

# Global Urban Research Centre

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## Land tenure and urban conflict: A review of the literature

Global Urban Research Centre Working Paper #8

**By Melanie Lombard**



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WORKING PAPER #8, AUGUST, 2012

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ISBN: 978-1-907120-07-7

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## **Executive Summary**

In the context of increasing concern about urban violence and insecurity, land conflict has been seen as a critical factor. In an urbanising world, where more than 50 per cent of the global population now lives in urban areas, where and how people access land for shelter in cities has become one of the most pressing issues. In the urban informal settlements which house the majority of residents in global Southern cities, the effects of insecure tenure include forced eviction, displacement and resettlement. Insecurity of tenure has thus been identified as one of several increasingly serious threats to urban security and safety. However, the merits of policies aimed at increasing tenure security – most commonly through the provision of individual freehold titles – remain contested, in terms of both content and process. Moreover, land tenure legalisation is itself a contested process, which may generate conflict.

Despite comprehensive work in this area from the fields of urban poverty research and violence research, the linkages between urban land and conflict are yet to be fully explored. In support of the research objective to explore the linkages between land tenure and conflict in rapidly urbanising cities, this paper explores the conceptualisation of land conflict as implicitly linked with urban growth embedded in research and policy debates on urbanisation. It presents an examination of the significance of land tenure as a development issue, as a means of understanding its prominence on international agendas. Finally, it reviews some key approaches to the analysis of land markets, and land conflict more generally, in order to move towards a conceptual framework for analysing land conflict in the context of urbanisation.

Keywords: land tenure, urbanisation, conflict, Mexico

## 1 Introduction

Urban conflict in global Southern cities is an issue of increasing concern, and conflict over land is seen as a particularly acute form. This is often understood to be linked to processes of urban growth, and particularly to urban informal settlements which develop as a result of informal urban growth (e.g. Schteingart 1988). More than 50 per cent of the global population now lives in urban areas, with the majority of urban growth occurring in cities of the global South, giving rise to suggestions that the ‘urbanisation of poverty’ is occurring (Martine et al. 2008). In developing cities where state and market housing provision is unable to keep pace with rapid urban growth, urban informal settlements may house up to 70 per cent of inhabitants, usually (but not always) from lower-income sectors; thus land for housing the poor is a key urban question in most cities of the global South (Satterthwaite 2009). Land tenure is thus seen as a critical issue: rising land values in many cities, compounded by urban growth, have resulted in a severe security of tenure crisis.

In this context, conflict may derive from issues relating to land, with insecure land tenure seen as a particularly important factor. It has long been suggested that increasing scarcity of land and growing populations exert additional pressure on the urban environment, increasing the potential for conflict (e.g. Abrams 1964). In the context of inequality and rapid urban growth, competition over access to resources may damage community solidarity (Davis 2009) and create the potential for violence (Moser and Rodgers 2005). As well as contributing to insecurity at the household and neighbourhood level, UN-Habitat (2007) has identified insecurity of tenure as one of several increasingly serious threats to urban security more broadly: the state’s lack of ability to guarantee secure tenure at the household level may translate into a more generalised inability to address wider questions of urban conflict and violence. Land tenure legalisation has been widely promoted as a response to these concerns, within a broad framework which sees land tenure as a development issue (e.g. De Soto 2000). However, other factors such as neoliberal economic policies and formal growth patterns may exert additional pressures on local land markets, also contributing to conflict over land tenure within and beyond informal areas.

Certainly, increasing levels of violence in cities continue to be a pressing development concern. Yet while gang-and drug-related violence receives considerable media coverage, in many poor urban communities it is everyday economic and social conflict which dominates people’s lives. In already marginalised areas, increasing scarcity of land and growing populations exert additional pressure on the urban environment, increasing the potential for dispute. Such conflict may have the potential to tip over into violence, depending on contextualised factors, and land (and land tenure) may be one such tipping point. Conversely, existing land conflict may have greater potential to escalate when contextualised by rising urban violence. Alongside land tenure’s (often uneven) benefits, it is frequently associated with small-scale, localised conflict; yet despite considerable research on rural land tenure and conflict, this nexus remains curiously unexplored in the urban setting.

As part of the literature review for the project ‘Land tenure, conflict and violence in urban Mexico’, this working paper presents some key debates around land tenure and urban conflict in the context of global urbanisation. These issues have been the subject of scrutiny from two broad fields. Urban poverty research (development and urban planning) has tended to focus on the implicit connection between urbanisation, land tenure and conflict (e.g. Abrams 1964, Watson 2011) and the development significance of land tenure (e.g. De Soto 2000). Meanwhile, from the broad field of violence research, conflict/dispute resolution (conflict management) has tended to focus on land conflict in rural contexts (e.g. USAID 2005, Huggins 2010); in the urban setting, over the last decade there has been extensive research into urban violence (Moser 2004; Rodgers 2006; Koonings and Kruijt 2007; Davis 2009; Beall et al. 2011). However, despite the comprehensive work undertaken in these areas,

which is drawn on extensively here, the linkages between urban land and conflict are yet to be fully explored. Similarly, sufficient consideration has not been given to disentangling and understanding the relationship between small-scale, localised conflict and violence, which is less straightforward than may be imagined. This study proposes to build on these bodies of research to explore the land tenure-conflict nexus in the urban setting.

The objective of this project, then, is to explore the linkages between land tenure and conflict in rapidly urbanising cities, with a focus on urban informal settlements. It explores the relationship between land tenure and conflict, and the role of policies which seek to address this, in order to better understand the particular causal factors that generate this conflict, and effects of these issues on the urban poor. In this way, this study seeks to ascertain whether the assumed linkages between land tenure and conflict is empirically provable, and what other factors play a pivotal role in generating conflict over land in rapidly urbanising cities. Employing a qualitative methodology with a political economy framework<sup>1</sup> in order to develop an empirically-based typology of conflict and types of land tenure, it seeks to ascertain what the effects of this conflict are on the urban poor.

The specific research aims of the project are thus as follows:

- Examine the linkages between land tenure and conflict in the context of rapid urban growth, with a focus on the context of informal urban settlements.
- Examine the role of potential causal factors in conflict over urban land tenure, including tenure legalisation and other urban policies.
- Explore the effects of this conflict on the urban poor.

The literature review presented here underpins the conceptual framework developed to analyse findings in support of the above research aims. Rather than re-stating arguments that are more than adequately covered in work mentioned above, this exploratory review maps out a path through relevant academic and policy debates, identifying different approaches to understanding conflict around land, facilitating the construction of a synthesised framework to explore different types of conflict relating to land. The next section sets out some key assumptions and approaches to understanding land conflict in the context of rapid urbanisation; this is followed by a focus on land tenure, one of the most significant issues from development perspectives; and finally, these approaches are synthesised into a political economy approach to understanding land tenure and conflict, as a conceptual framework for the project.

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<sup>1</sup> The market-institutional strand of political economy ‘contends that markets should be viewed as institutions embedded in a particular social and political context and makes the study of these specific institutions its central mission’ (Barma and Vogel 2008,1).

## 2 Land conflict in rapidly urbanising cities

The relationship between urban land tenure and conflict in the context of rapid urbanisation has often been implicitly linked to informal urban growth. However, these linkages are rarely explicitly analysed. This section sets out to explore existing understandings of land conflict in the context of rapid urbanisation, starting with some definitions of basic concepts.

### 2.1 Conceptualising land conflict

Conflict has been defined as the existence of two or more incompatible goal states in a system (Galtung 1965, 348-349). In other words, it is ‘the pursuit of incompatible goals by different groups’ (Miall et al 2005 in Carpenter 2010, 408). Conflict is often seen as inherent to urban life, especially modern cities prone to urban growth (Watson 2011, 4), an issue explored further below. Urban conflict – understood as social tensions, antagonisms and contestations that occur frequently in the urban environment – has been defined as the ‘many forms of low-level instability ... [which are] difficult to categorise but increasingly important in the context of rapid urbanisation’ (Beall et al. 2011, 5). However, conflict behaviour is not necessarily destructive. Sociologists understand conflict as a social dynamic that defines relationships which determine group formation and breakdown within a given society. In the urban environment, social conflict can be productive, as it allows an outlet for opposition which facilitates the continued functioning of modern urban life, characterised by constant contact with others (Simmel 1955). Social conflict may also bring about social change (Bonacker 1996 in Wehrmann 2008, 9). But Galtung (1965, 349) suggests that ‘conflict behaviour tends to become destructive behaviour ... and destructive behaviour tends to be self-reinforcing’. In this way, conflict can escalate and result in violence, where ‘[e]scalation refers to an increase in the intensity of conflict and severity in tactics used’ (Kriesberg 1998 in Carpenter 2010, 408).

There is no single cause of conflict: it is context-specific, multi-causal and multi-dimensional, and can result from a combination of political and institutional, socio-economic, and resource and environmental factors. Conflict situations can be understood as characterised by three elements: behaviour (coercion or cooperation), attitudes (perceptions, beliefs, emotions), and underlying structure (competing material interests; relational structure) (Carpenter 2010). As suggested above, conflict may occur frequently in the urban setting, at the individual, household or neighbourhood scale, without resulting in violence; yet given its potential to escalate, it may also result in harmful behaviour. In particular, when contextualised by high or increasing levels of urban violence, conflict may tip over into ‘the violent expression of grievances ... between individuals and groups’, including organised crime, gang warfare, terrorism, religious rebellions, and violent protest (Beall et al. 2011, 6).

Violence, defined as the intentional use of physical force or power resulting in injury or harm (WHO in Moser 2004), can be categorised as political, economic or social, depending on the primary motivating factor behind its use (Moser and McIlwaine 1999). Additionally, structural violence relates to the poverty and inequality stemming from political and economic systems, particularly neoliberalism (Springer 2011), which create ‘the conditions for the explosions of subjective violence’ (Zizek 2009, 31), in other words violence on the ground. While both conflict and violence are concerned with power, the former does not necessarily inflict harm, while the latter characteristically does (Moser 2004). In contexts where urban violence is increasing, existing conflicts may have greater potential to escalate, and the line between conflict and violence may become blurred.

Land is a key cause of structural conflict in developing societies, ‘a central element in the varied and complex social relations of production and reproduction within which conflict between individuals and groups are bred’ (USAID 2005, 2-3). This relates to the vital



importance of land in society: '[l]and is the foundation of shelter, food, work, and a sense of nationhood', meaning that land is inherently linked to economic and social relationships (McAuslan [1987] 2003, 30). In economic terms, it represents one of three fundamentals of society (along with labour and capital). Land is closely related to livelihoods as a basis for assets, capabilities and activities to make a living (FAO 2002); and it can be bought, sold and exchanged. Yet land is a 'non-commodity', something which is subject to market exchange, but is not man-made (Polanyi [1944] 2008, 147-148). The commodification of land has led to its incorporation into markets, obscuring its social nature (Polanyi [1944] 2008). The social dimension of land includes a role in defining identity, as McAuslan suggests; this lends it an emotional dimension, as it 'excites intense emotional and psychological attachment in a way that services, materials and finance do not' (Payne 2001, 416). This aspect helps to explain the spiritual or cultural significance of land in many contexts. Given that land ownership determines class structure, conflicts over land use have led to both 'complex laws and serious disputes in many societies' (McAuslan ([1987] 2003)).

Land conflict has been explicitly defined as a 'social fact in which at least two parties are involved, the roots of which are different interests over the property rights to land' (Wehrmann 2008). Development research suggests that land conflict is widespread in rural settings (Huggins 2010), with recent concerns focusing on land grabs involving the illegal or unjust acquisition of land by international investors (Zagama 2011). Land's multiple dimensions mean that factors of scarcity and psychological attachment can increase the potential for conflict between different parties with interests in the same area. On the economic side, unequal access to land as a resource can create potential for conflict; its immovable nature (as opposed to 'movable' property such as cattle) means it is limited and subject to scarcity (FAO 2002, Van Der Zwan n.d.). In particular, issues around land rights, land access, and injustices relating to land have been highlighted as obstacles to development (Van Der Zwan n.d., 4). Moser and Rodgers (2005, 11-14) suggest that increasing inequality in access to natural resources, including land, can create potential for violence in 'non-conflict' situations (i.e. in societies that are not experiencing war).

Conflict over urban land, and land tenure, may be particularly acute in the context of rapid and often informal urban growth (De Souza 2001; Barry et al. 2007). As growing populations exert additional pressure on the urban environment in already marginalised areas, land may therefore become a particular focus for urban conflict. McAuslan (1985, 6) suggests that the central problem of the city is land, and its use, abuse, control and ownership: '[t]he root cause of illegal settlements is an urban land market which, through prices or government decision, does not allocate land to the poor for housing'. In the urban setting, land scarcity may be actual or market driven. In the context of scarcity, it has been suggested that 'conflict and violence are fundamentally interlinked with urban land strategies for and by poor households' such as land invasion and ensuing eviction (Moser and Rodgers 2005, 11-14). In fact, there is a strong power dimension to land conflict, and the outcome is often predetermined by existing power relations, linked to structural elements. In the context of inequality and rapid urban growth, competition over access to resources may 'destroy bonds of community and solidarity ... and also fuel insecurity and the resort to armed force' (Davis 2009, 231). Land's symbolic and emotional dimension may intensify these struggles; while spiritual connections to urban land may be less obvious, urban land is often imbued with people's aspirations of home ownership (e.g. Varley 2007a).

More recently, tenure insecurity has been seen as a particular factor in the generation of conflict, linked for example to land conflict and violence in urban Peru (USAID 2005). Specifically, insecurity of tenure may result in conflict when rights are limited in terms of scope or duration, conflicting, or unenforceable (USAID 2005). Insecurity of tenure has been identified as one of several increasingly serious threats to urban security and safety, alongside disasters and violence (UN-Habitat 2007, 4). The household and individual insecurity resulting from insecure tenure may be linked to wider questions of urban crime and violence

through its manifestations in ‘the creation of conditions that may lead to more destructive forms of political instability’ (UN-Habitat 2007, 120). In contexts where urban violence is increasing, perceptions of insecurity may exacerbate existing land-related conflict, leading to its violent escalation.

The aim of the research, to understand the precise linkages between urban land and conflict, is complicated by the relative lack of research focused explicitly in this area. However, this relation has long been *implicitly* assumed in debates on urbanisation. The next section explores the implicit link between land and conflict in academic and policy debates on urbanisation in the twentieth century.

## 2.2 Urbanisation, land and conflict: a historical perspective<sup>2</sup>

Exploring debates on urbanisation and informal urban growth in the global South since the 1950s through an explicit focus on land conflict reveals how it is embedded in debates on land and housing. In turn, understanding the origins of conceptions of land-related conflict in these debates helps to explain approaches to these issues explored in later sections.

### *Early urban sociological accounts*

Accounts of urban growth and urban informal settlements were heavily influenced by early urban sociology deriving from the Chicago School and its predecessors, who posited urbanisation as an inherently conflictual process. Georg Simmel ([1903] 1971) suggested that the conditions of city life – such as a money economy, highly segmented division of labour, and constant contact with others – fostered individual characteristics such as matter-of-factness, reserve, and a blasé attitude. Simmel ([1903] 1971, 11) theorised an explicit link between social organisation and urban form, based on ‘the intensification of emotional life due to the swift and continuous shift of external and internal stimuli’. In this view, conflict (or potential for conflict) is an inherent part of urban life, and the conditions of the city, such as the money economy, highly segmented division of labour, and constant contact with others, fosters personality attributes such as rationality, matter-of-factness, reserve, and a blasé attitude; thus an individual ‘becomes a single cog as over against the vast overwhelming organization of things and forces which gradually take out of his hands everything connected with progress, spirituality and value’ (Simmel [1903] 1971, 18). Following Simmel, Wirth (1938) suggested that urban life was characterised by three fundamental features of cities: density, heterogeneity and anonymity. Density accentuated friction and spatial segregation; heterogeneity resulted in social instability and insecurity; and anonymity led to the emergence of individualistic survival mechanisms among urban residents, who were assumed to have come from the less conflictual countryside (Wirth 1938; see also AlSayyad 2004, 7).

In this way, conflict was seen as an inherent part of the urban environment, based on an understanding of rural-urban migration as the cause of social problems including the breakdown of stable structures that supposedly characterised rural life – particularly the family (Lewis 1952, 41). This was related to the living conditions of new arrivals in the city. Rural-urban migrants who arrived ‘without income or skills’ were destined to remain ‘marginal’ within the city, living in overcrowded ‘slums’ of insecure tenure (Abrams 1964, 3). Lack of cheap available urban land was seen as a key variable in urbanisation and housing need, resulting in squatting by the ‘ever-growing horde’ of people ‘swarming’ and ‘pouring’ into cities (Abrams 1964, 2-3). Competing claims to land for housing, industry and the myriad other activities taking place in these rapidly growing urban centres meant that

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<sup>2</sup> This section draws on Lombard (2009).

‘[t]hough the actual land used for cities may be only 1 per cent of an industrial nation’s land supply, competition for land seethes, and unless it is resolved, it may give rise to conflicts as serious as if there were an actual dearth of land’ (Abrams 1964, 29).

This early account, highlighting the difference between actual and market scarcity, also connects the urban land problem with urban (and international) security. What Stokes (1962) called ‘slums of despair’ were thus seen as potential breeding grounds for aggression and militancy; and fear of social disintegration and revolution in the ‘teeming slums and squatter colonies’ brought into question ‘whether political stability can be maintained while productivity is developed and the painful shift to industrialization is effected’ (Abrams 1964, 287-8).

The suggestion that global stability might be threatened by the failure to meet demand for housing and land in cities led Abrams (1964, 296) to conclude that land tenure is linked to liberal democracy, as ‘[t]he marketplace and the widespread ownership of land and shelter are still the seeds from which larger freedoms have grown and can continue to grow in the world’s new societies’. This leap of logic is not dissimilar to later approaches promoting the legalisation of tenure (e.g. De Soto 2000), discussed at length in later sections.

#### *The ‘culture of poverty’*

Such prevailing negative views of urbanisation underpinned widespread systematic policies of eviction of urban informal settlements in the 1950s and 1960s, on the basis that these places presented a problem, rather than a solution to housing need (Mangin 1967). Government and public opinion condemned settlements as ‘disorganized products of outside agitation’ (Mangin 1967, 67), the product of political manipulation of rural-urban migrants, characterising inhabitants as ‘[I]iving almost like animals ... overwhelmed by animality’ (Schulman 1966 in Mangin 1967, 66-67) and suggesting eradication and displacement as a solution. From the 1950s onwards, a few dissenting voices suggested that ‘slums of hope’ might foster gradual improvement and positive social change (Stokes 1962): rather than rural-urban migration causing the breakdown of family life, new arrivals’ organisational capacity and resourcefulness were demonstrated by their ‘solving’ their own housing need (Lewis 1952, 41), suggesting that governments should recognise that ‘city growth and the squatter settlements are permanent developments’ (Mangin 1967: 89) rather than promoting eviction.

However, despite these suggestions, a negative view of informal urban growth prevailed, entailing an implicit causal link with land conflict. Lewis’ later, highly influential theory of the ‘culture of poverty’ is often held responsible (albeit unjustly) for the reproduction of particular stereotypes of the urban poor (Harvey and Reed 1996). Lewis (1961; 1976) offers a portrayal of life in the inner-city tenements of Mexico City, punctuated by hardship, conflict and casual violence, aiming to enable the reader to understand ‘what it means to grow up in a one-room home in a *vecindad* (slum tenement) in the heart of a great Latin American city ... undergoing a process of rapid social and economic change’ (Lewis 1961, xi). In the subjects’ own words, an intimate portrayal is presented of the poor in the contemporary city, characterised by deprivation, delinquency and ‘the cruelty of the poor to the poor’, as well as warmth, gaiety and courage (Lewis 1961, xii).

A list of social and psychological characteristics of the poor includes ‘living in crowded quarters, a lack of privacy, gregariousness, a high incidence of alcoholism, frequent resort to violence in the settlement of quarrels, frequent use of physical violence in the training of children, wife beating’, as well as ‘strong present-time orientation’, fatalism, machismo, female martyr complex, and ‘a high tolerance of psychological pathology of all sorts’ (Lewis 1961, xxvi-xxvii). While this list conflates spatiality, behaviour, and values, conflict and violence are striking in their pervasiveness, being present on almost every page. Intra-family violence is particularly common, in the form of physical blows and kicks, but also scoldings

and cutting words, which apparently inflict as much damage as physical violence. Inter-family violence is less common, but individuals are frequently involved in quarrels with neighbours, which sometimes escalate. Place-based violence has a particular role in the protagonists' accounts: the *vecindad* is the epicentre of much of the violence which occurs, based not only on the cramped and overcrowded living conditions, but also its residents' identification with their place, exemplified by the youth gangs who fight to defend its reputation.

Despite Lewis' apparent focus on physical and psychological characteristics, arguably overstated by his critics (Harvey and Reed 1996, Hall 2002), structural violence is a key theme. Ultimately, the culture of poverty is presented as the result of structural conditions, and many of its supposed attributes derive from the need to find solutions to problems in the absence of response by existing institutions and agencies, while particular institutions such as the police are associated with violence. Thus 'with all of their inglorious defects and weaknesses, it is the poor who emerge as the true heroes of contemporary Mexico, for they are paying the cost of the industrial progress of the nation' (Lewis 1961, xxxi). Responding to criticism, Lewis later clarified that the 'culture of poverty' referred to a design for living in stability and cohesiveness amid difficult circumstances (Hall 2002, 272-4). However, the association of this idea with social disorganisation reinforced the orthodox view that 'the informal housing area was by definition a slum, therefore – again by definition – an area of delinquency, breakdown and general social malaise' (Hall 2002, 272-4).

#### *Marginality and self-help*

These depictions of city growth characterised by conflict deriving from the 'culture' of a marginalised underclass, compounded by lack of space and land, were challenged in the 1960s and 1970s by ethnographic studies of Latin American 'slum' neighbourhoods by a number of researchers (e.g. Lomnitz 1977; Lloyd 1979; Peattie 1998) suggesting that marginality was a structural condition rather than a psychological trait. Perlman (1976, 242) argued that marginality served as 'both a myth and a description of social reality' in the *favelas* of Brazil. Contrary to popular views of urban poor neighbourhoods characterised by social disorganisation and radical politics, *favela* dwellers were socially well-organised and cohesive, culturally optimistic, economically hard-working, and politically neither apathetic nor radical. These urban poor residents, supposedly ripe for political manipulation and revolutionary politics, were in fact more likely to be subject to violence – both structural and actual – than to resort to it. Conflict relating to the origins of land acquisition and ownership in the *favelas* (Perlman 1976, 18-57) ultimately led to the demolition of these neighbourhoods, as part of a systematic programme of *favela* removal based on powerful land-use interests, revealing the material power of the myth of marginality (Perlman 1976, 195). Policies of eviction and replacement thus fostered a generative cycle of conflict, as regulation supposedly formulated to address social disorganisation and agitation generated increased repression for the most vulnerable.

This view of structural causes of urban conflict was supported by Castells' (1979) radical formulation of the urban question as conflict between social groups, and urban disorder as representing 'the spatial organization created by the market, ... derived from the absence of social control of the industrial activity' (Gilbert 1992, 2). At the same time, Turner (1968; 1972) was developing the idea of 'self-help', based on the need for greater dweller autonomy in the face of government failure to provide low-income housing. Turner suggested that it was government housing programmes and building codes, many of them left over from colonial era administrations, that 'distorted the natural ordering of household priorities present in squatter communities' (Kiddle 2010, 883), revealing the failure of such housing programmes, which derived from conflicting understandings of housing need. Such debates were influential in shaping international and national policy responses to urbanisation and land issues, particularly that of the World Bank.

*Policy responses*

The role of the World Bank has been to provide leadership in setting the agenda for land and housing market analysis and policy development (Jones and Ward 1994, 9); at the same time, its position is influenced by prevailing urban debates. From the 1970s onwards, the World Bank's influence can be seen in the waves of policy trends that it has signalled: in the 1970s, reformulating housing policy in the global South; from the 1980s, in developing urban development strategies; and more recently, promoting the New Urban Management Program (Jones and Ward 1994, 11). As a result of self-help, sites-and-services and upgrading policies were promoted by the World Bank and implemented in many countries during the late 1960s and early 1970s (Moser and Peake 1987, 4), meaning that improving rather than replacing informal settlements became the priority for intervention (Davis 2006). However, cost recovery was infrequent, housing was poorly located, institutional capacity was weak, city-wide housing reform was elusive due to piecemeal projects, and land tenure often remained insecure during upgrading (Kiddle 2010). Moreover, it was suggested that 'self-help releases government from its responsibility to provide adequate housing as a basic need for its low-income population' (Moser and Peake 1987, 5), and subsidised wage costs based on the double exploitation of labour, at work and in housing construction (Ward 1982).

The perceived failures of the low-income housing policies promoted by the World Bank may have been due to the gap between rhetoric and execution. Despite the World Bank's (1972) own sector working paper on urbanisation presenting an incisive analysis of the urban crisis and the potential of self-help, this did not translate into action. While the paper advocated low-cost housing solutions and stronger urban planning procedures, ultimately the Bank adopted the rhetoric but not the analytical critique of self-help; the problem of housing the urban poor continued to be viewed as the result of a lack of understanding of markets, rather than the result of structural inequalities (Jones and Ward 1994). Moreover, the urban problem was defined in terms of housing rather than land, and cost recovery remained paramount, resulting in policy that was 'a curious hybrid of neoliberal thinking and practical welfare economics' (Jones and Ward 1994, 11). In fact, since the 1980s market-based approaches have come to dominate in the area of land for housing in urbanising cities; but these approaches have also been widely critiqued by experts suggesting the need for more nuanced and socially-focused approaches. These debates are taken up in later sections.

This section has shown how urban conflict, and particularly conflict over land, has been portrayed as implicitly linked to urbanisation in research and policy debates on the global Southern city in the twentieth century. This has influenced development debates, giving rise to specific policy responses driven by international agencies such as the World Bank. The next section continues this exploration of policy issues, with a focus on land tenure.

### **3 Land tenure as a development issue**

Land has been characterised as a key issue for development: whether from a basic needs or a more market-orientated perspective, 'the central place of land in the development process is acknowledged on all sides' (McAuslan [1987] 2003, 4). Land rights, or tenure, are central to this conception. As suggested above, land has both economic and social dimensions, and 'rights to land are not just a source of economic production, but are also a basis of social relationships and cultural values, and a source of prestige and often power' (FAO 2002, 5). Thus land tenure should be central to any analysis of land conflict. This section explores the significance of land tenure as a development issue, and legalisation as a key response to this.

### 3.1 The significance of tenure

#### *Understanding land tenure*

Rising urban land values, compounded by urban growth, have resulted in a 'severe security of tenure crisis', mainly in the countries of the global South (UN-Habitat 2007, 114). More than a quarter of the world's urban population lives in varying conditions of tenure insecurity, a figure which is likely to increase in the future (UN-Habitat 2007, 113-122). Market evictions are increasingly common as 'residual' land shrinks, peripheral areas become more attractive for middle and high-value development, and low-income residents are evicted, often by local governments citing environmental protection and 'sustainable development' as justification (Everett 2001, 455). However, evictions rarely achieve their official objectives, compounding housing problems rather than solving them (Durand-Lasserve and Royston 2002). Land disputes and displacement can have devastating social impacts as families lose land, houses, neighbourhoods, communities and social networks; and even when eviction does not occur, the perception of insecurity can cause residents to live in a state of perpetual uncertainty (Everett 2001). The realities of living with insecure tenure include the constant threat of (violent) eviction; limited or no access to basic services; social exclusion and homelessness; human rights violations; reduced revenues for local government; gender violence and problems for other vulnerable groups; reduced housing investment and distortion in land prices; and weakened governance and long-term planning (UN-Habitat 2007, 121).

In many developing countries, tenure laws are based on colonial practice, either English 'common law' (restricted ownership and rights in the land) or French 'civil law' (outright ownership and rights in the land) (McAuslan 1985). Faced with rapid urban growth, authorities may use negative land use controls (e.g. zoning laws and Master Plans) to guide housing and service provision; but the complex nature and Western origins of such planning policies mean that the poor's efforts to house themselves are often made illegal, compounded by the political nature of urban policy, corruption and powerful local land interests (McAuslan 1985). In some regions of the global South, most notably Latin America, the evictions and removals of the 1970s have been replaced by relative tolerance of illegal developments, and formal regularisation programmes (Fernandes 2002, 5). However, displacement and eviction are still commonplace in other regions. In South Africa, the Slums Act 2007 led to the demolition of 'slum' settlements and displacement of their mostly black populations (Hadland 2008; Kane-Berman 2008), despite fierce resistance by grassroots organisations (Abahlali 2009). In recent years, mass evictions from slums and squatter settlements have also occurred in Zimbabwe (Huchzermeyer 2007), Nigeria (Rolnik 2009), and Mumbai (BBC 2009; Pinglay 2009).

Secure tenure is thus recognised as a development priority at the international level, and by many national governments. Security of tenure has a human rights dimension: as a prerequisite for the integration of informal settlements into the city, it is also 'the main component of the right to housing, and an essential prerequisite for access to citizenship' (Durand-Lasserve and Royston 2002, 8-9). In accordance with the Habitat Agenda, UN-Habitat (2007, 111) views security of tenure as 'a key component of a housing policy built upon the principles of human rights law, which seeks to achieve the goal of adequate housing for all'. The link between tenure insecurity and urban insecurity more generally derives from the effects of increased insecurity of tenure and communities: for instance, insecure tenure is seen as generating reduced housing investment, leading to less secure homes, vulnerable to burglary, which, in the context of government inaction, may lead to 'less social (and national) security' (UN-Habitat 2007, 121). The link between human security and human rights should be grounded in secure tenure, for the individual, household and neighbourhood: 'If governments long for a secure world, they must realize that without security of tenure and the

many benefits that it can bestow, such a vision is unlikely to ever emerge' (UN-Habitat 2007, 121).

#### *Definition of tenure*

While it is universal, land tenure is hard to define due to its complicated and locally-contingent nature. Essentially, land tenure refers to rights belonging to individuals or groups in relation to land, broadly speaking 'rights of access and use of land' (USAID 2005, 3). Tenure is often conceived of as 'bundle of rights': a piece of land may have multiple users with particular rights, ranging from limited to full use and transfer rights. Different rights over the same piece of land (such as sale, use, access and so on) can be seen as 'sticks in the bundle' (FAO 2002, 9). Land rights are therefore diverse, in that they may belong to many people, and varied, in that they may be constituted in different ways. In general, land rights can be simplified to rights of use, control and transfer or disposal (FAO 2002). Rights can be formal (recognised by the state and legally protected) or informal (illegal); extra-legal rights are not illegal, but are unrecognised by the law (for example customary as opposed to statutory rights) (FAO 2002). It should also be recalled that land tenure includes not just land but also access to natural resources for livelihoods such as water and trees (FAO 2002), a point that is salient in both rural and urban settings.

Land tenure's property rights dimension rests on its status as an institution: as a set of rules invented by societies to regulate behaviour, tenure defines how property rights to land are to be allocated within societies (FAO 2002, 7). But tenure is also contingent on social context, as it is embedded in social, political and economic structures (FAO 2002). Land use may be affected by local variation in the nature and content of rights, and their actual recognition by authorities and communities (Durand-Lasserve and Royston 2002, 7). Its multi-dimensional nature means that it may incorporate diverse social, technical, economic, institutional, legal and political aspects, which must be taken into account. Tenure relationships may range from 'well-defined and enforceable in a formal court of law', to those that are 'relatively poorly defined with ambiguities open to exploitation' (FAO 2002, 7).

The complex and locally-contingent nature of land tenure is demonstrated by the many different forms of tenure category that exist. Very broadly, land can be seen as 'both a public and a private good', as residents require secure land tenure for housing, and the community needs space for access and community facilities (McAuslan 1985, 19). UN-Habitat (2007, 115) identifies six broad categories of tenure<sup>3</sup>, while others suggest that land tenure is a continuum: Payne's (2004) typological framework identifies a range of statutory, non-statutory and customary categories of land tenure, with differences that are almost imperceptible to outsiders, but crucial to urban residents. Alternatively, FAO (2002) states that land tenure can be categorised as private (exclusive rights), communal (commons), open access (free access for all), and state (public sector). Societies usually include all forms of tenure; however, land which is involved in different systems at the same time may present a source of conflict.

The web of intersecting interests in land tenure can include the following types of relations between interests, in relation to other parties instead of to land:

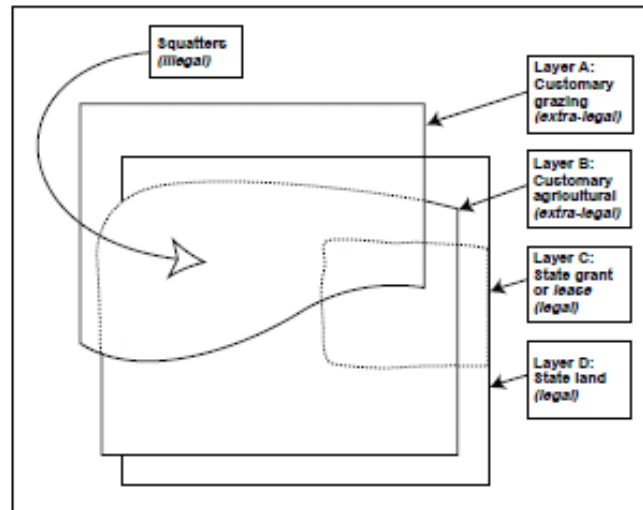
- Overriding interests (e.g. state capacity to expropriate);
- Overlapping interests (e.g. lease rights, right of way);
- Complementary interests (e.g. common rights to grazing land);
- Competing interests (same exclusive rights claimed by different parties, often leading to land disputes) (FAO 2002).

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<sup>3</sup> Freehold, leasehold, conditional freehold ('rent to buy'), rent, collective tenure and communal tenure (UN-Habitat 2007, 115).

The relational aspect of land tenure is diagrammatically shown in Figure 1, which posits a scenario of land which is under statutorily declared state ownership (Layer D), within which state leases are made (Layer C), without consulting (extra-legal) customary owners (Layer B) who use the land for grazing (Layer A), which squatters are illegally occupying. Complexities and conflict may arise where *de jure* and *de facto* rights do not match, and where formal, informal and extra-legal rights compete.

**Figure 1: Complexities and conflicts resulting from different types of tenure**



Source: FAO 2002, 13

An additional complexity derives from the fact that land tenure is often conflated with individual titles to land, although it may exist through other means. Land titling is defined as ‘the allocation of real property rights on land’; in other words, rights are transferable, heritable and can be mortgaged (Payne et al. 2009, 444). It is important to distinguish between legal tenure *per se*, and security of tenure. Security of tenure is seen as continuous long-term possession of land (Bouquet 2009, 1390), protected by involuntary removal except by clearly-defined legal procedure. Security of tenure does not therefore equate to leasehold or freehold titles, but can be achieved by other procedures. Informal settlements may be established on land where settlers have *de facto* security of tenure, based on lack of interference by the local authority and landowner, without *de jure* secure tenure based on formal titles. In other words, it is protection from removal which is important; this may derive from titles, but may also exist without them. This issue is explored further in later sections.

#### *Land tenure as a development issue: a brief history*

The prominence of security of tenure on the agenda at the Second Habitat Conference in Istanbul in 1996 – twenty years after the United Nations Centre on Human Settlements was founded at the first Habitat Conference in Vancouver in 1976 – reflected its twin priorities of adequate shelter for all and sustainable cities. The UN Habitat Agenda<sup>4</sup>, signed at the conference, committed to ‘providing legal security of tenure and equal access to land to all people, including women and those living in poverty’ (Habitat Agenda in UN-Habitat 2007, 111). Following on from this, in 1999, the UN Centre for Human Settlements (UNCHS, or UN-Habitat) launched its Global Campaign for Security of Tenure, with the objective to ‘improve the conditions of people living and often working in slum areas and informal settlements in major urban centres of the world by promoting security of their residential

<sup>4</sup> The main policy document and plan of action signed by 171 member states at the Conference.



tenure'<sup>5</sup>. Tenure security also provides an important indicator for the urban target of the Millennium Development Goals (MDGs) (Payne 2004), which set out to achieve 'a significant improvement in the lives of at least 100 million slum dwellers' by 2010 (UN-Habitat 2011, 168).

This followed the first major phase of international housing policy during the 1970s and early 1980s, as agencies such as the World Bank, responding to the proliferation of urban informal settlements, financed the sites-and-services and upgrading programmes (Kiddle 2010) mentioned above. However, along with other deficiencies such as low levels of cost recovery and poorly-located housing, land tenure often remained insecure during upgrading. From the mid-1980s, a paradigm shift away from large scale urban projects in search of better management of urban development was led by the Bank. The New Urban Management Program (NUMP) derived from 'neoliberal economic orthodoxy, which emphasizes the withdrawal of the state, operation of a relatively free and unconstrained market and notions of efficiency, productivity and growth' (Jones and Ward 1994, 9). This signalled an end to urban projects, and a focus on public administration, in a broader macroeconomic context. A 10-year plan, the NUMP began in 1986 with key aims of professionalising and raising the image of land management in the developing world, through an emphasis on management, operational efficiency and property rights (Jones and Ward 1994, 14-16).

However, despite these shifts to a more general, programmatic urban policy including housing finance systems, land and housing programmes' continued failure to meet demand has in 'inflated land and housing costs - making quality shelter a very expensive item for the urban poor' (Beall 2000 in Kiddle 2010, 885). This may be due to the long trend of promoting urban productivity as a means of poverty reduction, favouring growth over questions of welfare and equity, in a broadly neoclassical economic model based on analysing market performance (Jones and Ward 1994, 18). More recently, housing and land policy has shifted to incorporate a focus on tenure legalisation or regularisation. However, while there is increasing attention on security of tenure as a means of achieving the MDGs, it 'often remains underemphasized by policy-makers, perhaps overemphasized by those with large vested interests in land, and, as a concept, all too commonly misunderstood by those with the most to gain from improved access to it', in terms of protection from eviction as well as (or instead of) ownership (UN-Habitat 2007, 111). Moreover, central to many legalisation programmes is the assumption that 'having (freehold) property title is an important condition for housing investment and, hence, for settlement development' (Van Gelder 2012, 1), as discussed below.

### **3.2 Land tenure legalisation**

#### *De Soto's influence*

Responding to the implicit connection between urban land tenure and development, large-scale programmes of tenure legalisation (also known as regularisation or formalisation) have been promoted by international agencies and national governments across the global South over the last decade. Although these ideas can be traced back to earlier discredited agrarian land tenure reform experiments linking economic productivity to property rights (Musembi 2007), the approach is often attributed to De Soto's (2000) suggestion that provision of legal titles could unlock the \$9.3 trillion of 'dead capital' held as assets of the poor, in informal business and housing. According to De Soto, lack of titles means that these assets cannot be passed on, divided up, or offered as collateral for a loan. Formalising them would allow people to gain access to formal credit, invest in their homes and businesses, and reinvigorate the whole economy. In other words, property ownership (through titling) and legalisation of

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<sup>5</sup> UN-Habitat website, 'Global Campaign for Secure Tenure', <http://www.unhabitat.org>, accessed 7 March 2011.

assets is necessary for the poor to be able to ‘reap the benefits of the market’ (McGranahan et al. 2008, 86). The imposition of increased regulation on informal property systems is implicitly linked to the need to regulate the disputes and conflicts over ownership which take place in the ‘grubby basement of the pre-capitalist world’ (De Soto 2000, 55), where asset ownership is tied to local, informal networks which generate corruption and illegality, obstructing development.

The influence of De Soto’s proposals for large-scale formalisation of informally-held property have been felt by millions as ‘an increasing number of countries and cities ... have introduced regularization policies based on his ideas’ (Fernandes 2002, 5-6). The scale of informality means that ‘[I]and regularization has become a fundamental element of the widely recognised social right to adequate housing’ (Fernandes 2007, 184). Fernandes (2002) locates the appeal of this one-size-fits-all response to insecure tenure in its (somewhat narrow) emphasis on the economic dimension of urban informality. Others have identified two broad economic justifications for tenure formalisation: land market efficiency, and the socio-economic benefits of integrating low-income residents into the formal sector (Monkkonen 2011). Land market efficiency may be brought about by the privatisation and individualisation of property rights, allowing for a greatly simplified and hence highly legible tenure regime (Scott 1998). Socio-economic benefits, emphasised by De Soto (2000), derive from increased security of tenure leading to greater investment in individual property and neighbourhoods, as well as increased revenue from property taxation.

Taking a more political view, Ward (1989) suggests that regularisation offers a cheap medium of political negotiation – in other words, how the state attempts to advance the interests of powerful organised groups at the expense of the poor – and social control, incorporating residents into the tax base and allowing local authorities to recoup service investments and exercise greater control over planning and building. In this way, the state legitimates itself through securing political support for the government, potentially avoiding social conflict (Ward 1989). Formalising rights also offers the potential to resolve existing land disputes, and to avoid future ones; indeed, conflict resolution has been an explicit goal of specific tenure legalisation programmes (Appendini 2002), an issue discussed in later sections. The certainty of titles, and the more efficient market functioning they supposedly facilitate, are posited as a means of resolving or avoiding these land-related disputes. However, many programmes are unclear about their specific aims and proposed achievements, making them difficult to evaluate (Fernandes 2007).

### *Critiques of legalisation*

There have been many critiques of legalisation programmes associated with De Soto’s approach, often based on suggestions that claims of a solution of poverty through the extension of individual property rights ignore the critical question of redistribution of existing wealth. Assessing the impacts of titling programmes, Payne et al. (2009, 445) suggest that despite the global financial crisis, the drive towards home ownership promoted through land titling in the global South shows little sign of waning, based on the link between titles and poverty reduction promulgated by De Soto and bolstered by ‘his politically supported bandwagon’. However, based on their own evaluation of its social, economic, environmental and political impacts, Payne et al. (2009) conclude that titling:

- has an unclear impact on tenure security, and in fact may reduce it;
- has not accelerated the integration of informal settlements into formal property markets to the benefit of the poor;
- does not necessarily result in increased economic assets for the poor;
- is not strongly linked to service provision, which is affected by other factors regardless of titles; and
- risks political manipulation, and needs long-term political support.

The suggestion that tenure legalisation may result in greater insecurity derives from the fact that titles may generate increased speculation over land and possible market evictions. Tenure legalisation programmes often fail to acknowledge other forms of security of tenure; in fact, titling may contribute to increased tenure security, ‘many alternative forms of tenure, including those in many informal settlements, also provide high levels of security’ (Satterthwaite 2009, 305). *De facto* conceptions of tenure security may be based on intangible elements such as use rights, and externalities such as threats and earning capacity, as well as titles, meaning the relationship between tenure security and settlement consolidation is more subtle than titling approaches suggest. Above and beyond legal titles, security of tenure depends on ‘residents’ perceptions of past and present government policy’ (Payne 2004, 173), particularly actions to increase security, which affect investment and household and neighbourhood improvements. This suggests that legalisation should be part of a wider package of livelihood opportunities, service provision and legal shelter options (Payne 2004), recognising the fact that ‘[h]ousing rights cannot be reduced to individual property rights’ (Fernandes 2002, 7).

In fact, mass formalisation policies have not resulted in the predicted wealth creation (Miranda 2002; Musembi 2007), or consequent poverty reduction (Fernandes 2007, 186). Titling does not guarantee protection from eviction and expropriation, access to credit, or improved infrastructure, which may in any case occur without titles. While land regularisation can improve access to land, housing and services, and may stimulate service provision in areas where lack of tenure is an obstacle, it does not always stimulate investment by owners. As suggested above, households without formal tenure may invest in the presence of *de facto* security of tenure, while for lenders, formal title may not be sufficient collateral. Evidence from Peru suggests that even where titling is widespread, this does not necessarily lead to mortgage loans. In this case, new legislation led to one million title deeds being issued between 1996 and 2000; but by 2002, only 1.3% of the total title deeds allocated to families in Peru had led to access to mortgage loans for the families involved (McGranahan et al. 2008, 86). Indeed, such programmes may offer a justification for withdrawal of government support to low-income households (Davis 2006, 71-72), as the state’s role shifts from welfare provider to market facilitator. Thus ‘the relationship between land regularization and investment needs to be understood locally, not assumed internationally’ (McGranahan et al. 2008, 86).

Tenure legalisation is often conflated with the individualisation of property rights, and most land tenure regularisation programmes conceive of land tenure as closely related to private property (De Souza 2001); in other words, they contain and reproduce an individualised conception of land ownership, reflecting the prevailing understanding of land tenure as being constituted by legal titles, or ‘the allocation of real property rights on land’ (Payne et al. 2009, 444). The imposition of modern, Western systems and regulations in different contexts from that for which the system was originally conceived may result in conflicting versions of reality (Watson 2003), for example, where legal titles directly conflict with customary tenure systems (Musembi 2007). This legalistic, individualised understanding of tenure also obscures complexities such as tenure which is held for housing, but not for land (De Souza 2001), or different individuals simultaneously claiming land under different systems (Huggins 2010). Various claimants to a particular piece of land – which may include residents, local authorities and community organisations – may have very different understandings of tenure (Barry et al. 2007). This dominant view of secure tenure based on individualised property rights, and the potential for this conception to conflict with other understandings, may be a direct cause of land disputes. Some have suggested that formalising informal land claims may generate an endless cycle of invasion: as land is a finite resource, ‘ever-expanding titling programs might clash with efforts to avoid resource conflict and to protect and preserve both

privately and publicly held resources' (Rose 2010, 23)<sup>6</sup>.

Thus tenure legalisation through titling over-simplifies the spectrum of legality (Payne et al. 2009), ignoring or subsuming other forms of property rights, and the social context in which these are created and upheld. Its replication across diverse social and cultural contexts overlooks the distinctions between different understandings of land tenure (Rose 2010). This can lead to potential conflict between formal and informal systems: given the difference between *de facto* and *de jure* security of tenure (Van Horen 2000), formal land records may serve for taxation, but not reflect actual land rights. In other words, even after formalisation, there may be a 'shadow land-tenure system lurking beside and beneath the official account in the land-records office' (Scott 1998, 49). Formal systems of tenure legalisation such as cadastral maps represent static representations of the social reality they attempt to typify, focusing on land as a productive asset and ignoring its subsistence, aesthetic, ritual or sentimental value. However, cadastral maps have the power to transform as well as document, meaning that freehold title and standard land measurement threaten local power and autonomy (Scott 1998). As the state attempts to transform informal transactions and land markets through formalisation processes, it offers some urban residents privileged political identities, attached to the land, and thus differential access to the state (Marx 2009, 348). In other words, the very fact of state intervention in land tenure processes may harbour the potential for conflict.

#### *Tenure legalisation and conflict*

An explicit aim of tenure legalisation is often conflict resolution between those involved in disputes over land, whether community members, land owners, or government authorities (Durand-Lasserve and Royston 2002, 15). However, as highlighted above, widespread policies of land tenure legalisation are themselves highly contested, and may contain the potential to generate further antagonism. Disputes over land and its use can be understood as 'intractable', or 'resistant to resolution' (Caton Campbell 2003); and research from a conflict-resolution perspective suggests that any intervention must be conflict-sensitive. Policy reform may be potentially risky, due to the intrinsically political nature of land policy; land reform always includes, directly or indirectly, 'some form or redistribution of power' (Van Der Zwan n.d., 10). Durand-Lasserve and Royston (2002, 241) suggest that 'the [tenure] process is often complicated, political and violent'; even where appropriate policies exist, social unrest can arise over perceptions of unfair treatment, threats to existing entrenched powers, and local politics. Competition over land as a scarce resource may disrupt attempts to make processes open, transparent and participatory.

Given the potential for land tenure policies to generate conflict, 'caution should be exercised before introducing or expanding land titling programmes', especially in contexts with a lack of experience, capacity or protection for vulnerable communities (Payne et al. 2009, 458-9). Existing or potential land-related conflicts may determine the success or failure of security of tenure policies (Durand-Lasserve and Royston 2002). Thus, paradoxically '[f]ormalisation may create difficulties as it involves the removal or property rights from legal owners, but it is most urgent in areas ... where competing claims of title lead to violence and loss of security (Everett 2001, 468). Administratively, the implementation of legalisation requires complex and expensive procedures to identify right holders, resolve disputes, delineate plots, provide land registration and so on (Durand-Lasserve and Royston 2002). Additional potentially high-risk issues include gender (Varley 2007b) and inheritance (UN-Habitat 2007).

The issues outlined above are compounded by the lack of transparency regarding tenure legalisation programmes' overall aims and objectives; yet despite the calls for greater clarity

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<sup>6</sup> This view contradicts Hardin's (1968) seminal work, which proposes property rights as a means of avoiding the 'tragedy of the commons'.

in this area, detailed research into the linkages between tenure legalisation and conflict is scarce. As observers have pointed out, there is a great deal of interaction between formal and informal land delivery systems and their subsystems, to the point where, as one becomes saturated, demand for land shifts to another (Durand-Lasserve and Royston 2002). This suggests a need to move away from dualistic understandings of land tenure, illegality and informality and consider ‘the ambiguity of experience’ alongside the need for conceptual stability suggested by such dichotomies (Varley 2002, 459). However, despite some evidence of shifts towards more flexible tenure regularisation procedures, emphasis is still placed on access to individual ownership based on the allocation of individual property titles, underpinned by a dualistic understanding of the formal/informal city (Lombard 2009). Such approaches underestimate, or do not account for, the diversity and legitimacy of other tenure arrangements and the existing continuum between tenure systems (Durand-Lasserve and Royston 2002, 12). It has been suggested that further research should explore land regularisation’s promotion of contradictory outcomes (Fernandes and Varley 1998), and this research project seeks to explore areas of potential conflict around tenure legalisation, particularly relating to the issues outlined above. The next section explores approaches for analysing urban land conflict.

## 4 Analysing land conflict

The above section discussed land tenure legalisation as a response to conflict over land rights, but also as a potential generator of land disputes, among other factors. Established approaches to land market analysis offer a starting point for formulating an analytical framework for land conflict, and this section explores some relevant approaches, followed by a focus on land conflict analysis.

### 4.1 Approaches to urban land market analysis

#### *Neoclassical approaches*

Highly influential in terms of international agencies’ housing policies (Jones and Ward 1994), neoclassical approaches suggest that ‘efficient land-market operation is essential to maximize the potential delivery of affordable housing’ (Dowall 1994, 25). Such approaches are based on several key assumptions that:

- land markets are fundamentally competitive mechanisms for distributing land;
- user competition should set prices and determine land use patterns; and
- market operation should allocate land on the basis of cost and ability to meet this (Dowall 1994).

Public policy is seen as offering amenities and increasing land value, but may also create adverse supply and price conditions if it interferes with land market operations: government investment in infrastructure can increase land values, but over-regulation may have adverse social and economic effects. To counter this, more moderate neoclassical analyses suggest a balance between public and private sectors for urban land management (Dowall 1994). Jones and Ward (1994) suggest that neoclassical approaches take a simplistic approach to supply and demand within segmented land markets, rather than trying to understand the production of land; other important factors include business relations between buyers and sellers, and the highly politicised nature of land markets, more aptly captured by approaches which take into account social and political factors, such as socio-legal approaches.

#### *Socio-legal approaches*

Socio-legal approaches, which seek to take a more contextualised view of land tenure, emphasise the need for a nuanced and socially conscious analysis of land markets. Different approaches within this broad area may place different degrees of emphasis on legal or social

aspects, seeing security of tenure as a means of preserving and protect beneficiary communities through incremental regularisation and improvements over time which lead to gradual consolidation, and lessen market pressures and evictions (Durand-Lasserve and Royston 2002).

McAuslan (1994) argues for the importance of law in managing the urban environment and urban growth, along with economic development and good governance. Development control has been the main manifestation of urban law in many developing countries; in fact, land law reform should aim to facilitate access by all to land, contextualised by political and economic development in the form of an effective and legitimate state, and economic progress. Without the latter, land remains one of the primary ways to amass wealth (the other being political power), and thus land ownership is an end in itself (McAuslan 1994, 403). However, widespread support for land law reform is challenged by political, legislative and administrative factors on the ground in many developing countries; and thus ‘the relevant question concerns not who determines rights, but who determines whether rights are a viable option’ (Berrisford 2010, 17). In other words, legal reform must be linked to the political economy of a country (McAuslan 1980 in Berrisford 2010), rather than left to technocrats. Similarly, Fernandes and Varley’s (1998) socio-legal perspective on land tenure suggests that law is central but can only be understood in the context of social, economic, political and cultural processes in urban growth. Such a perspective suggests interrogating how (often elitist and exclusionary) legal frameworks affect the social production of urban space.

Building on these arguments, UN-Habitat (2007) argues for a human rights approach, which takes into account best practice from good governance as well as human settlement spheres. This follows work by Huchzermeyer (2004) arguing that in the case of urban informal settlements, lack of protection against the infringement of rights instead of contravention of laws should be emphasised. In this view, the legal sector would have a central role in a rights-based definition of informality, criminalising exploitative practices, and developing laws to protect constitutional rights (e.g. tenure security, regulations on extension and densification, dispute resolution, and so on). This goes beyond the idea that squatter settlements are not a problem but a solution, to recognise that informality is not a solution without effective protection of rights. Through support and protection of rights, the poor’s solution to their housing problem could be progressed into a legitimate settlement instead of the current policy of displacement and relocation. In the short-term, improved conditions and formal integration into the city should be promoted for informal settlements, leading to the long-term recognition of rights and protection from exploitation.

In a similar vein, the World Bank and UN recognise forced evictions to be a violation of human rights, compromising the right to housing, as well as rights to freedom of movement, life and security, freedom of expression and association, education, privacy, work and health (Everett 2001). Poor states with limited resources and enormous pressure on land must protect their citizens’ right to housing at a broad policy level incorporating a human rights framework, for humanitarian reasons and to make land and housing policies more effective: ‘Because a lack of adequate housing causes evictions, the implementation of legal rights to housing must be central to any policy framework to deal with this problem’ (Everett 2001, 464). The UN states that the human rights perspective must take precedence over economic considerations to minimise displacements, suggesting that there is a need for flexible, rights-based approaches to secure tenure, and a new vision of security of tenure is needed combining both human settlements and human rights perspectives (UN-Habitat 2007).

#### *Political economy approaches*

Also rejecting traditional neoclassical economic models, political economy approaches to land market analysis seek to take ‘a more actor-centred approach that starts by looking at the political economy in which land production takes place’ (Jones and Ward 1994, 10). Based on the idea of putting the politics back into land and housing market assessment (Jones and Ward

1994, 22), such an approach suggests analysing how land tenure works in practice through understanding who has access to or controls land, when, and how (FAO 2002). The authors suggest a need to reconsider the simplistic approach adopted by neoclassical approaches; and the need to address equity directly rather than leaving to the marketplace, through progressive redistribution involving greater state intervention rather than less (Jones and Ward 1994).

This suggests overturning some underlying myths relating to illegal land markets, which contrary to common conceptions, often work fairly efficiently, with freely available affordable land (Jones and Ward 1994). Marx (2009) suggests that the formalisation of informal land markets (through the formalisation of property rights) have failed to reduce urban poverty due to a failure to understand informal land markets in their own terms. The binary logic of understanding informality means that formality continues to be seen as the 'master subject' (Marx 2009, 337), and informal land markets presumed to be inferior, transient or illegal, with irrelevant social and economic functions (Marx 2009). Seeing informal land markets in their own terms may offer the potential to analyse their power or agency; such markets are constituted by, and constitute, the social, economic, and political processes that characterise cities.

A micro-level, political economy approach is useful to disentangle these various physical, economic, administrative and political factors and processes which may influence land markets, and to counteract a general tendency among policy makers to assume that land markets characterised by high levels of private property ownership will satisfy the housing demand of all income groups. Rakodi's (1994) focus on the historical and political context of land markets in post-independence Zimbabwe foregrounds the rhetoric of a socialist economy in the context of economic crisis and economic liberalisation. Alongside neoclassical approaches' concern with efficiency, Rakodi (1994, 86) suggests analysing markets on the basis of equity. Political economy approaches, then, suggest looking at historical processes and trends, and political, economic and ideological factors in land and property markets (Garcia and Jiménez 1994). This enables a focus on how particular actors affect market conditions: while conventional neoclassical approaches posit linkages between macroeconomic changes, land prices, and real estate markets, political economy approaches suggest taking into account a 'combination of macroeconomic factors, changes in government practice and "personal choice"' by private sector developers, as well as other factors including changing territoriality, a more diversified structure of land development and local political influence (Garcia and Jiménez 1994, 97).

## **4.2 Analysing land tenure conflict**

### *Diverse approaches to land conflict*

The analysis of land conflict, defined above as a contest between different interests over rights to land, can be approached in various different ways. Barry et al. (2007) offer an agent-based framework for understanding land conflict in the context of urban informal settlements in South Africa, focusing on the identity of the actors involved. In this setting, land-related conflicts occurred between residents and government authorities; between residents themselves; and between different government authorities. While this framework offers a useful starting point, it ignores market actors such as private companies and individual speculators, as well as contextual and structural factors. Alternatively, USAID (2005, 18-19) suggests understanding aspects of the land itself, based on an analysis of the existing land regime through four areas: legal (relating to land laws and land rights), governance (relating to governmental institutions responsible for land and property regimes), operational (relating to processes, procedures and human capacity), and political (relating to political will of the government and other key stakeholders). Other suggested approaches look at the causes of a conflict, or the scale at which it takes place, or the type of property on which it occurs, whether private, collective or state (Wehrmann 2008, 13-20). The appropriate type of analysis

may depend on the context: for example, Brown et al. (2005, 4-5) identify three broad categories of land dispute in Guatemala, where widespread conflict over land derives mainly from disputes over competing property rights, occupations of property legally owned by another, and boundary disputes.

#### *Institutional approaches*

Institutional approaches such as that of Appendini (2001) have explored the institutional context for conflict resolution concerning property rights. Appendini suggests that conflicts relating to the 'who', 'what' and 'how' of land rights are an integral part of land regularisation and titling programmes, and that institutions must be developed to address this. However, rather than responding with complex and expensive legal frameworks, conflict resolution through local consensus is critical, as:

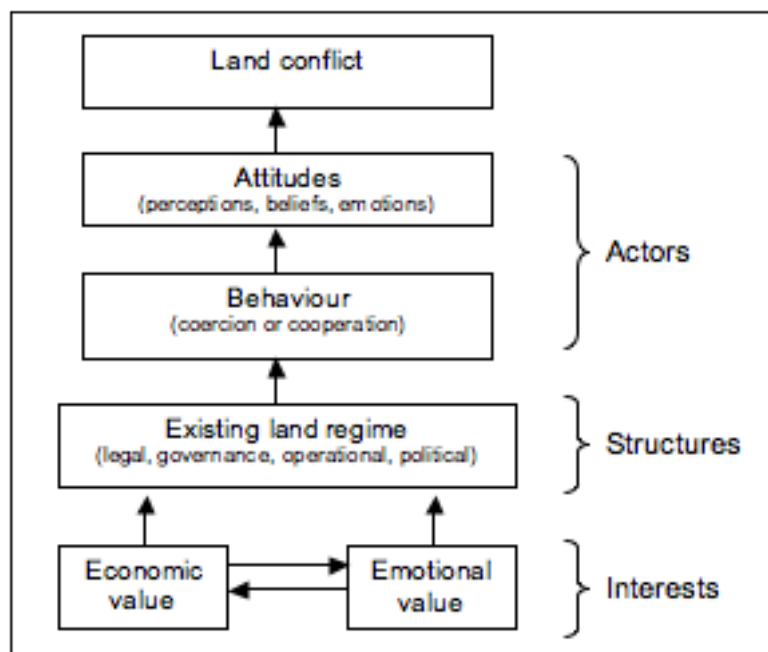
'[t]he incorporation of formal rules with the sometimes contradictory local norms and everyday practices of rural people is one of the key issues in understanding the process and outcomes - or limitations - of conflict resolution [in land titling situations]' (Appendini 2001, 4).

While some institutional framework is necessary to define rights to land, definitions of institutions can incorporate legal regulations but also everyday social relations and norms (Appendini 2001, 4). This in turn suggests the possibility for flexible and dynamic responses to legal frameworks at the local level. Local-level institutions are crucial for dispute resolution, as '[c]laims to land and natural resources often compete and enter into conflict, and the same is true of rights and the basis of legitimacy that sustains those rights' (Appendini 2001, 5). Institutions are thus understood as the legal framework and formal and informal institutions involved in conflict resolution, analysed at the macro level (law and regulations), local level (norms) and individual group level (organising practices).

#### *Towards a conceptual framework*

For the purposes of this research, a framework for analysing land conflicts has been synthesised from the approaches explored above, bearing in mind the above definition of land conflict as a difference in interests over the rights to land. At the heart of this approach are the economic and social dimensions of land value, which are seen to underpin all interests in land, to greater or lesser degrees. These reflect the material and psychological need for land of the actors involved. For example, factors involved in these values may include scarcity and lack of access (economic), and spiritual and cultural attachment (social/emotional). However, these dimensions must be found in combination with additional factors for conflict to develop. Based on a synthesis of political economy approaches to land markets (e.g. Jones and Ward 1994), and institutional approaches to land conflict (Appendini 2001), and in accordance with Carpenter's (2010) identification of the elements of conflict, the framework shown in Figure 2 was formulated.

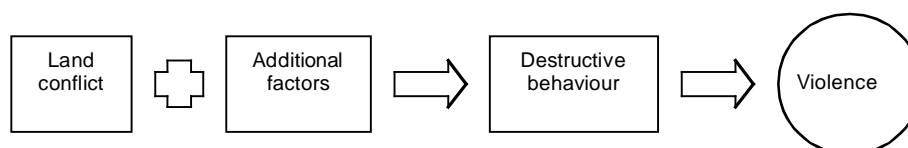


**Figure 2: Framework for land conflict analysis**

Source: adapted from Wehrmann 2005, 10

The key elements of this framework are structural and agent-focused. Structural factors related to the character of the existing land regime, including legal, governance, operational and political elements, which also contain an expression of existing power relations. Agent-focused factors including the behaviour of the different parties involved (ie those with interests in the land), which may include coercion and cooperation, and their attitudes, encompassing perceptions, beliefs and emotions. Based on a combination of all these factors, land conflict may develop. The research seeks to carry out a systematic analysis of the factors in the setting of existing land conflict based on this framework, in order to disentangle and identify some of the multidimensional causes in a given setting.

Conflict over land may remain localised and contained, and may even redress previous injustices over land distribution. Land dispute resolution mechanisms, including land institutions, courts and alternative dispute resolution techniques may be implemented by the authorities, civil society organisations and communities themselves. However, land conflict has the potential to escalate into more serious violence, through the stimulation of 'low intensity localised violence', and potentially 'a situation in which frustration continues to mount, social unrest increases and the rule of law is openly defied', with negative consequences for local and national economies (Brown et al. 2005, 13). Certain events may trigger the escalation of conflict into violence, such as the strategic organisation of particular interest groups, the availability of arms, political events and environmental disasters. Figure 3 suggests a model for conceptualising the escalation of land conflict into violence.

**Figure 3: Model for conceptualising escalation of land conflict into violence**

Source: Author's own elaboration

Again, the precise combination of elements is highly context-dependent (USAID 2005). The

research aims to explore such externalities as a trigger for escalation, including an increase in actual and perceived urban violence, and the precarious nature of informal settlements residents' claims to land.

## **5 Conclusion**

This working paper has outlined some of the key debates and approaches to understanding conflict over land tenure in the context of rapid urbanisation, in support of developing a conceptual framework to understand the precise linkages between urban land and conflict. Despite an assumed link between land conflict and urban growth in debates on urbanisation throughout the twentieth century, these linkages have rarely been explicitly analysed. Urban conflict, and particularly conflict over land, has been portrayed as implicitly linked to urbanisation in research and policy debates on the global Southern city. This, in turn, has influenced development debates, giving rise to specific policy responses driven by international agencies such as the World Bank, which have been based on land tenure as a development issue.

Legalisation has been widely promoted as the most appropriate response to tenure insecurity as a development concern. While titling programmes have had some success with regard to improved security, claims of a solution to poverty have been broadly critiqued. An implicit element of legalisation is conflict resolution; but such policies may also contribute to conflict over land, through contradictory outcomes in the context of existing unequal power relations. Land conflict is understood as the social fact of different interests over land, based on land's multi-dimensional nature, especially its economic and social dimensions, and the social context.

Given the multi-dimensional nature of land, approaches have tended to focus either on its social or economic dimension; but for effective analysis and response to land issues, both approaches must be taken into account. Similarly, there is a need for land conflict analysis to go beyond formal/informal dualisms to take into account the interaction between different sub-markets and diverse forms of tenure. The analytical framework sketched out here draws on political economy and institutional approaches to capture the economic and social dimensions of land tenure and its potential to generate conflict in the context of urbanisation, which may in turn escalate into violence.

## **Acknowledgements**

This work is based on research from a project funded by a University of Manchester Hallsworth Fellowship.

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ISBN: 978-1-907120-07-7

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