Urban poverty: addressing the scale of the problem

D. B. Cook and J. Kirke

Three decades of study, analysis, conventions, projects and programmes, supported by substantial aid funds, all of which were focused on reducing urban poverty, have led to the proliferation of research papers, urban strategy documents and the setting of continually updated and extended ‘targets’ for poverty reduction. In absolute terms, however, the numbers of people living in urban areas at or below the poverty line, in substandard conditions without adequate access to essential basic services, has increased and is continuing to increase. This paper focuses on the scale and urgency of the problem, proposes a number of key practical actions to tackle them, particularly through the legalisation of assets created by the poor but not legally owned by them. It also emphasises the need to address not only present levels of urban poverty but also to develop policies and programmes to deal with continuing urban growth so that it does not breed tomorrow’s illegal slums. Present programmes and projects tend to address only the visible effects of urban neglect. Governments and aid agencies need to act urgently to address the scale of the problem and create a climate of hope, where the poor may be better able to help themselves.

I. BACKGROUND

In association with rapid population growth the world is seeing a major shift in the way we live. As the curtain goes up on the twenty-first century we are seeing more human beings living in urban places than rural ones and by 2025 the world is forecast to have about 60% of its citizens living in cities and towns. The greatest impact will be felt in the less developed countries where the current population of approximately 5 billion (3 billion rural and 2 billion urban) is forecast to reach 6.6 billion in 2025, of which, some 3.5 billion will be urban.¹

The situation as it is unfolding raises serious issues for society as a whole. Problems of poverty, social exclusion, and deterioration in the environment and in health are rampant throughout the less developed world. The gulf between the ‘haves’ and the ‘have-nots’ is still widening. The potential for civil disobedience and even insurrection is an increasing threat in many urban centres. Growing numbers of urban households are living outside the formal sector. They contribute to the local economy, but pay little if any local tax and thus do not contribute to the local costs of basic infrastructure provision and maintenance or to the costs of whatever limited education, health and other social services they receive. Urban centres themselves are starved of the financial resources to improve their technical capacity to address the existing deficiencies, let alone to plan and implement programmes to cater for future growth. Projecting the trends is a dismal and depressing exercise. By 2025, if present trends continue, approximately 1.75 billion urban dwellers (50% of the urban total) will be living in poverty or in service-deficient settlements.*

All this has been known for some time and less developed countries, assisted by the United Nations (UN), multilateral and bilateral aid agencies, have developed a number of responses and targets aimed at alleviating some of the problems. One target† concerns the number of people living with an income of less than US$1.0 per day or in absolute poverty. At present 25% of the population in less developed countries or 1.2 billion people² are living at this level in rural and urban areas and the accepted UN target is to reduce this figure to 12.5% or 740 million by 2015. This target requires development programmes in both rural and urban areas and a better understanding of the urban–rural linkages on which they will impact. In the rural areas the poor are often poorer than their urban counterparts, but their quality of life may well be higher, if economic marginalisation can be tolerated.

As things stand at present, however, there can be little realistic hope that this target can be achieved.

2. LESS DEVELOPED COUNTRIES POPULATION GROWTH: RURAL–URBAN TENSIONS AND LINKS

Tension is perceived to exist between the two sectors.³ The urban areas are often considered to be consuming a disproportionate percentage of national wealth, responsible for rural exploitation and not paying realistic market prices for rural production. Rural areas, for their part, seem to offer few, if any, production. Rural areas, for their part, seem to offer few, if any, benefits.

¹Author’s estimate. Interpolating Department for International Development (DFID) numbers in Reference 1 indicates that the urban population in less developed countries in 2025 will be approximately 3.5 billion.

²DFID estimates that the rural and urban populations in less developed countries will reach 3.1 billion and 2.85 billion respectively by 2015; 12.9% of the total is 743 million. The International Development Target, accepted by the UN, is to achieve a 50% reduction in the proportion of people living in extreme poverty by 2015.
of the range of opportunities for economic development and wealth creation that are perceived to be available in urban areas. The result is migration to the urban centres. In reality the rural migrants initially exchange subsistence-level rural life for cash-strapped urban poverty, where the need and demand for services is higher. However, if and when a rural migrant obtains a job, he will remit money back home.

In less developed countries, however, rural migration is only a contributing factor to the rapid urbanisation that is taking place as it is compounded by the natural growth in the cities themselves. For instance, a city or group of urban places serving 5 million people, growing naturally at 2% per year, will be increasing by 100 000 people per year without migration, and most of the natural growth will be below the poverty line and/or have little or no access to essential urban services. In the period 1950 to 2000 the urban population in less developed countries grew from approximately 300 million to almost 2 billion (according to UN estimates).

The rounded 25-year numbers and the annual urban increments are set out in Table 1. These are frightening numbers. From 1950 to 1975 less developed countries were urbanising at 400 000 per week, and are probably urbanising at over 1 million per week at the present time.5

At the city level the scale of urban growth can be demonstrated by considering a typical city, for example Greater Cairo. Throughout the decade of the 1990s, this great metropolis had to absorb a population growth of over 1000 people every day. Nevertheless, this is not an exceptional case, as similar examples can be found in large cities throughout the developing world.

DFID’s numbers5 can also be presented in a different way. They indicate that the aggregate population of the rural areas will be more or less stable in the period 2000–2030—that is, 2-9, 3-1 and 3-0 billion in 2000, 2015 and 2030 respectively. This suggests that the population growth element of the rural areas will migrate to the cities and towns, where the population is forecast to grow by 2-0 billion in the same period—that is, 1-9, 2-85 and 3-9 billion in 2000, 2015 and 2030 respectively.

These numbers imply in themselves that there is need for increased attention to urban issues. The argument is reinforced when it is realised that the urban sector is emerging as ‘the engine of growth’ in many less developed countries: an internal

World Bank Report of June 1999, states, ‘The industrial and commercial activities that are primarily located, as well as serviced, marketed and financed in urban areas, account for over one half to four fifths of GDP in most countries.’6 Further sustainable development is more likely to be achieved by enhancing the productivity of the urban areas. Improvements here will ultimately benefit all of the population, whether they are rural, urban or migrant.

There is no doubt however that, if there is to be an assault on overall poverty, programmes should address issues in both rural and urban areas, but the time has come to give priority to the urban sector. In parallel, a premium should be placed on developing institutional capacity to a level better able to manage the problems of large cities and rapidly growing urban centres.

3. URBAN POVERTY: EXTENT AND NEW APPROACHES TO ERADICATION

In 1972 Robert McNamara, in his address to the Board of Governors, World Bank, began a discussion on the critical relationship between poverty and economic growth. In 1973 the Bank chose the rural areas to begin an assault on poverty, because most of the absolute poor lived there: over 700 million at that time, largely located on small scattered holdings.

In 1975, McNamara’s address to the Board of Governors of the World Bank7 was largely concerned with poverty. He indicated that approximately half of the population in less developed countries were neither contributing significantly to economic growth nor sharing in its benefits. He went on to define absolute and relative poverty. Absolute poverty was described as a condition of life so limited by illiteracy, malnutrition, disease, high infant mortality, and low life expectancy as to deny its victims the very potential of the genes with which they were born. Persons living in relative poverty were described as individuals with incomes somewhere above the absolute poverty level, but still well below the national average.

The 1975 address was a major policy statement on urban poverty and McNamara noted that 200 million of the absolute poor lived in cities, and indicated that the Bank was now ready to turn its attention to urban places as well as the countryside. The address was also prescient, indicating that (at current trends in 1975) over the next 25 years, the urban areas would
have to absorb another 1·1 billion people, almost half of them poor. This is almost exactly what did happen (see Table 1).

Subsequent presidents of the World Bank† have all returned to the poverty agenda and considerable efforts have been made to address it. Policies and strategies have been developed, but the problem seems intractable.

Absolute poverty has been translated into those living at a gross national product (GNP) per capita level of less than US$1·0 per day and, in 2000, this amounted to about 1·2 billion people with something like 800 million living in rural areas and 400 million§ in urban areas. The numbers may well be doubled if those living in relative poverty and/or in service-deficient settlements are included. If current forecasts are realised, the number of people in the urban poverty trap could be growing at an average rate of 26 million¶ per annum or 500 000 per week in the period 2000–2025 and may well reach 1·7 billion by 2025.

Analysing poverty and income distribution from a global perspective reveals enormous imbalances. According to the United Nations Development Programme (UNDP) Human Development Report 1992¹⁰ global income approximated to US$30 trillion per year and can be broken down as shown in Table 2. These figures graphically illustrate that, in 1992, in a world of plenty

(a) 60% of the world’s population existed on only 6% of global income
(b) 20% of the world’s population accounted for 82-6% of global income.

It is likely that these disparities will have worsened over the past decade. Resource transfers on a large scale are required to improve matters. This will require

(a) targeted capital transfers and an enormous amount of political will on the parts of both rich and poor governments
(b) provision of enabling institutions and a policy environ-

ment, which will facilitate and motivate the poor to help themselves.

3.1. Responses of less developed countries and the development community

During the past three decades numerous studies have been undertaken detailing the inadequacy of urban facilities and hundreds of urban development and urban-related infrastructure projects have been assisted by the World Bank** and other donors with loans and credits running into billions of dollars. Major conferences have been held, declarations made and targets set for the opening decades of the twenty-first century (see p. 12 of Reference 11).

Much has been achieved, many policy approaches have been debated and agreed and numerous targets and objectives have been set; however, in absolute terms, poverty numbers have increased and continue to grow.

Urban development policies, strategies, programmes and projects have evolved from the provision of housing sites with services and in situ upgrading of service-deficient settlements, to concerns for (a) city economies in the context of globalisation, and (b) the management of cities and their environments. Efforts have commenced to prepare City Development Strategies and sustainable investment programmes that will improve the urban living environments and which will involve the beneficiary communities at all levels.

Current internationally supported initiatives include the following (see pp. 32 and 33 of Reference 11).

(a) A DFID (UK)/World Bank/UN and other donor-funded programme to prepare City Development Strategies (CDS) which can stimulate economic development and improve urban governance.
(b) Local Leadership and Management Training Programme: United Nations Centre for Human Settlements (UNCHS) (Habitat) capacity building programme.
(c) Public–Private Infrastructure Advisory Facility: a joint World Bank/UN and other donor initiative to provide advice and expertise to governments in attracting private-sector involvement in infrastructure provision.
(d) Urban Management Programme: a UNCHS (Habitat) programme to strengthen urban management capability.

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† During Lewis T. Preston’s presidency a two-part strategy for reducing poverty was proposed in the World Development Report 1990 and policies were adopted in 1991 that aimed to integrate fully the Bank’s Poverty Reduction Strategy into its lending programmes. Subsequently a Poverty Reduction Handbook has been prepared and poverty reduction is a constantly recurring theme in the Bank’s Annual Reports and World Development Reports.

§ UN–Habitat estimated that the population of urban slum dwellers in 2001 was 837 million. An assumption that 50% of these were in absolute poverty would indicate that about 400 million were in the lowest income bracket.

¶ Urban population in less developed countries in 2025 forecast at 3·5 billion; 50% poor—that is, 1·75 billion; up from 1·1 billion in 2000—that is, an increase of 650 million in 25 years or 26 million per annum.

(e) **Sustainable Cities Programme**: a UNCHS (Habitat) capacity building effort.

(f) **Public–Private Partnerships for the Urban Environment**: a UNDP programme to promote local solutions to urban environment problems.

(g) **The Cities Alliance**: an international donor coalition with local development partners that aims to make unprecedented improvement to the living conditions of the urban poor. The programme is basically an action plan for *cities without slums*, with a target of improving the lives of 100 million slum dwellers by 2020.

There are also a number of innovative and exciting programmes under way conceived and led by charismatic mayors, civic leaders, universities, non-governmental organisations (NGOs) and community based organisations (CBOs).²

In summary, the initiatives and programmes outlined above seek to provide enabling frameworks, address urban economic issues, have concern for the environment and to involve stakeholders at all levels. They should proceed with prudent speed.

Nonetheless, it is hard to suppress a feeling of uneasiness or to hold back questions concerning the impact that these initiatives will have on the quantum of urban poverty issues. The programmes are well conceived and important but, apart from the Cities Alliance Programme, to what extent do they involve the poor directly, or address the size and scale of urban poverty in less developed countries?

As a specific example, the definition of City Development Strategies (CDS)³ starts with the sentence: ‘CDS originate with and are wholly owned by local counterparts.’ But will ‘ownership of a strategy’ mean anything in real terms to the poor stakeholders who represent 50% of the population? It also claims that CDS

‘outline the stakeholders’:

(a) vision for the city;

(b) prospects for economic development;

(c) liveability concerns and related issues

but will they truly reflect the concerns of the poor stakeholders? More generally, we need to address the following issues.

(a) At the end of all these strategies, policy initiatives and programmes, will the poor legally own any tradable assets or marketable skills?

(b) How can ‘Cities without Slums’, an action plan which sets a target of upgrading the living conditions of over 100 million poor people in 20 years, be reconciled with the fact that, in this period, the numbers of urban poor in the world will have increased by something like 500 million?

(c) Should less developed countries be forever in the business of ‘catch-up’, with today’s growth becoming tomorrow’s deficiency and poverty problem?

(d) Are there sufficient resources and the political will to plan, prepare and legally assign serviced land in sufficient quantities to receive newly forming families whilst at the same time deal with upgrading and legalising the backlog of informal and unserviced settlements?

The answer to this last question is ‘not in the short term’, because it will take time for the much-needed political will to develop. But can the efforts made so far, which have made only a small dent in a very large problem, be improved upon? Probably yes, provided that targeted action programmes, which respond to the magnitude and scale of the problem, augment the ongoing initiatives. But how can this be achieved?

History has demonstrated that the most effective way of dealing with national crises is to motivate the people who are mostly affected by them. For example, it was the British nation motivated by Churchill that held the line in 1940 and 1941. It was the European nations, acting in partnership with America and others, that rebuilt Europe after the devastation of the 1939–1945 war, and there are many such cases.

The message is clear: only *motivated people*, led by and/or acting in partnership with others, can get themselves out of the mess they are in.

So it is with the poverty trap. It is up to governments, acting in partnership with the developed nations and their own citizens, to create a ‘climate of opportunity’ and an ‘enabling environment’ in which the poor can help themselves. A climate in which human productivity is enhanced, upward mobility is facilitated, ambition encouraged and untapped energies are released which are in proportion to the scale of the problem.

Governments can only achieve this by

(a) gaining the confidence of the people

(b) acknowledging the role of the informal sector

(c) offering meaningful incentives, including legalisation of tenure

(d) building institutions which assist and empower poor people

(e) speeding up the process and procedures of land reform

(f) appealing to that most enduring of human characteristics—self-interest.

### 3.2. Restoring confidence in government

Many governments will have difficulty in gaining the confidence of poor urban residents. They have frequently marginalised the slum dwellers, legislated against them and, in certain circumstances, physically evicted them. Actions such as these, when coupled with the failure to provide basic municipal services, breed tension, illegal service connections and impact adversely on the health and productivity of the poor. The utility service providers also suffer in that large quantities of water and electricity end up being unaccounted for, with serious implications for tariffs and balance sheets.

A lose–lose situation.

Governments have to acknowledge both the size of the existing urban poverty problem and the rate at which it is increasing. They should review the formal sector of their economies and, where appropriate, remove any bias in favour of large-scale enterprise production and turn their attention more positively to small producers, not only in manufacturing, but also in transport, commerce and other service sectors.
3.3. A role for the informal private sector

Governments should also acknowledge the part played by the informal sector, which frequently offers the most immediate opportunities for greater productivity for the urban poor. This sector already provides the livelihood for the majority of urban dwellers, and though its earnings are considerably less than those of the formal sector, its flexibility and ease of entry are important assets. Governments must then take action to introduce policies and programmes to support and legalise the informal sector, without attempting to standardise or over-regulate it.

Governments need to be able to encourage existing and emerging small enterprises, assist them to become legal and support them with outreach services. Legalisation will in turn facilitate and encourage banks and the formal private sector to provide informal operators with the micro credit or other financial and technical support essential for long-term growth and development.

Government policy initiatives, supported by positive actions and programmes such as those described above, will gradually bring about a change in the way in which both the informal sector and the poor regard their governments. Over time it should lead to partnership agreements and the recovery of some or all of the costs associated not only with legalisation, but also with the provision of infrastructure and other services, which will be required to support and sustain it.

3.4. A meaningful incentive; land registration and titling

Hernando de Soto, in his book *The Mystery of Capital*, has pointed out that most of the poor in less developed and former communist countries do have assets, but because they do not have legal title to the fixed property they hold and occupy, they cannot utilise those assets in a productive manner. Assets of this kind he refers to as ‘dead capital’.

In association with his researchers he has established that approximately 80% of all real estate in Latin America is held outside the law. Furthermore, according to most estimates, the extra-legal sectors in the developing world account for between 50% and 75% of all working people and are responsible for between one-fifth and two-thirds of the total economic output of less developed countries. He calculates that the value of the fixed property held, but not legally owned, by the poor of the less developed countries and former communist countries is US$9·3 trillion. This is a large and theoretical figure, but does clearly indicate the existence of a huge pool of non-performing assets.

These assets, however, are generally not fungible, being held through extra-legal arrangements and governed by social contracts formulated by the squatters themselves. They are neither serving in a satisfactory manner the families who hold them because of insecurity, nor are they being used to generate capital that could be put to productive use. It is the authors’ opinion that for better or for worse, the poor find themselves trapped in a cycle of poverty which, de Soto alleges, results from their lack of legal title to the land they live on or farm and buildings they occupy, even though they may have developed and built these assets through their own labour and with their own informal resources.

De Soto, who is primarily concerned with the practical implementation of measures needed to bring the poor and disadvantaged of the less developed countries and former communist countries into the economic mainstream, points to the similarity between the experiences of today’s squatters, illegal households and informal businesses with those of the settlers and immigrants in America in the seventeenth, eighteenth and nineteenth centuries. The authors accept that the use of this example may be construed to be somewhat contentious as the ‘colonisation’ of ‘empty land’ in the USA, Australia and Southern Africa by European settlers has led to long-running and as yet unresolved land rights disputes in all three countries. The issue of land rights and the rights of squatters, be they individuals, communities or businesses, is highly political and contentious in many countries and this political sensitivity may well explain the reluctance of national, regional and local governments to give legal recognition to squatter communities. Nonetheless, this part of de Soto’s book makes fascinating reading and it is appropriate to summarise it here.

Among other things, de Soto describes the struggles and conflicts between the settlers (squatters), whose occupation, utilisation and husbandry of land were illegal or extra-legal, and the politicians, judges and officials of the state, federal and supreme courts. His narrative begins in 1642, when the State of Virginia accepted that, if a rightful owner wished to recover ‘improved’ land from an illegal settler or squatter, he must either reimburse the settler for the improvements carried out or allow the settler to purchase the land at an unimproved value set by a local jury.

This legal innovation, which allowed settlers (squatters) to purchase the land they had improved and were occupying before it could be offered for public sale, was known as pre-emption. It was this principle that would be the key to the integration of extra-legal land and property arrangements into American law over the following two centuries and which would trigger the economic dynamism which characterises the USA today.

The book goes on to describe how the politicians and élite classes gradually granted impoverished settlers more and more rights until, finally, they obtained full and unencumbered title to the land they had settled and improved. This process required the law to respond to the reality of the situation on the ground and to incorporate many of the articles previously included in informal social contracts drafted by the settlers themselves.

The American experience was a long and arduous journey of recognition, legislation (as far as real estate and land ownership were concerned) and institutional change, reflecting the grudging and reluctant acceptance by the establishment of the settlers (squatters) and their communities. Over the 200 years between the ends of the seventeenth and nineteenth centuries the authorities’ perception of settlers and squatters changed from one of ‘scuffy criminals, skimming the cream of the nation’s lands’ to ‘heroic pioneers, helping to open up, develop and build the country’.

But less developed countries, endeavouring to rid themselves of poverty in the twenty-first century, need not, and indeed...
cannot afford to repeat the two centuries of time taken for America to formalise their land reform policies.

3.5. Less developed countries: the next 25 years
The American experience is well documented and has to some extent resulted in the right of universal access to property being recognised by almost all national constitutions throughout the world. In fact it is generally considered a political necessity and an implicit ingredient of market reform programmes.

Nevertheless, despite the best efforts of a number of countries, often supported by grants and loans from international agencies and bilateral governments, to stimulate reform and to reduce poverty by legalising the hard-won assets of the informal sector in general and the poor in particular, little has been achieved in real terms. The reason, de Soto claims, is clear. Most legal procedures to create formal property title are not geared to accept extra- or para-legal proofs of ownership, which lack any visible or traceable chain of title. He argues that, while the assets of the poor may be outside the official law, the rights of the poor to use them are governed by social contracts and customary agreements.

If the problems of poverty are to be effectively addressed, then the basic ingredients of these contracts and agreements must be incorporated into the formal property system.

3.6. Building institutions††
As highlighted later, it is the local governments who will be most involved in the day-to-day discussions, partnership agreements, zoning, granting of title and in the provision, operation and maintenance of essential infrastructure and social services. There is, however, increasing recognition that poverty reduction and prosperity will be illusory in countries where property rights are weakly enforced, the rule of law cannot be guaranteed, and where bureaucracies are endemically corrupt.

Improving institutions and building their capacities and capabilities must therefore be top priorities. This is easily stated but often difficult to achieve. At a minimum it means ensuring that basic institutions, which can provide secure property and contract rights, are in place, together with a reliable legal system and incorrupt judiciaries to support them.

Institutions are required to oversee a programme, which aims to gradually legalise the informal sector, unleash its energies and thereby create an almost inexhaustible supply of new opportunities on which sustainable development and poverty alleviation will ultimately depend.

These new opportunities will not, however, be realised without the full support of a committed financial sector. Legal title on its own is of little interest to a budding informal sector entrepreneur unless it can be readily transformed into capital.

3.7. Speeding up land reform
It is argued here that, if international targets are to be met and there is to be a significant reduction in the absolute numbers of people living in poverty during the first quarter of the twenty-first century, then the processes of land reform, legalisation of ownership and formalisation of asset creation by the poor must be speeded up.

The long delays in using existing legalisation and cumbersome procedures to facilitate the transfer and registration of title must be avoided. One way of achieving this would be to

(a) recognise and legalise the situation as it exists now
(b) identify and designate areas subject to informal or illegal occupation
(c) prepare physical cadastres based on modern mapping techniques (satellite imagery etc.)
(d) identify the persons in beneficial occupation
(e) initiate the process by which occupiers can be granted title and genuine landowners, compensated. To the extent possible, an investigation of a lengthy chain of occupation rights or title should be avoided.

In the absence of a fast-track approach of this kind, the absolute numbers of poor people living in unacceptable conditions will continue to increase and new targets will have to be set.

3.8. Legalisation of informally occupied land
In recent years the authors have been closely involved with an ongoing World Bank supported Urban Land Management Project (ULMP) in Albania. The ULMP is a community empowered and managed urban upgrading project and adopts an approach previously untried in Albania. It requires institutional changes and new initiatives at national and local government levels.

The fundamental difference from previous urban investment programmes is the shift from a supply- to a demand-driven system of infrastructure planning and execution. Participating inadequately serviced communities will be chosen on the basis of meeting established eligibility criteria. The creation of community associations guided by charter and representing at least two-thirds of community residents is an essential prerequisite for participation in the project, as is the demonstrated willingness to help defray costs of secondary infrastructure (at least 20% of project costs) through the payment of a land development fee. Fifty per cent of this fee is expected ‘up front’ as a condition of civil works contract signature. The final payment per cent (50%) becomes due before completion of civil works. Upon proof of payment, residents will have the right to purchase the land they are claiming. Temporary tenure rights

†† Institution building for poverty alleviation is a subject in itself and the reader is referred to Institutions for Markets: World Development Report (WDR) 2002, published by the World Bank. This is a report which accepts the premise of WDR 2001—that is, that income from participating in markets is the key to boosting economic growth for nations and to reducing poverty for individuals. WDR 2002 concerns itself with enhancing opportunities for poor people in markets and empowering them. It emphasises how institutions can help people make better use of the assets they own and how to accumulate more. In focusing on institutional issues the report does not devalue the importance of policy, but states that good policies are not enough: the details of institution building matter for growth and poverty reduction. In many ways this report complements Hernando de Soto’s book and is very informative.
would be granted during the construction period with a rent payment included in the land development fee. Typically, a householder would end up paying for almost 80% of his or her dwelling—that is, for land, structure, secondary and tertiary infrastructure.

Part of the technical assistance component of the ULMP required a strategic infrastructure planning study for Greater Tirana to be carried out. One of the outputs from the study is a draft outline of a proposed law on the legalisation of informally occupied land. The draft is under review in Albania but even in its present form is worthy of inclusion in this paper.

3.9. Draft law on legalisation of informally occupied land

Definitions:

- **Owner**: the legal landowner.
- **Occupier**: the person who has illegally occupied the land and built a sound and acceptable dwelling or business on it.

1. The rights of ownership and occupation are separated. If someone has built a sound and acceptable dwelling on a plot of land (which he does not own), then he can obtain an ‘Occupation Certificate’. This establishes his right to own the building and occupy the plot of land but not to own the plot. The building owner then becomes a certified occupier.

2. A law of this type would only apply in areas designated by decree and not elsewhere. The designation is a phasing device. Eventually most, if not all, of the informal areas should be designated.

3. The owner can obtain an ‘Ownership Certificate’ if he can prove his claim in law. He is then due compensation from the Certified Occupier, which he himself must recover by legal process. Compensation amounts and procedures would be fixed in the regulations. On payment of compensation, the Certified Occupier becomes the ‘Owner Occupier’ and is granted title to the land.

4. If compensation is not paid to the owner, then it becomes a lien (i.e. a charge against the property) shown on the official Certificate of Occupation. The property cannot be sold until the compensation is paid.

5. A Certified Owner cannot evict a Certified Occupier or demolish his buildings, but he can evict an occupier who is not certified (and he may demolish any structures). However, this is subject to strict regulations; for example, he cannot do so within one year of the designation decree.

6. A Certified Owner can take certain measures to safeguard his property against illegal occupation.

7. The state is not responsible for compensation payments (unless the state itself is the occupier). But the state does have other related duties, such as planning, maintenance of records, policing and justice.

8. Occupation or interim rights granted by lease agreements or by previous governments are cancelled when land Ownership or Occupation Certificates are granted. These ‘interim’ rights if certified would, however, entitle their holders to certain compensation.

9. A Local Plan will show plot boundaries, land required for highways, infrastructure and utility easements and other public purposes. These will be shown on the individual certificates, and become an encumbrance on the property.

10. Certificates also create other responsibilities, such as the legalisation of infrastructure and utility connections and the payment of public utility and service charges by the occupier.

11. A Certified Occupier has certain rights to extend his dwelling, subdivide his land and rent plots, rooms or space to others. However, the size of a plot or plots occupied by one household is limited, and no one can obtain more than one Certificate of Occupation in the same region.

Two or three pilot areas have been chosen to test out the procedures associated with the draft law and even in the early stages there is evidence of increasing community interest.

There have been delays in project implementation mainly caused by the reluctance of beneficiaries to pay their 20% contributions towards the provision of secondary infrastructure. This is a prerequisite prior to the commencement of civil works, but after the visits of the legalisation teams, the confidence and trust of the community has improved and contributions have speeded up. The beneficiaries are beginning to sense that, as land values continue to rise, at long last the government and its agencies are serious and there is something tangible and possibly bankable in it for them.

4. LEGALISATION OF HUMAN SETTLEMENTS

The granting of certificates and titles should not, however, be regarded as an end in itself. What is needed are programmes which

(a) target the urban poor and their informal homes and businesses

(b) aim to grant them, wherever possible, recognition and legal title to the land and buildings which they occupy

(c) provide basic services to occupiers of land and structures.

And do this at least cost, with minimum bureaucracy and as efficiently as possible.

It would be naïve to believe that the financial potential of fixed assets could be realised quickly, but a start should be made and should proceed in advance of, or in parallel with, the UN, World Bank and other donor-supported initiatives set out above.

Governments’ decisions and their determination to address the political, legal, financial and administrative hurdles associated with granting title to illegal or para-legal settlements and enterprises would send a signal to poor communities, informing them that change is on the way. And after all, there may be something to pass on to their children. Governments’ credibility would also be enhanced in the minds of the citizens and of the international community.
The legalisation of informal-sector enterprises and the provision of basic services to depressed urban communities could be the key to unlocking de Soto’s ‘dead capital’.14 It could release human energies on the scale required to meet international development targets and to make the urban poor part of the solution rather than the problem. But there will be many issues to be addressed and problems to be overcome and it is appropriate to discuss some of them briefly.

4.1. Political issues
Governments have traditionally viewed the informal sector with little enthusiasm. They consider it backward, inefficient, and a painful reminder of a less sophisticated past. Urban centres in less developed countries are characterised by imbalance and distortions made worse by the failure to provide infrastructure and social development services to the low-income groups.

Above all else is the need to foster the political will to address the scale and continuing growth of urban poverty in less developed countries.

The poor have become politically marginalised and socially excluded. Despite this, cities have been built and enlarged. Economic activities of all sorts take place and the lower-income groups have obtained access to land in spite of governments’ reluctance or inability to facilitate appropriate zoning plans or to enable the provision of legal titles and basic infrastructure and utility services.

It should be constantly borne in mind, however, that it is the poor who have built and defined the greater part of the cities of less developed countries, as we know them today. In recent years governments have increasingly turned their attention to upgrading unserviced settlements. But despite providing services, there has been a reluctance or inability to take the next step and grant title to the households in ‘beneficial occupation’ of the land.

It is often argued that granting any form of secure tenure, be it freehold or leasehold, will be tantamount to legitimising an illegal act and would probably encourage more squatting. In addition there is the fear that many plot holders would sell their newly legalised land in order to squat somewhere else (i.e. that the capital generated would be likely to circulate within and benefit the local economy. Where the risks of selling by individuals is considered unacceptable, consideration could be given to selling land to the community, with each household holding shares appropriate to the size of plot which it occupies. Shares of course should be marketable, after seeking the approval of community representatives.

In summary, the authors’ suggest: Firstly Governments review the living conditions in their cities and towns and the manner in which they have evolved; and secondly formulate national urban policies, strategies and programmes which have poverty reduction as one of their central themes.

4.2. Legal issues
Land acquisition by governments and the transfer of ownership to others has featured in a number of donor-financed upgrading projects, but the administration of the law and other issues has caused a lot of frustration, delays and cost escalation. De Soto writes:

‘Many countries make the obstacles to entering the legal property systems so daunting that few migrants could ever make their way through the red tape e.g. as many as 14 years and 77 bureaucratic procedures at 31 public and private agencies in Egypt, and 19 years and 176 bureaucratic steps to legalise the purchase of private land in Haiti.’14

As a result, some donors have tried to find alternative ways of giving illegal occupiers some feeling of security, without actually offering land titles. This has met with some success. Experience has shown that, in some circumstances, the provision of infrastructure alone can create a sufficient level of informal security to encourage residents to invest in property improvement and other services. But it does not go far enough.

There are complexities in tracing land ownership in all societies and countries. These usually relate to familial and societal issues and, in less developed countries, are often associated with religion, tribal, customary, inheritance or rights of possession claims, none of which are recorded in written form or related to the current land use or occupancy. But community stabilisation and social inclusion, as well as the development of an efficient economic system requires that land occupation be legitimised, with occupiers paying, where appropriate, an agreed amount of compensation to land owners as the price of legalisation.

Rules are needed to fix in law the amount and manner of compensation payable to those claiming and proving legal title. This could be based on existing use value at the time of occupancy, plus inflation and other relevant factors. Payments already made by occupiers to land owners, developers, middlemen or others would also need to be taken into account. Where appropriate, private banks could offer loans using the legal title as collateral and loan documentation would have to describe the terms of repayment, enforcement and repossession.

Each country would need to review and amend its land and property legislation and define ways and means of fast-tracking a programme for granting land and property titles. The objectives and outcomes must be seen to be fair and the process transparent. Courts of summary jurisdiction could be established, with a remit to maintain the momentum of the process and to avoid referrals wherever possible.

Not least of the problems would be to change the mind-set of lawyers, keep costs to a minimum and to reduce the need, for family representatives of the designated beneficiaries, to make a number of trips to far-away offices. The processing of titles should be dealt with locally by staff with direct links to the community, utility providers and local government. Accessible site offices and affordable outreach services should be provided and form filling kept to a minimum.

4.3. Processing, administrative and planning issues
In the experience of the authors, some 60–80% of urban populations in less developed countries rely on informal processes for access to land, housing and services. Municipal
and central government officials and decision-makers fre-
quently fail to see the need for, or lack the resources to provide,
adequate land for low-income families and small businesses. As
a result there are few records and little, if any, information on
what has taken place or how certain areas came to be
developed.

The informal land market is characterised by a variety of
commercial and non-commercial settlements on public and
private land. It involves a number of interfacing but legally
unrecognised deals between tribal chiefs, landowners, devel-
opers, individuals and second-job moonlighters, often
employed in government, utilities, or the ‘formal’ private sector.
These are the real people building the city and they are
frequently doing so in spite of officialdom and without
reference to so-called master plans.

The time has come for cities and municipalities to ‘record’ and,
where possible, formally accept what has happened in the past
and devise policies and strategies which recognise, reinforce
and assist the positive aspects of the informal sector’s activities
and the buildings, enterprises and communities they have
developed.

5. THE ROLE OF LOCAL GOVERNMENTS

Many LDC governments have adopted and formalised decen-
tralisation policies and either have or are in the process of
transferring a wide range of responsibilities to local govern-
ments. Many of these initiatives have stalled, either through
lack of financial resources or inadequate technical capability
and capacity at the local level.

Programmes, which are to be focused on poverty reduction, will
need to address these capacity concerns. Local governments
need help to fulfils their essential roles in reducing present levels
of housing and urban service deficiencies, reversing environ-
mental degradation and improving urban management. In
addition to these tasks they must deal with issues relating to
legalisation of tenure and address the problems of continuing
urban growth.

5.1. Key roles

The key roles of local governments in this process are
summarised below.

5.1.1. Record and review the existing situation.

(a) Undertake cadastral surveys of unserviced settlements
using aerial photographs and, if available, satellite imag-
ery, and commence the process of setting up computer-
aided design and geographic information systems (CAD/
GIS).

(b) Ascertain, by home interview or other means, how the
occupiers gained access to a particular plot and shelter, and
all other relevant information related to improvements and
access to service infrastructure. This could be carried out
(after training and under supervision) by community
leaders, NGOs and students.

(c) Prepare land and property cartellas—that is, forms which
give the basic information for registration and title.

(d) Undertake a land market assessment study of cities and
municipalities. This would be an endeavour to understand
the formal and informal land and property markets in the
areas under review.

5.1.2. Assess land values at the time of original (illegal)
occupation.

(a) Draft or amend any essential legislation which may be
required and commence the process of transfer of legal title.

(b) Establish a fair basis for agreeing compensation payments
to the legal landowners and other interests in the light of
investments made in land utilisation and buildings by the
current occupants or their predecessors. Compensation to
former landowners could be based on a formula, which
takes into account median residential and agricultural land
values at the time of first occupation, plus inflation.

(c) Establish procedures for the regularisation of current use
and the granting of appropriate land use and building
permits.

5.1.3. Encourage the formation and recognition of community
associations. Assess their capacity and willingness to make land
compensation payments and to contribute towards the costs of
the provision of services and upgrading programmes.

5.1.4. Plan for, provide, operate and maintain strategic,
primary and secondary municipal infrastructure services. This is
a subject in itself but it requires a brief discussion in this paper.

The adequacy and condition of infrastructure and utility
services is a primary determinant of one country’s success and
another’s failure. Good infrastructure and utility services play a
major role in raising productivity and lowering production
costs. This applies nationally, regionally and locally and to both
rural and urban areas.

However, it is the urban situation and the provision of basic
services to dense human settlements and small-scale enterprises
which concern us here. The provision of infrastructure and
utility services to informal or illegal settlements is analogous to
hitting two targets with one shot, as up to 40% of urban
employment opportunities may be generated in them.

At the most basic level, what is needed in these areas is to get
potable water and electricity in and liquid and solid wastes out,
together with drainage and all-weather accessibility for people,
emergency service vehicles and small-scale public transport
services.

Most urban settlements, however, do have the rudiments of
what might be called ‘subsistence level’ infrastructure. For
example, they have

(a) access to water—via street vendors, illegal connections,
shallow wells or hand pumps or, sometimes, communal
taps

(b) unused corners or low-lying areas on which to deposit
solid wastes

(c) open ditches which partially remove storm water, some-
times lined and serving as surrogates for a sewerage system

(d) access, often by compacted earth or gravel roads and
pathways, frequently impassable in the rainy season
Many technical papers have been written on the subject of urban upgrading and some finance has been forthcoming from international and bilateral agencies. There have been successes and failures; successes being more likely where beneficiary communities have been involved in the identification, planning and implementation and have contributed to the costs. Failures have often been attributed to imposed solutions, inappropriate standards, lack of consultation, inadequate funds and the failure of local governments and other agencies to adequately operate and maintain the systems provided.

The cost of providing infrastructure and utility services to informal settlements varies between continents, regions, countries and cities. There are many variables, including density (i.e. dwellings per hectare and persons per dwelling), topography, soils, climate, local availability of materials and proximity/capacity of primary and secondary infrastructure and utility networks.

An unpublished World Bank paper, written in 1996 and entitled Infrastructure Provision for the Urban Poor, attempted to identify some ‘order of magnitude’ costs. The paper considered:

(a) four sectors, namely water supply, sanitation, access and roads and drainage (electricity was not included)
(b) three levels of service, described as basic, intermediate and full, and covered three regions of the world
(i) sub-Saharan Africa (SSA)
(ii) Latin America and the Caribbean (LAC)
(iii) East Asia, the Pacific and South Asia (EAP&SA).

It would be inappropriate to go into detail in this paper, but per capita costs varied widely between low density with full service in LAC ($685) and high density with low service in EAP and SA ($32). Table 3 provides a summary of the findings.

The costs were based on a 15-year time horizon to 2010, but the provision and legalisation of electricity connections could add a further 20% to the costs.

The report assessed the financial feasibility of an upgrading programme to provide basic-level/high-density service standards and stated:

'A one year time slice of an investment programme for local infrastructure would represent about 12% of estimated annual urban public investment for LAC and EAP&SA countries, while bulk infrastructure would absorb another 4%. For SSA countries, the local and bulk investment costs would represent a significantly larger share of urban public investment (43% and 13% respectively). At least in LAC and EAP&SA these investment requirements are sufficiently moderate to be met through a re-allocation of existing levels of urban public investment expenditure, without new (net) claims on public capital resources for the urban sector'.

This reinforces the authors’ opinion that infrastructure, provided at appropriate and realistic standards, is affordable. What is needed is innovative thinking, partnerships and direct community involvement.

5.1.5. Develop strategies to deal with the issues of urban growth. Currently, 70–80% of today’s urban population growth in less developed countries becomes an increment in tomorrow’s urban poverty numbers and, as a consequence, the situation worsens. It follows that, if national and local governments are serious in their desire to significantly reduce or alleviate poverty, they must also have in place policies and programmes that deal with the issues posed by continuing urban growth.

Various solutions have been formulated, but most have failed to deal with the scale of the problem. Governments acting on their own, or sometimes with donor support, have been unable to cope. But what can governments do? The authors suggest that the way forward is to carry out and regularly update strategic urban development and infrastructure planning studies and their associated local and regulatory plan, implement recommended action programmes and work in partnership with others. In this case the partnerships should be with those who have already demonstrated the ability and capacity (albeit a limited and sometimes questionable capacity) to build

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Notes: Bulk infrastructure adds 30% to the costs. (This seems a low percentage. The provision of bulk or primary infrastructure can be double the cost of secondary and tertiary facilities. This applies to water supply, sewerage, roads, drainage and electricity.)

* Intermediate density (240 persons/ha) would increase basic costs by up to 80%.

Table 3. Ranges of unit costs for local infrastructure and utility services

(e) electricity, sometimes via illegal connections from overhead cables.

§§ Some 20–30% of the population growth is probably in the middle and higher income categories; they are generally able to look after themselves.
cities. For example, development is often taking place on the fringes of towns and cities. Areas could be identified where trunk infrastructure and access facilities exist or can easily be provided.

This could be followed by forming public–private partnerships between municipalities, utilities, landowners, developers, builders, NGOs, communities and resident associations, which could develop and service land in accordance with design briefs (covering a multiple of land uses) prepared by the local planning authority in consultation with all the stakeholders.

The partnerships, possibly led by developers, could form development companies and the design briefs would specify the target densities and the land and other facilities that would be made available to all income groups. They would also be flexible and allow for change as communities evolve and consolidate.

5.1.6. Operation and maintenance of municipal services. This is one of the most crucial yet neglected aspects of urban management in less developed countries. Without good O&M, sustainability becomes meaningless; all that can be achieved in this paper is to make the point and emphasise it.

5.2. Impact on the staff of the civil service and local governments
The introduction of new policies and programmes of the type described may be inhibited by the lack of staff or financial resources required to implement them. In certain circumstances staff may even be reluctant or unable to understand and comprehend what is expected of them.

Streamlining the licensing and approval procedures and reducing design standards may directly threaten the extra incomes of officials for which bribes are an accepted form of business. Officials who rely on chaotic land management and non-information to maintain their influence on land markets may resist improved land management techniques. There may also be a basic antipathy between municipal officials and private-sector community representatives that inhabits any new form of public–private sector coordination. The private sector also has its cadre of manipulators, villains and muscle men.

These are realities that must be faced and can only be overcome by political will, confidence building, good management and, ultimately, by success.

6. ROLE OF INTERNATIONAL DONOR AND AID COMMUNITY
In addition to the initiatives and programmes already approved and under way, the aid community must be persuaded to identify a unique role which it could beneficially adopt in supporting the types of programmes described in this paper. Provided that positive responses and political support can be obtained from less developed countries, multilateral and bilateral donors and NGOs should consider the following.

(a) Providing support for the survey, mapping and land registration process: aerial photography, preparation of maps from satellite imagery, purchase of computers and introduction of CAD/GIS systems. Technical assistance in carrying out home interviews and for the preparation of the draft cartellas could be provided by NGOs and students in their ‘gap’ year.

(b) Providing financial support, technical assistance and training for
(i) national urban policies, strategies and programmes
(ii) institutional needs analyses, capacity building and resource utilisation
(iii) urban land market assessments
(iv) review and drafting of appropriate property and real estate legislation
(v) strategic urban development and infrastructure planning together with the associated local and regulatory plans
(vi) provision and maintenance of essential infrastructure and municipal facilities
(vii) setting up and managing public–private partnerships
(viii) reviews of judicial and banking systems.

(c) Emphasising their support for initiatives of the kind described in this paper, in their policy documents and in their working papers

7. CONCLUSIONS
The conclusions of this paper can be summarised as follows.

(a) The scale, complexity and rate of growth of the urban poverty problem cannot be overstated.

(b) Significant and sustainable reductions in real terms of the numbers of people living in poverty or unacceptable living conditions are needed urgently.

(c) These reductions can only be achieved by the coordinated actions of international agencies and national governments working with local government agencies and the communities they serve in partnership with the private sector. This will require huge financial resources and technical capacity building, particularly at the local level.

(d) One largely untapped resource that could play a major role in poverty alleviation is the release of the ‘dead capital’ tied up in the informally developed land and buildings of the informal sector, particularly the urban poor.

(e) The legalisation of informally held land and structures could provide the bankable assets needed by the poor to become part of the solution rather than the problem.

(f) In parallel with these actions there is urgent need to prepare land-use plans and investment strategies to provide for sustainable urban growth over the coming years.

(g) To paraphrase Winston Churchill, the poor might well be saying, ‘Give us the tools and we will finish the job.’ The tools are legalisation of assets, public and formal private-sector support and action. The result will be wealth creation and poverty reduction through marketable assets and, indirectly, improved health and education, economic development and enhanced municipal performance.

(h) Above all, what is needed is the political will to address the problem.

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REFERENCES


Please email, fax or post your discussion contributions to the secretary by 1 June 2004: email: kathleen.hollow@ice.org.uk; fax: +44 (0)20 7799 1325; or post to Kathleen Hollow, Journals Department, Institution of Civil Engineers, 1–7 Great George Street, London SW1P 3AA.