

**EGM:**

**‘Concepts, contexts and proposal on Responsible Governance and Secure Tenure of Urban and Peri-Urban Land in Latin America and the Caribbean’  
San José, Costa Rica, July the 14th and 15th, 2016.  
Summary of Recommendations**

On the 14th and 15th of July, 2016, an expert meeting was held in San Jose, Costa Rica entitled ‘Concepts, Contexts and Solutions for Responsible Governance and Secure Land Tenure in Urban and Peri-Urban Areas of Latin America and the Caribbean,’ within the framework of the study ‘Responsible Governance and Secure Land Tenure in Urban and Peri-Urban Areas in Latin America and the Caribbean.’ The following are the key emerging elements for the development of the work plan:

**PART I: RESPONSE TO THE AGENDA**

**1. CONCEPTUAL REVIEW**

**Conceptual Review**

Key concepts on land governance and tenure were refined as follows<sup>1</sup>:

- o **Tenure:** A person’s relation with land based on the expectations that said relation contains.
- o **Secure Tenure:** A person’s relation with land that guarantees: i) a perception of security against eviction, ii) recognition and protection of rights with regards to land and (economic) opportunities that come with it, and iii) protection by the government against evictions (UN-Habitat: 2012).
- o **Insecure Tenure:** A person’s relation with land that **does NOT guarantee or partially guarantees** i) a perception of security against eviction, ii) recognition and protection of rights with regards to land and (economic) opportunities that come with it, and iii) protection by the government against evictions (UN-Habitat: 2012). A series of events can put one in a condition of insecure tenure: forced eviction, expulsion due to market pressures, diminishment or loss of security of tenure due to criminal organization activities or due to disasters. It is suggested to consider insecurity of tenure among specific vulnerable groups: poor female-headed households, immigrants, poor and precarious youth, poor and precarious seniors.
- o **Responsible land governance:** A system for making decisions and assigning resources respecting urban and peri-urban land with relation to an urban land policy that promotes principles of inclusion, equity, prosperity, and sustainability. The system should be comprehensible, transparent, responsive to climate change, and protective of the natural environment (Payne, video).
- o **Cadastre:** Its importance is rooted in the possibility of offering information about urban and peri-urban land use and development, and transactions (for example, in informally occupied high risk areas), which allows for understanding the tenure status of real estate and the reconfiguration or change in land values; it registers physical and social changes, and with this legitimates tenureship; it integrates

<sup>1</sup> Land in this context refers specifically to urban and peri-urban land.

information about public and private lands, helping to avoid fraud and to estimate how much and what type of public land is available to be disposed of primarily for the poorest population groups (Piumetto).

- o **Land value capture:** Refers to recovery by public entities of additional value gained by land due to its intrinsic conditions or due to changes in the development potential of a property through regulatory changes, with reinvestment of this value increase in urban infrastructure. The value capture can be direct (in monetary value) or indirect (in kind, for example, through the development of works in the city, above all to serve the most disadvantaged residents).
- o **Actions for regulating urban and peri-urban land can contribute to the guarantee of social rights; from this point of view it is necessary to promote an equitable distribution of gains from urban development, using instruments such as:**
  - The rural-urban limit (urban edge);
  - Designated Areas of Social Interest for Development;
  - Land value capture following normative changes and/or transformation from rural to urban land use;
  - Cost-effective use of underutilized land parcels and buildings (Montandon).
- o **The relationship between secure tenure and responsible land governance:** insecure tenure is a **consequence** of irresponsible land governance. Among the causes of insecure tenure is, in part, the persistent presence of informal settlements in cities, but in no case are they the only cause. In addition, causes due to context, policies, technical reasons, information management, dispute resolution, and other causes lead to insecure tenure (see Point II: Configuration of the Theoretical Framework within this document).
- o **Social Function of Property:** A new cultural paradigm. Urban property is recognized as a fundamental right always and/or when it fulfills social functions.
- o **Participatory Governance:** This concept shall be included across the Report, for its implicit multiplier effect as a social practice for change and for the defense of the Right to the City.
- o Emphasize in the report the market focus of land governance, based on the recurring imbalance between effective supply and demand for accessible, urbanized land for important segments of the population.
- o Emphasize the protection of Human Rights in the governance of urban land: Right to Housing (as part of Human Rights) is not confined to private property, but above all to the promotion, defense, and realization of rights to land for tenants, homeless, migrants, displaced persons, cooperatives and other formal or informal associations; and to the protection against forced evictions and displacement.

## 2. RESPONSIBLE GOVERNANCE PRACTICES AND SECURE TENURE FROM DIFFERENT SECTORS

- **The Inter-American Development Bank (IDB) and the World Bank (WB):** Both institutions work toward improving informal settlements through regularization of tenure and support for massive property programs, serve to increase levels of land tenure security among poor and vulnerable homes.  
To guarantee equity, both banks support programs for urban regeneration and the use of instruments such as *land readjustment*, *land sharing*, and promotion of leases address mainly to vulnerable and poor people.  
To improve the quality and management of land-based information, the banks support initiatives for development and improvement of cadastres and registries

which also assist with land-based taxation. Furthermore, they offer municipal financial advice, including workshops on the capture of land value increases.

From the perspective of justice, the IDB has developed a workshop 'Justice for the Poor' in which they demonstrate land governance and secure tenure interventions that guarantee justice, equity and inclusion.

For a holistic diagnostic of development in cities (with an emphasis on land governance) the IDB has initiated the Emerging and Sustainable Cities Program (in those cities growing faster than the national average in population and in economic terms), with over 71 cities under analysis and intervention at present across the region. On its part, the World Bank applies the Land Governance Evaluation Framework (LGAF). In the LAC region it has been implemented in Peru and El Salvador.

- **UN-HABITAT:** In Mexico UN-HABITAT supports the updates to the Law of Human Settlements; the design and implementation of the Cadastre Law; it has run an Index of Prosperity estimate in 139 cities across the country; it has launched a massive training plan for urban planners and public servants at the national level. In 2006 UN-Habitat monitored land tenure in the Municipality of Sao Paulo with the intent of testing the Legal and Institutional Framework Index (LIFI) using some questions from the household census. Among the key messages for land governance and tenure security toward Habitat III are: i) to generate wealth in cities through the sharing of burdens and benefits; ii) to promulgate and apply urban policies that recognize multiple forms of tenure; iii) to hasten the formation of land tools and solutions for administration; iv) to promote land policies with gender equity.
- **Lincoln Institute of Land Policy (LILP):** Develops training workshops on informal settlement regularization, municipal financing, and management of urban regeneration projects; it documents cases of good land governance including those that capture and reinvest land value increases, and communal tenure; and it finances investigations on this subject.
- **MUNIRED Perú:** Initiatives on this subject are still weak. The speech pays attention to the lack of understanding of the ability to capture land value increases. It asks for technical support on these subjects that will begin to be discussed shortly with the World Bank.
- **Private Sector (Colombia):** Investigation under development about land deregulation. Advances on instruments for land value capture: taxes on land value increases, bonds, management associations, concessions, payments for environmental services, economic compensation for improvements that resettle the population, cadastral and commercial appraisals, public private and mixed land banks, priority development parcels, sharing of costs and benefits, urbanistic obligations, and administrative expropriation.
- **Land Alliance:** Has coordinated the application of the land governance assessment framework by the World Bank (LGAF) in Peru and Honduras. It would like to reinforce the cooperative ties with the Urban Land Group and partners. A study under development identifies places in which the institutional and legal environment is favourable to the provision of possible formalization services through the private sector.
- **Public Ministry:** The judicial system does not serve the theme of regularization, it does not recognize laws and interpret them in terms of their original normative

sentiment. It has identified the opportunity to encourage MercoJur to create greater accord regarding tenure across the region.

- **HIC:** Global platform for the right to the city. To consider in urban land policies what is informal that ends in formalization and what is formal gradually becomes informal. Among all this, it is essential to guarantee basic rights. To promote security of tenure not just for living but also for creating income (Social economy, street workers, domestic workers, etc.). Since 2014 HIC has worked to index principles and proposals on the Right to the City, Right to Housing, and Human Rights within the content of the Habitat III Conference and the New Urban Agenda.
- **Huairou Commission:** Advocates for greater representation of women in land governance and secure tenure. Presented a women's land tenure security program in Brazil. Includes the gender perspective, the empowerment of women, the control of their own decisions, considering insecurity of tenure among women and that the majority of heads of household are women, and that the majority of workers are women.
- Solicita incluir la perspectiva de género en el Estudio y Reporte considerando el impacto de la tenencia informal en las mujeres de la región (jefas de hogares en aumento en su mayoría trabajadoras informales).
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- **Costa Rican Ministry of Housing:** Has designed a program for cooperative housing which will shortly begin with a pilot. It is interested in diversifying the supply of housing (tenureship) with a lease program for vulnerable groups and others. Is a candidate for technical assistance.
- **Shelter Cluster America for Disaster Response and Preparation:** Works post-disaster under a focus on respect for multiple tenureships, designing solutions ex-post that recognize them and working with the same focus during disaster prevention. It applies cadastres that identify multiple forms of tenure and relates them to specific housing solutions. It has developed intense work in Central America and the Caribbean (especially Haiti) and currently in Ecuador.
- **Brazilian Social Movements:** Together and with the support of academia, they have been the protagonists for change in land governance and in the launching of initiatives for secure tenure in the country. In part thanks to their claims, use rights were separated from construction and development rights in the Statute of Cities, which created the definition of use rights (independently of the formal tenure status) and the inclusion of Zones of Special Social Interest, originally developed in Recife. They have strongly supported participatory processes for development of Municipal Directive Plans (local urban planning instruments with use of all land management instruments under local land management, housing provision, servicing and infrastructure policies). There are indications that there is still plenty to do to create consciousness about urban land governance: 'people do not understand the risk posed by an abandoned and under-utilized building in the city, from the perspective of access to well-located urbanized land for communities' (Evaniza Rodríguez).

### 3. SUB-REGIONAL CHARACTERISTICS WITH AN IMPACT ON RESPONSIBLE URBAN LAND GOVERNANCE AND SECURE TENURE

- **Caribbean**

The sizes of Caribbean islands vary significantly, with a corresponding variation in methods for planning for urban growth.

There is a high risk of disasters, with implications on land governance pre- and post-disaster.

The rural-urban division is not precise (with implications on recovery of value gains following development); the challenge is to understand the complementarity between urban and rural functions from there plan for the use of urban and peri-urban land.

Scarce communication between central and local governments.

Scarce community participation during the creation of new beach resorts, with almost non-existent recovery of value gains or environmental costs.

Significant opportunity for creation of land banks in countries with a high stock of public land.

Informal tenure does not permit selling rights, the State should recognize informal tenureship.

**Table led by Robin Rajack and Anna Pont.**

### ➤ **Central America**

The magnitude of informality; living in habitat and housing conditions that are not dignified. Within formality, segregation.

Urban services are few, of poor quality, and poorly distributed, providing services prior to city growth.

Need for land value capture, creating redistributive instruments, tax collection.

Confront the advances of narcotics trafficking. Land coopted by criminal groups and drug traffickers, the case of gangs and *Casas Locas*.

One of the great regional challenges is creating simultaneously and complimentary housing policies for vulnerable segments of the population and urban land policies.

**Table led by Silvia Mejía and Marcela Román.**

### ➤ **Andean-Equatorial Arc**

Urban primacy in national and sub-national capitals is relevant in contrast to countless small towns, which leads at least to two types of urban land governance.

Social conflicts affects land government in rural and urban areas (displacements and tenureship).

Significant advancements in Colombia for inclusion and redistribution of land value increases, while Ecuador is following the same course with the recently approved Land Law (Ley Orgánica de Ordenamiento Territorial Uso y Gestión de Suelo).

Struggles in Ecuador for not having professional experts in urban planning and cadastres (area to be developed through technical assistance).

In Colombia, for better urban land governance it is necessary private-public-social partnership (issue that needs further development).

**Table led by Diego Restrepo and Arturo Mejía**

### ➤ **Brazil**

Good instruments with weak implementation. The challenge is how to ensure that local governments can implement the land tools for urban and peri-urban land governance created through the Statute of Cities.

The Zones of Special Social Interest (ZEIS) could be a solution in countries with massive conditions of insecure tenure in informal occupations (Central America above all).

Appearance of a new urban actor, organized crime.

**Table led by Joao Sette Whitaker**

➤ **Southern Cone (Cono-Sur)**

The most urbanized region in LAC, with the exception of Paraguay all other countries have robust cadastres that cohere with land registries. Among the greatest problems is the persistence of villas (slums) in large cities, weak housing policies in all countries except Chile, and a lack of peri-urban land policies (to manage 'the new colonialism,' meaning the imbalance in competency over land that is used for food and bio-fuel production) with large losses in land value intrinsic to the aptitude of land. There is a good example of land use control emerging regarding the use of radial pesticides; in Bandera, Santiago del Estero. The area would be interested in technical support on urban and peri-urban land management within the context of unsustainable land use.

**Table led by Paola Siclari**

**4. 'SITUATION TYPES' IN URBAN LAND GOVERNANCE AND TENURE, AND HOW TO ADDRESS THEM AT THE COUNTRY LEVEL<sup>2</sup>**

**Argentina:**

**Lack of policies of land in peri-urban areas.**

**Registration of social housing (Buenos Aires) is necessary.**

- o The Argentine and Uruguayan cadastres provides valuable information for responsible governance; it includes a history of identifying and preventing the formation of informal settlements in areas of high environmental risk.
- o The culture of non-registry is evidenced by the low rate of registry of social housing properties in Buenos Aires.
- o Governance of peri-urban land pending a request for technical support (Bandera, Santiago del Estero).

**Paraguay:**

**Lack of land policies in rural and peri-urban areas.**

**Lack of slum improvement (and regularization) policies.**

**Lack of land policy for disasters.**

**Training on secure tenure and land governance at the municipal level is necessary.**

As in the Argentine countryside (*pampa*), there is an imbalance of competency over land that is used for large-scale agricultural and bio-fuel production. Several small and medium-sized cities in such areas do not have a registry or cadastre of lots and properties lying within large agricultural concessions. As such, local inhabitants lose significant rights to land, while local governments must assume negative externalities generated by this type of economic-productive activities.

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See Table N°2 at the end of this document.

The scarce public housing response results in the generation of new informal and precarious settlements and in the persistence of the existing ones, with a consequent greater breadth of illegitimate tenures. This makes it imperative that a national cadastre be developed regarding slums, with a concurrent design and implementation of a program to improve and regularize these areas.

Climate change has negatively affected great extents of the national landscape, with violent flooding over the past decade. There is an urgent need to define areas under environmental risk at the national level, together with a plan to relocate people living in these areas.

**Brazil:**

**Move into small and medium-sized cities with land governance instruments, to guarantee access for vulnerable groups to well-located urbanized land.**

**Land governance in metropolitan areas.**

- o Political instability is weakening all federal policies. The loss of continuity in land governance policies due to changes in government is regrettable.
- o The great challenge is to 'descend' structural and cultural changes to the municipal level.
- o A new social movement is appearing, which is the summation of individual worries among the richest segments of the population, while historical social movements have now lost power.
- o Land governance in metropolitan areas is a huge challenge. Support is requested in this area.

**Colombia:**

**Lack of urban land policy (as state policy).**

**Lack of government support in land and secure tenure to medium and small municipalities.**

**Lack of urban land policy in metropolitan areas.**

- o Law 9 and Law 388 established the legal milieu in 1989.
- o Urban development to the present has been based on plans and programs. A policy that defines the development of cities is necessary in the coming decades.
- o Housing deficit: 8.2 million residents require an additional 1,185,000 housing units.
- o There is interest within the private sector for de-regulation to stimulate GDP growth due to increases in the construction sector.
- o A lack of cadastres with the exception of Bogota and Medellin.
- o A lack of urban planning in metropolitan areas.

**Ecuador:**

**Implementation of the new Land Use, Planning, and Management Law: the challenge.**

**Support for training in land governance and secure tenure at the municipal level.**

- o Opportunities in the new Land Use, Planning and Management Law: it includes a range of proactive tools for land governance and for more efficient planning.
- o Citizen participation, a cross-cutting issue for making public decisions, is a challenge in the country.
- o Learning from the experiences of neighbours, Brasil and Colombia.

- o Ecuador does not have urban planning or human rights training programs. Greater training is necessary.

**Peru:**

**Informal lot sellers and the use of ‘titles’ as an instrument of political clientelism. Complimentary land and housing policies that serve vulnerable groups are required, with instruments that capture land value increases and plan the use of land.**

**Cadastral and registries are non-existent across most of the urban and peri-urban parts of the country. There is a huge potential for social cadastral, legitimated by the people.**

**A challenge is the cultural shift needed with respect to these concepts/social practices.**

- o The demand for urbanized land is being satisfied by the private sector and informal lot sellers (*loteadores informales*).
- o Mismanagement is permitting further invasions into state land. A lack of resources at municipal level it was highlighted (it reveals the low understanding of land value capture).
- o Displaced people due to terrorism.
- o Existence of professional illegal land traders.
- o “Country of owners, not occupiers” (current President’s campaign slogan).

**Honduras:**

**Inexistence of land and housing policies.**

**Fragmented and unclear institutional structures for land governance.**

**Corruption in the land market from diverse sectors.**

**Massive presence of informal settlements in urban and peri-urban areas.**

**There is a possibility of working with the Municipality of Puerto Cortes as a pilot for further interventions.**

- o There is a strong need to create land and housing policies, with plans for regularization of informal settlements and an improved supply of well-located land and/or housing for poor and vulnerable segments of the population.
- o Cadastral, registries, and systems of land administration are required.
- o Make corruption and criminal acts more visible, especially those that impact tenure and responsible land governance.
- o Policies are not sufficient on their own, it is essential to change culture with a social effort at all levels.

**Mexico:**

**Implementation of new land policies (Human Settlements, new Cadastre Law).**

**Corruption.**

- o A new housing policy that established cumulative annual targets for housing provision, together with corruption and deconfiguration of common *ejido* land, has stimulated an exponential expansion of Mexican cities ‘without the city’ over the past decades. These dormitory towns have been largely abandoned by their residents, who have opted for poorer tenure conditions in better locations (commutes from these dormitory towns are as long as 6 hours per day).

- o To manage the future expansion of cities, today subsidies are directed toward occupying Containment Rings with growth criteria. Some of the abandoned houses are being refurbished and returned to the market.
- o The use of urban land has been grossly ineffective. The Secretary of Social Development, through a study, estimated that all of the vacant land available within the current extent of the city would be sufficient to meet the entire demand for new housing that will arise over the next 30 years in Mexico City DF.

**Jamaica:**

**High informality.**

**Lack of recognition of 'intermediate' forms of tenure.**

**Promote cadastres and registry on a large scale.**

**Promote the recognition of diverse forms of tenure.**

**Create Land Banks.**

- o In Jamaica there is a new focus on improving the institutions of land governance, with a new land management agency in charge of registries, cadastres, and land value assessments. The planning agencies are managed directly from the Prime Minister's office.
- o There is a significant deficit in property registries, 800,000 unregistered properties but under the new programs they are only registering 30,000 new properties per year.
- o The deficit in Jamaica is due to the lack of intermediary steps in securing rights to land, which persist over the long term.

**Dominican Republic:**

**Re-engineering the institutional structures regarding land governance is required with clear distinctions of responsibility at all levels.**

**Cadastres and registries need to be developed.**

**Cadastre and registry of the area currently under regeneration in Santo Domingo, with a plan for inclusive redevelopment.**

- o 70% of properties are not registered, which has impeded development.
- o Historical institutional weakness in cadastres and registries.
- o Currently the courts are responsible for resolving land disputes, with local governments demanding that central institutions take control with public power favoured at the national level.
- o There are no urban planning instruments such as Land Use Plans. The entire country is informal.
- o There are two cadastres that work in parallel, and various institutions that each register properties.
- o Currently, with the support of the IDB, the centre of Santo Domingo is being regenerated, nonetheless without clarity regarding tenure status in the area.

## 5. ALLIANCES / ACTIONS FOR CHANGE

### 1. Actions for reinforcement of this regional initiative:

We resolve to consolidate and strengthen a Land Group through:

- a) Consolidation of the virtual platform [www.suelourbano.org](http://www.suelourbano.org) as an information hub, a repository of knowledge, advocacy, and awareness to advance dialogue, and a place for regional exchange of technical ability and support.
  - o We propose to distribute emerging news through a NEWSLETTER based on the Suelo Urbano network.
  - o Interaction with other platforms by international organizations should be encouraged.
- b) Forum: a period of virtual exchange about these themes through a web forum will be opened (tentatively from the 15 to the 22 of August, 2016). Input from the forum will be integrated into the study's Final Report.
- c) The study shall be presented at key regional and global meetings in 2017: The World Bank Global Conference on Land and Poverty, MINURVI 2017, the FLACMA regional meeting 2017, UN-Habitat Administration Council 2017, among others.

## 2. Responsive actions emerging from this regional initiative:

- a) Consolidation of demand for technical support.

While there are preliminary demands for technical support (see Table 1 below), there is a need for an dialogue interface between those that request support and those that can offer it. This interface would categorize the type of policy and technical needs to organize a work schedule, which would form a correct, complete, and consensual List of Requests on the Suelo Urbano platform.

Similarly, institutions and actors, which are capable of undertaking the priority actions noted in the Expert Meeting and Study, must be identified. This could be achieved through: communication about the Study and its summary prior to Habitat III; invitation to present the study to regional municipal federations, local governments, and groups that independently seek technical support; and formation of the Working Plan and List of Demands during Habitat III, in a space that could be titled 'The Urban Land Lab' as a technical meeting point between those requesting support, HFHI, strategic partners, and key consultants. This would require a coordinator to complete the tasks and consolidate requests and offers.

Among requests that are currently arising:

**Table 1: Preliminary Requests for Technical Support.**

### **BOLIVIA**

**Diagnostic on urban land governance and tenure in El Alto municipality, with an aim toward improvements.**

**This was received formally by the city's Mayor (letter in annex).**

**The informal occupation of the city over time has created extended- and multi-family tenureship on informally occupied lots, creating an environment of intra-family disputes regarding rights to land and housing. Under the 10th Hemispheric Mayors' Summit (Sucre, May 2016), Mayor Soledad Chapetón requested help to develop a diagnostic on urban and peri-urban land governance and significantly improve the cadastre in El Alto.**

### **HONDURAS**

**Policy for local urban land governance with instruments, Municipality of Puerto Cortés.**

During the EGM, the municipality “Ciudad Puerto Cortés” was identified as potentially demanding technical support, as it currently has resources, institutional capacity, and political will on the part of the Mayor. The objective could be to co-design an urban and peri-urban land policy, with relevant instruments and implementation assistance, including publicity, training, and replication. (This could be the only strategy to confront land mismanagement in the country, according to Franklin Solano, consultant).

#### **ARGENTINA**

**Policy for urban and peri-urban land, Bandera, Santiago del Estero.**

**While an ordinance that regulates the use of pesticides in urban and peri-urban areas has been approved at the provincial level, the gains inherent to agricultural land use are not captured by the small towns in the agricultural heartland, who also must internalize the negative effects of large-scale agro-industrial activity.** The Municipality of Bandera, Santiago del Estero, through its local Mayor, has requested technical support on this subject.

#### **DOMINICAN REPUBLIC**

**Urban regeneration plan for Santo Domingo (specifically cadastre).**

**Land banks.**

**Regularization of informal settlements on public land.**

**Cadastre for the Santo Domingo regeneration zone with support from BID.**

**The Public Sugar Company is the owner of large swathes of land. There is an opportunity to plan urban extensions (especially in the capital) through creating land banks on former sugar lands.** Some of these lands are currently occupied informally; to regularize them would be relatively simple, as long as new occupations can similarly be dis-incentivized and those living informally on private land can receive some comparable form of compensation.

d) Consolidation of Offers

#### **PERU**

**Documentation and promotion of a social cadastre in informal urban areas.**

The Institute of the Common Good, in the Amazon region, has developed a social mapping tool in which they define regional boundaries with the participation of indigenous communities. This private cadastre with social legitimacy does not have legal weight, but it is consulted by the ‘Public Defender’ as the best available information. This type of social demarcation could also be put into practice in urban and peri-urban areas using inexpensive technologies such as drones for geo-location, polygon identification, and so on. This is especially necessary as the exhaustive demands for formal documentation and mapping has resulted in inconsistent and out-of-date cadastres and registries.

e) Monitoring the state of tenure security on urban and peri-urban land

This will establish the level of tenure security as a function of the context and type of land governance regime present in urban and peri-urban areas.

d) Documentation of Best Practices (requires a permanent consultant).

e) Promotion of technically necessary actions of a preventative nature through the Conceptual Framework on these themes (see Point II 'Conceptual Framework' in this document).

e.1) Specific actions to improve security of tenure

- o Establishing tenure policies at the city level, because interventions have diverse effects in each context (for example, large-scale issuance of land titles could increase land prices where formal land is scarce and in high demand by wealthy population groups, or conversely it could decrease land prices by rapidly expanding the formal land supply across the city).
- o Recognizing and protecting rights progressively using diverse forms of tenure.
- o Consulting with and planning affected communities with a record of existing practices.
- o Providing basic services independently of the local tenure situation.
- o Incorporating informal settlements within regularization plans and housing strategies at the city level.
- o Including all vulnerable groups in plans and actions for securing tenure.
- o Protecting against forced evictions due to government, market, and disasters.
- o Improving cadastres and registries with simple, affordable, and transparent access.

Public management activities over the past 20 years have given a partial response to the negative effects of tenure insecurity; this should be considered while taking the recommendations of this report into account. The above recommendations are inspired by best practices, promising regional practices, and the technical agreements and proposals discussed during the study at diverse events: the San Jose experts meeting, the *Cumbre Hemisférica de Alcaldes* in Sucre, Bolivia, the multimedia forum ([www.suelourbano.org](http://www.suelourbano.org)), and above all agreements during Habitat III to follow the presentation of this report to key actors and institutions.

e.2) Actions to prevent and reduce informal settlement

- o Improve the supply of well-located urbanized land through instruments of land value capture and land use optimization within consolidated urban areas (for example, density increases).
- o Obligatory development to avoid speculation.
- o Inclusive real estate developments with a quota of social housing.
- o Creation of land banks.
- o Clearly demarcating areas at high environmental risk, with a clear message of eviction in any case of infringement.

Note: These actions are mainly intended to alleviate pressures on land. There will be a greater effort to define and propose preventive measures for land governance in the Final Report, considering that insecure tenure is a consequence of non-responsible land governance, including the scarce availability of urbanized land which prompts the formation and persistence of informal settlements.

f) Technical visits with interested policy makers and authorities to Medellín/Bogotá, Sao Paulo/Recife (to see positive experiences on the ground).

## **PART II: CONFIGURATION OF THE THEORETICAL FRAMEWORK: INPUT FROM THE MEETING AND RESPONSE TO THE HYPOTHESIS**

One of the initial requirements for the study was to link a hypothesis to causes and effects of insecure tenure. The following are some of the structural relationships:

### **1. NON-RESPONSIBLE GOVERNANCE OF LAND**

- o Poor urban and peri-urban land governance regimes, or the non-responsible governance of land, is identified as the principal cause of insecure tenure.
- o Non-responsible governance of land has diverse causes, and insecure tenure is revealed through diverse effects. From the point of view of land governance, it is important to work both on resolving current issues and preventing further problems.

#### **Among the causes:**

- The failure to develop a holistic conception of land (as a natural resource, an economic, cultural, environmental asset, and an object of administration) and formulate governance strategies on this basis;
- Sub-regional characteristics and socio-demographic needs that are greater than the available political-technical capacity to respond (seniors, female-headed households, regional immigrants, youth, all vulnerable groups).

#### Political sphere

- Political instability.

#### Institutional-legal sphere

- Lack of legitimization of different forms of tenure;
- State ability to expropriate or dispose of land arbitrarily, affecting public rights to land.

#### Territorial planning sphere

- Scarce offering of social housing for poorer segments of society in well-served areas;
- Inexistent redistributive mechanisms for land-based income (planning, normative, or fiscal), for control of speculation, for development of inclusive real estate, for equitable provision of infrastructure and local services;
- Unplanned expansions of the city; occupation of environmentally vulnerable areas.

#### Territorial administration sphere

- Nature, quality, public availability, and possibility for modification of the physical, legal and fiscal information on urban and peri-urban land (including incoherence and inconsistencies within registers and cadastres);
- Weakness in the registry of social housing titles on the part of the State;
- Lack of public control on the use and disposition of urban land in combination with corrupt practices.

#### Cultural sphere

- Customary practices that perpetuate insecure tenure;
- A culture of non-registry of tenure;
- A patrimonial vision of “countries of owners,” as compared to citizens with the right to an adequate quality of life regardless of their judicial status or form of tenureship; breaking from this nostalgic notion to instead guarantee tenure security for all;
- ‘Property titles’ as an instrument for political clientelism demands a change in the mentality behind the public apparatus.

#### Environmental sphere

- Failings in registering and legitimating post-disaster tenure conditions.

#### Human and technical resource sphere

- Technical incapacity in planning and administration of urban and peri-urban land, scarce human resources.

#### Economic sphere

- Security of tenure is not just for residency, but also to maintain the right to produce and generate income (social economy, street workers, domestic workers, and other location-based or land-based activities).

### **Among the effects:**

#### On poverty

- Less ability to use assets as collateral;
- Insecure claim on assets;
- Discrimination in the labour market.

#### On equity

- Configuration of socio-economically segregated cities (which is also an effect of non-responsible land governance)
- Occupiers subject to eviction, expulsion by the market due to competing interests, or expulsion due to criminal extortion (e.g. global narcotics trade);
- Lower priority in reconstruction and assistance post-disaster;
- Exclusion from interventions for redevelopment and regeneration;
- Differential access to (or lack of access to) government subsidies;
- Differential access to (or lack of access to) quality housing;

- Differential access to (or lack of access to) credit;
- Social tension and political instability.

#### On public finances

- Lower public income due to the under-capture of value increases;
- Lower net income from property taxes and from formal land transactions.

#### On economic growth

- Reduced economic investment within the territory;
- Economic losses for occupiers when land uses change.

#### On justice

- Less robust evidence for claims to land or other rights;
- Unequal ability to negotiate for rights (an asymmetry of information);
- Greater possibility for displacement or arbitrary relocation post-disaster.

#### On the environment and disaster resilience

- Occupation of areas at risk with a reduction in ecosystems services;
- Creation and perpetuation of negative environmental externalities;
- Unsustainable land use.

## **PART III: OTHER INPUTS FROM THE EXPERT GROUP MEETING**

### **1. THEMES TO INVESTIGATE FURTHER**

#### **➤ The binary divisions between formal and informal; legal and illegal**

- These are dynamic definitions in time and in space.
- Insecure tenure associated with informal occupation of public and private land corresponds with a 'historic' viewpoint (encampments, youth villages, slums), but currently there is evidence of illegal and informal occupation with secure tenure, thanks to informal agreements with legal land owners (for example, the informal arrangement under a socially legitimate agreement with a landowner);
- Insecure and secure tenureships can emerge under both legal and illegal occupation, or formal and informal arrangements (with examples as shown on page 10 of the report).
- There is a process of de-formalization of land over time (for example, the tenure situation in older urban neighbourhoods in decline).
- There is related a need to identify specific instruments that guarantee affordable access to urbanized land.

#### **➤ The implementation of any policy on these subjects**

- The implementation of Policies and Instruments is not only about having good standards and tools, but also about having adequate governance capacity that is able to implement them.

- It is necessary to create discussion spaces related to the laws with the purpose of making the laws tangible and comprehensible to the population, while also democratizing the legal debate.
- **Capacity Development**
  - A strong need emerged for training on these subjects at national and local levels. Technical support for creating instruments that redistribute costs and benefits derived from land; developing inclusive land policies with gender equity; and post-disaster land governance are all needed.
  - It is necessary to strengthen the multi-disciplinary apparatus that gives strength and agility to urban operations. For example, in Ecuador there are no urban planners, a career in urban planning does not exist, nor are there urban lawyers. The challenge is for municipalities. In Ecuador there is little presence of national or state entities in local implementation, nonetheless, most challenges are confronted at the local level.

## 2. SCOPE OF THE STUDY AND REPORT

### On the scope of the report

- The report is an instrument to promote dialogue with national and local governments about secure tenure and responsible governance, with a look toward the post Habitat-III actions that should include: validation of the report at national level, discussion of national and local policies, and definition of actions.
- Maintain a theoretical-methodological-ideological balance between commodification of land with its broad significance, above all in a region with diverse conceptions of land from among the ethnicities and cultures that live together in rural and urban areas.

### On the structure of the report

The report is to be organized in two parts:

- A first part, with general reflections about the two central themes, secure tenure and responsible governance, with greater detail on why insecure tenure is a problem and factors that facilitate or obstruct secure tenure (among those, non-responsible governance of urban and peri-urban land), with typical and possible responses;
- A second part, which informs about these themes at the country level through the Country Document and Country Table with the aim of being comparative. These will approach the following themes: tenure (nature and figures); tenure according to vulnerable groups; institutional and legal framework; urban planning (checking on the existence of instruments to control speculation, regularization and development of inclusive real estate, complementarity among existing land and housing policies); the cadastral registry situation; collection of local land taxes; corruption; best practices.
- A glossary of regional terms used on these subjects.

### About the contributions of the study

- The territorial coverage (regional, sub-regional, and 10 countries).
- o The production of tenure and urban land governance information from primary sources, including:

- o Testimonials from national experts (over 45 interviews<sup>3</sup>); and from secondary sources including:
  - o National censuses (from approx. 1990 and 2010),
  - o Household Surveys,
  - o Investigatory documents, statements and declarations regarding supra-national policy on these themes.

### About the limitations of the study

- There is scarce existing evidence on how to measure levels of tenure security over time in the region (indirectly, the LGAF work and UN-Habitat work in 1996 in Sao Paulo, Brazil);
- Lack of definition of tenureship status in national census. Everything is grouped under the broad heading 'other tenure status,' which limits documentation of tenures by type at the national level;
- Scarce to no information on the authoritative status of cadastres and land registries at the country level;
- Lack of information about the tenure conditions of people that have left informal settlements over the past 20 years: the relative decrease in households within informal areas is not reflected by a corresponding increase in registered properties;
- Validation of results of the study at country level, as well as a plan of action: it is not possible during this stage of the study, but it should be done first during Habitat III and then in those countries that would require technical support on these subjects.

Through the technical meeting, it was possible to identify best practices on land governance and secure tenure, and detailed instruments for land governance, with

## PART IV: AS CONCLUSION

### REFLECTIONS

- Insecure tenure is a consequence of non-responsible governance of urban and peri-urban land, with multiple symptoms, which must be managed and reverted through the application of mitigation measures.
- It is necessary to work in parallel on the causes of non-responsible land governance (for example, on the existence of informal settlements) with preventive actions and actions to improve those systems of governance.
- Well-located and affordable urbanized land for poor people, or a well-serviced city for all? Both strategies achieve the same end.
- There are new forms of insecure tenure emerging in legal and formal areas: displacement by the market and displacement by criminal groups.
- There are contextual influences that could exacerbate non-responsible land governance: new vulnerable groups that are not included in existing land policies;

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<sup>3</sup> The expert interviews could be converted into a regional testimonial document with text and audio versions that could be titled 'Voices of Latin America and the Caribbean on Urban Land Tenure and Governance'.

well-conceived systems that exist under unstable political regimes.

- The instruments for land management will be cost-effective according to the context.
- Holding public land can be as dangerous as releasing it to the market without any norms or regulations.
- There are relevant themes emerging for the community of experts: land management during and after disasters; the Social Function of Property and the Right to the City through responsible land governance; corruption (which is being brought to light).
- Tax citizenization, i.e. enhance access to urban services after payment of land tax: Is it enough?
- Training on responsible governance and secure tenure, as well as specific technical assistance, is appearing as a necessity in diverse countries.
- There must be additional thought on how to respond to preliminary demands for technical assistance: interfaces and approaches, thematic and/or sub-regional?

<b>Table No. 1: GOOD PRACTICES IN URBAN LAND GOVERNMENT AND FAVORABLES LAND MANAGEMENT INSTRUMENTS (under development)</b>											
<b>SUB-REGIONS</b>	<b>Brazil</b>	<b>Andean-Equatorial Arc</b>			<b>Southern Cone</b>		<b>Central America</b>		<b>Caribbean</b>		
<b>GOOD PRACTICES AND TOOLS</b>	Brazil	Colombia	Ecuador	Peru	Argentina	Paraguay	Mexico	Honduras	Jamaica	Dominican Republic	T & Tobago <sup>4</sup>
<b>1. Recognition of various land tenures</b>											
Right to use 'Posse'											
Usucapion											
Ejido											
Family Land											
Communitary Land (includes Community Land Trusts)											
Others											
<b>2. Supply of serviced urban land / housing for vulnerable groups in real estate developments addressed to households of higher income</b>											
<i>Cuota de Solidaridade, Sao Paulo, Brazil.</i>											
Housing Priority shares in real estate development addressed to households of higher income ( <i>Vivienda de Interés Social</i> )											
<b>3. Slum improvements (regardless of tenure).</b>											
Special Zones of Social Interest in living spaces (Brazil)											
Integral Urban programs in subnormal settlements (Colombia)											
Others											
<b>4. 'Titling': delivery of freehold and urbanization</b>											
Titling programme COFOPRI											
Slum improvements' Programmes (Favela-Bairro, Morar Carioca, Ribeira Azul, others).											
<b>5. Planning of future informal occupancy</b>											

<sup>4</sup> Trinidad and Tobago is not part of the countries analysed under this study but is included in this analysis due to its contribution.

Special Zones of Social Interest inhabited areas (ZEIS de vacios).	■											
Land banks		■										
Polygons of occupation				■								
6. Expansion of urban land supply in well served areas	■	■										
7.Prevention and risk mitigation of areas informally occupied	■	■										
8. Existence of urban/housing/land policies	■	■	■									
9. Efficient land tax collection and payment of taxes regardless the tenure situation.	■	■										
10. Speculation control (IPTU, Compulsory construction, others).	■	■	■									
11.Urban regeneration programmes, city centers.	■	■	■	■	■		■		■		■	
12. Improvements / construction land cadastres and registers.	■	■					■		■		■	
13. Social cadastres.				■								
14. National land policy initiatives with an emphasis on fair distribution of costs and benefits in city building	■	■	■									
15. Complementarity between land and housing		■										
16. Simplification and lower costs in registration of tenures.												
17. Relocation with compensation	■	■										
18. Training	■	■					■					

TABLE NO. 2: 'SITUATION TYPES' IN URBAN LAND GOVERNANCE AND TENURE BY COUNTRY AND PLACES OF PRELIMINARY DEMANDS FOR TECHNICAL SUPPORT (under development).									
	Situation 1	Situation 2	Situation 3	Situation 4	Situation 5	Situation 6	Situation 7	Situation 8	Technical support
'Situation types' by country	Urban Land Policies	Cadastral registers and land administration systems	Fair construction of city-with redistributive instruments based on land	Vulnerable groups: secure tenure; legitimization of multiple tenures	Municipal urban finance based on land tools	Corruption and criminal acts: what, who, in what areas, how to handle them; good practices	Training: to whom, what, how, where	Informal urbanizers-participation in city building	
Argentina	Peri-urban land policies						Training / counseling		Buenos Aires and Santiago del Estero (Bandera)
Brazil	Move into small and medium-sized cities with land governance instruments.								Recife and Sao Paulo
Paraguay	Peri-urban land policy. National slum upgrading programme.						Training		National and provincial level
Colombia				IDPs					Medellín
Ecuador	Evaluation								Medium and small municipalities.
Peru							Training		Local level (to be identified).
Honduras	Policy design and urban land tenure and peri-urban	Cadastral improvement					Training		Puerto Cortés
Mexico									To be defined.
Jamaica	Land Banks								
Rep. Dominicana							Training		Santo Domingo, area under regeneration.

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