



Habitat Debate - article on urban land tenure and property rights

Geoffrey Payne, published in Habitat Debate

As with the weather, perceptions of how important tenure and property rights are depends upon one's degree of exposure. Conventionally, freehold titles are widely assumed to offer the greatest protection and security. However, current research on innovative approaches to tenure for the urban poor¹ has demonstrated that many other tenure options have proved able in practice to meet people's diverse needs.

The research has also shown that urban land tenure and property rights are far more complex than the conventional black and white, legal/illegal, or formal/informal distinctions may suggest. For example, millions of people in cities of the South live quite securely in settlements which lack any legal status, whilst others find that even formal titles may not protect them from eviction.

The reality is that tenure systems exist within a continuum in which even pavement dwellers may enjoy a degree of legal protection and there may be many gradations or sub-markets between those with the lowest level of recognition and the fortunate minority at the top. The vast majority in between live in a grey area whereby they can claim some degree of de facto rights through adverse possession, legal ownership of the land if not the buildings on it, or the acquisition and development of land in areas not recognised by the authorities. The classical alternative to legal ownership represented by squatting is now a minority activity in most cities, as even marginal areas attract a commercial value high enough to find a place in the land market.

Undoubtedly, globalisation has reinforced these tendencies. The opening up of domestic economies to international competition has encouraged governments and private land-owners to realise the commercial potential of all urban and peri-urban land holdings. This commercialisation has enabled some to acquire undreamed of wealth and encouraged those lower down the social and economic ladder to follow suit. The result is that virtually all urban land now commands a price within a range of sub-markets in which tenure status is only one of many considerations in determining values.. The actual legal status may not even be clear to those involved - what matters is the perception of risk involved.

Under these conditions, being alone in lacking official documents may expose a household to a precarious existence, but if it is surrounded by thousands or hundreds of thousands of others in the same situation, the perceived risk may be negligible. Many households appear willing to pay property taxes on the basis that every piece of paper helps increase legitimacy, providing they can afford the charges, or obtain tangible benefits in the form of improved services, whilst others feel that such documentation is not an adequate incentive to meet bureaucratic requirements.

What lessons does current research suggest governments should consider when formulating or implementing an urban land tenure policy? The first is that tenure issues cannot be isolated from other related policies of urban land management. Tenure has to be seen as part of a package of policy measures intended to improve the efficiency and equity of urban land and property markets and improving the living conditions of the poor, especially women. Secondly, it is vital to assess the extent to which existing options have proved sufficient to encourage people to invest their own efforts and resources to improve their lives and livelihoods through housing investments and to build on what options work well. Thirdly, it is important not to put all one's eggs in one or two baskets, but to offer a wide range of options, so that the diverse and changing needs of households can be met on a long term basis through competition.

¹ An international review of fourteen examples of innovative approaches to tenure in countries throughout the world is presently being carried out by local teams in close collaboration with the UNCHS Campaign for Secure Tenure. The project is funded by the UK Department for International Development and is co-ordinated by Geoffrey Payne and Associates of London. Findings and recommendations from the research will be presented at the Istanbul+5 conference in New York in June 2001.



How such objectives can be realised will inevitably vary from time to time and place to place. Where customary tenure exists in or around expanding cities, its role within the wider society will inevitably come under review, though its removal may be easier to legislate for than to achieve. Similarly, policies to enforce official norms may offer short term attractions, but are unlikely to address the structural imbalances between supply and demand within societies where income inequalities are substantial. Evidence suggests that certificates of use or occupancy, community land trusts and other forms of what could be called intermediate forms of tenure, provide a valuable means of increasing legitimacy and providing a valuable breathing space whilst the administrative capability to record and clarify rights is improved.

The illusion that cities can all conform to some professionally based sense of order is inevitably tempting for those involved in urban management. However, the reality suggests that people themselves have evolved responses which professionals, and particularly governments, would do well to learn from.

Ends

Geoffrey Payne
Geoffrey Payne and Associates
34 Inglis Road
Ealing Common
London W5 3RL
UK
Email: gkpayne@gpa.org.uk