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Debates

Urbanization in the developing world and the acutely tenure insecure

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While the economic potential of privatizing small-scale properties in impoverished urban areas of the developing world is receiving a good deal of attention, in reality the potential only applies to a segment of the urban poor. 'Informally occupied property', instead of existing as a category, in reality operates as a broad continuum of tenure security. Toward the secure end informal occupation can contain the ingredients that facilitate titling and access to capital via title. But toward the other end, acute tenure insecurity meshes with severe forms of personal, food and livelihood insecurity. This paper discusses the relevancy of the poverty–property rights–capital argument to the segment of the urban poor that is acutely tenure insecure.

Introduction

The growing urban slums in the developing world present a particularly problematic set of land and policy issues. These are areas where in-access to resources and stifling economic and sociopolitical security conditions scuttle basic safety, livelihood, innovation and entrepreneurship in favor of concentrated impoverization, despair and desperation. The world's urban population is expected to more than double by 2025, to over 5 billion, with 90 percent of this increase to occur in the developing world (Earthscan, 1999). This 'urbanization of poverty' (UN-HABITAT, 2001a) occurs concurrently with deteriorating conditions for the urban poor, weak local government structures, weak administrative capacity, and inadequate practices and concepts of urban governance (UN-HABITAT, 2001a). The result is that most governments in the developing world are unprepared and under-resourced to handle the scale of the phenomenon, which will exacerbate the unsustainable and unstable character of the growth. Moreover, the problems resulting from nonparticipation in the benefits of globalization exist in their most acute form in the informal, impoverished urban settlements in the developing world. This is to a large degree due to the simultaneous exposure, yet in-access to the positive aspects of globalizing economies, along with the physical size and concentrated nature of slums.

As a remedy, significant attention is currently focused on the economic benefits of private property for the urban poor in the developing world, and the capital which can be accessed via documented title and supporting legal structures (e.g. Norton, 1998; de Soto, 2000, 2002; *Economist*, 2001; Carter and Olinto, 2003). This economic potential, advanced by the economist Hernando de Soto (de Soto, 2000), is thought to amount to considerable capital—much larger than the total investment in, and foreign assistance to, the developing world over the past couple of decades (*Economist*,

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2001). Much about the approach, subject to some controversy (Gilbert, 2002; Unruh, 2002), deals with urban property and its potential for collateral, but more fundamentally it is about issues of law—given that those who occupy properties are very frequently unable to prove ownership by way of the formal title that lending and other civil institutions require. While this may be a way out of impoverishment for a segment of the urban poor, for a significant proportion it is not, due to the acutely tenure insecure conditions in which property rights are experienced.

Acutely insecure real estate

An important component of the world's urban poor exists within a set of property relations so insecure that they reside outside of the comparatively stable economic, social and political domain relevant to the poverty–property rights–capital argument (de Soto, 2000). For this population, security of simple occupation is so precarious as to compromise basic economic activities largely unconnected to the potential offered by title and its role in capital. The result is that income generating and livelihood maintenance activities such as an itinerant job, small-scale trading, daily household economic errands, or small-scale entrepreneurial and investment efforts are significantly compromised due to the inability to predict continued access to one's residence and possessions, however meager these may be. More generally, widespread acute tenure insecurity hinders adequate governance, undermines even near-term personal and community planning, greatly distorts prices of property and services, prevents investments in housing, and reinforces poverty, criminality and social exclusion (UN-HABITAT, 2001a). Frequently such conditions of occupation come about as individuals, households and communities either attempt extremely unwieldy forms of squatter's rights, or enter into a situation whereby small-scale speculators or landlords with no legitimate claim to properties other than early arrival, come to be able to extract large sums for rent, while being unable to offer legitimate security of tenure in return. This can create conditions of double tenure insecurity whereby not only can renters be evicted, but illegal landlords as well. And then there is the issue of women and security in property (Wanyeki, 2003).

The problem becomes particularly acute in fluid socio-political circumstances which emerge subsequent to war, famine, earthquakes, flood and population policies such as forced eviction and resettlement. In Africa, the large-scale dislocation due to conflict alone and the resulting large surges in urban populations (often lasting decades, often permanent) occurs at such a magnitude as to constitute one of the primary pervasive processes on the continent. Examples include: Freetown, Bo and Kenema in Sierra Leone (Keen, 2003; Richards *et al*., 2005); Monrovia in Liberia (Hussein and Gnisci, 2005); Abidjan in Ivory Coast (Hussein and Gnisci, 2005); Luanda, Huambo, Benguela and Namibe in Angola (DW, 2005); Harare, Zimbabwe (Hill, 2003); Bujumbura, Burundi (UNDPO, 2005a); Kinshasha, Kisangani, Kivu and Goma in the Democratic Republic of Congo (UNDPO, 2005b); Khartoum and Juba in Sudan (Shalita, 1994); Kigali in Rwanda (Gassana *et al*., 1999); Maputo in Mozambique (Finnegan, 1992); and Mogadishu, Merka and Kismayo in Somalia (Lewis, 2002).

The issue of forced evictions is also especially difficult. While the recent large-scale evictions in Zimbabwe are an example, some 14 million people in the developing world are threatened by forced evictions (UN-HABITAT, 2001a); in addition to the millions who have already been forcibly removed from residences in recent years and are acutely tenure insecure as a result. Forced evictions usually take place en masse, on urban or urbanizing land for either broad political reasons, or because land comes to have a significant value for select private interests. The effect of evictions—the long aftermath as

well as the threat—is to criminalize attempts by the impoverished to obtain a basic and essential need for human life—shelter (UN-HABITAT, 2001b). Forced evictions result in the destruction of social and survival networks, and the degradation or destruction of the physical and social assets and savings of those affected. Costs of living jump significantly as patterns of health, education and recreation are also destroyed (UN-HABITAT, 2001a). Thus forced evictions actively degrade what little the poor do have and dramatically increase conditions of human insecurity. Such evictions share several features worldwide: (1) evictions are most common in countries and parts of cities where housing conditions are already the worst; (2) it is the poorest which are most subject to evictions, particularly mass evictions; (3) evictions are frequently violent, and include human rights abuses; (4) evictions always greatly compound the problem of insecure tenure (UN-HABITAT, 2001a); and (5) mass evictions and demolition of residences often are the result of a political decision made about whole areas, against which the possession of title to small properties is unlikely to offer much protection, or be offered in the first place.

The accumulating numbers of people forcibly evicted or threatened by future evictions, along with those fleeing conflict and natural disasters, are what swell the ranks of the urban acutely tenure insecure. Those living in such a context exist in circumstances not at all amenable to titling, or accessing capital via property, due to their extremely unstable intersection with basic shelter needs and the resulting extremely short-term planning horizons they find themselves confined to. For this group continued urban residence can depend on the ongoing ambiguity of their occupation of property, not the greater certainty of title allocation, which would almost certainly see them evicted by competing claims. Neuwirth (2005) also notes the reluctance of urban dwellers in Rio de Janeiro, Nairobi, Mumbai and Istanbul to move toward increased certainty of rights of occupation via title for reasons of attracting officialdom (and associated troubles) that would follow. In this regard an important dimension of tenure insecurity is fear. Fear generally, but this includes fear of being removed from one's property. Such fear can be high or low or anything in between. But arguably those most fearful are those which have experienced dislocating events and then end up in urban slums. And given that the state plays a large role in two of the most significant dislocating events (war and evictions) a great deal of this fear is about the state—the source of property titles.

There can often be little willingness on the part of the state to derive innovative ways of providing meaningful security for the acutely tenure insecure, preferring instead to see them as irrelevant to urban governance, criminal or evictable when other land uses are desired. In many circumstances this group of 'evictables' can occupy lands legitimately titled to others who may themselves be temporarily dislocated, often for years. In such circumstances handing out titles to properties informally occupied will neither effectively nor formally commodify properties, nor meet other tenurial aspirations with significant security. This gets at perhaps the most problematic assumption regarding 'informally occupied' property. Informal, insecure occupation of urban property does not, in reality, exist as a category, as the property–poverty–capital notion argues (de Soto, 2000). It exists instead as a broad continuum. Toward one end of the continuum (the more secure end) informal occupation can contain the ingredients that facilitate titling and the operationalization of capital via title. But toward the other end, tenure insecurity meshes with personal insecurity as well as acute forms of food and livelihood insecurity that includes great vulnerability to even small livelihood shocks, and especially to the depredations of the 'property mafias' so pervasive in urban slums. Such a combination results in an overall human insecurity where livelihood unpredictability, desperation, frequent violence and powerlessness in

the face of local political machinations preclude the relative stability needed for both implementation of titling programs and the longer-term personal planning needed for taking advantage of capital via title. When titles are allocated to significant numbers at the secure end of the continuum, it has often resulted in greater pressure from aspects of the formal property market, and increases in the cost of services; both tend to exclude the poorest segments of the urban population (Durand-Lasserve and Royston, 2002).

An additional difficulty is the wide variety of informal tenurial circumstances which emerge in urban settlements. Different tenure constructs can coexist in juxtaposed fashion in time and space, as urban areas expand to accommodate people from a variety of backgrounds, experiences, institutional norms, preferences and understandings about the role of property. Such expansion assimilates different categories of urban and rural land, which nearly always have pre-existing and often overlapping claims attached to them. Such a confusion in legal systems results in a lack of cadastral maps and/or the institutions, resources and administration needed to create and operate them. Such a deficiency then allows significant corruption and facilitates eviction. Layered on top of this is the correlation between increasing desperation (via poverty and personal and livelihood insecurity) and an increased willingness to just 'take' rights, particularly if criminality and/or weapons are pervasive. The resulting confrontation about what rights are possessed to what degree by whom and for how long, then fuels further severe tenure insecurity.

Secure real estate

At its most fundamental level, security of tenure is about predictability of occupation regarding property. In essence an individual or household is tenure secure when they are protected from involuntary removal except under exceptional conditions, and then only by some notion of objectivity. But informal urban settlements can be the most complex and problematic in terms of known, equitable, and widely understood and enforced rules. While it is often assumed that such security implies ownership of private property, in reality tenure security and the attendant positive economic and social benefits can be attached to a very wide variety of forms of security of occupation. These can include traditional, indigenous, culturally and situationally relevant forms of rent, leasehold, freehold, conditional freehold, force, transient rights, and an array of collective and communal arrangements, all of which exist in a variety of spatial and temporal configurations. The security derives from the reality that use and access rights to land and property are under-girded by a set of rules that are clear and known, and are regulated and enforced by what is regarded as a legitimate administrative framework (UN-HABITAT, 2001a). Such a framework can be based on laws, customs, power, social norms, cultural values or preference. In this regard the precise form and nature of tenure is less important than the degree of security conferred, that is, clarity and effectiveness of rules. Thus while security of tenure in the form of private property is popular, particularly in the developed world, it is only one of many ways of tenure, and one of many ways security can be had. The problem is that the provision of tenure security via private property is more 'distant' from acutely tenure insecure urban populations than the provision of security connected to other forms of tenure.

The way ahead

That tenure security remains both fundamental to improving the condition of the impoverished, but yet significantly elusive, has not escaped the attention of the United Nations. While the UN Food and Agriculture Organization (FAO) focuses much effort on rural tenure security, the UN

Centre for Human Settlements (UNCHS) or UN-HABITAT, merits particular attention for urban areas. Progress toward tenure security is now a priority for UN-HABITAT's forward goals for the urban poor in large-scale fashion. With a 'Global Campaign for Secure Tenure' a central part of its new mission, UN-HABITAT has recently reconfigured itself to take on a much higher profile within the UN and the international community (UN-HABITAT, 2001b). Born out of the 1996 UN Cities Summit in Istanbul, the new agenda for UN-HABITAT includes as a central focus, working with urban local authorities and local organizations and interest groups as major partners in the UN system. This is a significant departure from the more typical UN approach of conferences, experts and progress reports by national governments. Such a refocus on 'the local' is important. Because tenure in large urban settlements is a complex mix of legal notions, norms, customs, force, experimentation, and loci of authority and legitimacy, that control the type, degree, and duration of local ongoing obligations and agreements, top-down enforcement of state laws regarding property can have minimal effect. It is this same 'local' however that de Soto (2000) argues must be dismantled forcefully via the necessary political will (top down) involved in that prescription—with such political will one of the more difficult to achieve aspects of the approach. Engaging 'the local' is intended by UN-HABITAT to be an important operative aspect in moving toward increased tenure security as part of human security, and is especially relevant in informal urban settlements where tenure insecurity is most severe.

The Agenda of UN-HABITAT and its campaign for secure tenure also correctly makes the distinction between the role of tenure security in the form of private property and the security of occupation which so much of the urban developing world desperately needs, and which constitutes a central place in human security. All societies possess notions of property rights, and security of occupation in one's shelter is a fundamental, pervasive, cross-cultural feature much broader and more fundamental in utility, including economic utility, than its role in capitalism and private property most familiar to the developed West. This is underscored by the path that the UN-HABITAT Agenda has taken through the UN. A Middle East Islamic state, on behalf of the 133 member states of the United Nations that are members of the Group of 77 and China (the largest Third World coalition in the United Nations), introduced and supported draft resolutions in the General Assembly regarding the Agenda, including a specific focus on tenure security (United Nations General Assembly, 2001). Such non-Western, developing country support is critically important, and contributes significant credibility to the Agenda given the often difficult reception that notions of Western private property can get in the developing world.

Efforts that focus on the urban poor need to go beyond supporting general poverty reduction, laudable as this is. What is required in the property rights arena, are technically focused strategies able to provide real security of occupation to the portion of the continuum that is most affected by its absence. Much additional work remains with regard to making property rights work for those who aspire not only to capital, but also to household and homeland security.

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