Urban LandMark

Security of tenure and property rights
introduction
comparing results
implications for slum upgrading

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MAKING URBAN LAND MARKETS WORK FOR THE POOR

UKaid

Tenure Security Facility Southern Africa

- Cities Alliance Catalytic Fund
- UK-Aid
- Partnerships:
  1. Planact: Witbank Spring Valley
  2. SUN: Khayelitsha Monwabisi Park
  3. Regularisation programme
  4. ANAMM: Maputo; Cities Alliance CPP
  5. Development Workshop: Huambo
  6. CCODE: Malawi

Project Purpose

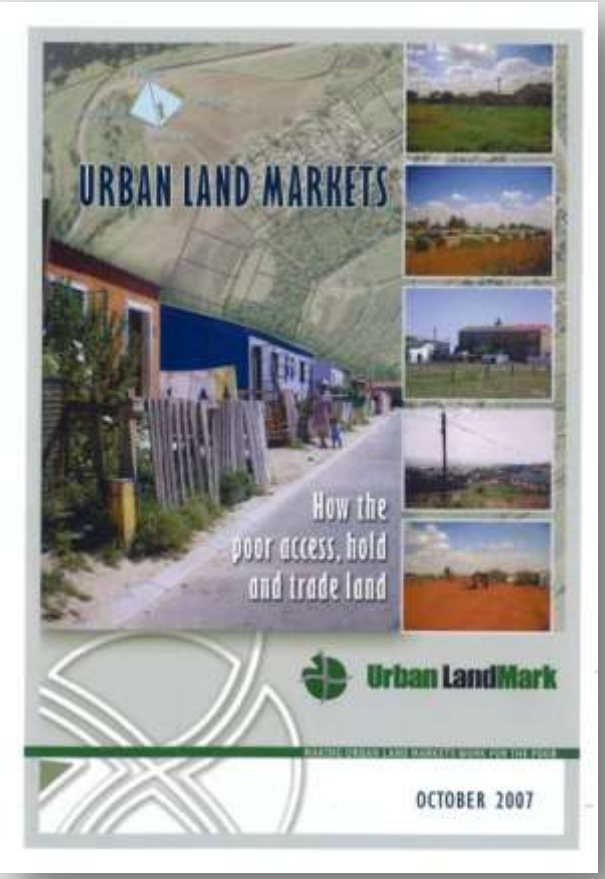
To provide **specialist technical assistance and advisory services** on tenure security within slum upgrading initiatives in the Southern African region and **share lessons learnt** with others in the region.

Components of work

1. **2 diagnostic studies** on urban land markets in Lilongwe, Malawi and in Tete, Mozambique;
2. **Specialist advisory services** on tenure to Huambo, Angola and Maputo, Mozambique in the development and implementation of appropriate mechanisms and approaches to increase tenure security for households living in informal settings in the cities; and in Lilongwe
3. **Technical assistance** on security of tenure to slum upgrading projects in South Africa in three identified sites - Johannesburg, Cape Town, and Witbank; and
4. **Practical guide** for use in the region on incrementally securing tenure in slum upgrading

The evidence base

3 cities in South Africa



Maputo, Mozambique

Luanda, Angola

Development Workshop

How do people access, hold and trade land?

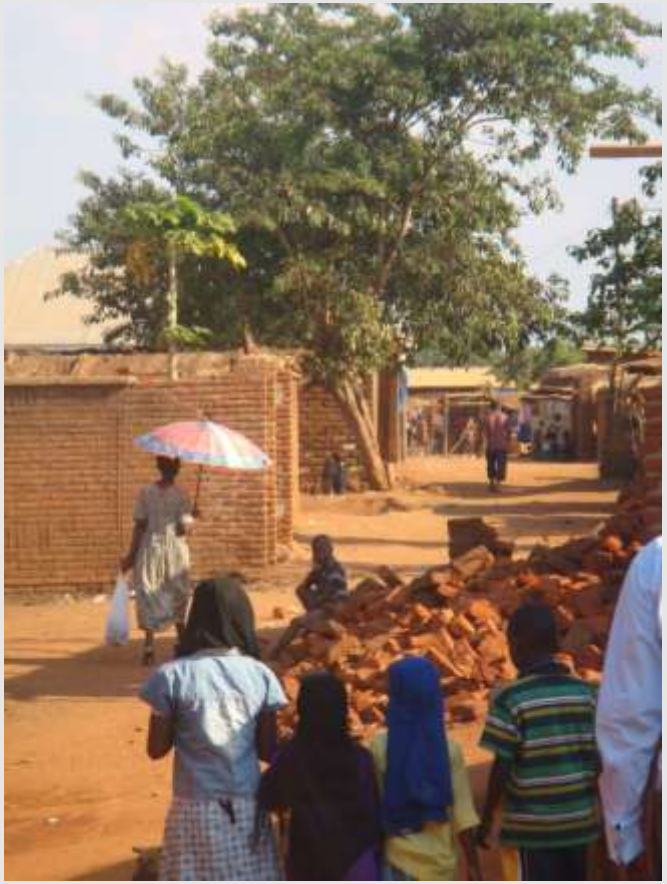
The evidence base

Tete, Sansao Muthemba and Matundo

How do people access, hold and trade land?

The evidence base

Lilongwe, Mtandire and Chinsapo



How do people access, hold and trade land?

Comparing results

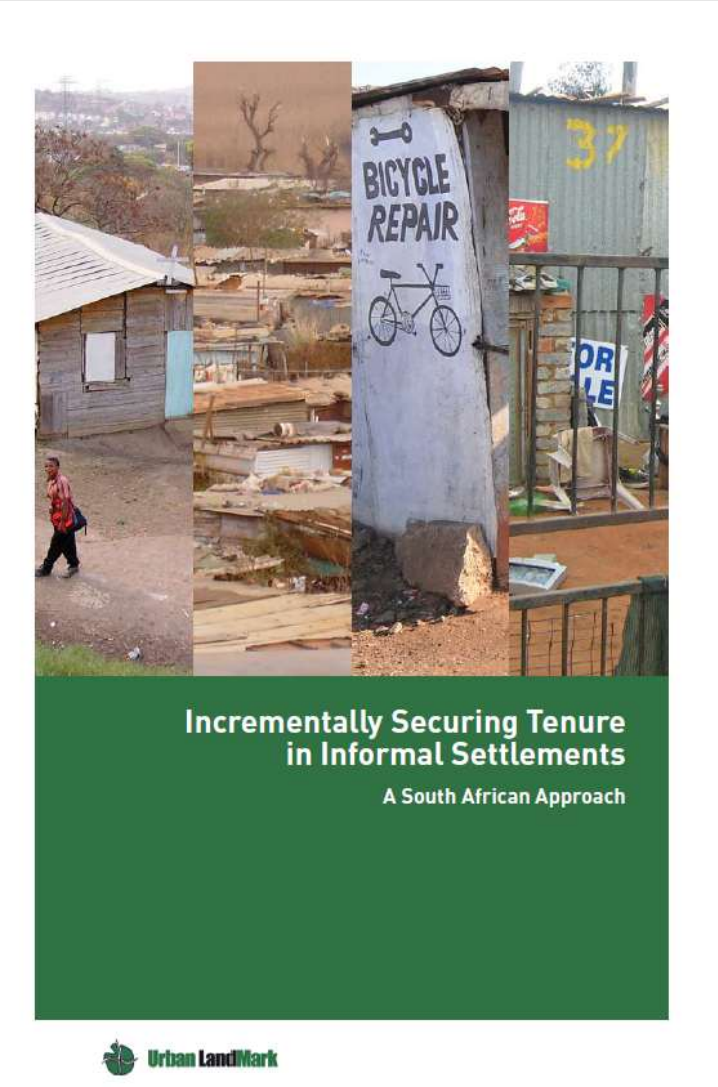
- Social relationships
- Locally organised
- Legitimacy
- A financial logic / price
- State presence
- Is tenure secure? To what extent?
- Are lives improving?
- Access and location issues

Locally organised 1

- Local rules for entering into agreements
- Far from being informal, in the sense of lacking organisation, most people engaging in the markets we studied, enter into agreements when they transact land, with some kind of evidence to back up their claim, whether oral or documented.
- In Maputo only 6.3% responded that they had no agreement, indicating that having an agreement, whether it is verbal or documented is an important aspect of accessing land. Nearly half of respondents had some kind of agreement; a declaracao for 29% and a verbal agreement for 19%.
- In Luanda about 86% of the total number of respondents had some kind of documentation that demonstrates that they had a right to occupy the property.
- In South Africa most households in informal settlements relied on written agreements ("given a receipt").
- In Malawi we found that rights to the property were obtained for most respondents who owned through an agreement witnessed by the chief or a document given to them by the chief (98% in Mtandire and 90% in Chinsapo).
- In the rental market in the Malawi study we found that rights to the property were secured through being given a document from the owner (49% in Mtandire and 58% in Chinsapo).

Locally organised 2

- These results confirm the existence of some form of evidence to defend claims, for many and in some cases most residents.
- Of course it is important to take into account those for whom such evidence does not exist in upgrading processes, and to understand the reasons for an absence of local evidence as it may point to particular vulnerabilities and / or exclusions.
- On the other hand, existing evidence is an important clue when it comes to building more appropriate policy responses.
- Many respondents perceive themselves to be secure but might well be under threat when more powerful property interests come into play.
- As a consequence, giving some kind of official recognition to this evidence is an important place to start.



- officially recognised mechanisms to secure tenure incrementally
  - register tenure locally and provide evidence to rights holders
  - confer legal status to settlements
- that can be used to defend de facto rights to productive and residential land use to increase certainty, and for transferability

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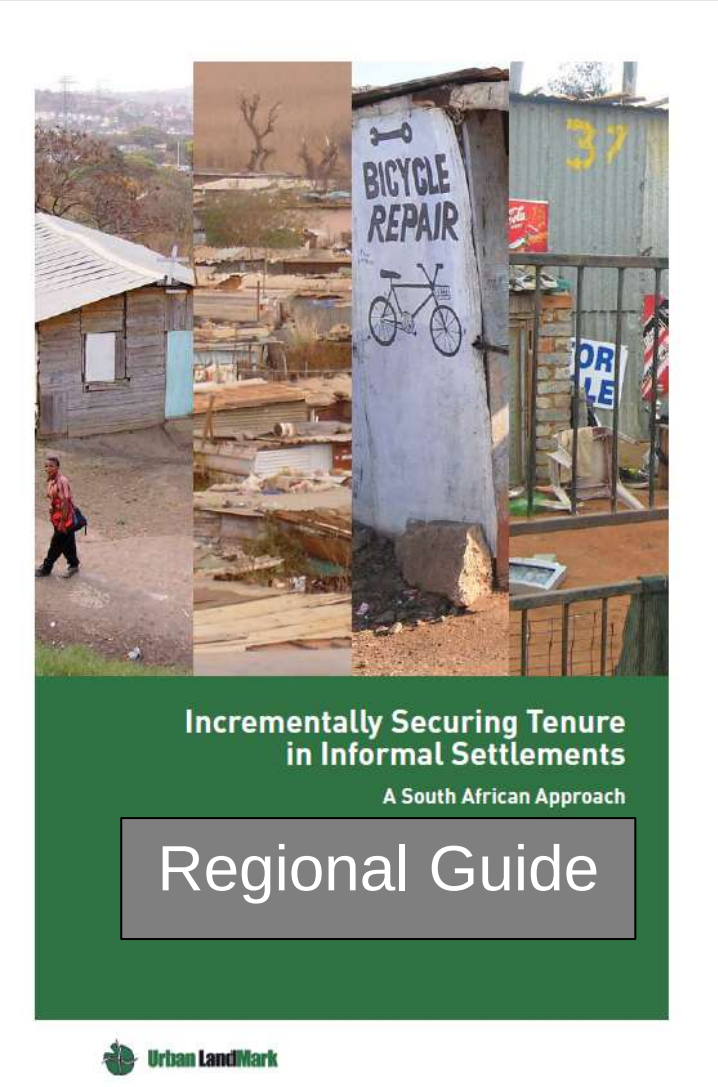

Starting with existing practice

Working within existing law and policy

Official recognition

Legal recognition

Administrative recognition

Johannesburg

Cape Town

Witbank

Huambo

Maputo

Lilongwe

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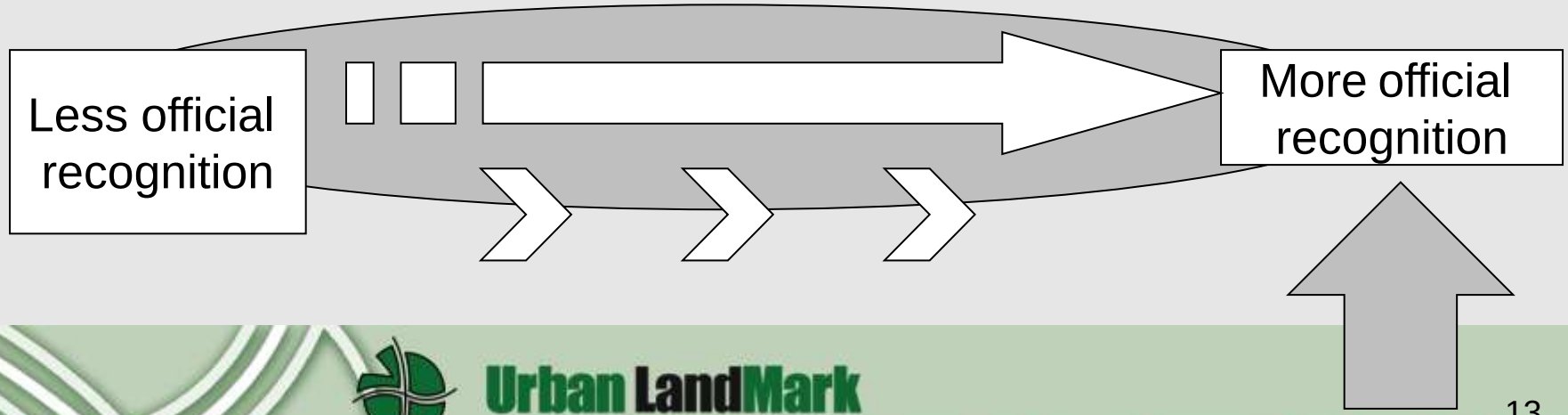
Summarising a perspective...

- *Official recognition of existing practices*
  - *Practical ways of securing tenure as simply as possible*
  - *Incremental upgrading approaches which secure tenure on a more gradual basis, and at first on a less individualised basis*
  - *Tenure security increases when people have evidence to secure their rights*
  - *This evidence needs to be progressively recognised*



Emerging practice: how to work with tenure

1. Understanding what currently exists
   - Local registration practices – records, evidence and the content of claims
   - OOM surveys

Emerging practice: how to work with tenure

2. Talking about tenure
   - Lilongwe Dialogue
   - Maputo engagement process
   - NUSP forums

Emerging practice: how to work with tenure

3. Institutionalising tenure
   - Tenure as a work stream in slum upgrading
   - Tenure route maps – incremental development
4. Administrative recognition
   - From community held records to more official registers of rights
5. Legal recognition
   - Identification and assessment of potential legal recognition mechanisms (legal dynamism, prospects for innovation)

Some examples from developing practice in the Tenure Security Facility

1 **Learning more about understanding existing tenure arrangements**
The case of administrative recognition in Monwabisi Park **(SUN development services)**

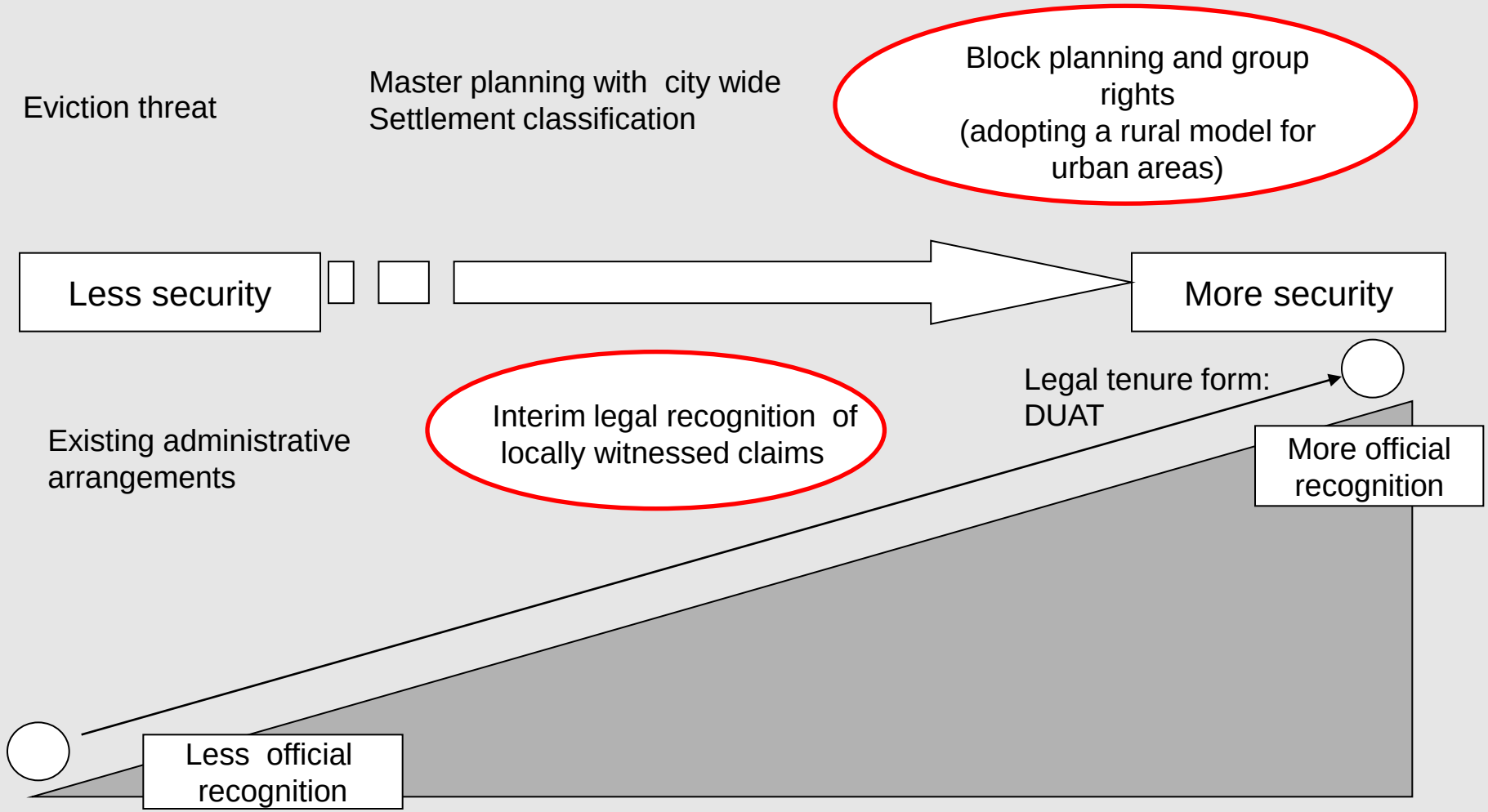
2 **Finding mechanisms for legally declaring informal settlements**
The cases of legal recognition in the cities of Cape Town and Johannesburg

3 **Introducing incremental tenure into current regulations and practice**
The case of Huambo in Angola (Development Workshop)

4 **Building up from local practice**
Legal recognition in Maputo
Administrative recognition in eMalahleni (Planact)

5 **Talking tenure**
Tenure security dialogue in Lilongwe (CCODE)
Tenure security in urban policy engagement in Mozambique (Cities Alliance)
Tenure security in municipal / mining dialogue in Tete)also Cities Alliance)

Legal recognition: Maputo?



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Spring Valley – administrative recognition

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