



Urban LandMark

working towards improving access to land and property rights

**TENURE SECURITY FACILITY SOUTHERN AFRICA
PROJECT**

**Incrementally securing tenure in informal settlements /
slum upgrading in Southern Africa**

Advisory Support Services – Technical Report

**Incrementally securing tenure in urban
and peri-urban Mozambique: an
exploration of the evidence base and
strategy proposals**

June 2013

Tenure advisory support services undertaken for Urban LandMark and Cities Alliance by:
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About Urban LandMark

Established in 2006 with funding from the UK's Department for International Development (DFID), Urban LandMark works to find remedies to the problems that have made urban land markets dysfunctional and habitable land unaffordable.

Our initiatives aim to shift policies and practice to improve access to well-located urban land by making markets as well as land planning and management systems work better for poorer people, and giving meaning to the right to land.

Urban LandMark plays a catalytic role by using research to inform policy, and by promoting dialogue between key stakeholders – government, the private sector and civil society – to find effective solutions to prevailing obstacles in accessing urban land markets.

About the Tenure Security Facility Southern Africa Project

Urban LandMark established the Tenure Security Facility Southern Africa project in 2012 to provide specialist technical assistance and advisory services on tenure security within slum upgrading initiatives in Southern Africa, and share lessons learnt with others in the region. 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.

The Tenure Security Facility extends and expands on work Urban LandMark has undertaken since 2006. This work has made a significant contribution to recognising the need for incremental tenure in the slum upgrading process and thinking about how this should occur.

The Tenure Security Facility partnered with **ANAMM** for the work in Mozambique.



Lauren Royston managed the advisory support services which were provided by **Progressus Research and Development** in Mozambique. This Technical Report was written by Lauren Royston of the Tenure Security Facility Project, Ros Gordon and Progressus Research and Development.

Acknowledgements

The Tenure Security Facility Southern Africa project is financially supported through the Catalytic Fund of Cities Alliance and co-funding from UKaid (Department for International Development).

The support of ANAMM is gratefully acknowledged. The assistance of Adérito Justino Cumbane is particularly appreciated.

The Tenure Security Facility worked closely with the Cities Alliance Country Programme in Mozambique. We gratefully acknowledge the assistance of Adele Hosken and Mariana Kara Jose of Cities Alliance and Christian Kapfensteiner of GIZ.

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1. Introduction

Mozambique's population in 2010 is estimated to be 23,4 million inhabitants¹. There are 23 cities and 68 towns in the country, of which 43 are organised into municipalities. Currently, about 35% of the population lives in urban areas and the rate of urbanisation is about 4% a year. At this rate, it is expected that by 2020, almost 45% of the population will be living in urban areas and by 2030 the urban population of Mozambique will be larger than the rural population².

The increase in the population of Mozambican cities is determined essentially by natural growth and by migration from the countryside into the cities. This has resulted in a proliferation of informal settlements³. Over 70% of the urban population is living in unplanned informal settlements. Within secondary cities, unregulated informal settlements make up roughly 90% of municipal territory. In Maputo, some 75% of the urban population lives in "barrios" with limited or no access to services and very basic concrete block houses⁴.

This report explores the implications for an incremental approach to securing tenure in urban and peri-urban Mozambique. The report is based on the findings of research undertaken in Maputo and Tete on how people in informal settlements in these cities are acquiring, trading and holding land, as well as stakeholder consultations. This report will be used for the development of practice notes on incrementally securing tenure in informal settlements in Mozambique and a Regional Guide, as well as a basis for informing the Cities Alliance Country Programme in Mozambique.

This report has been developed as part of the **Tenure Security Facility Southern Africa Programme 2012**, which is providing technical assistance and advisory services on incrementally securing tenure in slum upgrading in Southern Africa. The programme aims to contribute to improved access to land for poorer people, which in turn contributes to improved livelihoods, active citizenship and asset creation. The Tenure Security Facility Programme is managed by Urban LandMark and expands on work Urban LandMark has undertaken over the past six years. The Tenure Security Facility Programme is funded by Cities Alliance and UKaid.

¹ UNData, <http://data.un.org/CountryProfile.aspx?crName=Mozambique>, 2013

² Ministry for the Coordination of Environmental Affairs, Republic of Mozambique, National Report to the United Nations Conference on Sustainable development, June 2012

³ Ministry for the Coordination of Environmental Affairs, Republic of Mozambique, National Report to the United Nations Conference on Sustainable development, June 2012

⁴ The Cities Alliance Mozambique Country Programme: Adele Hosken, Cities Alliance, Urban LandMark Conference, 2013

This report outlines:

- Background and methodology
- Understanding tenure security
- The legal context
- The evidence base
- Proposed incremental approach to land security
- Conclusions

2. Background and methodology

In 2007, Urban LandMark undertook an 'Operation of the Markets Study' into how the poor access, hold and trade land in three metropolitan areas of South Africa (Durban, Cape Town and Johannesburg). Principal findings included that "socially dominated" land markets exist in the parts of these cities where poorer people live; that they are mediated by community organisation, social relations and the state; and that although they function in the short term to provide access to land, constraints exist as to how well they function in the medium and longer terms for the poor. One of the primary implications of this work for Urban LandMark was the need to promote official recognition of these markets, in order to improve how they function for the poor. Consequently Urban LandMark identified **increasing tenure security as the first step toward official recognition**.

As a result, Urban LandMark developed an approach for incrementally securing tenure in slums in South Africa in 2009/2010. In 2010/2011 the programme disseminated the approach in South Africa and applied it in selected sites. Urban LandMark also adopted a multi country focus in the Southern Africa region in 2010/2011 by commissioning an '**Operation of the Markets Study**' in Maputo and supporting the implementation of one in Luanda with a partner there, Development Workshop, who provided technical assistance. In both cities Urban LandMark's original operation of the market methodology was used and adapted.

In addition in 2010/2011, Urban LandMark built a partnership with the National Upgrading Support Programme (NUSP) (a South African initiative of the National Department of Human Settlements and Cities Alliance)⁵ who was providing assistance to 40 municipalities in all 9 provinces in South Africa to upgrade informal settlements.

⁵ The National Upgrading Support Programme (NUSP) was designed to support the South African Government's National Department of Human Settlement (NDHS) in its implementation of the Upgrading Informal Settlements Programme (UISP) in the objective of eventually upgrading all slums in the country.

In 2012, Urban LandMark established the Tenure Security Facility Southern Africa Programme and secured funding to expand on the work that had already been undertaken. The purpose of this programme is to provide specialist tenure technical assistance and advisory services to informal settlement upgrading initiatives in the Southern African region through four components:

- **Component 1: Two ‘Operation of the Market’ studies:** Two additional operation of the market studies were undertaken in Lilongwe in Malawi and **Tete in Mozambique** to add to the body of evidence from Johannesburg, Cape Town, Durban, Luanda and Maputo. An operation of the market study was undertaken in two informal settlements in each city.
- **Component 2: Specialist tenure advisory services provided in Luanda and Maputo:** Specialist tenure advice is being provided in Luanda and Maputo where Urban LandMark had already undertaken operation of the market studies. The technical assistance has commenced with workshops with relevant stakeholders to share the findings of the research and to formulate how it can be used to improve tenure security in these cities.
- **Component 3: Specialist tenure assistance in South Africa:** Specialist technical assistance is being provided to informal upgrading projects in South Africa in the following three identified sites:
 - a continuation of the City of Johannesburg work on informal settlement regularisation,
 - in eMalahleni (Witbank) with Planact⁶, and
 - in the Eastern Cape with Afesis Corplan⁷
- **Component 4: Practical regional guide:** The development of this practical guide for use in the region on incrementally securing tenure in informal settlement upgrading.

All of the research undertaken can be seen at www.urbanlandmark.co.za.

This report used the findings from the research in Maputo (2010/11) and Tete (2012/2013) as an evidence base to practically explore the applicability of an incremental approach to securing tenure in urban and peri-urban contexts in Mozambique.

The research was undertaken in two settlements respectively in Maputo and Tete as follows:

- **Maputo:** The research was undertaken in the settlements of **Luis Cabral** and **Hulene B.**
- **Tete:** The research was undertaken in the settlements of **Matundo** and **Sansão Muthemba**

⁶ Planact is a nongovernmental organization that operates predominantly in Gauteng. Planact’s training and support helps people to build the skills and knowledge to effectively advocate for their communities. Planact then continues to work with communities to facilitate or implement development initiatives geared towards achieving sustainable human settlements through meaningful participation practices in cooperation with government and other partners. Urban LandMark has an existing partnership with Planact.

⁷ Afesis-corplan is a non-governmental organisation that has contributed to community-driven development and good local governance in the Border-Kei (Amathole) region of the Eastern Cape since 1992. Urban LandMark has an existing partnership around LANDfirst, a civil society initiative promoting incremental settlement.

The research included a literature review, interviews with key stakeholders on tenure and land issues and then interviews with households in each of the settlements on the basis of a statistically valid sample whereby a total of 567 survey interviews were undertaken in Maputo (257 in Luis Cabral and 310 in Hulene B) and 407 survey interviews (206 in Matundo and 201 in Sansão Muthemba). A brief overview of each of the settlements included in the research can be seen in Table 1 below.

Table 1: Overview of the settlements where the research was undertaken

City	Settlement	Background
Maputo	Luis Cabral	Luis Cabral, formerly known as Xinhambanine, has a long history of urban settlement. The area expanded with the settlement of workers from the Maputo harbour. It currently has 33 800 inhabitants. While Luis Cabral comprises brick houses with zinc roofs provided with electricity, the area is still relatively rural. The settlement comprises both parceled and un-parcelled areas. The un-parcelled areas are more informal with access to residences being very difficult, there are no tarred roads and there is no space available for new housing. Fountains are the only source of potable water
	Hulene B.	Hulene B is located closer to the International Airport of Maputo and to the dump known as Lixeira de Hulene. Prior to 1990, Hulene B was characterised by swamps and lakes, and was mainly used for agriculture until migrants settled in the area. The civil war and the floods of 2000 were the push factors for increasing arrivals in the area. Hulene B consists of a mix of urban structure and unplanned settlements. Some of the city dwellers are classified as “internal displaced persons” who migrated to the area as a result of the floods. Certain portions of land have been divided into allotments, but the largest parcel of land has not been divided as such. This area is inhabited by a population of 45 400. The un-parcelled areas are more informal with access to residences being very difficult, there are no tarred roads and there is no space available for new housing. Fountains are the only source of potable water.
Tete	Matundo	Matundo is a settlement in Tete that was established after independence in 1975. By 2005 the settlement had 17,709 inhabitants this has increased to 25,505 in 2013. The settlement has been identified as an area to accommodate new applicants. Services available are: electricity connected in the houses, piped waters, water points, boreholes. Houses are either unburned brick house, a brick and cement house or a burned brick house.
	Sansão Muthemba	Sansão Muthemba was established in 1994. The main reason was that people came from other areas that had been flooded (Francisco Manyanga, Josina Machel and Filipe Samuel Magaia). The settlement initially started as Chimazi unit and officially became Sansão Muthemba in 1998. In 2005 there were 36,270 inhabitants. The services being provided in the settlement are a public water tank, electricity system, piped water, water points, and boreholes. Houses are either unburned brick house, a brick and cement house or a burned brick house.

Following the undertaking of the research and the formulation of proposals a process of stakeholder consultation was undertaken. This comprised a meeting to present the findings to the communities in each settlement and in the case of Tete, a consultation with municipal officials. Then on the 12 June 2013, as part of the Cities Alliance Country Programme, a workshop was held with key stakeholders to test the findings (Stakeholder Workshop) and consult on the proposed implications for increasing tenure security in informal settlements in Mozambique. The attendants to this workshop, can be seen in Annexure A attached.

This report reflects the findings of the research and the recommendations incorporating the inputs received during the stakeholder consultation processes (including both the consultation with communities and the Stakeholder Workshop).

3. Understanding tenure security

The Global Land Tool Network in their guide *Secure Land Rights for All* (2008)⁸ defines **land tenure** as *'the way land is held or owned by individuals and groups, or the set of relationships legally or customarily defined amongst people with respect to land. In other words, tenure reflects relationships between people and land directly, and between individuals and groups of people in their dealings in land'*. The guide further defines **land tenure systems** as *'the sets of formal or informal rules and institutions which determine access to, and control over, land and natural resources'*.

GLTN(2008) defines **land tenure security** as being:

- The degree of confidence that land users will not be arbitrarily deprived of the rights they enjoy over land and the economic benefits that flow from it;
- the certainty that an individual's rights to land will be recognized by others and protected in cases of specific challenges; or
- the right of all individuals and groups to effective government protection against forced evictions.

Other important aspects of tenure security include plot users' freedom to bequeath land to heirs, and to lease, lend or grant land to others on a temporary or long-term basis with reasonable guarantees of being able to recover the land (GLTN, 2008). According to GLTN tenure security is partly a matter of perception, and can be safeguarded under various forms, provided the rights of land users and owners are clear. In addition to formal titles, security can be achieved through clear, long-term rental contracts, or formal recognition of customary rights and informal settlements, with accessible and effective dispute mechanisms.

⁸ Secure Land Rights for All. The Global Land Tool Network, 2008

GLTN argues that the reason why security of tenure is important is that it generates individual, household and community benefits; it does so by encouraging savings and investments in the improvement of land, homes and neighbourhoods. This, in turn, improves livelihoods and living standards. Securing land and property rights for all supports economic growth, reduces poverty and provides opportunities for empowerment. Secure land rights are a firm springboard for economic, productive activity.

4. The legal context

Prior to independence in 1975, land in Mozambique was governed by colonial laws. One year after Mozambique's independence, the state nationalised all the land. The Mozambique Constitution of 1994 retained this principle in that it stipulates that all land in the country is owned by the state and no land may be sold, mortgaged, or otherwise encumbered or alienated. All land is held in the State Land Fund.

The first law that dealt specifically with land was the 1979 Land Law, known as Law 6/79. This law was amended in 1986 (Law 1/86). A new land policy was drawn up in 1995 as a means of responding to various land conflicts arising due to the displacement of people by war or floods and foreigners. This resulted in a new land law, known as the **Land Law of 1997**. Components of the Land Law of 1997 were clarified through additional **Decrees and Regulations**.

This section sets out the key provisions of the **Land Law of 1997** and some of the relevant **Decrees and Regulations**. In addition the process of registering a **DUAT** is outlined, as this is the formal means by which security of title is achieved in Mozambique. **Land tenure regularisation** processes that are currently being implemented in Mozambique are also detailed. The key challenges pertaining to the application of the law are identified. Key conclusions on the legal context are then made.

4.1 Land Law of 1997

Some of the relevant provisions of the Land Law of 1997 are as follows:

- **Scope:** The Law establishes the terms under which the creation, exercise, modification, transfer and termination of the right of land use and benefit operates.
- **General principle:** The land is the property of the State and cannot be sold or otherwise alienated, mortgaged or encumbered. It is noted that while land itself cannot be sold, mortgaged or otherwise alienated, the buildings and other improvements on that land may be mortgaged or alienated by the person who holds the rights to the underlying land.
- **The right of use and benefit of land:** Is provided on different terms to national and foreign persons. In terms of national persons an individual (male or female), corporate entity or local community may

be holders of a right to land. They may obtain the right individually or jointly by way of individual or joint title holding.

- **Acquisition** : The right of land use and benefit is acquired by:
 - occupancy by individual persons and by local communities, in accordance with customary practices;
 - occupancy by individual national persons who have been using the land in good faith for at least 10 years;
 - authorisation of an application submitted by an individual or corporate person in a specified manner.
- **Titling**: A title shall be issued by the general or urban Public Cadastre Services (this title is called the *direito de uso e aproveitamento da terra (DUAT)*). The following applies:
 - The absence of title shall not prejudice the right of land use and benefit acquired through occupancy.
 - The application for a title shall include a statement by the local administrative authorities, preceded by consultation with the respective communities, for the purpose of confirming that the area is free and has no occupants.
 - The title can be issued to an individual or to a local community.
 - The title issued to local communities shall be issued in the name of the community.
 - Individual men and women who are members of a local community may request individual titles, after the particular plot of land has been partitioned from the relevant community land.
- **Registration**: The constitution, modification, transfer and termination of the right of land use is subject to registration. However the **absence of registration does not prejudice the right of land use** through occupancy.
- **Proof**: The right of land use and benefit can be proved by means of:
 - Presentation of the DUAT.
 - Testimonial proof presented by members, men and women of local communities.
 - Expert evidence and other means permitted by law.
- **Transfer**: The right of land use can be transferred by inheritance, without distinction by gender. The transfer shall be recorded on the respective title.
- **Roles and responsibilities** :
 - Areas not covered by urbanisation plans:
 - The Provincial Governors have the competence to authorise applications for land use for areas that do not exceed 1 000 hectares.
 - The Minister of Agriculture and Fisheries has the competence to authorise applications for land use for areas that are between 1 000 and 10 000 hectares.
 - The Council of Ministers has the competence to authorise applications for land use and benefit in areas which exceed the competence of the Minister of Agriculture and Fisheries.

- Areas covered by urbanisation plans: Presidents of Municipal Councils and Settlement Councils and, where there are no municipal structures, District Administrators, have the competence to authorise applications for land use and benefit in areas that are covered by urbanisation plans, provided they have public cadastre services.

4.2 Relevant Regulations and Decrees

The key regulations and decrees that provide clarification to the Land Law of 1997 are set out below.

- 1) **Land Law Regulation - Decree 66/98:** This Regulation applies to those areas that are not under the jurisdiction of Municipalities (i.e. rural areas or areas not covered by urbanization plans [see above]). Important features of this regulation are:
 - Where there is joint title, the title belongs to all the titleholders equally. When one of the titleholders dies, the others continue as the rightful titleholders.
 - Consultations between the applicants for land and the local community are mandatory before a decision to grant is made by the provincial governor or higher authority.
 - Good faith occupiers and local communities may apply for demarcation and title. The application procedure is simplified and a single definitive authorisation is given instead of provisional authorization.
 - Titleholders are required to pay a tax for authorisation of the right to use land, plus an annual tax. Family businesses and local communities are exempt from such taxes.
- 2) **Decree 15/2000:** This Decree legitimises community leaders, including traditional chiefs or régulos, and local political secretaries (Secretary of the bairro, Chief of 100 houses, Chief of 10 houses). It gives them powers under Article 24 of the Land Law to participate in conflict resolution, represent community opinions on applications for land, and identify and delimit community land. Municipal officials have a duty to work together with these community leaders.
- 3) **Urban Land Regulations, Decree No. 60/2006:** This Decree was introduced in order to strengthen and encourage regularisation of land occupation in urban areas. The Decree establishes that urbanisation is a pre-requisite for attributing land use rights in cities and towns.⁹ Urbanisation in this sense does not translate very clearly from the Portuguese but refers to “upgrading” and to demarcation and planning.¹⁰ In urban areas with an organized land cadastre, access to land is regulated by municipal ordinance (postura) or DUAT conceded by the district administration.

⁹ Ministry for the Coordination of Environmental Affairs, Republic of Mozambique, National Report to the United Nations Conference on Sustainable development, June 2012

¹⁰ Communications with Edesio Fernandes and Allan Cain in June 2013.

Participants at the Stakeholder Consultation indicated that in respect of this regulation a DUAT will only be issued for an area which has been identified as an urbanisation area and has a territorial plan (structure plan) which sets out urban facilities, roads etc. There are three plans that need to be in place before a DUAT can be issued: structuring plan / Master Plan (Plano de Estrutura Urbana); partial/adjusted urbanization plan and a detailed plan. This is often a key problem for informal settlements which either fall out of urbanization areas or do not have territorial or detailed plans.

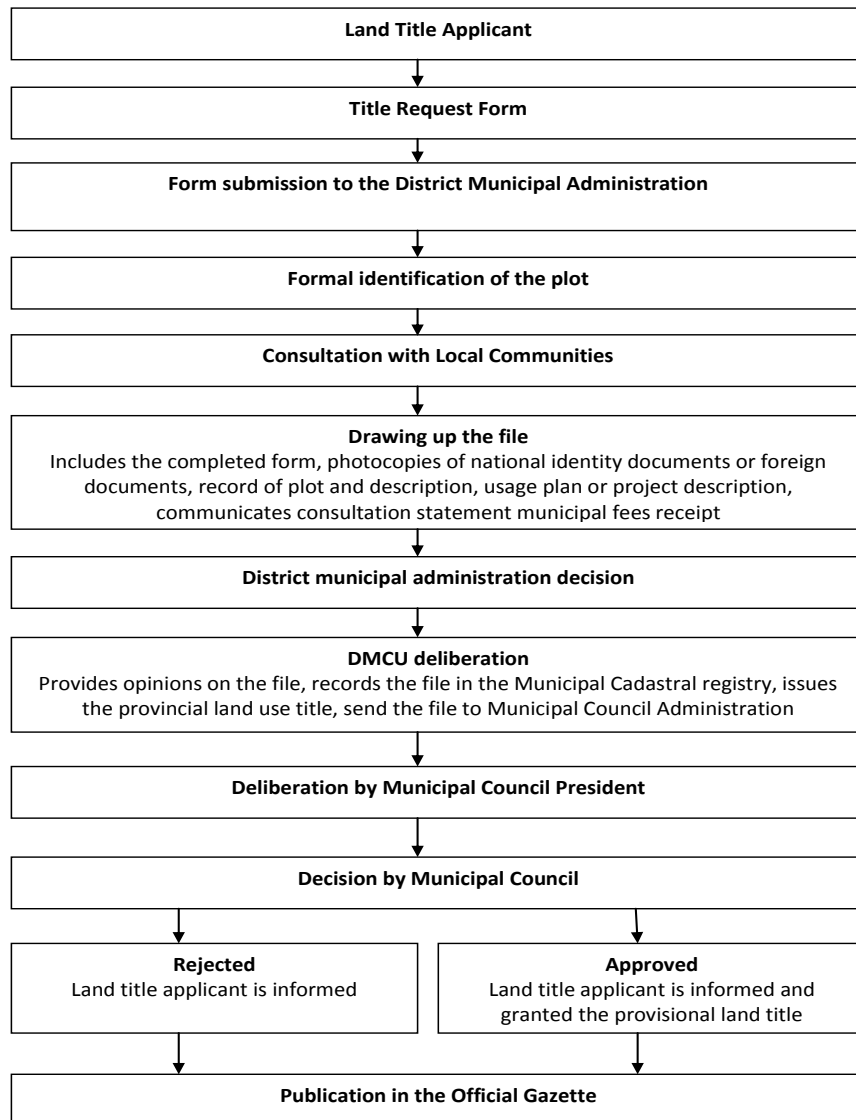
4.3 Process of registering a DUAT

The DUAT is the formal document that provides security of tenure in Mozambique. The process of registering a DUAT is shown in figure 1 below. On the basis of interviews and a review of documentation the following is noted in terms of this process¹¹:

- The process is long and complicated.
- Registration fees ranges from less than MZN1000 to over MZN5000 depending on the size of the land. This fee is considered to be high given average incomes in Mozambique.
- The infrastructure to approve and register DUAT's is very weak in terms of higher level staff and local-level coverage. Approaches to land administration are still very conventional and poorly adapted to the innovative challenges of the Land Law. This includes the Public Property Registry, the Public Cadastra offices both in the provinces and municipalities, as well as the Ministry of Agriculture and Fisheries.

¹¹ This section is adapted from Operation of the Market Study Land Access in Urban Areas, The Case of Maputo, José Alberto Raimundo and Inês Macamo Raimundo, 2012

Figure 1: Process of registering a DUAT



4.4 Land tenure programmes

The following land tenure programmes are currently being implemented in Mozambique:

- **Land Tenure Project:** The Land Tenure Project is a large-scale land regularisation and titling program funded by the United States Millennium Challenge Corporation. The project began in March 2011 with land tenure regularisation activities in eight municipalities of northern Mozambique (Cuamba, Lichinga, Mocimboa da Praia, Mocuba, Monapo, Nampula, Pemba and Quelimane). The intention is to expand the project to other provinces in northern Mozambique. The goal of the project is to regularize tenure of 140,000 urban land parcels and 6,237 rural parcels by September 2013.

In 2011 the project mapped 45,018 urban land parcels and prepared titles for the right of use and benefit of land (the DUAT) for 19,356 rural land parcels, of which 12,634 have been issued. In 2012 it is expected that titles for approximately 70,000 urban parcels and 3,500 rural parcels will be undertaken. The project's process is:

- It uses municipal cadastral personnel for technical work and local officials and citizens as part of a local land committee to gather data on land occupancy.
- Each technical team completes a land survey and gathers data on about 40 parcels each day.
- Data on parcel boundaries and occupants are entered into geographic information system (GIS) and Microsoft Access databases, which are used to prepare a rights registry and DUATs.
- The results of data gathering and land surveys are posted in the community for public viewing for at least 30 days, giving the community an opportunity to verify or object to the proposed occupant to whom the DUAT will be issued.

When the project is opened to other northern municipalities, they will be able to apply for funds to complete land tenure regularisation in their communities. MCA-Mozambique will select municipalities and contract private survey companies to undertake the regularisation for about 10,000 land parcels located in a compact geographic area of the municipality.

Other activities being undertaken by the project are:

- In Niassa, Nampula and Zambezia provinces a grant program is also being undertaken which supports the delimitation and demarcation of community land. Any community wishing to formalize their land rights can apply for a grant. Once the grant is approved, a service provider is contracted to delimit the land of the community. To date, 50 communities have benefited from the service.
- Land use inventory mapping is being supported in 8 municipalities and 12 rural districts of northern Mozambique. As of February 2012, land use maps had been prepared for Mocuba, Monapo and Nampula municipalities, as well as Mecufi, Mocimboa da Praia, Monapo, and Nicoadala districts.

- Capacity building and improvement of land cadastre operations are being supported at the central, provincial and municipal levels. Physical facilities, work space and technology are being upgraded. Provincial and municipal cadastral technicians have received training. A land-information management system is being developed and is expected to be installed by June 2013, with migration of existing cadastral data expected to be complete by August 2013.
 - Government’s efforts to improve land policy through the establishment of a Land Consultative Forum is being supported. This body, composed of government and civil society representatives, meets to discuss important issues affecting land policy and to provide the government with recommendations for modifying current land policies. The Land Consultative Forum has met three times since its creation in October 2010.
- **PROMAPUTO:** ProMaputo is the Maputo Municipal Development Program which aims to strengthen the capacity of the City Council to develop, manage and maintain quality service delivery to its citizens. The development objective for Phase One is to strengthen the Council’s institutional and financial capacity to support achievement of long-term service delivery goals, and to implement selected priority investments. The project includes the following components:
 - Institutional development and municipal governance
 - Municipal finance
 - Planning and service delivery improvements.

The program is being funded by the World Bank. One component of the programme is the regularization of Land Titles in Informal Settlements of Maputo City with the aim of issuing title to 30 000 parcels of land by 2015. The program started slowly but is now growing and officials at the June stakeholder consultation in Maputo expressed confidence that the target will be achieved. Progress is as follows:

- 2011, 800 parcels;
- 2012, 3 000 parcels
- 2013 it is anticipated that the count will be up to 5 or 6 000.

Even although this does not appear to represent being on track to reach the target, to an outside eye, few consultation participants saw it as a basis for considering alternatives, as might have been expected.

4.5 Challenges pertaining to land access and title

The following challenges are identified in respect to land and title¹²:

- The Public Cadastre services structure is very weak in terms of higher level staff and its local-level coverage, and approaches to land administration are still very conventional and poorly adapted to the innovative challenges of the Land Law.
- The implications of new policy and legislation for the interaction between customary, elected local structures and state local administration remain unclear, especially in terms of their source of authority and legitimacy.
- The Public Property Registry of the Ministry of Justice is even weaker than the Public Cadastre services, with offices only in the provincial capitals and a very few of the larger municipalities. This undermines security and the ability to access bank credit and enter into contracts.
- Very limited public resources are allocated to the community and occupation aspects of the Land Law, especially to protecting the good faith occupation right, with most attention being given to facilitating and recording DUATs awarded by the state to investors and others not eligible via the occupation routes. The result is a cadastre that is very incomplete, and contains mainly information on a very small percentage of all the land rights recognized by law.
- Meanwhile, and in the context of rapidly rising demand for land from investors and others, official recognition of good faith occupation rights is achieved only via DUAT assignment and in practice the rights are vulnerable to expropriation and “capture”. There is thus a growing need to formalize these rights using available technical and legal instruments.
- The Land Law is being used to develop local land bringing very few real benefits to the communities who are ceding their rights over very large areas.
- The land registration process is lengthy, the fee is costly, and lack of information on the land law can cause significant frustration for the applicant.
- Most people do not possess the DUAT for the reasons given above.

4.6 Conclusions

Mozambique land law offers significant opportunities for tenure security for people living in informal settlements. The most significant opportunities offered through the law relevant for informal settlements are:

- Individual people or communities who have occupied land in good faith can secure title to the land after a period of ten years.
- Title can be provided on an individual or joint basis.
- In the case of joint title the individual can secure title on an individual basis.

¹² This section is adapted from Operation of the Market Study Land Access in Urban Areas, The Case of Maputo, José Alberto Raimundo and Inês Macamo Raimundo, 2012

- The Land Law allows for verbal testimony and other technical means to prove the right to land and to establish its borders.
- Neighbourhood leaders are recognised in the law and have a role in land management.

The legal form of title available to people in informal settlements is a DUAT. Authority to approve a DUAT rests with Municipal Authorities in urban areas and Provincial Authorities in rural areas. However the process of approving and issuing a DUAT is expensive and Municipalities often lack the money and resources to assign and issue DUATs. This results in the vast majority of individuals and communities in Mozambique not having access to a DUAT.

Further while the law protects rights to land regardless of whether an individual or community has a DUAT, in practice these rights are less protected and there are cases of eviction and of rights being undermined.

What is evident therefore is that in Mozambique it is not the law that is the problem, but the application of the law in practice.

A key issue in increasing security of tenure in respect of an informal settlement is whether or not the informal settlement is defined as urban or rural land – this influences the authority under which it falls and the laws that apply to it. In respect of informal settlements located within urban areas the extent to which the settlement falls into an urbanisation area and has a structure plan, a territorial plan and a detailed plan are critical factors both in terms of whether or not accessing a DUAT is possible, as well as the extent to which the municipality is willing to provide basic services.

Both the Land Tenure Project and the regularisation of Land Tenure as part of PROMAPUTO are extending the main form of legal tenure in Mozambique. However both initiatives show that the provision of land title throughout Mozambique is a long term endeavour.

5. The evidence base

This section sets out the key findings from the research undertaken in four settlements, two in Maputo (**Luis Cabral** and **Hulene B**) and two in Tete (**Matundo** and **Sansão Muthemba**). The key findings are outlined in terms of the following categories:

- Age and legal status of the settlements
- Existence of a market
- Organised local processes followed
- Existence of documentation and evidence
- Role of stakeholders
- Perceptions around tenure security

Overall conclusions are then made.

5.1 Age and legal status of the settlements

As shown in Table 2 below, all of the settlements surveyed are older than ten years and so would meet that requirement in terms of the Land Law 1997 of being able to access a DUAT (both joint and individual). In Maputo the majority of residents have lived in the settlement for longer than ten years, but this is not the case in Tete where the majority of respondents moved into the settlement in the last 5 years. This would undermine individual claims for title on the basis of occupancy in terms of the Land Law 1997. All of the settlements fall within a Municipality. Whether urbanisation plans have been developed for the settlements is not certain, having implications in respect of accessing a DUAT.

Table 2: Age and legal status of settlements

	Maputo		Tete	
	Luis Cabral	Hulene B	Matundo	Sansão Muthemba
Age of settlement (years)	16	16	38	19
Average no of years living in settlement of respondent	62%) who live in the settlement have been there for more than 13 years with 38% having lived there for more than 22 years. 15% have lived there for less than 13 years		The majority of respondents moved to the settlement in the last 5 years	
Legal status of settlement	Part of the Municipality	Part of the Municipality	Part of the Municipality	Part of the Municipality

5.2 Existence of a property market

As shown in Table 3 below, there is strong evidence of a property market in all settlements in that most respondents own their property and many bought their property. In Maputo 50% of respondents bought their property and 19% inherited it. In Tete 28% bought their property and 14% inherited it. There are higher levels of being allocated a property by the municipality in Tete (28%) than in Maputo (4%).

In addition it appears that the market is effective in that there are low levels of disputes, only 7% of respondents in Maputo and 6% of respondents in Tete indicate that they experienced conflict around their property (see table 3 below). Although anecdotal information seems to indicate that there may be higher levels of disputes than reflected in the data (see section 5.5 below).

Table 3: Existence of a property market

	Maputo		Tete	
	Luis Cabral	Hulene B	Matundo	Sansão Muthemba
How people got their place	<ul style="list-style-type: none"> ▪ Most (73%) became owners by either: <ul style="list-style-type: none"> - Buying the property (50%) or - Being allocated a property by the municipality (4%) - Inherited the place(19% overall) ▪ A few people are renting the place (9%) 		<ul style="list-style-type: none"> ▪ Some became owners by either: <ul style="list-style-type: none"> - Buying the property (28%) or - Being allocated a property by the municipality (28%) - Inherited the place(14% overall) ▪ Some respondents are renting the place (16%) 	
Extent of disputes around land	<ul style="list-style-type: none"> ▪ Only 7% of respondents indicated that they had experienced conflict around their property. 		<ul style="list-style-type: none"> ▪ Only 6% of respondents indicated that they had experienced conflict around their property. 	

5.3 Organised local processes followed

As shown in Table 4 below, in all of the settlements there appears to be clear processes followed to identify and access a property that is understood by community members. Social relations are important in these processes (see box below), as is the role of neighbourhood leaders. Generally the process comprises the following:

- Respondents heard about the settlement from a family member or friend.
- Respondents then accessed a property either through the neighbourhood leader or an allocation by the municipality.
- In Tete respondents indicated that they directly bought a property from another person.

Table 4: Processes followed to access a property

	Maputo		Tete	
	Luis Cabral	Hulene B	Matundo	Sansão Muthemba
How people found the place	<ul style="list-style-type: none"> ▪ Most respondents heard about this community from a family member (32%) or friends (14%) ▪ Respondents looking for a place to stay : <ul style="list-style-type: none"> - Moved into the area in order to be independent (29%) - Shared accommodation with family (13%) - Inherited the property (8%) - To a lesser extent some were allocated accommodation by the municipality (3%), enquired door to door (3%), were assisted by the head of the housing block (2%) 		<ul style="list-style-type: none"> ▪ Most respondents heard about the settlement from a family member (43%) or friends (29%) ▪ Respondents got a place in the settlement by doing one of the following things: <ul style="list-style-type: none"> - Talking to the Chief of 10 houses, and/ or the Chief of 100 houses and/or the Secretario de Barrio and then to the Municipality, or - Buying a house directly from another person, or - Inheriting the place. 	

Importance of the social network

At the community meeting in Sansão Muthemba, it was explained that finding a place depends directly on whether the prospective owner/ renter knows someone in the community. If he knows someone in the community he will save costs because (1) his social network will help him in finding a place quicker, and (2) he will save costs because he will be staying at the friend/ family's place for free while looking for a place. If a person comes into the community without knowing anyone it will take longer and this person will have to pay rent in the community while looking for a place.

5.4 Existence of documentation and evidence

In all settlements the most common form of evidence is a Declaracao (see table 5 below). This is a document that is provided by the neighbourhood leaders. It works as an affidavit – serving to confirm the residence of an individual. In addition verbal agreements are obtained to a lesser extent. Very few respondents have received a DUAT or have expectations of receiving a DUAT.

The difficulties in accessing a DUAT were explained during the consultation process. In addition further insight was provided into the actual process and complexities of the informal process of accessing tenure through the Declaracao (see box below).

It is noted during the stakeholder workshop that the actual status of a Declaracao and the extent to which it is recognised by municipalities is variable. In addition it was noted that these documents are often not officially recorded, but are kept by the neighbourhood leader (in a drawer etc) and therefore the extent to which they secure tenure was questionable. The potential for these documents to be used as a step toward formal tenure (in the form of a DUAT) was recognised.

A participant at the Stakeholder Consultation noted that if the settlement doesn't have a territorial plan, the land still belongs to the people according to the Mozambican law. The interim measures (referring to the neighbourhood leaders' letters and the Declaracao) are there to protect the people in the absence of the government lacking the capacity to issue DUATs quick enough.

Insights into the issuing of DUATs

At the Stakeholder Consultation a municipal officials said: *'In the past the lowest rated service in a satisfaction survey in Maputo was planning and DUAT issuing. The problem is however compounded by circumstances. The municipality has 30-40,000 applications for DUATs but the pre-conditions are not met (referring to the territorial and detailed development plans) for them to go into the regularisation process. It is a process and it takes time, but we (the municipality) are improving. I know this for a fact because in 2007 land management and the issuing of DUATs was the lowest score in the annual citizen satisfaction survey, but now we are at number 7 so we can say that we are improving on land management'.*

Table 5: Documentation and evidence

	Maputo		Tete	
	Luis Cabral	Hulene B	Matundo	Sansão Muthemba
How agreement was secured	<ul style="list-style-type: none"> ▪ They received a Declaracao (30%) ▪ They had a verbal agreement (16%) ▪ The agreement was witnessed by others (5%) ▪ They received a DUAT from the municipality (3%) ▪ The DUAT is coming (1%) 		<ul style="list-style-type: none"> ▪ They received a Declaracao (57%) ▪ They had a verbal agreement (20%) ▪ They were given permission by the family whose land it is (10%) ▪ They received a DUAT from the municipality (3%) ▪ The DUAT is coming (1%) 	

Insights into accessing the DUAT and informal tenure

At the community meeting in Sansão Muthemba it was explained that people see this process of 'legalisation' of their land rights as an incremental process because of the costs involved. It is too expensive to follow the entire process immediately. The full process and the costs were explained to be as follows:

- An informal letter is written by block leader of 10 houses and he records the applicant's request in a register
- Block leader of 100 houses write informal letter and record in register
- Unit head writes informal letter to Secretario de barrio and records in register
- Secretario de Barrio gives Declaracao.
- Declaracao is taken to municipality
- Municipality first do inspection and verify the space for the application
- A DUAT is issued

The costs are:

- 50 MZN for the ward,
- 1000 MZN for the municipality,
- 600 MZN for descriptive memory and demarcation.
- 400 MZN pays the DUAT

During the community meeting people explained that people aspire to concluding the full process and plan to do it when they have money.

The fact that people do not fulfill the full legal process is problematic in that this undermines their right to the land. As explained by David Medson (City Council for Urban and Works Management) there are instances whereby the 10 house chief allocates land plots to more than one beneficiary and this results in a land dispute. Once the dispute arises the municipality mediates and the applicant who has formalized the application at the end occupies the land.

It was noted by the Councilor for Infrastructure that although the neighbourhood leader (10 house chiefs, ward secretaries) provide a Declaracao for accessing land, there was a period when those letters were not accepted by the municipality, as they tried to give the same land to more than one person or the land/plot was cutting a street. This situation created problems for the municipal officers who delineate land/plots in urban settlements.

5.5 Role of stakeholders

As shown in table 6 below, local leadership plays a significant role in the allocation and process of acquiring a property, as well as dispute resolution around land. This is in terms of the rights granted to them in Decree 15/2000. Municipal officials also play a role but to a lesser extent.

Anecdotal evidence indicates that the neighbourhood leaders are democratically elected and appear to be accepted (see box). Participants at the stakeholder workshop noted the usefulness and legitimacy of the neighbourhood leaders, but also indicated a key weakness in that they could be changed after municipal elections and that the role they play needs to be strengthened and linked more into the formal processes of land management. It was noted that the Secretarios are accountable to the Municipality and that in many instances there is an official record of the Declaracao's issued.

In addition to the above, participants at the stakeholder workshop noted that the neighbourhood leaders have a lot of power and that there is anecdotal evidence that some of them have been involved in bad faith actions and corruption.

Insights into neighbourhood leaders

At the community meeting in Sansão Muthemba it was explained how the chief of 10 houses; chief of 100 houses and chief of the unit get elected. These leaders are nominated by the community based on good attitude and behaviour. Their names are put forward to the Secretario de Barrio and the senior leaders then decide and appoint the block leaders. They do not have a fixed term of appointment but stay appointed until they are not effective anymore.

Table 6: Role of stakeholders

	Maputo		Tete	
	Luis Cabral	Hulene B	Matundo	Sansão Muthemba
What role do different stakeholder play in the process of accessing property?	<ul style="list-style-type: none"> Local leadership play an important role in the process, such as the ward secretary, the chief of the settlement, the chief of the housing blocks (10 blocks or 10 houses) 		<ul style="list-style-type: none"> The role played by different stakeholders in the process varies with the neighbourhood leaders playing the most significant role. This is more so in respect of respondents who bought (68%) or occupied (60%). Neighbourhood leaders are more likely to play a major role when a respondent is looking for land (100%) than when he or she is about to inherit (30%) or is renting (47%) a place, getting an allocation from the municipality (51%), just occupying (60%) or about to buy (68%) a place. Neighbourhood leaders together with municipal officers tend to play a major role when a respondent is looking for a municipal allocation of land (49%). Private people are more likely to be contacted when the respondent wants to rent (52%) or inherit (50%) a house or property. 	
Who mediates in a land dispute?	<ul style="list-style-type: none"> Arbitrators in the dispute are the ward secretary (30%), the head of a housing block (28%) and neighbours (9%) 		<ul style="list-style-type: none"> Arbitrators in the dispute are the head of a housing block (58%) and the ward secretary (15%) 	

5.6 Perceptions of tenure security

As shown in Table 2 below two thirds of respondents in both Maputo and Tete feel that their rights to the place are strong. This was reinforced through the community consultation process (see box below). In addition high levels of investment by households are evident in Maputo (72%) and to a lesser extent Tete (53%). It is noted that in Tete people have lived there for a shorter period. This indicates further that people feel secure enough to make investments into the property.

It is noted however that one third of respondents in both Maputo and Tete do not feel secure. At the Stakeholder Consultation it was reinforced that people who do not have a DUAT are not secure as the DUAT is the only legal guarantee of tenure security in Mozambique. This is despite the fact that the Land Law indicates that tenure is secure even without a DUAT.

In addition it was noted that even when people have a DUAT under certain circumstances they may still not have security of tenure, unless they know their rights and how to defend and protect them. Both government and private investors were seen as potential threats in this regard.

The fact that some settlements are excluded from an urbanisation plan was also felt to be a problem in respect of facilitating access to secure tenure.

Table 7: Perceptions around tenure security

	Maputo		Tete	
	Luis Cabral	Hulene B	Matundo	Sansão Muthemba
Do people feel that their rights to their property are strong?	<ul style="list-style-type: none"> Most people feel that their rights (tenure security) to the place are strong (67%) 		<ul style="list-style-type: none"> Most respondents felt that their rights (tenure security) to the place are strong (63%) 	
Extent of improvements to the property	<ul style="list-style-type: none"> Most respondents (72%) have made improvements to their houses after moving in 		<ul style="list-style-type: none"> Over half of respondents (53%) have made improvements to their houses after moving in 	

Insights into the process of accessing land and perceptions on tenure security

At the community meeting in Matundo it was explained that *‘the only challenge people face is to finding an actual place. There are no other challenges as the process (of accessing land) is clear to everyone and is followed by everyone, even though everyone cannot do it immediately because of the financial constraints.*

The only perceived threat is the mines as there is the possibility that the mine will want the land and they will be relocated. But even though it is a threat the community feels safe because the municipality will stand up for their rights and the land rights are protected in the law’.

5.7 Conclusions

All of the settlements are older than 10 years and so would qualify for title in terms of the occupancy by individual national persons who have been using the land in good faith for at least 10 years clause of the Land Law 1997. This does seem to suggest that informal settlements could apply for joint tenure in terms of the law. Many individuals have been in the settlements for longer than ten years and would therefore qualify on an individual basis as well.

It is evident that a market exists in all of the settlements surveyed which enables households to trade and hold land both on an ownership and rental basis. Key characteristics of this market are as follows:

- Friends and relatives play an important role in identifying the place to live and in ensuring that contractual arrangements will be valid.
- The neighbourhood leaders i.e. the Chief of 10 houses, Chief of 100 houses, the Unit Chief and ward secretary play a key role both in allocating houses, confirming tenure and resolving disputes. This is in terms of the rights granted to them in terms of Decree 15/2000.
- It appears that while the market does operate, disputes do occur and instances where the same property is allocated to more than one person are reported.
- Local evidence of tenure is secured through a declaracao or verbal agreement. This does offer some level of security of tenure. The extent to which municipal officials recognize this however appears to be variable.
- Registered title through a DUAT is not evident and appears to be difficult to access, both in terms of the complexity of the process and the cost.

There does appear to be a process to access, hold and trade land that is in place that has some level of effectiveness. These local land management arrangements appear to be fairly widely known in the settlements. The key role players in these arrangements are located in the settlement (neighbourhood leaders) which means that they are accessible to many in the community. The local arrangements appear to be affordable (i.e. Letter/Declaracao from Chief of 10 houses/ 100 houses or Unit chief). They can also be seen as intermediate steps towards the securing of a DUAT. The system appears to be trusted by many in the community and allows for dispute resolution which appears to work well. The system is participatory because ordinary members of the community – neighbours, friends and family - act as witnesses. The absence of strict building regulations allows poor households to access land and also to build and improve incrementally according to their own needs and abilities.

However although the land management system functions well, it has weaknesses in that it does not legally guarantee tenure security. There are people without local evidence - either verbal or documented - to defend their rights (46% in the Maputo survey and considerably less in the Tete study at 10%). There are people who do not feel secure (33% in the Maputo study and 37% in the Tete study). In addition there is evidence that perceived tenure security, the provisions of the Land Law or a Declaracao are not sufficient to protect tenure. The evidence does indicate a gap between law or theory or principle and actual practice.

The neighbourhood leaders play an important role in the land management system. This role is susceptible to party politics but offers a clear and widely understood system of authority. However, it could be linked more systematically to the official land management system and be more accountable to reduce the potential for corruption or inequitable practices.

Given the extent to which the law in Mozambique protects people's rights to land, knowledge of this is an important factor in respect of tenure security. Accordingly it is important that people are informed about their right to land and how it can be protected.

6. Incremental tenure security in Mozambique?

6.1 Tenure insecurity in the Mozambique case

Currently in Mozambique there are three systems for land access and holding:

- A formal process of securing a DUAT;
- A customary process that occurs in rural areas which we did not consider here; and
- Local tenure arrangements in informal settlements, overseen by neighbourhood leaders and socially recognised processes.

The formal titling route is the focus of official intervention, but implementation is limited. It has the potential to secure tenure that is recognised in law. But because it dominates, it also has the potential to detract from the tenure security potential of the local arrangements, and other forms of legal tenure, which do not enjoy the same levels of official support. Before a settlement can be regularised there are preconditions that must be met, including conforming to urbanisation and planning requirements. Some settlements may not be earmarked for upgrading due to technical considerations about their upgradability and they will not be included in an urbanisation plan. The local arrangements co-exist, or overlap, with the formal process in ways that can be hard for outsider observation to unpack. Many people in these situations are protected by the good faith occupation clause in the Land Law, but the only way that these rights can be materialised is through accessing a DUAT. There is nothing in between, despite the protection in law.

To some extent all three systems can be challenged by the usual threats to tenure security:

- Outside investment (so-called market evictions and land grabs).
- Threats to more vulnerable community members by the more powerful.
- Internal household and family threats, often with a gendered dimension.
- Municipal intervention.

Reflecting on discussions at the Maputo consultation, the following categories of people are potentially insecure:

- People who do not have a DUAT. The DUAT is seen as a legal guarantee to tenure security by most.
- People who are in an urbanisation area, but have not yet received a DUAT because the conditions for demarcation and spatial ordering (planning) have not yet been completely met.
- People whose settlements are excluded from an urbanisation plan, whose future is uncertain or unknown to them, even if they perceive their tenure to be secure.
- People with a DUAT who under certain circumstances may be insecure in practice. Even legal documents might not protect people enough, if there are competing interests over the land they occupy, unless they know their rights and can claim them and have access to legal defence to protect their rights.

6.2 Adapting and strengthening the local land management practices

In the informal settlements surveyed evidence exists of local processes and procedures to manage land and secure tenure locally. These arrangements are functional, although they do not legally secure tenure. They could be strengthened to enable recourse, widen reach and ensure equity. The neighbourhood leaders play an important role in land management. Although these arrangements offer a clear and widely understood system of authority, the neighbourhood leaders are intricately linked to party politics. While the studies did not identify instances of inequitable practices, these were mentioned in the qualitative interviews and engagements. The studies did however indicate that there are people without local evidence - either verbal or documented - to defend their rights (46% in the Maputo survey and considerably less in the Tete study at 10%). And there are people who do not feel secure (33% in the Maputo study and 37% in the Tete study). The local land management arrangements introduce some kind of security and legitimacy at the local level for many that agencies of the state are generally unable to create. Nevertheless there are weaknesses which makes people potentially vulnerable and that need to be addressed.

Based on this, the recommendation is to **strengthen the existing land management arrangements** to improve tenure security. Increasing access to local forms of evidence is one place to start. Another is to further explore the reasons for the perceptions of insecurity, which this work has begun to illuminate. The methods for such an exploration are more qualitative than the operation of the market study. Action research would be a preferable methodology to better understand where the gaps are between law and practice, as the basis for advocacy.

Proposal 1: Adapting and strengthening local practice

An action research project to develop recommendations to adapt and strengthen local land management practices is recommended. In the action research site the following aspects of “strengthening” local practice should be explored:

- Engage with the accountability of neighbourhood leaders and clarify the ambiguity in practice surrounding their authority as political or municipal appointees.
- Explore the possibility of opening up space for other civil society organisations.
- Support neighbourhood leaders to provide the *Declaração* in all instances, in order to increase access to the local evidence being used to back up land claims.
- Explore possible external avenues for recourse in cases of dispute where residents in a settlement feel that they are not being treated fairly.
- Prepare for formal planning requirements by undertaking community-based planning processes, with a particular emphasis on reserving space for roads and public spaces.

6.3 Realising rights established in law

Mozambique land law offers significant opportunities for tenure security for people living in informal settlements. The most significant opportunities offered through the law relevant for informal settlements are:

- Individual people or communities who have occupied land in good faith can secure title to the land after a period of ten years.
- Title can be provided on an individual or joint basis.
- In the case of joint title the individual can secure title on an individual basis.
- The Land Law allows for verbal testimony and other technical means to prove the right to land and to establish its borders.

Knowledge of the extent to which the law in Mozambique protects people’s rights to land is an important factor in respect of tenure security.

Although people are potentially vulnerable without access to a DUAT, the right of good faith occupation established in law protects people in theory. The law protects people’s occupation rights but these rights are not necessarily realised in practice.

How can the rights established in law be realized, especially in situations of economic growth and investment, where more marginalized people are vulnerable to bad faith actions of municipalities, private interests and local leaders? From the Maputo consultation it is clear that an official perspective on this issue would be to confirm the roll-out of the titling programme, as the DUAT is perceived as the ultimate form of security. The recommendation here is that a title programme on its own is likely to be insufficient. **Awareness raising and access to legal aid** are two important areas of action that need to be investigated in the Mozambique context, in order to ensure that the rights established in law are not undermined in practice.

Proposal 2: Support the realization of rights established in law

A **“know your rights” campaign** should be developed which communicates the legal protections in the law, especially the right to good faith occupation. An investigation into the **potential for socio-economic rights litigation** should be undertaken to identify how legal aid could be made available to poor communities and individuals who require support in defending their rights.

6.4 Legally recognizing rights at neighbourhood or settlement scale

The individual title paradigm is dominant in practice in urban Mozambique. Official support and intervention is focused on assigning DUAT’s at scale. To acquire a DUAT in an urban area, it is a requirement that the area is urbanized. Additional conditions must be met which relate to spatial ordering and layout planning; but not all settlements have been planned. There are key challenges in respect of individual title. In Maputo a satisfaction survey ranked assigning DUATs and planning as one of the areas of poorest municipal performance. There are capacity constraints to roll out the titling programme at scale; the process is seen to be long and slow, and expensive. Private investors can reportedly gain access to a DUAT easily however. Context is important; there are circumstances under which registered title does not guarantee tenure security. Scope for innovation is limited as officials are invested in the status quo, in improving their performance in extending title. The vision remains that individual title is the ultimate and most secure form of tenure, even although its reach is limited with most people falling outside of the official ambit.

The implications of this are that additional legal forms of tenure, that are simpler and quicker to confer, need to be explored. The recommendation is to consider the use of a **joint DUAT** at settlement scale, to confer blanket legal rights to a settlement. This would entail the application of what is to date seen as a rural mechanism in an urban context. The planning requirements for this model would need to be investigated. Due to the dominance of the DUAT, the way in which this option is developed, is important to consider. NGOs and CBOs are more appropriate entry points for alternative approaches, but civil

society in Mozambique is not well developed. Action research and demonstration projects are likely to have more impact than direct policy engagement, which can come later once there is evidence to support an alternative approach.

Proposal 3: Legally recognizing rights at neighbourhood or settlement scale

A **demonstration project** is recommended based on the argument about how difficult it can be to shift officials mind sets at the current point in time. In the case of settlements which are excluded from an urbanisation area, or where the development of the required plans is extremely problematic and is likely to take years to resolve, consideration should be given to applying for and providing a **group DUAT for the settlement as a whole**. This will give the settlement some level of security. Given that this is not the norm in Mozambique, it is proposed that a **demonstration project be implemented** to test whether this approach could work and would benefit the occupants of the settlement.

The following issues would need to be addressed in demonstration:

- Scale – settlement wide or blocks within a settlement?
- Would this be administratively simpler than individual boundary demarcation?
- How would the internal land use arrangements and rights be managed? Using the existing local land management practices, strengthened, as discussed previously?
- Would the internal arrangements – inside the block – need to be regulated in any way? For example by codifying “local rules”, based on existing practices?
- What would trigger the need to move to individual DUATs?

8. Conclusions

This report outlines recommendations for increasing tenure security based on an approach to incrementally improving tenure security. The proposals are based on in-depth, statistically relevant information about existing land management arrangements. The report supplements these with more qualitative reflections from community feedback forums, household interviews and key person interviews.

The recommendations are for awareness raising on the rights and protections established in the law, access to legal aid, building on the existing local land management practices and exploring joint DUATS for blanket legal protection.

In addition to the current emphasis on individual titling, other options can be explored which open up more routes to tenure security. Recognition of the existing local practices in land accessing, holding and trading is an important place to start. With more recognition of these local practices in land accessing, holding and trade, the options for supporting urban residents in their own efforts to gradually improve and consolidate their urban access increases.

References

1. Legal Framework for construction licensing in Mozambique, Edition 1, November 2008, GIZ
2. Ministry for the Coordination of Environmental Affairs, Republic of Mozambique, National Report to the United Nations Conference on Sustainable development, June 2012
3. Centro de Promocao de Investimentos. 2006. Deepening Integration in SADC: Rapid Changes for Mozambique to Meet SADC Targets. Vol. 2. Maputo, Mozambique.
4. Gaulier, G and Chauvin, S. 2002. Regional Trade Integration in Southern Africa. Centre D'Etudes Prospectives ET D'Informations Internationales.
www.cepii.fr/anglaisgraph/workpap/pdf/2002/wp02-12.pdf [accessed on august 14, 2008].
5. Government of Mozambique. 2011. Programa Quinquenal do Governo para 2011. Maputo, Mozambique.
6. Government of Mozambique. 2007. Programa Quinquenal do Governo. Maputo, Mozambique.
7. ILO Country Office.2008. Trade Union Training on Research and Youth Employment Policies. Maputo, Mozambique. <http://www.actrav.itcilo.org/courses/2008/A1-00991/work/CR-mozambique.doc> [accessed on 22nd August 2009].
8. IMF. 2005. Report on Observance of Standards Codes: I. Fiscal Transparency. Washington DC.
9. INE. 2010. Anuario Estatístico. Maputo, Mozambique
10. INE. 2007. Censo Gerald da Populacao. Anuario Estatístico. Maputo – Mozambique.
11. Maasdorp, G. and Whiteside, A. 1992. Rethinking Economic Cooperation in Southern Africa: Trade and Investment. Occasional Paper, Konrad Adenauer Stiftung, Johannesburg.
12. Passela, A. P. 2012. Relatório do Impacto Ambiental, Kanga.
13. PEMTO. 2009. Relatório do Documento do Impacto Ambiental, Maputo, Moçambique
14. World Bank. 2009. World Development Indicators. Washington D.C.
15. Improving tenure security for the rural poor, Mozambique – Country Case Study, LEP Working Paper # 5 Workshop for Sub-Saharan Africa, Simon Norfolk and Christopher Tanner, 2007
16. The evolution of the international law of alienability: The 1997 Land Law of Mozambique as a case study, Kendall Burr, Columbia Journal of Transactional Law, Volume 43, Number 3
17. Urban Land Market in Mozambique, Cruzeiro do Sul - José Negrão, Research Institute for Development, December 2004
18. Land law legislation, Adrian Frey, MozLegal Lda, 2004
19. Operation of the Market Study Land Access in Urban Areas, The Case of Maputo prepared for Urban LandMark by José Alberto Raimundo and Inês Macamo Raimundo Universidade Pedagógica, Faculdade de Ciências Sociais Departamento de Antropologia e Sociologia Maputo, Moçambique February 2012. The following publications referred to through this study:
 - Ammering, U. 2009. Habitar nos bairros informais: exemplo para um planeamento urbano. A paper presented in a workshop on urban poverty in Southern Africa. Maputo, 16 April 2009.

- Chilundo, A., Cau, B. Mubai, M, Malauen, D and Muchanga, V. 2005. Land registration in Nampula, and Zambezia provinces, Mozambique. Securing Land Rights in Africa. Research Report 6.
- Chilundo, A., Malauene, D., Cau B. and Mubai, M. 2005. Land registration in Maputo and Matola cities, Mozambique. Securing Land Rights in Africa. Research Report 7.
- Raimundo, I.M. 2010. Gender, choice and migration in Mozambique: Household dynamics and urbanization in Mozambique. Verlag Dr. Muller Aktiengesellschaft & Co. KG, Saarbrucken, Germany.
- Araújo, M.G.M. 2005. A População das Cidades da Matola e Maputo: espaços urbanos multifacetados. Centro de Estudos da População. Faculdade de Letras e Ciências Sociais. Imprensa Universitária. Maputo.
- Araújo, M.G.M., et al. 2004. Condições de vida da população refugiada de Maratane, Nampula e cidade de Maputo. Unpublished report. Centro de Estudos de População, Centro Episcopal para o Migrante e Refugiados and Jesuit Refugee Services. Maputo.
- Araújo, M.G.M. 2003. Os Espaços Urbanos em Moçambique. GEOUSP – Espaço e Tempo, nº 14. São Paulo. pp. 165-182.
- Araújo, M.G.M. 1999. Cidade de Maputo, Espaços contrastantes: Do urbano ao rural. In FINISTERRA, XXXIV, Lisbon. pp 175-190.
- Araújo, M.G.M. 1997. Geografia dos Povoamentos, Assentamentos Humanos Rurais e Urbanos, Livraria Universitária, UEM/Maputo.
- Araújo, M.G.M. 1996. Urban Settlements: National Report to Habitat II, Maputo. Comissão Nacional para os Assentamentos Humanos, Ministério das Obras Públicas e Habitação, Maputo.
- Araújo, M.G.M. 1992. Distribuição Geográfica da População e Processo de Urbanização, UPP/DNE, Maputo.
- Araújo, M.G.M. 1990. “Migrações Internas e o Processo de Urbanização”. Direcção Nacional de Estatística (org.). In Dinâmica demográfica e processos económicos, sociais e culturais. Comissão Nacional do Plano. pp. 72-66. Maputo.
- Araújo, M.G.M. 1988. O Sistema das Aldeias Comunais em Moçambique: Transformações na Organização do Espaço Residencial e Produtivo. Unpublished PhD thesis, Lisbon. University of Lisbon.
- Kanji, N., Cotula, L., Hilhorst, T., Toulmin, C. and Witten, W. 2005. Can land registration serve poor and marginalized groups? Summary report. Securing Land Rights in Africa. Research Report 1.

Annexure A: Participants at the stakeholder consultation workshop

Approximately 30 people were invited to the workshop and 18 people attended. They are listed below.

Name	Organization
Davide Valentino	AVSI Foundation
Maria Salazar	AECID – Spanish Coop
Christian Kapfensteiner	GIZ
Cesar Cunguara	Maputo Municipality
Silvia Cabrita	Maputo Municipality
Aderito Cumbame	ANNAM
Charlotte Allen	Consultant
Reathe Rain-Taljaard	Consultant for Urban LandMark
Lauren Royston	Urban LandMark
Samuel Mondlane	Justiça Ambiental (NGO)
Pascoa Viola	Centro Terra Viva (NGO)
Ana Caroline Cortes	Architects without Borders
Miguel Carrillo	Engineers without Borders
Felisbela Materula	AVSI Foundation
Eusebio Teodoro Peguenino	Consultant for Urban LandMark
Neivaldo Nhatupup	MICOA (Ministério da Coordenação da Acção Ambiental)
Fidelia Panguane	Diálogo (DFID funded project)
Bernadette Araújo	MAE – DNDA (Ministério da Administração Estatal)