



Urban LandMark

*DFID learning event on urban
property rights*

Land Rights and Tenure Security: the Tenure Security Facility Southern Africa

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Southern Africa]



MAKING URBAN LAND MARKETS WORK FOR THE POOR

The “market”? What market?...



State allocation
Kingsway,
Ekurhuleni



Self or Community allocation
Blackburn Village,
Durban



Traditional authority allocation
Sobonakona
Makhanya,
Durban

... transactions ...

**Local institutions and local rules
of the game**



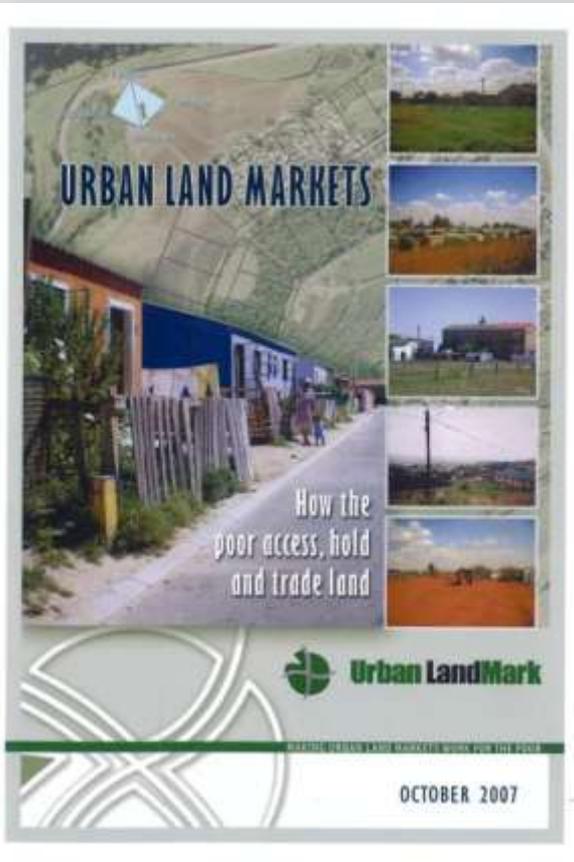
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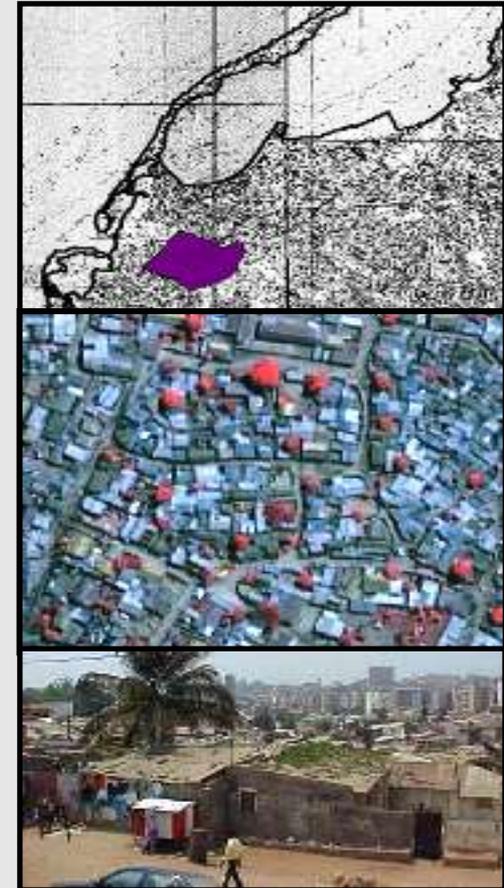
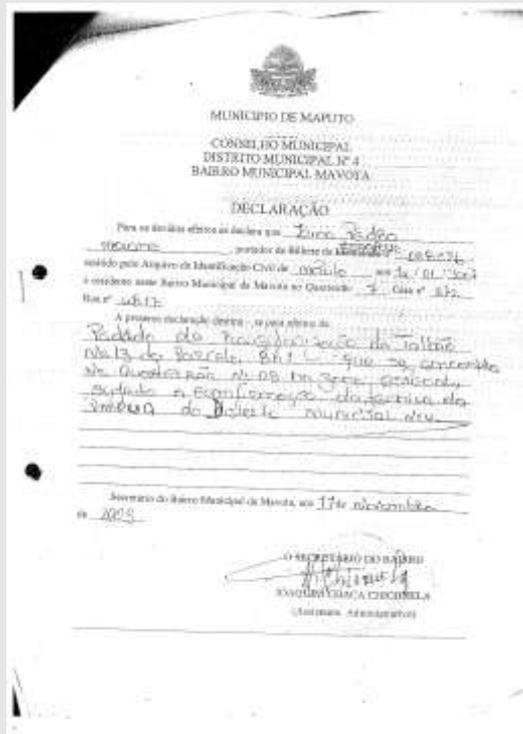
Build the evidence base

Luanda, Angola

3 cities in South Africa 2007



Maputo study 2011



Development
Workshop, 2011

How do people access, hold and trade land?



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What did we find?

1. Evidence of transactions
2. Organised local practices to manage land
3. The local arrangements work in some ways but are limited in others
4. There is much that is locally and contextually specific, but we can also identify a few key issues that would make the markets work better



Some of the evidence of the last 6 years: transactions

- In Maputo cases 49% bought their plots, of this 33% said they were paying for the land, 12% both land and house and only 6% just the house
- In Luanda, the majority of respondents (61%) indicated that they made some sort of payment for their property.
- In South African city cases, an average of 26% of households in shack settlements exchanged houses every 5 years
- In RDP housing, where there is a limitation on the resale of houses for eight years, some 11% of households were transacting, 6% were sales



Some of the evidence: contracting

- 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
- In Luanda about 86% of the total number of respondents had some kind of documentation that demonstrate that they had a right to occupy the property
- But a significant number (14%) of all the respondents said that they did not have any document to prove their right of occupancy.
- In South Africa most households in informal settlements relied on written agreements (“given a receipt”).



What about official property documents?

- In the South African case study cities only 36.8% of the respondents in the RDP housing projects refer to title deeds as their means of securing tenure. Of this figure, 25.4% of respondents were given a title deed and 11.4% indicated that a title deed was coming. For many people, therefore, the title deed was not perceived as being important for making agreements.
- In Maputo only 2.6% of the surveyed households had a DUAT
- In Luanda official forms of evidence were barely used -- only 8% of the total respondents indicated that they possess any official form of evidence

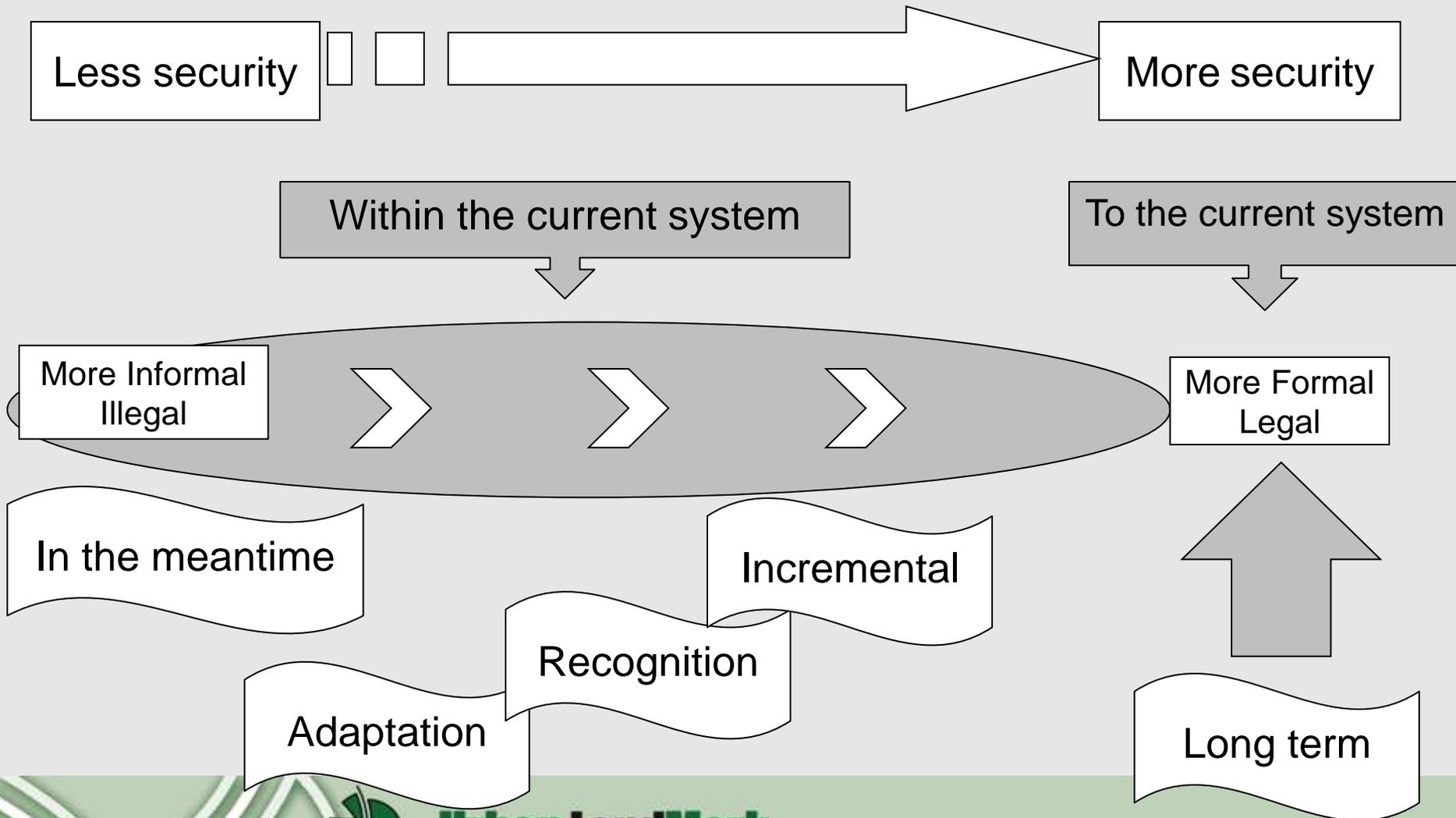


What was our response to what we found?

- There is generally one way in to official recognition and its benefits
- Therefore, increase channels of supply that are officially recognised
- An emphasis on securing rights



Work is needed on 2 fronts





Incrementally Securing Tenure
in Informal Settlements
A South African Approach



- officially recognised mechanisms to secure rights incrementally
 - register rights 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

Tenure Security Facility Southern Africa

Tenure Security Facility Southern Africa

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.

Supported by Cities Alliance and with co-funding from Ukaid.

The work aims to contribute to improved access to land for poorer people, which in turn contributes to improved livelihoods, active citizenship and asset creation.



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MAKING URBAN LAND MARKETS WORK FOR THE POOR



Incrementally Securing Tenure
in Informal Settlements
A South African Approach



Starting with existing practice
Working within existing law
and policy

Official recognition

Legal recognition

Administrative recognition

Johannesburg

Cape Town

Witbank

Luanda

Maputo

Lilongwe

Tenure Security Facility Southern Africa



Practice Notes

1 Learning more about understanding existing tenure arrangements

The case of administrative recognition in Monwabisi Park

2 Finding mechanisms for legally declaring informal settlements

The case of legal recognition in the City of Cape Town

3 Finding mechanisms for legally declaring informal settlements

The case of legal recognition in the City of Johannesburg

4 Building up from local practice

The case of administrative recognition in Maputo?



**Incrementally Securing Tenure
in Informal Settlements**

A South African Approach



Tenure Security Facility Southern Africa

Johannesburg Witbank Maputo

Cape Town Luanda Lilongwe



Administrative and Legal Recognition

- **Recognition** = The acceptance of an informal settlement through a range of administrative and legal interventions

ADMINISTRATIVE RECOGNITION

This uses instruments that may arise from policies or administrative practices to give residents a form of tenure security. Security derives from commitment by authorities in the form of council resolutions or administrative systems.

Occupation letter, Register, Shack enumeration, Block layout

LEGAL RECOGNITION

This uses a legal procedure, in terms of some recognised law, to grant legal status to an area. It usually results in declaring the area in terms of this law (a settlement area, an area zoned for informal housing, etc).

Amendment Scheme, LFTEA Ch 1, DFA Ch 5



Our work in Luanda



**Recommendation 2:
Introduce the principle of
incremental tenure into
current regulations and
practice**

Review the draft regulations that the Ministry of Urbanism and Development Workshop developed on incremental tenure and incorporate into legislation. Work with the support of Cities Alliance, DW and Urban LandMark on putting the regulation into practice in a pilot municipality.



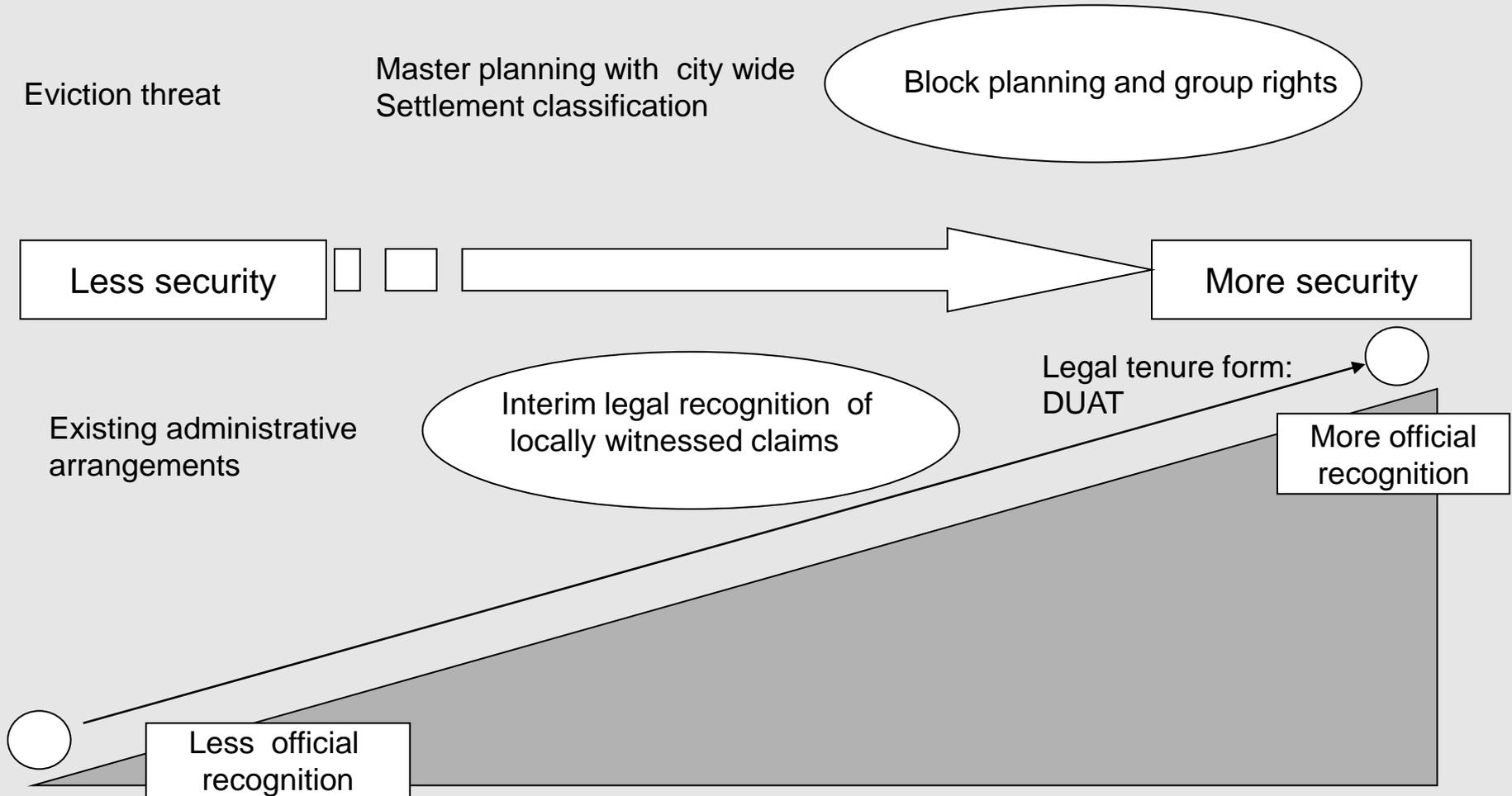
The City of Johannesburg town planning scheme amendment mechanism



1. Legal declaration of each property as a “Transitional Residential Settlement Area” (hence incorporating them into the Town Planning Scheme)
2. A set of “rules” applicable in each “Transitional Residential Settlement Area”, including:
 - Preparation of a layout plan and its incremental improvement
 - Identification of occupant
 - Creation of a register
 - Setting of basic standards for upgrading and improvement
 - Basic land use management and even law enforcement

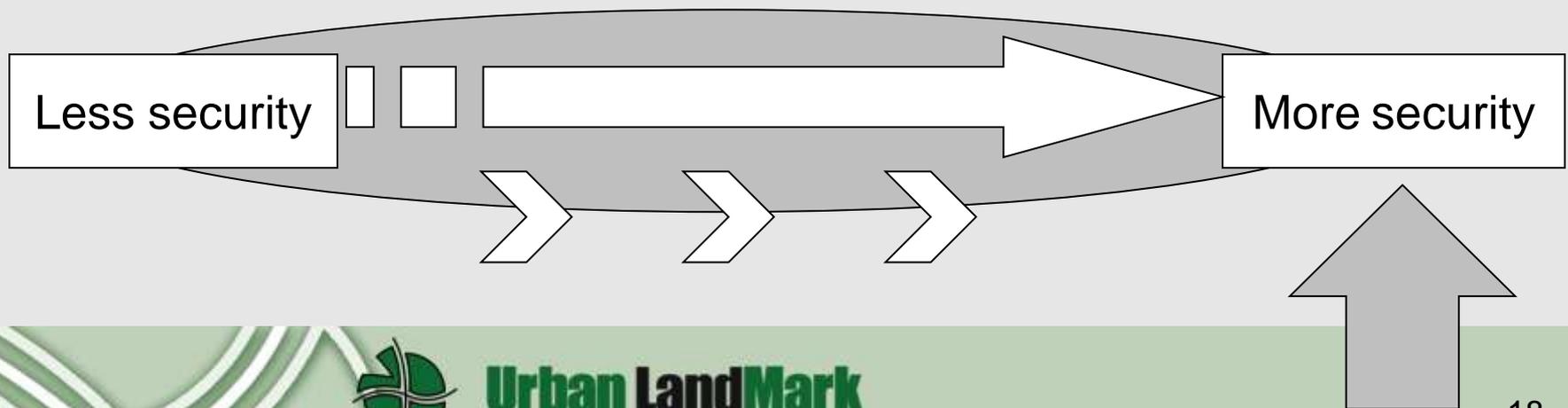


Maputo



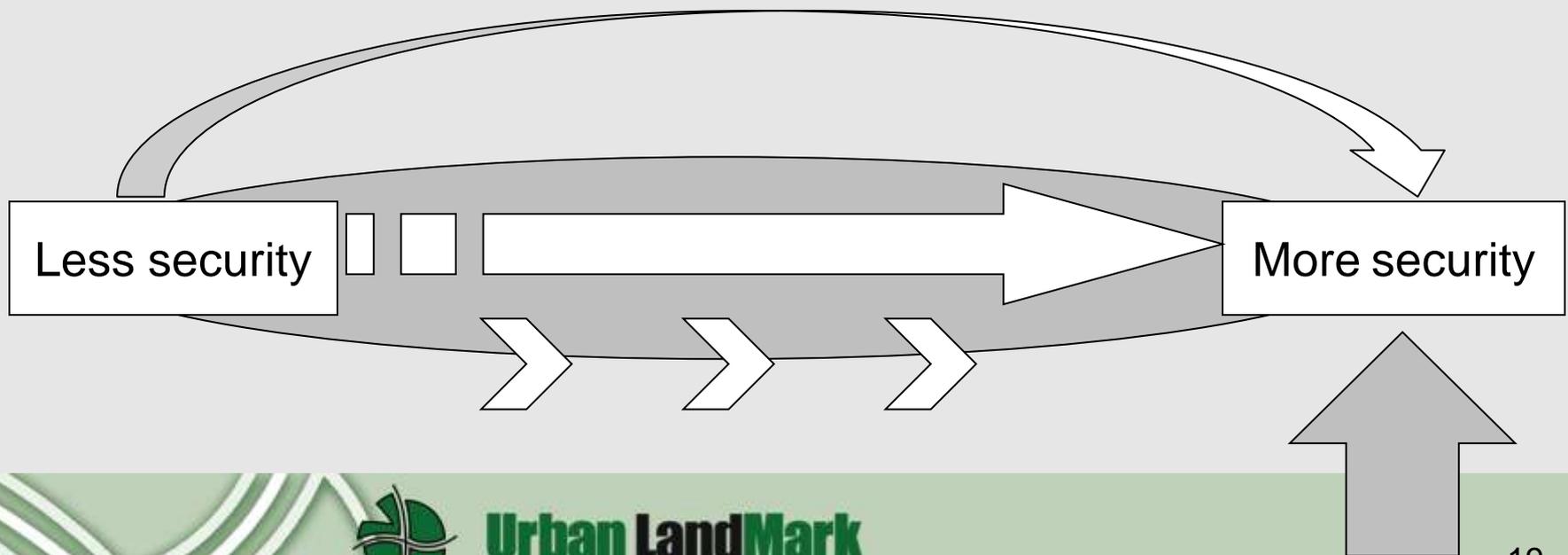
Summarising an approach...

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



What next?

- *Our work isn't done!*
 - *Practical mechanisms in the here and now*
 - *Building up a body of (alternative) practice*
 - *Influence the directions of change in slum upgrading*



Lessons from emerging practice in the Tenure Security Facility

1. Understanding what currently exists
 - Local registration practices - records, evidence and the content of claims
 - OOM surveys & 'elite interviews'
 - Understanding the intersection of authority and rights - matrices help
2. How to work with tenure
 - Tenure as a work stream
 - 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)



Advancing practice and measuring impact

- New ways of thinking, other ways of seeing, doing things differently
- But can you count it?
- Yes you can!





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