

POLICY BRIEF

Land rights – unlocking land for urban development

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This brief outlines the crucial role land rights play in urban development, and explores trade-offs that policymakers face in reforming current tenure systems. It identifies key lessons and best-practices from policy reforms across the developing world.

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For cities to be productive and liveable places, urban land needs to be used efficiently and intensively. Well-functioning cities typically cluster firms and people together around productive central business districts and manufacturing centres that form the city's employment engine. By contrast, many low-income cities are failing to use their land efficiently, instead growing outwards through sprawling self-built informal settlements.

Inefficient land use and insufficient investment, both in private properties and in public infrastructure, is often underpinned by weak land rights. In many cities, land is gridlocked in a web of competing ownership claims and overlapping tenure systems. This inhibits the private sector from either making substantial investments on land, or transferring it to a more productive user. It also prevents governments from coordinating a virtuous cycle of infrastructure provision, co-ordinated land-use planning and land taxation to fund these investments.

Given the politically challenging nature of reforms to land tenure, inertia has been a common policy response across many developing cities. However as demonstrated by experiences from Rwanda to Thailand, decisive public policy, backed by strong political support, can prevent these patterns of low investment and inefficient land use.

1 Secure, legally enforceable and marketable land rights underpin successful urban development.

Secure land rights encourage owners to invest in improving their properties. Legally enforceable land rights enable governments to tax and plan land use. Marketable land rights allow land to be transferred to its most productive use.

2 Informality is not the same as insecurity.

Informal tenure systems can convey varying degrees of tenure security, but lack the benefits of legal enforceability and are not easily marketable.

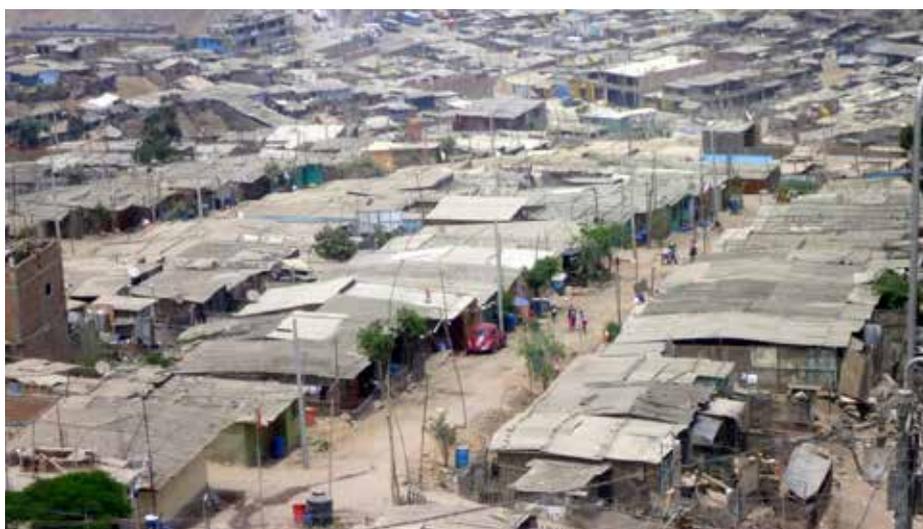
3 Cheaper intermediate formal forms of tenure can capture the benefits of legal enforceability, but are typically less marketable than freehold or long-term leasehold titles.

4 Policymakers can learn from successes and failures in land tenure reforms across developing countries.

The importance of secure, legally enforceable and marketable land rights

Secure

Secure land rights enable investment by landowners. Evidence from across the developing world has shown that perceived tenure security, be it provided through **informal or formal institutions**, gives the certainty of future ownership that is essential if owners are to make substantial residential or commercial investments. In Lima, for example, a large-scale titling programme increased the rate of housing investments by over 60%,ⁱ whilst at the same time giving owners the security to leave their homes and travel to different parts of the city to find work.ⁱⁱ



Left: Land titling in Lima's informal settlements has massively boosted housing investments. It has also resulted in better planning, increased tax collection, and an increase in land market activity. (Photograph: Heike Hoffmann, 2011)

Legally enforceable

Legally enforceable land rights enable governments to **impose obligations on landowners for the public good**. Without legally enforceable land rights, governments and utility companies cannot identify who is liable for service payments and taxation of land and property, and are unable to coordinate land use planning through regulation on owners. Where such land rights are registered, governments are able to tax increases in land and property values that are in part the direct result of public investment. These taxes enable a **virtuous cycle** where appreciating urban land and property values finance the public investments that make the city more productive. In Rwanda, for example, large-scale registration of the country's lands has unlocked a five-fold increase in land-related tax revenues from 2011-13.ⁱⁱⁱ

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The legal definition of private rights over land also enables a **fair and transparent process of establishing public rights over land**. The ability of governments to acquire land for public purposes where necessary is an essential part of urban development. Without legally enforceable land rights to determine who is liable for compensation, land acquisition can be frustrated by opportunistic compensation claims by new settlers or companies lodging quasi-legal ownership claims.

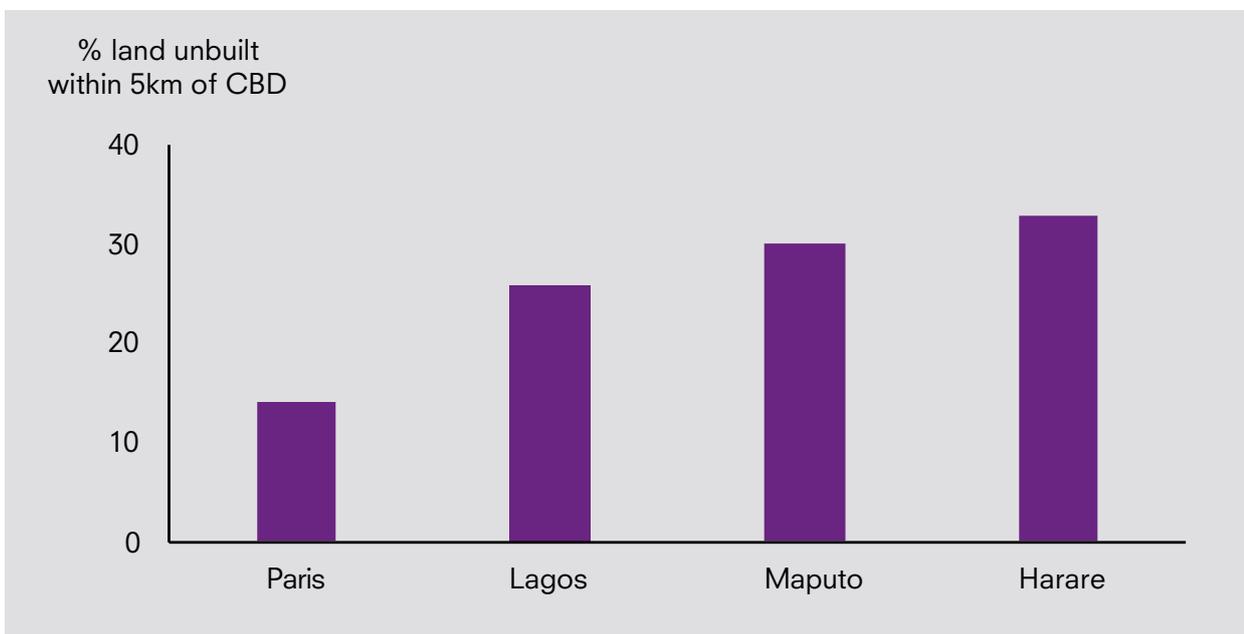
Marketable

Marketable land rights facilitate the transfer of land to its highest value use, underpinning the process of urban transformation. Land markets enable firms to buy up land to form productive clusters, and allow land use to transform in line with the changing needs of a rapidly developing city. In this way, shacks can be converted to housing blocks, and housing blocks converted to skyscrapers.

Yet currently, in many low-income cities, land rights are not easily marketable. This is largely due to the absence of formalised land records that allow legal recognition of new owners and generate publicly available information over land prices.^{iv} **When urban land markets cannot function properly, the result is inefficient land use.** In Harare and Maputo, for example, more than 30% of land within 5 kilometres of the central business district remains unbuilt.^v In Nairobi, the low-rise informal settlement of Kibera originally formed in the early 20th century now occupies prime central land.

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Figure 1: Vacant land in African city centres frustrates connectivity



Since central land is difficult and expensive to transact, many firms and property developers therefore choose to locate in 'leapfrog' patches in cheaper areas of the city. Cities therefore become disconnected and fragmented; African city centres are 25% more fragmented than Latin American or Asian cities. As a result, firms dispersing across the city to offer predominantly local services, rather than forming large-scale productive clusters.

Beyond buyer to seller marketability, where land can be used as an asset that can be exchanged for credit on financial markets, this unlocks its use as collateral for large scale loan and crucially mortgage markets. This is particularly important in African cities, where only 3% of households can access mortgages.^{vi} Generating a widespread mortgage market will be crucial in changing the patterns of urban informal sprawl that currently characterise many developing cities.

Tradeoffs between tenure systems

Informal or customary forms of land tenure are the status quo in large parts of low-income cities. These can provide important *de facto* tenure security to landholders, but typically lack legal enforceability and marketability, best conferred by freehold or long-term leasehold titles. Intermediate forms of tenure can represent flexible and low-cost methods of making land rights legally enforceable, but are typically less easily marketable than freehold or leasehold titles.

Informal land tenure

‘Informal land tenure’ is an umbrella term for tenure systems that are not formally recognised by the state within the legal system. This can range from *de facto* rights obtained by long-term occupancy, to well-established customary systems of tenure. **Informal land rights are not synonymous with insecure land rights.** In fact, in some circumstances perceived tenure security of households and firms can be higher under informal, accountable local bodies than under a weak and corruptible formal tenure system. However, where community ties have been eroded by urban development and land ownership is contested between a web of different actors, the result can be fragile tenure security.

Without formal state recognition, informal land rights lack the benefits of legal enforceability, impeding effective urban planning, and depriving governments of important revenue flows from land and property taxation. Informal land rights also limit the marketability of land in two ways. First, without formal legal recognition of new ownership, buyers and banks may not be confident that their full rights to land will be respected the prevailing informal authorities. Second, without the publicly observable record of land transactions and historic valuations that a well-administered formal land market can provide, informal land transactions fail to generate the **common knowledge of market prices** that is essential for a well-functioning land market.

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Intermediate forms of tenure

As an improvement on fully informal systems, certain ‘intermediate’ forms of land rights such as short-term occupancy certificates or collective ownership titles are often relatively easy to implement, and enable ownership to be legally enforced. These alternative forms of tenure can therefore be well-suited to the needs of informal settlements, particularly in peripheral areas, to unlock a process of taxation and planning. However, they are poor forms of collateral for banks, and are also less able to be transacted than freehold and leasehold titles, making them **less suited for more central urban areas where efficient land use is key.**

Intermediate forms of tenure bring legal enforceability, but are less marketable than freehold or long-term leasehold titles, making them less suited for central urban areas where efficient land use is key.

In Trinidad and Tobago for example, **Certificates of Comfort** have been granted to squatters on state lands. These do not confer full ownership on titleholders (this remains in the hands of the state) but do provide a lifetime guarantee against the threat of eviction, as well as facilitating service provision and tax collection. However, these cannot be transferred either through sale or through inheritance, and act as poor quality collateral.



FEATURES

HOW WEAK LAND TENURE LAWS ARE CHASING AWAY INVESTORS



In many cities, prime central land is occupied by vast informal settlements, such as Kibera in Nairobi (left). Weak land rights leave investors reluctant to purchase this land to use it more efficiently – for commercial property or medium-high rise housing (Photograph: Schreiberkraft, 2000)

In Thailand, the 2003 Baan Mankong programme issued **collective land titles** to informal settlers as a key part of its slum-upgrading scheme. These were developed in collaboration with communities, based on concerns that private freehold or leasehold titles would be costly to implement and could lead to the disintegration of the community. The programme integrated communities into city planning processes, and proved highly successful in increasing homeowner investment; the share of urban dwellers living in houses made from durable materials increased from 66% in 2000 to 84% in 2010.^{vii} However, collective land titles may frustrate the ability of land markets to transfer land to more efficient uses. They also risk institutionalising powerful local leaders, who may become reluctant to relinquish control over group tenure.

Freehold and long-term leasehold titles

Freehold and leasehold titles are the predominant form of land rights in developed economies. Under **freehold tenure**, a private owner, such as an individual or corporation, has full and perpetual rights to develop, collateralise, and sell the land they own. Under **long-term leasehold tenure**, a landowner, typically the government, issues a lease conveying such rights to a leaseholder for a period typically lasting 49-99 years.

If accompanied by well-functioning legal and administrative systems, freehold and long-term leasehold titles are the gold standard of land ownership, capturing the full benefits of secure, legally enforceable and marketable land rights. In Lima, the issuance of over 1.2 million freehold titles to urban households increased the rate of housing investments by over 60% and unlocked significant land market activity. Land market transactions increased by 134% between 1999 and 2003 and land values for titled properties rose by 20-30%.^{viii}

In Lima, the issuance of over 1.2 million freehold titles to urban households increased the rate of housing investments by over 60% and increased market transactions by 134% from 1999-2003.

However, freehold and long-term leasehold titles are **politically and financially challenging** to register. In particular, since freehold titles convey perpetual land ownership, issuing such titles in the context of informal settlements on contested land is often less politically feasible in the shorter term than implementing intermediate forms of tenure such as short-term occupancy certificates. Furthermore, surveying procedures are typically more stringent and expensive than for intermediate forms of tenure; collective titles issued to whole communities can be four times less costly to implement than private land titles.^x Freehold and long-term leasehold titles also require strong legal systems to prevent land-grabbing post-titling, and strong administrative systems to ensure land transactions are efficient and based on fair valuations.

Figure 2:

Which land tenure systems allow ownership to be secure, legally enforceable, and marketable?



Transitioning to a well-functioning system of land rights

In transitioning to a well-functioning system of land rights, first and foremost, there is a need to strengthen the formal legal and administrative systems governing land. Where a strong formal system is in place, large-scale programmes of land registration can unlock these benefits in the long run in areas currently under informal or customary tenure.

Step 1: Streamlining the legal and administrative systems that govern land

The legal and administrative systems governing land provide the conditions for courts to enforce ownership, governments to tax and plan land use, and markets to transfer land to its highest value use. Yet in many countries, legal procedures are lengthy and inaccessible for poor residents. Similarly, land administration systems and records are often outdated and based on contradictory forms of documentation. Reforms to these systems can yield significant benefits. Ghana, for example, has established specialised and streamlined land courts to shorten its 2-5 year length of legal proceedings and massive case backlog. At the same time, computerisation of land records, combined with a decentralisation of deed registries to 10 regional centres, has cut the average time to register property transfers in Ghana from 169 days in 2005 to 34 days in 2011. Valuation rolls are also now automatically updated based on registered transfers.*

Step 2: Registering land at scale and with public funds

In many low-income countries, the process of land tenure regularisation is frustrated as individuals are expected to register their own ownership claims, often through complex and costly registration processes. In Lagos, for example, titling expenses can reach 30% of construction costs.^{xi}

By contrast, cross-country experiences show that **large-scale government-funded registration programmes** are far more cost-effective, avoiding repeated and costly surveyor visits to the same area. In Tanzania, surveying at scale is over 20 times cheaper than surveying single parcels.^{xii} Furthermore, land rights have strong public benefits, such as supporting rule of law, functioning land markets and enabling land taxation, which individuals do not take into account when deciding whether to register their land. Government funding is therefore required to capture these benefits. Government funding is therefore required to capture these benefits. This can be seen as a **long-term and potentially very high return investment in future revenues**; the city of Bogotá spent \$4 million updating its land cadaster from 2000-2003, but generated a \$24 million increase in annual property tax revenues every year afterwards.^{xiii}

In Tanzania, surveying at scale is over 20 times cheaper than surveying single parcels.

Updating Bogotá's land cadaster generated \$24 million in property tax revenue per year, at a cost of only \$4 million.

Step 3: Raising awareness of land rights and responsibilities

Before embarking upon large-scale registration programmes, it is often necessary to ensure public understanding of the legal rights and responsibilities that come with formal property titles. Where owners are not informed of their rights, this leaves them vulnerable to sell off land at below-market prices. Where owners are not informed of their responsibilities, they may be reluctant to pay for property taxes or utility connections. Public awareness-raising also helps to build political buy-in for the registration process.

Step 4: Choosing cost-effective surveying technologies

Mapping and surveying procedures typically constitute over half of the cost of land registration programmes; these costs need to be scrutinised carefully. Without close scrutiny, surveying professionals may recommend expensive, state of the art technologies both unnecessary and unsuited to low-income contexts. In Tanzania, expensive cadastral surveying procedures result in costs of up to \$3,000 per land parcel for one-off visits, and up to \$160 for large-scale demarcation.^{xiv} This high cost compromises the ability of the government to recoup its investment through land-related taxes.

One way to reduce the mapping and surveying costs associated is to issue collective land titles which do not require complex internal boundary demarcations. However, in many ways more sustainable is to reduce the cost and complexity of issuing individual titles. In Rwanda, during the 2009-13 Land Tenure Regularisation programme, mass participatory mapping exercises were conducted based on aerial and satellite photographs, alongside locally trained parasurveyors. Freehold and leasehold titles were issued for almost all of Rwanda's land in under five years, at an **average cost of only \$6 per parcel**.

Rwanda's community-based participatory surveying enabled large-scale land registration at a cost of \$6 per parcel, compared to \$160 per parcel through professional surveying in Tanzania.



Left: Participatory demarcation of land boundaries, using satellite images or aerial photographs, has proved successful in lowering the costs of mapping and surveying across the developing world (see left, taken in Jalalabad, Afghanistan) (Photograph: Flickr, USAID)

Step 5: Adjudicating between competing ownership claims

Where possible, competing claims over land are best resolved through legal proceedings. However, where such institutions lack capacity or required documentation to reach decisions, local dispute-resolution mechanisms can be more effective. In Rwanda, after initial mapping and surveying was carried out

in the presence of local residents, any dispute unable to be resolved either on the day of the survey or after a 60-day mediation period was taken to local judicial authorities (*abunzi*). The open nature of dispute resolution, combined with the close community ties of these authorities, helped to resolve disputes legitimately and cost-effectively.

RESOLVING DISPUTES EARLY: LAND REGISTRATION ON THE URBAN PERIPHERY

The simplest and most cost-effective policy option to avoid the large-scale land disputes that currently characterise many urban informal settlements is to clarify ownership before large-scale settlement has taken place. This can be achieved through a proactive process of registering land ownership claims on the urban periphery, in advance of urban expansion. This can be accompanied by government purchase of cheap land on the urban periphery to fit core infrastructure and housing foundations in advance of settlement. Planning such infrastructure in advance can be three times less costly, and far less politically challenging, than retrofitting after informal settlements have formed.^{xv}

However, particularly in the case of large-scale disputes between landlords and occupiers of informal settlements, there may be a need for more active government involvement. There are typically two options in these cases: awarding land rights to informal settlers or awarding land rights to landlords and resettling occupiers in a different location. The former option is often used in slum upgrading programmes. Given the massive social and financial costs of adequate relocation programmes this is often the most cost-effective option if policymakers are content to keep land under residential use. However, where existing land use is highly unsafe or inefficient from a city-level perspective, resettlement may be needed to bring about a co-ordinated change in land use in the shorter-term.

Both of these policy options may require governments to tackle powerful vested interests who have taken advantage of weak governance in informal settlements to obtain strong de facto, quasi-legal ownership claims. In many cases, legal and political challenges from vested interests may require claims to be bought out through compensation. This compensation is expensive, but represents the price of clarity over land rights. In the long run, such compensation can be far less costly than the wasted productive potential that results from contested tenure arrangements. For example, the cost of current land-misallocation in Kibera, Nairobi, amounts to over \$1 billion. Auctioning off this land to property developers would provide a windfall large enough to compensate slumlords at the value of all future rent payments and obtain a surplus of \$16-17,000 per household. This would be more than enough to help to relocate tenants currently paying an annual rent of \$260 per household.^{xvi}

Compensation payments to vested interests can be far less costly than the wasted productive potential resulting from current contested tenure arrangements.

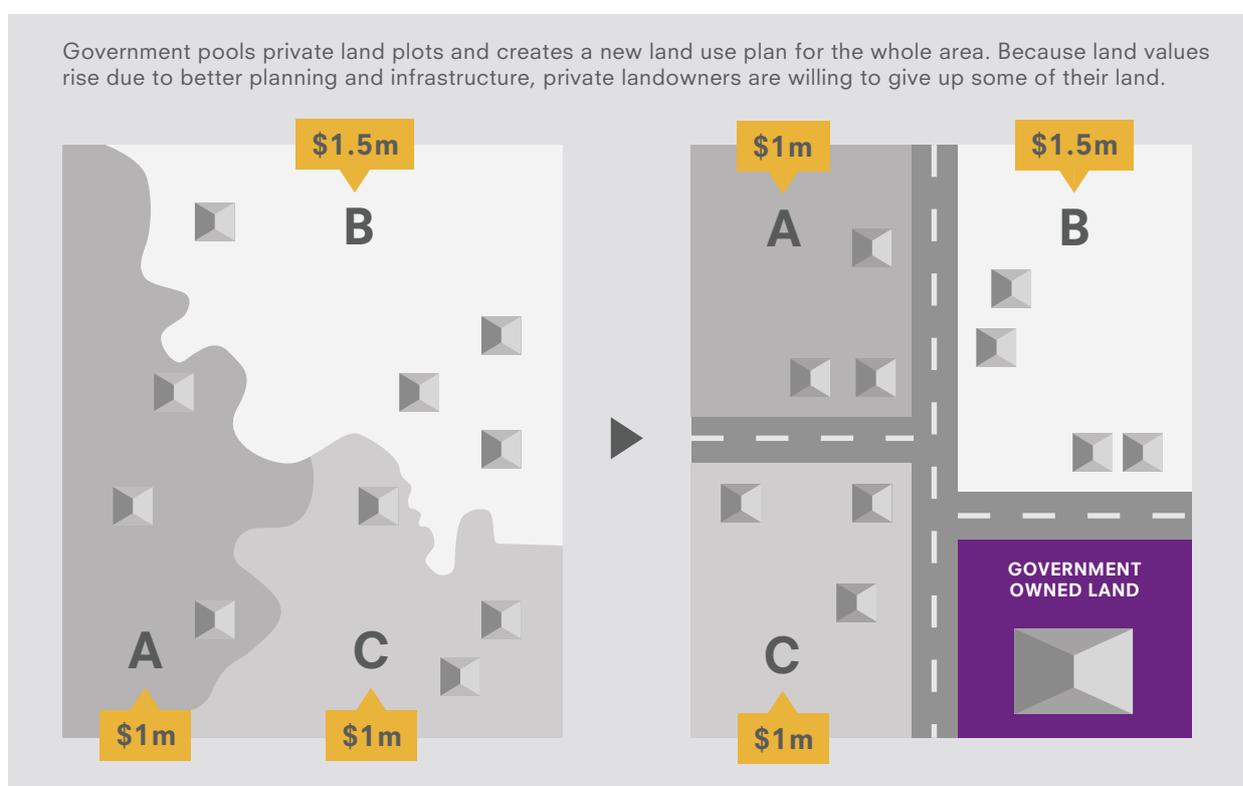
Aside from these traditional options for resolving competing claims, land readjustment could represent an innovative alternative solution to improve land use whilst resolving tenure disputes. Under readjustment schemes, governments pool together privately held land plots (often with disputed ownership) and create a new land use plan for the whole area. These plans include new infrastructure and better neighbourhood planning, provided by the government, which increases the value of each surrounding plot. Because land values rise

due to better planning and infrastructure provision, private landowners are willing to give up some of their land to the government to fund the project. Governments are therefore able to use this land - either to provide the physical space needed for infrastructure (e.g. roads), or to provide the funding needed to build infrastructure, by leasing or selling the land. Tenure disputes can also be resolved in this process; negotiations between official landowners and occupants can lead to 'land-sharing' arrangements. Within the new neighbourhood design, occupants agree to be rehoused in higher-rise accommodation, financed by the 'liberation' of the rest of the land for commercial development by the owner.

As South Korea urbanised, land readjustment was used to redevelop over half of the land area of Seoul, and was largely self-financing.

As South Korea rapidly urbanized in the 1940s, over half of the land area of Seoul was redeveloped through land readjustment. Korean landowners agreed to release over half of their land to the government in such schemes, enabling land readjustment to be largely self-financing.^{xvii}

Figure 3: Land readjustment schemes



Step 6: Ongoing reforms to ensure continued use of the formal system

Costly investments in initial land registration risk being undone unless governments can ensure continued use of the formal system. In Buenos Aires, a large-scale land titling programme unlocked significant investment and property tax revenues. However, gains are now being reversed through 'deregularisation' – 78% of property transfers since registration have taken place informally so records are now inaccurate. This is hardly surprising since the cost of formal property transfers was approximately 30% of property values.^{xvii} For land to remain formally registered, formal procedures for land transfer will therefore need to be cheap, simple and accessible. This requires ongoing reforms to land administration.

High formal transaction costs have meant that the gains from a large-scale titling project in Buenos Aires risk being reversed as land transfers continue to take place informally, and without record.

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The International Growth Centre (IGC) aims to promote sustainable growth in developing countries by providing demand-led policy advice based on frontier research. *Cities that Work* is an initiative from the IGC to facilitate evidence-based policy decisions on urbanization in developing countries, by synthesizing economic research with the knowledge of urban planning practitioners and policymakers. It is led by Paul Collier (Oxford University), Edward Glaeser (Harvard University), Patricia de Lille (Mayor of Cape Town), Nasir Javed (CEO of the Urban Unit, Lahore) Jennifer Musisi (Executive Director of Kampala Capital City Authority) and Tony Venables (Oxford University). Please contact us at citiesthatwork@theigc.org.

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