

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

Introduction to the Practice Notes

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.

Why improve security of tenure?

Urbanisation in African countries is increasing rapidly, driven primarily by massive rural-urban migration.¹ Known as the ‘urbanisation of poverty’, about 62 per cent of people today live in informal settlements,² which tend to be located in peri-urban environments and are characterised by insecurity of tenure and very poor infrastructure.

Efforts to secure tenure among the urban poor are dominated by the paradigm of individual title implemented through large-scale titling schemes. Despite well intentioned policies, however, individual ownership is far removed from the realities of urban slum dwellers. Research has confirmed that poor southern African women and men engage actively in urban land markets (see Box 1).³ Far from being disorganised, there is evidence of locally managed processes in informal settlements that are in place for accessing land, and that such transactions occur even in countries where the land is nationalised or where land cannot be legally sold without the authority of the state.

Do these practices in informal settlements offer a foundation on which to strengthen community agency and progress towards tenure security? Is it possible for state structures to work with and ultimately recognise the local land management practices that are used by poor communities in informal settlements? Is it possible to side-step the debate about individual ownership and work towards achieving more immediate upgrading and tenure security benefits?

From 2011 to 2013 these questions shaped an Urban Land Markets Programme (Urban LandMark) project called the Tenure Security Facility Southern Africa (TSFSA),⁴ funded by the Cities Alliance Catalytic Fund with co-funding from UKaid. The work

Box 1 Nozipho's story*

The only way to live here now is to buy from someone who already has a place here and is selling or moving. The owner must introduce you to the committee. You must come with a letter from where you are coming from. That letter would say what kind of a person you are and why are you moving away from where you would be coming from. You give the letter to the committee and show your Identity Book. The committee must give you permission to buy a shack from someone who is selling, or to use a space to build your own shack. I don't know anyone who rents a shack here.⁵

* Nozipho moved to the city of Cape Town from the predominantly rural Eastern Cape Province in South Africa.

1 UN-Habitat (2008) *The State of African Cities 2008 Report*. Nairobi: UN-Habitat.

2 Ibid.

3 Marx C (Isandla and Stephen Berrisford Consulting with Progressus) (2007a) *Do informal land markets work for poor people? An assessment of three metropolitan cities in South Africa: Synthesis report*. Pretoria: Urban LandMark. Raimundo JA and Raimundo IN (2012) *Operation of the Market Study: Land access in urban areas, the case of Maputo*. Pretoria: Urban LandMark. Development Workshop (2011) *The Case of Angola: Strengthening citizenship through upgrading informal settlements, cross country initiative (TF0901110) Technical Assistance in Urban Land Policies*. Washington DC: World Bank. Gordon R (2008) *Urban Land Markets: Review of data on how the poor access, hold and trade land – additional analysis*. Pretoria: Urban LandMark. Progressus Research and Development (2013a) *Urban Land Market Study: How the poor access, hold and trade land. Findings from research in two settlements in Lilongwe, Malawi*. Pretoria: Urban LandMark. Progressus Research and Development (2013b) *Urban Land Market Study: How the poor access, hold and trade land. Findings from research in two settlements in Tete, Mozambique*. Pretoria: Urban LandMark.

4 The TSFSA project provided small-scale, targeted advisory services on incrementally securing tenure in slum upgrading in the southern African region. The advisory services explored different routes into increased tenure security. The project developed partnerships in six sites in southern Africa, some over several years: Development Workshop in Angola, the Cities Alliance Country Programme and the national association of municipalities, ANAMM (*Associação Nacional dos Municípios de Moçambique*) in Mozambique, Planact in Johannesburg, Sun Development in Cape Town and CCODE in Malawi. Urban LandMark provided support over several years to the City of Johannesburg's Regularisation programme.

5 Urban LandMark (2010) *Access to Land in Poorer Parts of Towns and Cities*. Learning materials series, p.3.

grew out of emerging insights into how people access, hold and trade land in informal settlements in southern Africa, insights that developed in the course of Urban LandMark's 'Operation of the Market' studies in several settlements in the region.

These insights gave rise to a series of Practice Notes that reflect on promising practices in the work of the Tenure Security Facility in five sites across southern Africa. The Practice Notes are intended to guide practitioners, officials and communities who are involved in informal settlement upgrading and who see the value of finding more routes into tenure security than the dominant ownership paradigm currently allows.

Urban LandMark's approach to incrementally securing tenure

Seven years ago, little was understood about the operation of land markets in poorer urban areas – how urban residents seek and find shelter, a place to work and trade and raise their families. Even less was known about how to address tenure insecurity among the people living on urban land without administrative or legal support.

Research undertaken by Urban LandMark between 2007 and 2012 sought to understand how the poor access, hold and trade land in informal settlements in Lilongwe in Malawi, Maputo and Tete in Mozambique, Luanda in Angola,⁶ and Durban, Cape Town and Ekurhuleni in South Africa.⁷ While government authorities generally frame the acquisition of individual title as the ultimate goal, the evidence shows that in poor communities there are limited routes to ownership and they take a very long time to achieve.

Can tenure rights be secured by taking different routes in advance of, or even instead of, official titling interventions, so that informal settlement residents can themselves improve their lives without the risk of eviction?

Through the research an alternative approach emerges, which is to recognise the local practices in land management that already exist. It makes pragmatic sense to work with what is currently in place – both in law and in local practice – in order to achieve more immediate upgrading and tenure security benefits. This involves, for example, identifying the laws that can be used innovatively to serve adapted ends or confirming the status of local practices, and adding municipal or administrative weight to them, can ensure that there is external recourse to protect the interests of more vulnerable community members.

The Tenure Security Facility focused on examining practical alternatives to large-scale titling schemes by using a context-specific approach to land management and tenure security. The approach tries to achieve realistic progression toward more security over time, whether or not the end result is title or some other legal form of tenure. As a result of the research, Urban LandMark advocated the concept of **incrementally securing tenure**, which can be described as a continuum (see Diagram 1).

Diagram 1 The tenure security continuum



6 In Angola Urban LandMark provided advisory support and the survey methodology to Development Workshop's study.

7 Reports on the research are available at www.urbanlandmark.org.za.

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The continuum is a visual tool based on two principles, namely **incremental progression** towards more security, and **official recognition** of existing land management practices in order to build more appropriate responses that enhance community agency. At one end of the continuum is less security of tenure, characterised by less official recognition. On the other is more security, with more official recognition.

The research found that the communities secure verbal or written evidence of land acquisition, and explored how these local practices can advance recognition by authorities to help secure tenure over time. Many of these actions, especially in the earlier phases of the continuum, aim to attain greater **administrative recognition**, which may be followed by **legal recognition** from state authorities (see Box 2).

In contrast to the widespread focus on large-scale titling schemes, the practice sites produced seven routes towards greater tenure security: resisting evictions, recognising local practices in land management, stakeholder dialogues on tenure security, locating tenure security within slum upgrading, adapting and strengthening existing land management practices, administrative recognition mechanisms, and legal recognition mechanisms. These routes are illustrated in Diagram 2.

Diagram 2 The seven routes to greater tenure security



Box 2
Mechanisms to achieve recognition⁸

Administrative recognition uses policy instruments or administrative practices to give residents tenure security. They may not have a firm legal basis, but produce security through commitment by authorities in the form of council resolutions or administrative systems. Examples include issuing an occupation certificate in recognition of residents' permission to remain in the settlement, undertaking shack enumeration and linking it to a list or record, or agreeing on a block layout with a community and introducing basic services.

Legal recognition uses procedures located in legislation to grant legal status to an area. It usually results in declaring the area in terms of the law, which then permits certain other actions to take place legally. Examples are the City of Johannesburg's Regularisation scheme and the proposed Land Use Management Application in the City of Cape Town.

⁸ Urban LandMark (2010) *Incrementally Securing Tenure: An approach for informal settlement upgrading in South Africa*. Pretoria: Urban LandMark.