URBAN LAND CONFLICTS AND EVICTIONS IN LATIN AMERICA AND THE CARIBBEAN

by Raquel Ludermir and Maria Luisa Alvarado

THE LAND PORTAL

The Land Portal aims to improve land governance to benefit those with the most insecure land rights and the greatest vulnerability to landlessness through information and knowledge sharing. The Land Portal is based on open sources, open data and open content, and promotes open approaches with partners, seeking to catalyze and support greater sharing, collaboration and innovation in the land governance community. The Land Portal believes local ownership and encourages content creation and dissemination to take place through local partners, groups and networks, supported and facilitated by the Land Portal team.

SUELOURBANO.ORG

SueloUrbano.org is an open and collaborative hub to leverage the effective mobilization of knowledge and information on land tools, to guide evidence-based action to improve responsible land governance. It serves as the virtual interface of two initiatives of Habitat for Humanity International in Latin America and the Caribbean region: (1) "Solid Ground", a global advocacy campaign to improve access to land for shelter, and (2) the Urban CSO Land Tools Cluster, part of GLTN / UN-HABITAT.

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FOREWORD

The Global Land Tool Network (GLTN) has moved into a deeper and expanded space when it comes to tools development and implementation. We are now focusing actions at country level where land tools will have to be tested, implemented and improved on the ground, contributing to positive changes in the lives of men and women in regard to secure tenure. And we can witness many land tools being streamlined in conflict context in 2015, as a new stream of work for GLTN partners

Land is a key driver of conflict and a bottleneck to recovery. Lack of secure tenure is one of the main causes of conflicts in urban areas, and land-related issues are often a key cause for relapse into conflict, leading to forced displacement, loss of livelihood or property, hindrance for investments, and accelerated migration. Residents who fear displacement are less likely to invest in their homes or develop home-based businesses. In some areas, the delivery of basic services to households or entire settlements will not happen without documentation of formal tenure rights.

Unresponsive land governance, weak systems of land administration, lack of land records and recurring tension between statutory and customary systems, a myriad of land tenure rights, and formal legal systems are some of the challenges that states and local stakeholders need to address. Even though, tools and experiences addressing urban land conflicts exist, the good practices, policies, legislation are not easily shared; their potential to transfer or scale up is not always documented; success and failures from previous experiences are not visible or properly documented; local information is hard to find or may not be accessible; information flow oriented to capacity development based on learning and for action is not enough considering the complexity, wide-spread, and magnitude of the problem of insecurity of tenure and urban land conflicts.

Accessible information for all, mapping evidences, knowledge exchange, polices and systems are key to overcome land conflicts targeting the most vulnerable families, and women. The SDGs and the NUA are offering unique opportunity to tackle land and conflict in a very systematic manner. Actors working in this particular context are compelled to move from principles to action-oriented and to build evidence on changes brought on people/ communities affected by land conflict. The New Urban Agenda is calling for action, means of implementation and follow up. And, initiatives as this E-debate will surely contribute to it.

On 2015, the GLTN launched the 'Land and Conflict Forum: Developing an Issue-Based Coalition' bringing together UN entities and non-UN organizations – GLTN Partners in particular – to establish an issue-based coalition on land and conflicts. We are exploring potential areas of collaboration, and linkages with existing initiatives, based on the assumption according which one single agent cannot overcome challenges related to land and conflict. Global challenges call for global partnership, while land and conflict are gaining more recognition for achieving peaceful and sustainable development.

We would like to thank the Land Tools Urban Cluster – LAC, part of GTLN cluster group, Habitat for Humanity's Solid Ground Campaign, the Land Portal Foundation, and partners for organizing the e-debate platform. The knowledge captured from the online debate, and presented in this report, will continue to contribute to the broader work of the GLTN on Land and Conflicts and on tools implementation overall.

Mr. Oumar Sylla
Unit Leader–Land and Global Land Tool Network

PREFACE

The Latin American and Caribbean Urban CSO Cluster, part of the Global Land Tools Network (GTLN), together with Habitat for Humanity's Solid Ground Campaign and the Land Portal Foundation, launched an online debate on Urban Land Conflicts in Latin America and the Caribbean in January 2017. Responding to the common interest to make information easy to access and flow to boost collaboration among stakeholders as a critical basis to improve land governance.

This report is about local experiences, tools, policies, advocacy, capacity building and other innovative initiatives addressing urban land conflicts and evictions in the LAC region which came out from the online debate.

The LAC Land Tools Urban Cluster and the Land Portal recognize that local land information, knowledge, practices on policies, tools are limited captured, not always published, not easily accessible, very limited shared, and grassroots information, data, is underrepresented in decision making; and considers that and the use of open linked platform makes the information, data, and knowledge to flow easily among stakeholders (people / organizations). The Urban Land Conflicts in Latin America and the Caribbean Online Forum is clear evidence on this.

The contents of this report builds upon contributions from nearly 20 organizations in 10 LAC countries to which we acknowledge their inspiring and transformational work.

Key activities framed the online forum, such as the Experts Group Meeting in San Jose, Costa Rica, on July 2016, held in the framework of the Scoping Study: "Responsible Land Governance and Tenure Security in Urban and Peri-Urban Areas in Latin America and the Caribbean". This was a key opportunity to capture the experiences and contributions of land experts. In addition to valuable efforts of key stakeholders in Brazil and many other countries engaged in the Solid Ground Campaign.

Next steps planned include putting in place a Regional Working Group on Land Conflicts to expand and mobilize knowledge, capacities, expertise, and tools to influence land policies at local level, and to work towards the New Urban Agenda, Sustainable Development Goals and Sendai commitments into action.

Maria Luisa Alvarado　　　　　　　　　　　**Laura Meggiolaro**
Habitat for Humanity International　　　　**Land Portal Foundation**
Latin America and the Caribbean Region

ACKNOWLEDGEMENTS

Recognition and high appreciation to the following organizations and experts who contributed to the online debate:

ORGANIZATIONS

- » Association for a More Just Society (ASJ)
- » Association of Ecuatorian Municipalities (AME)
- » Brazilian Institute of Urbanistic Law (IBDU)
- » Cordoba Catholic University–Experimental Center of Affordable Housing (CEVE)
- » Colombian Foundation of Displaced People (FUNDASCOL)
- » Estratégia Peru
- » Global Land Tools Network (GLTN) / UN-HABITAT
- » Habitat for Humanity Brazil
- » Habitat for Humanity Chile
- » Habitat for Humanity International
- » Human Rights Popular Centre (CPDH)
- » Interamerican Development Bank (IDB)
- » Land Portal Foundation
- » Museum of Evictions Brazil
- » Public Ministry of Pernambuco, Brazil (MPPE)
- » Shelter Cluster Americas
- » The Royal Institution of Chartered Surveyors (RICS)
- » Votuporanga Municipality Brazil

EXPERTS

- » Anna Pont
- » Arturo Mejia
- » Francisco Javier Reyes
- » Francisco Sales de Albuquerque
- » Franklin Solano
- » Gabriela Pignataro
- » Gunther Hernán Gonzales Barrón
- » James Tayler
- » Luis Callirgos
- » Maria Luisa Alvarado (Forum facilitator)
- » Miguel Mandamiento
- » Mohyeldeen Taha
- » Neil Sorensen
  (Communications and Resource Mobilization)
- » Patricia Sanchez
- » Raquel Ludermir (Forum facilitator)
- » Robin Rajack
- » Sara María Sánchez

EXECUTIVE SUMMARY

In the Latin American and Caribbean region (LAC), millions of families live under a constant threat of being evicted from the land and homes on which they live. The urbanization process across the region builds on an essentially unequal basis. As cities and urban populations grow, competing interest and demand for land also grows, be it for housing and food production, as well as for a variety for a variety of economic activities that depend on land.

However, since land is a limited resource and increasingly unavailable within LAC cities, intensified pressures on urban land can lead to a shortage of land and skyrocketing land values. To the urban poor, this means that formal access to land becomes increasingly difficult. Lack of access to land can result in "informal" or unregulated land management and occupation.

The most vulnerable tend to continue living in undocumented property either because they are not aware or because they don't have the resources/capacity to undergo costly and lengthy legalization/regularization processes. Alongside the phenomenon of informal settlements – occupied mainly by those who use land for shelter and subsistence – there is much room for land corruption – led mainly by those who seek to capture the exchange value of land as a commodity.

Meanwhile, as competition for land intensifies, nearly 70% of land systems across the globe remain undocumented.[1] Particularly in developing countries, enormous surfaces are covered under social tenures, informal and overlapping rights. Land regularization is not a feasible option to the majority of informal dwellers due to financial, technical and judicial barriers. As a result, rapid urbanization is often associated with a decrease of tenure security, particularly for the urban poor. This can negatively impact millions of people.

In 2015, the United Nations Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living acknowledged the increasing rates of forced evictions with impunity, the expansion of informal settlements (often without basic services like water, sewage, electricity or roads), the development of unaffordable rental properties, and the tenure insecurity of millions of people.[2]

Land conflicts and forced evictions are increasingly reported as a key issue in the advocacy agenda of civil society organizations (CSOs), while the causes and many forms it occurs are ineffectively addressed by land policies. Meanwhile, right holders and defenders, as well as duty-bearers, often lack access to reliable data and information to identify, monitor, mediate and prevent land conflicts, which may easily lead to violations of human rights, such as the right to adequate housing.

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1   **https://www.fig.net/resources/publications/figpub/pub52/figpub52.pdf**

2   Statement of the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context, Ms. Leilani Farha, during the 2nd Latin America and Caribbean Regional Forum on Adequate Housing "Vivienda para la Vida", in Monterrey, Mexico, May 6th, 2015.

In January 2017, SueloUrbano.org and the Land Portal teamed up to facilitate a regional conversation on **Urban Land Conflicts in Latin America and the Caribbean**. The aims were to better understand the types and causes of land conflicts across the LAC region and to map and learn from the tools and experiences addressing the issue. In parallel, the idea was to connect people, organizations and existing knowledge – key resources to strengthen further collaboration for action, building on evidence and lessons learned towards changes in land policies, systems and practices.

Building on the 28 contributions received in English, Spanish and Portuguese, informing about the reality of 12 countries, this report summarizes the main themes and ideas brought up during the discussion, related to external references when possible.

UNDERSTANDING THE ISSUE

In the first section, the report provides evidence from the ground of five different types of urban land conflicts and evictions encountered across the region:

» Conflicts between occupants and private owners;

» Conflicts with government authorities often related to large scale interventions;

» Intrafamilial conflicts, such as in the case of inheritance or land succession; and when patrimonial violence against women takes place;

» Displacements related to civil/armed conflicts;

» Displacements related to disaster and climate change.

Why are people fighting over land in urban and peri-urban areas? Isn't there enough land for everyone within cities? What are the impact of and the challenges for addressing urban land conflicts? These are among the question that this first section of the report tries to answer.

TOOLS AND GOOD PRACTICES

The second section highlights the experiences addressing the issue, ranging from traditional and collaborative mapping tools, to incremental land policies, as well as advocacy, coalition building and other innovative practices.

GOING FORWARD

The third and final section of the report explores potential entry points for advocacy and action towards changes in land policies, practices and systems, such as through partnerships at local, regional and global levels, improved access to information and information flow among land community stakeholders, as well as the recognition of a continuum of land rights as an alternative to challenge the traditional land titling, registering and legalization efforts.

This reginal discussion and consultation, carried out through a combination of online and offline efforts, helped to mobilize knowledge that typically remains inaccessible at regional and global dialogues. It informed about a variety of urban land conflicts happening in the LAC region, as well as initiatives and organizations addressing the issue, promoting and defending

the tenure security of the most vulnerable. This report is not exhaustive and should be seen as a living document. It should serve mainly to inspire future initiatives willing to build on lessons learned to replicate, expand, adapt or improve tools, methodologies and ideas emerging across the LAC region.

UNDERSTANDING THE ISSUE

WHAT ARE URBAN LAND CONFLICTS?

The notion of urban land conflicts in LAC refers to the existence of some areas in urban and peri-urban settings that are subject to overlapping interests and multiple claims of land rights. It highlights that the tensions between stakeholders of an urban land conflict may not necessarily reach the stage of an actual confrontation, such a forced eviction. This understanding is particularly relevant as it captures a set of elements that may challenge the access to land and threaten the tenure security of urban dwellers.

TYPES OF LAND CONFLICTS

The following types of land conflicts have been identified across the region, based on the contributions from the participants of the debate:

» Conflicts between occupants and private owners, such as in the case of adverse possession; or between two or more claimants. This type of conflict may happen in urban areas, where poor and vulnerable families are squeezed out by middle class real estate needs and other developments. It may also happen in rural areas, leading evicted families into urban poverty;

» Conflicts with government authorities, often related to large scale interventions / mega projects. Many times, the public interest justifies massive evictions, without proper resettlement schemes; while several post-evaluations indicate a wide range of private benefits resulting from the interventions and public investments;

» Intrafamilial conflicts, such as in the case of inheritance or land succession; and even when patrimonial violence against women[3] takes place;

» Conflicts related to armed / civil conflicts, such as in Colombia, leaving millions of internally displaced people;

» Disasters and the effects of climate change may also lead to or worsen land conflicts.

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3   Patrimonial violence against women tend to occur when the tenure security of the women depends on her relationship with a male, such as husband, son and fathers, when they become vulnerable to physical, sexual, psychological abuse, etc. Due to the lack of alternative of urban shelter (emergency shelter, affordable housing, social rent, among others), many women may be forced to continue to live under the "same roof" with the aggressor. This is not rare in overcrowded housing units, when more than one family node lives in the same housing unit.

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EVIDENCE FROM THE GROUND

In 2014, at least **4,285,745 people were forcibly evicted in Latin America and the Caribbean**, according to a report of the Housing and Land Rights Network – Habitat International Coalition (HLRN-HIC). This number includes **272,301 people in Haiti forcibly evicted** or affected by the destruction of IDP housing camps, following the 2010 earthquake – among them, people and communities that have been displaced multiple times. **Colombia** shows the largest number of evictions, where armed conflicts among government forces, opposition and drug gangs have left **4,000,000 displaced**. Many of these households have crowded into major cities in informal settlements that face regular threats of forced eviction and constant encroachment from development interests.[4]

In **Brazil**, another **250,000 people have been evicted**, affected or threatened of eviction, during the period leading up to the World Cup and Olympic Games. The evictions occurred mainly in areas of increasing land value, and in the zones nearby and alongside the way to the airport – stadium – touristic centers, due to the implementation of public infrastructure and private real estate developments. Forced and violent evictions were reported despite the fact that many families were living in properly documented properties, with formal titles and property documents.[5]

1 HONDURAS

In Tegucigalpa, Honduras, internal migratory movements in the 1980s populated the outskirts of the city with dozens of informal settlements. Thousands of people moved onto unclaimed land, constructed houses, and began communities. The process of registering and titling land in Honduras is labyrinthine, and few settlers were even aware of the possibility of legalizing their land holdings until wealthy developers arrived threatening eviction. In several cases, business opportunists noticed swaths of unregistered land, and went through the legalization process, making themselves the de facto owners of land where entire communities lived. Some showed up with bulldozers, others asked for rent. The majority of these conflicts were due to the fact that, despite living in their homes for over a decade (which makes them eligible for ownership by Honduran law), individuals did not have legal title to their home.

Land disputes often became protracted battles where multiple people claimed ownership of the same plot of land. Meanwhile, inhabitants of that land lived in limbo, first paying off one claimant, then another, and never receiving legal recognition of ownership.[6]

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4   Available at: **http://www.hlrn.org/img/publications/WHD2014report.pdf**

5   Articulação Nacional dos Comitês Populares da Copa (Ancop)

6   Contribution from Kate Parsons, Association for a More Just Society, Honduras.

Eviction of families during a building repossession in São Paulo.
Photo: Mautrício Moraes, Rede Brasil Atual.

2 COLOMBIA

Entire rural communities, evicted by powerful elites, are driven to informal settlements in the cities. Deprived from the land, that used to be the base for the income generation, and where their agricultural skills are not necessarily useful, **families are lead into urban poverty**.[7]

3 BRAZIL, RIO DE JANEIRO

77,000 people were evicted between 2009-2013. In Favela da Maré (informal low-income settlement), **700 families were evicted due to real estate development before the World Cup and the Olympic games**, similarly to many other communities across the country. Even though the justification for the eviction was based on the supposed public interest and the preservation of natural environment, later the same area was occupied by upper-middle class real estate developments.[8]

3 BRAZIL, SÃO PAULO

Evaluation of massive titling programs from the 1990s show that, slowly, and particularly in times of crisis, families tend to sell their property for higher income population (gentrification) and go back to informal settlements in other areas of cities. In many cases, **regularization and titling does not mean sustainable tenure security.**[9]

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7   Contribution from the Colombian Foundation of Displaced People – FUNDESCOL.
8   Contribution from the Museum of Evictions, Rio de Janeiro, Brazil.
9   Contribution from Terezinha Gonzaga, Professor at the University of Votuporanga.

Map of housing units affected by evictions in La Boca.
Source: Observatorio del Derecho a la Ciudad, available here.

The construction of the highway Rodoanel Mário Covas required the eviction of 4,200 families. The construction of the Park Canivete required the eviction of 3,500 families. In Paraisópolis, the second biggest informal settlement in São Paulo, 3,500 families have been evicted due to the implementation of infrastructure and urbanization projects, and this is only 20% of the total number of families that will undergo a similar process in the coming years. In the city center, nearly half of the 3,220 families living in abandoned buildings have been evicted while the buildings remain empty and with huge tax debts with the City Hall.[10]

3 BRAZIL, RECIFE

200 families were evicted by the State Government in 2013 from the area where they have lived for over 40 years, with property titles. **The official justification for the eviction was to make way for a bus terminal** (a project of public interest), in the context of preparation for the World Cup. The bus terminal, like many other World Cup projects, was not completed in time for the event. Today, many of the families are still waiting to receive compensation for their losses, and **the area is serving as a bus garage of a private company**.[11]

3 BRAZIL: BELO HORIZONTE, CURITIBA, MANAUS

In Belo Horizonte, the expansion of a highway lead to the eviction of 2,600 families before the 2014 World Cup. The threats continue after the games: today, another 30,000 are living under

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10   **https://www.observatorioderemocoes.fau.usp.br/wp-content/uploads/2015/06/Observatorio_REMOCOES.pdf**

11   Contribution from Habitat for Humanity Brazil.

threat of eviction due to a process lead by the City Government.

In Curitiba, 2,000 families were affected by the expansion of the airport and the upgrade of the stadium. In Manaus, another 900 families were affected due to the construction of a highway.

4 PARAGUAY

Residents of informal settlements, generally located in wetland and risk areas within cities, or in areas originally used for agriculture in peri urban areas, are **threatened by eviction**. The main challenge is to find ways not to evict families that depend on the nearby resources for income generation.[12]

5 BUENOS AIRES, ARGENTINA

In La Boca, 1,200 people have been evicted since in 2016, following the approval of the Arts District Law (kick-start for the largest real estate development in the area). Currently the Group of Housing and Habitat of La Boca monitors another 76 cases of imminent eviction, scheduled for the coming months, which will leave another 300 people homeless.[13]

6 ECUADOR, GUAYAQUIL

The Project "Guayaquil Ecologico", led by the Central Government, justified the **eviction of families who have lived in the area since the 1980s,** to make way for linear parks. The families that once lived in houses sized according to the size of the family, and 10 minutes away from the city center were resettled into standard 40m² houses, without service or infrastructure, and 2 hours away from the city center. In addition, the resettlement scheme broke the entire social network that supported the families' basic needs.[14]

In another area of Guayaquil, Monte Sinai, the "National Urban Development Project" NUDP tries to end the informality through a strong legalization policy lead by local government. However, the effects of the NUDP were quite the opposite. The central government, trying to control the increasing informality, started **massive and violent evictions, which stopped only with the intervention of the UN rapporteur on adequate housing.**[15]

7 DOMINICAN REPUBLIC, SANTO DOMINGO

In Dominican Republic, nearly 1 million people are under threat of eviction because of land speculation including the areas on which they live without proper titles. [16]

There is a strong concentration of property in the hands of few owners, both documented and undocumented, in addition to real estate speculation. The country's population is of

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12   Contribution from Sara María Sánchez, Paraguay.

13   Grupo de Vivienda y Hábitat de La Boca, multisectorial La Boca Resiste y Propone

14   Contribution from Patricia Sanchez, Ecuador.

15   Contribution from Patricia Sanchez, Ecuador.

16   **http://www.habitants.org/zero_evictions_campaign/presentation/zero_evictions_campaign" \l "sthash.TMtvISYJ.dpuf**

Forced eviction of low-income families from a public building that remained empty for 12 years in Porto Alegre, Brazil, in June 2017. Photo: Joana Berwanger/Sul21. Available **here**.

around 10 million, while the housing deficit is of 1.2million units. The situation of land tenure is critical, it is estimated that about 70% of land plots lack clear property rights, and a high level of conflict to access to urban land is perceived country wide. The situation in the Ozama River Basin is particularly critical, where an estimated 400 thousand people live in conditions of vulnerability. Urban areas such as Ciudad Colonial have a housing vacancy rate of around 11% (Integral Program of Tourism and Urban Development of the Colonial City of Santo Domingo, Inter-American Development Bank), which is seen as incubating a progressive process of gentrification, that can lead to a "silent" type of eviction.

WHY ARE PEOPLE FIGHTING OVER LAND IN URBAN AREAS?

The urbanization process across the region builds on an essentially unequal basis. A Scoping Study has identified three structural characteristics of land governance in LAC region that may inform of the causes of land conflicts: strong concentration of wealth (capital and land ownership), rapid urbanization, and weak regulation of land markets, allowing for high land speculation and weak or inexistent territorial planning.

> *"Access to adequate land for shelter is a structural issue in LAC region. It relates to the very roots of colonization and formation of country-states in the region, when this asset [land] was converted into a commodity, disrupting the original base of land systems."*
>
> **Franklin Solano, sociologist, Costa Rica[17]**

For instance, in Brazil, following some centuries of European control and colonization of indigenous land, the first Land Law of 1850 determined that the only way to access land was through purchase. This happened a few decades before the end of slavery, which meant that the former slaves – who had never earned money and therefore had no savings to buy land, and who were no longer able to live on the farms where they once worked – would then have to find themselves a place to live, detached from any attention from the State. The former slaves had no other choice but to informally occupy empty and unclaimed land, usually in environmentally sensitive areas, such as hill sides and wetlands; far away from the city centers at the time.

As cities and urban populations grow, the demand for land also grows, both for housing and food production, as well as for a variety for a variety of economic activities that depend on land. However, since land is a limited resource, one more and more unavailable within cities, intensifying pressures on and competing interest for urban land often leads to a shortage of land and high increases of land value. To the urban poor, this means that access to land becomes ever more difficult, which easily relates to so-called "informal" processes of land occupation. The most vulnerable tend to continue living in undocumented property either because they are not aware or because they don't have the resources/capacity to undergo costly and lengthy legalization / regularization processes.

Alongside the phenomenon of informal settlements – occupied mainly by those who use land for shelter and subsistence – there is much room for land corruption – led mainly by those who seek to capture the exchange value of land as a commodity, as informed by the example from Tegucigalpa, Honduras:

> *"The process of registering and titling land in Honduras is labyrinthine, and few settlers were even aware of the possibility of legalizing their land holdings until wealthy developers arrived threatening eviction. In several cases, business opportunists noticed swaths of unregistered land, and went through the legalization process, making themselves the de facto owners of land where entire communities lived. Some showed up with bulldozers, others asked for rent. The majority of these conflicts were due to the fact that, despite living in their homes for over a decade (which makes them eligible for ownership by Honduran law), individuals did not have legal title to their home. Land disputes often became protracted battles where multiple people claimed ownership of the same plot of land."*
>
> **Katerina Parsons, Association for a more Just Society (AJS).**

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17   Interview with Franklin Solano: **https://www.youtube.com/watch?v=koGPAbmvcNM**

ISN'T THERE ENOUGH LAND FOR EVERYONE?

It is important to demystify an often-heard misconception that there is not enough land for everyone. The notion of **social function of property** is useful to build this counter narrative, arising mainly from LAC contexts.

In many cities, in areas served with infrastructure and public facilities, land and buildings lie empty for decades. Meanwhile, many families are homeless or live under inadequate conditions, far from such facilities, infrastructure and job opportunities, having to spend a lot of time and money every day to commute to/from city centers. In São Paulo, for example, there are 280 thousand abandoned properties and 130 thousand homeless families.

In the meantime, the land and property value of the abandoned properties tends to increase based on public and private investments nearby, benefiting private owners through a process known as land speculation. On the other hand, if the land or building gets occupied by informal settlers, not only the private owner may lose land rights after a certain amount of time, but the land value may decrease according to the trends of land markets in the region. Evidence from the ground informs that many of the land conflicts in the region are related to land speculation processes, followed by developments for higher income populations.

Empty, abandoned, under-used property in city centers do not fulfill the social function of land and, ideally, should be understood as land stock in a healthy, responsible land governance framework.

Low income families, members of a popular housing movements, occupy empty land in Porto Alegre, Brazil, in November 2015. Photos: Jonas Lunardon e Yamini Benites. Available **here**.

Police destroy barracks of low income families occupying empty land in Porto Alegre, Brazil, in November 2015. Photos: Jonas Lunardon e Yamini Benites. Available **here**.

"Land is a key driver of conflict and a bottleneck to recovery. Lack of secure tenure is one of the main causes of conflicts in urban areas, and land-related issues are often a key cause for relapse into conflict, leading to forced displacement, loss of livelihood or property, and accelerated migration. Access to secure land tenure can go on for 20 years without a solution. Residents who fear displacement are less likely to invest in their homes or develop home-based businesses. In some areas, the delivery of basic services to households or entire settlements will not proceed without documentation of formal tenure rights.

Unresponsive land governance, weak systems of land administration, land records and recurring tension between customary, a myriad of land tenure rights, and formal legal systems are some of the challenges that states and local stakeholders need to address."

Oumar Sylla, GLTN

IMPACT OF AND CHALLENGES FOR ADDRESSING LAND CONFLICTS

Families that live on undocumented property may not get compensation in the occasion of evictions. Resettlement may affect the financial sustainability of a family, disrupting the income generation activity, as well as the social relations and networks that often fills the demand of the most vulnerable groups for public services, such as child care and shared facilities.

Women are the worst affected by land conflicts. Ranging from the psychological trauma related to the threat of being evicted, to the worst effects of resettlement schemes, slum clearance, domestic violence, civil conflict, discriminatory inheritance laws and practices, development projects, and globalization policies. Rape is often used to forcibly remove women from their homes before and during forced evictions.

Disasters can also generate or worsen land conflicts. In some cases, even when the eminent risk of a disaster has been announced, families will not leave, afraid of losing their land.

Among the challenges to address land conflicts, participants of the discussion mentioned the gap between the occupation of the territory and the implementation of planning and management land tools, associated with lack of capacity of stakeholders, and the set of economic, social, cultural and environmental aspects that tend to prioritize access to land to certain groups / social strata in detriment to others.

The role of the judiciary has also been mentioned as a challenge. Even in countries where there is a clear legal framework to mediate land conflicts from a human rights approach, the conservative attitude of many judges leads to deliberate misinterpretations of the law and land policy tools that should be used to protect the right to tenure security of urban dwellers.

Beyond the land sector, mainstream media manipulates public opinion, helping to legitimize the interest of developers in clearing strategic areas from informal settlements by eviction the original population of a given area.

TOOLS AND GOOD PRACTICES

The following tools include initiatives to map the problem; land policies protecting land and housing rights; as well as advocacy, campaigning, informed dialogues and other innovative practices.

MAPPING TOOLS

The Housing and Land Rights Network / Habitat International Coalition (HLRN-HIC) lead the **Housing and Land Rights Violation Database**, which shows information about forced evictions, demolition/destruction, dispossession/confiscation, privatization of public goods and services.

HIC-HLRN has developed the **Housing Rights Violation Loss Matrix** as a central tool and reference for determining the full consequences that persons, households and communities undergo through the process of forced eviction and displacement. This Eviction Impact Assessment (EvIA) methodology can be utilized by housing and land rights defenders, legal practitioners, field researchers and/or actual victims everywhere to determine a wide range of losses and costs that typically are associated with forced evictions, but are rarely recognized or documented. It emphasizes how important it is to portray the whole picture with the focus on the victims' experience with a methodology for quantifying losses and costs of a violation / deprivation. It is particularly well suited to the violation of forced evictions.[18]
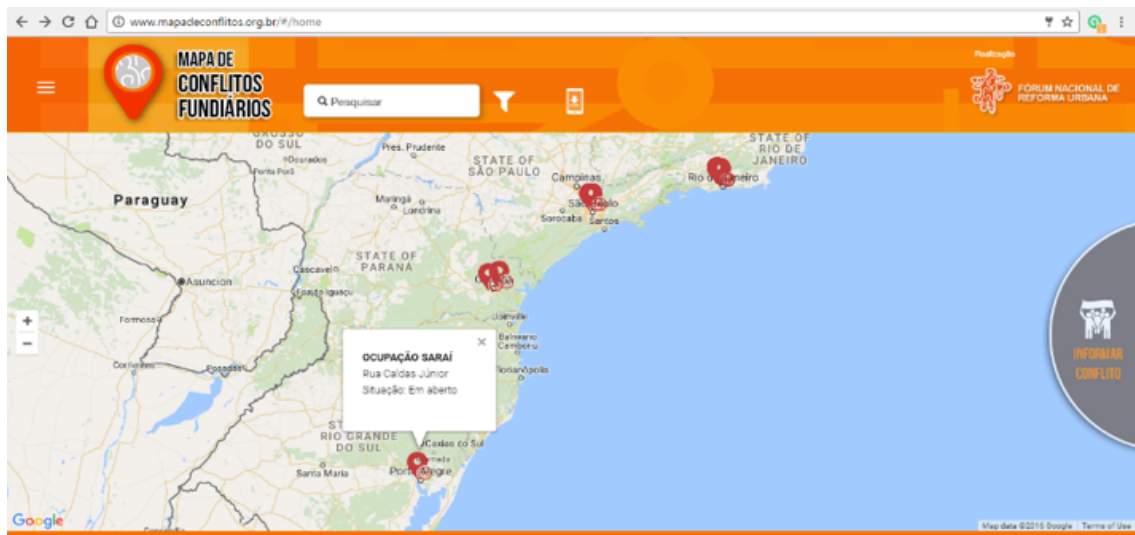
In Central America and Peru, Habitat for Humanity is implementing a **Land Legal Desk** to provide information and legal assistance to vulnerable groups, while it captures geo-referenced evidence of key barriers to access land and tenure regularization.

In Brazil, a mobile app will help citizens to map land conflicts and threats of eviction through crowdsourcing. **Land Conflicts Map**, an initiative of the National Forum of Urban Reform, is being piloted by Habitat for Humanity Brazil, in Recife – Pernambuco. In parallel with the mapping, the initiative will raise awareness and build the capacity of people living in informal settlements to understand their rights and to activate mechanisms to promote and defend their tenure security. The evidence and information gathered through the app will be used for advocacy towards system and policy changes, as well as to raise awareness duty bearers about their roles and mechanisms to ensure tenure security, as one of the basic elements of the right to adequate housing.

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18   http://www.hlrn.org/spage.php?id=p2s=#.WP32tljyuM8

Housing and Land Rights Violation Database, by HLRN-HIC.
Available at: **http://hlrn.org/welcome2.php#.WP1RWIgrKM8**

Land Conflicts Map by the National Forum of Urban Reform, Brazil.
Available at: **www.mapadeconflitos.org.br**

There are other initiatives for mapping land conflicts through crowdsourcing in Brazil; the following two examples are led by public universities. The first is the **Observatory of Evictions**, led by University of São Paulo and Federal University of ABC; it maps threats of eviction, partial evictions and pat evictions in the metropolitan region of São Paulo. The following example is the **Observatory of Urban Conflicts**, led by the Federal University of Rio de Janeiro.

"Slums on Fire" is another mapping initiative related to land conflicts in São Paulo. The collaborative platform identifies fires that happen in slums and highlights the connection between these supposed accidents and the trends of real estate market and large scale interventions. It shows, for example, that most fires happen in slums where the land value is high and where there are high income developments being planned, as opposed to less fires in informal settlements sitting on less valuable land, regardless of the higher number and density of the settlements (which could make fires easier to happen accidentally). Supposedly accidental fires in slums have been reported in many other Brazilian cities besides São Paulo, like Rio de Janeiro, Recife, and Belem.

In Bolivia, another collaborative initiative has been mapping urban land conflicts through crowdsourcing since 2010, managed by the Center of Documentation and Information Bolivia, CEBID. The aim is to gather and map data from primary sources, to guide public policy decision making through social research, and to strengthen civil society by providing an evidence base for action. Among the evidence that this collaborative mapping initiative has identified, for example, is that fires coincide with areas of high conflict for access to land in Bolivia.

Observatory of Evictions, by University of São Paulo and Federal University of ABC, Brazil. (Key: Yellow – threat of eviction; Orange – partial eviction; Red: past eviction.) Available at: **https://www.observatorioderemocoes.fau.usp.br/**

Observatory of Urban Conflicts, by Federal University of Rio de Janeiro.
Available at: **http://www.observaconflitosrio.ippur.ufrj.br/ippur/site/index.php**

"Slums on Fire" collaborative mapping platform, Brazil.
Available at: **http://of.org.br/noticias-analises/favelas-e-especulacao/**

Collaborative map of land conflicts in Bolivia. Available at: **https://conflictosurbanosbolivia.crowdmap.com/**

LAND POLICIES

The contribution from Robin Rajack, housing and urban development specialist of the Interamerican Development Bank, informs about an incremental approach to land tenure regularization on public land in Trinidad and Tobago, based on three instruments of tenure: Certificates of Comfort, Statutory Leases and Deeds of Lease, implemented since 1998.

THREE STEPS OF LAND REGULARIZATION IN TRINIDAD AND TOBAGO

1ST STEP: Certificate of Comfort: The instrument tries to give comfort to the settler, to the family that will not have to run the risk of being evicted in the middle of the night or tomorrow. There was no discrimination within communities, not too many criteria to determine who was eligible to the Certificate of Comfort. The only criteria were that the family had to be on state land – because government didn't have the right to give ownership or occupation permission on private land – and secondly the family had to be in an occupation as at that date – not to encourage new occupation. They didn't want to separate people based on income, or whether they were even nationals – because many of the informal settlers are also migrants.

The last thing about this first step is that it struck the balance between the need of the household and the need of the government. Because the government needed prerogative at some point to relocate the family if, for example, this land that is occupied is environmentally sensitive, is causing flooding or pollution of an aquifer, or something like that. At the time, there were over 250 sites that the government didn't know all this information for all of the sites. This Certificate of Comfort struck the balance of giving the occupant, the household, a sense of security in the short term, but preserving the prerogative of the government, at some future date, if needed, to relocate the family but the obligation is on the government to give you an alternative location.

2ND STEP: 30-year Statutory Lease: The lease comes into effect upon satisfying additional criteria that the law lays out, such as being a citizen of the country, and being of adult age. It also considers the site being suitable for regularization, such as environmental criteria.

The beauty of the Statutory Lease is that it doesn't require any paper work; once it's determined that you satisfy those conditions, you are deemed in law to hold that 30-year interest because you satisfy the statutory conditions. It doesn't require a whole bureaucracy of preparing a formal document, that was deliberate and it borrowed from an earlier legislation that had used this instrument.

3RD STEP: 199-year Deed of Lease: Required additional criteria, legal process, survey and a proper definition of the parcel of land. It also required some payment to what is the cost of the land or be it subsidized. The family could go through this law, through a process of incrementally at your own pace, when you deemed desirable to more from one step to the other, to get to the formal full ownership of land.

After a considerable effort to build trust between the people and the government, 80% of the occupants / informal settlers on state land applied for the Certificate of Comfort, within the eligibility period of 2 years. For many years, these same households had hidden their identity, had hidden their residences, they did not want to be known by the state, they were outside of the formal system, but they chose to respond to law by applying (showing their ID cards, their evidence of where they live) and willing to get regularized).

Ups and downs, as in any process trying to develop policies, regulations, capacities. But one visionary decision was that of all the 200 people in the staff of the agency, the **largest group were the community mobilizers**, the people who would work on building this trust, to encourage application, to encourage people to welcome land surveyors on the site, to encourage people to participate in the planning process, to encourage people not to object when a constructor shows up to straighten roads or to widen the drains, or whatever was needed infrastructure wise. So that was the largest group within the agency, and that was very deliberate. Because remember, for the most part, these were people who had chosen to live outside of the formal system and now they were being asked to come in and it really needed to build trust as to how that process would be managed. That was a very significant innovation.

Interview with Robin Rajack. Full interview available at: **https://www.youtube.com/watch?v=cxW2QCWqQ0M&t=9s**

HONDURAS

An interesting policy from Honduras was shared by Katherine Parsons, from the Association for a More Just Society (AJS), who also mentions the work of AJS strengthening capacity and quality of the Property Instituto to deliver titles:

> "Land disputes often became protracted battles where multiple people claimed ownership of the same plot of land. Meanwhile, inhabitants of that land lived in limbo, first paying off one claimant, then another, and never receiving legal recognition of ownership. To create security for the people trapped in the middle of land disputes, disputed land was valued, and the inhabitant of

that land was given the opportunity to pay that amount into a bank trust, receiving legal title once the land was paid. Those who claimed ownership then battled over the money in the trust, not the land itself. In that way, legal battles over property did not threaten the livelihood of individuals.

GOOD PRACTICES: Civil society organizations such as the Association for a More Just Society (AJS) are working to reform the speed, efficiency, and quality of the land titling process. An estimated 80% of land in Honduras remains unregistered, and the process of legalization can take up to six years. In addition, frequent turnover in the Property Institute limits standardization and streamlining of procedures. AJS created a manual for the land titling process with best practices and standardized procedures, which was refined and adopted by the Property Institute. AJS also audits titles before they are delivered, catching errors such as misspelled names or duplicate registrations that would invalidate the title. In this way, they increase the capacity and quality of the Property Institute to deliver titles, slowly but steadily legalizing the tenancy of vulnerable groups across the country."

Katherine Parsons, Association for More Just Societies

BRAZIL

Over the last decades, there were remarkable advances in the legal framework for land regularization in Brazil, due to strong advocacy and proactive initiatives of the Urban Reform Movements. From a legal perspective, low-income families can now claim (individually or collectively) their land rights over private and public land, and land rights should be afforded preferably to women.

To name some of the instruments and policies that help promote tenure security for low-income families: the National Law for Land Regularization of Social Interest (Nº11.977/2009), the Special Zones of Social Interest (Zonas Especiais de Interesse Social – ZEIS); Usucapião; Concession of Real Right to Use (Concessão de Direito Real de Uso – CDRU); Concession of Right to Use for Housing (Concessão de Uso Especial para fins de Moradia – CUEM); Right of Preemption (Direito de Preempção); Proof of Tenure (Legitimação de Posse) – titles and acronyms were kept in Portuguese to facilitate further research.

The ZEIS instrument (Special Zones of Social Interest), for instance, has been implemented since 1983 in Recife and Belo Horizonte, later included in the national Statute of the Cities of 2001. It recognized informal settlements in the official city zoning, and set out the use and occupancy rules for the Special Zones, seeking to protect the areas from slum clearance and market evictions. For example, it limited the maximum plot size (250m^2) and forbade owners to combine lots. These rules shun the interests of private investors who seek bigger lots for their higher income real estate developments, and has helped maintain the original population in the areas for over decades.

Another interesting tool, proposed by civil society through the Conferences and Council of Cities, is the *Policy for Prevention and Mediation of Land Conflicts*. Building on the national and

international rights framework, the policy lays out the principles and guidelines for prevention and mediation of land conflicts, the actions and roles of each public stakeholder at local, state and national levels, as well as a mechanism to monitor its implementation.[19]

It is worth mentioning a recent piece of legislation, approved in late December of 2016 that changes the entire framework of land regularization in Brazil, the Provisional Measure 759. The following is an excerpt from an article that summarizes the concerns of members of the urban reform movements:

> "At the end of last year, the national government issued the Provisional Measure MP 759/16, supposedly aimed at facilitating the land regularization of urban and rural lands. The analyses of the urban and rural question of the MP, however, show that, behind this proposal, there is an attempt to commercialize the territories occupied by agrarian reform settlements and urban informal settlements, amnesty to high-level irregular occupations, in addition to the sale of public land with no social or collective criteria. (…) What is being promoted as an attempt to reduce bureaucracy and increase efficiency in the management of public assets, in practice hides the possibility of transfer public assets, land and natural resources to the private sector disregarding the current social and collective criteria".

Luciana Bedeschi and Paulo Romeiro [20]

19   http://www.suelourbano.org/bibliotecas/2017/04/24/politica-nacional-de-prevencao-e-mediacao-de-conflitos-brasil/

20   https://www.nexojornal.com.br/ensaio/2017/MP-da-regulariza%C3%A7%C3%A3o-fundi%C3%A1ria-um-assalto-ao-territ%C3%B3rio-em-diversas-frentes

ADVOCACY, COALITION BUILDING, CAPACITY BUILDING AND OTHER INNOVATIVE PRACTICES

GLTN'S LAND AND CONFLICT COALITION

In 2014, a Scoping and Status Study proposed building an issue based coalition on land and conflict of UN and non-UN actors to operationalize common priorities. Entry points for implementation at country level include land policy, land administration, dispute resolution, land reform and capacity development with a key focus on conflict prevention, mediation and peace agreements and peacebuilding and stabilization plans.

In November 2015, as part of creating a global issue-based coalition on land and conflict, over 60 global and regional experts met in Nairobi, Kenya, to discuss solutions and exchange ideas. Key themes discussed for action included land as a root cause of conflict, capacity development requirements and how to develop capacity both inside and outside the UN on land and conflict. Participants also shared innovative solutions and tools for this work. They identified new solutions and tools that needed to be developed and operationalized for both urban and rural areas.

In March 2016, the Global Land Tool Network successfully convened the Land and Conflict Coalition Forum at the One Washington Circle Hotel, Washington D.C. from 11th to 12th March 2016. The two-day forum sought to collectively consolidate, shape and determine a way forward for the Coalition by considering the Coalition's modus operandi in addition to further detailing of the areas of engagement defined during the Land and Conflict Forum that took place in Nairobi on 1 and 2 November 2015.[21]

SOLID GROUND CAMPAIGN, KNOWLEDGE MOBILIZATION TO IMPROVE LAND GOVERNANCE IN LAC

Solid Ground is a global advocacy campaign of Habitat for Humanity to improve access to land for shelter, focusing on themes: tenure security, gender equality, slum upgrading and disaster resilience. The campaign is mobilizing resources as well as existing supporters and new allies to motivate policymakers; building the network capacity for policy change; positioning for international influence; and increasing public support for land for shelter. The campaign is present over 25 countries around the globe.[22]

21   http://www.gltn.net/index.php/work-stream/land-and-conflict
22   http://solidgroundcampaign.org/

IMPLEMENTION

Implementation of the Solid Ground campaign, a global advocacy campaign of Habitat for Humanity to improve access to land for shelter. One key element of the Solid Ground campaign in LAC is the mobilization of knowledge to improve land governance, through online and offline activities.

ZERO EVICTION CAMPAIGN

The International Alliance of Inhabitants (IAI) launched the **Zero Evictions Campaign** at the 4th World Social Forum (Mumbai, January 2004), to mobilize international solidarity, starting from the inhabitants directly concerned, in order to restore their hope of achieving dignity and security in housing.

The aim is to secure housing rights for all; no one should be evicted. If tenants have to be transferred, decent, secure alternative accommodation should be found in advance and with the agreement of the inhabitants concerned. This means respecting Article 11 of International Covenant on Economic, Social and Cultural Rights, with particular reference to General Comment No. 4 of the UN Committee on Rights (1990).

To achieve this objective, the IAI has proposed the setting up of a common global space for all urban social movements in order to unify local, national and international initiatives. At the same time, it has invited the NGOs, networks involved in housing rights, and UN institutions to give the campaign their backing.

The Zero Evictions Campaign operates on several levels depending on the adhesion and mobilization of the local organizations concerned and the gravity of the situation:

» An international alert system with local "antennae" for violations of housing rights

» Appeals for international solidarity

» Proposals for exploratory missions and conciliation by the UN-AGFE

» Support for the exchange of experience of good practices by inhabitants' organizations, local bodies, and other subjects for avoiding evictions

» Support for the drafting and monitoring of local, national, and international plans of action for security of housing tenure.

In Latin America and the Caribbean region, the Zero Eviction Campaign is present in Dominican Republic, where 1 million people are threatened with forced eviction because

of building speculation on the land where they live without good title. The campaign involved grass-roots organizations and the local government of S. Domingo; it is also supported by the government of the Basque countries. The campaign succeeded in stopping part of the evictions and helped to set up a table for dialogue and concerted action. There are discussions about establishing a People's Fund for the right to Land and Housing and a Habitat-coop has been created to offer valid alternatives The UN-AGFE has organized an exploratory and conciliatory mission (March 2005), but the violent evictions are continuing to be carried out, at times by paramilitary groups. For this reason, the campaign intends to increase pressure by opening other fronts, including promoting the boycott of the tourist organizations implicated in the deal.[23]

INFORMED DIALOGUES BETWEEN CIVIL SOCIETY AND JUDICIARY SYSTEM

Habitat for Humanity Brazil has been pushing informed dialogues between civil society and the judiciary system in the state of Pernambuco (Court of Justice, Public Defense Office, Public Ministry). In 2012, the local partner Cendhec developed a study with the objective to expose evidence of the obstacles that impact the time duration of proceedings in the Judiciary for the recognition of land tenure rights of the residents of poor settlements in Recife[24].

The research findings confirmed that the length of the legalization process through a judicial process (which can take up to 20 years) is a clear challenge that discourages informal settlers to regularize their tenure. Such finding supported one of the essential points for advocacy: the claim for more efficient and responsive judicial processes of land regularization.

The study also turned clear the lack of response from government (mainly state government[25]) to judicial notifications related to claims over public land, blocking judicial legalization processes. It suggested that state government, besides the judiciary, should be an important advocacy target.

In a more qualitative approach, the study also identified two types of obstacles within the judiciary branch:

» **structural obstacles:** linked to bureaucracy in the judiciary system (time and conflict of competences);

» **interpretative obstacles**: linked to conservative attitude and misinterpretation of existing laws by judges and law operators.

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23   **http://www.habitants.org/zero_evictions_campaign/presentation/zero_evictions_campaign#sthash.TMtvISYJ.dpuf**

24   Study: the role of the Judiciary system in land regularization experiences in Pernambuco. By Cendhec and Habitat for Humanity Brazil. Available at: **http://www.suelourbano.org/bibliotecas/2016/03/06/access-to-justice-for-a-responsive-and-inclusive-land-governance/**

25   56% of the law suits considered in the research stopped at the stage of notification, from which over 70% due to lack of response from State Government.

Civil society fill up the auditorium of the Court of Justice during the Workshop about the role of the Judiciary System in the land and urbanistic regularization of informal settlements.

The research findings have been presented to representatives of the judiciary system in 2015, in the framework of the project "Empowering Women and Vulnerable Groups to Exercise their Rights for Inclusion and Secure Land Tenure and Property", and in 2016, in the framework of the project "Strengthening Capacities for Fair Cities".

Following the Workshops about the role of the judicial system in the process of land and urbanistic regularization of informal settlements, it is important to highlight:

» The President of the Court of Justice signed the act implementing the Program to Accelerate Judicial Processes related to adverse possession. It resulted in favorable sentences, recognizing the land rights of 15 families.

» The State of Pernambuco (one of the stakeholders that must provide statements in every adverse possession lawsuit; although this rarely occurred, blocking lawsuits in very initial stages) provided a statement in favor of the low-income families claiming their land rights.

» The Public Ministry prosecutor provided several statements in favor of the low-income families, which accelerates the judicial processes and enables greater possibility of success.

» The Office of Public Defense created a task force to assist families claiming land rights. For a long time the Office of Public Defense did not perform its role to serve the vulnerable population; who were forced either to pay for expensive judicial assistance or to remain in insecure tenure. The task force, following the Workshop implemented through the project, is a key mechanism to ensure citizens have access to justice and are closer to defend their land and housing rights.

Representatives of the judiciary system, including the President of the Court of Justice, hold the sign "City is not a commodity; it belongs to all of us" during Workshop with civil society.

The relevance of these results should be emphasized not only related to the number of families benefiting directly from the changes in the judicial system, but also by the promising potential that these procedures serve as a model to demonstrate the feasibility of answering / addressing land issues within the judiciary system.

STRENGTHENING WOMEN'S CAPACITY FOR ADVOCACY

From Lima, Peru, Luz Maria Sánchez Hurtado emphasized gender issues in the context of land conflicts, and brings to the discussion opportunities and examples of empowerment and capacity development of women for informed advocacy.

In the District of Rimac, women have been mapping and identifying the needs of their communities, organizing public events and dialogues with authorities to present proposal, preparing letters of commitment to request the attention of the authorities. Besides these tools, women's action follow a specific strategy, that included the creation of a management committees to follow up the commitments made by the authorities; and the mobilization and activation of national networks, if the authorities don't meet their needs.

The School of Women Leaders in Peru will train women on citizenship, gender rights, property rights, the right to the city, constitutional amendments, leadership, conflict management and negotiation, advocacy and communications, and financial literacy delivered by a groups of seasoned professionals.

School of Women Leaders in Tenure Security, Bolivia.

School of Women Leaders in the Right to the City, Brazil.

The initiative in Peru builds the previous experiences of School of Women Leaders in Tenure Security in Bolivia and Brazil. In Bolivia, the women trained through the School managed to advocate at national level to demand that the name of women / spouses should be included in the property titles. In Brazil, the training prepared women for democratic participation through the networks of the urban reform movements and is helped the grassroots to understand and fight for their rights.

COUNTER NARRATIVE CHALLENGING MAINSTREAM MEDIA

The Museum of Removals in Rio de Janeiro, Brazil, addresses the role of the mainstream media in such land conflicts, manipulating the public opinion and legitimating the interest of the developers in clearing the city centers from the informal settlements. What the Museum is trying to do is to build a counter-narrative that challenges mainstream media about the low income / informal settlements, using the internet as a key tool, contributing to keep the memory of communities under threat of evictions. "The opportunity we see in our work is to demonstrate that the knowledge of the history of the people is one of the most powerful instruments of resistance."[26]

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26   https://www.facebook.com/museudasremocoes/

GOING FORWARD

REGIONAL WORKING GROUP CONNECTED TO GLTN'S LAND AND CONFLICT COALITION

This online debate helped to mobilize knowledge that typically remains inaccessible at regional and global dialogues; it informed about a variety of urban land conflicts happening in the LAC region, as well as initiatives and organizations addressing the issue, promoting and defending the tenure security of the most vulnerable.

An immediate next step is the activation of a **Regional Working Group on Land and Conflicts**, including participants of this discussion, as well as other people and organizations who have interest and expertise in addressing the issue. This regional working group should relate to the **GLTN's Issue-Based Land and Conflict Coalition**, to position LAC realities and perspectives in the global discussions.

IMPROVE ACCESS TO INFORMATION AND INFORMATION FLOW

"Accessible information for all, mapping evidence, knowledge exchange, polices and systems are key to overcome land conflicts targeting the most vulnerable families, and women.
Even though tools and experiences addressing urban land conflicts exist, the good practices, policies, legislation are not easily shared; their potential to transfer or scale up is not always documented; success and failures from previous experiences are not visible or properly documented; local information is hard to find or may not be accessible; and information flow oriented to capacity development based on learning and for action is not enough considering the complexity, wide-spread, and magnitude of the problem of insecurity of tenure and urban land conflicts."
Oumar Sylla, GLTN

Some other participants commented on the importance of pulling together information on land conflicts into a **regional database**, which could help identify similarities and common features in one or more countries, patterns of location, dimension, impacts, etc.

However, the more vulnerable groups of urban land conflicts tend to be the ones who have the least access to the kind of information that could be used to ensure and promote their tenure security. In this sense, caution is needed to prevent that this "wave" of transparency and open data on land puts the most vulnerable at higher risks of being evicted by those to have greater capacity to access and use this information.

LAND TITLING
LEGALIZATION IS NOT ALWAYS THE MORE SUSTAINABLE ALTERNATIVE
TO ENSURE TENURE SECURITY OF VULNERABLE GROUPS

"It is incredible that even though we know that informality provides several benefits for urban dwellers, particularly in terms of where and how they live within cities, the most common idea for solving for this issue and to avoid further conflicts is still formalization, legalization. **We need to understand better why people chose not to legalize and regularize their tenure situation.** *Only by doing so we will be able to respond to the issue and really move towards recognizing different forms of tenure."*

Anna Pont, Shelter Cluster Americas[27]

Many slum dwellers shun home ownership, fearing gentrification, according to Chris Arsenault's article for Thomson Reuters Foundation. The journalist explains that the idea that formal ownership for ramshackle homes in slums can improve the economy by unlocking assets was pioneered by the Peruvian economist and author, Hernando de Soto. With formal property rights, slum dwellers could get loans to start businesses using their homes as collateral.[28]

However, there is much research and evidence challenging some of the orthodox economists' believes. James Kavanagh, global Director of Land & Resources within The Royal Institution of Chartered Surveyors (RICS), contributed to this online debate by presenting the research findings from studies carried out in Accra–Ghana, Jakarta–Indonesia and for the interest of this group Lima – Peru, by researchers Dr. Mike McDermott & Dr. Franklin Obeng-Odoom:

"It makes interesting reading and really starts to challenge the orthodoxy that title registration and formalisation is necessary to establish land value, effective transfer and the arrival at fair compensation levels during expropriation. Formalisation of title was found to have an effect albeit a smaller than anticipated effect on land value."

James Kavanagh, RICS

Academics and slum residents question the promised benefits of having formal property rights, saying they have not materialized in slums where residents have won formal ownership. "Many countries believed that titles would allow poor people to get finance," Patricia Cezario, a professor of urban planning at the University of Sao Paulo, told the Thomson Reuters Foundation. "That didn't happen," she said, explaining that banks had little interest in administering small loans to the urban poor.

In addition, evaluation of massive titling programs from the 1990s in São Paulo, for example, show that, slowly, and particularly in times of crisis, families tend to sell their property for higher income population (gentrification) and go back to informal settlements in other areas of cities. In many

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27   https://www.youtube.com/watch?v=0uM2PajRLGo
28   http://in.reuters.com/article/brazil-landrights-ngo-idINL5N1F357Q

cases, regularization and titling does not mean sustainable tenure security.[29]

As recommendations, Luis Santibañez (Habitat for Humanity Chile) mentions the importance of having land policies that enable various forms of tenure beyond private individual property, such as rental and the re-utilization of obsolete, abandoned buildings and land.

CONTINUUM OF LAND RIGHTS

GLTN supports the development, recognition and application of the Continuum of Land Rights, an inclusive, pro-poor and gender-responsive approach. "We can view rights to land as lying on a continuum. At one end are formal land rights, where the owner is an individual, who holds a set of registered rights to a parcel of land that are enshrined in law. The parcel is delineated on a map held in a records office; the owner has the right to occupy the land, build on it (subject to approvals), sell it, rent it out, transfer it to his or her heirs, and prevent other people from coming on to it. At the informal end of the continuum are informal rights; a group of individuals (such as a clan) who may have traditional rights to use a piece of land. The boundaries of the land may not be clearly marked on the ground or on a map, and there may be no official paperwork certifying who owns or has what rights to the land. In between these two extremes are a wide range of rights."
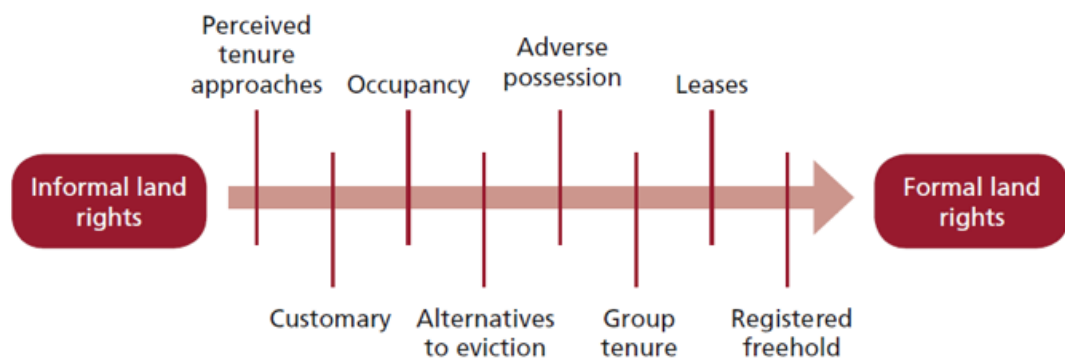
Continuum of land rights

"Usually, most good laws start by understanding how the society works", said Robin Rajack, when interviewed about the incremental approach to land regularization, showing the example of Trinidad and Tobago. In this sense, the relevance of the Continuum of Land Rights lies on the fact that, according to GLTN it "incorporates tenure rights that are documented as well as undocumented, formal as well as informal, for individuals as well as groups, including pastoralists and residents of slums and other settlements, which may be legal or not legal. The continuum approach works with what is already in place and incorporates it into a land information management system caters for the whole spectrum of formal, informal and customary land rights in the country." [30]

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29   Contribution from Terezinha Gonzaga, Professor at the University of Votuporanga.

30   **http://www.gltn.net/index.php/land-tools/gltn-land-tools/continuum-of-land-rights**

ANNEX 1:
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