



# Illegality of private subdivision and access to land for housing by the urban poor in Dhaka



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## ABSTRACT

This paper concerns the illegal peripheral subdivisions in Dhaka city, Bangladesh. These subdivisions were a cheap solution to the demand for land, thereby housing, for the urban poor. With ascent on the enabling policy, Roy (2009) refers the peripheral subdivisions as 'privatization of informality' and wealthy command infrastructure, services and legitimacy that come to be designated as 'formal' by the state. Legalisation is selective for the socio-economically and politically powerful land developers. The land price of these legal subdivisions is high. Considering the land price, this paper argues that the urban poor have little to no access to the legal subdivisions in Dhaka. Policy suggestions are made at the end of the paper.

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## Introduction

More than half of the world's population live in urban areas and one third of those supposedly live in slums. The Millennium Declaration in 2000 (MDG 7) aims to make 'significant improvement in the lives of at least 100 million slum dwellers, by the year 2020' (UN Habitat, 2003). Because of the increasing number of slum dwellers, and from the experiences of developing countries, the world clearly faces a major urban housing crisis (Gilbert, 2009; Sengupta, 2010). In Asian cities, which comprise about 60% of the world slum population, the lack of housing is one of the most serious and widespread consequences and causes of poverty (Yuen, 2007). Land has been at the centre of housing discourse because without access to cheap and buildable land, building affordable, well-ordered and incremental housing in large quantities is virtually impossible (Choguill, 2007: 148). Access to land for housing by the urban poor lies at the heart of this debate in mega cities, such as, Dhaka. How the legality or formality of land subdivision is defined and whether the urban poor can access those in Dhaka is the point of discussion of this paper.

Dhaka ranked ninth among the world's mega cities with an estimated population of 17.6 million in 2014 (Prothom Alo, 2014b), increasing to an expected 25 million by the year 2025 (UN, 2010). At least 100,000 household units every year are required just to house the added population (Seraj, 2009). An estimated 3.4 million people

in the city live in slums. Access to housing is being met, this not being done at standards considered acceptable, or perhaps legal, from the perspective of the state. Not more than 15% of the one million housing units in the city are provided by the formal sources (Islam, 2004; Table 1). The subdivisions in the peripheral parts, though officially illegal,<sup>1</sup> have proven adaptive and responsive to the market demand for land (Fekade, 2000: 135). The forces of the marketplace operate to affect the supply side conditions – the production of housing stock over time through new construction, renovation, or redevelopment – even law prohibits it. Private land developers and house builders continue to provide a new addition to the land and housing stock so long as the cost to produce it is equal to a competitive return from sale or rental (Vandell, 2012: 644).

The enabling policy of the World Bank (WB) entailed a notable shift in the role of the public sector from directly providing to engaging the private sector in supplying land, and constructing, financing, operating and maintaining housing units. It officially promoted increased participation by the private sector and underscored the government's role in creating conditions conducive to land supply by eliminating legal and regulatory constraints

<sup>1</sup> The term 'illegal' subdivisions as applied here is synonymous to 'unplanned settlements' or to 'irregular settlements' or to 'informal settlements', the term used by Duran-Lasserre (1996: vi). Similarly, the terms 'pirate' (Gilbert, 1981), 'self-planned' and 'substandard commercial residential subdivisions (SCRS)' (Fekade, 2000) are used to signify the similar status of the subdivisions. Herein, they are referred to as 'illegal' when discussing the case study because they are officially defined so in Bangladesh.

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**Table 1**  
Relative contribution of housing delivery sub-sectors in Dhaka.

Housing sub-sector		Units	Percentage
Formal	Public housing	100,000	10
	Private housing	48,000	2.8
	Cooperative	2000	2.1
	Total formal	150,000	15
Informal	Private housing	500,000	50
	Slums	200,000	20
	Squatter settlements	150,000	15
	Total informal	850,000	85
Total		1,000,000	100

Source: Islam, 2004

and supporting appropriate infrastructure investments (Sengupta, 2006). The land and housing supply in developing countries is passing through a transitional period.<sup>2</sup> However, Varley (2013: 4) argues that despite the intent to formalise/legalise the land and housing, the result can, ironically, be to perpetuate them. While much of the city flouts planning regulations, and the state may disregard its own laws when it finds it convenient to do so, only certain claims to land are designated illegitimate. Such selective enforcement of planning norms suggests a 'calculated informality', a 'system of deregulation' that is also 'a mode of regulation' (Roy, 2009a; Varley, 2013: 5).

Against this background, the second section of the paper is the literature review that seeks to reflect on the transitional process from the government to market-led land and housing supply. The third section provides a short summary of land and housing demand and supply in Dhaka. This is followed by the methodology. The fifth section details the profile of the developers. The sixth section is the discussion and is followed by conclusions in the final section.

## Literature review

Sustained urbanisation rates have posed multifaceted problems in developing countries – chief among those is the provision of shelter for the low-income groups. The combination of rapid urban growth, limited governmental capacity and resources and the sheer number of people living in poverty failed most of the government approaches to housing (Gilbert, 2009). The government was unable to deliver affordable mass housing because the whole system lacked a sound economic base due to the level of subsidies involved (Choguill, 1988: 30–1, 2009: 525; Sengupta, 2006: 450). Nor did public housing achieve its social equity objectives – contrary to original intent, beneficiaries of public housing are, by and large, middle and upper income residents (Fekade, 2000: 137; Shidlo, 1990).

While the socio-economically better-off groups can secure housing, low-income groups often have to fend for themselves in substandard and illegal markets. The land and housing markets are inseparable in developing countries, in which owner occupied housing is predominantly a land market (Sivam, 2002). The peripheral residential subdivisions have been a major source of land supply in most cities of developing countries (Baross & Van der Linden, 1990; Fekade, 2000). It is often argued that the emergence of informal sub-market is the result of planning regulations inherited from the colonial administration that practice unduly

high standards in view of the financial capacity of low-income households (Gilbert, 1981; Mehta, Mitra, & Nientied, 1989; Sivam, 2002: 528).

In 1991, the Bank's policy paper, New Urban Management Programme (NUMP) recommended a shift of the central government's role from direct provider of urban infrastructure and services to enabler. The major components of this policy are: i) simple regulation so that the private sector can respond to market demand; ii) the delivery of land and housing through privately raised capital; iii) cost recovery of government investments; and iv) formalising illegal land and housing so that taxes can be charged (Jones & Ward, 1994: 33; Zanetta, 2001). Since the private sector is more efficient and responsive to the market demand than the public sector in providing land and housing, 'enabling the market' has become the official doctrine for most of the developing countries.

There are several major consequences of the enabling policy concerning low-income land and housing supply in developing countries. First, housing has become less priority for the government, as its social allocation and cutbacks are justified as housing reforms, which has taken many forms and manifestations. Secondly, in the name of cost recovery of investments, public housing programmes disproportionately favour middle and upper income groups, but those by-pass low-income shelter needs (Sengupta, 2010: 323). Thirdly, Firman (2009: 332) notes that land conversion by the local government and private sector in Jakarta is caused by political interests and pressures by placing what are perceived to be profitable economic activities. Fourthly, large cities of developing countries present the duality of both planned and unplanned urban forms and exclusive residential areas (see Firman, 2004; Sengupta, 2010). Finally, in all developing countries, with rare exceptions, both the public and private land development takes place through violation of land use plans. Implementation of regulation and controls are so weak that land use plans are ineffective in controlling physical development (Firman, 2009; Sivam, 2002: 529).

Roy (2009a: 82–3) suggests that with the consolidation of neoliberalism, there has been a 'privatization of informality'. It is a mechanism in wholly privatized and marketed urban formations, "that constitute the peri-urbanization of so many cities. These subdivisions are no more legal than squatter settlements and shantytowns, but they are expressions of class power and can thus command infrastructures, services, and legitimacy in a way that marks them as substantially different from the landscape of slums". Varley (2013: 13) suggests that informality is not the absence of law because the state has often permitted developments for middle-class housing, industrial zones and government offices violating its own laws. Gertner (2008: 66) noted that almost all of Delhi violates some planning or building laws. Developments that have the 'World-class' look, despite violating zoning of building byelaws, are granted amnesty and heralded as monuments of modernity (Varley, 2013).

The Market solution to the low-income housing problem in cities of developing countries is far from reality. However, there are different emphases of the enabling policy. The UNCHS (1992) suggests that reliance on the market economy refers to shifting responsibility for physically constructing dwellings on-to the market, which would enable governments to concentrate on reforming and managing the legal, regulatory and financial policy frameworks. Kenna (2010) suggests that the governments' first obligation is to see that all are decently housed, and the for-profit market is managed and regulated in a way subservient to the goal. Leat (2004) suggests that 'roll back of the state' is supposed to subcontract the delivery of public services to complex partnerships (the privatisation of publicly held assets, and deregulation and expansion of social service-oriented NGOs under neo-liberalism).

<sup>2</sup> Kombe (2000) defines the 'transitional period' as the time required to change from bureaucratic land allocation to a well-functioning market-led supply system. This is the time needed for the formal institutions entrusted with the management of urban land, in particular the supply of housing land, to develop the capacity to supply sufficient planned and surveyed land for housing.

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