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Regularization and integration of irregular settlements: lessons from experience

Alain Durand-Lasserve, Valérie Clerc

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UNDP/UNCHS (Habitat)/World Bank

URBAN MANAGEMENT AND LAND

**REGULARIZATION AND INTEGRATION
OF IRREGULAR SETTLEMENTS:
LESSONS FROM EXPERIENCE**

Alain Durand-Lasserve
Assisted by Valérie Clerc

May 1996

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UND/UNCHS/WORLD BANK-UMP
P.O. Box 30030
Nairobi
Kenya

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Emiel Wegelin
Coordinator
Urban Management Programme
Technical Cooperation Division
UNCHS (Habitat)

Sonia Hammam
Team Leader
Urban Management Programme
TWURD
The World Bank

FOREWORD

This working paper has been prepared by the Urban Management Programme (UMP) - a ten-year global technical cooperation programme designed to strengthen the contribution that cities and towns in developing countries make towards human development, including economic growth, social development, and the reduction of poverty.

The programme is a partnership between the international community: UNCHS (Habitat) is the executing agency; The World Bank is the associated agency and UNDP provides the core funding and overall monitoring. Bilateral donors, multilateral agencies such as the World Health Organization and Non-Governmental Organizations (NGOs) provide various types of support.

The ultimate beneficiaries of the Programme are the citizens who live in and use towns and cities, particularly the urban poor, who will receive better-managed services and more accountable, participatory, and transparent management as a result of the programme.

The Urban Management Programme

The UMP seeks to strengthen urban management by harnessing the skills and strategies of networks of regional experts, communities and organizations in the public and private sectors. The goal of the programme is to strengthen this local and regional expertise through its regional offices in Africa, the Arab States, Asia and the Pacific, Latin America and the Caribbean.

- **City and Country Consultations.** The UMP brings together national and local authorities, the private sector, community representatives, and other parties within a country to discuss specific problems within the UMP's subject areas and to propose reasoned solutions. Consultations are held solely at the request of a developing country and often provide a forum for discussion of a cross-section of issues generally resulting in a concrete action plan for policy programme change.
- **Technical Cooperation.** The UMP uses its regional networks of expertise to follow-up the consultations by providing technical advice and cooperation to facilitate the implementation of action plans and to mobilize the resources needed for their implementation.

The UMP supports the regional programmes and networks by synthesising lessons learned; conducting state-of-the-art research; identifying best practices; and disseminating programme-related materials through its Core Teams in Nairobi and Washington, D.C.

The UMP Dissemination

The UMP produces publications of the findings of specific research activities, summarize the results of case studies, research, and the insights and broad recommendations developed under the work of the UMP to date, and illustrate instruments, techniques, or procedures, the UMP has found useful in addressing the issues surrounding the five components.

The UMP's Working Paper Series

The working paper series has several objectives. The **content** of the series seeks to highlight examples of good and best practice in the various components of urban management or to give an overview of the main issues and options in a particular field of urban management. This will range from case studies and training materials on one or more aspects of urban management in a particular city to regional and even global syntheses of experiences. Much of the latter will increasingly be drawn from the UMP's regional programmes. The **timeliness** of the information in the series is an important objective. Hence, the review and production processes for issuing the series have been streamlined to allow for rapid publication and dissemination. The **sources** of material that will be published in the series are intended to be diverse. Authors will be drawn from the UMP's regional coordinators, programme consultants, members of the UMP's regional networks, UMP core team members, and others.

The **audience** for the working papers will also be diverse, and vary according to publication. The series should be of use to urban managers, urban policy makers at different levels of government, External Support Agencies (ESAs) that provide support for urban development, community and non governmental organizations, academics, and the media.

In parallel, the UMP also issues a formal publications series that consists of discussion papers, policy framework papers, and management tools. A list of titles that have been prepared in the formal series and working paper series is attached at the end of this paper.

Many of the formal series publications are available in English, Spanish and French. The working paper series is available only in English though translations could be available at a later date.

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INTRODUCTION

A wide range of accumulated experience

A large number of projects providing infrastructure services, reblocking and the regularizing of land tenure in irregular urban settlements have been undertaken in developing countries over the last decade. While some have achieved their objectives, the overall results have been limited, because only a small portion of the urban population has benefited, and because these projects have not always met the expectations of city authorities or the target populations. Operations could not be replicated on a large scale, and the move from project to programme/policy has often proved difficult. However, particularly over the last decade, some modest projects have contributed, through their objectives or results, to advances in the state of the art. Nowadays, experience gained in Africa, the Arab States, Asia and Latin America represents a rich source of information and calls for a cross-analysis of the most innovative aspects of integration and regularization of irregular settlements.

The objectives of the present study are as follows:

- To review the main irregular settlement patterns in cities in developing countries on the basis of recent empirical observations, in terms of access to infrastructure and services and security of tenure.
- To review the various responses of urban actors (the State, local authorities, formal and informal agents, associations and NGOs) to community needs in irregular settlements, especially with regard to the provision of services and security of tenure and to identify the obstacles most frequently encountered during project implementation.
- To report on the projects, programmes and policies which have achieved the most successful results, and to formulate suggestions for the improvement of the planning, implementation and management of regularization and integration projects especially at the local/municipal level.
- To contribute to the debate on urban land issues, in the context of the Global Plan of Action of the Habitat II Conference.

Sources and References

The present working paper has been prepared for the UNDP/UNCHS/World Bank Urban Management Programme (UMP). It draws significantly on the conclusions of the 30 national case studies carried out for UMP between 1992 and 1995 with the specific support from the Government of France on the theme *Urban Land Management, Policies for regularization and local development in Africa, the Arab States, Asia and Latin America*, which were presented and discussed during the UMP regional conferences held in February 1993 (Mexico), March 1995 (Abidjan) and during the Habitat II Global Meeting on Urban Land Tenure held in January 1996 (New Delhi).

The study also draws on other recent national case studies, in particular studies carried out for the Habitat II Asian Regional Consultation on *Access to Land and Security of Tenure*, organized in Jakarta by UNCHS and FIABCI (Real Estate International Federation), in association with UMP in August 1995. Studies presented during the Habitat II Regional Seminar on the theme: *Challenges of the informal town. Routes to the integration of periurban settlements*, which took place in Belo Horizonte, Brazil, in September 1995 are also included. Literature regarding the issue of regularization policies is also reviewed in order to both widen the observation base and update existing information.

Special attention has been paid to the analysis of more recent studies (after 1991-1992), since debate on this subject is evolving rapidly. We emphasised two features: a clear understanding of the land question in urban settlements; and innovative responses illustrating what we consider as the " best practices".

Presentation of the research

The present study is an overall review and considers regularization practices and policies and the integration of irregular settlements. It is organized as follows:

- A description and evaluation of the current situation (Part I).
- The new strategy now taking shape for the provision of infrastructure services and regularization policy for irregular settlements (Part II).
- Innovative practices and new relationships among urban actors regarding regularization policies (Part III).

ABBREVIATIONS

CBO	Community Based Organization
LIS	Land Information System
NGO	Non Governmental Organization
UMP	Urban Management Programme
UNCHS	United Nations Centre for Human Settlements
UNDP	United Nations Development Programme
UNESCAP	United Nations Economic and Social Council for Asia and the Pacific
USAID	United States Agency for International Development

EXECUTIVE SUMMARY

Many projects and programmes have been undertaken in cities in developing countries over the last decade which provide infrastructure, services and the regularization of land tenure in irregular settlements. The present study calls for a cross-analysis of the most innovative aspects of these projects. It draws significantly on the conclusions of the 30 national case studies carried out between 1992 and 1995 by the Urban Management Programme on the theme *Urban Land Management, Policies for regularization and local development in Africa, the Arab States, Asia and Latin America*.

Part I of the report reviews the current situation of irregular settlements and the global evaluation of projects and policies implemented during the last decade.

Particular attention has been paid both to major trends common to the various regions and to specific regional and national features (Chapter 1). These changes have been strongly influenced by the emerging predominance of economic liberalization and by the burden of structural adjustment programmes. Consequently, major programmes for developing and servicing urban land have been called into question, because of the sharp increase in the price of land and the development, diversification and increased commercialization of irregular systems of land and housing production and management. The extent of irregular housing varies from country to country, comprising 20% to 80% of urban growth and affecting 15% to 70% of the urban population of developing countries (the average figure is over 40%). Problems are most sharply felt in the larger metropolitan areas. Irregular housing restricts the social and economic integration of low-income urban households, making access to credit for housing more difficult and reducing people's capacity for productive activities. The term "irregular settlement" includes a wide range of local situations and dynamics. It can be defined as an area or settlement where development (spatial expansion) and occupancy are not in compliance with the legal, urban and environmental standards set by public authorities. Three problems are common to residents of irregular settlements: (a) secure tenure is not formally guaranteed; (b) the right transfer, sell or mortgage property may be refused or contested; (c) the right of access to urban infrastructure and services is not fully recognized. Irregular settlements are to be viewed as one product or component of a more comprehensive land and housing delivery system, which includes the formal public and private sectors as well as informal practices.

The present research findings show that the diversification and commercialization of informal land delivery systems constitute a significant feature in all the countries observed over the last 20 years, marking the end of free or virtually free access to urban land as it existed up to the mid-1970s. Since the 1980s many governments have tended to integrate the management of irregular settlements into their urban housing policies because of the increasing difficulties regarding urban land management. Large-scale regularization operations are rarely carried out. The last few years have seen the growing determination of public authorities to overcome this situation through the implementation of integration policies for irregular settlements. These combine the provision of infrastructure and services, reblocking and the legal regularization of settlements. This is a major breakthrough in land and housing policy for low-income households.

Analysis of ongoing changes in objectives and procedures for regularization programmes (Chapter 2) highlights the fact that the integration of settlements first requires a policy for urban infrastructure and services. Inhabitants of irregular settlements do not have access even to minimal urban services and amenities, although they contribute greatly to the urban economy. Integration means making up for deficiencies. Integration of settlements also implies secure land tenure.

A number of new priorities emerge from the case studies. Emphasis tends to be placed on programmes aimed at providing minimal services to a large number of households (rather than high-level services to a few clusters or settlements) in a context where formal land tenure regularization does not appear to be a priority. A more pragmatic approach tends to prevail regarding norms and standards as well as subsidies and cost-recovery issues.

The experience of the last decade draws attention to a number of obstacles which can slow down or compromise regularization programmes in all phases of the process (Chapter 3). These obstacles fall into three categories: (i) obstacles which are the result or the expression of divergence or conflict among actors involved in the projects; (ii) legal, political or financial obstacles (long, complex, deterring procedures and unsuitable legal standards); (iii) resistance to change in state administrations (sustained by non-transparent and complex procedures for the recognition programmes raises another series of problems. Regularization programmes may disturb the usual informal systems of developing and delivering rental units. Accordingly, tenure regularization and infrastructure projects must include special provision for tenants. In irregular settlements with a large proportion of tenants, community organization must be supported by direct action on the part of public authorities, often backed up by an intermediary (more often than not an NGO, but local authorities may also play this role).

Surprising similarities exist between the forms of intervention prevailing in different countries for the regularization of irregular settlements, despite the great diversity of situations encountered. There are no models *per se*, but rather a consensus of approach in terms of needs and market responses to these needs. The social issues at stake in responses offered often emphasize one major concern: to ensure full market development. These approaches and the models have their limitations in spite of some success in some countries. Yet no other models have been proposed.

Part II identifies new strategies in regularization policies. It reviews their contents, results and limitations.

The emergence of new strategies for regularizing irregular settlements is emphasized (Chapter 4). When applied to irregular informal settlements the best practices are those which guarantee inhabitants secure land tenure (on the site or on another site with comparable advantages) and access to minimum urban services and facilities. Best practices also recognize the rights of occupants of irregular settlements to land giving them access to credit and the ability to transfer or pass on those rights.

After identifying factors for the success of regularization policies, the study observes that, in most cases, State control of land and urban planing is increasingly being called into question.

Preventive land development is costly and politically and economically impracticable on a large scale. State control of land management fails due to the prevalent practices of irregular land subdivision. However, in the meantime, all case studies stress that no improvement takes place (or even a shift in trends) without the intervention of public authorities when the issue was left to free land market policy alone. Another model for intervention is taking shape, based on a new synergy. The objective is to find a method of intervention which ensures the development of synergy between formal and informal land and housing delivery systems. This may come about by looking at the achievements of informal developers on the peripheries of major agglomerations. The point has been reached where the control and management of urban growth by traditional planning and regulatory measures is becoming less and less efficient.

This observation provokes a complete change of outlook in seeking new planning models for housing projects, based on the implementation of planning, service and facilities delivery, and the improvement of space which is already occupied. Emphasis now is on the redefinition of public land-use policies, combining preventive actions with *a posteriori* intervention. It suggests that intervention must address all the dimensions of irregularity at once, in order to achieve the progressive integration of illegal settlements in the city.

There are three guiding principles for intervention: to ensure universal access to services and facilities; to create the city, not through piecemeal land development programmes, but by building up its overall structure components to rationalize the use of space in residential settlements: the high density often needed to make projects viable, especially in central and peri-central areas.

Prevention, follow-up and regulation of irregular land practices should also be emphasised. An incremental policy for urban infrastructure should be encouraged. One of the State's duties is to organize land development/delivery and to hand over responsibilities to a number of developers, with the State supervising compliance with established rules. This approach argues for the development of "sites without services" projects. The scale of intervention is also to be considered as a key condition to the success of regularization and integration policies.

As far as possible, projects should be seen as a means for defining programmes and policy. However, changing the scale of intervention is not easy. The question is not so much one of creating new techniques, but rather of learning how to create incentives, especially financial ones, so that those involved in the informal and illegal delivery system will be motivated to take part in new efforts instead of opposing them.

The redefining of norms and standards is a prerequisite for the implementation of regularization policies (Chapter 5). Standards are not adapted to needs: they have discriminatory effects. They usually reflect an idealised model of planning and organization of space. They were almost always created by and for centralized and autocratic systems of urban management. In all cases they were originally made for regular settlements, built by formal public or private operators. The question is one of reconsidering objectives. Standards and regulations must reflect what people really experience in daily life. The accent should be put on formulating minimal standards and major guidelines for urban infrastructure and services, urban layouts, and forms of delivery with minimal initial costs, while permitting later improvements. Decisions on planning

and the adopting of standards must be made on the basis of shared participatory decision-making. Security of tenure does not necessarily imply freehold title. In aiming to attain legal recognition for inhabitants by granting land titles or other real rights, there is a real risk of creating a further obstacle to the implementation of integration policies and the regularization of irregular settlements. In many cases, the conditions leading to complete legalization are such that it is only possible to start this process; total completion is impossible. The current trend is towards more flexible legal formulae guaranteeing security of tenure. There is no reason why some or part of the registration of land titles should not be handled by actors other than the State: local authorities, or other administrative bodies, or even neighbourhoods.

Implementing regularization programmes also implies reforming and adapting tools (Chapter 6). One of the objectives is to improve land information and to develop land-assessment tools. The main problem is not technical: it is whether the proposed land information systems will be accepted by the majority of urban actors. In the absence of unified management of land-related information, priority should be given to the integration and coordination of the various sources of information. Research suggests that the production and management of land-related information should preferably be carried out by local bodies, especially in the case of regularization projects. Another objective is to mobilize resources for the sustainable financing of regularization programmes. If the "eviction effect" is to be avoided in a free market economy, the question of funding regularization projects must be viewed in a more general context. Loans granted in a competitive environment will be made primarily to middle and high-income households. It is therefore necessary to increase the credit available to middle-income households by creating new products, such as home-savings plans.

Subsidies and cost-recovery issues are also being revised. Despite the pressures of free-market economic thinking within international institutions (which seek to avoid constraining market development with an influx of subsidies), an international consensus seems to be emerging, that subsidies are indispensable for the regularization of infrastructure services and tenure regularization programmes and policies. In the meantime, innovative financing systems are being set up, generally with the support of public authorities, foundations, NGOs and CBOs. Reformed and adapted tools are also needed to resolve and prevent land disputes. Social relationships connected to land tenure are causes of conflicts. Conflict can be arbitrated at different levels (tribunal and traditional/customary bodies, local authorities). CBOs play an essential role in expressing and channeling claims and mediating between disputing parties. However, the prevention of land disputes rests largely with the integration of irregular settlements.

Part III describes and analyses innovative practices regarding the provision of infrastructure and services, tenure regularization and new relationships among urban actors as a result of these practices.

Firstly, these practices seek to diversify land production for housing delivery channels, by promoting and assisting market development (Chapter 7). Even if production stemming from the formal private sector meets demand from middle and high-income groups, its negative effects should not be underestimated: an increase in land prices and an aggravation of spatial segregation. Empirical observations and studies all confirm that the formal private (commercial)

sector cannot produce and deliver serviced land for housing low-income groups without the support of other actors. Even with such support, which may take many different forms, market constraints limit the margin for manoeuvre. Although the experience of the last decade clearly indicates that the public authorities cannot fully control land markets, it also stresses that public authority intervention is essential to appropriate development. Research also highlights the difficulties encountered by public and semi-public agencies in the implementation of regularization projects and programmes. Experience, however, identifies a number of pre-conditions, before intervention of development agencies can occur. Since the mid-1980s such agencies have been criticized by private land and housing developers, as free-market economy pressures within international organizations and expertise increase. For this reason, these agencies are seeking more and more to introduce cost recovery as an objective, breaking away from earlier forms of intervention.

Direct intervention by the formal private sector achieved limited results: formal private operators are only likely to undertake the development of serviced lands for low-income households if there is a significant incentive to do so. The difficulties encountered in recent years in the provision of infrastructure and services, and in regularization projects for irregular settlements, have led to a search for new forms of association among public and private actors and NGOs. One of the State's duties is to organize land development, to hand over responsibilities to many different producers and to see that its rules are complied with. Therefore, the issue of formal private operators in regularization operations is better considered in terms of partnership. Cases studied clearly show that partnership between the public sector and the formal private sector for urban services is workable. However, services are not the only viable target form for partnerships. There may be others directly linked to the provision of infrastructure and services, reblocking and tenure regularization of settlements. Associating community-based organizations and NGOs with interventions by private operators today opens up interesting perspectives.

Secondly, innovative practices aim at integrating and assisting informal practices (Chapter 8). Three approaches can be identified: (a) The public operator emulates the practices of informal subdividers in order to supply land for housing. He acts as informal subdivider, but works from a development plan. Delivery of urban infrastructure and services occurs after the attribution and occupation of the land. (b) The public operator oversees informal production systems. Public authorities thus act as facilitators, but also intervene directly when necessary to ensure that in the future the settlement will be able to accommodate infrastructure, or act to produce or have produced certain infrastructure facilities. It combines three types of action, with variable "doses" of each, depending on the country: the development of a trunk infrastructure grid; the association and integration of informal subdividers in the production process; the progressive installation of infrastructure facilities on the occupied site. (c) Public authorities stress the need for a consensus among urban actors. In all three cases, the emphasis is on mediation.

Thirdly, innovative practices aim at developing new relationships among actors: the state, local authorities and the community (Chapter 9). This new relationship implies the recognition of the local authorities' new responsibilities. Decentralization of responsibilities in favour of local authorities is necessary. Experience suggests that regularization projects and recognition of occupants' rights should be carried out in close collaboration with local authorities. Central government alone cannot meet demands for urban infrastructure services and regularization. It

simply grants the final seal of approach. The study also stresses the limitations of local management in reblocking, the provision of services and tenure regularization projects. The transfer of responsibilities to local level requires strong political support and financial backing from the State. It also requires increased municipal revenues, consolidation of municipal control of land and urban development, the emergence of municipalities as turnkey operators and the development of strategic actions at settlement level.

These new relationships between urban actors also seek to improve community participation. Contrary to the common belief, difficulties are not because of the low level of peoples competence or their meagre participation in community affairs, but because of mechanisms which constantly demean people: commercial mechanisms or institutional assistance which exclude the poor. Community organizations are a prerequisite for the successful development or regularization programmes. As far as administrative innovations are concerned, experience suggests that good results are obtained from those that emphasize clarity and flexibility of execution. To improve and diversify relationships between actors also requires the consolidation of NGOs in technical support and mediation. Intervention by mediation bodies (associations, NGOs) is an increasingly frequent phenomenon and frequently leads to mutual agreements for resolving problems.

In conclusion, this research suggests that all aspects of irregularity should be dealt with. This assumes that, to start with, urban management recognizes irregular settlements. Recognition must be associated with a series of measures for providing infrastructure services and facilities and links with the city network and legalization, i.e. lawful regularization or land tenure. None of these measures can be applied singly to an irregular settlement. Recognition, infrastructure and services delivery and tenure regularization must be undertaken with unified approach, with appropriate "doses" of each as called for by the evaluation of local conditions. The study suggests that innovation consists more in adapting existing tools than in the "invention" and implementation of new tools. This adaptation of tools requires (a) the recognition, *de factor* and *de jure*, of actors and practices previously considered irregular, (b) the modification and simplification of procedures and standards, (c) the transfer of powers to local authorities and settlements and, (d) the setting up of procedures for consultation, association and partnership for joint optimal mobilization of all urban actors. This approach stresses the use of negotiation procedures and mediation in the preparation and implementation of regularization operations. It supposes a decision-making system which takes into account of demands expressed by the community concerned. The study also stresses that real innovation occurs at the interface of technical/social innovation. There is no "magic recipe": each operation is unique. Technology can be transferred, but not interaction among the actors involved. The introduction of innovative practices calls for good community organization: formulating claims and demands, spreading information, mobilizing resources. It also always requires the intervention of mediators between actors, and more specifically between public authorities and communities. These mediators enable changes in the relationships among actors to take place, and support or encourage community organization projects.

The diagnosis and the guidelines suggests in this study illustrate a break from the urban, land planning and developing traditions of the past three decades. There is a call for new

relationships between the State, local authorities and citizens, which enable the city to be considered essentially as a product of the society which has built it and lives there.

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I CURRENT STATUS AND EVALUATION

1 ACCESS TO LAND AND URBAN SERVICES INFRASTRUCTURE

1.1 Current Status and Trends

Worsening phenomena of social exclusion: Over the last decade, the changes in urban policies in developing countries have been strongly influenced by the emerging predominance of market liberalization, and by structural adjustment programmes. In the urban housing sector, the main feature of change has been a reduced capacity for intervention by government authorities and agencies. As a result, major programmes for developing and servicing urban land have been called into question, because of the sharp rate of increase in the price of land (higher than the inflation rate) (Jones, 1994), and the development, diversification and increased commercialization of irregular systems of land and housing production (Payne, 1991; USAID, 1991) and management (UN-ESCAP, 1990; Baross 1991; GDR I.U., 1995).

This change has not been identical in all regions, countries and cities, but in every case it has heavily penalised the less affluent urban populations. A significant proportion of city-dwellers in developing countries, at times the majority, is excluded from legal, regular processes of access to land and housing. They live in precarious conditions mostly in "irregular settlements" with little or no infrastructure or services.

The extent of irregular housing varies from country to country, comprising up 20% to 80% of urban growth and affecting 15% to 70% of the urban population of developing countries (the average figure is over 40%). The problems are most sharply felt in the larger metropolitan areas.

Irregular housing situations restrict the social and economic integration of low-income urban households, making access to credit for housing more difficult to obtain, and reducing people's capacity for productive activities. In addition, such situations do not encourage community participation in the management and maintenance of neighbourhood services and infrastructure.

Public authorities, for their part, face major difficulties in urban planning and development operations and in the provision of infrastructure and services, as irregular/illegal occupation of land constitutes a major obstacle to the implementation of such operations. Lastly, these situations have an important impact on State and local government revenue.

What s an irregular settlement?: The term "irregular settlement" includes a wide range of local situations and dynamics; it can be defined as an area or settlement where development (spatial expansion) and occupancy are not conforming to the legal, urban and environmental standards set by public authorities. The terms used in various countries to define these areas reflect this diversity. One of the factors common to irregular settlements is their precariousness or tenure insecurity. However, the lack of infrastructure and services and the difficulties encountered in overcoming this are, even more than insecure tenure, the main criteria for defining irregular settlements.

Three typical irregular settlement patterns

1. **Irregular subdivisions:** these settlements are generally on privately-owned or community land, that has been divided up into plots which are sold or rented out. Subdivision and the sale or rental may have been carried out by the land-owner or by an intermediary acting on his behalf. This causes of the irregularity are numerous and generally cumulative, thus multiplying the difficulties in providing the area with service facilities and in regularizing the legal tenure of its occupants. The sale or rental of the lot may be illegal: the seller may not be able to prove he has a legal title to the land; the area and the boundaries of the lot may not be clearly delineated. However, in many cases, the sale is a regular legal transaction (with a witnessed deed or one authenticated by a notary). The irregularity may lie elsewhere: perhaps the transfer was not duly recorded, or the development did not comply with planning and land-use regulations, or the subdivision plan was not approved, or service infrastructure standards or the building and construction norms and standards not complied with. In other cases, frequently found in francophone countries of sub-Saharan Africa, public authorities allocate land plots and the beneficiaries receive a "permit to occupy", which may be converted into a freehold title after the plot has been duly developed. In such cases, however, the allottee can rarely meet the specifications stipulated (size and type of construction) and then, after a few years, he is in an "irregular" situation.
2. **Squatter settlements:** in the strict sense of the term, squatters occupy land without the owner's permission. The owner may be a private individual or a government administration. The degree of tolerance of squatters varies considerably in different cities and settlements, and at different points in time, and will determine how precarious the occupation is. Property occupied by squatters has either been progressively occupied or else "invaded". The occupation of plots may follow a set of rules established by the first households on the site, or by the community of occupants or its representatives. Nevertheless, in certain settlements, occupants who are tenants may become squatters, if the owner of the property does not renew the lease or refuses to collect the rent.
3. **Occupation of dilapidated buildings in city centres:** in general, these are rental units. The irregularity lies mainly in (a) the status of the "tenants", or, more rarely, squatters (no lease, of a verbal contract with no guarantees); or (b) non-compliance with health and sanitation norms (drainage, density of occupation) and safety (dilapidated buildings).
4. **The social structure of irregular settlements:** the social structure of irregular settlements is far from homogeneous within a single city or even within one settlement. Irregular settlements are not always occupied exclusively by the urban poor. Middle-income people settle in such areas when the formal housing market cannot meet their demands; in such cases, a certain "right to irregularity" may be recognized, and the situation periodically set right through mass regularization by legal measures. In São Paulo, for example, 1992 estimates revealed that two-thirds of inhabited housing units were built on subdivisions with some form of irregularity. More than a quarter of these units were occupied by middle-income residents (Baretto, 1993). This phenomenon occurs most frequently in cities in which the following factors coincided: significant

growth of the middle classes, rapid spatial growth, a rise in land prices accompanying the development of a land market and a tolerant State attitude (Brazil: São Paulo and Recife; Mexico; Egypt; Benin). Case studies indicate a direct relationship between the socio-economic status of households (income, social standing, etc.), the initial price of access to the settlement concerned, and insecurity of occupation. **The map of urban poverty may be superimposed on that of irregular settlements fairly accurately.**

Size and location of irregular settlements. There is a great diversity of locations, but four typical distribution patterns may be identified.

- Extensions on the city periphery (the urban fringe), which are the most frequent
- Settlements on public land or on land not suitable for development within the city
- Small scattered settlements on residual areas or areas planned for redevelopment in city centres
- Occupation of dilapidated buildings in central areas

In these settlements size vary from a few isolated clusters to "cities" with tens or hundreds of thousands of inhabitants (Mexico, but also São Paulo or Dakar-Pikine). Irregular settlement locations display similar patterns: proximity to employment sites, accessible land (not fenced or guarded); existence of informal or customary land offers; public availability of space; land not suitable for construction or which is dangerous (slopes, flood zones). There is often a close correspondence between the cumulative disadvantages of the site and socio-economic level of occupants.

The demographic significance of irregular settlements: Case studies show that a very large part of the urban population lives in irregular settlements, although exact figures are not always available. Comparisons are difficult to make since certain authors refer to irregular land occupation and others mention under-serviced settlements or dilapidated and over-crowded settlements. Depending on how irregularity is defined, the population percentage will differ. Three problems are common to residents of irregular settlements: (a) secure tenure is not formally guaranteed; (b) the right to transfer, sell or have access to credit may be refused or contested; and (c) the right of access to urban facilities, infrastructure and services is not fully recognized.

Asia: In Bangkok, Thailand, in 1993, an estimated 18% to 20% of the population were living in "slums", or under-serviced settlements. The occupants are tenants of the lot and owners of the housing unit. A minority are squatters. Their occupation status is precarious (Boonyanbancha, 1994). In India, 36% of the 5.4 million inhabitants of Delhi were living in irregular settlements in 1981; similarly, 40% of the population of Bombay in 1983. In Calcutta, 42% of the inhabitants were living in rental *bustees* and refugee colonies; in 1987 30% of the inhabitants of Hyderabad and 27% of those of Bhopal were squatters; 42% of the population of Jaipur were living in irregular settlements in 1981 (Banerjee, 1993). In Dhaka, Bangladesh, 50% of the population live in slums or squatter settlements. In Manila, the Philippines, 40% of the

population live in irregular and under-serviced settlements. In Indonesia, an estimated 55% of the urban population live in settlements without a water supply, and 70% live in areas with no sanitation network (von Ensiedel, 1995).

Latin America: In Mexico, in 1990, an estimated 40% of housing units (1.25 million lots occupied by 6.6 million people) were built in irregular settlements (Tomas, 1995). In Caracas, Venezuela, 41% of the population live in *barrios* (Bolivar, 1995). In Santiago, Chile, 230,000 families still live in *poblaciones* (Palma, 1995). In 1990, 30% of the population of Lima and Callao was living in *barriadas* (Castro, 1993). In São Paulo, Brazil, in 1993, 9% of the population lived in *favelas*, 40% in irregular settlements (Baretto, 1993 and Pasternak-Taschner, 1995).

Anglophone countries of sub-Saharan Africa: The most difficult situations clearly concern the countries where a massive exodus to the cities (due to national or regional conflicts) over the last decade has increased the pressure of national demand, while public authorities facing severe economic crises are not able to intervene. 70% of the population of Dar es Salaam live in irregular settlements; the same is true for between 50% and 75% of the population of Nairobi; also for the large majority in Kampala; 75% of the population of Addis Ababa lives in dilapidated, over crowded housing - including the city centre's "legal slums". In Botswana, where urbanization is still limited and economic growth strong, the situation is better: in the mid-1970s, 25% of the population of Gaborone were living in irregular settlements, but the proportion reached 60% in Francistown. The spatial extension of irregular settlements now appears to be under control and the needs for infrastructure and services are gradually being met. In South Africa it is estimated that in 1995, 20% to 25% of the urban population were living in irregular urban settlements or in settlements without infrastructure and services. Recent data indicate that these areas are growing at a much greater rate than "regular" settlements.

Francophone countries of Sub-Saharan Africa: In these countries, the proportion of the population living in irregular settlements is significantly lower, but the situation varies from one country to another. In Dakar, irregular housing accounts for 30% of residential areas, but it certainly accommodates a higher percentage of the population (more than 50% of the population of Dakar-Pikine). In Douala, 70% of the urban space is occupied by irregular settlements (but there are many differences in status and level of services from one settlement to another). In Cotonou, more than two-thirds of the urban area has been developed irregularly; part of it has been "regularized" *a posteriori*. Large-scale regularization schemes are ongoing, but infrastructure and service needs are far from being met. In Conakry in 1990, more than half of the population was living in an irregular situation. Irregularity occurs in more than 90% of recent settlements. Two countries are special cases: Ivory Coast, where a significant proportion of the population of Abidjan cannot be considered as living in an irregular situation and enjoys relative security of tenure (despite incomplete registration procedures); Burkina Faso, where the question of regularization of irregular settlements was largely resolved between 1984 and 1991, through Agrarian and Land Reorganization (75,000 lots allocated in Ouagadougou) - although the problem of infrastructure and services has not yet been solved. All over sub-Saharan Africa, the major problem remains access to infrastructure and services, rather than security of tenure *per se*.

Arab States: In Morocco, while less than 7% of urban households live in shantytowns, between 11% and 45%, depending on the cities, still live in the so-called "clandestine settlements" (Ameur, 1995). In Tunisia, the number of *gourbivilles* has declined over the past decade, but the proportion of the population living in "clandestine" land subdivisions remains high (Chabbi, 1995). In Egypt, 36% of the population of Cairo live in irregular settlements. In 1982, it was estimated that over the preceding decade, 84% of housing units had been built irregularly (Metwally, 1995). In Yemen, the population of irregular settlements is growing rapidly because of the high rate of urbanization and the difficulties encountered in the use of State land and Waqf lands for the development of an infrastructure in residential areas (Saeed, 1995).

1.2 Specific Regional Features and Disparities

Latin America, Asia and the Arab States: A comparison of the cities in Arab States with those of Asia and Latin America reveals few differences in the types of irregular settlements, precarious situations, poverty, level of infrastructure, services and integration and morphology. The specific features of Asian and Latin American cities are (a) the level of market integration of irregular land and housing delivery systems and (b) the diversity or importance of formal private operators and (c) the dynamics of community organizations.

The integration of irregular land and housing production systems into the market is significant in Latin America and even more so in Asia. It is facilitated by the relative unity of land tenure systems and the emergence of urban middle classes. "A phenomenon emerging in several (Asian) metropolitan areas to partly fill the gap in the low-income market, is that low and lower-middle-income urban households buy land with a certain degree of security in fringe areas from informal or illegal subdividers, and start to establish their habitat even without any essential services and amenities at the initial stage. After occupying the land, they construct these houses largely on a self-help basis, and gradually organize themselves to obtain necessary community services" (United Nations, ESCAP, 1990).

Nevertheless, there is a clear difference between major Latin American cities, where residential segregation is very marked, and the large cities of Southeast Asia, where a residential mix can be found. In this respect, cities in the Arab States are in an intermediate situation. However, in all areas, spatial segregation is tending to increase. The market everywhere tends to break down specific cultural and tenure systems, to foster the use of the standardized management practices promoted by States and international institutions, and to encourage the emergence of the same types of institutions and categories of actors, even when the planning role of the State remains significant (Egypt).

Specifically in regard to Latin America, three main features can be highlighted: (a) the persistence of a strong populist tradition (b) a decades-old tradition of urban struggle, and (c) a deeply-rooted tradition of community organization (the role of religious and democratic movements). The emergence of community movements has been slower in Asia and the Arab States, but the influence of associations and people's organizations has grown as political regimes have become more democratic.

The specific features of sub-Saharan Africa in regard to the scope of the irregularity phenomenon and dominant land tenure systems

A much larger proportion of this region's population lives in the so-called "irregular" settlements, most of them partially or totally without essential urban services infrastructure and facilities.

A specific feature is in regard to the **dominant land tenure systems**. Colonialism and post-colonial management (mostly there was no clean break) introduced market logic and overturned most previous "customary" rules of land allocation. The term "customary", as used in sub-Saharan Africa, refers to a rather wide range of situations and claims to land, but the fundamental traits of the customary system vary little from one country to another. With few exceptions (Botswana, where there is a restoration-rehabilitation of customary forms of management, and to a lesser extent Ghana and Uganda), independent States have sought to preserve the land management system set up under colonialism by taking it over. They have often consolidated this system with an administrative land allocation process. Segregation does not operate on the same basis. Electoral patronage often determines who the system will benefit. **Despite this pressure and the deterioration of systems since the colonial period, customary land tenure practices continue to have a strong impact on urban land management in general and on the extension of irregular settlements in particular.**

Faced with the huge pressure of demand and in the absence of alternatives, the heirs of the customary system have adapted to the market, outside the boundaries of State laws, by improvising transfer procedures which are a mixture of customary practices and the practices of market and government administration.

Most of the peri-urban "customary" land reserves are today exhausted, absorbed by the market. Even so this has not put an end to customary claims. Their resurgence is related to:

- 1) The reduced capacity of State intervention
- 2) The extension of cities and extra demand for land
- 3) The native population's quest for economic opportunities, often denied them in the past (because of colonialism and State control of land use).

There is rarely a permanent subordination of customary practices to administrative ones, but rather a sort of interdependence, especially when the State cannot meet the demand and its margins for manoeuvre are limited.

Under certain conditions, customary arrangements may contribute to meeting demand by ensuring a relatively equitable allocation of land to low and middle-income households, especially if these arrangements are formally recognized by the major urban actors and if they can play an effective role in resolving land-related conflicts.

However, in none of the cases at hand does the rehabilitation of customary property rights constitute in itself a solution for the integration of low-income settlements or to the problems of infrastructure and services.

1.3 Dynamics

Different trends according to regions. Do irregular settlements have a higher population growth rate than the agglomeration of which they are a part? It is not always possible to measure recent trends, but, in some cases, they can be outlined.

In sub-Saharan Africa, the general situation continues to deteriorate, except in Botswana, which has implemented a policy of low-income settlement integration ever since independence. In Burkina Faso, the 1984-1989 Agrarian and Land Reorganization has also provided security of tenure to the majority of the population. Senegal also initiated a large-scale regularization policy in 1993. In Benin and the Ivory Coast, the situation has stabilized.

In Latin America, only Mexico and Chile have undertaken large-scale policies for regularizing and providing infrastructure and services to irregular settlements. These efforts are significant. In Argentina, Venezuela, Peru and in the major Brazilian agglomerations, the situation has improved very little, if at all, because of the lack of resources and insufficient political will.

In South Asia, India and Sri Lanka have implemented national policies for irregular settlement integration which have been taken up by local authorities, resulting in a stabilization of the situation in major cities. The situation seems to have worsened, however, in Pakistan and Bangladesh.

In the larger cities of **Southeast Asia,** the percentage of the population living in irregular settlements is tending to stabilize or diminish because of economic growth and, in the case of Indonesia, because of a vigorous policy of providing infrastructure and services. Such progress has not yet been achieved in the Philippines.

In the Arab States, the situation has improved considerably in Morocco and Tunisia, seems stable in Jordan and is becoming stable in Egypt.

General trend: diversification and the commercialization of land and housing delivery systems. This trend is another significant feature of the last two decades. Growing commercialization can be observed in all countries. It spells the end of free or virtually free access to urban land as it existed up until the mid-1970s. In the majority of cases studied, the proportion of squatters is decreasing, although unequally in different cities and countries. This occurs not because of policies, political will or firm repression: squatter numbers are low in countries where informal or customary systems meet the demand which the State or formal market does not; it increases where the State has attempted to dismantle or eradicate informal land delivery channels.

Empirical studies highlight the interdependence between land and housing delivery systems. If we observe which actors intervene and in what order, in the various phases of the process of land and housing production and delivery, three types of production systems can be identified: (a) Public channels, directly controlled by, or subordinated to, government controlled agencies; (b) private, formal channels; (c) informal popular channels which take up all the vacant space left by the formal public and private production systems. Each type of production is characterized by the strategic objectives of the actors in charge. Each has its own dynamics.

Any modification in the behaviour of one actor has repercussions on the system as a whole. For example, when the State withdraws, this is compensated for by increased intervention by the formal and informal private sectors. In the same way, a decrease in production by any informal subsidiary is quickly compensated for by an alternative offer from another. All case studies confirm this interdependence. **In legal operational terms, this means that any provision aimed at limiting the development of one type of irregular situation will always have the effect of developing alternative channels of production.** Control measures are therefore more likely to shift the focus of the problem than to solve it, as stricter control of squatter areas usually results in irregular settlements growing at an even faster rate.

The various phases of the land and housing production process suggest a major phenomenon: each channel or system of production is typified by a certain order of events. While formal private land and housing production and delivery generally follows a chronological order such as "planning - provision of infrastructure and services - construction - occupation", the order of events is often reversed when informal systems are at work, i.e. "occupation - construction - provision of infrastructure and services-planning (Baross, 1990). **This inverted sequencing has considerable impact on the forms of public intervention in irregular settlements.**

1.4 The Intervention of Public Authorities: An Alternative Way of Managing Urban Development

From authoritarian to laissez-faire policies: Until recently, authorities have not always been able to decide which of the following policies should be adopted:

- Illegally occupied land to be considered available land. Thus the illegal use of land is sufficient grounds for the eviction, if necessary, of "irregular" occupants.
- A regularization policy which could encourage illegal practices and might constitute the public powers' abdication from promoting urban law and order
- Illegal settlements to be regarded as places of marginality and social disorder, where the intervention of the public authorities could stir up severe social unrest and intervention therefore to be avoided
- Irregular settlements considered as an inevitable but transitory problem that economic development and social mobility will eventually overcome. This attitude would suggest a combination of laissez-faire and corrective measures.

All these policies have strongly influenced the practices of urban actors until the beginning of the 1990s, but none of them can be considered as constituting an urban development and land management doctrine. In the 1970s and earlier, authoritarian regimes emphasized the repression of irregularity. Democratic regimes, at least from the 1980s onwards have, for their part, integrated the management of irregularity into their urban housing policies, but they rarely carry out large-scale regularization operations.

Emerging regularization policies. The last few years have seen a growing determination on the part of public authorities to deal with irregular settlements through the implementation of integration policies, combining the provision of infrastructure and services, reblocking and the legal regularization of settlements. **This is a major breakthrough in land and housing policy for low-income households.**

The experience of the last decade shows that State intervention occurs more readily and more successfully in settlements occupied by squatters. The main difficulties arise from the scale of intervention (regularization programmes may be politically and economically impossible to implement), and from the extreme poverty of the people concerned (cost recovery is not even at issue, but rather the potential of the people to organize themselves and become associated with the project).

Squatter settlements do not, however, constitute the majority of irregular settlements and State intervention is much more difficult in irregular settlements where land has been purchased, or where land is subject to customary claims.

Public authorities must deal with populations whose status is not necessarily precarious, but who believe that they have already fairly paid a subdivider for the land they occupy and do not feel obliged to pay a second time for access to services or security of tenure. Another difficulty is the identification of rightful owners (the same land may have been sold several times to more than one buyer due to the lack of an appropriate registry system). The result is a difficult blending of settlement measures and authoritarian measures, often with limited political results.

In an increasing number of countries, integration and regularization of irregular settlements would appear to be the first step towards a new form of managing urban development. Although still limited in number, regularization programmes are becoming an essential part of housing policy, with irregular occupancy the only alternative for a significant portion of the urban population of developing countries: this is a major shift. Irregular settlements are no longer seen by public authorities as a transitory phenomenon, but rather as a permanent and lasting fact of life. At the same time, public authorities have begun to question the usefulness of conventional solutions implemented up to the 1980s to provide serviced land or decent housing for low-income people; this is partly because the solutions offered (social housing programmes, and later, "sites and services" programmes) are rarely suited to the contributory potential of the targeted households, and partly because resources for this type of operation are diminishing.

2. OBJECTIVES AND PROCEDURES FOR REGULARIZATION PROGRAMMES: CURRENT PRACTICES

2.1 Regularization Programme Objectives and Requirements

The main characteristic of irregular urban settlements is that they are already built but are illegal vis-à-vis planning and building regulations. This increases their marginality in the urban context: they are usually not included on city maps and the basic infrastructures are insufficient or totally lacking.

Public authorities generally seek to attain several objectives simultaneously with the implementation of urban infrastructure, reblocking and land tenure regularization policies for irregular settlements:

- A reduction in the deficit of urban infrastructure and housing
- A reduction in the demand from low-income households for land and housing, especially in central urban areas
- The establishment of some control over spontaneous actions through the organization of the population and electoral patronage
- Access to external funding

Regularization projects generally focus on two objectives: to set up primary facilities (basic infrastructures and social services) and to guarantee secure tenure for the concerned population.

The integration of settlements primarily requires a policy for urban infrastructure and services. Inhabitants of irregular settlements do not have access even to minimal urban services and amenities, although they contribute greatly to the urban economy. Integration means equipping irregular settlements to make up for those deficiencies, which implies the acceptance of the principle of access for all inhabitants and for all settlements to urban infrastructure and minimal services.

The integration of settlements also implies secure land tenure and, therefore, tenure regularization. The experience of the last decade confirms that secure tenure is the only way to avoid eviction for inhabitants of a newly equipped settlement, and is essential for recovering infrastructure and service delivery costs. In addition, it helps to mobilize the people concerned for the creation or management of services.

The requirements of new services and infrastructure justify land tenure regularization. It is now widely accepted that programmes for the legalization of irregular settlements must be institutionalized and become standard practice (it would be illogical to provide infrastructure and services for a settlement, without guaranteeing the inhabitants a certain amount of tenure security). The practical approaches to this legalizing process may take various forms. Some

concentrate on the allocation of land titles, while others emphasize the need to set up simplified procedures for recognizing land rights, such as issuing temporary titles, which can be registered and kept by local authorities.

Two trends have been identified in the implementation of policies for providing infrastructure and services, regularization and integration. One stems from **liberal economic policies** which emphasize re-housing programmes and moving inhabitants of irregular settlements to serviced plots in peri-urban zones, rather than regularizing the sites they already occupy. Nevertheless it should be noted that the decision to relocate to the urban fringe is often dictated by strict budgetary constraints (the price of land is not high) and renewal of the city centres is not always part of a coherent urban development project.

The other, **a socially and radically inspired trend**, favours regularization programmes in the proper sense of the term, meaning that they aim to retain irregular urban populations in their existing settlements. Although only marginally significant in the past, this type of intervention is becoming more widespread.

2.2 Regularization Operations

Typical configurations

Regularization programmes can be broken down into the following five components:

- Physical and legal characteristics
- Level of integration
- Set-up and funding
- Intervening actors
- Scale of implementation

Table 2.1

I PHYSICAL AND LEGAL CHARACTERISTICS

1. Type of Operation

A. REGULARIZATION IN SITU (KEEPING INHABITANTS IN PLACE)	A1. IN THEIR ORIGINAL OR SELF-CONSTRUCTED HOUSING A2. IN NEW HOUSING
B. REHOUSING AT ANOTHER SITE	B1. IN "SITES AND SERVICES" PROJECTS (DIFFERENT LEVELS OF DEVELOPMENT) B2. IN NEW HOUSING
C. COMBINATIONS OF A+B	

2. Level of physical improvement/re-plotting and of infrastructure and service provision

A. PHYSICAL IMPROVEMENT/REBLOCKING OF SETTLEMENT	A1. LEVEL OF PHYSICAL IMPROVEMENT
B. NO PHYSICAL IMPROVEMENT/REBLOCKING OF SETTLEMENT	
C. PROVISION OF INFRASTRUCTURE AND SERVICES	C1. LEVEL OF INFRASTRUCTURE & SERVICES PROVIDED
D. NO PROVISION OF INFRASTRUCTURE & SERVICES	

3. Type of tenure regularization

A. NO LEGAL REGULARIZATION
B. ADMINISTRATIVE AUTHORIZATION/PERMITS TO OCCUPY
C. LEASE
D. GRANTING OF FORMAL PROPERTY RIGHTS (PROPERTY TITLES, LAND RIGHTS, LONG- TERM LEASES)

II LEVEL OF INTEGRATION

An operation may be limited to the physical improvement/re-plotting of the settlement, to the provision of infrastructure and services, and/or land tenure regularization. It is however, often accompanied by other actions or programmes. The operation is then integrated into a more global project, covering:

COMMUNITY PARTICIPATION
EDUCATION
TRAINING
EMPLOYMENT
CREDIT
SUPPORT FOR ECONOMIC ACTIVITIES
HEALTH
GENDER
THE ENVIRONMENT

III SETUP AND FUNDING

Table 2.2

	Studies	Mobilization & Organization of population	Land access	Physical improvement and reblocking	Site development	Services and infrastructure provision	Housing construction	Access to housing
Funding Source: - inhabitants - public - private - cooperative - other								
Type of funding: -subsidy -donations -loans -other								
Guarantees Demanded								
Cost recovery: -total -partial -no recovery								

IV ACTORS INVOLVED

	Studies	Physical restructuring	Site development	Services and infrastructure	Housing construction
Project Manager - Public: State, Local Authority, Public Org. - Private: formal - Private: informal - CBOs - NGOs					
Project Master (Turnkey operator) - Public: State, Local Authority, Public Org. - Private: formal - Private: informal - CBOs - NGOs					

V SCALE OF IMPLEMENTATION

1. A pilot operation limited to one settlement
2. Operations affecting a group of settlements
3. Generalized operations on the scale of a whole agglomeration
4. National policy

An approach based on the five components cited has the merit of simplicity. It helps to identify all types of configurations possible among both actors and situations. Such an approach also makes it possible to determine which of these programmes occurs most frequently and, by comparison, to loosely define current dynamics and trends.

Overall trends: A number of converging trends can be seen from the case studies, revealing emerging priorities.

- Programmes requiring only "light" physical restructuring are now encouraged.
- Special attention is now paid to the densification of irregular settlements in central areas as and when means permit.
- More than before, priority is now given to providing minimal services to a large number of households, rather than high-level services to a few clusters or settlements.
- More and more attention is paid to the notion of incremental servicing developed with the support or assistance of the people concerned.
- Formal land tenure regularization does not appear to be a priority in many programmes.
- Special attention is given to the preparatory phases of the programmes: informing the actors concerned and organizing the inhabitants.

A more pragmatic approach tends to prevail, especially with regard to two points: Firstly, the procedures and implementation of norms and standards are becoming less of a constraint for the implementation of regularization procedures, except in sub-Saharan Africa where a reduction in standards is not readily accepted by public authorities: secondly, the public authorities' cost-recovery practices have become more flexible. The principle of subsidizing regularization projects is better accepted.

New actors are gaining increased responsibility and recognition: The influence of NGOs in mediation processes and technical support functions is gaining in importance. In addition, a greater role is being assigned to informal developers and contractors in projects implemented jointly by the public and private sector. More and more frequently at municipal level, local authorities take on the role of project managers (or turnkey operators) in conjunction with public agencies or State administrations in charge of the regularization projects.

3. OBSTACLES TO THE IMPLEMENTATION OF REGULARIZATION PROGRAMMES

Case studies reveal a number of stumbling blocks which can slow down or compromise regularization programmes in all phases of the process. These obstacles fall into three categories.

3.1 Obstacles Which are the Result of Conflicts between the Actors Involved

Conflicts between landlords or land owners (public or private) and irregular occupants: This is the most common conflict and the one which occurs first. However, contrary to common belief, it is not always the most difficult to overcome. When the land is occupied, the owner finds himself in a weakened negotiating position, since, without strong State support, he will be unable to recover all of his property, or obtain a price equivalent to the market price. This situation often leads to a compromise solution (Bangkok, Lima, Delhi and Bhopal).

Conflicts among landlords or owners of land occupied irregularly, intermediary subdividers and public authorities at central and local levels: In the case of lands occupied by squatters, serious obstacles arise when determining the amounts of compensation which the owners of irregularly occupied land would like to obtain, or in regard to the repressive role they would like to see the authorities play - and which the latter do not wish to assume for political reasons (Thailand is an interesting case). In irregular subdivisions, obstacles are usually related to the question of regularizing the operation in terms of urban planning: issue of land use plans, permits for subdividing and servicing, infrastructure and services standards, etc. Subdividers want recognition for their operations, which urban planning and development authorities often refuse (São Paulo after the Lehman Law, and also Bhopal after regularization operations in 1984). This is a common problem in Arab States (Morocco, Tunisia, Egypt and Jordan). In many other cases, it is the irregular subdivider, as distinct from the owner of the land, who is the central figure in conflicts with public authorities and occupants.

Conflicts within the community that jeopardize the implementation of regularization projects: These conflicts occur at several levels: between members of the community especially between the first occupants and later arrivals, between irregular occupants who own their houses and the tenants or squatters, and between households with different incomes, particularly when regularization demands significant financial contributions from them. Conflicts also occur between organizations, groups or individuals claiming to represent the interests of the community: local unofficial community leaders, "politicians", community representatives. All may have been involved in conflicts, rivalries or alliances.

Conflicts between the people and the organizations or agencies in charge of implementing regularization policies: Which define priorities and manage interests contradictory to the irregular occupants. Such conflicts are common when criteria for eligibility are defined to identify which among the occupying households will benefit from the regularization operation, and when choices are made concerning physical restructuring and the levels of facilities and services.

3.2 Legal, Political or Financial Obstacles

Standards and reference models are too constraining: Public operators, State administrations and local authorities are often excessively dogmatic about norms and standards. This happens with urban and planning norms (zoning, land use, development regulations, etc.), construction and infrastructure norms and standards, legal and other procedures for providing tenure security. In particular, access to land ownership is often presented as the best if not the only way of achieving such security, to the detriment of alternatives (such as renting). Yet the very administrations that opt for this solution often put up barriers which make land and housing access more difficult. This is also true in the models used in the technical-financial management of projects.

An autocratic concept of land management often predominates: This takes on many forms, ranging from the State take-over of land (two-thirds of the countries in sub-Saharan Africa have implemented such long-term policies over the last three decades) to market control and regulatory measures. The problem is worsened by poor communication of information, the absence of democratic procedures at a local level and a rigid hierarchy of responsibilities.

Overlapping jurisdiction between different administrative authorities: In Bangladesh, for example, the forms of government intervention in regard to land development and improvement directly or indirectly involve 42 different agencies. There is almost no coordination between these agencies. This dispersal of authority can be observed in most countries in the region (von Einsiedel 1995), and also in Egypt.

Decision-making processes are over-centralized: This is often the cause of erroneous evaluation of local situations, and the source of delays. It is mentioned in most of the studies carried out in sub-Saharan African countries and in all the Arab States where the beginnings of decentralization now suggest a turning of the tide.

Differing legal and urban status of land: Land tenure regularization of occupancy and urban land-use and planning regulations often fall within the jurisdiction of different administrations; decisions therefore are made at different levels. Moreover, these two types of regularization may well not be carried out at the same pace or according to the same logic.

Public authority policy changes: Such obstacles lead to institutional conflicts between administrations as regularization programmes come into operation

Land constraints limit the scope of new integration strategies: State control of land is diminishing everywhere, for three reasons: growing market pressure, State withdrawal from direct intervention and the rapid depletion of public land reserves. In sub-Saharan Africa, State capacity for intervention is weakened by many factors: the persistence of a strong duality of land systems; the extra pressure popular demand places on land; lack of resources; the general reduction of State administrations in charge of urban and land management, and illicit practices in many sectors of the administration.

Obstacles due to funding problems: the implementation of a regularization programme requires significant, regular financial resources. In addition to external sources (budget allocations, loans, donations) necessary for the programmes start-up, the households concerned must make a contribution as soon as implementation is under way. A combination of these two modes of financing determines the long-term success of the operation. However, lack of resources remains a major problem and is aggravated by frequent under-estimation of costs, as well as the duration of the programme and the difficulties in cost recovery, which is rarely effective. This problem is particularly acute in sub-Saharan Africa where cost estimates are often inaccurate. Paradoxically, it has been observed that programmes carried out on a large scale are those not financially dependent on cost recovery in a strict manner, i.e. programmes which are heavily subsidized.

3.3 Resistance to Change in State Administrations

Difficulties in accepting the very principle of regularization: Most administrations in charge of urban management have difficulty in accepting irregular settlements, not so much because they are outside the law as because they have been established outside the bounds of administrative authority. They are then refused both integration into the city and the progressing provision of infrastructure and services. The inability of irregular settlements to derive benefit from the association with a city contrasts with the improvements made in neighbourhoods created under regular conditions.

Non-transparent procedures and illicit practices add to the complexity in the recognition of occupants' rights: The recognition of irregular settlements faces seemingly insurmountable obstacles. This issue is most acute in sub-Saharan Africa where administrations responsible for land management are often characterized by (a) their dependency on political power; (b) their opposition to decentralization policies; (c) their resistance to legal innovations; (d) the lack of information transparency; (e) the complex procedures of land management. Illicit practices are widespread, in particular when the administration allocates land or recognizes occupants' rights. These issues also exist in other regions, although there have been significant advances in Latin America in simplifying and accelerating procedures to recognize rights over land.

3.4 How to Handle Rental Housing

Rental accommodation is an important feature of irregular settlements: Referring to the Housing Indicators Programme, Rakodi (1995) stated that in 1980, 63% of the urban population of Morocco were tenants. In sub-Saharan Africa, 62% of the population of Kumasi are tenants; 65% of the population of Benin City in Nigeria; 85% of the population of Abidjan in 1986; 33% of the population of Khartoum. In Asia, the proportion is 61% in Indian cities of more than 1 million inhabitants; 26% in the cities of Indonesia (30% in Djakarta); 59% in Seoul. In Latin America, tenants represent 40% of the population of Bogota; 30% of the population of Medellin.

The rental units most commonly found in irregular settlements are of four types:

- Rooms rented in clusters and dilapidated buildings in the city centre (Cortiços de São Paulo, Vecindades in Mexico)
- Lots on which the tenant builds a house (Indonesia, Bangkok)
- Rooms or out-buildings of the owners house, especially in sub-Saharan Africa
- Commercial-type rentals for those of low income: the owner of a block of dwelling units rents them out, but does not live there

In every case, the tenant is in a doubly precarious situation, because he is subject to the application of measures which the legitimate landowner or authority may take to halt the occupation, but is also dependent on the irregular landowner whose tenant he is.

In the context of regularization projects, rental housing raises particular problems:

(a) Rental units are most often associated with other forms of occupation. In the same irregular settlement, there may be tenants and sub-tenants, people who rent the land but own the house on it, squatters, guest residents, etc. Therefore, it is not possible, in a regularization programme, to apply a single solution to all occupants.

(b) Identification of eligible households is difficult (under what conditions can the tenants claim rights to the land they occupy?), and in addition the owner often resists regularization, fearing that he may not be granted title to the land at the end of the process.

(c) Rental units fill a need and respond to a deliberate choice. For many city dwellers, it is a long-standing phase of urban life. In particular, in sub-Saharan Africa, where residential mobility is high and where the links between the city and the countryside are close, tenants prefer to transfer their savings to their home region that tie money up in buildings (the situation is quite different in Asia and in Latin America, where the status of tenants more often seems to be imposed than chosen).

(d) Rental units have an important economic and social function. The idea of building is often inseparable from that of renting. Construction of rental units (houses or rooms) is largely self-financed. No other alternative would seem to be able to mobilize such resources for housing. In addition, rental fees are an essential source of income when conventional opportunities for savings are lacking, or returns on investments are low, and social welfare systems reserved for the minority.

These observations call for caution in the handling of rental units in regularization programmes especially since those in charge of the programmes tend to penalise owners of rental property and favour tenants, valuing occupation (legitimate) more highly than possession (illegal).

Regularization programmes on a large scale may therefore disturb informal systems of developing and delivery rental units (market pressures, or new owners evict tenants). Moreover,

the costs of regularization programmes borne by owners of rental units is often passed on to tenants. The latter may be forced to take part in a regularization project with the result that the change in their tenure situation could take the form of a large increase in their housing expenditure. **Accordingly, all tenure regularization and service infrastructure projects must include special provisions for tenants.**

In irregular settlements where tenants are in the majority, the organization of the community must be supported by strong intervention on the part of public authorities, often backed up by an intermediary (often an NGO, but local authorities may also play this role) and specific measures: technical support, cooperative organization, and the setting up of an appropriate financing system. India and Mexico are good examples in this regard.

The foregoing presupposes a certain level of community organization which takes tenants' interests into account. There are no strict rules and the solutions proposed must respect local usage and customs.

Lastly, owners who lease their property must also subscribe to the principle of associating tenants with the project, in order to guarantee its success and viability.

3.5 Reblocking and Provision of Infrastructure and Services in Irregular Settlements: Which Models?

Until the early 1970s, emphasis was placed on setting up the land reserves necessary for implementing housing projects initiated by the World Bank and the UNDP. In the 1970s and early 1980s, special attention was given to the question of secure tenure in irregular settlements, "sites and services" operations, and improvement and upgrading projects. In the 1980s, the so-called "integrated projects" were prevalent. Since the early 1990s, urban management has moved to the fore, along with improvement of the efficiency of institutions dealing with urban land management, decentralization policies, privatization and public-private partnerships. Experiments in socialist or autocratic land management, in particular in sub-Saharan Africa, have of course interfered with these phases, as have the populist programmes of the 1970s in Latin America.

Despite the great diversity of situations, surprising similarities exist in the forms of intervention in different countries: There are no models *per se*, but rather a consensus of approach in terms of needs, and market responses to these needs. The social issues at state in responses offered often emphasize one major concern: ensuring full market development. At issue are these objectives, procedures and techniques for implementation.

- To unify the land market and ensure its free mobility
- To withdraw the State from direct intervention
- To encourage the emergency of private and semi-public operators

- To implement short-term, "integrated" projects for reblocking, land tenure regularization and provision of urban infrastructure and services in a number of areas.

Limitations: Despite the undeniable successes experienced in some countries, these approaches have their limitations. At times they tend to:

- Mobilize essential technical, financial and human resources to the detriment of other actions
- Disregard the diversity of local situations
- Produce technical and legal standards which are inappropriate
- Underestimate costs and recover less than the least optimistic forecast
- Mobilize an insufficient proportion of the population, which can be considered as a form of administrative manipulation
- Face insurmountable administrative obstacles concerning the recognition of occupants' rights
- Make the transition from project to programme with difficulty when there is no joint intervention by a development operator and local authorities with sufficient means and autonomy over land and housing management. With very few exceptions, interventions meet only a small fraction of the demand
- Find that proper implementation of infrastructure and services programmes is comprised due to the pressure of demand for land and housing. The resulting urgency makes project management and supervision difficult, when there are very strong outside pressures at work, as observed in Tanzania

Repeated errors: Three main types of error are made repeatedly. When a public agency or a government decides to undertake a regularization project, the **objectives are many, sometimes ill-defined**, and often contradictory (Dowall, 1988). Moreover, intervention is all too often **carried out on a fragmented basis**, dealing with only one type of irregular occupation, without considering the relationship to others or taking into account the market as it operates for the city as a whole, or viewing land and housing production network has repercussions on all the other networks. In many cases, the project is carried out by a **single developer, generally a public agency with a monopoly** (the case of French-speaking sub-Saharan countries).

The regularity with which these errors are repeated, often in the name of technical soundness and of a unified concept of the city and its management, leads to questions as to the relevance of the basic dominant models. Urban authorities almost always plan out land and housing development projects with reference to a sequential model of "planning - servicing - construction -

occupancy", while in reality most settlements are formed through the reverse process of "occupancy - construction - servicing", with planning coming in much later (Baross 1988 and 1981, United Nations - ESCAP, 1990).

The 1990s: elusive strategies and the lack of models

Facing changes: One is led to the conclusion that the approach to urban land management housing integration and regularization of irregular settlements policies as well as local development policies has undergone radical and rapid changes since the early 1990s. However, the changes observed and the criticisms of predominant models rarely lead to proposals for a new strategy.

We have reached a turning point which is just as important as the one in the early 1970s which led, in a growing number of countries, to the systematic consideration of land constraints in housing development, improvement and upgrading projects ("sites and services" projects, self-help housing schemes).

Lack of models: There is a growing awareness of the limitations of the models used over the last few decades, yet no other models have been proposed. The consistency with which the same methods are used, with the same unsatisfactory results, raises a central question: the influence of urban models transmitted by institutions and international experts in all countries of the regions. It rarely seems to be a case of leadership or domination, but would appear rather that these models force themselves upon authorities and national experts. **They are thus led to reproduce previous experiments with some small improvements - and to use well-tried predominant models.** A long time is required to develop hindsight, to learn from failures, to influence strategy and turn it into new policy. This creates a gap between need and response.

II NEW DIRECTIONS IN REGULARIZATION POLICIES

4. THE EMERGENCE OF NEW STRATEGIES FOR REGULARIZING IRREGULAR SETTLEMENTS: OTHER OBJECTIVES

4.1 What are the Best Practices?

"The best practices are those which, on the one hand, aim to achieve a real and tangible improvement in people's living conditions by providing them with ensured access to housing, urban infrastructure and services, and which, on the other hand, are designed to have durable effects at least on a legislative and regulatory level, with regard to social policy, management and administration" (Press release HAB/95/30, 5 May 1995).

When applied to irregular, informal settlements, the best practices are those which guarantee inhabitants secure land tenure (on the site or on another site with comparable advantages) and access to minimum urban services and facilities. Best practices also recognize the rights of occupants of irregular settlements to land, giving them access to credit, and the ability to transfer or pass on those rights.

Recent observations and particularly the case studies on regularization projects and programmes carried out between 1992 and 1995 show that the best practices are the result of:

- Joint initiatives by public and private formal and informal actors
- Concerted action by actors on three levels: national, municipal and local (State administration, local authorities, public agencies and organizations, private enterprise, financial organizations, population and community-based organizations, NGOs)
- Coordinated intervention on several levels: land and housing, legal, urban planning, provision of infrastructure and services, funding

It should also be emphasized that all projects aiming to provide infrastructure and services, to integrate and regulate irregular settlements, including those projects with very modest and least durable results, contribute to improving current practices. A review of costly but unsuccessful pilot projects, which were supposed to have been replicable, in the years 1970-1980, has often been the starting point for renewed debate on the forms of intervention to be encouraged.

4.2 Factors Conducive to the Success of Regularization

Despite a great diversity of situations, overall case studies reveal a number of factors underlying the success of regularization policies. There should be a **favourable economic, political, legal and financial context having:**

- **Political continuity** that ensures the long-term implementation and follow-up of programmes and operations in accordance with defined guidelines
- **Smooth coordination between the various levels of power:** State, municipalities and settlements
- **A system of democratic representation** that enables the expression of the people's demand for access to land, infrastructure and services
- **An economic situation which allows public authorities to spend the resources necessary** for the implementation of regularization policies, in particular for intervention at the following three levels:
 - (a) land (acquisition of land, building up land reserves, etc.); (b) infrastructure and services (development of land for housing); (c) funding (financing of operations, loans to households)
- **A favourable legal and institutional framework** where the implementation of operations is facilitated by (a) the existence of specialized agencies or organizations (Mexico, Peru, Morocco, Tunisia, Jordan, Botswana) and/or (b) the existence of national programmes coordinated by an administration with appropriate means (India, Indonesia, Chile)
- **An appropriate and stable financing system**, adapted to the economic and legal situation of people living in irregular settlements.

Objectives and programmes suitably adapted to the situation having:

- **A clear perceived and limited number of prioritized objectives**
- **Clearly perceived benefits for the urban actors concerned**
- **Public authority and private agency capacity to offer a wide range of alternative options** for meeting the needs of the people concerned: sizes of families, needs in terms of residential mobility, household contribution potential
- **A capacity to implement regularization programmes**, integrated into a global project for urban and housing development policy

- **Less cumbersome, incremental development programmes** that should be favoured over more complex integrated projects which are limited to a single settlement and financial setup.

Competent and complementary actors benefitting from:

- **The creation of bodies with a real coordinating capacity, decision-making power, and a degree of financial autonomy**
- **A well-developed technological capability** at design and management levels. If this capability is lacking, the project's scope will be limited. It should also be noted that a strong community organization - proof of a successful regularization project - does not necessarily guarantee good technical management
- The existence of **stable and legitimate community organizations** able to negotiate with all the urban actors if necessary
- **The existence of "third" parties, generally NGOs.** Their role as intermediaries, between community organizations and authorities (central and local), international organizations and bilateral cooperation organizations (technical advisors, search for funding, loan guarantees, etc.) is important.

In general terms, a more pragmatic approach to intervention in irregular settlements is necessary.

4.3 Another Model for Intervention

Questioning State control of land and urban management: toward new strategies. One of the most cumbersome beliefs still commonly held by many planners and legislators is that the State is the first, if not the only, developer of urban land. This point of view finds its justification in a certain technically-dominated mindset, its legal basis in texts on public domain, and it relies on formal urban models from earlier and colonial times as well as more modern international ones.

These theories do not stand up to the facts. Preventive land development is a costly business, and on a large scale, politically and economically impracticable. As for the autocratic concept of land management, it fails due to the prevalent practices of "spontaneous" division and occupation of land. This concept has long prevented such practices being considered a normal way of producing the city. It hinders attempts to renew urban planning methods, which are still too often limited to physical planning exercises and design and land development project layouts.

For several decades, the prevailing idea was that residential settlements should be developed according to a certain technical and urban rationale which began with programme planning, continued with urban infrastructure and services, and concluded with the construction, allocation and occupation of housing units. This model is the one that, until recently, was used in most

teaching materials dealing with the management of urban projects. It is still widely used in projects carried out by land and housing developers in the formal private sector as well as by public authorities. Empirical studies have shown that it is becoming less and less realistic. Nowadays State control, as projected by this model, is threatened, weakened and pushed aside by the adjustment of national economies which designates cities, called on to govern themselves, as the poles of a new world economic order. Moreover, the State is weaker in dealing with urban projects: its capacity for intervention, especially its control over land, has been undermined.

Informal systems and channels of land and housing development remain the only realistic alternative for meeting the needs of low-income households: urban development on land irregularly appropriated represents between one half and three-quarters of the city in formation; in addition, it is the site of numerous transactions which make it a genuine marketplace and one of its qualities is its accessibility to the many.

The issue is to find a method of intervention which ensures the development of combined action between formal and informal channels of land and housing development. It may come by reviewing the achievements of informal operators on the peripheries of major agglomerations.

There is no integration of irregular settlements without public authority intervention.

Case studies from 1992-1993 and 1995 reveal:

- **A general worsening of the situation** in countries confronted *inter alia* by (a) an economic crisis; (b) a significant rural exodus; (c) State withdrawal from land management; (d) a crisis of State authority in the following countries implementing a repressive policy with regard to the informal market and irregular settlements: Tanzania, Uganda, Kenya, Nigeria, Ethiopia, Cameroon, Guinea, Bangladesh. The situation worsens severely when several of these factors combine. South Africa, which is a long way behind in this process and where a policy to integrate irregular settlements is in the process of being defined, is a special case.
- **A stabilization of the situation** in countries where there is a certain degree of capital accumulation and/or implementation of measures aimed at servicing, reblocking or regularizing irregular settlements and/or tolerating the development of an informal land and housing market such as Senegal, Ivory Coast and Benin; to a certain extent this applies to Egypt, despite some adverse side effects of the new free-market-orientated economic policy, as well to India, Sri Lanka and the Philippines. The situation is also stabilizing in several Brazilian cities.
- **An improvement of the situation** in a limited number of countries, despite great internal demand from poor households, where there is (a) political stability; (b) a high rate of economic growth; (c) the establishment of development programmes, with extensive external help which may lead to subdivision, regularization and servicing on a large scale. Morocco proportion is a good example: ANHI intervention, supported by other operators, reduced the proportion of the population living in shantytowns from 13% to 6.7% between 1982 and 1992 (although results were less spectacular in "clandestine" settlements). In Tunisia 200,000 households have benefited from improvement and development projects since 1978; 250,000 others will have

benefitted from ARRU upgrading projects alone, between 1992 and 1996. Improvement is also notable in Jordan and, in a completely different context, in Botswana, where nearly 60% of the population of the six largest cities in the country live on plots produced or serviced by the Self Help Housing Agency. Burkina Faso, a special case, set up a large-scale regularization policy. However, it was interrupted without meeting the demand for infrastructure and services. In Thailand, Malaysia and Indonesia, improvement of the situation is linked to economic growth to private sector intervention and, in Indonesia, to the implementation of heavily subsidized integration programmes through the provision of infrastructure and services (KIP and IUIDP). In Mexico, and also most recently in Chile, though to a lesser extent, it is the result of a massive and sustained intervention by local authorities.

All case studies confirm that there never has been any improvement in a situation (or even a shift in trends) without the intervention of public authorities. In none of the countries studied was there an improvement in the situation of irregular settlements when only a freer land market policy was operating.

Intervention in occupied settlements: At the same time, it is clear that informal land markets are no longer systematically ignored by States. Many States have adopted a laissez-faire attitude, while maintaining their inherent right to "cut and reshape" the informal city in order to create a "genuine" one, although in the present economic crisis, this decision is constantly postponed. Despite recent adjustments, this autocratic doctrine remains firm. Other States in Africa and also in the Arab world and Latin America accept irregular occupation as an almost legitimate manifestation of the fundamental need for shelter. In these conditions, on renewal or redevelopment of the site, the occupants must be rehoused: irregular appropriation gives them a sort of "right to rehousing". In Latin America and Asia, other States accept this appropriation as completely legitimate but dispute that it gives rise to any rights. Accordingly, they view settlements as a sort of "first draft" of the city in formation. Public authorities will then be responsible for redevelopment, reblocking and the provision of infrastructure and services.

A point has been reached where the control and management of urban growth by traditional planning and regulatory measures is becoming less and less efficient. This implies a total reversal of the outlook of **seeking new planning models for housing projects, based on the implementation of planning, service delivery, and the improvement of space which is already occupied. The emphasis now should be on the redefinition of public land policies, combining preventive actions with a *posteriori* intervention.** Intervention must address all dimensions of irregularity at once, in order to achieve the progressive integration of illegal settlements in the city. This approach implies action at urban planning level (the control of land use) and at administrative level (to integrate irregular, illegal settlements in the area effectively governed by local authorities and actually provided with infrastructure and services). Legal regularization is then the final stage of the process of urban integration for the communities concerned.

4.4 Three Principles for Action

(a) Ensuring universal access to infrastructure and services: the notion of minimum service. The limited impact of many projects for regularization, provision of urban infrastructure and services often results from their being over-ambitious. Usually the reasons given are: the backlog of demand must be met; the project must be exemplary, both in its level of infrastructure and service provision (which should be as close as possible to norms); its administrative and financial setup should permit cost recovery; lastly, legal regularization should be achieved with the delivery of individual land titles. The projects therefore require very significant human and financial resource inputs, as well as significant accompanying measures.

Experience over the last ten years has shown that the best solutions are simple and relatively inexpensive: the railway coach (the settlement in question) must be hitched up to the municipal train (the city management by the municipality). When this idea is accepted, the minimum can be attained with little effort. Investment is both inexpensive and easily recoverable through ordinary taxes and marketable services. In this way, many irregular settlements can be treated at one. "A little for all" is better than "all for one".

(b) Shaping the city according to its structural features rather than through conventional land development programmes. Traditionally urban planning and development has been land-related. Areas for development are first delineated and then developed and serviced on the basis of "all or nothing". A different concept would seem to be more relevant today: instead of creating the city through land development and subdivision (the layout of plots), it is shaped and progressively developed according to its structural features. A city level, these are mainly the **trunk infrastructure grid** and, at settlement level, the **installation of the nearest facility**: street network, schools and markets.

In conception of urban planning through the installation of urban infrastructure and services, the main job is to get an infrastructure grid or network set up, the core of which is the road network. The "services" logic is easier to develop than the territorial land approach which aims at a general overhaul of the area through the application of a plan. It is much easier to lay a road through an existing residential settlement than to try to develop land already occupied. This can go even further. The urban infrastructure approach works better in occupied spaces than in areas undergoing urbanization. The users of infrastructure and services are already there, ready to use the services offered.

(c) Higher density: making better use of available space. It is important to rationalize the use of space in residential settlements: high density is often indispensable for ensuring the viability of projects, especially in central and peri-central zones. This may take the form of a small-scale reblocking and land reallocation projects, with the objective of making better use of the available space. Useful experiences have been recorded in the Arab States, especially Morocco (Ameur, 1995) and Tunisia (ARRU operations in Chabbi, 1995). High density also plays an important role in Bangkok, in the context of land-sharing operations (Boonyabanha, 1993 and 1994). Several operations are under way or have been completed in Latin America; in

Caracas (Bolívar, 1994); in Peru, in Villa el Salvador since 1993 (GRET, 1995), although they all remain modest in scale.

Higher density can also take the form of large-scale renewal or redevelopment projects having the original population of the site rehoused in new constructions (flats in multistorey buildings or new houses). Such projects were carried out in Mexico City, in the reconstruction and regularization of the dilapidated rental settlement in the mid-1980s (Azuela, 1995). Usually, such schemes aim to free excess land for commercial development. The land is sold at market prices to buyers who do not belong to the original community. Such schemes, however, require the mobilization of substantial financial means (subsidies, loan capital), know-how, technical and administrative management, and a satisfactory organization of the population. These constraints make it impossible to carry out projects on a large scale in poorer countries. In São Paulo, for example, the Cingapura redevelopment scheme (construction of plots in multistorey buildings on the site of *favelas*) initiated in 1993, has achieved very limited results: at the end of 1995, only 840 plots had been completed and allocated. Because of the cost of the scheme, several projects for infrastructure and service provision and tenure regularization in existing *favelas* have had to be cancelled.

As a general rule, the measures taken do not give priority to low-income groups, but rather to middle and high -income ones. A recent study of examples in Latin America and Asia draws the conclusion that "the only countries which are able to finance massive production of new and decent housing are those which (a) have an economic growth rate above 5%; (b) have set up a system of public or obligatory savings for housing programmes (contributions to contingency funds); and (c) ensure tight regulation of land markets". (Auréjac, 1995). Such models are to be found in Korea and Singapore. Elsewhere, "slow economic growth and free market economic practices result in a situation where commercial banks are cautious both with developers and buyers, and where interest rates are high, especially for the poorest households".

Nor should the effects of segregation caused by such operations be underestimated, when commercial objectives so often take precedence over the social objectives. This effect is felt all the more strongly as these operations generally concern only small "islands" in areas where land values are high.

4.5 Prevention and Follow-up: an Alternative way of Shaping the City

Tackling the problems of irregular settlements and at the same time allowing them to develop at random services little purpose. So-called "site and service" projects, aimed at preventing the formation of irregular settlements which are difficult to service by offering an alternative to low-income groups have failed, for the most part, once they became institutionalized. Efforts to rationalize, coordinate and establish the rigorous management of projects have not succeeded in overcoming the pitfalls inherent in this type of project: building and infrastructure norms were too stringent, land was appropriated by income groups other than those targeted, and replicability was compromised by unrealistic cost recovery policies.

Regulating unlawful land practices: "site without service" projects. Other responses aimed at regulating informal/illegal should be implemented. **A first form of regulation affects the agglomeration.** It is therefore necessary to have a fairly complete urban planning programme which defines strategic guidelines for land use (zoning), identifies structural networks and localizes superstructure serves. **A second form of regulation concerns the settlement.** Its goal is to impose a minimal degree of discipline in spatial organization so that the settlement is reasonably well laid out and can later be integrated into the city. In this way, the city does not inherit settlements which cannot be improved (or are very expensive to improve) and which must be demolished.

An incremental policy for urban infrastructure should be encouraged. **The state's duties are then to organize land development/delivery, to hand over responsibilities to a number of developers,** and to supervise compliance with the rules. This approach favours **the development of "site without service" projects.** "The government should provide a flexible framework to be updated from time to time whereby local initiatives are entertained guided and coordinated. Such a planning process would involve a new and interactive relationship between government and people's organizations, planned neither "from above" nor totally "from below". (United nations, ESCAP, 1990).

Inducing the dynamics of change: A cross-analysis of regional situations seems to confirm that the strongest resistance to change arises from the difficulty of having new standards for planning, development and secure tenure accepted by State administrations, by professionals and urban management technicians, and by and large sections of the middle classes. The obstacles are mainly cultural ones. Yet change is necessary to achieve the integration of irregular land and housing delivery systems. Special attention should be paid to raising the awareness of planners, decision-makers and professionals in charge of land management.

4.6 Scale of Intervention: The Transition from Project to Policy

The scale of intervention is a key condition to the success of regularization and integration policies: Most projects concern only a few hundred or a few thousand families. Often these families receive assistance only after years of struggle and perseverance. There are notable exceptions, however: India, Indonesia, Mexico, Chile, Peru, Burkina Faso and Morocco.

Some of these projects stress only tenure regularization (Mexico, Lima), some the provision of infrastructure and services (India, Indonesia), while others combine tenure regularization and servicing (Morocco). Nonetheless, they highlight the emergence of genuine policies for integration, carried out on a large scale and over long periods of time.

From projects to policies: The scale of impact is important for any social programme's credibility. However, in the case of regularization, the scale is doubly important for the reason that regularization tends to reveal its most negative aspects when carried out on a small scale (Doebele, 1995). If a programme creates small, serviced, regularized "clusters" in a large city where unsatisfied demand exists in the middle class, it is probable that the initial low-income beneficiaries will be replaced by higher-income groups. **In other words, major projects, such**

as those in Mexico, show that the scope of a regularization project can be a factor for success in countering induced mobility. As far as possible, projects should be seen as a means of defining programmes and policy.

Knowledge of market mechanisms is a prerequisite for large-scale intervention and integration: Informal systems of delivering urban land and housing in developing countries play a central role. Because this has been underestimated, many attempts at regularization have been laborious and on a modest scale. Informal systems are complex, with several layers of actors interacting and operating in a highly structured fashion. Generally, they have penetrated municipal, provincial and regional bureaucracies and operate with the active or passive support of public authorities and local politicians. They represent a considerable flow of money and power. Overall, they exploit the poor, often brutally, but do deliver a great variety of "products" with a wide range of prices. They supply shelter to more than half of the urban populations. They are an important source of employment for thousands of people and a significant part of the informal employment sector, which is the main source of income for the poor. "But, above all, the informal system is a massive web of vested economic and political interests which have a major stake in the *status quo*." (Doebele, 1995). **Rather than using new techniques, a better understanding is needed nowadays of the relationships of powers and the vested interests affected "irregularity", as they exist between all actors, including institutions (Doebele, 1995).**

Box 1: Lack of major infrastructure and regularization projects

The first major project concerning more than one million people was the Kampung Improvement Programme (KIP) in Indonesia. It affected 4 million city-dwellers between 1969, the launch date, and 1990. This was an infrastructure project only, not land regularization. In 1985, KIP was taken over by the Integrated Urban Infrastructure Development Programme (IUIDP), whose objective is to pursue the policy for servicing settlements, on the same scale, while emphasizing the participation of local authorities and agencies (Van der Hoff, 1992).

In Mexico, two of the most important regularization programmes were carried out. In 1986/87, the project "Renovación Habitacional Popular" achieved the regularization and reconstruction of about 48,000 housing units in the city centre, over an 18-month period. Then, between 1989 and 1994, nearly 200,000 subdivisions, occupied by more than one million people were regularized (12).

In Peru, 220,00 irregularly occupied subdivisions were registered between 1990 and 1995 in the PROFORM Programme (Camaïora, 1995).

In Delhi, in 1993, 607 irregular subdivisions (one and a half million people) and 700 squatter settlements (1.2 million people) were affected by improvement and servicing programmes implemented under the VIII Plan.

In Morocco, the population of irregular settlement decreased from 13% of urban households in 1982 to 6.7% in 1992, despite an annual population growth rate of 5.7%.

In sub-Saharan Africa, only Burkina Faso carried out a successful programme of reblocking and land tenure regularization on a large scale, beginning in 1984, with the national programme "Operation Massive Land Subdivision". This combined method was implemented on a large scale starting in 1984, and sought to clear the irregular settlements in Ouagadougou and other urban centres in the country. Between 1982 and 1989, 75,000 lots were distributed, mainly in Ouagadougou.

Political support and the search for combined action: If regularization is viewed as a confrontation between those who have vested interests in the informal system of land and housing delivery and those who initiate regularization projects, progress will be limited, as numerous case studies show. The question is then not so much one of creating new techniques, but rather of learning **how to create incentives, especially financial ones, so that people involved in the informal and illegal delivery system will be motivated to take part in new efforts instead of opposing them (Doebele, 1995).**

Successful examples always bring to the fore the importance of political will at the highest level. Regularization on a large scale in Mexico, Bhopal, Indonesia and Burkina Faso succeeded mainly because of State support, strong political will and, in every case, a personal commitment by the Head of State. Integration and regularization policies appear to be the essential elements of a political strategy.

Box 2: Egypt - towards large-scale upgrading

On 1 May 1993, President Mubarak declared the launch of an intensified national plan for upgrading irregular settlements all over Egypt. Eleven authorities embracing 434 irregular settlements from a total of 904 were selected for the first stage of the national plan for regularization. Since this declaration, the upgrading of irregular settlements has found a place in national policy, with implementation carried out by local authorities. During the period May-June 1993, E£106 million were allocated for upgrading programmes, mainly for the provision of infrastructure. The highest budget allocation was for electricity, with special consideration for street lighting and pavements in irregular settlements as a security measure, following some violence in 1993. However, policy implementation does not leave any room for formal community participation in decision-making, nor does it include security of tenure except as required in order to justify the investment of public funds.

The government budget for upgrading programmes for the years 1993-1994 was increased to E£401 million and was expected to reach about E£600 million. There is a marked shift in irregular settlement policies from removal to upgrading. The first stage of the national plan (1993-2000) includes the improvement of 434 irregular settlements, while only 12 areas are to be removed in the Greater Cairo Region because of their highly deteriorated status. It is estimated that the percentage of irregular settlements will decrease from 36% to 5%.

Responses according to countries: three typical groups. It is possible to sketch out a profile of countries based on their regularization policies, but it should be pointed out that these policies vary greatly with different aspects stressed to different degrees, such as integration through services, legal regularization, intervention at the central level, or delegation of power to local authorities and community organizations. Three groups emerge:

1. Countries which have implemented and followed through on a policy of integration and regularization

- Botswana, after 1978, with creation of the Self Help Housing Agency
- Chile, after 1982: the implementation of regularization programmes in the *campamentos* and "site and service" rehousing operations were redefined at the end of the 1980s
- India, after 1972, when the programme for servicing 11 cities was begun, then extended to other cities in 1979, and the creation of a National Housing Policy in 1988

- Indonesia, after 1973-1974, with the implementation of the Kampung Improvement Programme on a large scale. This was taken on in 1985 by the Integrated Urban Infrastructure Development Programme (IUIDP)
- Morocco, after 1985, with the creation of the National Agency to Fight Unsanitary Housing (ANHI)
- Mexico, after 1989, with the National Solidarity Programme (PRONASOL) and the launch of a major regularization programme
- Tunisia, after 1978, with their Second Urban Project and in 1981 the creation of the Agency for Urban Rehabilitation and Renovation
- Peru, in the 1960s and 1970s; this country was a precursor in terms of irregular settlement regularization
- Ivory Coast, where compared with other African sub-Saharan francophone countries, State attribution has fielded good results but the issues of legal regularization and servicing have not been resolved
- Burkina Faso, after 1985, with the implementation of the Agrarian and Land Reorganization, and a large-scale regularization policy.

2. Countries where a policy is now being defined or implemented or has been implemented but not followed up.

- South Africa, from the end of 1995 with the National conference and preparation of the *White Paper on Land Policy*, defined the strategy for a national policy to integrate irregular settlements
- Senegal, after 1987, with their first restructuring programme; in 1991, a National Programme for the Restructuring of Spontaneous Housing was implemented
- Uganda, after 1992, with an enabling approach under the *National Shelter Strategy*
- Benin, when, in the early 1980s, many regularization policies were implemented; these were redefined in 1994
- Jordan, where a redefinition of the mission of the Housing and Urban Development Corporation (HUDC), created in 1979, is currently in progress
- Egypt, since 1978, with the creation of the *Housing and Community Upgrading Program* and the first regularization projects; new impetus was given to regularization and infrastructure and services programmes in 1993, at the request of the Head of State

- Philippines, where following the *Special housing code for low income housing* of 1982, the 1987-1992 Development Plan reaffirmed the importance of regularization
- Sri Lanka had a very active policy for infrastructure and service provision between 1975 and 1984; no specific policies for the integration of irregular settlements have been implemented since 1985, although there is a policy for giving assistance to housing improvement and provision of infrastructure and services
- Thailand has had a draft policy for regularization since 1976, with the Klong Toey *Land-sharing* project
- Brazil, where problems with the relationship between the Federal Government and the States have caused discontinuity in policy implementation, but regularization programmes have been implemented since the late 1970s: PROFAVELA between 1979 and 1983 in São Paulo, SERLA, PARSOLO in 1986 and RESOLO in 1989, Community Development Program - PRODECOM - between 1979 and 1981 in Belo Horizonte.

3 Countries with no clear policy or follow up of regularization (laissez-faire policy or limited capacity or interest for intervention due to the internal situation)

Bangladesh, Yemen, Ghana, Kenya, Nigeria, Tanzania, Cameroon, Guinea, Rwanda, Algeria and Ethiopia.

5. REDEFINING STANDARDS WITH RESPECT TO THESE NEW OBJECTIVES

5.1 Standards for Urban Infrastructure and Services

Standards are not adapted to needs but have discriminatory effects. Standards usually reflect an idealized model of planning and organization of space. They were almost always created by and for centralized and centralist systems of urban management and were originally made for regular settlements, created by formal public or private operators. They are almost always a product of techno-bureaucratic philosophies, which evolve more slowly than the reality they are intended to deal with. Many of the supposed standards have no legal basis, rather they are mere internal administrative regulations. Their main goal is to allow administrations and their agents to consolidate their realm of influence as well as to allow certain professionals (surveyors, solicitors, architects) to benefit from the situation. Consequently, many forces must be coordinated, which makes the revision of standards difficult (cultural models, models reflecting bureaucratic, group or corporative interests). Procedural and construction standards are complemented by those in all major agglomerations stemming from settlement regulations: minimum subdivision size, facilities and service infrastructure levels. They use too much space, do not take into consideration the multiple uses of urban areas, and do not allow sufficient density. Even in cases where the population is aware of the existence of regulations and wants to

comply with them, the slowness, complexity and cost of approval procedures has caused general abandonment of these formalities. Difficult to understand and interpret, these standards are unknown to or ignored by the majority of citizens.

Revise the standards or reconsider objectives?

Standards should be lowered in order to reduce production costs of habitable serviced land for housing, to avoid rendering informal land and housing production processes illegal, and to reduce procedures which have discriminatory or segregative effects. Standards and regulations must reflect what people are really experiencing in daily life, what they are ready to pay for. Other factors such as protection against hazards should also be taken into account. They must not stifle the initiatives of informal subdividers. Regulations relating to land development should be minimized. Emphasis should be put on formulating **minimal standards** and **major strategy lines** concerning the level of infrastructure and services, urban layouts, and forms of delivery at minimal initial costs while permitting progressive improvements afterwards. **It is more important what must not be done, than to dictate what must be done.**

Who should define the standards, and according to which criteria? At central government level, policies should set out strategies and a detailed planning policy should be adopted at local level. It should actively seek to stimulate community participation. The limited resources of those in charge of municipal management force them to reconsider the question of norms and standards. They must first consider standards relating to the delivery of infrastructure and services to settlements: which infrastructure and services should be delivered? What are their characteristics? Their scale of implementation? Which of them do authorities really owe to their inhabitants, even the poorest? At which stages would supplementary demands have to be paid for by the users? This concrete and transparent way of managing the lack of public resources and of promoting only the services which can really be delivered, is a total departure from the practices prevalent in the past; these were not only often limited to providing free facilities and infrastructures, but were also based on high norms and standards relevant to a few settlements or areas supposedly representative of a new "new urban order".

Today, the review of norms and standards has taken on a new impetus, especially in Latin America and Asia.

Box 3: Land development and the liberalization of building standards in the Philippines

In 1982, in order to attract private investors into the Social Housing Programme, Parliament passed a law (BP 220) authorizing the Ministry of Human Settlements to liberalize the land development and building standards, to allow both the National Housing Authority and private developers to undertake subdivision projects that are within the defined affordability level of low-income earners. Following liberalization, minimum development standards now allow, among others, individual lots of only 36 square metres with two-metre wide pathways, open drainage facilities, core shell housing with a minimum floor area of 24 square metres and provision for the connection of electricity and water facilities. However, the Social Housing Programme failed to attract the participation of private developers, due mainly to risk factors but also to the absence of long-term credit facilities geared to the poor.

Source: Serrano, 1995.

This means that a new approach to standards assumes changing relationships between actors, both public and private. Decisions concerning planning and the adoption of standards must be made on the basis of shared participatory decision-making. Lowering technical standards for infrastructure and services (for example, in order to implement a regularization programme) or simplifying procedures, supposes more modest objectives, which are therefore less costly and more accessible to a greater number of operators. The question is about simplifying standards and procedures, as much as **redefining the objectives, and here, new forms of participation should taken into account.**

5.2 Security of Tenure and Alternatives to Ownership

Nowadays, it is widely accepted that land regularization programmes for irregular settlements must be institutionalized and made normal practice. Still, the difficulty of finding legal forms of regularization which are both acceptable to the actors concerned and in compliance with existing standards and procedures, constitutes a major obstacle for many operations. Tenure security is, above all, about protection from eviction. It is also about the possibility of selling or transferring rights through inheritance. It also means, under certain conditions, that it is possible to obtain a mortgage, and access to credit. In legal terms, this security can only be fully reached through complex systems and procedures which are both slow and costly.

Guaranteeing inhabitants' rights: Recent observations emphasize that security of tenure is the central demand in the majority of countries studied. For some, security of tenure means granting land titles, while others stress the need to define simplified procedures for recognizing even temporary rights over land. There are four types of situation in irregular settlements, corresponding to increasing degrees of recognition.

(a) Maintain the status quo: The most widespread option is minimalist and consists of a *status quo* arbitrated by public authorities, the State or local authorities and agencies. With few exceptions, the vast majority of people living in irregular settlements are not, or are no longer, threatened with eviction, and in particular, eviction with no provision for rehousing. This is the dominant trend observed in the majority of countries studied. Nevertheless, this level of tolerance does not really offer guarantees to the inhabitants concerned and often discourages them from investing to improve their housing, environment or developing economic activities.

(b) Guarantee tenure security without legal regularization: This second option implies a more active commitment on the part of public authorities and agencies concerned. They have to guarantee to the inhabitants the principle of security of tenure and its terms. Accordingly, they must convince or force the landowners on which the irregular settlements have developed to abide by the same rules and not to commence eviction procedures without negotiations with the concerned population, or without arbitration.

(c) Recognize the legitimacy of informal settlements with new forms of conditional "ownership": A third option consists in acknowledging that the legitimacy of residents' land appropriation does not necessarily lead to the juridical legalization of tenure. It implies negotiation not only with buyers (the inhabitants of the settlement), but also with sellers (in

particular those designated as informal subdividers or, in Africa, as customary subdividers). A new form of "ownership" could be defined as the result of a right to build on land, a right of access to urban services and infrastructure. This right is flexible, and not irreversible. "Ownership" becomes a political right granted by urban authorities to the inhabitants of existing irregular settlements, provided that some conditions are met regarding the settlement: geographic location, size, physical characteristics etc. Here, negotiation is the rule, regulation the exception.

(d) Legalize informal land delivery channels: The fourth option consists of recognizing and legalizing informal land markets for the very reason that they enable land to be supplied and the demand to be met. This type of legalization implies that informal practices enter the arena of common law. This option is still an exception and is limited in time and space.

Security of tenure does not necessarily imply freehold title: The view that security of tenure can only be guaranteed through the granting of land ownership rights is still very much the one held in Latin America, in the Arab States and, to a lesser extent, in Asia. It has historical and ideological origins. Property ownership demands are all the stronger in places where channels of land production in the marketing sphere are well developed and long-standing. It is symptomatic of situations where strong market forces make irregular settlements precarious and where the people are not sure of the public authorities' ability to sustainably guarantee their rights. However, aiming to attain legal recognition for inhabitants through the granting of land titles or other real rights, poses the real risk of creating a further obstacle to the implementation of integration policies and the regularization of irregular settlements: often, the administrations in charge of land management do not have the financial means or the political will to do so. Land legalization can be dealt with more easily using simpler administrative procedures. What is important is to supply land holders with a symbolic paper which signifies that the legal land recognition process is underway. In many cases, the conditions leading to complete legalization are such that it is only possible to start this process, and total completion is impossible.

More flexible formulae for guaranteeing security of tenure: The trend nowadays is evolving towards more flexible legal formulae for guaranteeing security of tenure than those which, until the 1980s, considered granting individual land rights as the ultimate goal of the majority of regularization programmes. They allow functional adaptations to be made in the specific context and the particular needs of irregular settlements: administrative permits, leasehold tenure and long term leases, permanent or temporary rights of use, collective property titles, trusts. Operations combining improved security of tenure and improved infrastructure in the settlements bode well for the future.

Box 4: Massive regularization and partial recognition of informal criteria for ownership in Peru

In 1986, an estimated 320,000 lots were located in "barriadas", about 50% of which were titled (Castro, 1993).

In the second half of the 1980s, in order to develop the housing market by integrating informal cities, the Institute for Freedom and Democracy (ILD) suggested a "system for regularization of ownership" on a large scale (PROFORM). This proposal for reform was based on two principles: it was a departure from the generally accepted thinking whereby regularization equals individual incorporation into the formal sector, and it attempted to establish a link between informal practices and the legal system. Approved in 1988 by legislative decree, this revision of the legal, formal framework integrated certain informal standards which defined relationships within the sector and created the "Registro Predial", where regularized urban and rural plots are registered.

- (a) The new laws recognize proof of property as determined in the informal sector, through criteria of permanence of occupation (electricity bills, census data etc.) and allow for the transmission, transfer and mortgaging of registered plots. They eliminate the bottlenecks of regularization procedures by bringing various laws together under one standard.
- (b) They create a single body in charge of regularization, whose sole objective is to give titles and register property. The reform has established a decentralized system which is closer to users and ensures coordination with other institutions.
- (c) The new procedures integrate community, rather than individual, plans for setting boundaries; involve the use of private lawyers and engineers rather than public servants for verification purposes, and the community for information-gathering and the introduction of a simple but efficient geographical accounting system.

In three and half years, the programme has made it possible to regularize 142,000 plots in the Lia urban area. In June 1995, official figures indicated that more than 220,000 plots had been registered through this same procedure countrywide.

Box 5: Combining security of tenure with physical improvement of the infrastructure in India

A very useful lesson is that of India, where an explicit policy on granting secure land tenure to urban squatters was implemented. About a decade ago, planners and policy makers in central government and various state governments realized that regularizing squatter settlements would be the most sustainable approach for extending secure land tenure to squatters and for consolidating their settlements. The Task Force on Housing and Urban Development, set up by the Planning Commission for the Seventh five-year Plan (1983), together with the Urban Service Basic Scheme as formulated in the draft National Housing Policy (1987) of the Ministry of Urban Development, pointed out that regularization and enabling strategies should be explicitly implemented through the granting of secure land tenure accompanied by environmental improvements for low-income settlements.

The state of Madhya Pradesh was the first to implement this policy and apply it statewide. This was done through unique legislation (Act No. 15), popularly known as the "Patta Act", which was enacted in 1984 and provided the basis for granting leasehold rights, or "pattas", to squatters. Simultaneously, the state government provided an electricity connection to every house. In addition, physical improvements such as water taps, latrines, paved roads and drains were promised in the areas declared "slums for improvement" under the Madhya Pradesh Slum Area Act of 1976. The Act promoted the regularization of some 15,000 plots.

Source: Von Einsiedel

There seems to be nothing, therefore, to prevent the development of simple, but efficient procedures, which allow for:

- The recognition of appropriated, physically held property
- The registration of facts and deeds

- The registration of actual possession and disposals, while avoiding the costs and complexity of conventional property registration procedures. Botswana is a case in point.

Land rights which permit access to credit: The question of individual freehold titles arises particularly with regard to borrowing, although in some countries, long term leasehold titles are acceptable as collateral for borrowing. Access to credit may be necessary for households living in irregular settlements, because a large contribution is often demanded of them in compensation for the regularization of their situation. Four options are proposed for facilitating access to credit.

- (a) Accelerating the procedure for granting property rights, in particular by simplifying it (experience shows that this is difficult, but possible)

Box 6: An alternative land tenure system in Botswana

To avoid the concentration of land in a few hands, no more freehold land has been created since 1978. The government has instead introduced innovative systems for owning and managing both rural and urban land. Within the latter, the Fixed Period State Grant (FPSG) and the Certificate of Rights (COR) have become standard forms for leasing state land on which urban development takes place.

The FPSG lease system is a hybrid of leasehold and freehold systems offering the holder a capitalized lease with all rents being paid at its commencement in order to avoid monthly or annual collections. Under the FPSG, the State vests the ownership title on the grantee for a fixed duration and repossesses it at the end of that period without any commitment to renew the lease. The lifespan of a FPSG is 99 years for residential land and 50 years for all other land uses.

The COR lease system was introduced in the 1970s in order to provide the urban poor with secure land tenure while avoiding the complexities and costs associated with registered land titles. It is a blend of traditional and common law land tenure systems. Under the COR, the State ultimately retains the title of land ownership while leaseholder have usufruct rights for the sole purpose of erecting an owner-occupied residential house. Land rights conferred by the COR system are perpetual and inheritable. Land under the customary tenure system is administered by Land Boards established under the Tribal Land Act of 1968. Individuals allocated land by the Boards are issued with a Certificate of Customary land Grant (CCLG). It may be converted into a common law lease at the grantee's initiative and expense.

- (b) Setting up alternative procedures for a simplified registration of rights (Peru offers a successful example of this).
- (c) Making the granting of housing ownership rights incremental, beginning with the granting of a collective title to a legal entity representing the community concerned, followed by the granting of individual land titles.
- (d) Setting up alternative forms of access to credit which do not require the borrowers to have a land title to the property they occupy (mutual or associative credit unions).

Box 7: Regularization enables the growth of mortgages in Peru

Regularization carried out through the PROFORMA Programme had a significant economic impact: from 1990 to June 1995, more than 1,500 mortgages were registered, guaranteeing loans of about US\$6.5 million. Recognition of the efficiency and legal security of the system seems to be confirmed: 25% of mortgage loans were granted during the first half of 1995.

In addition, the country's largest consumer credit organization has created a company (KARPA S.A.) especially for the sale of construction materials in these regularized urban sectors, subject to the condition that the land is registered in the "Registro Predial". It does not accept property regularized in traditional land registries. Whilst a mortgage can be negotiated in five days for US\$28 from the "Registro Predial", it takes at least 90 days and US\$190 to do so using traditional registries. For loans of US\$500 to be repaid over 6 to 12 months, the traditional system makes the operation impossible. KARPA plans to invest US\$10 million this year and US\$50 million next year.

Source: Camaiora, 1995

Responsibility for registration of land titles: There is no reason why all or part of the registration of land titles cannot be handled by actors other than the central State, for example by local authorities or at settlement level, or by other administrative bodies. Here, two standards can be observed. Firstly, registration is required by certain urban actors, investors, developers and banks. There is no reason why they cannot, if they mobilize resources, operate the State services (users taking up a larger share of the cost of services). If such services are lacking, economic actors can take the initiative of creating an ownership record and real guarantees, by agreeing on a method and ensuring management. The other form of registration is that of inventories and municipal deeds of recognition of possession, of "semi-ownership". The best solution involves management by settlements or better yet, cluster by cluster, in real time and on site. This communal registration responds to the basic demands with claiming to offer full legal certainty.

6. ADAPTING TOOLS AND REFORMING PROCEDURES

6.1 Better Control of Land Information

The importance of improving land information and of development information and assessment tools. Land information systems (LISs) take on particular importance with respect to regularization programmes; they allow the following steps to be taken:

- To identify the legal status of the land irregularly occupied
- To determine the existing layout, plot size and levels of existing infrastructure and services, and assess their quality
- To identify the owners and occupants of these settlements, a preliminary step towards the later identification of households eligible for tenure regularization
- To evaluate the charges and contributions occupants will have to pay and, when appropriate, the amount of compensation to be paid to owners of land or dwelling units

Problems linked to insufficient land information are marked in most countries, and are most acute in sub-Saharan Africa. Such problems are the source of a great number of land disputes (19). Available land information is not exhaustive and is rarely updated. It often relates only to the part of a city where formal legal procedures were used for its planning, and irregular settlements are excluded. Information is often spread out among several government departments and accessing it is difficult (Indonesia, Brazil). Despite the numerous initiatives of the last decade, which aimed to set up new land information systems or to modernize existing ones, only limited results have been achieved. (Durand-Lasserve, 1992).

One of the most frequently repeated errors of regularization programmes is to reduce the implementation of land information systems (LISs) to strictly technical areas, by stressing the adaptation of information tools to local constraints, with two principal objectives: to simplify production procedures and techniques and to reduce delays and implementation costs. **The main problem however is to have the proposed LISs accepted by the majority of urban actors. This is more a political rather than a technical issue.** It is a question of land information transparency, of delegating responsibilities for land information management.

What are the strategies and trends for LISs? Implementing an LIS constitutes a long-term objective. **Regularization and delivery of infrastructure for irregular settlements are not accomplished over exactly the same period. The two projects must be separated. One must not depend on the other, except in terms of differing regularization projects.** It is therefore important to check that land information collected when implementing a regularization project is compatible with the requirements of a future LIS implemented in parallel at city level. Furthermore, the duality of land systems should not be considered as an obstacle to the implementation of LISs. They should be able to operate in areas where land tenure systems are based on different rights. (Africa, Indonesia).

A wide range of technical choices: There are many options, ranging from multi-purpose information systems to the most simplified land survey registers where only part of the land-related information is recorded and processed. Their purpose is to identify occupants and to locate and delineate the plots of land on which they have settlement. Delineation does not necessarily need to be as accurate as in a formal, legal LIS such as a cadastre. These options notwithstanding, the final choice is determined by the state of existing information, the sources of information, costs, the existence of qualified personnel, the level of the users acceptance of the system, and the administrations concerned.

Transition formulae: So that the situation does not deteriorate while a new, sophisticated land information system is being set up, transition formulae must be put in place. In Uganda, for example, an exhaustive inventory of customary ownership is planned, with the issuing of interim titles, and in Kampala ownership certificates are issued to customary owners, the objective being to exert a form of control over development activities.

Coordinating and simplifying: In the absence of unified management of land-related information, priority should, as so far as possible, be given to the integration and **coordination of various sources of information** as well as to **modernizing, simplifying and updating existing procedures** for collecting and managing information.

Keeping records of allocation plots: Land information systems can be **put in place at the time of the allocation of serviced plots**. Under the Botswana Land Information System, allocated plots and allottees' names are recorded in a register. However, keeping such a register up to date remains a problem. For example, the register kept by the "Service de Domaine Urbain" in Abidjan does not systematically record sales, transfers and inheritances of allocated plots. As it is not updated, the information cannot be used for legal, taxation or planning purposes.

Local level implementation: The production and management of land information should preferably **be carried out by local bodies**, especially in the case of regularization projects. They are in the best position to provide a framework for, and finalize negotiations between different actors, in respect of the recognition of their rights, to guarantee public access to land registers, and update information.

For example, the pilot project for improving property registration, currently being implemented in Namibia, involves local authorities and agencies. It aims to be **simple, transparent and capable of being upgraded or downgraded**.

Box 8: Improving property registration to increase security of tenure through consultation with professionals and communities in Namibia

The largest urban centre in Namibia is the capital, Windhoek, whose population has increased from approximately 110,000 to 180,000 since independence. Although in principle the Namibian cadastre is of a high international standard, it does have serious deficiencies. Not all land transactions are registered.

As a part of the democratization process, when local authorities were established in 1992, the government decided to resurvey the new towns in communal areas with the object of transferring the plots to a freehold title. However, only the formal parts of the towns were included in this programme, whilst around the towns in former communal areas large informal settlements have developed. A major problem experienced by the residents of those areas is that, while they may have received permission from traditional leaders to reside on the land, they do not have a legally recognized right to the land. In 1994, it was decided to embark on a series of pilot projects to define an efficient and transparent property registration system where the level of tenure can be upgraded or downgraded at any time, depending on what the government and the people can afford.

The government has produced a formal recognition system offering different ways of achieving the same goal: property ownership. The object of the pilot project is to ascertain the minimum requirements for parallel interchangeable property registration systems and thus enable the Government of Namibia to determine appropriate methods for land titling and land registration and increase access to secure tenure for informal urban settlers.

The pilot projects will focus on land titles. An important element of the project programme is to train technicians to perform their work under the supervision of professional surveyors. Participation by the community in the adjudication and planning of an area is another important principle of the formalization process. The establishment of a Community Based Organization in an informal settlement to represent the residents is also required for the execution of the project. The programme is scheduled to commence in June 1995 and will run until April 1996.

Source: Republic of Namibia. Ministry of Lands, Resettlement and Rehabilitation, 1995.

Low-cost identification systems (*adressage*): Developed at the end of the 1980s, the objective of "adressage" systems is linked with concerns about strengthening the financial capacity of municipalities through taxation. Using this system, it is possible in a given area of a subdivision

or inhabited site, in a rapid, inexpensive (US\$1-2 per household), simple and systematic manner to identify and locate households, including those in irregular settlements. It is also easy to update as the city grows.

Since 1992, these systems have been implemented or are in the process of being replicated or completed in N'djamena, Chad, in Mali, Senegal, Cameroon, Burkina Faso and Guinea. They were initiated in March 1995 in Mozambique, and are in the process of being set up in Togo, Central Africa and Mali. They permit a significant improvement in the city's administrative, financial and technical services. However, they have still rarely been used in the context of regularization projects.

6.2 Financing Regularization Programmes

Costs vary according to projects: To evaluate the cost of regularization programmes, the content and objectives must first be defined. Is it normal legal regularization of land or a programme for providing urban infrastructure and services, leading to legal regularization? What is the level of physical restructuring etc.? Based on observations made in Asia and Latin America, it is clear that the cost of land regularization *per se* is only a small portion of the total cost of the programme, between 10 and 20% (Groupement de Recherche Interurban, 1995).

Upgrading and regularization programmes are much less expensive than new construction and renewal programmes (five to twenty times less, depending on the city). The cost of providing infrastructure and services in existing irregular settlements varies according to the local physical conditions of the settlement. According to Maricato (1993), the study of 20 upgrading and regularization projects in *favelas* of São Paulo indicates the cost of basic services per family (water, electricity, and roads) reached between US\$1,500 and US\$2,000, whereas average costs of dwelling units in new housing schemes amounted to US\$10,000. In addition, in upgrading and regularization projects, only about 10% of the families had to be relocated to another site for the purposes of infrastructure works.

The financing of regularization projects cannot be separated from the overall question of financing urban housing: If the eviction effect is to be avoided in a free market economy, the question of financing must be placed in a more general context. If loans are granted in a competitive environment, they will be made first to middle and high-income households. The fact that formal systems for financing housing no longer meet "social" needs has been observed in almost all developing countries over the last decade (BNH in Brazil, CIH in Morocco...). It is therefore necessary to increase the credit available to middle-income households by creating new products, such as home-savings plans.

Informing the population: Prior information on costs and related expenses should be made available to occupants so that they can exercise a choice, both individually and collectively, over the way the operation is carried out. To this end of regularization must be calculated and broken down. In Jordan, when informed of the cost of ongoing regularization projects, several settlements preferred to stop at tenure regularization and postpone the infrastructure provision programme (Serageldin, 1991; Ayyash, 1995).

Avoiding a dogmatic approach: It is widely accepted nowadays that cost recovery, at least partial, is essential for intervention on a large scale and for replicating operations. The question raised is, which methods of recovery allow for replication of the operation? Defining recovery supposes arbitration: what should be paid by beneficiaries (user charges, rent, contribution to utilities), or inhabitants (local taxes), or all citizens (national taxes)? As with questions regarding local taxes, these options should be democratically debated, in regard to the municipalities' borrowing capacity and the proposed uses of incremental values generated by public investment, especially in regularization projects.

Subsidies for regularization programmes: A consensus seems to be emerging at international level that subsidies are essential for the lowest-income groups. The problem is that of sustainability. Markets should not simply be left to their own devices: too many urban households would be excluded for lack of solvency.

A better and more direct form of targeted aid for low-income groups is therefore needed. It could take various forms:

- Direct subsidies for reblocking, delivery and regularization projects
- Greater availability of public land reserves at "below market" prices (although there is a risk of preemption by higher income groups)
- Mobilization of government departments and public agency personnel and services (under certain macro-economic conditions)
- Preferential lending rates or a bonus system for home-savings plans
- Financial and fiscal advantages and administrative facilities for operators intervening in the projects

In addition, a distinction should be made between what beneficiaries are supposed to pay and what they actually pay, as non-recovery is often due to inefficient collection methods. Cost recovery works much better in credit union systems, and when recovery is dealt with by local bodies or community-based organizations (Massiah, Groupement de Recherche Interurban, 1995).

Cross-subsidy financing: This has been a common practice in Southeast Asia, Latin America and in the Arab States, at least since the late 1970s. It consists of a project (on the scale of a settlement) or a programme (on the scale of the city or the nation), subsidizing projects or programmes for the low-income population using profits generated by sections of these projects or programmes aimed at higher income groups (residential or commercial development). Long limited to "site and service" projects, where it was developed, cross-subsidy financing is being extended to regularization projects (Malaysia, Thailand, Morocco, Tunisia, Algeria, Brazil). It has come up against structural limitations, however: the market may be destabilized when urban middle classes are forced to bear very high costs, and then cross-subsidization fails as an

alternative. In addition, the system has been compromised, in Latin America in particular, by the economic crisis and the lowered status of urban middle classes in the 1980s. Lastly, because it requires complex and thorough technical and accounting management, it is limited to actions carried out by formal actors.

Innovative financing systems for regularization projects: Public authority support in the setting up of alternative financing systems. For the most part this concerns the role played by popular savings unions and mutual lending systems. Setting them up is difficult, but studies show that they permit better cost recovery than more conventional forms of credit. In the case of Asia, alternative credit systems have been created with preliminary or parallel intervention by the State, though they have since gained State support. In Latin America and the Arab States, however, they have generally been set up through the intervention of a public entity: a municipality, the State, foreign cooperation or a multilateral organization. In Latin America, during the 1960s, cooperatives received public funding. During the 1970s, popular revenue generating practices for housing emerged based on traditional revolving credit systems. In the 1980s, governments replicated and broadened these basic experiences (Cabannes, 1993). In African cities, the setting up of alternative financing systems for upgrading and the provision of infrastructure is more limited and occurs later. It still relies largely on revolving credit systems, known as "*tontine*" systems (informal savings groups which offer members access to credit). This practice was also developed in Morocco during the 1980s as well as in Indonesia, where very few households in the low or middle income bracket have access to formal credit systems (only 3 to 4% of "kampung" households can obtain bank loans). Revenues collected through revolving systems, known as "*arisan*", are once again the major source of funding. However, the impact of such informal credit systems is limited, unless supported by public authorities. Accordingly, government or local authority intervention is decisive for the large scale development of alternative credit systems. The Philippines have instituted a community-based financing system, strongly supported by the State: the Community Mortgage Program (see box).

Box 9: The Community Mortgage Programme - New approach to housing mortgages in the Philippines

To address the shelter needs of the residents of blighted and depressed areas in and around urban centres, the National Home Mortgage Finance Corporation (NHMFC), an agency under the Housing and Urban Development Coordinating Council (HUDCO), launched its Community Mortgage Programme in 1988. Under the terms of the Programme, it is possible for the urban poor to secure credit on the basis of an income affirmed by a local authority or recognized community leader. In order to benefit squatters, the original loan is provided to the community and not to the individual. The community can then make its own arrangements for repayment and distributing the land. To start the process, the organized community must duly register with the Securities and Exchange Commission, or with the Home Insurance Guarantee Corporation.

Initially, the property will be owned in common by all the beneficiaries through the community association. Individual use of the property is legally achieved with a lease purchase agreement, entered into by the community association and its individual members. In the second stage, the acquired property goes through horizontal development where the land is subdivided and titled, pathways built and drainage systems installed. The third stage involves vertical development, during which existing houses are improved or new housing units constructed.

Source: N. von Einsiedel 1995 and UN-Habitat 1992).

Loans are managed and allocated via communities which have shown their ability to take care of these problems. The Urban Community Development Office, in Thailand, is a good application

of this principle. It operates on a partnership basis with representatives of the public sector, the private commercial sector, NGOs and community-based organizations. It finances various projects, but is mainly devoted to housing.

The role of NGOs and foundations in setting up alternative financing systems: Latin America offers several innovative examples. Since 1981, the *Fundación de la Vivienda Popular* (FVP) in Caracas has been engaged in financing improvement and integration programmes for settlements.

Box 10: The Urban Community Development Office: implementing an integrated community development process through community savings and credit activities in Bangkok, Thailand.

During the last decade, various forms of community savings and credit activities among poor urban groups emerged in Thailand. In 1994, approximately 204 community Savings and Credit groups were set up, of which 173 are operating in Bangkok. Experiences of successful cases in Bangkok demonstrate concrete evidence of effective and efficient alternatives, such as community cooperatives which have themselves developed housing in land sharing or resettlement projects. They often prove to be cheaper, faster, more flexible and more effective than official institutions.

In 1992, the Thai government approved a budget of US\$50 million to initiate the "Urban Poor Development Programme". This led to the setting-up of a new organization, the "Urban Community Development Office" (UDCO), to implement the programme nationwide. It has special project status under the National Housing Authority, but works independently, with its own project committee and administrative system. The important, innovative qualities of the programme and of UDCO are as follows.

- (a) It is an institutionalized "partnership" organization, governed by a Board which has the power to make decisions independently. Three board members are from government organizations, three are community leaders, three from NGOs and one is from the private sector. This new process brings in all the relevant actors, with partnership and cooperation as its core structure throughout the whole implementation process.
- (b) UDCO provides an "integrated credit system" for community development purposes which avoids sectoral approaches. The types of loans issued range from those for income generation to general revolving funds for housing. About two-thirds of the total value of the loans has gone to housing, so the community can organize a Community Development Master Plan. It needs to start its saving activities at least three months prior to becoming eligible for a loan. UDCO grants only wholesale loans to communities up to a maximum of ten times the amount saved, once it can be demonstrated that there is a sound, responsible management structure and operating mechanism as well as clearly defined beneficiaries.

A number of community organizations, when they start their savings activities, target housing as their focus for loans. The options for buying land include buying in their existing slums, buying cheaper land nearby or buying land further away, depending on the affordability level of the community.

Source: ACHR and Boonyabanacha, 1995.

Box 11: Financing the upgrading of local "barrios" Caracas, Venezuela

The Foundation for Popular Housing (Fundación de la Vivienda Popular - FVP) started a pilot experiment in 1976 to improve housing in the barrios. Since 1981, this first experiment has become a regular programme of FVP, executed in several informal settlements of Caracas. Housing upgrading is undertaken by all neighbours who are interested in improving their houses. This non-profit-making association, formally founded, with legal existence and decision-making ability, is the key element of the programme. It is in charge of managing financial resources and granting loans to its members for housing upgrading. Each neighbourhood association, or ASOVIV, is composed of residents who own their own houses and are willing to improve them. The interest rate on the loans is 9 per cent per annum, of which 4 per cent is for FVP and 5 per cent for each ASOVIV. The repayment period is 48 months. So far, loan recovery has been excellent.

Source: UNCHS (Habitat) 1992.

It is also worth noting the case of Mexico, where CENVI, an NGO, has experimented with systems using revolving funds to buy land. Such credit systems are amongst the most useful channels to be explored and developed. They allow programmes to link regularization to urban planning and development, and to articulate households' responsibilities with collective mobilization.

Community development provides innovation in financing: Innovative systems for providing credit, in particular those which are community-based, are important instruments that contribute to the financing of housing regularization and improvement projects whilst ensuring cost recovery. Based on case studies carried out in Toronto, Canada, Bangkok, Thailand and Bombay, India, Rendall (1994) notes:

"Financial management and control at the lowest possible level and integrated credit funds were the keys to successful community-driven projects (in the three case studies). The broad parameters for subsidy and credit were set up by the State at various levels, and the community responded in various innovative ways. When opportunities were made available which required responsible community actions, this set in motion a social development process which was vital to the success of the housing project in a low-income environment. If the financing scheme is designed to evoke individual responses the advantages of collective action will always be undermined. People-centred development may take a little longer to get going but the long-term benefits far outweigh short-term crisis solutions."

There are a growing number of projects which rely on self-help community development. Their characteristics are as follows (Auréjac, 1995).

- Self-help by potential credit borrowers
- A collectively negotiated mutual investment system
- A savings base created through an informal intermediary
- An increase in savings through public aid and/or loans guaranteed by the community
- A striving for combined economic and social action through a range of production and training actions

Financial mechanisms which may have the effect of stimulating the mobilization of community resources must be set up in order to give independent community associations access to credit for regularization. By defining the institutional framework for operating community credit systems, public authorities play an important role in creating a favourable environment, especially when they guarantee such systems autonomy of decision. Internal management rules must provide for strict control of operations. They should be able to verify that the credit system is compatible with their objectives. The lack of credit for financing land costs is a major obstacle to regularization. Public bodies and NGOs involved in regularization operations have difficulty taking on the pre-financing of these costs. International technical and financial assistance should

be made available to support programmes which have proved that their innovative credit systems for financing land costs are viable.

6.3 Resolving and Preventing Land Disputes

Social relationships which are established in relation to land tenure are causes of conflicts:

On one level, disputes are directly linked to appropriation (its legitimacy, amounts of compensation in eviction cases, neighbourhood conflicts, conflicts over inheritance). On another level, there are disputes directly linked to land tenure constraints (market pressure, increase in transport and housing costs, difficulty of access to services, deterioration in living conditions). On a third level, disputes arise due to extreme poverty and marginalization: organized crime and "no-go" areas. For want of a solution to the problem, these conflicts over land often generate violence and since legal proceedings do not take their proper course, violence is seen by urban actors as a means of unblocking the situation. All actors have recourse to it: occupants of irregular settlements, owners, land developers, government institutions, but it is generally the same groups who are the victims: the poor, women and minorities. **The discrimination to which women fall victim in matters concerning access to land and services should be highlighted.** It is noticeable, particularly at times of inheritance, divorce, and very often in the framework of regularization programmes (unequal treatment). It has also spread to other areas (access to credit and justice). Weaknesses in land registration systems have exacerbated the situation of women.

Arbitration and land dispute regulation: Regulations governing land disputes are easier to implement in rural areas than in towns and cities, particularly in those areas which the state considers unofficial or illegal. The weakening of traditional customary powers (in African cities) and the breakdown of traditional support networks, which played a regulatory role, exacerbates the situation.

Conflict can be arbitrated at different levels: Tribunals are often the only available bodies for regulating disputes. In Anglophone Africa, minor legal disputes, which include land disputes, are often dealt with by a Justice of the Peace, who also registers and holds the list of people in his jurisdiction. In Francophone Africa, tribunals spend most of their time dealing with land disputes. Because judicial procedures are slow and complex, they are not able to deal with all cases. With corruption not uncommon, legal decisions on land matters often tend to add yet more injustice and segregation to that already suffered. Nevertheless, in many countries in Africa, Asia and Latin America, a legal decision represents the best guarantee of having a real right to land recognized or confirmed. **Land judges** can make up for the inadequacies of the tribunals, but so far there are only a few operating, as there is often considerable resistance from tribunals and administrations dealing with land management. In Botswana, an *Adjudication Tribunal* is responsible for dealing with land disputes in all areas which have been developed, provided, provided with infrastructure and services by the *Self-help Housing Agencies*.

Recognition of customary arbitration bodies is not frequent: In some cases, jurisdiction and appropriate procedures exist to involve customary leaders in the decision process. In southern Nigeria, no sale is considered valid without the agreement of the locally recognized customary

leader. In Lesotho, since 1974, *Land Committees* were created in the jurisdictions of each of the customary leaders, and are presided over by them. These bodies have the authority to allocate land (although the rule of majority votes and appeal procedures can limit the role of the customary members). In other cases, intervention by customary leaders is not formally recognized. Nevertheless, their advice and agreement are sought before any land-related operation is carried out in the area which they control. The link with customary landowners is often via decentralized consultative bodies. In Nigeria, the 1978 *Land Use Decree* set up a consultative body in each urban area to advise the Governor on all matters relating to the recognition of land rights, land allocation, land disputes and compensation.

Other arbitration bodies: Local authorities are certainly best in arbitrating in land disputes. However, this is an area of responsibility that the State administration is unwilling to relinquish except when the situation appears to be getting out of control: in Guinea in 1990, the Land Development Department handed over responsibility to the city of Conakry for 18,000 land disputes which it was unable to deal with. In Uganda, *Resistance Councils* were set up in 1986, with responsibility for intervening at local level in resolving land disputes on customary land. They form a hierarchy of elected committees: the first level is that of the village, the fifth and highest level is that of the city.

The police force, other security forces and the army: Their role is not solely one of maintaining law and order. In Francophone sub-Saharan Africa, their role in the arbitration of minor disputes must not be underestimated and they are still traditionally called upon in Latin America, and in at times Asia the army intervenes in arbitrating land disputes in order to maintain social order (Thailand, Indonesia).

Grass-roots community organizations: Often supported by the Church (in Latin America), play a vital role in resolving land disputes. They are responsible for channeling claims, and are powerful negotiators, mediators and representatives of the people.

"Cacique" chiefs and local leaders of organized crime: Play an important role, though not always a pacifying one, in Latin America (Mexico City, Caracas, Bogota, Rio de Janeiro, São Paulo) and in Asia (especially India). They can play a vital role in land allocation, in social control of irregular settlements and neighborhoods (India, Brazil), often providing protection for inhabitants.

The prevention of land disputes depends largely on the integration of irregular settlements. This involves having in place:

- An acceptable social and economic policy
- A land registration system
- Transparent, accessible procedures about which much has been said, although with few results, as these would not be in the interests of the administration responsible for land management. One area where action of a fairly simple nature would be possible is in the

management of applications for land or for regularization. Botswana has introduced a reform of this kind with a certain degree of success (on a first come, first served, basis).

Another area which could be simplified is that of recognition of rights: formulae could be established enabling the rights of different parties to be guaranteed, without the need to embark on a long property acquisition procedure and the issuing of titles, such as:

- A system of democratic representation at local level, especially through the development of local democratic bodies such as Neighbourhood Councils and Municipal Committees (these institutionalize neighbourhoods so that they become administration units of the commune, responsible for the police, cleanliness, hygiene, land use and resolving local disputes)
- Recognition of customary/traditional practices in the arbitration of land disputes, especially when no other body is able to carry out this function. These bodies should at least be accorded a consultative role: in French sub-Saharan Africa (especially Guinea, Togo, Cameroon and the Ivory Coast) where customary ownership is rarely legally recognized, each country has established its own rules for the division of land between customary owners and the authorities whenever development and infrastructure operations are undertaken. They enable customary landowners to receive land n compensation (this accounts for between 10% and 30% of developed land)
- Recognition of women's rights (promoting and encouraging their participation in putting regularization programmes into action, promoting equal laws and practices governing inheritance,...).

III INNOVATIVE PRACTICES AND NEW RELATIONSHIPS BETWEEN ACTORS

7. DIVERSIFYING SYSTEMS OF LAND PRODUCTION FOR HOUSING

7.1 Promoting and Assisting Market Development

The market and the State

While recognizing that solving the problem of housing the poor is neither merely nor primarily a technical problem, nor a lack of economic capacity, but rather a failure of political will, the Third International Housing Conference stressed that, "in many countries, housing conditions are worse than need be because their housing markets are inefficient as a result of inappropriate policies, regulations and institutions". Accordingly, establishing efficient land markets is a prerequisite for improving the housing situation of low-income population. (UNCHS 1992)

The demands of the formal private land and housing development sector, particularly demands for relaxing regulations and institutional reform, aim less at broadening their activities towards low-income groups, than ensuring the full development of their activities for traditionally targeted groups. Even if production stemming from the formal private sector leads to reducing pressure on the "housing front", its negative effects must not be underestimated: an increase in land prices and an aggravation of spatial segregation.

Differing regional situations: In the majority of regions studied, spread of the commercialization process in systems of land and housing production can be observed. Since the late 1970s, this process has accelerated. Furthermore, the limits of State and public authority and agency actions, relating to housing, have been established and there has been a parallel rise in calls for intervention by the private formal sector in the search for a solution to housing for low-income households, while it is recognized that this sector cannot meet the needs of these populations. This change is particularly marked in **Asia:** Sri Lanka, Bangladesh, Indonesia, Thailand, the Philippines and Malaysia.

In **Latin America** the predominance of market-driven supply has been in existence longer; in Mexico the last legal obstacle for the development of the land market was lifted in 1992, with the reform of article 27 of the Mexican constitution and the law on human settlements, which opened the door to associating *ejidos* with the public sector in order to set up land reserves for development projects.

In the **Arab States**, there has been a general liberalization of land management. In Morocco and Jordan, a formal land and housing development sector has existed for some time. Such development is currently increasing in Egypt, following the post-1975 liberalization, and in Tunisia, since the end of the 1980s. In Algeria, this process has been under way since the liberalization experienced from 1981 to 1989.

Sub-Saharan African cities are in a special situation. Between 1970 and 1990, two thirds of them implemented socialist land management policies (nationalization of land, tighter control or outlawing of private land transactions), more or less sustainably. This situation has evolved rapidly in recent years. However, the effects of State disengagement and the implementation of more liberal land policies have not been broad enough to stimulate the development of a land and housing market. In addition, persistent constraints block the development of a formal land market: lack of demand backed by funds, the absence of long-term credit, the lack of operators, the absence of land registration systems and land rights recognition, resistance by State administrations, land monopolies of public development agencies, and, above all, the strength and efficiency of informal customary land delivery systems. Nevertheless, since the beginning of the 1990s, a rapid evolution towards more liberal land policy practices can be seen in the Ivory Coast, Benin, Botswana, Uganda, Kenya and Ghana.

Public authorities cannot take the place of the market: Between 1970 and 1980, there were numerous efforts either to outlaw land markets through the nationalization of land (sub-Saharan Africa), or to regulate them more tightly (India, Sri Lanka, Egypt, Mexico, Tunisia) as well as to bring land agencies and/or development companies, often exercising monopolies, into the market (sub-Saharan Africa and Arab States). The experience of the last two decades shows that the public authorities have never been able to assume land management tasks in a sustainable fashion. This is due not only to lack of support for such projects from urban actors, but also to the State's and local organizations' lack of human and financial resources. Two practices have appeared which tend to detract from the State's efforts to intervene directly on the land market.

- In most cases, public development projects have benefitted State employees and the urban middle classes (the social basis of these regimes), to the detriment of low-income households
- State administrations have often developed illicit practices regarding land allocation

Nevertheless, it became clear that a market which is only marginally legal or completely illegal, continues to function. Hence, a certain number of problems have arisen

- Buyers' rights are not guaranteed because the practices are not legal giving rise to land disputes
- Several pricing systems coexist, depending on the level of tenure security and the physical and environmental characteristics of the land. For example: (a) prices on the private formal market, (b) prices on the informal market, and (c) an administrative controlled price in public land development projects. In cities in Africa, prices may be tripled between markets (a) and (b), and between markets (a) and (c) they may increase tenfold. (Durand-Lasserve, 1994).

This situation has compromised or limited the development of a private formal land and housing sector and impeded the development of a competitive system (State systems functioning as monopolies regarding the development of and allocation of land as well as unregulated

competition from informal subdividers). **All these factors emphasize the importance of recognizing different markets and improving their integrated operation.**

The intervention of the public authorities is essential for guaranteeing the appropriate development of markets: There is a general consensus about the need to develop the various markets and the conditions necessary for achieving this. In particular, the intervention of operators with the necessary capital and know-how must be encouraged. This point deserves special attention. A regulated framework imposing the same rules on all agents and defining the terms within which they can operate, must be put in place. In order to reduce the cost of serviced land, norms, standards and procedures (zoning, planning, infrastructure and service provision) have to be revised. In addition, incentive measures should be taken in order to widen the formal private operators' market. These measures relate to land (putting land reserves onto the market), financing (providing access to credit), regulations (simplifying and reducing norms and procedures) and fiscal matters (providing incentives and disincentives). It is the State's responsibility to institute these measures and supervise their application, as only the State is capable of ensuring the necessary transfer of resources and responsibilities in order to integrate those excluded by the market. **One of the State's duties is to organize land development, to hand over responsibilities to many different producers and to see that its rules are complied with.**

Thus, **developing land markets does not mean disengagement on the part of the State.** In fact, non-involvement of the State increases the inequalities which exist with regard to accessibility of land, and provision of infrastructure services. Free market economies and the relaxation of regulations are two phenomena which are compatible with delivery and integration policies for irregular settlements, as long as the public authorities, the State, or the local organization do not abandon their regulatory and supervising powers. **Significant State intervention must be applied in order to transfer responsibilities to the formal and informal private sector and integrate the various markets.** The State must also contribute to increasing the amount of land on offer, especially by putting on the market urban land which is owned and unused but hoarded by State institutions.

Integrating land markets and ensuring their development requires better knowledge of how they operate

Studying the function of various markets and the current land and housing situation is a prerequisite for defining integration and the regularization policy of irregular settlements; supply and demand structures, types of products sold, prices on the different markets, relationships between public and private land delivery systems, impact of standards on price scales. At a city level, studies are also a means of anticipating needs, and therefore, of programming the means of meeting these needs (Dowall, 1991 and 1994).

7.2 Intervention by Public Operators

There are two main forms of intervention:

- That carried out by specialized operators: land development agencies, public land developers, infrastructure and services companies. These operators generally have financial autonomy
- That carried out under the direct authority of State administrations or local authorities and agencies. Emphasis is placed on coordinating the intervention of different administrations involved. Financing of operations is ensured by the State or local authority budget.

Public and semi-public operators (agencies): In some countries, regularization projects are implemented by central government or municipal administrations (or are under their direct control). In most cases, such projects are carried out by public or public/private specialized agencies. National studies paint an interesting picture of public and semi-public development agencies: land agencies, companies for providing urban infrastructure and services, public developers. As far as land is concerned, they often operate as quasi-monopolies and their activities have a bearing on one or more of the following:

- (1) The constitution and management of land reserves
- (2) The development and servicing of land
- (3) The reblocking of existing settlements
- (4) The renovation and rehabilitation of city centres
- (5) Housing construction
- (6) The sale, or more rarely, the renting of housing units on the land developed

Specific regional features: In sub-Saharan African countries, land development agencies, most of which were created in the 1980s, have not achieved their intended objectives. Authorities believed that they were dealing with land developers capable of taking on all development tasks, from setting up land reserves to delivering serviced plots. Land development agencies did little to clarify matters: although they actually held a monopoly, they were nonetheless only acting by proxy, without any powers or responsibilities that were strictly their own.

This misunderstanding almost put an end to the very idea of development agencies as bodies distinct from local authorities, working under the terms of a contract defined by the public authorities and under their political responsibility and control. Development companies are most frequently found in Francophone sub-Saharan Africa, where they have been directly involved in large-scale land development projects. In the anglophone countries of sub-Saharan Africa, only Tanzania and more especially Botswana have established such agencies. In Botswana, the self-help Housing Agency (SHHA) has, in the recent years, carried projects jointly with local authorities. In Tanzania, the National Housing Company (NHC) is undertaking major development and subdivision schemes.

In the Arab States, especially in Morocco, Tunisia, Egypt and Jordan, the success of such agencies has been greater, mainly because the State has constantly overseen the definition of their strategy orientation and monitored progress.

In **Latin America**, several institutions specialized in regularization operations have intervened on a large scale. In Mexico, the CoReTT (Committee for the regularization of land ownership), created in 1973, has been especially active since 1989.

Box 12: CoReTT - specialists in land regularization in Mexico

From 1940 to 1990, the population of Mexico rose from under two million to more than fifteen million inhabitants. Because access to social housing was reserved for a small number of government employees and a few companies, ordinary people had only limited choice: either to rent in the dilapidated, central city *vecindades*, or settle on vacant land in peripheral zones: private lands of community held *ejidal* (a collective form of property created during agrarian reform) were deemed inalienable and non-urbanizable. By the end of the 1960s, the inhabitants of these new settlements were asking for both legal regularization of their land situation and the urban infrastructure services and facilities felt to be indispensable. In 1973, the State created an agency to take charge of "planning space available for urban extension": CoReTT.

To regularize a settlement, CoReTT asks the executive authority to expropriate *ejidal* lands on its behalf, and then transfers ownership to the occupants. This procedure implies the payment of compensation to the community, which had already sold the same lots to occupants or intermediaries. Occupants must then "legally" acquire their lots from CoReTT, the official owner. The institution of this mechanism is a guarantee and puts a stop to illegal transactions. In addition, it is part of a more global social project, *Programa Nacional de Solidaridad* (ProNaSol), seeking to implement measures for integrating the most disadvantaged populations and to maintain a degree of social cohesion.

Since 1989, CoReTT's activities have accelerated considerably: in 1990 and 1991, 54,000 titles to land in the private sector (out of 340,000 lots counted in 1989) and 48,000 titles in the *ejidal* sector (out of 121,000 lots counted) were issued. By 1994, the past was left behind and litigation between former owners of urbanised farm lands, occupants of that land, and the State mostly settled. More importantly, the *ejidal* system, the final obstacle to full development of an urban land market, was over.

Source: Azuela 1992 and CoReTT 1994)

In Brazil, COHAB, managed by the States, only became the agency for regularization operations in 1993, when it took over the regularization projects previously handled by a São Paulo municipal body (HABI). Regularization and housing improvement projects are most often carried out in the context of more comprehensive programmes, managed at State or municipal level. The same is true in Chile, Venezuela and Peru.

In Asia, land and housing development agencies involved in regularization projects generally emphasize infrastructure and service provision. This is the case in Thailand, with the *National Housing Authority* (NHA) created in 1973, in Malaysia, where the *Urban Development Authority* (UDA) was created in 1971 to "restructure society through urban development", and in Sri Lanka, where the *National Housing Development Authority* (NHDA) was responsible for part of the *One Million Houses Programme* between 1984 and 1989. In the Philippines, the *National Housing Authority* (NHA) was created in 1975. Its aim was to produce housing for the low-income population (Oetomo, 1995). The NHA was also in charge of the *Zonal Improvement Programme* (ZIP). In Indonesia, the *National Land Agency* (BPN) was created by the State in 1988 to carry out administrative tasks and land management. In Hyderabad, Pakistan, a public organization, the *Hyderabad Development Agency* (UDA) was given responsibility in 1986 for implementing the *Incremental Development Scheme* (cf. §8.2) in irregular settlements. In India, regularization and infrastructure and services projects are carried out in the context of

programmes set up either by the State, or by local authorities in coordination with federal programmes (Environmental Improvement of Urban Slums, 1972).

Common trends, despite the diversity of national situations: All the national cases studied highlight the problems encountered by public land and housing development agencies and reveal similar trends. The growth of land development agencies as well as urban infrastructure and service delivery companies was significant in the 1970s and should be viewed in relation to the development of "sites and services" projects and attempts at direct State intervention in land management. They are public or semi-public bodies which generally have financial autonomy. In the first years, these agencies undertook heavily subsidized operations, targeting low-income households, but often ending up benefitting middle-income groups. After three to five years of activity, performance declines as the structure ages, operating costs rise, public land reserves are depleted, costs are not recovered and subsidies diminish. Such agencies have been criticized, as of the mid-1980s, by private land and housing developers in an atmosphere where free-market economy pressures amongst international organizations and expertise increase. **For this reason, these agencies are, in a growing number of cases, seeking to introduce cost recovery as an objective, breaking away from the forms of intervention that prevailed in the past.** This shift in housing policy often leads to withdrawal from the "social" housing sector.

Conditions required for successful intervention by urban development agencies. While the overall evaluation of these organizations and agencies is generally positive in the Arab States, and to a lesser degree in Asia, it is less so in French-speaking Africa, where it has met with sharp criticism. The experiences of the last decade make it possible to identify a number of conditions necessary for the intervention of development agencies.

At macro level:

- Competent personnel
- Technical support and supervision
- Deconcentration of operations (Morocco, Jordan, Botswana)
- Sufficient capital grants for at least the first few years
- Long-term financing (supposing at least partial cost recovery)

At agency level

- Competent personnel
- Technical support and supervision
- Deconcentration of operations (Morocco, Jordan, Botswana)
- Sufficient capital grants for at least the first few years
- Long-term financing (supposing at least partial cost recovery)

7.3 Intervention by the Formal Private Sector: Limited Results

The question of private sector intervention in service delivery and regularization projects for irregular settlements has been, especially over the past ten years, more and more commonly brought up in studies related to problems of access to land and housing for low-income groups.

What should be the role of the private formal sector in the implementation of regularization projects? Firstly, the terms of the terms of the question need to be clarified for a double ambiguity persists. The term "private sector" covers a wide range of actors with different means of intervention, strategies and objectives: capitalist entrepreneurs, other operators with commercial or patrimonial interests, NGOs and other mediation and intervention bodies. In addition, there are several levels of informality to be considered: while it is often possible to identify an operator within the formal or informal sector, it also often occurs that operators make use of practices related to both sectors.

Secondly, what is the field of intervention of the private operator? It covers a wide range of activities which should be specified. These may include: production of land for housing; provision of infrastructure and services; housing construction; production of building materials; management of services; technical support for public operators; financing; training activities, etc.

Preventing the formation of irregular settlements with the delivery of serviced land for housing: formal private sector limitations: All empirical observations and studies confirm that the formal private (commercial) sector cannot produce and deliver serviced land for housing low-income groups without the support of other actors. Even with such support, which may take many different forms, market constraints limit its room for manoeuvre. Situations are very different from city to city. In Dhaka, Bangladesh, in 1993, the formal private (commercial) land and housing development sector only produced 1% of serviced lots and housing (Islam, 1995). In Bangkok, in 1980, the formal private sector only met the demands of 15% of households. In 1986, that had increased to 55% (PADCO 1987). In 1990, the National Housing Authority estimated that more than 60% of households were able to buy housing delivered by private promoters (Thanpiphat, 1992). In recent years, the case of Bangkok has often been presented as a model by those who favour free-market economy options. It was the basis for the methodology used in the Land Market Assessment (Dowall, 1991) and provided the grounds for studies which led, in 1990-91 to the launch of the Housing Indicators Programme (World Bank and UNCHS). For these reasons, Bangkok deserves particular attention (see box).

Box 13: The downside of promoting private real estate development in Bangkok

The activities of formal, private real estate promoters in Bangkok took off in the mid-1980s in exceptionally favourable economic conditions: a sustained economic growth rate, a regular increase of urban households' revenues, relative stability of land prices on the urban fringe, significant productivity gains in the building sector, the production of roadway infrastructures giving access to vast land reserves available for urbanization on all the urban peripheries, simple and fast procedures for obtaining permits to subdivide, non-prohibitive standards for development, servicing and construction, and, lastly, the consolidation of an efficient system for financing housing.

Despite this economic context, the formal private sector did not offer reliable alternatives which could prevent or slow down the formation of under-serviced rental subdivisions. The four deciles of lowest-income households remain excluded from the formal private (commercial) system of land and housing production. As for the two or three middle income deciles, which have access in principle to private development projects, they are subject to a very high increase in their housing expenditure (multiplication by 6 or 10 of this expenditure when shifting from tenancy to ownership over 5 or 6 years) and must locate in sectors on the far urban fringes, quite distant from employment zones (PADCO, 1987).

Recent observations brought out another negative impact of private real estate promotion (Boonyabantha, 1994), the pressure it brings to bear on central and peri-central areas occupied by low-income tenants and the increased number of evictions it provokes (in 1988, nearly one-third of the community living in tenant slums was threatened with eviction). Populations thus displaced move to rental lands, often with no services, on the edges of the city. The security of their tenure again is dependent on the pressures exercised, sooner or later, by the private real estate and land promotion sector.

When formal private developers try to extend their market towards low-income urban households, they are often acting on the fringe of the informal sector. This is often the case in Asia (India, Sri Lanka, Bangladesh, the Philippines) and Latin America (especially Brazil).

Sometimes, the formal private developer manages to deliver housing and land for low-middle and low-income households. The attempts of a private Indian promoter intervening in mid-size cities of Uttar Pradesh are worth mentioning here: ELDECO produces and markets serviced, affordable land through the use of sales and financing techniques and operational staging which take into account the capacity of households to contribute.

Box 14: A private sector approach to reaching low-income families in Agra, India

ELDECO is a private land and housing developer supplying shelter for low and middle-income families, many of who earn their living outside the formal, organized sector of employment. The key elements of ELDECO's strategy stemmed from organizing the housing development process. It took on the task of:

- Selecting low-priced agricultural land and negotiating with farmers for its development;
- Organizing families and collection small contributions towards the bulk purchase of land;
- Subdividing the land and transferring properties to individual families;
- Undertaking infrastructure development on behalf of the plot owners based on their monthly contributions;
- Organizing a housing cooperative, arranging loans and entering into contract for construction of housing part of the project.

The financial planning of the project was scheduled in three phases:

- (1) In the first phase, prospective families were asked to pay Rs.10/sq.yd. As a registration fee and the remaining amount over two years in monthly installments. These modest installments, the technique of daily "home deposits", the work of the motivators, the relatively short period for possession acted as a strong stimulus for confidence building between the company and the families.
- (2) The second phase of the project involves the collection of infrastructure development charges and implementation. By this time, all participant families have received their plots and titles, and the second phase does not allow for "dropouts". Families may sell their properties but the buyer is obliged to continue with the installments towards the infrastructure development costs.
- (3) The third phase is the actual construction of dwelling units. In principle, families are now eligible for mortgage loans, having a title to a legally developed plot. However, their diverse socio-economic background necessitates a careful selection process both with respect to the cost of houses and the source of lending.

Accordingly, the plot owners, having been organized into a cooperative society, are grouped into four categories, depending on the anticipated source of finance. Fifty per cent of families have access to formal credit sources; 40% have access to subsidized HUDCO loans; for the remaining 10%, low-income families who have no access to formal credit sources, the company makes 'bankable proposals' with a limited guarantee from ELDECO and has sought out commercial banks and informal lenders to finance the project.

Source: Garg 1990

However, such experiences remain rare and formal private operators are only likely to undertake the development of serviced lands for low-income households if they have a significant incentive to do so: Either fiscal (partial or total exemption from tax on profits), financial (preferential access to credit for the operator or its clientele), land-related (access to land) or administrative (speedier procedures, lowered standards). The objective is to guarantee the private developer a sufficient margin for manoeuvre, not simply on a single type of serviced plot or housing, but on the scale of the whole project. Incentives and cross-subsidies generally act together to compensate for the lower profits (or losses) incurred in the part of the project which targets low-income groups. This type of incentive scheme, implemented in several countries, especially in Asia (Malaysia, Indonesia, the Philippines, Sri Lanka) gave rise to the following observations.

The implementation of these measures has often been restricted to projects without any real driving force behind them, unless they have been part of a more global national policy (Sri

Lanka until the late 1980s; India following the draft National Housing Policy established in 1987; Chile in the 1980s; Mexico after 1989, with the *Programa Nacional de Solidaridad*). While this scheme may encourage formal private operators to diversify land and housing production, they still mainly meet the needs of middle-income groups. Lower-income groups rarely get the benefits.

In India, the Madras Metropolitan Development Authority (MMDA), at the end of the 1980s, brought out a Guided Development Scheme (UN-ESCAP, 1990). Its objective was to give all formal and informal operators guidelines to follow in land development projects and to lower the standards for infrastructure and services. Under this scheme, public authorities also supply off-site infrastructure: access roads, water and electricity. Some plots were reserved for low-income households, while the others were to be freely sold by the subdivider.

In the Philippines, the Urban Development and Housing Act (UDHA) of 1991 established a series of measures aimed at ensuring greater participation from the private sector in social housing programmes. In return for the advantages obtainable the contribution demanded of the private operator ranged from advice and technical support to delivery of infrastructures or standardised housing, at costs determined by public authorities. This presumes that public authorities have the necessary resources for implementing such a policy, which is not always the case. Lack of resources, or extensive State disengagement from the housing and urban sectors, often make the scheme inoperable. **Therefore, the issue of formal private operators in regularization operations is better considered in terms of partnership.**

7.4 Public and Private Sector Partnerships

The difficulties encountered in recent years in the implementation of restructuring, service delivery and integration operations for irregular settlements have led to a search for new forms of association among public, private and third sector actors. The argument commonly put forward for promoting the participation of formal private operators can be summed up simply: the need for serviced land and housing brought about by rapid population growth cannot be met by public authorities. It is therefore necessary to call on the private sector, which offers the additional advantage of being more flexible in its operation and being able to provide a wide range of goods and services at better prices (can der Hoof, 1992). In the context of regularization as well as of infrastructure and service provision programmes, the State and/or local authorities are better off delegating responsibilities to operators acting under their supervision, in close agreement with the target population concerned.

Forms of public-private partnership: The forms of public-private partnership can be reduced to a limited number of typical configurations, in two categories: actors (public and private, including the informal and third sectors) and activities (studies and projects, planning, physical restructuring, servicing, etc.).

Looking into the different forms of partnership possible (which actors for which activities) it is apparent that the contribution of the formal private (commercial) sector to regularization operations in a partnership with the public sector (public agency, State, local authorities) is

limited. It will not intervene in irregular settlements unless it is given strong incentives. This assumes that subsidies will be provided, in which case it is no longer a question of true partnership. It also takes for granted a high cost-recovery rate, which is only possible when the target population has sufficient revenues. Low-income households living in irregular settlements are therefore not really affected by operations carried out through public-private partnership.

"Those services which tend to attract private sector investment are obviously those where customers are prepared to pay for the service received and where usage can be accurately assessed, i.e. where the service is "divisible and chargeable" ... Because the provision of urban services requires cooperation between public, commercial, private and third sectors, it represents an ideal testing ground for public-private partnership" (UNCHS-Habitat, 1993).

The legal forms of association are many (capital cost investment may be paid either by the public sector or by the commercial private company; the rate paid by customers is set either by the public authorities, or by the private company; the rate paid by customers is set either by the public authorities, or by the private company, who operates the service either in return for a percentage of repayment or at a set rate). The operation is profitable for service companies because they have the possibility of providing services to an area which is already densely occupied. However, public authorities often block the provision of such service providers in irregular settlements, for political reasons, because providing infrastructure to irregular settlements is considered by many officials to be a disguised form of recognition of the rights of occupants.

Broadening the field of public-private partnership: Services are not the only viable target form for partnerships. Others may also be envisaged, directly linked to settlement reblocking and regularization operations, as in Malaysia, where a private promoter has agreed to rehouse on-site, the irregular occupants of the area it plans to develop (see box).

Box 15: The private sector in squatter resettlement in Malaysia

The Desa Pandan Scheme illustrates how the private sector, government authorities and a squatter community cooperated in the development of a housing project. Located in a prime residential and commercial area within three miles of the city centre, the project site is disused mining land, of which ponds constitute 60%, the area is inhabited by around 8,500 people from about 1,700 families. The selected developer must provide low-cost housing units at least equal to the number of actual squatter families in the area, in addition to public amenities such as schools, sports complexes and mosques. The Government facilitates the private developer's operations by adopting a flexible approach to the usually strict planning requirements, expediting approvals and also by maintaining a financial mechanism for providing loans to individual homebuyers.

The scheme is being carried out by a private developer who is responsible for the layout planning and design concept in accordance with the Government's requirements. The developer is solely responsible for financing, implementing, sales and maintenance of the project. The land is alienated to the developer for fund-raising purposes. Residents formed a Resettlement Committee which signed an agreement with the developer, stipulating the commitments of the latter. The scheme envisaged the construction of a total of 3,840 housing units including 1,720 low-cost flats and 200 medium-low-cost flats. Initial work began in early 1986. The whole project is expected to be completed in 1995.

Source: UNCHS (Habitat) 1992.

An original form of partnership exists in Rio de Janeiro, Brazil, where private architects are associated with the planning and implementation of upgrading and regularization projects in several *favelas*.

Box 16: Calling on architects and private research offices for the programming and implementation of integration projects in "favelas in Rio de Janeiro, Brazil."

In June 1994, the municipality of Rio de Janeiro set up the *Favela-Barrio* Programme to seek out new forms of integrating *favelas* into the formal city. A competition was opened for the design of intervention methodologies for *favelas*, open to architects and urban planners working in the city. The competition received 34 entries and mobilized 150 professionals, a relatively high level of participation compared to the small number of offices working on housing in Rio. The municipality signed a contract with each of the 15 teams selected to put their methodology into practice in one of the cities *favelas*. The public authorities played the role of coordinator for the various teams. Inter-American Development Bank (IBD) financing is planned for the programme's later extension.

The methodologies proposed generally involve five pivotal principles: social participation, user-friendliness and integration factors, legal and land problems, environmental issues and infrastructures and services. The call for architects to consider intervention methodology in the *favelas* was an innovation in itself. Among other things, it signifies that the "informal city" is inhabited by "genuine clients" of architectural offices and is no longer considered, at best, as a place where only the public sector can act. For private sector professionals, a new market has opened up.

Source: Duarte 1995.

Associating CBOs and NGOs with private operator intervention: A considerable area of activity is open to the different forms of association among the formal private (commercial) sector, CBOs and NGOs. This trend is confirmed today. Indonesia provides an example of such association. In the context of the Land Consolidation Programme, collaboration was established between an NGO and one of Indonesia's largest housing developers. The law there requires that developers produce a certain ratio of mid and low-priced housing units: for each luxury unit built, three others for middle-income groups and six for low-income groups must be built. **It seemed easier and less expensive for the developer to transfer the land to the NGO at a preferential price and to offer technical support, rather than to ensure the development of**

low-priced housing itself. The NGO, for its part, organizes the community in a cooperative, ensures community participation in the project (participatory planning), provides legal counsel and financial management, organizes the construction and management of the operation, supports the development of small businesses (within the context of the project) and, lastly, plays the role of intermediary between the community, the developer and public authorities.

Other forms of association or partnership can be envisaged, such as that in Bangkok, where a leading developer has launched a "creative project for community development" in association with public agencies, academics, NGOs and various actors whose purpose is to aid community organizations in improving their management capacity.

8. INTEGRATING AND ASSISTING INFORMAL PRACTICES

8.1 Dealing with Informal Land Delivery Channels

Major options: A new approach to integrating irregular settlements involves the combination of delivering services and infrastructures *a posteriori* to sites, with "preventive" measures aimed at producing more serviced sites for housing. **A first set of responses consists of modernizing the State** (improving the public sector's performance). **A second set of response aims at integrating informal practices** and takes two main forms.

The first consists in allowing informal systems to develop, then periodically integrating them through mass regularization measures. This option prevails in many cases because it is the easiest to implement and, in the short term, the least expensive (Brazil, India, Egypt). It offers certain political advantages. It contributes to maintaining social control in the city. It is often essential for putting past accounts in order and moving forward. However, it does not resolve the question of infrastructure and service provision.

The second option consists in legalizing the practices and systems which are currently not covered by or are excluded from legal structures: (revising standards, new practices for the public authorities concerned with urban development). It has most potential for the future, firstly because it implies conferring legal rights on practices which are already prevalent and secondly because it favours better follow-up and monitoring of informal production practices.

The specific practices of sub-Saharan African countries: Africa shows examples of highly contrasting methods of managing informal, known as "customary", land delivery systems ranging from eradication attempts to recognition of informal land delivery and its integration. During the last two decades, the majority of countries in this region tried to dismantle "customary" property systems when they implemented radical reform measures: this was the case in Burkina Faso after the Agrarian and Land Reorganization of 1984, in Ethiopia after 1975, in Nigeria with the Land Use Decree of 1978, and in Uganda with the Land Reform Decree of 1975.

Some countries have tried, with various levels of success, to overlook "customary" practices in supervisory systems, while taking customary interests into account (c.g. in regard to compensation or when defining the boundaries and layout of land subdivision projects), but without conferring formal recognition on customary owners. This is generally the case in Francophone sub-Saharan countries (Ivory Coast, Cameroon, Senegal, Guinea, and Togo) as well as in Kenya and Tanzania.

Other countries attempted the *de facto* integration of customary practices, through measures often taken in conjunction with infrastructure and service provision projects (Benin, Rwanda and Uganda). Finally, some countries reintroduced customary systems, at least partly, but this time under the control of the State. Such attempts remain the exception (Ghana, and above all, Botswana).

8.2 Innovative Modes of Intervention

The public operator emulates informal subdividers' practices in order to supply land for housing: The public developer uses the techniques and methods of an informal subdivider, but works from a development plan. Delivery of urban infrastructure and services occurs after the allocation and occupation of the land. Delivery is implemented incrementally. These types of projects are known as "**sites without services**". Such emulation of informal subsidy practices has been adopted in Conakry, Guinea, at the Lambanyi site improvement project (a 200-hectare site), where the emphasis was on speedy completion of the operation. The area being developed by a public agency is subjected to heavy pressures from informal subdividers and "invaders". The aim is to implement development projects faster than the customary subdividers on parts of the land which remain vacant in order to prevent irregular occupation of the site. It must try to recover the costs of the infrastructure and service implementations (based on simple estimates), as quickly as possible, regularize tenure whenever necessary and sell the land rapidly, even before it is serviced.

The emulation of informal subdividers' practices was best developed in Hyderabad, Pakistan. The Incremental Development Scheme (IDS) of Hyderabad Development Authority (HAD) can be considered as an example of "government-promoted squatting".

Box 17: Government-promoted squatting in Hyderabad, Pakistan

In 1986, the Hyderabad Development Authority (HDA) started an investigation into the low occupancy rates of government-serviced plots and, furthermore, observed the functioning of the informal housing sector in Hyderabad. As a result of this, HDA decided to carry out an experiment in "government-promoted squatting". The government was able to play the role of subdivider and provide the poor with regularized, though initially unserviced plots. The Government has adopted the strategy of private informal entrepreneurs (*dalal*) who have managed to provide the poor with regularized, though initially unserviced, plots at an affordable price. The *dalal* occupies land informally with tacit recognition of State officials, police and other relevant agencies, and subdivides it following government planning regulations to the extent possible. Some plots are held for speculation and sold for commercial use, so that the price of plots for low-income customers is cross-subsidized.

HDA earmarked an open plot of land and named it "reception area". Families in immediate need of shelter were required to bring their family and belongings and erect a makeshift house in the reception area. The families were watched for 5 to 10 days and if HDA was convinced of their urgent need of shelter, they could move to a regular 80sq. Yards plot and erect an improvised or more permanent shelter. The concept of incremental building thus evolved.

The informal sector has not been eliminated. The HDA has inducted professional land-grabbers (the *thallawalas* who provide construction material and advisory services) into its development process. Land-grabbers are now used to locate and move people belonging to the target group, to the site. They have been given plots by the HDA at subsidized rates in the rates in the scheme and they are now providing the same facilities to the people in the project as their counterparts do in illegal subdivisions.

The HDA has thus taken over the role of the subdivider in illegal subdivisions: it is lobbying the relevant authorities on behalf of the people for the provision of transport and electricity. Since it is a governmental institution, the HDA is better placed than any subdivider to play this role. In addition, residents do not have to pay the large sum of money that their counterparts in illegal subdivisions do, as fees to subdividers who lobby on their behalf. Only the role of the *thallawalas* as land-grabbers and developers has been eliminated. In this way, the role of the informal sector can be supplemented by government authorities to a large extent. Total formalization of the informal sector is neither possible nor desirable, but integration would definitely yield spectacular results.

Source: UN-ESCAP 1990.

The public operator oversees informal production systems: As discussed above (§ 1.1), the most common response of low-income groups to the housing backlog is to acquire a plot of land from informal subdividers on the urban fringe. Construction is incremental; services and infrastructure will be provided later. This form of development has several advantages: it enables the gradual integration of the settlement concerned into the city, it is efficient in terms of housing production, it is simple and, finally, it is adapted to the demand of a population with low, irregular income which does not have access to credit. The main drawback of the irregular settlement is that it gives rise to settlements which are difficult to equip with infrastructure and impossible to regularize legally due to their location, site, layout, density of occupation and urban and land status. The objective of public authorities therefore is to guide the action of informal agents, and also to manage and support the efforts of the population regarding construction and provision of services.

Public authorities act as facilitators, but also intervene directly when necessary to ensure that in the future the settlement will be able to accommodate infrastructure (reserve land, impose alignments, prohibit building on dangerous or unhealthy sites), or act to produce or have

produced certain infrastructure facilities. This form of intervention combines, with variable "doses" of each depending on the country, three types of action:

- The development of a trunk infrastructure grid
- The association and integration of informal subdividers in the production process
- The setting up of provisions enabling the progressive installation of infrastructure and services on the occupied site, with population mobilization and organization playing an important role

Producing a trunk infrastructure grid (guided land development): This grid can be produced on various scales involving both a certain degree of land control by the State and flexibility in the application of standards. It corresponds more to the African than to the Latin America or Asian situation and in the context of Francophone sub-Saharan cities, it offers undoubted advantages. In particular, it makes it possible to get around the frequent obstacle of customary ownership in the implementation of development projects, by **associating customary land owners with all phases of the operation, from the choice of site to the development and sale of lots**. The role of public or semi-public operators is limited to the development of road systems and primary and secondary networks (Guinea, Cameroon, Rwanda before 1994). **The trunk infrastructure grid (or guided land development)** principle is as follows: on a sufficiently large site with low occupation density, a development company, created for the purpose, sets in place an infrastructure grid, and builds roads and primary and secondary networks, thus defining the links in the urban chain. Once the operation is completed, these links are sold, rented or leased to other public operators, or to private operators (whether formal or informal), who proceed with the details and then sell the developed lots to individuals.

Using the same principle with similar objectives, a guided land development project is being implemented in Douala, Cameroon (Mbanga-Japoma project). Another form of guided land development, based on simplified physical planning and the participation of customary landowners in the planning process, was successfully implemented in Butare, Rwanda, between 1992 and 1994. This type of action enables the public authorities to intervene rapidly in areas where customary ownership is predominant, in order to create a network of access roads before the land is subdivided and sold. The municipality has the main responsibility for this operation. It also recognizes that the customary owners have certain rights, including the right to sell their land. In exchange, they are requested to comply with a minimum level of development norms and procedure and to transfer to the public authorities, without compensation, the land to be used for the road network.

The promotion of guided land development presupposes a certain number of conditions:

- Public authorities must be able to mobilize sufficient resources to ensure financing of the operation during the first phase of the project (opening up and integrating the site by building a basic infrastructure grid)

- They must have land reserves or access to land, or else negotiate with the customary owners of the selected site
- Sites must not be too densely occupied
- The intervention by a development company or contractor with enough know-how to build the infrastructure grid is essential
- There must be good level of coordination among land owners, urban authorities, developers in charge of the project and companies providing urban services
- Projects must be carried out quickly to avoid having sites occupied irregularly during the initial phase

Box 18: The Lambanyi Project - diversifying actors in land production to make intervention procedures by public authorities more flexible in regard to developing and providing infrastructure services in Guinea

The Lambanyi Development project (1989-1995), financed by UNDP, concerns an initial segment of 200 hectares in an area of 600 hectares available for development, as defined in 1988. It has three objectives: to integrate customary practices, to provide builders with guarantees of stability and to provide new sites with services and an infrastructure grid.

The operation took place in two phases. Initially (1991-1993), public authorities, who had carried out the design and technical studies, provided secondary services to the site, defining clusters which were then handled by selected developers. The latter reimbursed the cost of the infrastructures. The two development companies selected were SOLOPRIMO (a State-run company slated for semi-privatization) and the City of Conakry, which handles the management of infrastructure created by the State and the development of residential zones. In the second phase (1992-1994), the developers used the development plan to guide service works and negotiate with customary occupants, regularizing their situation and paying compensation, selling the land and thus recovering overall costs (secondary and tertiary services) from individuals. In this way, the public authorities are reimbursed for the cost of infrastructure with funds collected from builders as a "contribution to infrastructure". Developers have only three obligations: (1) to comply with the development plan; (2) to pay the infrastructure contribution; and (3) to fill up each cluster in accordance with the objectives for population density, reaching agreements with the land holders. Self-help housing is encouraged for individuals buying lots.

Source: Bourdon 1995.

Incremental infrastructure: A key concept for the integration of informal land and housing production systems. Other projects aimed at integrating the practices of informal subdividers have been implemented in Latin America and Asia in recent years, paying particular attention to the concept of incremental development and the provision of infrastructure and services to irregular neighbourhoods.

The rate of delivery of urban infrastructure services is adapted to situations where there are insufficient public resources (especially municipal) and low-income households. In all cases, the issue is one of applying the main lines of a development plan and supplying occupants with a minimum of services, without waiting for legal regularization of the settlement. The incremental implementation of infrastructure programmes is generally associated with a lowering of standards and revising of procedures. This approach, which is largely accepted today, is the result of the maturing of a seed planted in the early 1980s, and nourished by the first evaluations

of "sites and services" operations. Between 1978 and 1988, a progressive infrastructure method was devised and tested in the Larlé Extension and Wagadogo project in Ouagadougou, Burkina Faso. It influenced the orientation and implementation of the 1984 Agrarian and Land Reorganization.

In Kathmandu, Nepal, a study by the Kathmandu Valley Town Planning Office (1986) recommended that informal subdivider-intermediaries (brokers) be associated with public land development projects, as their knowledge of the informal land market (actors, sales techniques) enabled them to produce serviced plots for housing in quantities and at costs that public developers were not able to meet.

In Huaycan, Lima, Peru, a guided land development project was launched in the second half of the 1980s, in the context of the Special Programme for the Urban Development of the Municipality of Lima (People, vol. 14 n.1, 1987, p. 12-14). The municipality supported the occupants' demand for servicing of the site prior to its being occupied, the registration of occupying households, support for the set up of a community-based organization, and also provided assistance for building basic infrastructure. Technical support for inhabitants is provided by an independent team. The development plan defines clusters, each occupied by 60 families. They are jointly responsible for the set up of tertiary networks and neighbourhood services. Each cluster is part of a more comprehensive infrastructure plan, but provision of infrastructure and services is incremental, in order to adapt these to the resources of occupant households. In such projects, the target population contribute directly to the provision and management of basic services and infrastructure. This supposes a good community organization on the scale of the settlement, or even of the street.

A similar procedure for incremental infrastructure delivery was suggested in the Philippines in the early 1990s in response to the financial problems encountered in the slum improvement programme. Land is summarily developed by the public operator (secondary and tertiary road network) and subdivided. The lots are sold for an "entrance fee" equivalent to the prices practiced by irregular subdividers operating in the slums. Occupants begin to build their houses. Infrastructure is provided gradually, in proportion to the monthly contributions paid by inhabitants. Irregular subdividers must also accept the concept of progressive infrastructure provision. The experience of the Budh Vihar Colony in Delhi, India, is a good example.

Public authorities stress consensus among urban actors: The State or local authority can also play the role of facilitator, by revising the regulatory framework, through various incentives and arbitration. They offer technical solutions (services), legal solutions (land regularization), and financial solutions (credit, cost recovery) with a view to ensuring the integration of irregular settlements. Public authorities are mediators seeking consensus among the actors. They stress the development of combined action. This is the case of land-sharing projects in Bangkok.

Box 19: The Budh Vihar Colony - encouraging informal developers to improve settlements in Delhi, India

In most unauthorized colonies of Delhi, developers withdraw from the scene after all the plots are sold. They leave residents to deal with the various government agencies individually, thereby causing problems for both the residents and the government. In the case of Budh Vihar, however, the developer has retained its interest in the settlement and continues its efforts to improve it long after it has sold most of the land. The result is increased confidence of the plot holders in the developer and a combined effort to consolidate the settlement further. The Budh Vihar colony now has all the necessary public facilities. If this development is indicative of other subdivisions on the fringe of Delhi, it displays some interesting trends. Private developers act with much more maturity and their management skills have increased sharply over the years. Developers are no longer only middlemen in the initial stage of the process of settlement formation; their activities are now oriented towards consolidation of the settlements over time and are more concerned with improving the quality of the settlement layout by adopting higher spatial standards.

The role of the informal developer in fringe areas is crucial, although it could be made more effective if appropriate guidance and assistance were provided by the authorities concerned. The authorities should ensure a minimum level in development but at the same time allow adequate flexibility for incremental land and housing development by private developers. This requires a pragmatic strategy in the planning, effective monitoring and high-level management effort of the city authorities.

Source: Misra 1990

Box 20: Land-sharing projects in Bangkok, Thailand

Rental accommodation in slums (17% of the Bangkok population in 1990) does not offer security of tenure. More than 70% of the slum population expressed fear of the threat of eviction. Centralized institutional arrangements and conventional top-down methods and approaches to deal with this problem proved to be inefficient, but new potentials have emerged. In this respect, land-sharing projects are an alternative although they have achieved only limited quantitative results (from 1982 to 1994, seven land-sharing projects benefitted 6,800 families in Bangkok).

The objective of the land-sharing scheme is to maintain the original location of the communities through negotiation with the landowner. This approach enables land owners and the land occupants (squatters or tenants) to reach an agreement whereby the land owner develops the economically attractive part of the land and the occupants build houses on the other part with full or limited land ownership. Price of land will depend on negotiation. The density of the community will increase but the physical arrangement of the community layout will improve with supplied utilities.

In general terms, (Von Einsiedel, 1995) major problems encountered with land sharing are: availability of land, community cohesion, and the complex and time-consuming nature of the process. Community participation and agreement is needed throughout the process, which leads to delays and increased costs. This would explain how most attempts at land-sharing projects (in India, in the Philippines), achieved limited results (Durand-Lasserve, 1988).

Another project, where organization and mediation have been stressed is the Marconi Beam Development Project in Cape Town, South Africa. The intervention of an NGO made it possible, in association with local companies, to provide infrastructure and services and integrate a squatter settlement of 1,200 families, by combining cross-subsidies, land-sharing, training actions and support for employment-creating activity (DAG, 1994-1995, and A. Rendall, 1995).

The function of mediation is also fostered in Indonesia, with the Land Consolidation Programme. The government mainly acts as a facilitator, mediator or organizer, and where required, as in large urban renewal or redevelopment projects, it brings in private developers to join the programme.

Box 21: Land consolidation programme in Indonesia

Indonesia's land consolidation programme has implemented several projects since the early 1980s. According to regulations passed in 1991, land consolidation is an approach involving active citizen participation for rearranging land ownership and land use in order to provide land for development purposes. The programme's objectives are aimed mainly at facilitating (a) the upgrading of slum residential areas; (b) the orderly development of rapidly growing existing and new areas, and (c) the planned development of relatively vacant areas expected to develop into residential areas. It is viewed as a local development policy to help implement the urban spatial plan and therefore gives the Mayor or Head of Regency the authority to determine the location of land consolidation areas. Functionally, the process is conducted under the authority of the *Badan Pertanahan Nasional* or BPN (the national land Agency), involving its offices at national, provincial and municipal levels. To support implementation at local level, several other agencies are involved through inter-agency teams and task forces. The most important actors in the process are the landowners and/or the occupiers of state-owned land which is declared land for consolidation. The minimum requirement for implementation is when at least 85% of landowners covering not less than 85% of the total land area give their agreement.

All participants contribute towards development. Normally, each participant must give a land contribution for building infrastructure and public facilities. If this is not possible, this contribution can be compensated with an amount of money. The process is managed and accounted by the municipality, including financial management.

Source: Oetomo, A and Kusbiantoro B.S. 1995

In every case, the success of mediation presupposes the coordinated intervention of the following actors: the community concerned, land owners, local authorities, a public operator or agency, urban service companies, an NGO or other collaborative entity for technical support and mediation.

9. NEW RELATIONSHIPS BETWEEN ACTORS: THE STATE, LOCAL AUTHORITIES AND THE PUBLIC

9.1 Recognizing Local Authorities' New Responsibilities

Attempts at local/municipal level to consolidate and regularize irregular settlements should be encouraged: Studies emphasize the weakness or absence of intermediate levels of management and decision-making with real power and authority.

- At central level, State administrations possess clearly defined broad jurisdiction in regard to urban land management, yet they do not have the means to enforce the rules they set, nor the will to modify them, nor will they accept to transfer their authority to other actors.
- At local level, the inhabitants and authorities involved in improving, upgrading and regularizing irregular settlements often reveal effective management capacity and find innovative solutions to land issues (identifying rights holders, settling litigation, setting up mutual funds or credit unions for providing housing loans, assistance with construction and infrastructure etc.). However, for lack of an appropriate legal or

institutional framework, they cannot act in the long term in the process of upgrading services, improving housing conditions, promoting tenure regularization and integrating the settlements concerned into the city.

- Between these two levels, there is a gap which municipalities can only partially fill, and yet they are an essential cog in the wheel of sustainable regularization policy.

Experience suggests that regularization projects and recognition of occupants' rights should be carried out in close collaboration with local authorities. Central government merely grants only the final seal of approval.

Central government alone cannot meet the demands for urban infrastructure services and regularization: Excessive centralization of the decision-making system with regard to land management is pointed out in all the studies. Few studies (India, Brazil, Indonesia, Morocco and Ivory Coast) report significant advances in transferring responsibilities to local level. The transfer process is long and often subject to controversy, especially within State administrations. In most countries, land management is still dependent on central or State government, even when planning and development have been transferred to municipalities through decentralization. Yet the central government often lacks the resources needed for intervention throughout the country.

Decentralization of responsibilities in favour of local authorities is necessary: The principle of city management by locally elected authorities is widely accepted, even if there are different ideas concerning the content of their powers. In any case, local authorities are recognized as having a central role to play in consultation and coordination, in particular for the launch and implementation of an integration programme for irregular settlements. **Local authorities seem to be in the best position to develop other ideas and methods for land management.** While actions carried out in this regard by local authorities and agencies have been modest, they have shown a good capacity for negotiation and attention to people's needs (in Egypt and Morocco and also in the Philippines, Brazil and the Ivory Coast).

Box 22: The growing involvement of communes in Morocco

While rehousing shantytown inhabitants and the restructuring of such settlements has always been considered a duty of the State, the restructuring of "clandestine" settlements takes place under the auspices of the commune. Despite strong centralization of land management within State services (*Direction des Domaines* and National Land Agency, in particular), insufficient financial resources and a limited land reserve around the perimeters of present-day municipalities (5.7% of all public land reserves), local authorities in Morocco are more and more involved in operations for the restructuring of "clandestine" housing in the context of contractual programmes with public Corporations. This evolution began in the 1980s, a period marked by State withdrawal, with the creation of the National Agency for Eradicating Unsanitary Housing (ANHI) in 1984, and the development of a policy for decentralization with a new distribution of budgetary resources to benefit local communities. This has been a valuable experience for State and local authorities, contributing to the setting up and development of a genuine public sector project managership ("*maîtrise d'ouvrage*") in the field of social housing. For several years now, interventions by communes have been multiplying, in particular those involving partnerships with public Corporations (ANHI, ERAC, SNECA).

Source: Ameur 1995

Local authorities are also better able to identify the legal status of occupants with regard to land and the most appropriate, socially acceptable physical improvements needed, as well as to evaluate the capacity and willingness of the people to contribute to the cost of the operation. These are essential issues when almost all planning and development projects involve reblocking and the subsequent provision of infrastructure and services.

Lastly, "local development" has a significant impact on controlling the expansion of irregular settlements. This seems to be proved by the experiences of Morocco, Botswana, and more recently, Jordan. The beginnings of the Rwandan experience, "simple planning sketches", would confirm this tendency. On the other hand, a highly centralized decision-making system would seem to be one factor which encourages the growth of irregular settlements.

The capacity of local authorities to provide services and regularize tenure in irregular settlements is still limited: Some decisions cannot be made at local level. Decentralization should not be a pretext for the disengagement of central public authorities. The best conditions for achieving success are when the State is able to provide a greater sense of direction. **The State must not withdraw from duties which are incumbent upon it alone.** It must create the legal, institutional and financial conditions for the effective operation of land markets, define the regulatory framework for the intervention of different actors and to ensure compliance, and put in place the necessary measures to reduce inequality of access to land, services and urban infrastructure.

Some ministries have redefined their roles and redirected their interventions in order to shore up their objectives indirectly through loans and technical assistance. In the Philippines, the *Ministry of Human Settlements* offers low-interest loans for subdivisions where 70% of the lots can be acquired by 70% of the population. By this means, it acts as a catalyst, bringing together land and housing promoters and landowners in order to produce low-cost land for the inhabitants. In the same manner, in Argentina, by recognizing the role which community-based associations and NGOs can lay in terms of access to financing, the Land Acquisition Programme (subsidized by the State) provides funds for community groups organized into cooperatives so that they may acquire land in peripheral areas.

However, **the State should not shift the problems it cannot resolve down to local level.** Indeed, some States are in a period of severe economic and financial crisis, which leads them to view decentralization as a way of shedding their duties on to local authorities. This piles extra problems of land management on local shoulders, on the pretext of giving the people greater responsibility, whereas the legal framework for intervention is far from clear, and the many means of acquiring land are far from being officially recognized, thus aggravating the confusion and the current insecurity in regard to land.

Lastly, land-related reforms, including those transferring new land management responsibilities to local authorities, should be implemented progressively to avoid a negative reaction on the part of central government administrations.

Complementary roles played by central and local authorities: Recently in many countries the relationships between central and local authorities have been strengthened and redirected as they

have grown more complementary. In Thailand's *land-sharing* projects, local authorities act as catalysts in order to reach negotiated agreements between occupants and land owners, while the *National Housing Authority* prepares new plans for land allocation, and the central government adopts special regulatory measures, exempting settlements where projects are implemented from existing planning and development regulations and permitting them to use lower norms and standards. This assumes that the responsibilities of each institution are clearly defined in order to prevent conflict and overlapping jurisdictions, yet there is no set model. Many countries have found their own model in relation to their own history, local conditions and political diversity. It also assumes that management at local level must be consolidated. Three problems must be resolved simultaneously: financing, technical know-how and access to land (how much autonomy in regard to land for local authorities). The transfer of responsibilities to local level thus requires strong political support and financial backing from the State.

Improve municipal revenues: With only limited central government funds at their disposal, local authorities must develop their own financial resources in order to be able to provide infrastructure and services. Current thinking on the subject of financing urban programmes stresses the need for costs to be borne by beneficiaries where possible. While user charges are often opposed with the argument that this adversely impacts on the poor, there is conclusive evidence the world over that this argument is spurious, as the cost of informally provided services in irregular settlements (e.g. drinking water) is generally much higher than that of official provision (F. Vanderschueren, et al, 1995, Section 7).

Consolidate municipal control of land and urban development: The involvement of municipalities in the implementation of urban development assumes that they have available public land. To this end, State authority must be transferred to local managers, who should be held accountable and ensure clear and transparent procedures.

The intervention of local authorities in land matters raises the question of their ability to look ahead to plan the future organization of cities. Do municipalities have the tools for this? The most urgent assistance required by local authorities is twofold:

- (a) They need assistance in defining and implementing an urban and housing strategy, help in making technical choices and help in the negotiating process with other urban actors (also in determining what is negotiable and what is not).
- (b) They also need assistance in operating essential services (including the road and transport systems, given their major role in integration). While building up their know-how and developing a reliable image vis-à-vis service consumers, they must rely on various operators, agencies and companies to carry out work and provide services on their behalf. The role of the operator is both to undertake work and to help local bodies learn to do the same.

Therefore, it is important that an empowering law grants municipalities more flexibility and independence in regard to land and housing. Municipalities need extra flexibility in order to adapt to the prevailing situation in their jurisdiction. The experience of Botswana is worth noting.

Municipalities as turnkey operators (or project managers): While the qualities of urban management at community level, resulting from its knowledge of local situations and social groups, and its aptitude to negotiate are key factors in managing urban development through direct contact with the urban actors, these qualities alone do not suffice. Local authorities must acquire a technical capacity which they do not currently possess and move quickly to be able to intervene, in the next few years, as turnkey operators (*maîtrise d'ouvrage*).

This consists in having works undertaken by either public, semi-public or private operators, on condition that they agree to comply with a set of rules. Several case studies in the Arab States, but also in sub-Saharan Africa show advances made in this direction.

Encourage the development of strategic actions at settlement level: Because of their responsibility to police property, control land use and settle conflicts between neighbours, municipalities must reconsider the use made of their lands, which is generally inadequate. Would it not be better if local authorities delegated some of their duties to settlement level, for greater effectiveness, or if the settlement were institutionalized as a level of communal administration? The settlement would indeed appear to be the most appropriate level for assuring an effective continuity of control over urban land use, and the most indicated to carry out the debate on services, norms and standards, and on the operation of urban services in relation to cost recovery.

Box 23: The diversification of institutional set-ups, adapted to each city in Morocco

Institutional set ups for projects involving rehousing and restructuring in regard to unsanitary housing take on different forms and use different methods to reflect the different characteristics of the projects, their global context, and the number of actors concerned. The success of the programmes carried out remains dependent on the type of institutional arrangements made. Two cases illustrate this diversity.

In Tétouan, the Dersa-Samsa project set up the following institutional system: USAID placed the municipal government and its Town Council at the heart of the project (as project coordinator). The technical management of the project was delegated to the National Agency for Unsanitary Housing (ANHI) for sanitation, roadway and land works, and to the statutory public corporation for water and electricity. The different organizations concerned by the project (municipality, public corporation, ANHI, community infrastructure fund and USAID) signed agreements to define the conditions for execution of the project.

In the city of Khourigba, the initiative of public project coordinators is essentially provincial, making use of operators. The Provincial Housing Delegation sets up the practical, technical and administrative resources and deals with the definition of the contexts for intervention, in particular finding the necessary land. On the basis of these preparatory measures, the governor advises the Director of ANHI of the problems to be addressed in order to improve and service settlements. ANHI then contacts the Housing Delegation and sets to work with all of the services concerned at local level.

Source: Ameur

9.2 Ensuring Community Participation

Community participation in regularization projects: inhabitants as actors in charge:

All recent case studies confirm that population participation is a key factor in the implementation of innovating upgrading regularization and settlement integration models. Irregular settlements do not lack potential, but their potential is generally underestimated or neglected by the organizations and professionals which traditionally intervene.

Contrary to common belief, obstacles are not due to the low level of competence of the inhabitants, or their lack of participation in community affairs, but to those mechanisms which constantly make them feel insignificant: Commercial mechanisms or institutional assistance which exclude the poor and deny them their dignity. This means that policy and programmes should no longer be handed down from the top to passive subjects. With the participation of inhabitants, forums for discussion, negotiation and decision-making must take place in the settlement's core, and include the different partners in integration and regularization projects. The main decisions affecting them should be transparent. Successful implementation of regularization projects and policies fosters the progressive involvement of inhabitants in projects which they can easily understand and which affect their daily life. They gradually become accustomed to the notion of active participation. This step-by-step approach is perfectly adapted to the financial and institutional logic of programmes. Little credit is available at the beginning of operations, and the first results achieved can be held up as examples to convince institutional partners (AITEC 1995). Jordan offers an example of public authorities taking an open point of view on more participatory forms of managing regularization projects.

Box 24: Improving community participation in Jordan

Between 1980-1989, the Housing and Urban Development Corporation (HUDC) approach to community participation in Amman upgrading sites was limited in scope and content. Beneficiaries' opinions were taken into consideration in the registration survey conducted during the preparation of the project and when dealing with demolition cases, but were not involved in the decision to go ahead with upgrading, setting development priorities in accordance with their needs. The existing "top-down" approach was adopted in Salahuddin and Shallah North. An exception to this rule took place in the latter site with regard to demolition cases (about 200) where beneficiaries were approached and enlightened on the needs for demolition. This has facilitated the execution process of the projects.

A revised HUDC approach called "Root-up" (i.e. effective involvement of beneficiaries in all project stages) was adopted in the remaining Aqaba sites, namely Old Town North and South. Under this approach the beneficiaries through their representative, the Municipality, were given the opportunity to express their opinions in respect of planning and design criteria. Some local leaders were powerful enough to decrease road widths to minimize demolition cases, some new roads were also proposed despite their inconsistency with adopted criteria, most footpaths were widened to provide car parking within close vicinity of dwellings. Original proposed locations of community buildings were also changed to minimize relocation cases. This intervention by local community not only affected planning criteria but also increased project costs. The elected municipality, community representatives, supported their demands and obtained ARA approval for the necessary changes. The extra costs incurred were finally paid by the municipality and ARA.

Source: Ayyash 1995

Organizing communities: the development dynamic: Community-based organizations (CBOs) are generally created on the scale of a settlement, for the purposes of defending their interests both as inhabitants and users of urban services. These popular organizations, which tend to develop with democratization and decentralization policies, are important factors in the setting up of alternative strategies. The usual relationship between "social demand" and "administrative financial supply" does not meet the needs of the low-income groups. Conventional development instruments are seen to have failed and this has encouraged the emergence of community organizations and increased solidarity.

In Peru, family groups have created associations and cooperatives to become reliable partners of the public administration and banks in the acquisition of land and the development of subdivision projects.

In Douala, Cameroon, the Nylon area upgrading and regularization project carried out by a public agency was fully supported by social organizations which guided and structured the population: "activate" the project, 15 neighbourhood committees were formed. They met weekly during the process of planning and setting up the project and the agency in charge made use of these committee meetings to inform the population. All observers agree that this line of approach made it possible to start the work.

In many cases, the success of regularization projects is broadly attributed to the support of community organizations and the pressures they bring to bear on administrations and politicians (Chao e Teto programme in Recife, Brazil; Ismailia project in Egypt; reblocking-regularization project in Aqaba, Jordan; programmes implemented in Delhi).

In Morocco, "residents' Societies" have played an important role in certain regularization operations by mobilizing irregular settlement populations and improving participation in financing infrastructure and services. Despite initial resistance on the part of the Government, which feared political repercussions, these societies are on the increase. In recent years, the prevailing suspicion of the past has been dissipated. The social movement has gained legitimacy and is frequently called upon for support. As a framework for community organization, it is able to work with or even take over from public operators to ensure sustainable management of urban space. However, in many cases, public authorities are still often solidly resistant to this form of grass-roots organization.

Towards more community responsibility: Community-based initiatives, as Cabannes (1995) noted, show that organized inhabitants know how to find land, build it up, construct housing, divide out lots and set up financial schemes which optimize the use of their low-level resources. The second loan from the Mexican revolving capital fund to the *colons de Santo Domingo* clearly demonstrated the ability of grass-roots organizations to take on project management. Such organizations do not operate in isolation from the public authorities, quite contrary. Thus, in an empirical manner, a new "profession" has emerged, that of the people's "*urbanizador*". It is not always remunerated in cash, and should be distinguished from the "*urbanizador pirate*", who, through political or underground connections, sells under-serviced lots in the city outskirts, an outlaw with no respect for regulations.

It is important to support these new social and urban development procedures and reinforce the capacity for mobilization and financial management of these developers, in coordination with public authorities. Pilot projects would therefore have long-term priorities related not only to housing production, but also to the setting up of financial and institutional mechanisms to facilitate the process of community-managed turnkey projects. (Cabannes, 1995).

Administrative innovations: The political and economic environment changed considerably in the late 1980s and early 1990s. Growing economic constraints and budget cuts have limited the capacity of the public sector to finance regularization programmes. In contrast, democratic movements and the increasing number of participatory community organizations, plus recognition of the constant spread and diversity of irregular settlements, have led to the emergence of new initiatives.

It is necessary to develop methods of participatory intervention, for the current trend is still towards a "top-down" approach. The conditions for successful regularization, from a technical and political viewpoint, are clarity and flexibility of execution. Beneficiaries of regularization operations must agree to the process by which occupation is legalized, and participate in that process. They must show their willingness to pay for each of the advantages received. **These mutual financial obligations should be set down in a contract which indicates the amounts involved and the mechanisms for payment.**

9.3 Consolidate NGOs in Technical Support and Mediation

Intervention by mediation bodies in the search for consensus: Special attention needs to be paid to two specific aspects of contemporary urban management: firstly, cities are increasingly managed as sub-municipal or neighbourhood levels. Secondly, associations of all sorts, governmental or non-governmental, religious or lay, national or international, become essential partners in management, especially when they are organized at neighbourhood or at settlement level.

Intervention by mediation bodies (associations, NGOs) is an increasingly common occurrence and often enables agreement to be reached when problems arise. It is essential in the search for consensus. This phenomenon has long existed in Latin America, and is more recent in the Arab States, sub-Saharan Africa and Asia. Such organizations backed by the Church or political organizations which coordinate their activities at the level of a settlement or neighbourhood, play a decisive role in Latin America. Their role is also important in Asia (India, Thailand, Philippines, Indonesia).

India is without doubt the country where the integration of NGOs into the regularization process has gone further (through the establishment in Delhi of a training centre associating the Housing and the Urban Development Corporation (HUDCO), the federal body in charge of social housing and regularization programmes and NGOs). NGOs are important actors in regularization operations. They often support the setting up of community-based organizations. For the implementation of slum upgrading projects in Delhi, the main thrust is now on NGO participation in community development work and even in taking on jobs on a turnkey basis.

This makes it possible to obtain institutional support without expanding the public agency. However, in Delhi, there are not many NGOs experienced in slum upgrading. Accordingly, the *Slum Wing* of the *Delhi Development Authority*, together with HUDCO, has set up an NGO training institute to overcome the problem (Banerjee, 1993).

The situation is also changing rapidly in sub-Saharan Africa with the appearance of local NGOs, operating on the level of the settlement ("development associations") and in contact with traditional power networks (Benin, Ivory Coast, etc.). However, coverage is uneven and solidarity systems are often based on the extended family group rather than the settlement. The role of local NGOs is still not one of great importance in the Arab States (because of State constraints on freedom of expression).

The NGOs role is particularly important at the various levels corresponding to the phases of the regularization process: protection of the community in regard to evictions, determining occupants' rights, technical support for carrying out operations. NGOs exercise control over spontaneous actions and put pressure on public authorities through the organization of the population and the creation of intermediary organizations for negotiation. But while many NGOs intervene in housing projects, few are specialized in regularization programmes (Ortiz-Flores, in *Groupement de Recherche Interurba*, 1995).

From mediation to pressure: NGO intervention can take on widely differing forms in relation to regularization projects; their attitude usually falls into one of the following two categories:

- NGOs that side with the authorities, while assuming on the role of independent intermediaries between the State and the people aiming to obtain the target population's approval of and participation in a project. The target population is expected to supply a maximum of labour and sufficient (even if limited) savings, to make government policies and programmes operational.
- NGOs that line up on the side of the people, in defense of their rights, aim to support the initiatives of social organizations and take part in implementing new options. This implies that they put pressure on the authorities.

Another function of NGOs is to defend people in irregular situations or where threatened with eviction. This function is underlined emphatically in Latin America (Lima, São Paulo, Mexico, Santiago). The relationships that exist between NGOs, at national, regional or international levels, consolidate their intervention capacity. NGOs intervening in the area of housing for the poor have grouped together at national level (for example, the *National Coalition for Housing Rights*, in India), or at regional level (the *Asian Coalition for Housing Rights*), or the international level (HIC). Their activity is mainly directed towards the struggle for the right to land, housing and services. NGOs, in these instances, play the role of a lobby.

Changes will not be brought about because the State has so decided, but through interaction between occupants of the settlements concerned, NGOs, society in general, and the State. The State must first of all recognize and then encourage social initiatives. Between 1989 and 1992, the municipality of São Paulo strengthened the role of NGOs, and their support for regularization

projects has often proved decisive. This highlights the need to transform State institutions and make them more democratic. The case of Nepal may also be cited (see box).

Box 25: The role of NGOs - urban development through Local Efforts Projects in Nepal

In Nepal, the **Urban Development Through Local Efforts Project** (UDLE) is a good example of an approach where NGOs bridge the interests of the community and the local and central government. Initiated in 1987 as a joint programme between all municipalities in Nepal, the central government and GTZ (the German Agency for Technical Cooperation), it supports municipalities in a number of development initiatives, including urban land management. The UDLE office, with the support of GTZ, is independent of government, although its activities are directly linked with the Ministry of Housing and Physical Planning, the Ministry of Local Development and the municipalities in designing and implementing land development schemes, including the strengthening of their capacities in planning and management. Central to its approach is the promotion of the participation of community groups and NGOs in local projects. Another interesting feature of its operations is its linkage with the Town Development Fund Board (TDFB) which functions as an urban development bank and provides grants and loans for social infrastructure and revenue generation projects in the municipalities. Through UDLE's facilitation, the TDFB has financed over 100 projects in virtually all the municipalities in the country since 1987.

Source: Von Ensiedel 1995

CONCLUSION

SOCIAL CHANGE AND TECHNICAL INNOVATION: NEW DIRECTIONS IN THE MANAGEMENT OF IRREGULAR SETTLEMENTS

Working on all aspects of irregularity: The objective is the integration of irregular settlements. This assumes that urban management first recognizes such settlements. Recognition must be linked to a series of measures for providing infrastructure services and facilities and tied to the city network and legalization, i.e. lawful regularization of land tenure. None of these measures can be taken individually when applied to an irregular settlement. Recognition, infrastructure and services delivery and tenure regularization must be undertaken in a unified approach, with appropriate "doses" of each as called for by the evaluation of local conditions.

This "dosing", however, does have limits. If one or other aspect is pushed too far or too fast (often in an attempt to catch up with modern standards), the operation may fail, or its scope and exemplary nature may be diminished as the project becomes overly cumbersome. In particular, this occurs in cases of:

- New subdivisions or the physical restructuring of a settlement requiring extensive demotion
- "Over administration" of settlements which were long "under-administered", by setting up "integrated" management structures and associated programmes which are costly and complex
- Attempts to compensate, in the space of a few months, for a few months, for the lack of facilities and services which has accumulated over years or decades, where the population concerned can afford neither the investment nor the maintenance cost

In such cases, cumbersome management and ancillary procedures are set up, immobilizing the available essential human and financial resources; such procedures are often not accepted by the administrations in charge of implementation and are criticized by the least affluent inhabitants of legal settlements. A little for the many is better than a lot for a few.

New uses for existing tools: Innovations are to be found more in new uses for existing tools than in "invention" and the implementation of new tools. These new uses involve a combination of well-known tools, procedures and techniques that have proved to be efficient in urban and land planning, development and management, as well as in the mobilization of financial and human resources, providing services, building and improving housing. Innovation also lies in the organization and structuring of a project which relies on new urban actors, or more precisely, on new relationship between urban actors.

This new use of tools presupposes:

- Political will at the highest government level;

- The recognition, *de facto* and *de jure*, of actors and practices previously considered irregular;
- The modification and simplification of procedures and standards;
- The transfer of powers to local authorities and settlements;
- The setting up of procedures for consultation, association and partnership for optimal mobilization in a combined action of all urban actors.

The new use of tools places importance on negotiation procedures and mediation in the preparation and implementation of regularization operations. It supposes a decision-making system which takes account of demands expressed by the communities concerned.

Technical and social innovations: Real innovation occurs at the interface of technical/social innovation. There is no "magic recipe"; each operation is unique. Technology can be transferred, but not interaction among the actors involved. Intervention does not take place in empty space where land use is to be defined and appropriate infrastructure and services provided for occupation, but rather on occupied land. The space already accommodates complex social structures which must be understood before any action can be taken. The acceptance of new techniques or procedures often supposes a change in the relationships among the different actors. These changes are slow. The replicability of model projects for providing infrastructure services, restructuring and regularization, where the same methods are applicability are limited, it is indispensable to the search for and perfection of innovative practices. Projects are an obligatory phase before moving on to programmes of another scale. Their objective should be modest and their implementation progressive. The coming of age of a project may take a long time.

The time required does not correspond to the schedule typically typically established in urban projects or those involving formal financial backers. The risk is that while short-term goals are met, long-term objectives remain unsatisfied, and certain supposedly rational technical options are imposed. However, time is not the only factor required when moving from project to programme policy. All case studies, without exception, underline the fact that such a transition requires strong and consistent political commitment and a clear acceptance of the role played by informal land and housing delivery systems.

The introduction of innovative practices calls for good community organization: formulating claims and demands, spreading information, mobilizing resources. It also always requires the intervention of mediators between actors, and more precisely between public authorities and communities. These mediators enable change to take place in the relationships between actors, when institutions raise barriers, and they support or encourage community organization projects.

A break from planning and development traditions: The challenge of the coming years will be to set accelerated procedures in motion for regularization on a large scale, which will successfully deal with the dynamics of demographic growth, spatial expansion, social changes

and marginalization as experienced in modern cities. These procedures must be adapted to the socio-cultural context of each city, or even each settlement. They must be implemented in association with informal practices. Such procedures must be simple, accessible to all, and transparent.

The diagnosis and the directions suggested in this paper illustrate a break from the urban and land planning and development traditions that have predominated over the past three decades. There is a call for new relationships binding together the State, local authorities and citizens, which consider the city essentially as a product of the society which has built it and lives in it.

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