



Getting ahead of the game: A twin-track approach to improving existing slums and reducing the need for future slums

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SUMMARY: While many of the Millennium Development Goals (MDGs) represent an ambitious attempt to reduce global poverty and improve the quality of life for the world's poor, this cannot be said for the goal that concerns urban development. Goal 7 of the MDGs aims to improve the living conditions of 100 million slum dwellers by 2020. However, current estimates suggest that, at present, there are nearly 1 billion people living in slums, and that this number is projected to increase to 1.5 billion by 2020 and to 2 billion by 2030. Thus, even achieving the MDG would be to manage a retreat rather than achieve significant progress. The important policy objective for governments and the international community, therefore, is dramatically to exceed, not just meet, this MDG. This can best be achieved by adopting a twin-track approach towards existing and potential future slums. Innovative approaches to improving tenure security in existing unauthorized settlements can improve living conditions for current slum dwellers, while revising regulatory frameworks can reduce the need for future slums by significantly improving access to legal land and shelter. This paper provides evidence from recent research, which suggests that intermediate tenure options, combined with regulatory audits of planning regulations, standards and administrative procedures, can significantly improve living conditions within the human, technical and financial resources available. The approach is illustrated by a case study in Cambodia.

I. INTRODUCTION

THE FIRST STEP in solving a problem is to define it correctly. After much debate, the international community and member states have declared that the main objectives driving development policy for the coming decades are to be defined by a set of goals and targets, collectively known as the Millennium Development Goals (MDGs). These set global targets for different sectors, to be achieved by specified dates. While many would go a long way to reducing global poverty and improving the quality of life for the world's poor, this does not apply in the case of urban development, for which there are two key targets. The most significant is Goal 7, in which target 10 seeks to halve by 2015 the proportion of people without sustainable access to safe drinking water and basic sanitation; and target 11 seeks to have achieved by 2020 a significant improvement in the lives of at least 100 million slum dwellers.

These targets have to be seen in the context of the present and projected reality. Despite decades of slum upgrading programmes by governments

and the international community, UN-Habitat estimates that there are currently 924 million slum dwellers in the world and that, without significant intervention to improve access to water, sanitation, secure tenure and adequate housing, this number could grow to 1.5 billion by 2020. Another UN estimate⁽¹⁾ indicates that the total could increase to 2 billion by 2030 if no firm and concrete action is taken. While such projections are open to dispute, they suggest that even if MDG target 11 is achieved, it may meet only 11 per cent of existing needs and only 7 per cent of future estimated needs by 2020. In other words, by 2020 there could be 1.4 billion people living in slums and squatter settlements compared to the 924 million at present, an increase of 162 per cent. While the target may therefore be achievable, it does not represent an appropriate or adequate definition of the challenge facing the international community, national governments, civil society groups and professionals. In fact, it suggests that a target-driven policy agenda is detracting attention from the real issues that need to be addressed. Since the MDGs are also global targets, they have yet to provide a detailed basis for policy at national or local levels.

The real challenge is two-fold. First, there is a need to improve the living conditions of far more than 100 million people living in slums and various types of unauthorized settlements. And second, there is an equally urgent need to create conditions in which all sections of urban society, especially the poorest and most vulnerable, can obtain access to legal, affordable and appropriate shelter in ways that prevent the need for future slums and unauthorized settlements. To add to the challenge still further, both of these objectives need to be achieved in ways that provide adequate levels of security, and access to livelihoods, services and credit. Even if the MDG target is achieved, it will not resolve the first of these two challenges and will do nothing to address the second.

II. A TWIN-TRACK APPROACH

MEETING PRESENT NEEDS to improve living conditions for existing slum populations will, in itself, be a daunting task. However, it will be inadequate unless equal efforts are made to reduce the need for future slums. A twin-track approach is therefore vital if we are to turn things around and get ahead of the game.

What are the available options? First, it is important to identify the existing and potential roles of the key stakeholders – the poor themselves, national and local governments, civil society groups, the private sector and the international community. Second, it is important to assess ways in which the relative strengths of each stakeholder group can be combined to maximize synergies between their contributions.

In terms of upgrading existing settlements, a major issue is that the poor, especially the very poor, need to live close to locations where they can earn a living. As Turner noted many years ago,⁽²⁾ this is more important than having permanent security of tenure or formal credit. Yet the locations where employment prospects are greatest are invariably the locations where competition, and therefore land prices, are greatest. To upgrade such settlements therefore raises two issues. If the upgrading is undertaken in ways that grant full titles, the residents will acquire, freely or at a nominal cost, an asset that can command a high price in the formal land market. Experience shows that such conventional approaches encourage many households to sell the newly acquired asset, realize its capital value and re-squat,

1. United Nations (2003), *The Challenge of Slums*, Earthscan, London, Foreword by Kofi Annan and page 25.

2. Turner, J F C (1967), "Barriers and channels for housing development in modernizing countries", *Journal of the American Institute of Planners* Vol 33, No 3, pages 67–81; also Turner, J F C (co-edited with Robert Fichter) (1972), *Freedom to Build; Dweller Control of the Housing Process*, Macmillan, New York (translated into Italian and Spanish).

3. Tenure and property rights are not the same. Tenure relates to how land is held or owned, or the relationship among people concerning land or its product. Property rights refer to a recognized interest in land or property vested in an individual or a group, and can apply separately to land or to development on it.

4. See Payne, G (2001), "Lowering the ladder: regulatory frameworks for sustainable development", *Development in Practice* Vol 11, Nos 2/3, May, pages 308–318.

5. de Soto, H (1989), *The Other Path: The Invisible Revolution in the Third World*, I B Tauris, London.

6. Struyk, R, M Hoffman and H Katsura (1990), *The Market for Housing in Indonesian Cities*, The Urban Institute Press, Washington DC.

hoping to repeat the process. Such actions may therefore actually result in an increase in informal settlements rather than a decrease; they may also result in the eviction of tenants and increased litigation, especially where land records are unclear.

So how are poor households able to remain in areas where they can find a livelihood? How can this be achieved without distorting land markets and creating ghettos of the poor within urban centres? There are no universally applicable answers to these questions; however, experience suggests that an important ingredient is to provide a form of tenure to the residents of existing unauthorized settlements that is sufficient to ensure protection from eviction, together with property rights⁽³⁾ and regulatory frameworks that entitle people to use their dwellings for a range of purposes and allow them to obtain basic services. In some cases, this might also facilitate high-density forms of multi-occupancy rather than individual houses on individual plots.

The provision of secure tenure can take a variety of forms, from a simple moratorium on relocations and evictions, to temporary occupation licences, communal or individual leases, community land trusts, communal ownership, customary tenure, etc. The duration of such tenure forms may be short in some cases, or almost permanent in others. They may provide the option of extension or upgrading to more formal tenure systems over time, or compensation for investments made. The key objectives should be to provide adequate security and maintain or increase access by the urban poor to locations where they can increase their incomes. It is also important to reduce the attraction to higher-income groups of buying out low-income residents. If such measures are combined with modest planning and building regulations and standards, the subsidy burden or opportunity cost of such measures can be further reduced, and a virtuous cycle established between tenure and regulatory regimes. These can be reinforced still further if administrative procedures can be revised to lower the cost of entry to legal shelter,⁽⁴⁾ thus reducing the need for new slum formation.

The complementary component to tenure upgrading in a twin-track approach is to reduce the need for future slum formation. Among the constraints to accessing affordable legal shelter, the key factors are invariably cost and regulatory frameworks, especially planning and building regulations, standards and administrative procedures. Unfortunately, these often tend to be combined, in that high standards impose higher costs, and complex bureaucratic procedures impose delays that require informal payments to facilitate progress. In his influential publication on regulatory frameworks, de Soto noted that it took 159 bureaucratic steps to legalize informal settlements in Lima, and that this took, on average, 20 years.⁽⁵⁾ In a similar vein, Struyk, Hoffman and Katsura found that in the course of land transfers, it took an average of 32.5 months for a title to be issued in West Java, and estimated that this added 10–29 per cent to the cost of land acquisition.⁽⁶⁾ Box 1 provides further examples.

Such procedural constraints were also found in other countries, though high planning standards, often based on inherited or imported norms rather than on local needs or realities, provided further barriers. For example, the minimum official plot size in many countries is significantly higher than the size of plots regularly occupied in informal settlements, and requires a higher land price than many households can afford. It also discourages the private sector from being able to meet the needs of lower-income households on a financially viable basis. Another key cost factor in official standards relates to road reservations. These are often more

Box 1: Administrative procedures and access to legal housing

Case studies undertaken as part of the six-country research project directed by the author found that in Lesotho, for example, would-be landowners need to undergo 13 administrative procedures before they can obtain full legal possession of a site. These do not take into account the steps that the land acquisition institutions need to go through before the sites are advertised. The system is highly centralized, with all grant applications requiring ministerial approval.

In Tanzania, seven or more years can elapse between the identification of an area for implementing a planning scheme and the time that letters of offer are issued. The process can involve 13 steps, and each of these has its own sub-steps. Land surveying, for example, involves 17 steps, which can take anything from a few months to several years.

In Bolivia, Farfan notes that there are 20 steps involved in obtaining official permission for the legal development of residential land.

SOURCES: Drawn from Payne, G and M Majale (2004), CD-ROM/Reports: the example from Lesotho is from Hall, David, "Regulatory frameworks governing access to legal low-income housing in Lesotho"; the example from Bolivia is from Farfan, F, "A struggle of contrasts: the Bolivia case study", pages 27–28; the example from Tanzania is from Kironde, citing Silayo, E H (2002), "Searching for reliable low-cost cadastral survey methods", Paper presented at a Workshop on the Regulatory Framework for Affordable Shelter in Tanzania, Dar es Salaam, 12 February 2002.

demanding of land area than in the capital cities of Europe, where car ownership levels are dramatically higher than in the suburban areas of developing countries. Such land areas are not only expensive in terms of capital (or opportunity) costs, but also impose high maintenance burdens on local authorities, which many are unable to meet.

Finally, planning and building regulations add a third tier to the barriers obstructing access to legal shelter. As McAuslan has noted in the case of Chennai (previously Madras), India:

"...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."⁽⁷⁾

McAuslan also argues that planning itself has all too often been based on the needs and interests of the political elite rather than the majority, a tendency that can actively discourage low-income households from living in close proximity to more fortunate groups except, of course, to provide them with services.

As globalization increases the role of market forces in key economic sectors, including land markets, the role of the regulatory framework in managing urban growth takes on greater importance, especially as it is one of the few policy instruments determined and controlled by government. However, recent research in six countries⁽⁸⁾ has provided similar evidence of the extent to which regulatory frameworks raise the barriers to accessing legal shelter to levels that most poor households, and an increasing proportion of middle-income groups, are unable to overcome. The irony is that regulatory frameworks established to achieve planned urban development have widely become a means of preventing this.

III. APPLYING NEW APPROACHES IN CAMBODIA

SEVERAL URBAN PROJECTS in Cambodia are contributing at present towards a twin-track approach.⁽⁹⁾ One of these has sought to increase

7. McAuslan, Patrick (1989), "Land law, tenure and registration issues and options", Paper presented at the Urban Land Development Seminar, World Bank, Washington DC, page 30.

8. Regulatory Guidelines for Affordable Shelter, a research project directed by Geoffrey Payne and Associates and funded by the UK Department for International Development. The project includes case studies in Bolivia, India, Lesotho, South Africa, Tanzania and Turkey. See, Payne, G and M Majale (2004), *The Urban Housing Manual: Making Regulatory Frameworks Work for the Poor*, Earthscan, London.

9. Others have included a city development strategy, a housing policy study, a land-sharing study, a community-based upgrading campaign, a national secure tenure campaign and a land management and administration project.

10. The local consultant to the project was Mr Din Somethearith. He was supported by a number of local advisers, including Mr George Cooper and Dr B H S Khemro. Geoffrey Payne was the international consultant to the project.

11. According to the study on Land Availability for City Development in Phnom Penh Metropolitan Area, September 2002, page 4, prepared by Ear Sophy for Cities Alliance.

12. In Cambodia, land in public ownership is defined as either state public or state private land. State public lands are government lands put to special government use, for example for schools or parks, or lands that in their natural condition have some specific public benefit, for example forests. State private lands are all state lands that are not state public lands.

tenure security for residents in informal settlements in Phnom Penh, and facilitate access to affordable, legal housing in new developments. The project has been supported by Cities Alliance, GTZ and UN-Habitat,⁽¹⁰⁾ and was undertaken in 2003–2004.

Previous research in Cambodia and elsewhere on tenure security and regulatory frameworks reinforced the conviction that both subjects are central to the effective implementation of a twin-track approach to upgrading existing settlements and developing new ones. They are, after all, two of the major policy instruments directly controlled by central and local governments, and are enforceable even where market forces are otherwise pre-eminent. Tenure and regulatory reform also offer the prospect of achieving change at the scale required.

Tenure issues in Cambodia have to be seen in the context of the country's turbulent past. After the Khmer Rouge regime collapsed in early 1979, people returned to Phnom Penh and other urban centres, and occupied existing housing or vacant land on a first-come, first-served basis. All formal titles or other evidence of formal tenure status prior to January 1979 were declared null and void. A high proportion of land in Phnom Penh was subsequently registered as privately owned,⁽¹¹⁾ with the remainder being in either state public ownership (e.g. all roads, railways, ports, schools, etc.) or state private (land belonging to state institutions). State private land can be privatized, but state public land is considered inalienable.⁽¹²⁾

As urban growth increased pressure on available properties, households were forced to share existing dwellings or occupy land informally. Such settlements steadily increased in number during the 1990s, and now exist along the sides of main roads, rivers and railway lines, and even on top of existing apartment buildings.

The initial priority for improving tenure security in Phnom Penh was to stop the forced evictions that the authorities had been undertaking on a regular basis. Relocated households were normally allocated plots with titles on the outskirts of the city, with basic services but with poor connections to places of employment and with minimal facilities. Sometimes, the infrastructure was inadequate for long-term settlement. As a result, many households either abandoned their new plots and returned to the city, or failed to occupy them in the first place. A viable alternative approach had to be found to provide short-term security to all vulnerable households in ways which did not impede the implementation of longer-term urban planning objectives. Discussions to identify practical tenure options were held with representatives of central and local government agencies, local NGOs and other stakeholder groups.

At the same time, a regulatory audit was undertaken of planning regulations, standards and administrative procedures to identify options for reducing the costs of new legal housing developments, and thereby reducing the need for informal settlements in the future. This revealed a number of areas where modest short-term changes and more substantial longer-term reforms could be beneficial (see Appendix 1 for details).

The audit confirmed that many of the planning regulations determining acceptability were based on conditions applicable when Cambodia was a French protectorate and there was no significant pressure on land. Thus, setbacks from railway lines, levels of ground-floor plot coverage, land-use restrictions, road reservations and complex administrative procedures for obtaining permissions and certificates, etc. were excessive given current realities. The gap between regulations and realities has inevitably

been filled by the people themselves, and land not allocated for productive use has been extensively settled throughout Phnom Penh. As a result, only a small proportion of the population even attempts to follow official procedures, thereby adding to the national proportion of officially unplanned settlements, and offsetting efforts to upgrade existing ones.

With widespread insecurity in existing informal settlements, and access to affordable legal housing increasingly difficult to obtain for the urban poor, the project sought to identify measures to address both issues.

IV. PROPOSALS FOR TENURE

IN THE EVENT, things moved rapidly and, in May 2003, the prime minister announced a plan to upgrade 100 settlements a year in Phnom Penh for the next five years. This was the result of an effective campaign by the Asian Coalition for Housing Rights (ACHR) and local NGOs, particularly the Solidarity for the Urban Poor Federation (SUPF) and the Urban Poor Development Fund (UPDF), which were collectively preparing a community-driven city development strategy to replace widespread evictions in favour of upgrading.¹³ This approach was based on the provision of individual freehold titles to all selected households. However, assuming a notional 100 families in each settlement (most have many more than this), this involves improving the conditions of 10,000 households annually, and issuing an average of one title every 12 minutes for five years, assuming a 50-week working year and a 40-hour working week.¹⁴ The administrative burden this entails, together with uncertainty regarding the status of land ownership in some areas, may partly explain why the programme is well behind schedule, with only about 20 settlements upgraded even partially in the 20 months since the programme was announced.

In the absence of clear criteria for determining which settlements should be upgraded and which should be relocated, there was a risk, even under the new upgrading programme, that pre-emptive action would be taken to remove some settlements, and that others would be selected for upgrading according to political, rather than more objective, considerations. The team's recommendations for tenure and property rights in Phnom Penh and other urban centres in Cambodia therefore centred on stabilizing the existing situation and providing a sound administrative basis for implementing longer-term options to improve tenure security and the functioning of a dynamic and responsive land and housing market accessible to all sections of the population. An initial proposal was therefore to provide all households in informal settlements with a temporary occupation licence similar to that used for informal businesses in Kenya. However, it was pointed out that the administrative burden of identifying eligible families and issuing them all with temporary occupation licences would have been excessive. It was therefore proposed that the authorities announce a moratorium on relocations and evictions for a provisional period of six months. It was hoped that this would be sufficient to allow people to go to work in the morning secure in the knowledge that their homes and possessions would still be there when they returned. The authorities could then use the time gained to agree on criteria for determining which settlements could be regularized and upgraded on a long-term basis, and identify sites to which families could be moved from settlements considered unacceptable. Finally,

13. For details, see ACHR (2004), "Negotiating the right to stay in the city", *Environment and Urbanization* Vol 16, No 1, April, pages 9–26.

14. The COFOPRI land titling programme in Peru claimed to have allocated 1 million titles in four years, or an average of 250,000 a year. Again, assuming a 50-week working year and a 40-hour working week, this would have entailed COFOPRI issuing more than two titles a second for four years. Although the COFOPRI programme was undoubtedly successful in many ways, many titles were actually issued earlier by local authorities.

15. See, for instance, Khemro, B S H and G Payne (2004), "Improving tenure security for the urban poor in Phnom Penh, Cambodia: an analytical case study", *Habitat International* Vol 28, No 2, pages 181–202.

longer-term tenure options could then be introduced at the end of the moratorium period.

Evidence from previous research has demonstrated that low-income households are generally modest in their tenure needs, and do not necessarily require titles as long as they can be guaranteed reasonable security and access to employment locations.⁽¹⁵⁾ The research also demonstrated that the best way to stimulate investment and pro-poor economic development is through a diverse range of tenure options. The project team therefore proposed that communal land rights be provided in all settlements selected for upgrading. Feedback from local communities and NGOs suggested that this option would be acceptable and would minimize the administrative burden on land management agencies. It would also allow such areas to receive services and environmental improvements through a participatory process of physical and socioeconomic development, as proposed by the government's ambitious upgrading programme. Finally, it was hoped that communal land rights would increase security without stimulating rapid increases in land prices, which could attract downward raiding by higher-income groups and the displacement of very poor tenants.

For unauthorized settlements on private land, the team also proposed land sharing, under which settlers could be provided with long-term communal land leases on part of their site, leaving the landowner free to develop the remainder. Local authorities could assist this approach by relaxing planning or building restrictions, so that the landowner could recoup lost profits or income.

The duration of such forms of tenure was discussed with key stakeholders, and a period of 3–10 years was proposed. It was suggested that during this period, communities should be encouraged to form representative organizations that would meet specified standards of good governance. Those communities able to demonstrate this would then be eligible to apply for communal land titles, which would provide permanent security of tenure. Those that failed to meet the criteria would be entitled to renew their communal land right for a further period.

For those informal settlements where relocation was considered necessary, the city development strategy land availability study indicated that 21 per cent of land currently vacant would be suitable for relocation purposes,⁽¹⁶⁾ and that much of this land would not involve people moving long distances.

The intention was that an incremental approach would increase tenure security in line with needs and the administrative ability to provide formal tenure rights and upgrade public services. This would gradually reduce the disparity in prices between formal and informal settlements, thereby reducing speculative pressure and protecting existing tenants. Any households seeking individual titles would need to obtain the agreement of the community and be responsible for agreeing plot boundaries with their neighbours and resolving any conflicts between owners and tenants, etc. They would also be responsible for financing and completing the necessary administrative procedures, including the appointment and payment of surveyors and lawyers.

It was also recommended that tenure policy be integrated more closely with other related initiatives such as the draft national housing policy, the land management and administration project, the 100 slum settlements upgrading programme and the national secure tenure campaign. Where necessary, enabling legislation will need to be put in place.

16. See reference 13.



Photo 1: Housing built along the railway line into Phnom Penh

V. PROPOSALS FOR REGULATORY REFORM

AS NOT ALL informal settlements are likely to be acceptable for long-term upgrading, it is important that all affected communities be informed of this fact as soon as possible. This will enable them to appeal against such decisions to the relevant authorities. This is where the regulatory audit becomes relevant as a basis for revising urban planning regulations and standards. For example, the current requirement that a reservation of 25 metres be provided either side of the middle of a railway line in urban areas effectively “sterilizes” almost one hectare of land for every 200 metres of track, which would otherwise be perfectly acceptable for urban housing. Given that there are already several hundred residential plots developed along the main railway line serving Phnom Penh (Photo 1), relaxing this arbitrary requirement could at a stroke make these settlements eligible for upgrading rather than relocation.

In cases where appeals against relocation are rejected, it is important to provide both the affected communities and the authorities with sufficient time to make alternative arrangements. In the past, relocation has involved moving families to sites well outside the urban area (Photo 2), where many were unable to settle due to the lack of income-generating opportunities and even basic services. A vital component of future relocation projects is therefore finding sites that are within reasonable distance of existing employment areas and public utilities. Identifying such unused land within the urban area is therefore a priority task for the municipality.

Given the limited availability and increasing cost of urban land in Phnom Penh, it is clearly important to put all undeveloped sites to efficient use, and work is currently underway by the Bureau of Urban Affairs in Phnom Penh municipality to identify and survey undeveloped sites suitable for in-fill development. A UN-Habitat study has also been undertaken⁽¹⁷⁾ to assess the potential application of land-sharing approaches to the development of

17. These studies have been undertaken by Paul Rabé, a consultant appointed by UN-Habitat to advise the municipality of Phnom Penh.



SOURCE: Dr. Beng Socheat Khemro

Photo 2: Relocated settlement outside the urban area of Phnom Penh

18. See reference 12.

sites in private or state private ownership.⁽¹⁸⁾ This is now being conducted by local authorities with little participation from communities. However, it is hoped that some pilot land-sharing projects can be developed and combined with innovations in tenure and regulatory frameworks. Lessons learnt as a result will then provide a basis for changes at the urban scale and in other cities.

The regulatory audit can be of use in this respect by indicating which aspects of the regulatory regime are at present impeding access to affordable legal shelter based on current costs. Table 1 indicates the relevant planning standards, regulations and administrative procedures that are at present constraining such access, and which therefore need to be relaxed or removed. Understandably, many officials who are trained to assume that the existing standards and regulations exist to protect the public interest may resist any change, but since the public interest can best be satisfied by maximizing access to legal shelter, it is hoped that selected changes can be introduced within a limited number of pilot relocation projects. These can then be monitored over a five-year period and, if considered acceptable by all key stakeholders, including the residents, can be gradually incorporated into the city-wide regulatory framework.

The key point of regulatory reform should be to reduce entry costs to new urban housing in ways which provide sufficient security and options for long-term incremental improvements. This involves permitting the most efficient use of available land, and relaxing constraints on the forms of development and uses to which people can put their plots. Based on previous research at neighbourhood level,⁽¹⁹⁾ project planners should aim to achieve 65 per cent of developable land within private use, i.e. as residential, commercial or industrial plots. Another 15 per cent can then be allocated for public or communal facilities, such as schools, health clinics and religious centres, etc., leaving 20 per cent for local roads and public open spaces. Since private land areas will be self-financing, and public amenities should also be paid for by the agencies providing them, only the 20 per cent of public land will need to be funded by private land users. This yields a ratio of about 30 per cent of “unproductive” to “productive” private land. In cases where the total area of private land is 55 per cent, and roads and public open spaces amount to 30 per cent, a situation common in many

19. Davidson, F and G Payne (editors) (2000), *Urban Projects Manual*, Liverpool University Press, Liverpool, second edition.

planned urban developments, the ratio of “unproductive” to “productive” land increases to about 54 per cent, a substantial financial burden on residents, developers or the public sector. How this objective is achieved will vary according to cultural, climatic and other local considerations and the skill of developers or project planners. If sites selected for new in-fill development can be planned according to these objectives, it is hoped that the majority of all households that may need to be relocated can be re-housed in areas near places of employment and with good access to services.

VI. CONCLUSIONS

AT THE TIME of writing, recommendations for new temporary and communal forms of tenure in Phnom Penh are being considered for testing in pilot projects for upgrading and new development. However, the governor of Phnom Penh has decided not to introduce the moratorium on evictions on the basis that people in informal settlements throughout the city might consider that it gives them long-term or permanent tenure rights. The Ministry of Land Management, Urban Planning and Construction considers that a sub-decree to the land law may be necessary before communal land rights can be allocated, so that it is clear which communities are eligible.

There is considerable support within central and local government agencies and civil society groups for practical, progressive approaches to increasing security of tenure in selected informal settlements and making access to legal housing in the future easier for the urban poor. It is hoped that progress can be made shortly in implementing the tenure and regulatory proposals, possibly in provincial cities where the problems are slightly easier to address. This would help build confidence in applying innovative approaches to tenure in Phnom Penh itself.

When promoting the option of communal land rights or leases, it was assumed that there would be many examples in other countries from which the project team and local officials could learn. Surprisingly, examples of communal tenure being implemented in urban areas elsewhere proved difficult to find. It has therefore proved difficult to reassure officials and communities that the approach is sound. It seems that most stakeholders, whether officials or residents, are reluctant to put themselves in a position of risk. To help overcome this fear of the unknown and the potential costs to all involved if new approaches fail to deliver what is expected of them, it would be helpful if UN-Habitat could strengthen its role in disseminating information on innovative tenure options as part of the global campaign on secure tenure. It is understood that this is being actively considered.

Prospects for increasing tenure security and access to affordable new legal housing in Cambodian cities appear hopeful. The idea for the tenure moratorium was made by a local official and taken up by the research team. The prime minister and the governor of Phnom Penh have both expressed support for initiatives that can be seen to improve living conditions for the majority while also increasing local and international investment in the local economy. Local offices of international agencies, particularly UN-Habitat and GTZ, have supported efforts to transfer innovative practices from international experience. Likewise, local and international NGOs have combined to exert pressure on government, but have also agreed to work with government in order to effect change. There is everything to play for, and the ball is now in the government's court.

Table 1: Regulatory audit table, Phnom Penh, 2003		RESPONSIBLE AUTHORITY	FORMAL/ STATUTORY	INFORMAL/ CUSTOMARY	DEGREE OF CONSTRAINT				
					1	2	3	4	5
PLANNING STANDARDS									
1. Plot: minimum area	n/a	No standard	Around 3 m x 3 m						
2. Plot: minimum frontage	n/a	No standard	3 metres						
3. Plot: minimum depth	n/a	No standard	3 metres						
4. Road width: access	MDLMUCC	3.5 metres	< 3.5 m (some areas)	X					
5. Road width: local	MDLMUCC	3.5 metres	< 3.5 m (some areas)		X				
6. Type of road surface	MDPT	Bitumen/laterite	Laterite						
7. Utilities: water supply	Government/private	Pipe/well	Pipe/well						
8. Utilities: garbage collection and sanitation	Private (Cintri)	Formal	Informally						
9. Utilities: drainage	Municipal dept of public work & transportation	Existing and new provided	Existing & informal connection	X					
10. Utilities: electricity supply	Govt (EDC)/private	Formal	Informal						
11. Utilities: telecoms	Government/private	Formal	Formal						
12. Public open space per hectare: total	BAU	No standard	No standard						
13. Ground building area (shop house)	MDLMUCC/MPP	75% of total area	Over use of ground area of building	X					
14. Ground building area (villa house)	MDLMUCC/MPP	50% of total area	Over use of ground area of building						X
PLANNING REGULATIONS									
1. Floor area ratio (max.)	MLMUCC/MPP	> 3,000 m ² / $<$ 3,000 m ²	> 3,000 m ² / $<$ 3,000 m ²						
2. Building set-backs: front	MDLMUCC/MPP	4 metres	Sometimes not followed				X		
3. Building set-backs: side	MDLMUCC/MPP	No set-back or 2m set-back	Mostly < 2 metres				X		
4. Building set-backs: rear	MDLMUCC/MPP	2 metres	Mostly < 2 metres				X		
5. Height (max. permitted)	MDLMUCC/MPP	Variable	Varied				X		
6. Land use controls/zoning	BAU	Not clear	Not clear				X		
7. Density levels: minimum	n/a	No regulation	No regulation						
8. Density levels: maximum	n/a	No regulation	No regulation						
9. Boundary definition (by type)	n/a	n/a	n/a						
10. Public health requirements (ventilation, pollution control)	MDLMUCC/MPP	Window with area at least 1.5 m ²	Varied						
11. Fire regulations	MDLMUCC/MPP	Road: 3.5 metres at least	Road less than 3.5 m or sometimes no road for fire rescue		X				
12. Environmental regulations	MDLMUCC/MPP	Noise pollution	Not respected						X
13. Septic tank for building floor area less than 80 m ²	MDLMUCC	3 m ³ (height at least 1.5 metres)	Smaller or not provided						X
14. Reserved land along both sides of railway in urban area	MPP	25 metres from the middle of railway	Around 2 metres						X
15. Construction along dikes to protect city from flood	MPP	Not allowed	Already built						
ADMINISTRATIVE PROCEDURES BY RELATIVE COSTS									
1. Housing construction permission:									
• Legal payment tax for land	Cadastral office	Around R 900–1,800/m ²	Did not pay	X					
• Inform Sangkat office	Sangkat office	Informal payment	Informal payment				X		
• Inform Khan office	Khan office	Informal payment	Informal payment				X		
• Ask permission	MDLMUCC	Informal payment	Did not apply for permission					X	
• Land measuring and reporting	Phumbal	Informal payment	Did not apply for permission					X	
• Construction expert	MDLMUCC	Informal payment	Did not apply for permission					X	
• Checking construction site	Phumbal	Informal payment	Did not apply for permission					X	
• Checking drawing	MDLMUCC	Informal payment	Did not apply for permission					X	
• Approval	All offices in MPP and deputy governor	Informal payment	Did not apply for permission					X	
2. Obtaining permission for commencement of construction	MPP	45 days	Build without permission						
3. Obtaining connections to services	Do not exist	Do not exist	Do not exist	X					
4. Building which is not required for construction permission (minimum building floor area)	Sangkat/Khan	50 m ²	More than 50 m ²						

MDLMUCC: Municipal Department of Land Management, Urbanization, Construction and Cadastre. MPP: Municipality of Phnom Penh. MDPT: Municipal Department of Public Transportation. EDC: Electricity Development Corporation. BAU: Buildings Administration Unit. SOURCE: 1. Sub-Decree Number 85, December 1997. 2. Government *prakas* (circulation) No 6 on alleviation of anarchic land grabbing. 3. Other interviews with various peoples and institutions.

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