

URBAN
LAW
TOOLS
No. 2



Slum Upgrading Legal Assessment Tool

UN HABITAT
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Slum Upgrading Legal Assessment Tool

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INTRODUCTION



>1B

'slum dwellers'
in 2019 (UN-Habitat)



370M

in South-Eastern Asia

238M

in sub-Saharan Africa
and

227M

in South Asia

In 2019, UN estimated that the absolute number of people living in slums or informal settlements grew to over 1 billion, with 80 per cent attributed to three regions: Eastern and South-Eastern Asia (370 million), sub-Saharan Africa (238 million) and Central and Southern Asia (227 million).¹

Slums normally differ from formal settlements because of unclear, often illegal, land occupation, or the settlement and its buildings do not have official permission, or because the site layouts and structures contravene regulations (for instance, plot sizes are smaller than the minimum specified by planning regulations). In many cities, informal settlements are so common and house such a high proportion of the population and workforce that they cannot be an exception but are the rule. If laws and regulations in force in a country consider the homes and livelihoods of much of the city population to be illegal, then the law's appropriateness should be reviewed.

Lessons from UN-Habitat's work in slum and informal settlement upgrading highlight how a successful slum upgrading needs to shift the housing and land regimes towards a pro-poor regulatory framework – remove obstacles and create practical solutions responsive to the slum context. It is therefore fundamental to understand the structure and the way in which legal and regulatory frameworks support or hinder the development of informal settlements upgrading efforts.

What is the Tool?

The Slum Upgrading Legal Assessment Tool is a diagnostic self-assessment tool to identify, in a structured, objective, and systematic way, the strengths and weaknesses of the regulatory framework made up of all legislation and regulations enacted at different levels and in force in a country.

It is designed to be used either alone or, ideally, in the context of a broader law reform method that begins with issue identification and legal mapping and moves all the way through to recommendations for reform. It is a useful tool to guide the process to agree on actions that are needed to address the identified gaps. The assessment tool uses an indicative approach, relying on a limited number of indicators in each of its five thematic areas: **land, planning, basic services, housing, and financing**. While it produces what appear to be quantitative outputs, these are built on a primarily qualitative analysis that is designed as a framework to catalyse discussion in a national or local context and not as a means of ranking.

The legal assessment framework uses two sets of indicators; the first is related to the functional effectiveness of law, which includes indicators related to: 1) consistency of policy objectives; 2) transparency and efficiency of mechanisms and processes; 3) organizational of institutional responsibilities and roles; 4) clarity in standard of drafting and 5) capacity for implementation. However, this part will not be discussed in this handbook.

¹ UNDESA, Statistics Division, 2019 <https://unstats.un.org/sdgs/report/2019/goal-11/>

The second set of indicators is technical in nature; they are related to land and security of tenure, planning, access to basic services, housing, and financing. The technical content will be elaborated in detail.

The Aim of the Tool

This legal assessment tool intends to provide urban managers and other stakeholders with a framework to understand how and if their legal and regulatory framework supports participatory, city-wide slum upgrading or not. Specifically, the guide acts as:

- A self-assessment tool to be used during focus groups, to identify strengths and weakness of the current urban planning system and guide opportunities for city-wide slum upgrading.
- A clarifying process - to make clear what frameworks might need to be revised as part of a longer-term reform process.
- An entry point to change mindset and build capacity around legal and regulatory frameworks for participatory, city-wide slum upgrading. Based on key planning principles promoted by the UN-Habitat's Participatory and Slum Upgrading Programme (PSUP).

The quick guide is NOT intended to:

- Be a comprehensive assessment of urban law (though the method of analysis could be applied). It is not conclusive, but only an initial assessment.
- Cover everything affecting urban planning, but rather to focus on the basic elements of physical planning in slum and informal settlement contexts.
- Include specific indicators for cross-cutting issues: participation, human rights, youth, gender, and climate change. Human rights consideration will be provided for in some thematic areas related to slum and informal settlement contexts, such as forced evictions and access to basic services, for example.

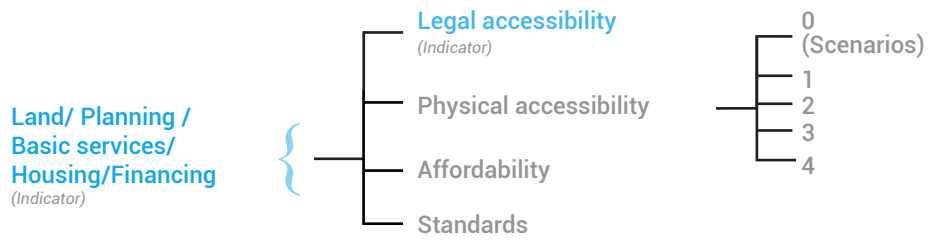
What Are the Benefits and Outcomes?

The Slum Upgrading Legal Assessment Tool assesses the regulatory causes that have an impact on five thematic areas. It looks at all the laws, regulations, and decrees applicable in a city that are enacted at different levels. It focuses on the actual law but will stimulate the discussion on any discrepancies in their enforcement or enactment.

At the end, the tool will help urban managers and other key stakeholders acquire a robust domestic legal analysis, supported by a participatory discussion, which outlines the strengths and opportunities or impediments of current legal and regulatory frameworks for slum upgrading. As a result, a set of recommendations will be produced which will indicate the way forward for slum upgrading and what actions need to be taken to make longer-term reforms for strengthening responses to improve the lives of slum dwellers and the urban poor in general.

Structure of the Assessment Framework

The Slum Upgrading Legal Assessment Tool focuses on five areas: tenure security, planning, access to basic services, housing, and financing. In each area, several indicators have been used to capture the essential elements that matter most for slum upgrading and provision of affordable housing. Each indicator is further broken down into five "scenarios" on a scale from 0 to 4 (with 4 being the most satisfactory result), with indications of what legal provision could be in place based on the principles of the New Urban Agenda, UN-Habitat's principles and experience, and international human rights standards. UN-Habitat's guiding principles on legislative assessments include: 1) human rights-based approach; 2) slum household definition (five deprivations: lack of safe water, access to sanitation, durability of housing, overcrowding, and security of tenure); 3) functional effectiveness of laws (capacity of the laws to achieve their objectives); 4) right to adequate housing; 5) the continuum of land rights; 6) UN-Habitat sustainable neighbourhood planning (five principles) and the PSUP neighbourhood design recommendations for slum upgrading.



The different scenarios offer suggestions on different mechanisms the legal provisions could contain, and which countries could consider introducing to support their upgrading programmes.

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