EXECUTIVE SUMMARY

Land-irresolution represents a massive economic drain, a hurdle to physical improvements and a myriad of social and health problems.

The Affordable Housing Institute (AHI) and the Universidad Iberoamericana co-hosted a symposium on the impact of urban land irresolution and the ways actors involved in solving this issue can move forward.

The symposium brought together participants from a diversity of backgrounds; all experts in their respective fields.

The gathering was participant driven, relying on the diverse perspectives of our participants to inform the discussion, define the problem and craft a theory of change.
INTRODUCTION

“Land-Irresolution” Problem Defined

Within informal urban environments two conflicting realities coexist:

- Legal. What property and use is permitted to exist.
- Physical. What property and use actually exists.

Formalization requires aligning the realities. A slum may be said to have been formalized when the legal and physical are congruent. Sometimes the physical reality is changed to conform to the underlying legal framework, as in slum clearance. In other instances, laws are modified to conform to the realities of the built environment, as in the case of re-plotting and title granting.

Understanding the Land-Irresolution Stalemate

Tenure informality—the mismatch between legal requirements and physical reality—represents a chronic condition of urbanizing areas throughout the global south.

As the scale of informal settlement often outpaces any possible rate of formalization, the government often finds itself at a loss as to how to resolve the land-irresolution stalemate.

The government is often reluctant to tackle problems of land-irresolution due to the scale, risk, and political nature of the issue.

Governments worry that formalizing informal settlements by granting them status will send the message: land invasion pays.

While discussion of the political economy could consume an infinite amount of time, the participants decided to focus on the local level: cities and their housing supply.

DEFINING THE QUESTION

Based upon the case studies and ensuing discussion, the following postulates were identified:

1. Existing informal settlements are growing due to private household investments.
2. Our best actions shift government in increments to leverage, guide, and lead this wave of private investment.
3. The only effective solutions are multi-actor strategies:
   a. Public sector delivers public goods (e.g. infrastructure);
   b. Citizens deliver household goods (e.g. upgrading);
   c. Private sector delivers value chains (e.g. improvement financing).

Using these postulates as platform, participants focused on addressing the following challenge:

How can we identify, diagnose, and persuade governments to implement complementary and doable public policy shifts (of funding or law or policy) that add to private activities in informal upgrading and formalization?

In particular, how can we frame this in a typology or transaction/network structure that is repeatable and scalable with balance among public and private goods, funding streams, and actors?

Symposium participants on site visit
ANSWERING THE QUESTION: CRAFTING & PROMULGATING A THEORY OF CHANGE

Changing our own thinking

The participants rethought the irresolution versus amnesty issue and the approaches taken to address this challenge. These observations arose as potential shifts in the way participants view informality:

- The possibility that informal land might be a feasible vehicle through which cities grow.
- The notion that informality can represent a legitimate interim state.
- The realization that cheap land (through impairment) is a curious “upside” to informality.
- The recognition that it is possible to eventually finance over informality.

Underlying Realities

The participants identified the following facts on the ground that must be considered in our Theory of Change:

1. There is an unstoppable and continuing inflow of very poor cities moving into cities in search of a better life.
2. Local governments and poor people face fragmented local ecosystems for housing, water and sanitation (HWS).
3. Financing both local governments and poor people will have to link with domestic incumbent systems of finance.
4. Since the 1990s there are some remarkable, although isolated, public private partnerships.
5. Self-organizing social and economic groups of poor people are emerging at unprecedented rates.
6. People become urban without moving, as cities expand.
7. Rapid urbanization conditions occurred in earlier centuries.
8. Post-globalized companies are recognizing informal markets as a big potential market for business expansion.
9. There is little formal, academic recognition or measurement of the economic/buying power of individual informal private investors.
10. Housing is a process, not a product.
11. Informal businesses in slums are enormous drivers of the economy—often providing services for the formal sector.
12. People’s livelihoods are tied to their informal housing. Destroy informal urban housing and the city’s economy dies as well.
**THE NAGPUR CASE: SLUM REHABILITATION AND PREVENTION STRATEGY**

The Nagpur Case emphasizes a dual-prong approach to slums: rehabilitation and prevention.

**Rehabilitation** includes leasing and regularizing land, improving infrastructure and housing through government funding, and relocating slums on private lands through the use of public-private partnerships and transferable development rights (TDRs).

**Slum prevention** measures involve building more affordable housing, regulating the inflow of urbanization, encouraging decentralization by minimizing industrial growth within the city, and improving public transport systems.

In terms of key actors in this process, if the state is unable to address the issues of informal housing in a realistic timeframe, it should absolve responsibility. Formalizing informal settlements successfully lies in creating effective partnerships between the government, the private sector, and the poor.

1. TDRs are a powerful tool to encourage slum rehabilitation. The effectiveness of TDRs, however, relies on continued rising land prices and demand for development. The value of TDRs can also fluctuate – adding a risk component to the use of TDRs for slum rehabilitation.
2. Building new housing leads to income turnover in the resale market. Even if you vest an occupancy right, rather than a title, people trade occupancy rights resulting in a resale market.
3. Master plan must build in “excess” infrastructure.
4. Slum rehabilitation must involve citizen participation. Citizen input on enumeration, design and implementation are essential to success of scheme.
5. Scale and speed are challenges in slum rehabilitation. Demand for housing far exceeds supply at current pace of construction.

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**Mapping infrastructure and housing upgrading**

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**TDR zones in Nagpur**

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**There is no “one-size-fits-all” solution**

There is enormous variation in circumstances and no “one-size-fits-all” approach to formalization. There may, however, be a typology of options within a broad strategy.

Some key takeaways/findings can be identified as the following:

1. **Key incentive is access to credit.**
2. **Unilateral intervention does not work.**
3. **Improvements must address existing housing stock.**
4. **Clientalism is very strong.** Citizen participation, education and empowerment can change the prevalence of clientalism. Reducing clientalism also involves encouraging proximity between politicians and slums. Currently, political agendas are formed by deputies who do visit slums and thus do not have a full understanding of the "reality" of the slum.
5. **Microcredit** may represent part of the solution.
Filling the empty space caused by a lack of government involvement remains a challenge for a number of reasons.

Firstly, consolidation has made solving the “up-scaling urbanization” worse. The consolidation of finance, savings (banking), retail (vendors), and government powers has created a void to be filled by alternate power structures.

Secondly, solutions must be multi-actor with simultaneous and symbiotic actions. If unilateral interventions could work, they would have been by now.

Thirdly, “scaffolding” in the form of temporary interventions is necessary. Temporary strategies help implement policies for the short-term and dissolve in the long-term.

The “space” can take the form of a government offshoot. It represents a space that is in dispute amongst formal and alternate power structures.

**Toward a value chain or networked simultaneous symbiotic solution (SSS)**

Local government is the appropriate unit to resolve/address the irresolution versus amnesty problem as it has access to all key players. It is essential that local governments and the poor communicate. Poor people have to be able to voice their needs effectively and local governments have to be accountable to the poor and respond to their demands. The first step is local government’s acceptance that land irresolution is an issue that they must confront.

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**The Simultaneous Symbiotic Solution (SSS)**
THE DIADEMA CASE
Over a period of 26 years, this city in the Sao Paulo area made incredible physical and social advancements, distinguishing itself from similar communities in this growing mega-city. A long-standing municipal government used the granting of leases for public land as a tool along side strategic infrastructure, transportation, public safety and health investments. The results were astounding; residents living in “favelas” dropped from 30% to 2%, in spite of the fact that housing and urban planning only made up 2% of the city’s annual budget.

The Diadema case demonstrated the value in consistent, multi-administration application of policies. The Diadema Case reveals that the government must make the first move: granting unilateral land resolution to slum dwellers. Public land must be controlled by the municipality if it is to become part of the land irresolution solution. Slum formalization relies on developing cheap solutions that are scalable, but not necessarily “sexy.” If costs per house are low, informal private finance can be used. The public sector can lever existing private household investment to upgrade existing informal housing. Policy must be recognized by multiple actors, including government, citizens, and private companies, all of whom act simultaneously.

Theory of Change and the Killer-App: Unilateral Land Transfers to Poor Dwellers
Local governments should recognize that the poor are permanent dwellers, and transfer land rights to the poor. Once land rights are transferred, the State must assume guardianship over the poor’s ownership. The rationale for this action is based on the Theory of Change.

Theory of Change
The durable rights transfer of built land to existing poor dwellers is the stalemate breaker.

Implementation of the theory of change is outlined below:

- Governments must use the power of eminent domain to transfer land ownership to the poor.
- The land owner receives the land’s fair market value, which is calculated according to normal valuation principals. The land value must reflect the lack of infrastructure, adverse occupancy, political risk, and costs of relocation.
- The poor pay what they can afford, and the government pays the difference between the poor’s paying price and the fair market value.

Barriers to adoption of the Theory of Change
Governments currently don’t adopt the Theory of Change for a number of reasons that are outlined below:

1. Public-choice risk. It is more profitable for an elected official to sell land in bulk to a private developer, rather than engage in land transfers.
2. Local governments lack the legal authority to dispose of the land in question.
3. Amnesty moral hazard risk. Local governments fear unilateral land transfers will spur further public land invasion.
4. Local government does not believe that the Theory of Change will “pay” for the city.
5. Fear that granting amnesty is a sign of political failure.
6. Local governments are either hesitant, unable, or unknowing of the ancillary steps...
Factors compelling adoption of the Theory of Change

Governments must adopt the Theory of Change, even if they are fearful of the risks associated with land transfer.

The facts on the ground are indisputable and irreversible. Inaction weakens local government by empowering alternative power structure (e.g. slumlords, gangs, et cetera.) Granting land tenure strengthens local government and generates significant positive values. Adopting the theory of change grants voting power to new constituencies, who can strengthen voting bases. Secondly, it expands the local tax base, which benefits city coffers. Thirdly, action taken early on is more cost-effective than action taken later. As informal urban areas expand, infrastructure costs increase, resulting in greater costs per increment.

Historically, granting land ownership is the only way that land has ever been regularized. Regularizing land “creates” more land and provides an opportunity to increase density using durable structures. Evictions are ugly, and have a long history of failure.

The case for granting land tenure can be sold as a means of improving health and safety for the middle class, relieving budget constraints elsewhere.

As cities compete with one another for viability, the consequences of inaction are great. Slums reduce the competitiveness of a city. “Any crusader with a web cam” has the potential to ruin a city’s reputation. Once tarnished, a city’s reputation is difficult to repair.

Operationalizing the Theory of Change

Ultimately, the local government is responsible for operationalizing the theory of change. Other stakeholders with significant interests include: private companies, slum leaders — individuals, NGOs, CSOs, national and state governments, international development agencies, political parties, and other thought leaders in the field.

Documenting case studies that highlight the economic and public benefits accrued from granting land transfers will help encourage governments to adopt the theory of change.

THE PATRIMONIO HOY CASE

Patrimonio Hoy\(^1\), organizes regular savings of small groups of households and delivers a package of building materials for a home improvement (e.g. a room addition) in stages that households can pay for in installments. The program provides construction planning and technical assistance through community offices. Participants upgrade their homes in 12-18 months rather than 16 years (the median period for progressive housing in Mexico) at a cost of 30% less. CEMEX has expanded this program to other countries and now offers credit to low-income neighborhoods to pave roads. CEMEX has found that reaching massive scale depends critically on community organizations and networks to market, monitor performance, screen households and groups for participation, and collect on individual and group loans.

This effort presents a new model to government as it expands the definition of public-private partnership in the context of housing. CEMEX recognizes a huge opportunity to capitalize the social identity of the company through creating a “Hybrid Value Chain.” This hybrid value chain represents a systematic approach, an entire value chain, for housing. Its drivers are entrepreneurs, who are private or public sector players. The hybrid value chain means understanding other actors in your customer’s value chain, and strengthening their value and viability. CEMEX engages with top leaders.

\(^1\) [www.wdi.umich.edu/files/Conferences/2007/BoP/.../CEMEX.pdf](www.wdi.umich.edu/files/Conferences/2007/BoP/.../CEMEX.pdf)
List of participants

Carolyn Aguilar-Dubose (Mexico), Dean of UIA’s Department of Architecture.

Valeria Budinich (Chile/ USA), Ashoka’s Vice President (Chief Entrepreneur of the Full Economic Citizenship Initiative).

William Cobbett (South Africa), Manager of the Cities Alliance.

Rosabelli Coelho-Keyssar (AHI), Research Director

Bruce Ferguson (USA), consultant and former Senior Housing and Urban Economist at the World Bank.

Jose de Filippi Jr (Brazil), former mayor of Diadema-SP and Loeb Fellow at Harvard’s GSD.

Babar Kabir (Bangladesh), BRAC’s director of the Water, Sanitation and Hygiene (WASH) Programme, Bangladesh.

Rajesh Khatke (India), head of the engineering division of the Slum Rehabilitation Authority in Nagpur (Maharashtra State).

Arturo Mier-y-Teran Ordiales (Mexico) Architect and Urban Planner, full time Professor at UIA.

Israel Moreno (Mexico), General Manager of Patrimonio Hoy/ CEMEX.

Vinit Mukhija (India/ US), Associate Professor of Urban Planning at UCLA.

Michael Mutter (UK), Senior Advisor to the UN-HABITAT.

Arturo Ortiz Struck (Mexico) Architect and Professor (UIA/ Architecture Department)

Krishnaswamy Rajivan (India), consultant and former Senior Urban Finance Advisor of the Cities Alliance at the World Bank.

Deidre Schmidt (AHI), Executive Director

David A. Smith (AHI), Founder

AHI’S mission is to make housing and infrastructure finance ecosystems work for the poor.