Tenure Security Facility Southern Africa
Tenure perspective

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Tenure Security Dialogue, Lilongwe
Informal settlement upgrading and Tenure

- Slum upgrading as a basket
- Different components of slum upgrading as eggs in a basket
- Tenure is one egg in the slum upgrading basket
- What is tenure?
Secure Tenure

• FORM - individual ownership, group ownership, rental and variations
• FORM in itself does not bring tenure security
• Ability to enforce a socially and politically meaningful and socially legitimate tenure system is what makes tenure more secure, regardless of what “type”, form or option of tenure it is
Defining tenure

- Rights
- Responsibilities
- Benefits
- Rules and processes
- Authority
Defining tenure

- Tenure is about the procedural and substantive aspects of land holding as follows:
  - Rights and obligations to property, and benefits flowing from property, and the processes and procedures through which rights, obligations and benefits are invoked and materialized;
  - Authority in relation to these rights, duties and procedures;
  - Social and institutional practices governing rights, duties, benefits, processes and procedures (Leap 2008).
Tenure rights: sticks in a bundle

- Rights:
  - To settle, live here, occupy
  - Grow trees
  - Build houses
  - For agriculture – gardens
  - To sell
  - To share
  - Inheritance, wills
  - Rent
Tenure obligations: the flip side of the coin

- Security – have a hedge for boundary, get a letter from chief (disputes), go to land department for beacons and title deeds
- Live well with your neighbours (e.g. Witchcraft)
- Use land properly – rubbish pit, latrines
- Manage grey water
Tenure benefits

- To live freely
- Income
- Respect
- Inheritance
- Loans
Processes and procedures for governing tenure

- Slum upgrading is driven by outsiders
- This is a threat – people are not open to tenure discussions – they fear eviction

• Stated practice – what people say happens here
• Actual practice – what actually happens here

CHANGE
### Power and authority in tenure arrangements

**Custom and Law**

<table>
<thead>
<tr>
<th>Who?</th>
<th>Rights</th>
<th>Obligations</th>
<th>Rules</th>
<th>Benefits</th>
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<tbody>
<tr>
<td>Block leaders</td>
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<td>Chiefs</td>
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<td>Others</td>
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*Authority*
Tenure security

- Freedom from eviction
- Freedom to sell
- Legitimacy: Defend your rights, get a loan
  - Is what secures tenure
  - Local, social, political
Tenure security in slum upgrading

• Ownership itself not problematic in principle, but ...

• Legacies of dispossession and exclusion: colonisation, apartheid, post colonial freedom

• How property is experienced and valued by people:
  – More of a family asset than an individual one, so titling an individual in some circumstances does not make sense, and neither will it “stick”.
  – This is not a problem of understanding or capacity, to be solved by consumer education, as is often perceived.
Individual ownership

• But ownership simply isn’t happening for many poor Southern Africans.
  – nothing in between the potential of eviction and the provision of title
  – *How can people have more tenure security, to improve their lives, while they wait for a title that may or may not come in their lifetime?*
Tenure security and informal settlement upgrading

- **Recognise** don’t replace
- Adaptation
- One step at a time – **incrementalism**
A case for incremental tenure security

1. Opening up more routes into the formal system
2. Giving greater recognition to existing informal mechanisms
3. Unhelpful binaries and the dual economy hypothesis
4. Stepping stones – learning from rural land reform
5. Resource arguments for an incremental approach
The development of a concept

• A short narrative:
  – UN Habitat
  – LEAP
  – Urban LandMark approach
  – Application in Maputo
Source: UN-Habitat
Leap (1)

Source: Cousins, Hornby, Kingwill, Royston, Trench, 2005
<table>
<thead>
<tr>
<th>More formal</th>
<th>More informal</th>
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<tbody>
<tr>
<td>Tenant of a formal backyard structure with written rental agreement</td>
<td>Tenant of a backyard shack without written rental agreement</td>
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<tr>
<td>Unregistered owner of a house on a legally subdivided plot</td>
<td>Owner of a house on an informally subdivided plot</td>
</tr>
<tr>
<td>Registered owner of a house on a legally subdivided plot</td>
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</tbody>
</table>

Sources: USN and Development Works, 2003 & Cousins, Hornby, Kingwill, Royston, Trench, 2005
The Tenure Security Continuum

THE APPROACH
Incrementally securing tenure and improving lives

Source: Smit and Abrahams, 2010
Maputo?

Eviction threat  

Master planning with city wide Settlement classification

Block planning and group rights

Less security  

Existing administrative arrangements

Interim legal recognition of locally witnessed claims

Legal tenure form: DUAT

More security

More official recognition

Less official recognition
Incremental Tenure Security in Lilongwe?

• What should happen in informal settlement upgrading?
• How can existing local arrangements be built on (recognise not replace, adapt)?
• Are they secure enough? Do they need some level of official recognition?
• What potential points of intervention along a continuum of tenure security – stepping stones - would result in progressively more recognition, if required?
• An approach distinct from the more conventional policy of introducing land scale titling schemes into urban slums
How to work with tenure

1. Understanding what currently exists
   – Local registration practices – records, evidence and the content of claims
   – OOM surveys & ‘elite interviews’
   – LGAF

2. Institutionalising tenure
   – Tenure as a work stream in slum upgrading
   – Tenure route maps – incremental development

3. Administrative recognition
   – From community held records to more official registers of rights

4. Legal recognition
   – Identification and assessment of potential legal recognition mechanisms (legal dynamism, prospects for innovation)