

LOCAL PARTNERSHIPS FOR URBAN POVERTY ALLEVIATION

**LAND TENURE SECURITY AND LAND ADMINISTRATION
IN BANGLADESH**

FINAL REPORT

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Disclaimer

The views expressed in this report are those of the authors and do not necessarily reflect the policies of UNDP or UN-Habitat.

Glossary of terms

AC (LAND)	- ASSISTANT COMMISSIONER (LAND)
BBS	- BANGLADESH BUREAU OF STATISTICS
BR	- BANGLADESH RAILWAY
CDC	- COMMUNITY DEVELOPMENT COMMITTEE
CUS	- CENTRE FOR URBAN STUDIES (CUS)
DC	- DEPUTY COMMISSIONER
DCC	- DHAKA CITY CORPORATION
DLT	- LAND DEVELOPMENT TAX
DM	- DISTRICT MAGISTRATE
DMPA	- DHAKA METROPOLITAN DEVELOPMENT AREA
FC	- FIELD CO-ORDINATOR
GoB	- GOVERNMENT OF BANGLADESH
HSD	- HOUSING AND SETTLEMENT DIRECTORATE [Presently NHA]
LP	- LAND POOLING
LPUPAP	- LOCAL PARTNERSHIPS FOR URBAN POVERTY ALLEVIATION
LGED	- LOCAL GOVERNMENT ENGINEERING DIRECTORATE
LR	- LAND READJUSTMENT
MOL	- MINISTRY OF LAND
NGOS	- NON GOVERNMENT ORGANISATION
NHA	- NATIONAL HOUSING AUTHORITY
PMT	- PROJECT MANAGEMENT TEAM
PSAS	- POURASHAVAS
PWD	- PUBLIC WORKS DEPARTMENT
RAJUK	- RAJDHANI UNNAYAN KATRIPAKKHA [Capital Development Authority]
UDD	- URBAN DEVELOPMENT DIRECTORATE
UK	- UNITED KINGDOM
ULGS	- URBAN LOCAL GOVERNMENTS
UNDP	- UNITED NATIONS DEVELOPMENT PROGRAMME
VAT	- VALUE ADDED TAX

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Executive Summary

Today it is widely accepted that secure tenure is one of the pre-conditions to poverty alleviation and effective urban development. Progressive nations and development agencies working in the improvement of slum and squatter settlements are now giving more importance to 'tenure' which is differentiated from ownership. Tenure is a term used to convey a wide range of meanings related to the poor's occupation of space in cities and the legal complexities involved in addressing this challenge.

The Local Partnerships for Urban Poverty Alleviation Project (LPUPAP), funded by UNDP has the development objective to alleviate poverty in selected urban areas of Bangladesh. The project follows a community led approach to poverty reduction where LPUPAP with the Local Government Engineering Department (LGED) as the Government Implementing Agent and UN-Habitat as the UN Implementing Agent. The primary beneficiaries of LPUPAP are the urban poor in selected poor urban settlements (slums) of eleven towns and cities covered under the project: Four City Corporations - Chittagong, Khulna, Rajshahi and Barisal and seven Pourashavas – Gopalganj, Kushtia, Bogra, Sirajganj, Mymensingh, Narayanganj and Habiganj.

The urban poor communities are the main project partners and two major areas of intervention are the provision of urban basic services and urban poverty alleviation through employment. The Community Development Fund (CDF) is used for construction of basic community infrastructure while the Poverty Alleviation Fund (PAF) provides resources for employment generation. There are also components for capacity building of communities, local government and project staff.

The first phase of the project was for five years and is due to end in June 2007. Till date no investment has been made in housing although there have been numerous demands from both local communities and local Government representatives. Reflecting on the land tenure and housing situation, an independent Evaluation Study in late 2005 noted

"In terms of security, the nature of the CDF scheme requires agreement of the landowner to at least 10 years' security of tenure, and this will be benefiting 600 communities. It is not clear however that communities recognise this as sufficient security to risk investment of their own capital and savings in improving their housing as seen in other Asian cities. Indeed, when questioned why families were not investing in improved shelter, the common response was that this may be wasted investment if they are required to move".

The evaluation overall reported very positively and directly led to the preparation of a second phase of the project, which is anticipated to start in June 2007. However, some shortfalls were identified, including

"Policy reform is needed to recognise the contribution of the poor to the growth of the urban economy and to integrate urban poor communities within the mainstream of urban development, governance and administration. The project has not yet been able to address these structural barriers of the provision of land for housing the poor..."

The second phase will be much scaled up, and will also engage with these issues, the specific objective to promote a pro-poor urban policy environment. It is to inform this agenda with respect to land tenure security that this consultancy is commissioned.

Towards the conclusion of the first phase of LPUPAP it is realized that the project requires a deeper understanding of the tenure situation prevailing in urban low income settlements and an assessment of the urban land tenure and management possibilities. Consequently, the present study has been undertaken with four major objectives;

- a) An analytical description of land tenure and land administration system in urban Bangladesh and a brief overview of urban land market operation.
- b) Provide LPUPAP with an analysis of how land tenure and property rights of the urban poor living under different tenure conditions might be enhanced to improve their security and living conditions.
- c) Identify potential land tenure security enhancement activities in three or four specific communities and provide the concerned stakeholders and the PMT with detailed advice on the approach and options.
- d) Develop an approach for the project (and project partners) to achieve an effective city-wide understanding of land tenure and property rights, based on the agreed analytical framework.

The study commenced in end March 2007 and this report is submitted at the end of a 10 week programme during which tenure surveys have been conducted in three urban centres i.e., Chittagong, Kushtia and Narayanganj. All field level information has been derived and surveys conducted in LPUPAP project sites encompassing low income settlements generally identified as slum and squatter settlements.

After the reconnaissance survey, the Consultants formulated a list of tenure categories generally found in urban areas, particularly in low income settlements. With this list at hand a brief socio-economic survey was conducted in each town to investigate tenure conditions related to the lives of inhabitants in these settlements. 48 questionnaire surveys were carried out along with detailed physical information of all LPUPAP project settlements. In these activities the study team received cooperation of LPUPAP, Pourashava and City Corporation staff and officials. Particular mention must be made of the FCs of each city who have provided valuable assistance throughout.

Fourteen (14) types of tenure status have been identified from the field survey. However, the 'tenant bed rental' and the cooperative type were not available in the surveyed towns. For study purpose the 'tenant bed rental' or mess housing and cooperative membership category have been sampled in Dhaka city. The tenure categories existing in urban centres are briefly described here:

1. **Street dwellers:** Persons or families living on pavements or the side of streets. Practically without a roof over their head. Duration can vary from days to months.
2. **Tenant, bed rental (Mess housing):** People living by renting bed space as in hostels/dormitories. Not very common and exist only in major cities, around city centres and close to industrial establishments. This type is commonly known as 'mess' type of accommodation.
3. **Tenant room rental:** Renting rooms with shared facilities. Accommodation is temporary by nature. May occur on public or private land and public or private housing.
4. **Squatter tenant:** Tenants in squatter built houses generally on public land.
5. **Squatter:** Person or family living on land belonging to another, usually in self constructed house generally on public land.
6. **Tenant – on unregistered and subdivided land:** Rental accommodation in housing built on land which has been subdivided and purchased but not registered.
7. **Owner – on unregistered and subdivided land:** Legal owners of unregistered land with building which may be unauthorised generally known as illegal subdivision.
8. **Legal tenant no contract:** Tenant living in legal housing under verbal agreement.
9. **Legal tenant with contract:** Tenant renting legally developed land/house with legal contract. Normally yearly contract.
10. **Tied Tenant:** Tenant who occupies residential quarters as an employee of government, semi-government and private commercial and industrial organisations. Tenure security is tied to retaining the employment.
11. **Lease holder:** Possession of land/house under a lease agreement with landowner (public or private)

12. **Co-operative member:** Enjoy land and housing as member of a registered co-operative society.
13. **Communal owner:** Owners who belong to a group and live in one area and enjoy community welfare and mutual support.
14. **Individual owner:** Enjoy land/housing legally and have access to rights of selling/transfer or development of property.

Based on the above categories, further socio-economic and physical surveys have been conducted in the three study areas. Secondary information has been collected from existing reports. These are presented in this report which is divided into two parts; Part A gives an analysis of land tenure and administration in Bangladesh on the basis of primary and secondary information collected. Part B deals with options for enhancing tenure rights for the urban poor and proposes administrative improvements as well specific tenure enhancement options.

Urban land tenure is controlled by the land law in Bangladesh which allows two systems of land ownership i.e., freehold and leasehold title. They are both either private or government and the former is guided by two Acts i.e., the transfer of property act of 1882 and the Registration Act of 1908. The Non-Agricultural Tenancy Act of 1949 is the significant law dealing with use of government owned land for urban use. In practise the ability to use the Law depends on the Lawyers as they are so complex and beyond the purview of any lay person. Land use in urban areas is regulated by Pourashava ordinance 1977 and the Town Improvement Act 1953. All these are outdated laws which do not conceive the status of urbanization decades later; nor have they been revised or updated. In recent years the National Housing Policy (1993) has been formed which has sufficient guidelines to serve the urban poor, but it is not taken into cognizance by any government or donor agency.

The law in urban areas of Bangladesh therefore excludes the poor and anarchy prevails in the overall management of urban land. The exclusion of the growing number of the indigenous urban poor, together with migrants and the landless from shelter opportunities has given way to the complex tenure conditions as found in the study.

Contrary to the impression that there is a lack of unavailability of urban land, it was found that there are large tracts of un- or under-used *khas* land holdings within the study Pourashavas and their peripheries. Presently all authority for allocating land in urban areas resides with the central government. Pourashavas, City Corporations and City Development Authorities do not possess powers to transfer such un or underused land held by government ministries or parastatal organisations. Under the above conditions, to improve the supply of land for the urban poor the study reflects on two aspects that need to be considered:

- i. Finding a way of unlocking the barrier to put un- or under-used government lands to more efficient use so that demand for land for urban poor households is met along with the regularisation of informal settlements.
- ii. Regarding land tenure and property rights, there is a need to adopt urban land tenure policies and urban land laws for improving security for the poor.

The study has provided in a very simple way the amount of government land available in Kushtia and a simple assessment to utilize the land for housing and other development purposes. For Chittagong and Narayanganj some of the Govt land holdings are shown in map only. To improve urban land administration and tenure security, the study emphasizes the need to adopt the Draft 'National Urban Sector Policy'. The salient features of the policy are highlighted which are pro-poor and also pro-local government. Adoption of the policy and prioritising the recommendations are suggested as immediate interventions.

While conducting surveys of tenure types in the three study areas, it was found that out of the fourteen types of tenure identified in the study, the 'tenant bed rental' and the 'cooperative system' was not available, so these were sampled in Dhaka city.

The level of security of tenure types reveal that tenants in all areas mentioned that they feel that as long as they can pay rent they have a place to stay. The owner's security does not seem to affect them. Pavement dwellers, illegal occupants and squatter owners and owners of unregistered or subdivided land stated minimum level of tenure security. Reasons for various type of tenure as mentioned by the interviewees was mainly economic reasons, kinship and proximity to work.

During the field surveys, the Consultants were made aware of the insecurity of the people in settlements where evictions followed by the taking over of the present caretaker government has occurred i.e., Chittagong and Narayanganj. The decision of the Advisor's Board of Caretaker Government not to make any further evictions were expressed as a relief and in some settlements people were putting together their dismantled structures. However, to plan for long term development of urban areas and tenure improvement of the poor a number of immediate steps are needed.

To improve tenure conditions in urban poor settlements the study identifies some constraints for adopting measures which would be easy in some countries. One of these is the fact that the number of people and settlements requiring tenure support/security is so large and the institutional, financial and technical resources so limited that changes which require new legislation or overburden the existing institutional capability are unlikely to be adopted. In this regard, possibilities of individual award of titles to any resident of squatter settlements is ruled out due to the following:

- Owners of newly titled properties may be tempted to sell their properties in order to realise the enhanced capital.
- Owners of legalised properties with tenants may be tempted to increase rents causing large scale market evictions of the poorest urban social groups.
- Owners seeking to sell will become victims of land brokers and developers who are used to taking advantage of poor landowners and this has been a common experience with settlement improvement projects in Bangladesh.

These are experiences of many GoB and donor funded shelter improvement programmes in the past. In the light of such findings, the study lists the types, advantages and limitations of possible tenure systems in detail and the characteristics of these tenure systems are briefly presented below:

Tenure system	Characteristics
Freehold (individual)	Ownership in perpetuity
Delayed freehold (individual)	Conditional ownership. Title is granted on the completion of payments or when developments have been completed.
Registered Leasehold (individual or community based)	The right to hold or use property for a fixed period of time at a given price, without transfer of ownership, on the basis of a lease contract. A leasehold is a fixed asset. Ownership for a specified period from a few months to 99 years.
Cooperative ownership	Ownership is vested in the co-operative or group of which residents are co-owners.
Public rental	Rental occupation of publicly owned land or house.
Private rental	Rental of privately owned land or property.
Shared equity	Combination of delayed freehold and rental in which residents purchase a stake in their property (often 50%) and pay rent on the remainder to the other stakeholder.

Community based tenure	This can take several forms from rental by a community of generally private land for an agreed period. At the end of the period, the community an extension may be agreed or the community is given notice to leave within an agreed period. Other options include Community Area Permits, Community Leases, or community ownership/
Customary ownership	Ownership is vested in the tribe, group or community. Land is allocated by customary authorities such as chiefs.
Religious tenure systems (e.g. Islamic)	There are four main categories of land tenure within Islamic societies. 'Waqf' `mulk', `miri', `tassruf' or usufruct rights, is increasingly common, whilst <i>musha/mushtarak</i> , is collective/tribal ownership.

In response to the objectives of this study, the Consultants have identified a number of specific tenure enhancement options for continuation of LPUPAP Phase I as pilot tenure programmes in Phase II. For each project area out of ten (10) categories of tenure improvement proposals one or more sites are proposed in the three areas. The pilot projects may be finalised after careful considerations of various external and internal conditions. However, these are preliminary stages of proposals as very detail study of the conditions are to be done for each case.

The proposals are based on a recognition that to identify, survey, register and allocate tenure documents to all eligible informal urban settlements in Bangladesh, including the resolution of disputes over land, would take many years and possibly decades. Any proposals for change at the local level should therefore be made on the basis of their potential replicability, to avoid the accusation that they are merely token contributions to improving tenure security and living conditions for a fortunate minority of the urban poor.

With this in mind, the Consultants propose an incremental, community-based approach to tenure policy and practice. Step 1 involves the government announcing an extension of the ban on evictions of informal settlements for a period of twelve months with immediate effect. During this time, all settlements would be surveyed to determine if they are suitable for upgrading or relocation to nearby sites. In the cases where relocation is considered essential, because they are in environmentally vulnerable locations or on land required for urgent major public works can be designated as 'untenable' and notified for relocation. Every effort should be made to relocate communities as close as possible to their existing settlements.

Those settlements which are not in environmentally vulnerable locations or on land required for urgent major public works can then be designated as 'tenable' and eligible for a Community Land Right. It is assumed that all LPUPAP settlements are in areas which can be designated as 'tenable'. It is therefore recommended that they be considered eligible to proceed to Step 2 – the allocation of Community Land Rights (CLR). This is a simple technique which only requires that the co-ordinates of settlement boundaries be surveyed, thus minimising the administrative burden on land administration agencies. Detailed surveys of individual plots and buildings can then be undertaken by communities themselves, with technical assistance being provided if required, or to resolve disputes which cannot be settled locally. The duration of the CLR should be for a period of approximately ten years, during which CDCs would be encouraged to meet specified standards of good governance, including protection of the rights of women and minorities.

All those able to demonstrate this would be eligible to proceed to Stage 3 which would provide either a long term Community Lease, community ownership or individual leases or titles. The latter would require that residents resolve all disputes and pay relevant costs.

The three steps can be summarised as follows:

Stage 1:

- Ban evictions of informal settlements for a minimum period of 12 months.
- Survey all settlements to identify those which are tenable.

Stage 2:

- Introduce Community Land Rights (CLR) for all tenable settlements
- Relocate 'non-tenable' informal settlements to new sites as close as possible.
- Regularisation of land in these settlements and support for in-situ upgrading.

Stage 3:

- Communities meeting good governance criteria should receive Community Land Titles or lease from PSA
- Titles made available at minimum costs and provide security and enhance the tenure status.
- Individual households wanting freehold titles will be able to do so on payment of relevant costs

Specific proposals for the majority of PLUPAP settlements are listed in the following table.

Potential land tenure enhancement activities in specific communities: LPUPAP Project Areas

Name and Location		Existing Land Ownership	Category	Proposed Tenure changes
Settlements	Pourashava/City Corporation			
1	2	3	4	5
1.	Housing Block B	Kushtia	Leased land	<ul style="list-style-type: none"> ▪ Step 1: Community Land Right ▪ Step 2: Community Land lease
2.	Burmese Colony purba	Chittagong		<ul style="list-style-type: none"> ▪ Step 1: Community Land Right ▪ Step 2: Delayed Freehold
3.	Arambag	Narayanganj		<ul style="list-style-type: none"> ▪ Step 1: Community Land Right ▪ Step 2: Delayed freehold.
4.	Muksed ali sarok	Kushtia	Private land	<ul style="list-style-type: none"> ▪ Step 1: Delayed freehold (individual)
5.	Acharjee para	Chittagong		<ul style="list-style-type: none"> ▪ Step 1: Delayed freehold (individual)
6.	M Circus Bagan	Narayanganj		<ul style="list-style-type: none"> ▪ Step 1: Delayed freehold (individual)
7.	Char badh para	Kushtia	Pourasha va/Public land	<ul style="list-style-type: none"> ▪ Step 1: Community land rights ▪ Step 2: Delayed freeholds (individual)
8.	Santinagar Block C	Chittagong		<ul style="list-style-type: none"> ▪ Step 1: Community land rights ▪ Step 2: Cooperative ownership
9.	Rishipara	Narayanganj		<ul style="list-style-type: none"> ▪ Step 1: Community land rights ▪ Step 2: Cooperative ownership

10.	Nepali Quarter	Kushtia	Public land (BTMC)	Communa l owner	<ul style="list-style-type: none"> ▪ Step 1: Community land rights ▪ Step 2: Registered leasehold
11.	Bihari colony SB Nagar School Math	Chittagong	Public Land		<ul style="list-style-type: none"> ▪ Step 1: Community land rights ▪ Step 2: Public rental
12.	Muchi para	Narayanganj	Private land	Individual owner	<ul style="list-style-type: none"> ▪ Step 1: Tenure as existing ▪ Step 2: Development of area on community desire for which advisory support may be given.
13.	Kumudini Welfare Trust land at Kumudini Bagan	Narayanganj	Land owned as Trust Property	Tied Tenants	<ul style="list-style-type: none"> ▪ Step 1: Community land rights ▪ Step 2: Community based tenure ▪ Step 3: Community ownership

Inevitably, not all settlements will be suitable for medium or long term tenure regularisation or upgrading, since some are in environmentally vulnerable locations, such as canal banks. In these cases, residents should be notified that they will be required to move as soon as alternative sites are identified and prepared. The Consultants have not been able to propose specific alternative sites, though discussions with local officials indicate that such sites exist and can be developed at modest cost. It is proposed that discussions be initiated with the following communities to discuss options for their move.

Proposals for LPUPAP projects considered for relocation

Name and Location		Existing Land Ownership	Proposed Improvement		
Settlements	Pourashava/City Corporation		Category	Proposed tenure	
1	2	3	4	5	
1.	Mollateghoria	Kushtia	Public land	Relocation¹	<ul style="list-style-type: none"> ▪ Cooperative ownership ▪ People should be relocated with full compensation ▪ Guided land development in new location

¹A general classification of major categories based on existing condition, except 'Relocation'. The relocation or resettlement option is a special case. In the three areas proposed, people have to be removed from their present places of stay due to vulnerable condition of the land as explained in the individual case studies in Annex 10. The process is very sensitive as people are uprooted from their own land for public interest. In *Jelepura* the shifting is to conserve drainage of the area.

2.	Laldiar Char	Chittagong	Public land	<ul style="list-style-type: none"> ▪ Cooperative ownership ▪ People should be relocated with full compensation
3.	Jelepara	Narayanganj	Private Land	<ul style="list-style-type: none"> ▪ Delayed freehold ▪ Not all but some of the people will need relocation ▪ They should receive full compensation

The study also points out the need to assess the unused and underused government land in all urban centres. As a case study the amount of such a land in Kushtia Pourashava is calculated and is shown that a total of 130 acres of government land are vacant whilst 265 acres of land has been occupied by squatters for more than 30 years. The study also shows roughly the amount of land owned by Bangladesh Railway and Port Authority in Chittagong city and government lands located in Narayanganj. All these are done only to direct all concerned towards the urgent need to assess un- and under-utilised urban land and plan for reallocation for housing.

In addition the study has also provided a manual for guiding LPUPAP project staff for identification of tenure conditions leading to inclusion of tenure improvement measures in the programme.

The study endorses the proposed national urban sector policy (2007) which suggests-decentralised development and a “hierarchically structured urban system”. The policy also recognises the major collective contribution made to the urban and national economy by the poor and need -- responsibility of government -- to exchange this contribution through slum upgrading and services provision. Keeping consistency with such guidelines and objectives of tenure study the following is recommended;

- Policy options for existing informal settlements need to accept that some settlements may need to be relocated because they are in environmentally vulnerable or economically strategic locations. However, where this is not the case, it is vastly preferable to upgrade such settlements in-situ. Excluding a significant proportion of urban populations from legal shelter reduces the prospects for economic development. People who fear eviction are not likely to operate to their maximum potential, or invest in improving their homes and neighbourhoods. Also when people are excluded, local and central governments are denied the revenue from property taxes and service charges, which could help improve urban living environments and stimulate local and external investment. In addition to this, uncertainty associated with insecure tenure may hinder improvement of the other services such as improved water and sanitation, durability of housing etc. If the principle of in-situ upgrading of ‘tenable’ settlements is accepted in urban Bangladesh, this raises the question of how either relocation or upgrading should be undertaken and what specific tenure options are appropriate. The Consultants recommend the following incremental approach to increasing tenure security and urban land market efficiency:
 - Provide basic short-term security for *all* households in slums and unauthorised settlements.
 - Survey all extra-legal settlements and identify any that are in areas subject to environmental hazards.
 - Offer residents of all such settlements priority for relocation to sites that offer close access to existing livelihood opportunities (e.g. street trading) and services.

- Designate all other extra-legal settlements as entitled to medium term forms of tenure with increased rights, but not necessarily full titles. It is recommended that community based forms of land tenure including co-operatives, be introduced in selected settlements as part of Phase Two of the LPUPAP project.

These measures can provide a sustainable, practical and socially progressive way of improving the tenure security and rights for millions of the urban poor. Improving tenure for the existing urban populations will not be enough unless measures are also taken to reduce the need for new slums and informal settlements. This requires a parallel approach to increase the supply of planned, legal and affordable land on a scale equal to present and future demand. This can be achieved by:

- Revising planning regulations, standards and administrative procedures to reduce entry costs and accelerate the supply of new legal development. Options may include reducing the proportion of land allocated to roads and public open space, relaxing restrictions on plot use and development and simplifying administrative procedures.
- Introducing and collecting property taxes on all urban land, whether developed or not.
- Permitting incremental development of land construction and services provision.
- Permitting households to obtain basic services, such as water, sanitation and electricity, irrespective of their tenure status.
- Finally, the last option involves integrating tenure policy with urban planning and infrastructure provision policies and creating productive partnership arrangements between public, private and civil society stakeholder groups. Ideally, it involves combining forms of tenure which provide security and access to credit with efficient and flexible land use planning based on the priorities and perceptions of the residents, not just the professionals.

Next steps:

1. It is recommended that an early meeting be held between the PLUPAP team and other donors involved in land issues, particularly DFID, UNDP and the World Bank. This should seek to obtain multi-donor support for the incremental, community-based approach advocated by the Consultants and would provide a mandate for the LPUPAP team to approach senior GoB advisers for their agreement to adopt the approach, particularly within the LPUPAP settlements.
2. If possible GoB announce Step 1 proposed in the report, to extend the ban on forced evictions for sufficient time to enable all 'tenable' and 'untenable' informal urban settlements to be identified.
3. The LPUPAP team commence fieldwork with all settlements identified for relocation and identify sites for alternative development in partnership with local stakeholders, to assist in the relocation process.
4. LPUPAP team commence fieldwork in all 'tenable' settlements to initiate the provision of Community Land Rights. It is recommended that initial attention focus on Kushtia.
5. The LPUPAP team work with residents of the *Muchi para* settlement in Narayanganj to help them negotiate either a land sharing redevelopment of their existing settlement or the sale of their land at full market value and the relocation of the community to an alternative site.

PART A: ANALYSIS OF LAND TENURE AND ADMINISTRATION IN BANGLADESH

1.0 Objectives and background

The objective of this study is to provide an understanding of the land tenure system in urban Bangladesh to assist the LPUPAP project work with communities and local government authorities to improve tenure security and living conditions for the urban poor. It is intended that this will provide a basis for influencing land tenure policy in ways which will improve land access and security. In turn, it is intended to support some specific land and housing pilot initiatives.

The purpose of the consultancy is to:

- a) Provide a detailed analytical description of the land tenure and the land administration system in urban Bangladesh and a brief overview of urban land market operation. In particular, identify the *de jure* and *de facto* forms of land tenure and property rights which are in operation for poor urban residents in Bangladesh.
- b) Provide LPUPAP with an analysis of how land tenure and property rights of the urban poor living under different tenure conditions might be enhanced to improve their security and living conditions. This will include an assessment of a range of innovative pro-poor land tenure options with an analysis of their practical potential in Bangladesh and detailed advice on policy development. Ensure a full understanding of the differential tenure security and property rights of women and men in the households.
- c) Identify potential land tenure security enhancement activities in three or four specific communities and provide the concerned stakeholders and the PMT with detailed advice on the approach and options. If the initiatives proceed, provide technical support and mentoring to the communities and project field staff during the implementation of the individual pilot initiatives. These activities would be to provide demonstration activities in parallel with policy development.
- d) Develop an approach for the project (and project partners) to achieve an effective city-wide understanding of land tenure and property rights, based on the agreed analytical framework (arising from a) and b) above). If it is decided to proceed with these town-wide land tenure assessment studies, facilitate the process and provide the necessary support and quality control for two pilot studies in contrasting towns/cities.

The assignment was carried out between April and June 2007 and involved two visits by the international consultant of two weeks and one week respectively, plus one week working from home, together with two months work by the national consultant. The national consultant was engaged for two months.

This version of the report is intended for practitioners working on the LPUPAP project. It complements another version intended to inform discussions on urban land administration and land tenure which is intended to provide a basis for policy discussions between donor agencies and government.

1.1 Urban land and population growth

Bangladesh is experiencing high rates of urban growth through a combination of expanding urban boundaries, rural-urban migration and indigenous urban population increase. The evidence suggests that such growth rates are likely to continue for the foreseeable future. Rural-urban migration is often blamed for the increase, though in fact it only represents a

small proportion of urban growth in the large cities. The major factors are increases in the existing population and the expansion of urban administrative boundaries to include previously rural settlements. Government concerns that helping to improve tenure security and living conditions for the urban poor will only increase rural-urban migration are therefore unfounded.

Countries and cities which accept that the challenge is to manage the process of urban growth, and to do so in ways which meet the needs of all income groups, including the poor, are proving more successful in realising social and economic policy objectives. An initial challenge is therefore to create and reinforce such positive approaches in Bangladesh.

1.2 Urban land tenure

Land law in Bangladesh is based on the common law system of freehold and leasehold title (McAuslan 2000:49). The method of obtaining one or the other differs. Usually land titles can be obtained through inheritance, purchase, gift or will, or by following time consuming procedures. Absolute ownership is not granted for land titles gained from following official procedures² to obtain a lease agreement³. Both may be either private or public, though the method of obtaining them differs.

Apart from the basic freehold and leasehold tenure categories, a number of other basic categories exist. These are:

- *Khas* land (Revenue)
- Public land under ownership of Municipality/City Corporation
- Public land under ownership of various government agencies like Bangladesh Railway, Port Authority, Bangladesh Jute Mills Corporation, Bangladesh Textiles Mills Corporation etc.
- Waqf administered land
- Trust land
- Private land (freehold or leasehold)

As will be demonstrated in section 2.2, land in each of these may also be occupied by residents on a number of other tenure sub-categories, including squatting and renting.

In the case of private freehold or leasehold, the legal framework for accessing land, protecting title and setting out the rights and obligations of the parties to any particular transactions is contained in the Transfer of Property Act 1882 and the Registration Act of 1908. Both these acts remain on the statute book, even though the situations which they are required to deal are very different in the 21st century than applied in the 19th. The most significant law dealing with tenancy is the Non-Agricultural Tenancy Act of 1949.

In urban areas, land use is regulated by the Pourashava Ordinance, 1977 and the Town Improvement Act 1953 (McAuslan 2000:56). Both laws provide that Master Plans must be drawn up for the urban areas for which the laws apply. However, many towns do not yet have such master plans and those which do are rarely implemented.

The leading land lawyer Patrick McAuslan (2000:53-58) notes that the process of dealing with land through Bangladesh's laws is complex, time consuming and extremely expensive. As such, laws have no meaning or relevance to the urban majority – the urban poor.

² Land Administration Manual (Volume 1 & 2), Ministry of Land, GOB.

³ Lease agreements may be short term or long term. Short term includes only a year with a possible 'renewal' option, while long term lease agreements are made for 30 years. In some cases, they can be extended to 99 years.

For those excluded by policies, laws, or costs from accessing land legally, there are a range of unauthorised alternatives. Because the total proportion of unauthorised settlements is so large, a number of tenure categories have evolved to cater for different sub-categories of demand. These are listed and described in Table 3 below. It is important to note that although they may all appear simply as slums to outsiders, these different tenure categories serve different sections of demand. Consequently, government action will have different impacts on each social group. To ensure that objectives have the outcomes intended, it is vital that these differences are fully assessed.

1.3 Urban land administration

Urban land administration is needed to set basic rules for managing land acquisition, transfer and use. As noted above, a key element of good land administration is the need for good governance, so that the population can place their trust in the integrity and competence of those administering urban land.

Land administration can take two main forms; direct intervention by government agencies in the provision of land, housing and services to meet projected needs, or indirect regulation of provision by others, primarily the formal private sector, though often with contributions from civil society organisations. Where these methods of administering urban land are inadequate or inappropriate to local conditions, the gap is invariably filled by a range of informal practices and supply systems. In Bangladesh, all of these forms of administering land in urban areas currently apply.

1.3.1 Land administration agencies

Central government ministries exercise the functions of urban land management (McAuslan 2000:40). First and foremost is the Ministry of Lands, which exercises management functions over all land in the country, whether in rural or urban areas. Its responsibilities include:

- Collecting Land Development Tax (DLT)
- Land use planning
- Land reforms and their implementation
- Undertaking various development programmes relating to land.

Within the Ministry of Lands, land management functions are carried out at field level through the Commissioner at the division level, the Deputy Commissioner at the district level, the Assistant Commissioner (Land) at the *Thana* level and the Tahsildar at the Union level. The Ministry consists of three attached departments with the following responsibilities:

- **The Land Appeal Board.** This was established to deal with the large volume of appeals against the decisions of the Divisional Commissioners/Additional Commissioners on land matters. It is the highest revenue court in the country, serving as the final arbiter in matters of *khas* land, changes in records, plot demarcation and taxation which cannot be resolved at lower levels. As such, it represents the final link in a chain running upwards from the Assistant Commissioner (Land) and Nirbahi Officer at the Upazila, through the Additional Deputy Collector (Revenue) and Deputy Revenue Collector at the district.
- **The Lands Reforms Board.** This was set up to supervise the functioning of the field offices and the implementation of land management and reform efforts. The Board also provides advice and recommendations to the Government on laws, orders and rules applicable to land when and asked to do so. The Board also has a number of functions that it discharges through Upazila land offices and Union *Tahsil* offices. It

administers *khas* (public) land, and manages abandoned and vested property. It updates maps and land records between surveys, sets and collects Land Development Tax. It is also formally responsible for the implementation of land reform legislation.

- **The Directorate of Land Records and Surveys.** This undertakes periodic surveys to update records of land ownership and use. No special provision is made to survey urban areas compared to rural areas, even though the former change more rapidly (McAuslan (2000:40-41))

Among other agencies involved in urban land, the most prominent are the Housing and Settlement Directorate (HSD) and the Public Works Department (PWD), both of which are significant developers. The Local Government Engineering Department (LGED) undertakes development on urban land but is not involved in its acquisition or management.

There are 115 urban local governments (ULGs) operating in the country (Faizullah 1997:47-48). Their involvement in urban land matters is, however, “rather limited” and in the corporation cities, the task of preparing master plans is carried out by respective development agencies. In the Pourashavas, this is undertaken by the Urban Development Directorate.

1.3.2 Land legislation

To acquire land for public purposes, public sector agencies use the Acquisition and Requisition of Immovable Property Ordinance, 1982. However, the Management and Allocation of Non-Agricultural Land Act, 1995, regulation 1401 (07 March 1995) states that “for use of government purpose any government agency or office can be allotted non-agricultural land. But these lands will be sold at the ongoing market value”.

The Transfer of Property Act and The Registration Act set out the procedures which must be followed in order to transfer property, whether by sale, mortgage, lease or gift. In the case of a sale, a contract is required on terms agreed between the parties while the actual transfer of such property of the value of Tk. 100.00 and upwards can be made only by a registered instrument that is an instrument registered under the Registration Act.

Likewise, a lease, if from year to year, or for any terms exceeding one year, can be made only by a registered instrument, but other leases may, if so notified by the government, be made by unregistered instrument or by oral agreement without delivery of possession. However, The Registration Act has made it mandatory for registration of land gained through inheritance.

A gazette notification published by the government on 7th March, 1995 provides the four city corporations, all municipal areas and *Thana sadar* to be treated as town and all *khas* lands including agricultural lands to be treated as non-agricultural lands. This notification also provides that government may give long term lease⁴ of unused *khas* lands to affected families due to natural calamities considering their possession which will not exceed 5 decimals per family. It was further noted that notification is not applicable for the metropolitan areas of Dhaka including Narayanganj and Chittagong.

These laws, regulations and procedures have really no meaning or relevance to the urban majority the urban poor. There does not appear to have been any recent attempt to develop new laws more relevant to the problems facing the urban poor.

⁴ After taking the decision of long term lease the Deputy Commissioner will hand over the possession to the lessee after completion of procedures according to ‘The Transfer of Property Act 1882 and the Registration (Amendment) Act 2004’.

1.4 Urban land markets

There are four main sets of operators in the Bangladesh urban land market: the buyers, the sellers, the intermediaries and investors/speculators.

Although public agencies have converted a significant amount of rural land around Dhaka to urban use, intervention has generally discouraged an increased supply of urban land. Given the continued demand for land because of urban population growth, land and housing prices have therefore increased substantially. This has created a situation in which 57% of the population do not own land, whilst 4% own as much as 28% of the city's land. Seen another way, 2% (the upper income group) use about 15% of the land, another 28% (the middle income group) about 65% and the remaining 70% about 20% of the residential land. The only means of access to land by the urban poor is therefore through a tenancy or as illegal occupiers, where they are vulnerable to the demands of protection money by *maastans*. Where settlers are occupying government land, they are liable to be evicted at any time and often with minimal warning.

2.0 Surveys on urban land tenure and land administration

2.1 Survey methodology

Following initial discussions with the LPUPAP team, surveys were undertaken in three urban centres representing a range of issues and options. These were Narayanganj, Kushtia and Chittagong.

The first step was to identify the full range of tenure categories existing in the three urban centres. Land tenure is the means by which a person holds, occupies or owns land. This is easy to assess for legal forms of tenure, but is more difficult to assess in cities where different forms of informal settlements exist. For example, although some people may be squatting on government land, others may have bought it from previous owners who may, or may not, have been legal owners. Others may occupy land for so many generations that their occupation precedes the creation of a land registry. Finally, others may be renting property with or without contracts. It is thus important to recognise that in all cities there is a continuum of land tenure categories from fully legal to fully illegal and that a large proportion of properties are somewhere between the two extremes.

It was also important to assess the range and nature of property *rights* associated with each tenure category. This is because the basis on which people occupy land may be different from what they are permitted to do with it or on it. For example, people may have different rights to use, transfer, rent, inherit or subdivide land. Each of these rights will influence the value of land to a group and therefore its market price.

To add one further complication, applicability of both men and women in terms of tenure status and property rights was also assessed.

An initial list of categories and sub-categories was prepared as a basis for field testing in the selected cities. This allowed for subtle but important distinctions between various types of informal settlements as well as formal categories. A distinction was also made regarding owners and tenants in unauthorised settlements, or for absentee landlords renting out land informally to poor households.

Studies focused on the tenure categories in which the urban poor were likely to be represented⁵. Whilst fieldwork focused on settlements included within the LPUPAP project, studies were also carried out in other informal settlements to ensure that examples of all informal tenure categories were included.

An initial list of tenure categories was sent to Field Co-ordinators with a request that they identify examples of settlements which contain examples of each category, together with any additional types and examples known to them, prior to a visit by the international and national consultants. They were also asked to identify any non-LPUPAP settlements which provided examples of tenure categories not existing within the LPUPAP project.

A checklist of topics was then prepared for testing with households in different tenure categories during site visits. A list of officials, such as Pourashava Chairmen, Mayors, Deputy-Commissioners, and other key stakeholders, especially community leaders and NGOs, was also identified. Field visits were then undertaken to Narayanganj, Kushtia and Chittagong. On arrival in each city, initial discussions were held with the FC to discuss the project objectives and explain how the tenure surveys could support the objectives of the LPUPAP project. The team then visited a number of settlements reflecting the identified tenure categories where the draft checklist was applied and interviews held with community leaders and individual households. Interviews with community leaders and individual households sought to identify the nature of their tenure status, inspect any documents held

Cost and time constraints prevented the use of quantitative research methods to obtain statistically significant assessments of the existing situation in the urban areas of Bangladesh. A further consideration is that it was made clear during meetings that asking people on whose land they are living would produce different answers, depending on who was asked. Quantitative research methods are not appropriate for untangling such complexity. However, discussions confirmed that an adequate basis for understanding the *de jure* and *de facto* tenure status and property rights associated with different informal tenure categories and issues relating to tenure policy, could be adequately obtained through a series of in-depth case studies within settlements representing each identified informal tenure type.

Studies concentrated on interviews with residents representing each tenure category in each of the selected urban centres. Initial efforts concentrated on settlements where LPUPAP is presently operating and which contain examples of the informal tenure categories. In cases where examples of all identified tenure categories could not be found within the LPUPAP project settlements, additional case studies were undertaken in other areas. Full details of the research methodology employed on the project are listed in Annex 2.

The following methods were used to collect and analyse information on land administration and tenure issues in each settlement:

- Meetings with key stakeholders including, but not limited to, Pourashava Chairs, local NGOs and CDC leaders. The purpose of such meetings was to confirm the presence of each tenure category identified in the selected city and settlements, identify any additional categories, obtain any reports or other materials (including existing land use and ownership plans, aerial photos and/or satellite images); and invite comments

⁵ Initially it was considered unlikely that any urban poor groups would possess full titles or ownership rights. However, cases were found in which some groups actually possess full titles, but live in severely substandard housing. It was therefore decided to include such examples in order to assess the reasons for a lack of improvement in living conditions.

and suggestions on the study and options for improving land management and tenure policy and practice.

- Open meetings in each selected settlement were held to present the objectives of our study and invite comments on tenure issues. A checklist for these discussions is listed in Annex 3.
- Individual case studies with households representing each tenure category to assess their actual tenure status and examine any documentation supporting claims. Interviewees were always cooperative and provided all information regarding tenure, security and those related to livelihoods. The interview usually took place outside the house. On average each interview took between 20-25 minutes. The checklist for these interviews is provided in Annex 4.

Following these meetings and interviews, repeat visits were made to resolve ambiguities or conflicting information (e.g., differences in information provided by tenants and landlords).

Another component of the fieldwork was to obtain information on existing land use in the three selected cities. This focused on existing landholdings by central government ministries and parastatal organisations such as Bangladesh Railways, which hold large land reserves in many urban areas. The extent of un or under-used land was ascertained in an approximate manner in Kushtia and Narayanganj Pourashava.

2.2 Findings on urban land tenure

Various surveys have been undertaken in the study Pourashavas to identify a full range of tenure categories and the nature of tenure security associated with each category.

Fourteen types of land tenure were identified in initial surveys and were the basis for detailed studies. These can exist on any of the main tenure categories listed in section 1.2 (*khas*, trust, private, etc). In order of increasing tenure security, these categories are:

- 1 **Street dwellers:** Persons or families living on pavements or the side of streets. Practically without a roof over their head. Duration can vary from days to months.
- 2 **Tenant, bed rental (Mess housing):** People living by renting bed space as in hostels/dormitories. Not very common and exist only in major cities, around city centres and close to industrial establishments. This type is commonly known as 'mess' type of accommodation.
- 3 **Tenant room rental:** Renting rooms with shared facilities. Accommodation is temporary by nature. May occur on public/private land and public/private housing.
- 4 **Squatter tenant:** Tenants in squatter built houses generally on public land.
- 5 **Squatter:** Person or family living on land belonging to another, usually in self constructed house generally on public land.
- 6 **Tenant – on unregistered and subdivided land:** Rental accommodation in housing built on land which has been subdivided and purchased but not registered.
- 7 **Owner – on unregistered and subdivided land:** Legal owners of unregistered land with building which may be unauthorised generally known as illegal subdivision.
- 8 **Legal tenant without contract:** Tenant living in legal housing under verbal agreement.
- 9 **Legal tenant with contract:** Tenant renting legally developed land/house with legal contract. Normally yearly contract.
- 10 **Tied Tenant:** Tenant who occupies residential quarters as an employee of government, semi- government and private commercial and industrial organisations. Tenure security is tied to retaining the employment.
- 11 **Lease holder:** Possession of land/house under a lease agreement with landowner (public or private)

- 12 **Co-operative member:** Enjoy land and housing as member of a registered co-operative society.
- 13 **Communal owner:** Owners who belong to a group and live in one area and enjoy community welfare and mutual support.
- 14 **Individual owner:** Enjoy land/housing legally and have access to rights of selling/transfer or development of property.

Table 1 shows that each of these tenure categories can exist within any of the land ownership patterns. The first column lists the main tenure categories, eg public (*khas*) land, private or Waqf land. In the second column, the sub-categories found in different urban areas are listed and in the third column are comments on threats and incentives as noted during interviews.

Table 1: Main types of land ownership, tenure categories and sub-categories

Tenure Type		Threats/ Incentives
Land ownership	Occupants & tenure category	
<i>Khas</i> land (Revenue)	<ul style="list-style-type: none"> • Squatter owners • Tenants room rental • Tenants house rental 	Pourashavas may provide holding tax number, but do not boost perceptions of security among settlers.
Public land under ownership of Municipality/City Corporation	<ul style="list-style-type: none"> • Squatter owners • Tenants room rental • Tenants house rental • Legal tenant no contract. 	Can be located in a prime location. Such lands are sought for development at any moment. Insecure feeling among residents.
Public land under ownership of various government agencies like Bangladesh Railway, Port Authority, Bangladesh Jute Mills Corporation, Bangladesh Textiles Mills Corporation etc.	<ul style="list-style-type: none"> • Squatter owners • Tenants room rental • Tenants house rental • Legal tenant no contract. 	Presently under threat of eviction by BR ⁶ .
	<ul style="list-style-type: none"> • Squatter owners • Tenants room rental • Tenants house rental 	Evictions occurred due to land taken for private container port removing 300 hhs. Before the evictions in 2005 they received one year leases, renewable annually. This stopped since 2006.
	<ul style="list-style-type: none"> • Lease holder • Tenants room rental • Tenants house rental • Legal tenant no contract. • Housing quarter⁷ 	Insecure feeling among residents.
Waqf administered land	<ul style="list-style-type: none"> • Tenants with contract/Tenant room rental 	Sometimes a primary school is located in the same premises while local people are aware of disputes over the land.
Trust land	<ul style="list-style-type: none"> • Staff/Workers of the Trust 	No long term security as their jobs may be terminated.
Private owned Land	<ul style="list-style-type: none"> • Individual Owners • Tenants room rentals • Legal tenants no contract • Illegal subdivisions – owner • Tenant -Illegal subdivisions • Individual owners living as a community. 	The owner may ask tenants to leave the area immediately.

⁶ Bangladesh Railway (BR) lands have been occupied by dwellers for decades. The survey found then removing their housings after announcement by Railway authority during mid-March 2007. However the eviction drive stopped due to a conscious move by the caretaker government directing district administration to stop eviction via official order sent on March 17, 2007. (Annex 1)

⁷ In one case, the owner of a mill, who brought them as gardeners, provided the housing as quarters.

The provision of each of these tenure categories in the case study Pourashavas is listed in Table 2 below in order of increasing levels of security. However, some listed categories were not found in the selected Pourashavas. For example, the ‘tenant bed rental’ and the cooperative category were not found in the surveyed towns. For study purposes, the ‘tenant bed rental’ or mess housing and cooperative membership category have been taken from Dhaka city. The sample for bed rental was found within DCC area while the cooperative tenure type has been taken from Savar Park Town located 30 kms away from the Capital to the east, but within the Dhaka Metropolitan Development Area (DMPA).

Table 2: Tenure Categories in Study Pourashavas

Tenure category	Narayanganj		Chittagong		Kushtia	
	LPUPAP	Outside	LPUPAP	Outside	LPUPAP	Outside
1. Street dwellers	x	✓	x	✓	x	✓
2. Tenant bed rental (mess housing) ⁸	x	x	x	x	x	x
3. Tenant room rental	✓		✓		✓	
4. Squatter tenant	✓		✓		✓	
5. Squatter owner	✓		✓		✓	
6. Tenant - on unregistered and subdivided land	✓		x		✓	
7. Owner - on unregistered and subdivided land	✓		x		✓	
8. Legal tenant without contract	✓		✓		✓	
9. Tied tenant	✓		x		✓	
10. Legal tenant with contract	x		x	✓	x	✓
11. Lease holder	x	✓		✓	x	✓
12. Co-operative member	x		x			x
13. Communal owner ⁹	x		✓		✓	
14. Individual owner	✓		✓		✓	
Waqf		✓		✓	x	✓
Trust		✓		✓	x	✓

Note: ‘x’ refers to non-existence of the category; Outside means not in the LPUPAP area but in the study Pourashava. For categories not found in project towns, case studies were conducted in Dhaka.

Each tenure category was found to provide different levels of perceived security. These are summarised in Table 3.

Detailed information on the property rights associated with these proved difficult to obtain. Whilst it was apparent that no legal rights exist to buy, sell, rent or inherit, etc, land or buildings that lacked formal tenure status, there is nonetheless a thriving market in such properties and a wide range of rights exists in practice.

⁸ During the surveys, ‘Tenant bed rental (Mess housing)’ and ‘cooperative members’ were not found in any of the study areas and were surveyed in Dhaka.

⁹ Communal owners in these cases are those who are working as sweepers of Pourashava/City Corporation for generations since the establishment of Pourashava/City Corporations.

Table 3: Tenure types and associated security levels.

Tenure category	Land Ownership	Security Level	Reasons
▪ Pavement dwellers	De facto ¹⁰	Very low	1 No earnings 2 Sleeping place at minimum or no cost 3 No investment required for accommodation
▪ Squatter tenants	De facto	Low	4. Low income 5. No major investment for land and minimum for housing structures which are mostly of temporary materials 6. Location and proximity to work place 7. Kinship of local people 8. Low expenditure
▪ Squatter Owners	De facto	Low	
▪ Tenants on informal subdivisions	De facto	High	
▪ Tenants Room rental	De facto	High	

In all three study areas, people are registered as voters of respective Pourashavas/City Corporations. Some are paying holding taxes, even while residing in *Khas* lands. However, in terms of tenure security, they expressed feeling extremely vulnerable, even those who have occupied the land for several decades. The topic of eviction was raised by all interviewees and they also expressed disappointment for no action taken by any GO, NGO agencies for improvement of their tenure, as they lose all belongings during eviction. They mentioned that fear of eviction always creates tension in their lives and particularly affects women, children and minority groups. It prevents the installation of essential public services and discourages any investment which people would be able to make to improve their houses and local environment. Perceptions of tenure security for squatters on public land is very low, though for those on private land it depends entirely on their relationship with the land-owner and his plans for future land development.

No gender issues were mentioned by any community in any location. Apart from the pavement dweller women interviewees living in the most vulnerable conditions, women did not mention any problems in any interview. Rather, the team found women in the communities active and taking leadership roles in improvement programmes of CDCs. It can be stated that micro credit programmes of the project and the role of women in the CDCs have brought much dignity to the role of women in all communities visited during the tenure study. Women gave positive indications to all proposals and took lead roles in answering questions.

Initial visits to several informal settlements in all three urban centres confirmed the existence of significant variations in tenure status within the informal tenure categories. Many residents showed documents confirming that they had rights to their land through purchase, allocations following previous relocations, or re-use of abandoned lands, etc. There was evidence of extensive sub-letting in some areas. This could make the future allocation of increased tenure rights problematic, since it could lead to disputes as to which household is considered most eligible for such rights.

Some communities have occupied their land for many years, in some cases for more than a century, though without official documents supporting their claims or protecting their rights. Others surveyed are in locations which would entitle them to be designated as 'tenable'

¹⁰ **De Facto:** Existing in actual fact, rightly or not. (eg. squatters), compared to **De Jure:** By right, according to Law. (eg: All public land on lease to individuals or groups; Private land ownership).

settlements and therefore eligible for in-situ upgrading. Whilst environmental or other reasons may require some informal settlements to be relocated, every effort should therefore be made to increase tenure security and improve public services within existing settlements where this is feasible.

In addition to a range of informal settlements, some substandard settlements also exist where residents provided evidence of formal ownership. Despite their apparent tenure security, there was little evidence of investment in home or environmental improvements. It transpired that residents felt under threat of eviction due to the predatory activities of powerful developers or other parties intent on obtaining their lands. This deterred any modest self-financed investments, whilst their low incomes made them effectively ineligible for formal credit. The value of their land as collateral was therefore of little relevance. The community was even unable to sell their prime site to a developer, as to do so would entail depositing their original title deeds with the authorities and they were too suspicious that officials would do a secret deal with a developer to accept such a risk. This demonstrates clearly that whilst tenure security is an essential precondition for obtaining security of living, it is not sufficient in itself to improve the functioning of urban land markets or to reduce urban poverty. Poor governance on the part of land administration agencies in Bangladesh is clearly a major constraint to developing efficient and equitable urban land and housing markets.

2.3 Findings on land administration

Information on urban land administration could not easily be obtained through household surveys in informal settlements, since few households had any dealings with, or knowledge of, the requirements for officially sanctioned land development. As a result, information was obtained through interviews with a number of key stakeholders in the public, private and civil society sectors.

Discussions with several senior officials revealed a common concern to reduce the rate of urban growth through rural development programmes. Whilst rural development efforts are clearly needed in Bangladesh, they are unlikely to reduce rural urban migration, or high rates of natural increase within cities. These views implied an anti-poor bias, rather than a desire to manage the process of urban land development in ways which enable the poor to participate in, and benefit from, the process.

The interviews made it clear that the urban poor currently remain outside any consideration by the government to regulate or upgrade informal settlements, improve land tenure or introduce land development techniques to provide them access to land and housing. Due to inadequacies in land administration and land tenure, ownership is subject to illegal transfers and uses resulting from pressure and demand for buildable land. Land transfer is complex and expensive, so under-reporting of actual values and bribing of officials are both widespread. The land titling system in Bangladesh is not clear even today and makes land transfers for development very complex, time consuming, expensive and uncertain. Real estate developers, land and property brokers take advantage of the system, while ordinary land owners or poor marginal owners lose their land for less than they deserve because they lack adequate information on the true market value of their land parcels. Land holdings by various government agencies are most often not used for the purpose they were allotted for, such as commerce, whilst others actually remain unused. If public land is occupied by slum and squatter settlements they are subject to harsh evictions. The anti-poor role of government agencies and real estate developers in Dhaka and Chittagong have been very prominent in recent years.

People in general obtain urban and peri-urban land in the following ways:

- i. *Conversion of land in the urban fringe:* This is one of the most common ways where fringe lands are converted into residential use by individual middle income households, or bought by rich people for future development or speculation. Housing cooperatives and housing societies are as active in such conversion as the formal private sector. The public sector¹¹ also acquires land in fringe areas and develops it for housing estates. This is common in all urban centres of Bangladesh. As a government programme, NHA (previously known as HSD) also provided low income plots and housing mainly in urban fringes, though these activities were discontinued in the nineties. A few low income housing projects have been completed in Dhaka and Chittagong by NHA with donor funding. LGED has so far undertaken only one low income housing project in Barisal Pourashava funded by ADB.
- ii. *Subdivision of land:* This takes place both in the urban fringe and within central areas. It is a common practice for land owners to subdivide large land holdings and sell them for profit. Inheritance of Muslim laws also subject land to subdivision while demand for buildable land and lack of investment in other areas force escalation of land prices everyday. The tremendous rise in real estate business is also caused for land subdivision even in prime areas of major cities.
- iii. *Development of new land by filling up wet land, riverbeds, canals etc:* This has become a common practice despite being the most illegal way filling up water bodies and wetlands that need to be conserved for environmental sustainability,. Violation of codes and corruption is responsible for such anti development actions and is occurring mostly in Dhaka and Chittagong. Private land developers and real estate companies are the main investors in these conversions, whilst others with black money are also involved. As a result rivers, natural water catchments areas providing fill areas during monsoons have disappeared. Two out of three flood water retention areas designated for conservation in the Dhaka Master plan have almost disappeared by land development programmes of RAJUK and private real estate developers.

A further finding from the surveys and meetings with key stakeholders was the evidence of large areas of government owned land which has never been used, or is substantially under-used. The excuse given for with-holding this from development was two-fold. First, that it may be required at some unspecified period in the future and second that to allocate it to the poor would encourage more poor people to migrate from rural to urban areas. Even assuming that there may be a need to reserve some sites for future government use, the failure to even record or make available details of the public sector land portfolio indicates a high degree of inertia on the part of the relevant authorities. At the same time, the assumption that to allocate some areas for the upgrading of existing informal settlements would increase migration, and therefore the challenge facing land administrations, is without any empirical foundation and can only be considered self-serving on the part of the relevant ministries and agencies controlling such lands.

Interviews with Pourashava officials indicated that they would be sympathetic to allocating some publicly owned lands for upgrading tenable existing informal settlements and also developing new housing for a range of income groups, especially the poor. The main constraint to this was given as bureaucratic vested interests in that land is a source of power even in the public sector and holding onto it is therefore considered more desirable than putting it to use. For example, the Deputy Commissioner in Chittagong stated that whilst he would welcome the opportunity to upgrade settlements on *khas* land held by the railways, any attempt to persuade them to release such areas would be countered by railway officials

¹¹ City Development Authorities, NHA, PWD, UDD are the agencies.

complaining to their senior official who would then complain to the Commissioner. The merits or otherwise of a case would not be considered as important as the precedent it would set. It was also clear from interviews that changes in urban land administration are solely dependent upon political will within central government and that the senior civil servants interviewed are unlikely to promote this. However, it was made clear in one interview that if the will exists, then the existing legal and administrative systems permit a wide range of options. In addition, the National Urban Sector Policy proposes to devolve some responsibilities to Pourashavas and this opens up the possibility that some pilot projects could be undertaken for both settlement upgrading and new development in ways which could significantly improve land market efficiency and equity.

2.4 Findings on regulatory frameworks

Another key element is the regulatory framework which specifies the planning and building standards, regulations and administrative procedures to which all officially sanctioned development must conform. The number and nature of regulatory constraints makes it particularly difficult for people on low-incomes to conform to official requirements. The case of Dhaka city and RAJUK procedures are discussed as an example in Table 4.

Table 4: Official planning and building construction procedures

Stages	Application Requirements	Requisite Fees	RAJUK requirements	Remarks
Stage 1: Land use clearance	10 copies of Application in the prescribed form including: - Land title documents - Site map into a scale of 1:5000 or 1:10000 showing location of the site	Application form 500.00 Tk.	- 30 days to approve application with or without any conditions - Chairman will receive application and further rejection will cause an appeal to Urban Development Committee. The committee will recommend or reject within 30 days.	Validity up to 24 months from the date of approval.
Stage 2: Development permit	Requires an Architect and Civil Engineer to apply for the permit in a prescribed form.	Application form 500.00 Tk.	- RAJUK will either approve or reject the application within 45 days after receiving. - An appeal can be made with Urban Development Committee within 45 days in favour and the committee will dispose the case within 45 days.	Ditto.
Stage 3: Building permit	Application in a prescribed form with requisite papers and 8 sets of design sketches. Requires submission by a registered Architect.	5.00 Tk. per sq.m. for floor area.	- Within 45 days a complete application will be approved. - For incomplete application RAJUK will allow 15 days for resubmission. - Failure in resubmission within 30 days will cancel the application.	Such approval will be valid upto 36 months from the date of approval.
Stage 4: Occupancy certificate	Application in a prescribed form along with reporting about completion of the construction work.		- RAJUK will visit the site within 15 days after receiving application and issue occupancy certificate in a prescribed form. - Any fault will be notified within 15 days.	Renewal of occupancy is mandatory for every five years.

The requirement that building applications have to be submitted by a registered architect is, in itself, sufficient to exclude the vast majority of the urban population from legal development. A further barrier to low-income households being able to meet official requirements includes the current rate charged by RAJUK for building approvals, which is Tk.5.00 per sq.m. to be submitted through an authorised bank. This is the official cost, though it is understood unofficially that amounts not less than Tk. 20,000.00 have to be paid to the clerical section for submission and processing of plans for planning and building permission. This is the average cost for buildings no more than six storeys high. For multi-storeyed buildings, amounts in lacs taka have to be paid unofficially.

2.5 Other findings

In general, household incomes were found to be less than Tk. 5000 per month. The highest percentage was found within the range of Tk. 2001-3000.

Table 5: Income Groups

Income range (Tk/Month)	Narayanganj	%	Chittagong	%	Kushtia	%	Total	%
<2000	0	0.0	1	10.0	2	22.2	3	10.7
2001-3000	4	44.4	3	30.0	4	44.4	11	39.3
3001-4000	4	44.4	3	30.0	2	22.2	9	32.1
4001-5000	0	0.0	0	0.0	1	11.1	1	3.5
> 5000	1	11.1	3	30.0	0	0.0	4	14.3
Total	9	100.0	10	100.0	9	100.0	28	100

Regarding the type of housing and services existing in these settlements, it was found that 6.18% of households live in pucca dwellings, 47.08% semi-pucca and 52.34% in kutcha houses. Only a few were found to live in 'Jhupris' – these being the most temporary of shelters.

Table 6: Housing Structures¹²

Study Area	No. of Settlements	Pucca	Semi-pucca	Kutcha	Jhupri
Kushtia	20	3.35	11.15	5.35	0.15
Narayanganj	18	0.40	8.30	7.05	2.25
Chittagong	70	2.43	27.63	39.94	0.0
Total	108	6.18	47.08	52.34	2.4

The condition of services shows that on average 84.7% households have drainage services, 98.1% have provision of footpaths, 79.0% have electricity and 64.8% have a gas connection. Only 27.1% have a solid waste management system.

¹² The housing structures were classified into four categories; **Jhupri**: Jhupri structures are those structures made of temporary materials like; jutestalk, sack, leaves of trees etc. **Kutcha**: Kutcha structures are those structures made of bamboo, wood, straw, sunhemp and other semi-durable materials like CI sheet, etc. **Semi-pucca**: Semi-pucca structures are those structures where the wall and floor are made of brick and cement and the roof is made of CI sheet, tiles etc. **Pucca**: The pucca structures are those structures where both wall and roof are made of cement and brick. [Source: Type of Housing Structure p 98; Population Census 2001, National Report (Provisional), BBS, July 2003.]

Table 7: Existing Services

Service	Narayanganj	Chittagong	Kushtia	Average
Roads	94.4	100.0	100.0	98.1
Drainage	83.3	75.7	95.0	84.7
Footpath	94.4	100.0	100.0	98.1
Electricity	77.8	74.3	85.0	79.0
Gas	94.4	100.0	0.0	64.8
Sanitation	94.4	100.0	100.0	98.1
Waste Management	5.6	35.7	40.0	27.1

All interviewees, whether tenants or owners, expressed their willingness to accept any tenure improvement programme undertaken by the government and project support with CDC. This was enthusiastically stated in all meetings and general feelings of owners and leaseholders is summarised below:

Respondents were asked if they are willing to accept community forms of land tenure if the authorities take such decisions in future to improve their tenure conditions. Their feelings as expressed by tenure groups are shown below:

- Tenants : Community tenure should be arranged under CDC management.
- Owners : Community tenure should be arranged under CDC management.
- Leaseholders : Community tenure should be arranged under CDC management.
- Street Dwellers : Preferred social housing.
- : Ownership to be given to some organisations.
- : Arrangements for low cost accommodation.
- : Requests for employment provision.

PART B: OPTIONS FOR IMPROVING URBAN LAND TENURE RIGHTS AND LAND ADMINISTRATION

3.0 General considerations

The interviews and surveys confirmed literature reports that land administration in Bangladesh is characterised by poor governance, weak financial and institutional capacity, limited accountability mechanisms and a political system in which rent-seeking is invidious and the incentive for change is low. This is compounded by a limited degree of decentralisation and weak local institutions. Since power and resources are concentrated in Dhaka, it is inevitable that this is the centre of population and urban growth.

The Government is processing a National Urban Sector Policy (2007) which proposes decentralised development and a “hierarchically structured urban system”. A wider spatial basis for urban development is clearly desirable, though international experience suggests that a move from the present structure to a more even distribution of population will require a massive transfer of power and resources from central to local and provincial government. It is encouraging that this is stated as a key proposal in the new urban policy, but it remains to be seen if this will actually happen.

The National Urban Sector Policy represents a welcome change of approach from that reflected in previous and even current approaches in which the poor are seen as the problem of urban development and not as contributors to the country’s economic growth. The new policy recognises the major collective contribution made to the urban and national economy by the poor and the need – and responsibility of government – to enhance this contribution through slum upgrading and services provision (clauses 3.b, 5.8.6, 5.9.1/2/3, 5.11.7 and 5.23). Improving the tenure security of ‘tenable’¹³ slums in ways which stimulate investment in home improvements by the residents is a key element in such upgrading and needs to be undertaken in ways which are within the institutional resources of government agencies and minimise land and housing market distortion.

These measures will help to address the concerns of the formal business community about the need for infrastructure and other facilities to promote economic growth. Such support for the efforts of the poor to lift themselves out of poverty is overdue. The urban poor in Bangladesh enjoy far fewer rights than their compatriots in India, where slum communities are registered and so slum dwellers have rights to public services. Without minimum land rights, the local ‘muscle-man’ or ‘mastaans’ in Bangladesh act as brokers negotiating (and making money from) access to land and services, as well as access to local labour markets and politicians.

Another positive feature of the National Urban Sector Policy is the proposal to review regulatory constraints to the development of efficient land use in existing urban areas (clauses 5.4.10, 5.8.1). This can help to reduce the expansion of urban areas into productive agricultural land, reduce unit land and infrastructure costs and put un- or under-used land to more efficient use. This is particularly important in view of the large areas of surplus land already held by government agencies. At the same time, introducing various forms of public-private-people partnerships (clause 5.4.10) and innovative forms of land development, such as land pooling/readjustment, guided land development, land sharing, sites and services, etc

¹³ The National Urban Sector Policy states (clause 5.9.1) that “an informal settlement or slum may be considered untenable if human habitation in such settlements entails undue risk to the safety or health or life of the residents themselves or where habitation is considered contrary to the “public interest” as determined by the local authority through a consultation process involving all the stakeholders”. All other slums are considered ‘tenable’ and eligible for in-situ upgrading.

can generate increased incomes for developers, revenues for government and affordable housing for all social groups, including the poor.

Given the positive approach presented by the National urban Sector Policy, the challenge facing government is to prioritise those recommendations which can be implemented without delay and provide a springboard for further progress. The remaining sections of the report focus on options for such change.

Before identifying specific options for increasing tenure security in existing informal urban settlements and urban land administration, it is important to remember that the numbers of settlements involved is both extremely large and increasing annually, whilst the institutional, financial and technical resources available are limited. It also has to be remembered that existing land administrative capability is limited and urban land registers are not comprehensive, detailed, or up to date.

To identify, survey, register, provide individual tenure documents and update the land register is likely to take many years even in a small urban area such as Kushtia. For larger cities, such as Dhaka and Chittagong, the task is likely to take decades rather than years. During this time, transfers will be taking place, putting even more pressure on registry staff to update records as well as add new ones. Any proposals for change at the local level should therefore be made on the basis of their potential replicability, to avoid the accusation that the LPUPAP case studies are merely token contributions to improving tenure security and living conditions for a fortunate minority of the urban poor.

Another consideration is that changes to land tenure will have a significant impact on land and property values, even before any improvements are made. Moving from an illegal to a legal status in one step through the allocation of individual land titles will move a property directly into the legal land market, with potentially massive increases in market value. Residents in squatter settlements will quickly become aware of the prospect of such windfall profits and naturally seek to obtain full individual ownership for that reason. Such an approach can be expected to have several outcomes:

- Owners of newly titled properties may be tempted to sell their properties in order to realise the enhanced capital value of their homes. Since they will not be able to afford an already legal property, they may be tempted to find other empty lands in order to squat again in the hope of repeating the process. In some countries, this has led to the emergence of professional squatters. Rather than solve the problem of illegal development, allocating individual titles may therefore achieve the opposite.
- Owners of legalised properties with tenants can be expected to increase rents in line with the newly legalised property values, thereby leading to large scale market evictions of the poorest urban social groups. Such a regressive outcome is not consistent with a policy intended to increase tenure security for the urban poor.
- Owners seeking to sell, usually base their assessment of the increased value of their property on anecdotal evidence, rather than full market awareness. This makes them vulnerable to other more informed professional property dealers who may use their superior knowledge to take advantage of existing settlers, to benefit financially more than the plot owners. Again, this is not an intended outcome of a progressive tenure policy.

For these reasons, it is not recommended that Bangladesh adopt policies of individual land titling in urban areas for the time being. The following section explores a possible alternative approach to increasing tenure security which is consistent with the need to improve the management of urban land markets within existing resources in ways which benefit the poor, increase government revenues and improve local governance.

3.1 Specific tenure enhancement options

An efficient and equitable urban land and housing market is one which provides a range of options to meet the required range of needs at the scale appropriate to demand. It should also be sufficiently flexible to respond to changes in either the nature or scale of needs.

As a signatory to the United Nations Habitat Agenda, Bangladesh is committed to improving tenure security and living conditions of the existing urban population, especially the urban poor¹⁴. Apart from a moral obligation to assist those members of society least able to help themselves, this has a practical benefit in that it will enable the poor to increase their already substantial collective contribution to the urban economy which will in turn generate increased revenues for government.

Given the scale, complexity and dynamic nature of urban land and housing markets, it is impossible for government agencies to control or manage them. However, governments have a vital role in regulating and guiding markets and facilitating development in ways which promote environmentally and socially desirable development. Land tenure systems play a critical role in meeting these objectives and a range of tenure options is essential to meet the varied needs of different social groups.

Many different tenure options deserve consideration in improving tenure security and the creation of efficient and equitable urban land markets. However, international experience confirms that no single tenure option is suitable for all social groups or all situations and that a range of options is therefore essential to meet diverse and changing needs. In the circumstances facing urban Bangladesh, the most appropriate range of options is likely to include the following:

- Freehold
- Delayed freehold (i.e., purchase with mortgage)
- Co-operative ownership
- Registered Leasehold
- Private rental
- Shared equity
- Community-based tenure (rental, government granted permit, leasehold or ownership)
- Religious tenure systems (e.g. Islamic).

It will be noted that public rental is not included in the above list. This is because it is not considered that this can be effectively managed or maintained to meet the needs of residents and that levels of cost recovery are invariably very low. Public rental projects are therefore neither socially sustainable nor economically replicable. The characteristics of different land tenure categories and their implications for application in the urban areas of Bangladesh are summarised in Table 8.

Given that the urban areas of Bangladesh presently comprise a large and increasing proportion of informal tenure categories and sub-categories, a second consideration is what are the most appropriate tenure options for existing settlements and those that can be expected in future. Table 9 summarises the key benefits and limitations of different tenure options and their possible applicability in principle in the urban areas of Bangladesh.

¹⁴ Among the specific actions listed in the UN Global Plan of Action, to which Bangladesh is a signatory is the proposal that governments "explore innovative arrangements to enhance security of tenure, other than full legalisation which may be too costly and time-consuming in certain situations, including access to credit, as appropriate, in the absence of a conventional title to land".

Table 8: Tenure systems, their characteristics and applicability in Bangladesh

Tenure system	Characteristics	Advantages	Limitations	Applicability in Bangladesh
Freehold (individual)	Ownership in perpetuity	Provides a high degree of security. Freedom to dispose, or use as collateral for loans. Maximises commercial value, enabling people to realise substantial increases in asset values.	Costs of access generally high. Collateral value may not be relevant if incomes are low or financial institutions are weak. Property values can go down as well as up and may trap the unwary in properties worth less than they paid for them.	Enjoyed by an affluent minority. Granting this to the majority would over-burden land admin agencies; restricting it to a few would distort land markets. Windfall profits could encourage squatting from those seeking similar benefits. Rents for existing tenants would also rise.
Delayed freehold (individual)	Conditional ownership. Title is granted on the completion of payments or when developments have been completed.	This provides the same high degree of security as freehold, providing payments are made as required or developments have been completed. Freedom to dispose, or use as collateral for loans. Maximises commercial value, enabling people to realise substantial increases in asset values.	Failure to maintain payments or undertake developments may result in eviction and loss of funds invested. Collateral value may not be relevant if incomes are low. Property values can go down as well as up and may trap the unwary in properties worth less than they paid for them. Expectations of increased values can divert investments from more productive sectors.	The same considerations apply as above. Low-income households would not be eligible for a conventional mortgage and would only be able to borrow from sources not requiring property as collateral.
Cooperative ownership	Ownership is vested in the co-operative or group of which residents are co-owners	Good security. Maintains social cohesion.	Requires a legal framework. Restrictions may reduce incentives to invest. Requires double registration first of land and of association	The necessary legal framework exists in Bangladesh so this could be applicable for well established communities. It would not probably be suitable for all low-income groups.
Registered Leasehold (individual or community based)	The right to hold or use property for a fixed period of time at a given price, without transfer of ownership, on the basis of a lease contract. A leasehold is a	As secure as freehold, but only for the period. Provides residents with full security for the duration of the lease, providing terms and	Requires legal framework. Costs of access generally high. Unfamiliarity with the concept of leasehold tenure may discourage acceptance by	This is a legally established option and could be more widely applicable, including for low-income groups. Community leases could also be

	fixed asset. Ownership for a specified period from a few months to 999 years.	conditions are fulfilled. This may include payments for the ground rent or other costs stated within the lease contract; Makes minimal demands on the administrative system for land management since only plot boundaries need to be specified; Discourages the tendency for higher income groups to buy up plots or houses in the settlement, making it easier for it to be available on a long term basis to low-income households; Facilitates the installation of services specified in the lease.	authorities or local residents; Requires legal advice in preparing leases; Failure to meet obligations may therefore prejudice the lease. May not facilitate access to formal credit, though this is usually dependent upon incomes rather than property collateral. Ownership of the land remains with the government. If lease duration is sufficient to attract higher income households to buy into a settlement, it may encourage speculative pressure and 'downward raiding'.	an interim option prior to surveying and registering individual leases or freehold titles.
Public rental	Rental occupation of publicly owned land or house	Provides a high degree of security providing terms and conditions of occupation are met.	Limited supply may restrict access. Often badly located for access to livelihoods. Terms often restrictive. Deterioration may result if maintenance costs not met.	High construction and maintenance costs make this option unsuitable for general application. Public rental also invariably suffers from poor cost recovery rates, making it financially unsustainable.
Private rental	Rental of privately owned land or property.	Good security if protected by legally enforceable contract. Provides tenants with flexibility of movement.	Open to abuse by disreputable owners. Deterioration may result if maintenance costs not met.	This is a key option in any urban land market and should be encouraged, though large-scale rentals with absentee owners is less desirable.
Shared equity	Combination of delayed freehold and rental in which residents purchase a stake in their property (often 50%) and pay rent on the remainder to the other stakeholder.	Combines the security and potential increase in asset value of delayed freehold and the flexibility of rental. Residents can increase their stake over time, ultimately leading to full ownership.	Requires a legal framework and efficient management.	This requires a higher level of institutional management than is likely to be applicable in Bangladesh, except for special cases.

Community based tenure	This can take several forms from rental by a community of generally private land for an agreed period. At the end of the period, the community an extension may be agreed or the community is given notice to leave within an agreed period. Other options include Community Area Permits, Community Leases, or community ownership.	Community land rental is common in Thailand as landowners can generate an income from land until it is to be developed commercially. Enables low-income communities to live in areas which would otherwise be unaffordable. Community permits and ownership provide a simple means of increasing security and strengthening communities.	Requires trust on behalf of both parties to honour the agreement. All community based tenure systems require a well established community structure or support system – or at least the potential to create these.	This has considerable potential in Bangladesh, especially as an initial or interim option. It is inexpensive to provide, increases tenure security, is widely acceptable to communities in informal settlements and minimises administrative problems. It can be provided quickly at a large scale and therefore minimises land market distortion.
Customary ownership	Ownership is vested in the tribe, group or community. Land is allocated by customary authorities such as chiefs.	Widely accepted. Simple to administer. Maintains social cohesion.	May lose its legal status in urban areas. Vulnerable to abuse under pressure of urbanisation.	This is not applicable in Bangladesh.
Religious tenure systems (e.g. Islamic)	There are four main categories of land tenure within Islamic societies. 'Waqf' 'mulk', 'miri', 'tassru' or usufruct rights, is increasingly common, whilst 'musha/mushtarak', is collective/tribal ownership.	Facilitates family or group tenures and accessible and affordable land management procedures	Because they are outside the commercial land market, <i>waqf</i> lands are often inefficiently managed. Inheritance disputes can cause land conflicts	This is not widely applicable in Bangladesh.

The notes provided in this table are for guidance only and need to be adapted according to the conditions applicable in each urban area and settlement.

Table 9: The benefits and limitations of different tenure policy options

Policy option	Benefits	Limitations	Applicability in Bangladesh
A: Evicting unauthorised settlers	Releases land for more productive use. May facilitate providing more secure tenure elsewhere.	Disrupts communities already suffering from multiple deprivations. Actually reduces the housing stock, unless alternative shelter is provided. Moves problems elsewhere. Socially and politically contentious. Relocation sites are often far from places where people can access livelihoods and services.	This option is favoured by some conservative officials. Certainly, some settlements will need to be moved if they are in environmentally vulnerable locations or on sites required for major public works. However, these are a small minority. Priority should therefore be given to developing alternative locations as close as possible to their existing settlements to which communities can be moved. Opposition can be minimised by providing modest compensation to cover relocation costs.
B: Providing titles if beneficiaries have adequate income	Provides a high degree of security Grants poor households an asset they could otherwise not afford. May increase access to formal credit if incomes are sufficient to service loans. Encourages residents to invest their resources in home and neighbourhood improvements. May increase revenues from property taxes, where levied. Often linked to servicing.	Places a heavy burden on agencies preparing and allocating titles/cannot be done at scale. Distorts land and housing markets unless granted on a large scale. Open to abuse and nepotism if granted on a small scale. May stimulate litigation over competing claims. Unlikely to increase access to formal credit through banks. May actually encourage unauthorised development by groups hoping to obtain titles at a later date. May expose poor residents to unaffordable property taxes and service charges. May result in higher rents or the eviction of tenants.	Titles may be justified to residents who have a strong claim to the ownership of their land. Examples might include residents who have been resident for many generations and before land registration applied in their locality. Residents who were moved to their present locations due to previous government action also have a strong claim to receive titles to their land – or another land parcel plus compensation if required to move again. Apart from these exceptions, granting individual land titles to residents of informal settlements presents two major practical problems: given limited capability of the land administration agencies, it will take many years to survey, register and allocate titles, during which time transfers will render registries out of date. If allocated on a case by case basis, it will result in massive land market distortion. For these reasons, land titling is not an appropriate option in Bangladesh at present.
C: Intermediate tenure options, such as Community Land Trusts, Community Leases, private land leases, Certificate of Rights, etc.	Increase security. Encourage residents to invest their resources in home and neighbourhood improvements. Minimise land and housing market distortions. Do not encourage further	Not widely accepted by finance institutions as collateral for loans. Can take years to introduce by reforming legal frameworks. Difficult to replicate if introduced outside of mainstream legal framework. Require large-scale capacity building among implementers.	These offer major advantages in that they can increase tenure security for all tenable settlements without over-stretching administrative resources or distorting urban land markets. They can also reinforce multi-sectoral community development programmes by encouraging residents to work together in improving their local environment and living conditions. They can

	<p>unauthorised development. Reduce administrative burden. Increases social cohesion and community solidarity. Reduce the temptation for residents to obtain a windfall profit by selling their homes to higher income groups. Facilitate access for future low-income groups.</p>		<p>also provide the first step in an incremental process of land tenure regularisation which might end up with individual rights at a later stage. For these reasons, community-based tenure options are strongly recommended for many types of informal settlements</p>
<p>D: Increasing short term land occupancy rights.</p>	<p>Increases de facto security. Only requires an announcement which minimises administrative burden. Reduces the temptation for residents to obtain a windfall profit by selling their homes to higher income groups. Facilitates access for future low-income groups. Provides breathing space to develop more formal tenure alternatives.</p>	<p>Not accepted by finance institutions as collateral for loans.</p>	<p>This could provide basic short term tenure security for all informal settlements, thereby protecting residents from the threat of forced evictions. It has the additional advantage of maintaining government powers to remove any settlements defined as 'untenable' as soon as alternative sites can be found for them. A further advantage is that no costs are involved.</p>
<p>E: Integrating tenure policy with urban planning and infrastructure provision policies (e.g. strategic urban development plans or structure plans).</p>	<p>Creates diverse and dynamic urban societies in which the poor can play a full part. Enables all stakeholders to contribute. Improves the level of security and quality of life for low-income groups. Improves public health and labour productivity. Minimises the need for subsidies.</p>	<p>Requires an administrative structure responsive to active participation by local groups. Can be time-intensive, especially in the early stages. Requires effective co-ordination between relevant agencies and between them and other stakeholders.</p>	<p>All tenure options need to be integrated with programmes for the provision of public services and community facilities. Tenure policy can provide the foundation for such social and economic development programmes.</p>

Policy options for existing informal settlements need to accept that some settlements may need to be relocated because they are in environmentally vulnerable or economically strategic locations. However, where this is not the case, it is vastly preferable to provide tenure security and upgrade such settlements in-situ. Excluding a significant proportion of urban populations from legal shelter reduces the prospects for economic development.

People who fear eviction are not likely to operate to their maximum potential, or invest in improving their homes and neighbourhoods. Also when people are excluded, local and central governments are denied the revenue from property taxes and service charges, which could help improve urban living environments and stimulate local and external investment. In addition to this, uncertainty associated with insecure tenure may hinder improvement of the other services such as improved water and sanitation, durability of housing etc. If the principle of in-situ upgrading of 'tenable' settlements is accepted in urban Bangladesh, this raises the question of how either relocation or upgrading should be undertaken and what specific tenure options are appropriate.

Almost all households interviewed expressed a preference for individual land ownership. When it was pointed out that the numbers of plots which would have to be identified, surveyed and registered, in addition to conflicts resolved between neighbours, would take many years to implement, all households agreed that they would accept some form of community based tenure as a medium-term form of security, providing it was on acceptable terms. A major benefit of community tenure systems for local governments is that they simplify the process of allocating tenure, enable communities to resolve land border disputes between themselves and make it much easier to recover costs than if the authorities had to deal with a large number of individual households. Most households lacking any formal security also offered to pay for their land, providing terms and conditions were acceptable. Professor Nazrul Islam has also been advocating community based land rights for periods of ten years in Bangladesh. Similar support was received during meetings with other stakeholders in NGOs and local government.

As mentioned above, the key considerations are how tenure policies can improve security and rights for existing communities in 'tenable' settlements within the available institutional resources. For this purpose, an incremental approach is proposed to help stabilise the existing situation and provide a foundation for longer-term options. This involves the following steps:

- Provide basic short-term security for all households in slums and unauthorised settlements. This can easily be achieved through an announcement in the local radio, newspapers or other media. A statement by the relevant Minister is often sufficient to reduce uncertainty and stabilise situations.
- Survey all extra-legal settlements and identify any that are in areas subject to environmental hazards, (e.g. floods, landslides, etc) or required for strategic public purposes. These should be subject to independent review.
- Offer residents of all such settlements priority for relocation to sites that offer close access to existing livelihood opportunities (e.g. street trading) and services (i.e. not out of the city). Temporary Occupation Licences or Permits can be provided for a limited period, depending on how long it takes to agree with the local community on moving to alternative sites.
- Designate all other extra-legal settlements as entitled to medium term forms of tenure with increased rights, but not necessarily full titles. Where possible, the precise form of such tenure and rights should be based on tenure systems already known to local communities. Community based tenure options, such as leases, may be acceptable to residents and can reduce the administrative burden on land management agencies. This will allow such areas to receive services and environmental

improvements through a participatory process of physical and socio-economic development. It will also increase security without stimulating rapid increases in land prices which could attract downward raiding by higher income groups and the displacement of very poor tenants. For unauthorised settlements on private land, options can include land sharing, under which settlers may be provided long-term tenure on part of their site and the landowner develops the remainder. Local authorities can assist this approach if they permit relaxation on planning or building restrictions so the landowner can recoup any lost profit or income. Temporary land rental is another way of reconciling conflicting interests.

These measures can provide a sustainable, practical and socially progressive way of improving the tenure security and rights for millions of the urban poor. They can also improve the functioning of urban land and housing markets, stimulate economic development and improve the effectiveness of government in urban management.

Improving tenure for the existing urban populations will not be enough unless measures are also taken to reduce the need for *new* slums and informal settlements. This requires a parallel approach to increase the supply of planned, legal and affordable land on a scale equal to present and future demand. This can be achieved by:

- Revising planning regulations, standards and administrative procedures to reduce entry costs and accelerate the supply of new legal development. Options may include reducing the proportion of land allocated to roads and public open space, relaxing restrictions on plot use and development and simplifying administrative procedures.
- Introducing and collecting property taxes on all urban land, whether developed or not.
- Permitting incremental development of land construction and services provision.
- Permitting households to obtain basic services, such as water, sanitation and electricity, irrespective of their tenure status.

Both existing and new urban settlements will need to be developed in ways which increase access to livelihood opportunities, services and community facilities at costs affordable to all sections of the population, including the poor. Since subsidies will not usually be able to bridge the gap, it will be necessary to adopt several related policy measures to reinforce progress in providing increased tenure security and property rights. These include:

- Improving governance, especially at the urban and local levels.
- Decentralising resources and responsibilities to the lowest possible administrative level
- Strengthening community participation in the formulation as well implementation of urban development policies.
- Promoting partnerships and joint ventures between government, developers and communities to extract a public benefit from private sector investments and developments. Such projects can also help generate internal cross-subsidies to facilitate low-income access.
- Encouraging mixed land use developments, except for pollution generating activities
- Encouraging finance institutions to provide credit without requiring titles as collateral.
- Strengthening the administrative capacity of land administration and land registry agencies.
- Improving transportation links between residential, commercial and industrial areas.

3.2 Specific urban land administration options

Tenure policy needs to be considered as part of urban governance, spatial planning and infrastructure provision to ensure that security and rights are balanced with improved access to livelihoods, services and credit. There are five commonly adopted approaches to achieving these objectives:

1. The first option concentrates on asserting the need to implement master plans and regulations and generally involves the eviction and relocation of unauthorised settlements with, or without, compensation or alternative shelter. Such approaches invariably reflect a concern for visual order rather than meeting the needs of the poor or improving the urban economy.
2. The second option advocates the granting of full individual property ownership in the expectation that this will enable the poor to obtain credit, realise the potential value of their property assets and lift themselves out of poverty, whilst also raising revenues from property taxes. It may be undertaken as part of the first approach by granting titles to relocated households. Due to high land costs in areas near employment centres, such relocation projects are often outside the urban area and impose high transport and infrastructure costs on the poor.
3. The third option emphasises the need to introduce or expand 'intermediate' forms of tenure, such as community land trusts, Temporary Occupation Licenses, shares in land-buying companies, shared titles or land leases, etc to provide medium term security at prices lower than formal titles would command. These enable low-income groups to live in areas which would otherwise be unaffordable.
4. The fourth option focuses on the need to increase rights of occupancy, use, development, etc, for all households in unauthorised settlements, especially for women. Once the situation has been stabilised, emphasis can then move to building on existing local tenure systems with which people are already familiar, before importing new options.
5. Finally, the last option involves integrating tenure policy with urban planning and infrastructure provision policies and creating productive partnership arrangements between public, private and civil society stakeholder groups. Ideally, it involves combining forms of tenure which provide security and access to credit with efficient and flexible land use planning based on the priorities and perceptions of the residents, not just the professionals.

The last of these options is the most effective approach to enabling low-income groups to obtain legal and affordable land, housing and services in urban areas. Whilst this has not been the approach adopted to date in Bangladesh, the National Urban Sector Policy represents an opportunity to move forward in this direction.

Specific options for innovative urban land management and participatory urban development are summarised in Tables 10 and 11. These can be considered in the case of new developments, or the development of sites for the relocation of existing 'untenable' informal settlements. The selection of a specific option will need to be based on the particular context of each case. For example, whilst Guided Land Development may be applicable in most contexts, Land Pooling/Land Readjustment will only be applicable in areas where new development is in an area where there are many land-owners whose parcels have to be amalgamated into one development site.

Table 10: Innovative options for urban land development and their characteristics

	Characteristics	Benefits	Limitations	Conditions for success	Applicability in Bangladesh
Land Pooling or Land Readjustment or consolidation	<ul style="list-style-type: none"> • A technique for managing and financing urban land development. • Used to assemble and convert rural land parcels in selected urban-fringe areas into planned layouts of roads, public utilities, public open spaces and serviced building plots. • The process involves the amalgamation of individually owned land parcels into a single area for its efficient subdivision and development. • Projects are funded by selling some of the plots to recover development costs, with remaining plots distributed to the original landowners on the understanding that the asset value of the reduced area of subdivided land received will be significantly higher than the existing value. 	<ul style="list-style-type: none"> • Meets the primary interests of land-owners in realising a high value of property and government interests in achieving efficient land development. • Particularly relevant in areas under pressure of urbanisation where land is held by a large number of private landowners. • Can help to co-ordinate urban land development and facilitate the provision of essential infrastructure and planned land subdivision, thereby reducing service provision costs. 	<ul style="list-style-type: none"> • Requires a legal framework and effective municipal land management structure • Limited ability to benefit low income group access, since all land-owners want to maximise land values. • Can take many years to assemble, develop and allocate land parcels. • Projects are dependent upon land owner support according to the terms defined locally. • Some landowners may become land speculators and withhold plots from sale and building for years. This may require introduction of a vacant land tax. Alternatively, the LP or LR agency could sell many of the landowners' plots and pay the money proceeds to them. • It requires cadastral information, capable land valuation and project management personnel, and the availability of credit finance. 	<ul style="list-style-type: none"> • The local government (or other approved government LP or LR agency) is genuinely interested in achieving the planned development of its urban-fringe lands. • Areas proposed for LP or LR are divided into separate landholdings and with limited existing development. • The areas proposed are legally, physically and economically suitable for urban development, • The majority of landowners in the proposed LP or LR areas understand and support the use of LP or LR for their area. • There is a government law and administration to authorize and oversee the planning & implementation. • Skilled and competent personnel are available to prepare and implement the projects. 	<ul style="list-style-type: none"> • LP or LR programmes require a legal and administrative framework which does not presently exist in Bangladesh and is likely to take some time to establish. It is not therefore considered an appropriate policy option for the foreseeable future.

Transferable Development Rights (TDR)	<ul style="list-style-type: none"> • TDR involves separating development rights from the ownership of land where development is to be discouraged and make them transferable to lands where it is considered desirable. In other words, the parcels of land where development rights originate and where they are consumed are different. • TDR is used in India as a development control tool for implementing plans and is granted on lands reserved for roads, open spaces and amenities. can be consumed only at designated receiving zones, which exclude sensitive and congested areas • The Floor Area Ratio (FAR) or Floor Space Index (FSI) applicable in the surrendering area will be added to that in the TDR receiving area, enabling the person receiving TDR to benefit from higher levels of development. 	<ul style="list-style-type: none"> • TDR enables government to guide new development away from highly congested areas to those where new development is considered desirable without the need to pay financial compensation. • It offers several advantages to the local authority over monetary compensation, such as the possession of immediately usable and unencumbered lands, speedier procedures, and an improved tax base, as theoretically the entire urban land becomes saleable. • The property owner is free to trade TDR on the open market. • TDR can also be used for other purposes, such as conserving heritage/landmark areas/buildings and environmentally critical areas. • TDR can also contain/control urban sprawl by intensifying the use of urban land, put transportation networks to efficient use, and reduce travel distances and costs. 	<ul style="list-style-type: none"> • TDR depends for its successful implementation on an efficient administration which is sensitive to market behaviour and in selecting new areas where developers are willing to invest. • It is difficult to enforce TDR in a land market where prices are not increasing and therefore making new areas attractive to developers. • The land on which TDR is granted must be first surrendered to the authorities unencumbered, levelled and compounded, free of cost. • Development charges and municipal property tax are both payable on TDR consumption. • A lack of land title clearance by owners may discourage acceptance. • TDR is not effective during the slump in the property market. • If the TDR in the receiving base is restricted acceptance may be low. • Speculation may inhibit their adoption. 	<ul style="list-style-type: none"> • Since it is a relatively new concept, review and monitoring are essential to predict future trends so that infrastructure needs of the additional population can be taken care of. • The preconditions for the success of TDR are a stable and growing property market, and adequate receiving base. Additional factors include: <ul style="list-style-type: none"> • Value of land versus the cost of construction land values will generate a good market for TDR • Interest on compensation versus TDR value (market appreciation of TDR should be more) • Value of compensation versus value of TDR (TDR value should be higher than compensation) • Availability of vacant developable pockets as the TDR receiving base (if the entire city is built up, it may be difficult to consume TDR even if permitted). 	<ul style="list-style-type: none"> • This requires a legal and administrative framework which does not exist in Bangladesh and would take some time to establish. • It might be possible in Dhaka. Should interest be expressed, it is recommended that senior officials contact the relevant authorities in Mumbai, India, where the option has been applied for some years and has helped relocate slum dwellers living along inner city railway lines.
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<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Community Land Trusts (CLT)</p>	<ul style="list-style-type: none"> • A Community Land Trust is a private non-profit corporation created to acquire and hold land for the benefit of a community and provide secure affordable access to land and housing for community residents. In particular, CLTs attempt to meet the needs of residents least served by the prevailing market. 	<p>Community land trusts help communities to:</p> <ul style="list-style-type: none"> • Gain control over local land use and reduce absentee ownership • Provide affordable housing for lower income residents in the community • Promote resident ownership and control of housing • Keep housing affordable for future residents • Capture the value of public investment for long-term community benefit • Provide a strong base for community action. 	<ul style="list-style-type: none"> • It is not always understood or regarded sympathetically by administrators • It requires a degree of community cohesion which cannot be guaranteed. • 	<p>A good option where the local authority is flexible and where community cohesion is strong. See www.bshf.org for more information and examples.</p>	<p>These also require a strong legal and administrative framework and would not be applicable in Bangladesh in the sort term.</p>
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<p style="text-align: center;">Requests for Proposals (RFPs)</p>	<p>RFPs are a means of enabling government land to be developed for a range of uses, including low-income housing, at no cost to the authorities, Private sector developers are invited to submit proposals specifying a commitment to providing a range of mandatory components and as many of a range of additional components as they consider financially feasible. Proposals are then compared and the one which commits to providing the most components is declared the winner and is free to implement proposals without delay. RFPs encourage fair competition between developers in ways which also meet specified social policy objectives</p>	<ul style="list-style-type: none"> • The prospect of receiving between 20-30 percent of the proposed number of housing units in exchange for granting development rights on municipally owned sites to private developers enables the authorities to meet the needs of low-income groups at no direct cost. • Protect the municipality's financial and legal interests. • It is particularly relevant in areas of increasing demand. 	<ul style="list-style-type: none"> • Municipalities must have a solid understanding of local real estate markets before attempting to structure public-private partnerships. • They require that municipalities possess, or recruit, expertise in undertaking market-based assessments of commercial viability before preparing an RFP. If too many conditions are imposed, developers will not bid; if too few are required, potential social benefits will be lost. • It is important for a municipality to establish specific development objectives before initiating the RFP process. 	<ul style="list-style-type: none"> • Highly applicable in areas where government land is being developed, but where government agencies lack financial resources to carry out developments directly. • Access to infrastructure is also important in a site's attractiveness to private developers. 	<ul style="list-style-type: none"> • RFPs offer considerable potential in developing unused government owned urban land. They would require technical assistance in designing initial programmes and training local staff how to assess market potential and a public benefit from individual sites. For these reasons, pilot projects are recommended.
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Guided land development	<p>Guided land development (GLD) is a land management technique for guiding the conversion of privately owned land in the urban periphery from rural to urban uses. It has been implemented widely in Pakistan and been proposed for Indonesia but is yet to be implemented. It uses the provision of infrastructure as a mechanism to guide urban development.</p> <p>It is done in partnership with landowners who pay for the cost of servicing their land through donation of land for public infrastructure and payment of a betterment levy. As landowners are supposed to donate land, as well as, pay betterment levies, the infrastructure development plan is prepared using both topographical and land cadastre maps, ensuring that wherever possible roads and infrastructure follow the existing plot boundaries. To finance the scheme a loan is initially taken out to build the infrastructure, which is paid from betterment levies provided by landowners either on annual installments or in lump sum upon sale of land.</p>	<ul style="list-style-type: none"> • Governments can use infrastructure investment policies to guide the direction of land development, as well as, to ensure that land development is efficient, environmentally sound and equitable. • The key advantage of the approach is that it is less costly than outright land acquisition and more equitable than land banking. 	<ul style="list-style-type: none"> • Government agencies select the direction where it feels urban development should take place and provides infrastructure in those areas. This encourages private land developers to develop land in that area. By not building infrastructure in other areas acts as a disincentive for private development in those areas. However, it requires that government selects areas of potential interest to developers. • As the scheme depends on the consent of the landowners it cannot be applied in areas with fragmented landownership. • Too many landowners mean that greater time and effort is needed in building consensus. It is very likely that those landowners who have access to roads will refuse to participate voluntarily. • Landowners may want to continue the rural use of land. • Collection of betterment levies, particularly on an annual basis may not be acceptable to landowners. Or even if it is acceptable, they may for various reasons, default on the payments. 	<p>The advantages and disadvantages of guided land development are in fact very similar to land readjustment and land pooling. The only advantage that guided land development has over land pooling/land readjustment is that the government does not need to decide on the amount of land to be returned to the landowners at the end of the project.</p>	<ul style="list-style-type: none"> • Guided land development offers considerable scope for developing land in the urban periphery or other areas where government seeks to encourage urban development. • A key requirement is that households moving into GLD projects are permitted to adopt incremental development approaches to their land parcels and house construction efforts.
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<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Planning and urban design briefs</p>	<p>Planning and urban design briefs are a means of informing developers and other interested parties of the constraints and opportunities presented by a site, and the type of development expected or encouraged by local planning policies.</p> <p>A planning brief is intended primarily to promote development or attract a development partner might be called a development brief or a vision statement.</p> <p>An urban design brief can give information on the form and spatial organization of a site area to potential developers.</p>	<p>Planning briefs are potentially a useful tool for improving:</p> <ul style="list-style-type: none"> • The quality and consistency of advice provided to developers; • The efficiency of the planning process; and • The quality of the built environment. • Briefs can improve the efficiency of the planning system by reducing uncertainty, enabling developers to reduce costs and go 'down-market'. • Planning and urban design briefs provide site specific guidance to potential land developers. 	<ul style="list-style-type: none"> • The cost and time involved in preparing a planning brief should be less than the cost of securing acceptable development without it. • They require that local government staffs are sensitive to market forces and the legitimate interests of developers and land-owners. • The costs of negotiation can be significant. • Briefs are not useful where the brief sets standards for development lower than should have been expected of potential developers. 	<p>Planning and urban design briefs offer government agencies an opportunity to indicate the conditions which land-owners or developers must satisfy in order to obtain planning permission. As such, they reduce uncertainty and enable applicants to save time and money, thereby enabling them to reach lower-income groups. Since planning and urban design briefs are site specific, each one has to be prepared separately bearing in mind local conditions and opportunities applicable at the time.</p>	<ul style="list-style-type: none"> • Planning and urban design briefs can adapt existing professional skills and apply them to projects which combine market sensitive and socially responsive policy objectives. • It is recommended that pilot projects be prepared for unused inner city sites which have commercial potential but where there is also scope for realising a public benefit.
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Land sharing	<ul style="list-style-type: none"> • An agreement between a land-owner (public or private) and the land occupants (squatters) whereby the land-owner retains the economically most attractive parts of the land parcel and the dwellers are allowed to build houses on the other part, usually with full tenure rights. In some cases, the public authority or the private owner may build the units and sell them to the previous occupants at subsidized rates. 	<ul style="list-style-type: none"> • Land sharing may involve different actors and a range of formal and informal partnerships depending upon local circumstances. • Implemented with success in Thailand and to some extent in Philippines, Colombia and India. • Enables low-income groups to live securely and legally in areas which would otherwise be unaffordable. • Provides a valuable asset to settlers which they can either enjoy or trade on the market. • Enables land-owners to generate an income from land which is otherwise 'frozen' due to occupation by squatters. • Is socially inclusive. 	<ul style="list-style-type: none"> • Depends upon the land-owner realising a sufficient surplus from the remaining land. • Requires broad agreement and social cohesion from the settlers to move. • Can present temporary problems whilst redevelopment takes place. • Requires trust on behalf of the settlers that the land-owner will not renege on an agreement. • It may be difficult to make an agreement beneficial to all parties if the land size is small. • The process requires time consuming negotiations. • It is only applicable in the upgrading of existing settlements and not for new urban land development. 	<ul style="list-style-type: none"> • Can be attractive in areas where squatter or long term occupants of land are protected from eviction and where land-owners are willing to 'cut a deal' to re-house them and realise an income from land. • The attraction of this option can be increased if the local authority relaxes planning or building restrictions such as FAR or FSI, or building setbacks. • Is appropriate in areas where land-owners can realise a sufficient return and local authorities are supportive and communities are cohesive. 	<ul style="list-style-type: none"> • Land sharing can be extremely useful, whether land is owned by government or private land-owners. • It can enable existing residents to benefit from market based urban developments, especially if local authorities relax regulatory constraints. • It does not require any major legal or administrative framework. • It is recommended that pilot projects be undertaken with interested land-owners or government departments.
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Table 11: Innovative options for participatory urban development, their characteristics and applicability in Bangladesh

	Characteristics	Advantages	Limitations	Applicability in Bangladesh
City Development Strategies (CDS)	<p>A CDS is a means of creating a collective vision and action plan aimed at realizing improved governance, increased economic growth and employment and sustained poverty reduction. It involves the following steps:</p> <ul style="list-style-type: none"> • Identifying all stakeholder groups • Establish an organization • Build capacity • Prepare a work program. 	<ul style="list-style-type: none"> • The process of preparing and revising the strategy is a consensual process and one that can therefore command local ownership. • 	<ul style="list-style-type: none"> • It is vital to identify and include all key stakeholder groups at the outset. • Requires repeated meetings of all key stakeholders in response to changes in the macro economic climate in which the area exists. 	<ul style="list-style-type: none"> • Applicable where there are effective local government institutions and leadership which is committed to the creation of a genuinely participative process of decision-making. • See www.citiesalliance.org for more details.
Joint Venture Companies (JVCs)	<p>These involve government agencies at central, regional or local level forming a joint venture company with a single developer or group of developers for the development of an area. The parties share the benefits and costs in according to the value of their investment.</p>	<ul style="list-style-type: none"> • JVCs enable the public interest to be protected within a market based form of development. • In areas where government already owns the land, they can provide an efficient means of harnessing private capital for land development which is consistent with social policy. 	<ul style="list-style-type: none"> • JVCs require a measure of trust between the parties • They require government staff to be familiar with the interests of private developers. • Projects can be vulnerable to abuse and corruption unless properly supervised and independently monitored. 	<ul style="list-style-type: none"> • Where the integrity of the parties can be ensured, JVS can provide an effective means of realising social policy objectives (eg meeting the needs of a broad range of interests) which are market sensitive. • They can provide a sound basis for encouraging public private partnerships generally.

<p style="text-align: center;">Participatory budgeting</p>	<p>Participatory budgeting is a process in which a wide range of stakeholders debate, analyze, prioritize, and monitor decisions about public expenditures and investments. Stakeholders can include the general public, poor and vulnerable groups including women, organized civil society, the private sector, representative assemblies or parliaments, and donors. The approach originated in Brazil in 1989 and is now applied in many developed and developing countries. It can occur in three stages of public financial management:</p> <ol style="list-style-type: none"> 1. Budget formulation/analysis 2. Expenditure monitoring and tracking. 3. Monitoring of public service delivery. 	<p>Increased participation in budgeting can lead to the formulation of, and investment in, pro-poor policies, greater societal consensus and support for difficult policy reforms.</p> <p>Evaluations have shown positive links between participation, sound macroeconomic policies, and more effective government.</p> <p>It can assist in moving from passive forms of representative democracy to more active forms of participatory democracy.</p>	<ul style="list-style-type: none"> • It requires strong political support for inclusive decision making and participatory development. • It also requires active participation by all sections of the area where it is applied. • It can take time to promote and apply. • It needs effective monitoring to ensure that it is not hijacked by vested interest groups. • It depends upon a range of options of positive interest to the lives of the local population. 	<ul style="list-style-type: none"> • It can be an effective in promoting participatory decision-making and democratic government where this is considered desirable.
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4.0 Recommendations on urban land tenure and land administration

4.1 Improving urban land tenure security

First, it is recommended that LPUPAP PMT and other international donors encourage the central government to extend a temporary ban on evictions of informal settlements in any urban area for a period sufficient to identify any untenable settlements which will need to be relocated in the near future. This will provide short term security for residents without compromising the need for some settlements to be relocated once alternative sites have been identified.

Second, it is recommended that LPUPAP PMT negotiate with the relevant central and local government agencies to select one 'tenable' informal settlement in each of the three selected Pourashavas where it is possible to introduce enhanced forms of land tenure and property rights. In each case, it is recommended that a Community Land Right (CLR) or Community Lease be offered to the selected communities. The exact duration of the CLR or lease should be determined in discussions with the CDCs in each settlement and should be sufficient to encourage residents to invest in home and environmental improvements according to their resources. This is likely to require a period of ten years, renewable on termination or upgradeable to a longer term lease, and eventually to community or individual ownership.

An incremental approach to increasing tenure security is recommended for three main reasons. First, it will enable informal settlements to be integrated into the formal land market gradually and thereby prevent dramatic changes in land values which could produce major distortions in urban land markets and displace large numbers of the poorest social groups who rent in informal settlements. Second, it will not place excessive pressure on urban land administrations. Third, it will ensure that the LPUPAP project is able to initiate an approach which is callable of replication at a larger scale. On this basis, a three stage process is recommended as follows:

Stage 1:

The government announce the extension of the ban on evictions of informal settlements for a period of twelve months with immediate effect. During this time, all settlements would be surveyed to determine if they are suitable for upgrading or relocation to nearby sites. In the cases where relocation is considered essential, every effort should be made to relocate communities as close as possible to their existing settlements.

Stage 2:

The government introduce Community Land Rights (CLR) or Community Lease for all settlements designated as 'tenable' and therefore suitable for land tenure regularisation and in-situ upgrading. The advantage of this is that designated areas only need to be identified by the co-ordinates of their boundaries, thus minimising the administrative burden on land administration agencies. Detailed surveys of individual plots and buildings can then be undertaken by communities themselves, with technical assistance being provided if required, or to resolve disputes which cannot be settled locally. The duration of the CLR/lease should be for a period of approximately ten years, during which CDCs would be encouraged to meet specified standards of good governance, including protection of the rights of women and minorities. All those able to demonstrate this would be eligible to proceed to Stage 3. Those that failed to meet these criteria would be entitled to extend their CLR or lease for a further period. During the period of the CLR/lease, individual households will be free to inherit, sell or otherwise use their properties in the same way as at present. The price which households can expect to obtain will be reflected by the increased tenure status of the settlement in

question. It will be necessary for CDCs to make arrangements for all resident households to pay the relevant amount for the CLR or lease to the relevant authority and to maintain records of such payments and defaults.

Stage 3:

All communities which meet the good governance criteria should be considered eligible to receive Community Land Titles or Leases (CLT or CLLs). These will be based on accurate surveys of the settlement and will record all properties and residents in the area, but need not identify owners or tenants. The titles or long term leases can be made available at a nominal cost and will therefore provide permanent security to all residents¹⁵. As with the CLR arrangement, households wishing to move will be free to do so and the price they can expect to receive will be based on the enhanced tenure status applicable. Mechanisms for arriving at methods of paying for land acceptable will be determined locally and managed by the CDC.

In settlements where residents have surveyed and demarcated all land parcel boundaries and resolved any disputes over land, households may be considered eligible for individual leases or freehold. Any households seeking individual titles or leases will need to obtain the agreement of the community and be responsible for financing and completing the necessary administrative procedures, including the appointment and payment of surveyors and lawyers.

'Tenable' informal settlements on Pourashava *khas* or Trust land should be considered eligible for the granting of a Community Land Right with minimum delay. This can be achieved by one of the following methods:

- 1) Transferring land direct from the owning agency to existing settlers. The advantage of this option is that it does not involve a transfer of land to other agencies and then to the residents. However, it requires greater involvement by the agency holding the land to identify, survey and prepare individual tenure documents with each community or individual household which may be considered financially and administratively onerous
- 2) Transferring land to the local Pourashava and then to settlers. This would reduce the administrative and financial burden on the holding agency, but transfer it to the local Pourashava. Where Pourashava administrations are capable and consider a possible income from land taxes as an incentive, this represents a sound option.

¹⁵ A settlement near Dhaka held and managed under community ownership has been assessed as a possible precedent for application of the approach to other settlements. *Bastuhara Samaj Kalyan Samity*, a government registered social welfare organisation obtained one year lease (renewable) of 46.41 acres of land¹⁵ through official order of Land Ministry and Land Appeal Board at *Auckpara mouza* of Savar Thana of Dhaka district from the following two sources; (a) One year lease of 11.41 acres of land from Court of Wards Bhawal King Estate vide letter dated 20.01.2004 upon payment of Tk. 2,05,380.00. The land was then subdivided by 1.5 decimals size plots and distributed among the samity members. (b) Again the same organisation received another 35.00 acres of land on same condition from Court of Wards Dhaka Nawab Estate through an official order of Land Ministry and Land Appeal Board in 2005 upon payment of Tk. 6,30,000.00 which was subdivided and distributed among the samity members each 1.5 decimals.

At present the organisation is occupying a total of 46.41 acres of land for which they are paying Tk. 835380.00 yearly to the concerned authority. The number of total households are 1660, each of them are paying Tk.700.00 per year to the organisation. The total income of the organisation is 1,162,000.00 Tk/year.

The organisation has appealed on behalf of the dwellers to the Ministry of Land in 2006 for 10 year lease which has been approved and paper processed. The area is not within the Savar municipal boundary but included in the proposed extension. Since, it is located within the Dhaka Metropolitan Area the programme deserves special attention for shelter support to a cooperative endeavour.

- 3) Transferring lands to the poor via NGOs. The pros and cons of each option will be considered. The number of capable NGOs able to assume this role in urban areas of Bangladesh is currently inadequate to assume such a role.

In general, it is recommended that serious consideration be given to adopting the second option, where possible.

For settlements on railway or port authority lands, the vacant and unused land should be demarcated and concrete decisions taken to utilise the land for housing the poor. Instead of reverting the land to the district administration, negotiations for sharing the land with government agencies involved in housing programmes can be attempted.

For informal settlements on privately owned land, it is recommended that consideration be given to encouraging community land rental agreements. Alternatively, land sharing may be considered appropriate, in which a private or public landowner agrees to accommodate an existing community on part of the land they presently occupy in return for an agreement to be able to develop the remainder at full or even enhanced commercial levels. Successful examples are recorded in Thailand, India and other countries in the region.

Tenure proposals for specific settlements included within the LPUPAP project are listed in Table 12 below.

Table 12: Proposed tenure proposals for pilot tenure improvement programme

Category	Pourashava/City Corporation	Name of Settlements	Proposed Tenure
Relocation	Kushtia	Mollateghoria	<ul style="list-style-type: none"> ▪ Cooperative ownership ▪ People should be relocated with full compensation ▪ Guided land development in new location
	Chittagong	Laldiar Char	<ul style="list-style-type: none"> ▪ Cooperative ownership ▪ People should be relocated with full compensation
	Narayanganj	Jelepara	<ul style="list-style-type: none"> ▪ Delayed freehold ▪ Not all but some of the people will need relocation ▪ They should receive all compensation
Leased land	Kushtia	Housing block b	Community Land lease
	Chittagong	Burmese colony purba	Delayed Freehold
	Narayanganj	Arambag	Delayed freehold.
Private land	Kushtia	Muksed ali sarok	Delayed freehold (individual)
	Chittagong	Acharjee para	Delayed freehold (individual)
	Narayanganj	M Circus Bagan	Delayed freehold

			(individual)
Pourashava/Public land	Kushtia	Char badh para	Delayed freehold (individual)
	Chittagong	Santinagar Block C	Cooperative ownership
	Narayanganj	Rishipara	Cooperative ownership
Communal owner	Kushtia	Nepali Quarter	Registered leasehold
	Chittagong	Bihari colony SB Nagar School Math	Public rental
	Narayanganj	Muchi para ¹⁶	Tenure as existing
Trust	Narayanganj	Kumudini Welfare Trust land at Kumudini Bagan	Community based tenure

Settlements listed in Table 12 for relocation should be notified that they will be required to move as soon as an alternative site has been identified and prepared. The new sites should be as close as possible to their existing settlements to minimise livelihood impacts. The new settlements can be developed according to the most appropriate options listed in Tables 10 and 11.

4.2 Improving urban land administration

It is recommended that a review be undertaken of the administrative procedures and costs relating to the registration of land and its development. Guidelines for undertaking such a review are provided in Payne and Majale (2004) and could be adapted to suit local conditions.

4.2.1 Meeting the needs of the present urban population

To facilitate upgrading of existing informal settlements within urban areas, it is recommended that the LPUPAP team cite the Land Administration Manual, Part I, (2003), which contains a notification dated 7 March 1995 (corresponding to 23 Falgun, 1401 of the Bengali Calendar). Paragraph 3(ka) of the notification provides that “For use of Government purpose any Government department or organization may be allotted non-agricultural *khas* land. In such case, the on-going market value of the land has to be paid.” This guideline authorises the allocation of land to any government agency or office for any government purpose. It is stipulated that such land should be sold to the government agency or office at the on-going market value. This guideline cannot in terms be applied to allocate *khas* lands occupied by squatter settlements to resident communities. The above-quoted guideline can be interpreted so as to impliedly enable the sale of “surplus” land at market value if such land is deemed not to be needed by the government agency concerned, more so where that agency had not developed it. If this guideline is to be invoked, an approach that could be adopted is to formulate a scheme pursuant to a rehabilitation programme for slum dwellers, which the Ministry of Housing is mandated to carry out under the National Housing Policy, and land can be made available to the Ministry for implementing such a scheme. It could be contended that such land is needed for a legitimate government purpose. Inevitably, this approach would raise questions calling for an opinion from the Law Ministry and/or the Attorney-General.

On this basis, LPUPAP can request the LGED to request the government to allocate *khas* land occupied by tenable squatter settlements to resident communities. This is particularly

¹⁶ The Muchi para community already possess collective freehold to their land. It is therefore recommended that they be given assistance to sell to a developer at full market price and assisted in obtaining less expensive land on which they can construct houses to meet their needs and invest any surplus in income generating activities such as shops, or allocating surplus space for rental income.

applicable for lands for which government or agencies have not developed, or for which they have no specific plans, or plans which they fail to implement within a specified period. All such lands can be identified by their market values and allotted to communities of the urban poor provided they are willing to pay. Under such conditions, these lands can be approved for housing. The assessment of the market value of such lands should reflect the duration of lease allocated and the fact that the areas have already been occupied for some time.

4.2.2 Meeting the needs of the future urban population

It is recommended that all *khas* not currently used or required for immediate development be identified and surveyed. Government or parastatal agencies (eg Bangladesh Railways or Port Authorities) should be required to prepare plans for the development of such lands for the purpose for which they are intended. Any areas “surplus” to the legitimate needs of the agencies should also be identified. Such surplus lands may then be allocated to local Pourashavas within a suitable legal framework which would lay down specific guidelines to prevent an unfettered discretion on part of the Pourashavas. Appropriate guidelines would protect the Pourashavas from land developers, who would seek allotment guided by purely commercial considerations and not for a community purpose, such as providing housing for low-income groups.

Progress in the short term will depend upon action at the highest level of government. In the medium term, a degree of decentralisation, coupled with the provision of powers to raise revenues from land within their jurisdictions, would increase the ability of democratically elected bodies to manage local resources such as land.

In the medium term, it is strongly recommended that the Government of Bangladesh follow the lead of other developed and developing countries in promoting and implementing a range of innovative public-private partnerships (PPPs), or Multi-Stakeholder Partnerships (MSPs), in order to promote market-sensitive and socially responsive forms of urban land development. In this respect, the following options deserve consideration once the necessary administrative and legal arrangements have been established and professional and institutional capability has been created:

- **Requests for Proposals:** This innovative approach has been implemented in many East European countries in transition from socialist to market-based economies. It involves government agencies preparing a market-based assessment of the potential market value of a site and then estimating the extent of any desired social or environmental benefits which could be incorporated within the development whilst still making it commercially attractive to a commercial developer. The government agency then prepares and publishes a brief based on this assessment and invites private sector agencies to bid for the proposal. The one which undertakes to provide the highest level of social or environmental components is then granted planning permission. The approach balances the benefits of market efficiency with social responsiveness. Since it is also completely transparent, it contributes to good governance. However, it may be necessary to introduce legislation and relevant procedures to ensure effective implementation.
- **Land Pooling/Land Readjustment (LP or LR):** These approaches seek to ensure the efficient development of land in areas where holdings are fragmented. By combining separate landholdings into one large parcel, individual landowners receive a share of the developed land on the understanding that whilst the physical area may be reduced due to the need to allocate some lands for roads, etc, the net value of the developed areas will be significantly higher. However, this mitigates against access by the poor unless subsidies are provided. The approach also requires enabling

legislation and efficient local government agencies endowed with relevant powers. It is not recommended as a short term option for application in Bangladesh.

- Joint venture companies combining land owners (public or private) and developers: These have been extremely successful in the UK and other countries where innovative and transparent relationships have been created between public, private and civil society stakeholders to rejuvenate derelict industrial or other large problematic sites. It requires a degree of legal and institutional capability at local level which is not presently available in most urban areas of Bangladesh¹⁷.
- Urban Planning and Urban Design Briefs. These are widely applied in the UK and other countries for sites which are considered sensitive. They require that the local authority specifies the conditions which a land-owner or developer must satisfy in order to obtain planning permission and thus reduce uncertainty in preparing proposals. To be effective, they require that public sector staff are familiar with land market operations and are capable of preparing briefs which strike a balance between protecting the public interest (eg including a social component and meeting environmental policy objectives), but are also commercially viable.

4.3 Next steps

1. It is recommended that an early meeting be held between the PLUPAP team and other donors involved in land issues, particularly DFID, UNDP and the World Bank. This should seek to obtain multi-donor support for the incremental, community-based approach advocated by the Consultants and would provide a mandate for the LPUPAP team to approach senior GoB advisers for their agreement to adopt the approach, particularly within the LPUPAP settlements.
2. If possible GoB announce Step 1 proposed in the report, to extend the ban on forced evictions for sufficient time to enable all 'tenable' and 'untenable' informal urban settlements to be identified.
3. The LPUPAP team commence fieldwork with all settlements identified for relocation and identify sites for alternative development in partnership with local stakeholders, to assist in the relocation process.
4. LPUPAP team commence fieldwork in all 'tenable' settlements to initiate the provision of Community Land Rights. It is recommended that initial attention focus on Kushtia.
5. The LPUPAP team work with residents of the Muchi para settlement in Narayanganj to help them negotiate either a land sharing redevelopment of their existing settlement or the sale of their land at full market value and the relocation of the community to an alternative site.

¹⁷ More information, including many examples, on these innovative public-private partnerships can be found in Payne, G (editor) 'Making Common Ground: Public-private partnerships in land for housing' Intermediate technology Publications, London, 1999

Bibliography

- Islam, N. 1990: 'The Poor's Access to Urban Land for Housing'. Paper presented at the policy seminar on Urban Land Management in Bangladesh, January 14-17, Dhaka.
- Islam, N. and Chowdhury, I.A, (1990) 'Urban Land Management in Bangladesh', Ministry of Land, GoB, Ministry of Works, GOB and UNESCAP.
- Islam, N., (2000) 'Urban Land Tenure and Housing Finance in Bangladesh' CUS, Dhaka.
- Payne, G.(Ed) (2002). 'Land, Rights and Innovation: Improving Tenure Security for the Urban Poor', ITDG Publishing, UK.
- Payne, G. and Majale, M. (2004). The Urban Housing Manual: Making Regulatory Frameworks Work for the Poor, Earthscan, UK.
- Shafi, Salma A., (2000) 'The Right to Shelter', Published in Ain o Salish Kendra (editor) 'Human Rights in Bangladesh', Dhaka, 2006.
- United Nations (2002) .*Seminar on Securing Land for the Urban Poor*: United Nations Centre for Human Settlements (HABITAT) and United Nations Economic and Social Commission for Asia and the Pacific, Japan.