

Incrementally securing tenure in slum upgrading: Reflections on promising practices in southern Africa

Gaining administrative recognition for local land management practices: The case of Huambo, Angola

This Practice Note outlines the actions taken by the municipal administration in Huambo, Angola, with support from Development Workshop, an NGO which has been working in Angola on human settlements issues for more than three decades. Development Workshop's work has focused on advocacy, training of civil servants, basic services provision, land management and urban and housing development. The Practice Note focuses on the technical assistance provided by the Tenure Security Facility Southern Africa, and examines implications for practice.

The Tenure Security Facility Southern Africa is a project of Urban LandMark. It is funded by the Cities Alliance Catalytic Fund with co-funding from UKaid.

The context of Huambo

Angola has been affected by protracted conflict which emanates from the struggle for independence between 1961 and 1975, as well as post-independence civil conflict from 1975 until 2002. Prior to independence, the Portuguese created the colonial land management system to legalise the appropriation of African peasant lands for settler-farmers' use. These practices continued until independence in 1975, when the new Angolan government affirmed the constitutional role of the state as the owner of all land. However, the flight of many Portuguese civil servants also meant that management of land registers ceased and registry information was either destroyed or lost.

During and following the war, informal housing settlements grew rapidly in peri-urban areas, but legal and administrative procedures for managing these areas were not developed. In the Land Law of 1991, the state restored the framework for offering concessions to state-owned land and property, principally in rural areas and a few designated urban areas. A framework was also set up to allow occupants of state-owned rental housing to purchase their houses and flats. The end of the conflict in 2002 increased the need for housing, and a private real estate market emerged. The demand from foreign companies and expatriate workers competing for the limited housing stock in cities like Luanda caused a rise in property prices. Post-war migration from rural to urban areas, and the gentrification of the inner city, increased the asset value of buildings and land, which became important sources of rent-seeking in an increasingly informalised rental and real estate market.

In the post-2002 period, the Angolan government turned its attention to addressing social issues such as housing and the rebuilding of institutions for land management. Since 2004, a growing number of laws and regulations related to land, housing and urban development have been adopted, with a particular focus on Luanda. However, the lack of technical and financial capacity of state administrations, especially at local level, limits the implementation of new legislation.

'There is a huge confusion between what is administrative and what is judicial [legal], and I have had several problems because of that.'

Huambo municipal
administrator (10 May 2013)

The Land Law of 2004 required that informally-occupied land be regularised within three years. The Territorial Planning Law of 2004 provided for the rehabilitation of degraded or informally-occupied areas. In 2008, the government announced a plan to build one million houses throughout the country by 2012, in an effort to eliminate most slum settlements known as *musseques*. In 2010, the government estimated the formal housing deficit to be 1.9 million units. The National Statistics Institute estimates that 90.9 per cent of urban people live in inappropriate conditions.

In 2002, Development Workshop was invited by the Huambo Provincial Government to assist them with land and settlement management issues. This involved piloting two demonstration land readjustment (pooling) projects between 2005 and 2008, and assisting the administration of Huambo to construct Angola's first comprehensive municipal cadastre.

Technical assistance

There is a growing market in land and urban plots of land in Huambo city and the scale of this appears to be increasing, but many of the transactions in informal housing areas go unrecorded. Although these transactions are perceived as secure by an overwhelming majority of residents, few transfers can be backed up by legally-defensible documents. Even where the state has been involved in land and house distribution, it is arguable whether the documentation is complete and legally defensible. Many middle class and elite residents also do not have full legal title.

In responding to these developments, the municipal administration in Huambo demonstrated a willingness to innovate in its land management practice. This is evident from the creation of a temporary upgradeable occupation licence, which is a flexible administrative mechanism, to fill the gaps left in the Angolan Land Law.

The Huambo municipality engaged Development Workshop to produce the first comprehensive land register which aims to map and record all land occupation and tenure claims made by the residents. Development Workshop is training local administrators in Huambo and neighbouring provinces to use an open title, open-source tool for land tenure mapping and recording. Formal land registers provide a market mechanism to regularise informal settlements, provide sustainable infrastructure and access to services, strengthen rights of tenure and protect the assets of the poor. The current initiatives will make an important contribution to the process of incrementally improving land management practice and securing tenure rights for the significant majority of residents in Huambo.

In 2012–2013 Development Workshop provided further advisory support to the Huambo Municipality by conducting a legal study and a household land acquisition survey to investigate current land management practices, the progress of institution building and the barriers to the development of viable land management institutions.

The study demonstrated that, in spite of weak, unclear and unenforceable national legislation on land tenure, local solutions have been developed in response to the urgent settlement issues that occurred in Huambo at the end of the war. These administrative procedures gained widespread legitimacy and have increasingly been employed by the municipal administrations in Huambo Province.

The household survey found that, although residents possess limited legal or administrative proof of access, they feel relatively secure in terms of the documents or assurances they currently possess. The survey shows that:

‘When someone wants to legalise an existing house, we ask for an opinion of the traditional authority (*soba*) and another from the administration of the village or *bairro* residents’ commission as well as their personal documents such as ID or at least testimonies from two neighbours. Then they have to write the application letter and on that basis we issue a binding document which is the Licence of Occupation signed by the municipal administrator.’

Huambo municipal
administrator (10 May 2013)



- In formal housing areas, 30 per cent of occupants have no proof of access, and 70 per cent have a written purchase contract, but none have legal titles.
- In semi-formal housing areas, 51 per cent have no proof of access, 5 per cent only have a verbal agreement, 37 per cent have a written contract, and 7 per cent have a Licence of Occupation.
- In informal housing areas, 45 per cent have no proof of access, 7 per cent have a verbal agreement, 13 per cent have a verbal agreement with witnesses, 3 per cent have a verbal agreement witnessed by officials, and 31 per cent have a written contract.
- 21 per cent of occupants feel their occupation is valid because the owner gave them permission to stay, while 24 per cent feel secure because they received assurance from a friend or family member.

Implications for practice

Huambo’s provincial and municipal authorities welcomed the collaboration with Development Workshop, which has enabled the city to pilot demonstration projects in participatory inclusive land readjustment over several years. The projects contributed to the development of the set of administrative mechanisms that tackle the challenges of land management without resorting to large-scale forced removals.

Three tenure forms are embedded in the Land Law: Surface Rights, the Land/Property Registry (*Registo Predial*), and the Precarious Occupation Title (*Título de Ocupação Precária*). Another, the Licence of Occupation (*Licença de Arrematação*), while not provisioned in the Land Law, is an administrative procedure that allows the occupant three years in which to obtain legal title documents. In practice, Licences of Occupation are the principal land tenure documents issued by the municipal administration in Huambo, and they have gained the weight of full legal title.

The technical support provided to Huambo presents insights into three different routes toward incrementally increasing tenure security (see the diagram).

Diagram Key routes towards securing incremental tenure in Huambo



‘If we stop persecuting those who acquire land illegally and try to formalise the informal market, then we will actually be able to contain the problem of *musseques* [slum settlements]. I think it is better to stop all the bureaucracy and perhaps create the figure of a ‘mediator’ who can facilitate the liberation of the housing market. With more supply and more freedom ... the existing gap between the demand and supply will cease to exist.’

Huambo municipal administrator (10 May 2013)

‘If a person has the Licence of Occupation then it is almost like the definite Title of Surface Rights.’

Huambo municipal administrator (10 May 2013)

The growing land market in Huambo City, along with weak and unenforceable land legislation, fostered the development of **local practices in land management**, often incorporating customary practices, like the traditional chief (*soba*) witnessing and the neighborhood *bairro*-level representatives approving transactions. The majority of urban residents purchased or acquired their land through some locally legitimate mechanism and most have documents to prove it. In response, the municipal authorities chose to recognise these mechanisms, thereby acknowledging and working with existing and management practices (Route 2 in the diagram).

The municipal administration in Huambo demonstrated a willingness to innovate in its land management practice by **adapting and strengthening existing land management practices** (Route 5 in the diagram). They created a number of administrative mechanisms, including a temporary upgradeable Licence of Occupation, to fill the gaps left in the Angolan Land Law. The Licence of Occupation is an **administrative recognition mechanism** and, although it is not embedded in law, it has currency in practice and has therefore gained widespread legitimacy (Route 6 in the diagram).

It remains to be seen how tried-and-tested administrative procedures, which incorporate many of the good-practice principles of incremental tenure security, can be progressively legalised in Huambo.

‘What we do here is try to remove a lot of the bureaucracy.’

Chief architect of Caala Municipality, Huambo
(12 May 2013)

‘So far, we haven’t demolished any house that was already built.’

Huambo municipal administrator (10 May 2013)

