

# **THE IMPACT OF REGULATION ON THE LIVELIHOODS OF THE POOR**

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'Regulatory guidelines for urban upgrading'**

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# The impact of regulation on the livelihoods of the poor

## The impact of land tenure on developing, transforming or improving the plots and dwellings of the poor

The significance of tenure to residents in informal settlements is rather like the weather in that it depends on how predictable the prospects are and the degree of exposure people face. A minority of households living illegally in an area is likely to feel insecure, whereas if they are in a majority, they are likely to feel more secure. Findings from recent DFID funded research<sup>1</sup> show that tenure may not be a critical factor if households have adequate de facto security - access to services and credit may be more important.

The research has also shown that urban land tenure systems consist of a wide range of statutory, customary and non-formal categories, rather than simple dichotomies of formal/informal or legal/illegal. In the same settlement, there may be several tenure categories. This can occur for a number of reasons. In some cases, original settlements were developed under traditional or customary tenure systems on land which was at the time outside urban administrative boundaries, but was later absorbed within them as the urban areas expanded. At such times, various statutory tenure categories, such as state ownership or individual freehold, may have been introduced, to which later construction had to conform. Alternatively, early developments may have changed their tenure status as legislation changed, or regularisation programmes enabled previously unauthorised settlements to become legal.

Such variations may even occur on the same residential plot. In India, for example, it is common for registered land-owners to allocate plots to *'thika'* tenants, who then sublet rooms without official permission to sub-tenants, who in turn rent out beds for different parts of the day and night on the 'hot-bed' system. Some of these categories enjoy legal rights, whilst others lack any form of legal status. What the evidence does show clearly is that *perceptions* of security are a critical factor in households' decisions regarding investment in home improvements. Where people feel secure, they are likely to invest what they can afford in improving and extending their homes and environments.

In many countries, women are not able to obtain access to land and shelter on equal terms with men. Both customary and statutory tenure traditions frequently discriminate against women, despite their generally higher level of credit-worthiness. Addressing the gender issue is therefore central to the development of equitable and sustainable tenure systems and enhancing the livelihood opportunities for the urban poor.

Current research is reviewing experience of innovative approaches to increasing tenure security for the urban poor. One question being considered in the project is the possibility that various 'intermediate' forms of tenure status, such as 'occupation permits' or 'certificates of use', may help to improve the position of women, since such options do not enjoy the same legal or social status as statutory titles and may therefore be more easily accessible to women.

These brief examples demonstrate the complexity of urban land tenure and property rights issues and the consequent difficulty of anticipating the outcomes of policy measures on each category or sub-market. The conventional approach to this issue is to assume that households require individual freehold titles in order to feel sufficiently secure to invest in

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<sup>1</sup> Project R7533: 'Innovative approaches to secure tenure for the urban poor'

improvements and to obtain public services and formal credit. This may be for politically and socially understandable reasons, such as the need to redress decades of dispossession, forced removal and deprivation of the right to own property by the majority black population in urban South Africa. Since coming to power in 1994, the government claims to have almost reached its target of allocating one million plots and titles to low-income households.

Such an approach may also reflect an objective of asserting public sector control over the processes of rapid and officially unplanned urban development in countries such as Peru, where a similarly ambitious land titling programme has been carried out by COFOPRI<sup>2</sup>. Since 1996, COFOPRI claims to have allocated almost one million land titles to predominantly low-income households on land around the major cities.

Both the South African and Peruvian approaches constitute major achievements in addressing perceived needs and increasing the amount of planned housing and urban development. However, they do not necessarily represent an approach that is either desirable or feasible for application in other countries. For example, the typical form of housing provided in South Africa consists of a standard, basic unit on a standard plot located far from public facilities and livelihood opportunities. There is a danger that these programmes are recreating a new form of economic apartheid in which affluent and poor households are kept well apart. This is a consequence of needing to acquire cheap peri-urban land for the government funded, but private sector built projects. In the case of Peru, the allocation of titles in line with the high rate of demand was made possible by the availability of vast tracts of government owned desert land outside the administrative boundaries of the large cities to which migrants were moving. These could be rapidly surveyed, subdivided and allocated to households on the COFOPRI waiting list without having to acquire the land from, or negotiate with, different owners. Once COFOPRI began to operate within the established urban areas, it quickly found that complex ownership patterns dramatically slowed the rate of delivery.

South Africa, Peru and, previously, Sri Lanka, have all sought to resolve problems of access to secure shelter through massive delivery programmes. Yet the experience of many other countries, including Colombia, Egypt, India and Thailand, all demonstrate that a range of 'intermediate' tenure options can provide sufficient security to encourage investment and also demonstrate that titles need not be a precondition to obtaining services and credit. In Colombia, legislation provides that 'every person or community has the right to apply and obtain public services for their homes. The only thing required to achieve this right is to prove that they live in the housing unit'. Such flexibility has enabled the majority of poor households, even in rapidly expanding cities, such as Bogota, to obtain water, electricity and sanitation connections within a short period, all within areas offering livelihood opportunities and communal facilities. The expansion of micro-credit institutions, such as the Grameen Bank in Bangladesh, SEWA in India, and Banco Sol in Guyana all testify to the fact that access to formal credit can be obtained by the poor without the need for title deeds as collateral.

A practical consideration in assessing the impact of tenure policies on developing, transforming or improving the plots and dwellings of the poor concerns the administrative capacity of urban development and management agencies to survey and register land ownership and resolve competing claims. In many countries, land registries are still paper based and processing can often take between two and ten years. For households in urgent need of shelter, this effectively forces them into unauthorised settlements. However, the allocation of 'intermediate' titles, such as the 'Certificates of Use' in Botswana; the 'Temporary Occupation Licences' of Kenya, the proposed 'Starter' and 'Family Tiles' of South Africa and the 'Concession to the Real Right to Use' land in Brazil all represent

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<sup>2</sup> The Comision de Formalizacion de la Propiedad Informal

practical, flexible and cost effective options for increasing de facto security until such time as the administrative capacity has increased sufficiently to enable more formal approaches to be considered.

In the meantime – and this could mean more than a decade – providing a range of tenure options, could be the most effective means of enabling the urban poor to improve their living conditions and livelihood opportunities.

## **The impact of planning on developing, transforming or improving the plots and dwellings of the poor**

Ongoing research<sup>3</sup> has shown that a substantial proportion of legislation, institutional structures, administrative procedures and professional interests within developing countries, continues to apply urban planning approaches based on British or other colonial approaches, inherited by national governments on achieving independence. For example, the British 1947 Town and Country Planning Act is still on the statute books in India and Tanzania, amongst others.

In Kenya, discussion of planning and housing standards dates from the early 1970s, when the World Bank commissioned a review as part of its initial urban loan to Kenya. The review noted that planning standards were too high to be affordable to many households and should be relaxed or revised. A later study by Tuts (1996) noted, however, that the planning standards established during the colonial period was largely still in place and covered most aspects of planning and building, including infrastructure standards, densities and ratios and even building materials, all of which were “prohibitively high”. Although some amendments were made in 1995, little has changed on the ground and most land shelter development continues to ignore official norms.

An influential study by de Soto (1989) examined why a high proportion of urban development in Peru took place without official approval. The study revealed that in order to comply fully with relevant legislation and administrative procedures, applicants had to complete 159 bureaucratic steps in order to legalise their settlement, receive titles to their plots and be officially incorporated into the city, a process which took an average of twenty years. It was hardly surprising therefore, that most people simply ignored the official requirements and developed new settlements according to their own needs and resources.

Despite this evidence, many governments still define their shelter policies in quantitative terms, rather than in terms of the role shelter plays in livelihood strategies. Data on housing deficits, which indicate a notional number of dwellings required in a country or city are invariably based upon definitions which reflect middle class perceptions of housing rather than those of the poor for whom they are intended. As such, it is not surprising that projects provide solutions in which the design and location are inappropriate for the needs of the poor because they inhibit opportunities to improve their livelihood prospects. High standards also raise costs to unaffordable levels and depend upon the availability of subsidies which are unsustainable.

Other aspects of the regulatory framework and planning approaches, including master plans, are frequently based on historically outdated concepts and assumptions, but continue to be routinely applied in a host of countries. Ironically, most of these approaches have long since been abandoned in Britain and other ex-colonial countries and replaced with more flexible,

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<sup>3</sup> R7851: ‘Regulatory guidelines for affordable shelter’ being undertaken by Geoffrey Payne and Associates for DFID.

pragmatic approaches which are more closely related to market behaviour and changing social needs than long term physical plans prepared without an assessment of existing, let alone, future needs or resources.

These approaches were not designed to cope with rapidly increasing, and predominantly low-income, urban populations. Neither were they intended to increase legal access to land by the poor. Their main objective was to increase control over land in settlements that were predominantly small and occupied by European settlers. The preferred method was – and often still is – master plans. However, Lufadeju (1989) and Wekwete (1989) both show that such plans were used to dispossess traditional owners in favour of an emerging elites. As a result, Lufadeju claims that the informal sector and squatter residents have encountered periodic offensives, demolitions and firing of shanties... and that the garden city concept does not wholly welcome the urban poor”.

A further limitation of planning was that it took little account of the economic environment within which cities existed. Plans therefore took little cognisance of their impact upon potential inward or local investments or the existing public and private resources available for their implementation. It is hardly surprising, therefore, that most plans existed on paper only, and many plans simply endorsed developments that had already created facts on the ground. It is the plans that have become marginal, rather than the squatter settlements and other unauthorised developments of the poor.

A further and major reason why plans have rarely been implemented is that planning standards, regulations and administrative procedures raise the costs of conformity to levels that a majority of the urban population simply cannot afford to meet. This will be discussed in more detail below.

Among other reasons why planning has failed to respond to the needs of expanding urban areas is the tendency for the public sector to overplay its hand. Even before Structural Adjustment Programmes reduced State resources, governments assumed more authority for allocating and managing land than they were capable of discharging effectively. In many sub-Saharan African countries, governments nationalised all land and assumed control for its management, usually with disastrous consequences. In other cases, urban development agencies, such as the Delhi Development Authority, were empowered to acquire vast tracts of land outside their administrative boundaries at existing agricultural prices in order to then develop it (at vast profits) for urban use. So great were the disparities in value that even low-income urban housing could be developed at a profit. It is hardly surprising that under such conditions, farmers fearing that they were next in line for a letter announcing the compulsory purchase of their land by the state, chose instead to sell it unofficially to informal land developers who gave far higher compensation – and paid up immediately. The universal result was that plans intended to control development and prevent unauthorised settlements, were the very means of preventing the objectives from being realised.

Since SAPs have been in force, such ‘luxuries’ have been even more inappropriate to the needs of the poor majority and to the effective management of urban areas as a whole. Yet even now, changes in legislation, administrative practice and professional attitudes and cultures are taking place more slowly than the realities with which they seek to deal.

## **Positive changes to regulatory frameworks over the last decade and implications for the research project**

Despite this negative assessment, there is an increasing recognition that informal settlements put available land and other resources to rational and efficient use and make a

valuable contribution to local and national development. Kenya, Tanzania and Lesotho are but three examples of countries which are revising their regulatory frameworks. Bolivia and Uganda are decentralising their administrative structures in order to bring services closer to those needing them and increase transparency and governance. Peru has streamlined its procedures for allocating titles. The Development Facilitation Act in South Africa has been passed to streamline procedures for allocating land and assessing project proposals (though it has not been implemented fully). These are all welcome signs of a more realistic and positive approach to urban planning and management which recognises the major contribution to economic and social development made by the mass of urban citizens at all levels of society.

More appropriate regulatory frameworks reduce the costs of entry to legal shelter and reduce the need for unauthorised settlements. They also make it easier and more attractive for private sector developers to develop housing and urban development projects that are affordable to poorer households.

An even more important consequence of changes in regulatory frameworks is that they signal a change of attitude on behalf of the public sector away from a pre-occupation with control, in favour of a more pro-active and pragmatic approach towards the private and community sectors. These can pave the way for Multi-Stakeholder Partnerships (MSPs), a broader concept than Public-Private Partnerships (PPPs), in that they allow for the inclusion of civil society organisations in both policy formulation and implementation.

One important consideration for the research project could therefore be to assess the extent to which changes in the regulatory framework has impeded or facilitated a more inclusive and participatory form of urban development and the impact which this may have had on improving the living conditions and livelihoods of the urban poor.

## **The present impact of regulation on the livelihoods of poor people**

Initial findings from ongoing research suggest that the present impact of regulation on the livelihoods of the urban poor is generally negative. This is mainly to the high standards and complex, time consuming procedures required in attempting to conform to official requirements. In Tanzania, there are an estimated twenty eight steps which must be completed before a plot can be legally developed and in Lesotho it can routinely take eighteen months to complete the documentation for a lease, before development can even start. Similar cases can be cited in many other countries, but the widespread outcome is that a large – and increasing – proportion of all new housing and urban development, takes place outside officially sanctioned norms. This is neither good to the cities or for the poor who suffer the most and have the least ability to cushion themselves against the negative consequences.

Some countries, such as Turkey, have applied a more relaxed attitude to the application of regulatory guidelines. This has enabled generation after generation of rural-urban migrants and the indigenous urban poor to obtain land, shelter and services on terms and conditions that they find acceptable. Many households have even gone on to become affluent as real estate developers have bought their plots and redeveloped them into apartment buildings for middle income households, allocating a number of valuable apartments to the original residents in payment. Whilst such 'ad hoc' planning has therefore had major advantages for the poor, it has also had some disastrous consequences. These became all too evident when a major earthquake struck near Izmit and Istanbul in 1999, killing about 30,000 people and leaving nearly 600,000 homeless. This raises the important question of what aspects of urban development and housing should be enforced and what aspects should be determined by the developers or users (whether private or community based)?

Many people are not even aware of official requirements because they have little contact with government agencies in any positive way. For others, a major constraint on their ability to conform to official requirements is the simple problem of understanding what is required of them. In India, Tanzania, Kenya and many other countries, planning regulations, standards and administrative procedures are published in English, even though only a small proportion of the population – and an even smaller proportion of the poor majority – can read or speak English. In fact many cannot even read their local mother tongue.

To compound this problem, even for those who can read English (or Spanish, Portuguese or French, where appropriate), the terminology is too obtuse to be accessible. In Madras, (now Chennai) India, McAuslan (1989) observed that “so concerned have the authorities been to close every loophole against illegal development, corruption, exploitation of scarce resources, the exercise, and therefore the possible wrongful or non-exercise of discretion, that the principal aim of the Madras Metropolitan Development Authority – to get orderly and equitable development underway in Madras and its environs – has been lost sight of”. He goes on to say that the legal regulations in Madras also lack consistency and the more complex they become, the more likely this is to happen. By attempting to control all aspects of land development, particularly land use, planning regulations have therefore restricted both access to land and the options for those who do gain access.

Finally, such regulations have a more pernicious aspect. Their obtuse language, complexity and comprehensiveness inevitably load the dice in favour of professionals and their political masters, and against the uninitiated layman. In practice, therefore regulations frequently serve to increase control by the elite over the majority, unless the burden of conformity is such that every control collapses and people are forced to fend for themselves.

Among the specific elements of regulatory frameworks, one of the most widely used is zoning regulations. These are intended to prevent incompatible land uses from arising on adjacent plots, as in the case of polluting industries within residential areas. However, the rigid application of such regulations may seriously impede poverty reduction measures, since a major means by which the poor are able to climb out of poverty is by using their homes as the base for economic activity. In many established squatter or other non-formal settlements within urban areas, it is common to find up to half of all economically active people working *within* their settlement or very close to it.

Rules which prevent mixed use development may be well intentioned, but result in three major problems. First, they reduce the incomes of the poor for all households who conform to them; second, they expose non-conforming households to the threat of extortion and bribery by petty officials and local gangs which has a similar effect and; third, they reduce the potential for local informal investments which can strengthen the whole urban economy and maximise existing linkages between the informal and formal sectors of the economy. As Solomon (1999) has noted, land use policy impinges significantly on livelihood opportunities for low-income households. Planning methods that separate residential, commercial and industrial areas reduce livelihood prospects that their interaction can stimulate. Based on research in Bangalore and Delhi, he has demonstrated that the concentration of mixed land uses can stimulate dramatic increases in both formal and informal economic activity. In some cases, even high technology manufacturing, such as fibre-optic cables, are being produced in small informal workshops within low-income areas in which a critical mass of local entrepreneurs have established close relationships with formal sector industrial enterprises. He concludes that government action is relatively ineffective in creating such conditions, but can inhibit it through inappropriate or restrictive planning methods.

## **Aspects of urban development needing regulation and actors to be involved**

The primary objective of regulatory guidelines should be to ensure public health and safety - especially protection from environmental risks such as flooding, landslide, pollution, etc. In determining areas for the location of residential sites, it will therefore be important for public health and services provision agencies to be involved, though the major problem is how to provide land in desirable locations (eg those near income generating opportunities) on terms and conditions which the poor can afford.

The reason the poor choose steep hillsides, the banks of rivers, or the sides of roads and railways, is mainly because these are near such opportunities, but are available because of the dangers they pose, which means that nobody else wants them. This is a critical issue, as the very poor cannot live in areas located at a distance from income generating locations. In situ upgrading of existing settlements can help, but runs the risk of downward raiding by higher income groups unless some form of protection is provided. In Brazil, this has taken the form of a land tenure system - the Concession of the Real Right to Use (CRRU) - which inhibits the transfer of individual plots or dwellings to outsiders. However, there is a limit to the success of measures intended to prevent or even discourage onward transfers if the capital value of the assets provided through upgrading is substantially more than people are required to pay. Subsidies therefore need to be provided carefully and in a manner which is well targeted.

The provision of infrastructure to low income settlements is perhaps the most basic of needs in that it acts as a major stimulus to health and livelihood prospects. Lack of clean water or effective sanitation leads to bad health and vulnerability to environmental risks, and can discourage inward investment in urban areas. Yet in the mid 1990s, 280 million urban dwellers in the South lacked access to safe drinking water, whilst at least a third have no hygienic means of disposing of excreta (UNCHS 1996:264-268). Many cities lack a public sewer system and those that do exist only serve high income areas. The provision of public utility networks through local authority agencies has failed to keep up with increased demand, rendering ever increasing numbers without basic services.

The situation is not, however, without significant signs of progress. NGOs and community initiatives in many countries have dramatically improved access to water and sanitation in ways which have in turn generated substantial secondary benefits. In Karachi, the Orangi Pilot Project (OPP) has enabled 600,000 people in a large informal settlement to benefit from sewer connections and mobilised the community so that there are less social tensions than in other parts of the city. The key to success was the involvement of the local community, the application of simple technology and strong links between the community and the NGO. This initiated the local manufacture of building and services components by training local people to then set up in business supplying the NGO and residents. This increase in local entrepreneurial activity changed perceptions of the area by both local residents and outsiders and led to other small enterprises being established, creating a virtuous cycle of development.

In Sri Lanka, India and many other cases, communities have been contracted by government to implement, manage and evaluate infrastructure projects, placing them at the centre of the planning and implementation of works which can trigger wider social, economic and environmental benefits (Cotton et al 1998). Public-private partnerships in infrastructure provision are also making progress in several countries, though success depends upon the effectiveness of the regulatory authority and good relations between the implementing agency and the local communities.



The provision of a safe water supply is a minimum requirement for public health, not just for the poor, but also for the entire population of a town or city. To facilitate this, it is important to plan and design the public realm - streets, paths, public spaces and the location of public facilities, such as schools, clinics, places of worship, etc. What happens within individual plots is not of no real importance for the wider community, since only the residents and their immediate neighbours are likely to be affected.

To plan a new development efficiently, it will be important to put all the available land to full use. In practice, this means that as much as possible should be allocated to private use, since this will reduce unit costs to the minimum and also minimise the capital and maintenance costs for areas remaining in the public domain. Previous research<sup>4</sup> has suggested that it should be possible to design settlements so that 65 percent of the developable land available should be allocated to private use, an additional 15 percent for communal uses (eg schools, clinics and places of worship, etc) and the remaining 20 percent for roads, footpaths and public open spaces. Anything less than 60 percent of developable land in private use will result in a significant increase in unit land and housing costs, since the residents will have to carry the costs of acquiring and maintaining the unproductive public areas. As visitors will testify, this is the approach almost universally followed in squatter or other settlements in which the residents have had an influence. Compared to these, officially planned developments invariably provide low proportions of land in private use and an excessive proportion of public land uses. These are not only inefficient and expensive, but often sterile, mono-functional environments, in which it is difficult to generate a sense of community or local economic activity.

The most effective way of achieving a high proportion of land in private use is to design roads and rights of way to minimise the area of land required. This will reduce the capital or opportunity cost of land acquisition and the cost of maintenance. In residential areas, especially where car ownership levels are likely to be low, there is little need for the rights of way of local roads to exceed six metres. Similarly, public open spaces need to be designed to provide easy access, especially for children and the physically infirm. Such spaces do not have to be large, in fact the frequent provision of small open spaces, such as at street junctions or small squares, are more likely to be intensively used and also maintained by the people living next to them than the occasional large park which requires external management.

Regulatory guidelines for the planning of new urban developments may not be applicable when upgrading existing unauthorised settlements. Where these have put land to intensive use, and layouts are more informal than in officially planned areas, the imposition of regulatory guidelines in full could require the demolition of a large proportion of the existing housing stock, thereby defeating the object of the exercise.

One way in which this problem can be overcome is by relaxing planning regulations and standards in the upgrading of existing settlements in order to retain the maximum proportion of the existing population and housing stock. Many international examples of this approach can be cited, but three may suffice. In the Kampung Improvement Programme (KIP) in Indonesia, rights of way as small as two metres were accepted for short distances and three metres was routinely used for local access routes. These included drainage channels of nearly half a metre on each side and a two metre wide carriageway intended for access by pedestrians and those on bicycle or motorbikes. Since these were the most common forms of transport, and the new routes were in any case wider than had existed previously, people considered the new routes perfectly adequate. In many cases, residents placed flowering plants and even small trees in tubs above the drainage channels, so that when moving along

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<sup>4</sup> As published in Davidson, F and Payne, G (Eds) (2000) 'Urban Projects Manual' Liverpool University Press, (Second edition)

the paths, it appeared as though one was in a park, rather than a high-density inner city housing area.

In another example, planners involved in the upgrading of a Palestinian refugee settlement in East Wehdat, Amman, Jordan, worked with the local community to regularise the existing circulation network, so that services could be installed without removing existing houses or residents. In fact, by readjusting plot boundaries slightly, it was possible to insert a number of additional plots, which were sold to help reduce the unit costs of providing services. Again, the rights of way of access routes was narrow and in some cases less than two metres. However, this created echoes of the traditional Middle Eastern urban environment in which the minimum width of a road was defined as one in which a fully laden camel could pass. Of more practical relevance, however, was the fact that the narrow roads provided maximum areas for their plots and protection from the elements. On a deeper psychological level, the environment reflected traditional cultural values towards the built environment, and was only possible because the planners worked *with*, rather than *for*, the community.

A third example is that of the Orangi Pilot Project (OPP) in Karachi, Pakistan. Here, the existing layout of narrow lanes restricted options for the installation of public services. However, this was turned into an advantage in that residents agreed to co-operate in digging trenches and laying pipes along the lanes and maintaining the pathways. As a result of their efforts and the NGO directing the project, over 600,000 people benefited from the provision of sanitation services.

The experience of upgrading projects could therefore provide valuable evidence of the social, economic and environmental costs and benefits of more flexible regulatory guidelines which could influence reviews of guidelines for new urban development. Unfortunately, there is little evidence to date of such cross fertilisation.

## **Self-regulation and the formal regulatory framework**

As discussed above, the primary concern of regulatory guidelines should be to ensure public health and safety. Anything more than this should be considered optional, especially given the limited technical and human resources available to most urban development and management agencies. The present tendency is for local authorities to try and control everything, with the predictable result that in practice, they control very little of anything. By concentrating on the basics, public sector influence over new development, and the improvement of existing urban areas, would be easier to achieve on a sustainable basis.

Almost everything not directly concerned with public health and safety can be left to local self-regulation. For example, there is no practical justification for regulations which stipulate the proportion of a residential plot which can be developed. Also, as Cohen (1992:13) observed, "is it really necessary that the distance between two buildings should be equal to their height? I have seen that in ten different countries and one wonders what is the magic of those kinds of regulations".

This is not to deny that regulations concerning ventilation, protection from the spread of fire or the impact of multi-occupation on the demand for water and other public utilities are of public interest. However, there can be little doubt that some aspects are of more importance than others and that priorities therefore need to be established.

For matters which primarily affect the residents of a plot, or their immediate neighbours, it should be possible for self-regulation within the community to resolve such problems, whether these relate to land use, building design or construction, etc. For example, in the informal areas of Ankara, Turkey, anyone carrying out development that was considered

inappropriate by neighbouring residents could be reported to the municipality. An inspector would then visit and consider the complaints in the light of official regulations and had the authority to enforce or relax the regulations according to his perception of how justified the complaints were. Such flexibility placed the community in the driving seat as far as regulatory guidelines were concerned and reduced pressure on the municipalities to a level which it was able to sustain. Furthermore, the role of the public administration became one of conflict resolution and arbitration, rather than the enforcer of what may be considered arbitrary and unwarranted interference. It is perhaps no coincidence that the unauthorised settlements of Ankara produced environments which reflected the needs, resources and aspirations of their low-income residents more accurately than many formal developments accommodating higher income households.

There may be a potential role for Community Based Organisations in managing several aspects of the regulatory framework, especially land and building use. The concept of compatible uses can be subject to social acceptability and this may vary from one social group (eg planners) to others (eg the planned). Wherever possible, the latter should have a key role.

## **The interaction of planning standards and regulations with other aspects**

Planning standards and regulations interact closely with those for the design and construction of buildings, the provision of infrastructure and access to formal credit. In each case, it could be said that they are created by, and reflect the interests of, the urban middle class. This is expressed in the language in which they are couched, the preoccupations they reflect, and the institutional structures and arrangements created to implement them. Taken together, this regulatory edifice does not facilitate access by the poor majority to legal shelter, or promote the development of towns and cities in which they can actively contribute to, or share in the fruits of, social and economic development.

## **Existing informal norms with respect to land and planning**

Given the above, it is the poor have created their own urban environments which reflect their own social and cultural priorities and are financed by various local methods. Studies of these areas have demonstrated that they are invariably more efficient in using land, more economically dynamic and more socially responsive than areas developed according to official norms.

Informal settlements vary widely from city to city and country to country. However, they tend to have three characteristics in common with most successful urban environments, namely medium to high density, low to medium rise and mixed land use. Initial development is modest, due to limited capital resources, but residents extend and improve houses as resources increase, providing they feel secure from eviction. Extensive use of subletting, plus the use of the home as a source of economic activity, all help them to use housing as a means of social and economic development. Land is treated as a scarce resource and used intensively.

Studies of inner city informal settlements in New Delhi conducted in the 1970s<sup>5</sup>, demonstrated that the same area of public open served a wide range of uses and that these varied during the day, evening and night, weekdays and weekends and different seasons.

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<sup>5</sup> Payne, G (1977) 'Urban housing in the Third World' Leonard Hill, London

Similarly, houses were used as a base for economic activities as much as for living and sleeping in. As with other informal settlements around the world, space for circulation routes was kept to the minimum. When asked what priorities they had for the future, the response was invariably the need for security from eviction and the provision of basic services, for which people were willing and able to pay. Apart from this, they simply asked to be left alone. Sadly, the community was nonetheless evicted during the mass clearances of the mid 1970s, though many have since returned.

Another difference between formal and informal planning norms relates to plot size. Official standards on plot size are often based on arbitrary assumptions regarding individual family needs, rather than the costs or impact on density levels and 'urban land take' involved. Given the commercialisation of urban land markets that has accelerated during the last two decades or so, the cost of a plot conforming to minimum official standards may be several times higher than low, or even middle, income households can afford. At the same time, the low densities resulting from large plots increases the unit costs of providing basic services to the point that even a piped water supply cannot be provided without heavy subsidies and public transport is unable to provide connections from such developments to places of employment. Informal settlements overcome these problems by either allocating smaller plots for individual household occupation or enabling larger plots to be subdivided or developed for multi-occupation.

## **Constraints to revising regulatory frameworks and options for overcoming them**

Reviews of regulatory guidelines which pointed out the need for more appropriate initial standards and flexible regulations have been conducted internationally for nearly thirty years. In Kenya, for example, a condition of one of the World Bank's first urban loans was that a review be made of the existing planning and building regulations and standards. This indicated several areas in which changes should be made, yet it was to take twenty five years before this advice was heeded and significant changes made. In other countries, resistance has prevented any major reform.

Undoubtedly, a major source of resistance to change comes from bureaucratic inertia and conservatism, combined with vested interests in the status quo. Among the former can be counted professionals who are educated to consider themselves as the guardians of 'decent' standards for the development of healthy, attractive and 'planned' urban areas. For them, unauthorised settlements are a threat to their perceptions of what cities should be like, not to mention a threat to their authority. A national training needs assessment for the shelter sector in India during the late 1980s<sup>6</sup> found that the institutional culture among public sector professionals was extremely conservative and resistant to change. This was partly due to a bureaucratic environment which discouraged initiative or risk taking and reinforced the view that the professionals 'knew best'. Furthermore, the poor pay and career structure of the civil service meant that the brightest students preferred to work in the private sector, leaving less ambitious or imaginative colleagues to apply for posts in urban planning and management agencies. Although the notion of public service attracted many capable staff, their lack of exposure to the rigours of the market and the need for resources to be used efficiently, meant that they were not well placed to initiate change.

For those further down the professional ladder who had more direct contact with the communities they were responsible for, vested interests often took a more personal form.

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<sup>6</sup> CENDEP (1988) 'Training needs assessment for human settlements in India' Report prepared for the Government of India and The Overseas Development Administration (now DFID), Oxford Brookes University

The more rigorous the planning standards, regulations and administrative procedures they were required to enforce, the greater the opportunities they had for extorting 'considerations' from those who breached them.

The combination of professional preconceptions and vested interests has accounted for much of the limited progress in effecting changes to regulatory frameworks internationally. It is perhaps sobering to realise that in many cases, professionals concerned with planning the urban environment are part of the problem rather than the solution.

This situation is not made easier by the attitudes and activities of professional institutions, which often appear more interested in protecting narrow professional vested interests than in building bridges with other professions. Their influence on academic courses which educate future generations of professionals reinforces this narrow view of the challenges facing urban areas through course validation criteria which inhibit the multi-disciplinary collaboration essential if effective responses are to be made to changing needs. Efforts to create a more holistic approach is not an exercise which is likely to yield short term dividends, though they should at least be capable of challenge from within the professional community.

However, there is one more constraint to change which is even more difficult to address. Many initiatives to introduce more appropriate and sustainable regulatory guidelines have foundered on political inertia. This may be because changes have implied that standards should be reduced, when the whole notion of development suggests that standards should actually be *higher*. For politicians who grew up under the last days of colonialism, it is understandable that they should resist calls to lower standards which were once imposed on their society by outsiders. When national pride is at stake, arguments based on statistics may prove futile. It may be more fruitful, therefore, to address this constraint by demonstrating that by relaxing initial standards for new development or the upgrading of existing settlements, more people will be able to afford the entry costs to legal shelter, thereby also reducing the need for future unplanned settlements.

## **Bottom-up processes of revision which have worked and could be replicated**

One of the best examples of bottom-up processes known to this writer is that of Ankara in the 1960s and 70s<sup>7</sup>. As mentioned above, this did not consist of a specific revision of regulatory guidelines, so much as a gradual erosion of attempts to impose top-down approaches and standards. Repeated amnesties to residents in unauthorised settlements, invariably just before elections, ensured that the prospects of imposing official master plans and other regulations, were doomed, so planners and communities evolved pragmatic responses to the needs of communities according to their diverse and changing needs. These approaches served both the city and the majority of poor households well while there was strong community cohesion and pressure on land was limited. However, as land prices increased exponentially due to rapid population increase during the late 1970s and 80s, so commercial interests became more important and these methods of developing land gave lost ground.

Other examples of bottom-up revisions to regulatory guidelines have emerged through programmes to improve existing informal settlements. Many of these have been initiated by NGOs and CBOs, as in the case of the Orangi Pilot Project cited previously. Although this began in 1980, it remained an isolated example of local initiative until the World Bank

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<sup>7</sup> See Payne, G (1982) 'Self-Help Housing: A Critique of the Gecekondus of Ankara' in Ward, P (Ed) *Self-Help Housing: A Critique* Mansell

adopted the approach in its urban projects in throughout Sindh and other Palistani provinces. Until then, the neither local nor national government agencies had seen fit to replicate the approach.

Among other examples can be cited the Hannah Nassif upgrading project in Dar es Salaam, Tanzania. Here, about 33,000 people live on 45 hectares of land which is vulnerable to flooding and lacked a water supply, sanitation and access roads. The layout was informal, making the provision of such infrastructure difficult. However, the community agreed to readjust plot boundaries in order to facilitate basic engineering works and to contribute to the implementation and maintenance of the improvements. Although the standards achieved fall some way short of the full official requirements, they represent a significant improvement for the local community and have already stimulated individual house improvements and pressure for further improvements, this time in the removal of solid wastes.

In Indonesia, the national Kampung Improvement Programme (KIP) has been a pioneer example of a government led approach towards a recognition that more flexible approaches are needed towards regulatory frameworks in dealing with informal urban settlements. The existence of numerous high density inner city settlements without basic infrastructure created serious social problems and posed a potential threat to public health. With the help of the World Bank, the KIP was introduced to upgrade kampungs through the provision of access roads, basic infrastructure and communal facilities, such as schools and health clinics. Few if any of the individual projects conformed to official infrastructure or planning standards, yet the results generated massive individual and collective improvements which improved public health and particularly stimulated local economic activity.

The Indonesian, Tanzanian Pakistani and other upgrading projects have demonstrated how modest investments in infrastructure and flexible approaches to planning standards can trigger substantial secondary benefits which can improve living conditions and reduce poverty. Sadly, however, such positive experiences do not appear so far to have influenced attitudes towards planning and infrastructure standards in new development schemes.

## **The costs and the risks of regulation versus non-regulation**

In Colombia, Gomes and Aristazabal<sup>8</sup> estimate that the costs of post facto upgrading are 2.7 times more than for the same level of provision in a planned development. However, this is not necessarily because of informal layouts, since most urban settlements in Bogota follow a grid-iron form. It is more to do with the fact that low income settlements invariably occupy steep slopes which are not sought after by higher income groups and are therefore less expensive to acquire. In many other cities, similar considerations apply, so that land which is cheap to obtain is often much more expensive to develop and service.

In 1992, it was reported (Cohen 1992) that the World Bank had initiated audits in Mexico to assess the costs and benefits of regulatory frameworks in urban planning and management. The reason for this was concern that the costs of existing regulatory guidelines far outweighed their benefits, especially in terms of their impact upon the poor and the ability of cities to fulfil their role as engines of national economic development.

In the event, it appears that such audits were not completed or carried out in other countries<sup>9</sup>. It is therefore difficult to quantify the impact which existing norms and procedures

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<sup>8</sup> Aristazabal and Gomes (2001) 'Security and services could be more important than legal titles' Paper prepared for ongoing DFID funded tenure research project being carried out by GPA.

<sup>9</sup> However, it is intended to undertake regulatory audits as part of the GPA research project on 'Regulatory guidelines for affordable shelter'.

has on new urban development and the ability of low-income households to obtain affordable, legal shelter. Such costs need to include both the administrative costs, delays to development resulting from budgetary constraints, the social costs of exclusion from legal shelter imposed by the inability to conform to high initial standards and the costs of bribery paid by the poor to officials in order to turn a blind eye to informal developments.

This is not to deny that there are real costs involved in non-conformity to regulatory guidelines. These include exposure to environmental risks for households living in areas vulnerable to flooding, landslide, pollution, or other hazards. Whilst data on selective aspects of these problems exists, it is not easy to identify the extent to which they are the result of regulatory guidelines. Hopefully, the ITDG and GPA projects will be able to address these aspects.

## **Conclusions**

Action is needed on a wide range of fronts, but land and shelter constitute preconditions for access to other livelihood opportunities. The poor themselves are well aware of this and settlements in which residents have been able to influence the location, planning, design and use of their housing and local environment invariably include locations with good access to markets and other major employment areas, mixed land uses, medium to high density levels and layouts which maximise opportunities for home based economic activity.

Maximising the options available for a given cost level provides households with more control over their livelihood options and is just as - if not more important - for the poor than for less vulnerable social groups. Developments should therefore include a range of options at each cost level. For example, it may be possible to include different plot sizes and levels of initial infrastructure for a given cost, allowing households to select the option that most meets their needs. Monitoring the 'take-up' of each option can provide a quick and cost effective basis for modifying subsequent developments. Quick surveys or focus group meetings can then assess the reasons for change and identify new options for later inclusion.

Regulatory guidelines include a wide range of elements and are of direct interest to a wide range of stakeholders. In considering options for change, it is therefore likely to be more productive to start modestly and build a constituency of support for further change, rather than be ambitious and reinforce the vested interests of those who benefit from existing frameworks. In this case, it is of less importance where change begins, than the fact that a start is made. There are many potential points of entry and a major consideration should therefore be to identify those aspects on which change can be agreed quickly in order to establish the principle. Regular regulatory audits can then serve to identify key options for reducing the costs of access to legal shelter on a more ambitious scale.

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