of professional expertise, though the project will produce a manual and training materials designed to offer practical advice to non-specialists planning to undertake regulatory audits. The range of methods applied by the research team therefore provided a wealth of experience to draw on in preparing these other project outputs.

Assessing the information collected

Having resolved the methods by which data was collected, the next decision was how to identify the factors to be assessed. The focus of the research was on planning rather than building issues[10], though the distinction between the two is not always clear. For example, do building setbacks from the front and sides of a plot constitute a building regulation or a planning regulation? Such distinctions are open to local interpretation and can be seen as impacting on both building design and urban densities. For the purposes of the project, and for regulatory audits, it is perhaps therefore less important where they are classified than that they are listed for consideration.

A second consideration is between regulations and standards. For example, should an official requirement that densities be within a specific range be considered a regulation or a standard? Again, this is open to local interpretation and the surveys included factors according to where they seemed most relevant on the understanding that they can be moved if necessary.

To cross-check the assessments of the factors considered to represent constraints, most national teams held local workshops to which a wide range of stakeholders were invited. Most of these also benefited from the active participation of representatives from the low-income settlements where fieldwork had been conducted. Without exception, the workshops proved extremely worthwhile, especially since it appears that opportunities for informal discussions on these issues between public and private sector groups and community representatives rarely, if ever, took place. The workshops tended to confirm the assessments made in the fieldwork, though some refinements were also made.

The next consideration was how to present the information obtained. This is particularly important for a research project intended to provide a conceptual and methodological framework for making policy and management decisions. Mayors or other elected representatives responsible for formulating or implementing policies on urban planning need information presented in ways that highlight the policy options rather than dwell in detail on technical aspects for which they employ professionals. For this reason, it was decided to present a summary of the information obtained in the form of a matrix listing all the factors under the three headings of planning regulations, planning standards and administrative

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[10] Regulatory frameworks for building design and construction were the subject of a separate research project undertaken by ITDG. See Yahya, S Agevi, E et al (2001) 'Double Standards, Single Purpose – Reforming housing regulations to reduce poverty' ITDG Publishing, London.

procedures. These were then ranked in terms of the degree to which they were considered to represent a constraint to accessing legal shelter by the urban poor.

Following initial drafts, the matrix (see Annex 1) presents information on a number of factors under each heading (planning regulations, planning standards and administrative procedures); the way in which each of these applies in typical formal/statutory and informal/customary settlements; the degree to which a particular factor is considered a constraint on access to legal shelter; the authority or agency responsible for such factors (in some cases, such as byelaws, these may be under local control, whilst legal aspects are more likely to be determined by central government); and a column for comments. The matrix allows for the addition of factors applicable to local conditions, whilst some listed may be deleted if not applicable.

Another consideration relates to the way in which factors are weighted. In obtaining information on the steps involved – and the time required – to legally start a business in Lima, Peru, de Soto's team listed the number of days taken by applicants who went through the procedures themselves. This enabled them to make precise assessments of the delays involved. However, the *significance* of the delays would vary to some extent from one person or group to another. Responses from a wide range of households on the extent to which a particular factor represents a constraint are therefore to some extent subjective and therefore open to interpretation. This perceptual problem increases when respondents are drawn from a wide range of stakeholders, not just low-income households. For example, professionals may see themselves as responsible for maintaining 'decent' standards of development, whilst developers may see the same standard as an impediment to affordable legal shelter. Discussions during local workshops held in each country revealed frequent examples in which different stakeholders held widely divergent views on this issue, depending upon their role in the process of urban land and shelter development. For this reason, the grading was changed from one in which costs of access were based on imputed costs to one in which the relative scale of constraint was shown on a scale of one to five, on the understanding that it was more important for purposes of revising the regulatory framework to identify those factors widely considered to be critical rather than attempting to quantify the financial extent to which they were critical.

When completing the matrix in each country, each local team leader made a balanced assessment concerning the factors considered most critical in constraining access to legal shelter. However, in each case, the responses by low-income households themselves were given priority, since these were the groups most directly affected.

Key findings

The regulatory audit carried out in the five countries presented in this report revealed a number of general findings. Perhaps the most pervasive is a tendency for all key components of urban planning regulations and standards to be based on inherited or imported models. None can be said to be based upon a detailed, objective or sensitive assessment of local needs and resources. This raises the central question of what purpose planning regulations and standards are intended to serve. It is not clear that they are intended to protect the public interest or local environment or balance private and public costs and benefits. This is perhaps a result of their being introduced under colonial administrations when such instruments were designed specifically to meet the needs of a small elite – and protect them from the local masses. The fact that they have survived decades since national independence suggests that they also serve the interests of the present political and administrative elites.

Given the considerable difference between the urban situation prevailing today and that when the regulatory guidelines were drafted, it is unclear in what ways existing planning regulations, standards and administrative procedures define the public interest. For example, is it really relevant for urban authorities to restrict the proportion of plot areas which can be developed by their residents, or to impose set-backs from the front and sides of residential plots? By seeking to control such detailed aspects of development, resources are diverted from focusing on more important aspects, such as environmental pollution or the prevention of environmentally transmitted diseases. Yet the case studies provide scant evidence of a widespread effort to prioritise attention on aspects of wider public concern.

The study also indicates a degree of bureaucratic and political inertia in revising urban land and shelter development guidelines. Some local respondents even suggested that this preference for playing the 'blame game' suits all key stakeholders. For example, central government officials frequently cite the limited capability of local governments for the failure to implement or manage regulatory guidelines, whilst municipal officials complain that they are required to send even detailed sub-division layouts to central government offices for approval, even though such officials have no knowledge of local conditions. Other respondents indicated that since information is power, officials in central government do not want to lose their control, whilst some local politicians may not be enthusiastic about being held more accountable. One imaginative official even sought to justify status quo by claiming that if approaches were introduced whereby land-owners benefited from development, those who had suffered from present approaches would rise up in protest, so it was better not to rock the boat!

A further finding is that too many countries fail to disseminate the relevant planning guidelines in ways which enable the public or even professional developers to know what is expected of them. We even had reports that in some countries, the officials themselves are unclear exactly what they are required to enforce. In some cases, this is because laws and other information is published in English, which only a minority may be able to read. Even for those that can, the terminology may use legal terms and phrases which make the rules opaque to non-professionals.

An almost universal finding is that of corruption. Many respondents cited concerns that people entered public life for private benefit. The Indian case study was even able to quantify the proportion of total shelter costs attributed to 'commissions' or other payments required to facilitate the progress of land registration or allocation procedures. One even explained the reason for the numerous administrative procedures by saying that it was necessary to spend time and money at each desk where the files landed, so the greater the number of desks involved, the more time and money that needed to be spent. With such benefits being drawn from the status quo, options for change are likely to be restricted unless those that would be threatened can be won over or marginalised.

It the present situation suits those responsible for maintaining it, the poor have not necessarily suffered. In fact, in most of the cities covered by the study. The extent to which anyone – even the middle and upper income groups - follows official guidelines is relatively limited and declining. Informal land and housing supply systems have proved capable of meeting demand, despite rapidly increasing populations and low incomes. Homelessness is almost unknown despite a doubling of urban populations and a failure of public and formal private sectors to meet this demand. It is government, not the poor, which is marginal to urban development processes. However, it remains to be seen if these informal supply systems will be able to cope when populations continue to increase and put even greater strain on water supply and sanitation networks, and transportation systems. Government may not be able to control growth or compete with the informal systems, but it should take heed from the regulatory guidelines adopted by the poor themselves and the informal developers serving them, if it is to regain credibility.

This is not to deny that there is a genuine problem in adapting planning regulations, standards and procedures to reflect realities. In India, we found many people who said that planning standards were a vital protection for the poor against the rigours of market forces. However, this is in the context of official minimum plot sizes of only 18m^2; in most other contexts, there is plenty of scope to relax minimum standards before such concerns are justified. The findings suggest that the key priority is public health and environmental protection and that subsidies may be required to ensure that these key standards are met.

Within the regulatory framework itself, comparison between the different country reports confirms that cultural factors exert a major influence on perceptions of what is or is not acceptable practice in a given context. For example, the minimum official plot size in India is 18m^2, whilst in Lesotho it is 600m^2 and many people consider even that too small. This may be due to different ways households perceive economic opportunities in terms of settlement development. For example, in India, access to livelihoods is largely dependent upon physical proximity to commercial centres and this increases land and property prices and hence constricts the area people can afford. In Lesotho, however, the long tradition of customary land-ownership, under which there was limited pressure on land, has encouraged people to claim areas large enough, even in the capital Maseru, where they can keep animals and grow their own food. Although this creates a low density urban area in which the cost of

providing basic infrastructure is almost prohibitive, and transport to the central city for family members working in the cash economy is increasingly difficult, there is little sign of changing perceptions. It is likely that such cultural and social considerations play constitute a major consideration in all cities, so that proposals for change need to take them into account if they are to be widely accepted.

Among the substantive findings of the project, it is clear that in almost every country administrative procedures are considered a more serious constraint on access to legal shelter than planning regulations or standards. For example, the Commissioner of Lands in Lesotho is personally responsible for signing every property lease issued nationally. This suggests that the machinery of government is itself the key issue that policy makers need to address. In other words, the problem is essentially one of governance. By requiring developers, whether individual or commercial, to obtain permissions from several different agencies and government departments and formulating regulations in a form which is unintelligible to a large proportion of the urban population, government is raising the costs of conformity to a level which many people simply cannot accept.

Among the major beneficiaries of existing procedures it has to be said are officials who process applications and are able to extract a price for their services over and above their salaries. It is, of course, easy to label this corruption, though the salaries on which many are required to live do not encourage or reward honesty and efficiency. It is therefore important to consider ways of addressing the problem which encourage the quality of service which will win support, or at least acquiescence, from those administering the procedures involved. Among the innovations which offer interesting options for possible wider application are 'one-stop-shops', at which applications can be made and processed without having to visit numerous departments. Alternatively, outsourcing some administrative functions to specialist private sector organisations might also be worth introducing on a trial basis. Another recommendation made in several cases is to decentralise decision–making to lower levels of administration and allow discretionary powers on aspects not considered to be in the wider public interest. .

It was also found that in some cases, planning standards were in need of revision. For example, official minimum plot sizes in Tanzania impose high infrastructure provision costs whilst regulations restricting plot coverage of buildings to 40 percent of the plot area impede the efficient development of land. In each case, project teams have proposed changes to make more socially and economically efficient use of land in the hope of reducing land prices, infrastructure provision costs and, importantly, incursions into valuable agricultural areas. Another major option for revising both standards and procedures applies to land surveying. It is hardly necessary to require standards of accuracy of 1cm on plots of 300m2, especially in places where people do not even bother to define plot boundaries!

In conclusion, we concur with Doebele (1994) in considering that "if research is to have an impact in the consciousness of policy-makers, [it must first of all] resonate with issues that have a priority on the mental agenda of the policy-maker concerned. Secondly, the work must be done within an established and reasonably rigorous intellectual framework that makes it comparable with work by others on the subject. Thirdly, it must have the ability to be predictive. And fourth, it should be in a form that suggests prescriptions for policy". It is in this spirit that the present research has been undertaken.

Recommendations

The project confirms practical experience (Payne 2001) which indicates that the key to increasing access to legal shelter is to reduce entry costs. By simplifying the administrative procedures and ensuring that planning standards permit modest initial forms of development, it should be possible to stem the tide of – and the need for – unauthorised urban development.

The first step is to establish first the principle that a regulatory audit is a useful tool for managing urban land and housing markets and improving access by the urban poor to legal shelter. Secondly, it is important to make such audits a regular feature of urban land and housing sector management – not just a one-off activity. They can therefore become a valuable means of increasing transparency and good governance as well as reducing poverty.

In each case, the national teams prepared recommendations for both short term and longer term changes. Following the completion of the fieldwork in Phase Two, negotiations started with the agencies and authorities concerned in each city to introduce changes to the regulatory framework. These negotiations are ongoing, though some have already been introduced and are presently being monitored. Details of these are listed in each chapter of the report. It is hoped that further changes can be introduced in the coming year and these will be reported on in later reports and on the GPA website (www.gpa.org.uk).

Having identified the constraints, consideration then moved towards options for reducing the constraints or barriers. It was considered important to start modestly in order to show that progress is possible and build confidence and a constituency of support for more ambitious changes. Inevitably, groups which benefit from existing procedures are likely to oppose changes, so measures will invariably need to be introduced incrementally as part of a regular and ongoing process. Only in this way will it be possible to stem the increase in unauthorised forms of urban land development and housing and make it easier for the urban poor to participate legally in the city building process as full citizens.

A key consideration of the project is to encourage urban development agencies to reappraise what constitutes the public interest in urban land development and housing. The fieldwork has demonstrated that many aspects of the regulatory framework impose restrictions or standards on households and low-income communities without any apparent benefit on public health or other justification. The key issues are therefore that regulatory guidelines should:

- Reduce entry costs to legal shelter, whilst providing for essential concerns of public health and environmental protection.
- Focus on those elements which reflect the wider public interest and will be accepted as such.
- Reflect social and cultural norms acceptable to poor households.
- Be disseminated in local languages and in a form which people can easily understand.
- Be enforceable.
- Be formulated, implemented and monitored at the appropriate levels of government.

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METHOD	BENEFIT	NEGATIVES	Resource Implications
Survey (Based either on a set of questions or highly structured interview with pre-scripted questions and coded answers)	• Good for collecting information on large area or population and large scale longitudinal studies • Good for identifying general patterns or trends • Data collectors need little prior training • Easy to use in field • Produces quantitative data which commands higher respect in policy arenas • Can provide framework for selection of more in-depth case studies or reveal possible new areas of investigation in future detailed research • Is done face to face so can be combined with collection of other data such as researcher observations of household conditions	• Resulting data is disembedded from context • Highly structured research methods pre-determine the nature and focus of the resulting information • Does not penetrate very deeply into ideas and motives • Is carried out face to face which may involve need to return to households/area on several occasions before all informants are found and surveyed	• Covers large datasets in shorter time • Less training to collect data – can be delegated • Selection methods may take time • More time for careful pre-planning • In-depth and long-term training to do statistical analysis • Sometimes need access to expensive computer programmes • Analysis takes a long time • May take time to find and interview all respondents
Questionnaires	*Same as above except..* • Does not have to be face to face so questionnaires can be sent to larger numbers in distant areas and/or respondents can fill-in and return forms in their own time	*Same as above except..* • Less likely to get response if not carried out face to face	*Same as above except..* • Less direct input of time for data collection, however may waste a lot of time and resources chasing up informants
In-depth Interviews	• Can help reconcile apparent anomalies emerging in quantitative data e.g. Deviant cases • Produces a rich and more in-depth form of data providing important real-life case studies • Helpful for exploring trade-offs and complexities of everyday life, perceptions, meanings etc.	• Uses small sample sizes and therefore can't on its own claim representativeness. However this is less important if investigating processes rather than social circumstances • Takes more time • Interviewer must be well trained and have good understanding of research. It is usually best if interview is carried out by the same person who designs the research and analyses the data	• More time to collect data for smaller sample • Time needed for analysis depends on analysis method i.e. thematic, discourse etc. • Relies less on expensive and time consuming training, analyses and programmes but can't delegate data collection to untrained assistants

-Structured Interview	• Questions are pre-scripted and interviewer controls length of discussion which means less time is 'wasted' and ensures all important issues are covered • Tends to involve quantitative analysis which is popular in policy circles	• Researcher is more able to lead and direct the informant to provide the types of answers and information wanted • The question and therefore the answers are more likely to be influenced by researcher bias and pre-formed theories	• Less time than semi-structured interview for data collection • Statistical analysis needs training, time and programmes
-Semi-structured Interviews	• Can avoid top-down imposition of categories and allows more reflexivity - the theory and questions are created out of the context and in response to what informants say • Allows informants more control over what they discuss and for how long, which often uncovers new issues • Usually involves qualitative analysis producing rich data and helpful for exploring complex experiences, perceptions and meanings	• Harder to keep to timetable • Likely to involve more time in the data collection, transcription and analysis stages of research	• Need much more time for data collection, transcription and analysis
Diary method (Informants or researcher keep diary on certain themes)	• Experiences, perceptions, information are written down at time of event resulting in more accuracy e.g. Amount of time had to wait or number of offices had to visit to access legal housing		• Short inputs of time for data gained
Observation (direct or participatory)	• Observing participants in their natural context / environment may give extra insight, depth or accuracy	• The presence of the researcher is likely to make people respond or act differently • Observation is totally based on the researchers own interpretation and therefore may be strongly subject to biases, especially if the researcher is an outsider	• Cheap • Need little training for analysis but must be aware of epistemological and ethical implications • While some forms of observation may be very rapid, others such as ethnographic participant observation may require long periods of time, sometimes for little concrete data

Focus Groups (In-depth or sketchy)	• Quick method of getting information from a number of people at once • Can be used to get approximate understanding of issues or to get an more in-depth understandings of complexities of certain issues through discussion • Can gain a complex understanding of the range of views on an issue • Researcher facilitates rather than shapes the discussion • For sketchy approach there is no need for time consuming preparation or training • For sketchy approach there is no need for difficult and expensive analysis as merely picking up themes	• Issues of intimidation and domination by elites, may be minimised by skilful facilitation or sampling of groups e.g. having various focus groups some with women, some with men and some mixed • For in-depth discussions need careful planning and skilled facilitation so that agenda and process is know to participants and all issues are addressed • Need someone other than facilitator to record minutes of proceedings	• Preparation depends on type of data needed and whether sample of people is random or selected according to defined criteria • Little time needed to get information from a number of people • No need for expensive training but experienced and well briefed facilitator is needed • No need for difficult and expensive statistical analysis • May need two people per group: one facilitator and one note taker

Participatory Appraisal (Examples of some possible PA methods are shown bellow)	• Designed around principals of participation and informant 'ownership' of research process and uses informants' categories • Increases local capability for research and collective action contributing to empowerment • Methods are chosen and creatively shaped to the specific context/time according to informants wishes/interests/skills and the issues arising from discussion • Leads to 'organic' rather than 'artificial' assessment of problems and articulation of needs • Gains different forms of information much of which needs little analysis • Data can be analysed qualitatively and quantitatively • Quick method of gaining diverse information from a community • Visual representation useful if informants have low levels of literacy and for representing complex information • Needs little input of material resources, the only requirement being a surface to draw/write on and pen or chalk	• Problems of cooperation and getting groups to agree on information – but can ask participants to highlight differences of opinion • Certain groups or individuals may be intimidated by others in group or be less vocal • Requires highly skilled and flexible facilitator who understands principles of the method and can avoid dominance by elites • Informants must volunteer a lot of their time and energy - often for several meetings	• Rapid and relatively cheap method of data collection • Less time to collect a range of data from a whole community • Requires training for facilitator but can be self taught • Little, if any, analysis needed depending on choice • Resources needed are minimal and highly flexible to availability e.g. Can use pen and paper or chalk and ground • More input of time required from respondents than other methods as they themselves collect, produce and disseminate the information
-Ranking (rank needs, incomes, community priorities etc.)	• A quick way of understanding a community's priorities or socio-economic structure etc.	• Can be driven by or create (often unreasonable) expectations of developmental help and support	
-Mapping (Mind maps on issues or mapping of the community, resources, services, mobility, life cycles etc.)	• Can involve the mapping of concrete things or ideas/wishes/ perceptions/fears, or can combine both. For instance a map of the community with areas where people feel unsafe mapped on to it. • Shows varied levels of significance of different resources, activities, services etc. • Shows spatial inequalities • Can overcome problem of illiteracy because shown graphically		

-Flow charts or causal diagrams	• Can show people's perceptions of cause and effect, the impacts of certain events or institutions, differences between internal and external factors • Can cover complex issues succinctly which would be difficult to put down clearly in writing		
-Venn diagrams	• Can show the relationships between different groups or institutions at the same time as showing the type of relationship such as levels of intensity, peripheral/central, informal/formal etc.		