

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

Adapting and strengthening existing land management practices: The case of Maputo and Tete in Mozambique

This Practice Note outlines the research undertaken by Urban LandMark in partnership with ANAMM, the national association of municipalities, and examines what is needed to make urban land tenure more secure. The research in Maputo and Tete in Mozambique aimed to develop an understanding of local land management practices through two 'operation of the market' studies. The Practice Note focuses on tenure security recommendations developed by the Tenure Security Facility Southern Africa to inform the Cities Alliance Country Programme in Mozambique.

The Tenure Security Facility Southern Africa is a project of Urban LandMark. It is funded by the Cities Alliance Catalytic Fund with co-funding from UKaid.

The context of Mozambique

In 2010 Mozambique's population was estimated to be 23.4 million inhabitants.¹ There are 23 cities and 68 towns in the country, of which 43 are organised into municipalities. Currently about 35 per cent of the population lives in urban areas, and the rate of urbanisation is about 4 per cent a year. The increase in the population of Mozambican cities has resulted in over 70 per cent of the urban population living in unplanned informal settlements. Within secondary cities, unregulated informal settlements make up roughly 90 per cent of municipal territory. In Maputo, some 75 per cent of the urban population lives in *barrios* in very basic concrete block houses, with limited or no access to services.²

Mozambique land law offers significant opportunities for tenure security for people living in informal settlements. These include:

- 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.
- Neighbourhood leaders are recognised in the law and have a role in land management.

The legal form of tenure available to people in informal settlements is a *DUAT*, which is the right to use and benefit from the land.³ Authority to approve a *DUAT* rests with



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

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

3 This title is called the *Direito de Uso e Aproveitamento da Terra* (DUAT).

municipal authorities in urban areas and with 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 these rights.

Research and technical assistance

The research conducted in 2010 and 2013 by Urban LandMark took place in four settlements to develop an understanding of local land management practices in Mozambique (Route 2 in the diagram on page 4), through two 'operation of the market' studies. The research took place in Maputo and Tete. ANAMM, the National Association of Municipalities, partnered with Urban LandMark in the Tete study. In Maputo, the area called **Luis Cabral** has a long history of urban settlement, and expanded with the settlement of workers from the Maputo harbour. It currently has 33 800 inhabitants. Although the settlement features brick houses with zinc roofs provided with electricity, the area is still relatively rural and comprises both parceled and un-parceled areas. **Hulene B** is located closer to the International Airport of Maputo and the dump known as Lixeira de Hulene, and is inhabited by a population of 45 400. The civil war and the floods of 2000 were the push factors for increasing arrivals in the area. In Tete, **Matundo** is a settlement that was established after independence in 1975, and by 2013 it had 25 505 inhabitants. **Sansão Muthemba** was established in 1994, in response to people arriving from areas that had been flooded, and in 2005 there were 36 270 inhabitants. In both of these settlements services are available in the form of electricity connected to the houses, piped water, water points and boreholes.

All four settlements are more than ten years old; this makes them eligible for title in terms of the Land Law of 1997, which provides for occupancy by individual national persons who have been using the land in good faith for at least ten years. This suggests that informal settlements could apply for joint tenure in terms of the law, although to date joint *DUAT*s have only been applied in the rural context. Many individuals have been in the settlements for longer than ten years, and would therefore qualify for *DUAT*s on an individual basis as well.

It is also evident that a market exists in all four settlements, which enables households to trade and hold land either as owners or on a rental basis. The following local land management practices are evident in this market:

- 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 (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 role derives from Decree 15/2000.
- Disputes do occur, and there are instances where the same property is allocated to more than one person.
- Local evidence of tenure is secured through a *Declaração* or verbal agreement, which offers some security of tenure.
- Registered title through a *DUAT* is not evident, and appears to be difficult to access owing to the complexity and cost of the process.

These local land management arrangements appear to be fairly widely known in the settlements and seem to be relatively effective. The key role players in these arrangements are neighbourhood leaders located in the settlement, which means that they are accessible to many in the community. The system appears to be trusted, and allows for effective dispute resolution, which appears to work well. The system is participatory and

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inclusive because ordinary members of the community – neighbours, friends and family – act as witnesses. The absence of strict building regulations enables poor households to access land and to build and improve incrementally according to their own needs and abilities.

The Tenure Security Facility, in partnership with ANAMM and Cities Alliance, ran feedback workshops with communities and a stakeholder dialogue in Maputo with a range of stakeholders, including national and municipal officials and NGOs, to share the findings of the research and discuss how these can be used to improve tenure security in Maputo and Tete.

Implications for practice

Although the local land management arrangements function relatively well, weaknesses are evident in that the system does not legally guarantee tenure security. In Maputo and Tete, 33 per cent and 37 per cent of respondents do not feel secure, while 46 per cent of people in the Maputo survey and 10 per cent in the Tete study are without local evidence (either verbal or documented) required to document their rights. While the law protects rights to land regardless of whether an individual or community has a *DUAT*, due to the good faith occupation provision, in practice cases of eviction show that rights are being undermined. What is evident in Mozambique is that the challenge to tenure security lies not with the law, but with the application of the law.

One recommendation is thus to improve tenure security by adapting and strengthening the existing land management arrangements (Route 5 in the diagram overleaf) and advancing legal recognition of such practices (Route 7 in the diagram overleaf). This involves three actions:

- 1. Strengthen existing land management practices:** Through action research, communities can engage with the accountability of neighbourhood leaders and clarify the ambiguity surrounding their authority as political or municipal appointees. The possibility of opening up space for other civil society organisations could also be explored. Furthermore, neighbourhood leaders should be encouraged and supported to provide the *Declaração* in all instances, in order to increase access to the **local evidence** being used to back up land claims. **Local processes and procedures** for external recourse should be explored in cases of dispute where an individual in a settlement feels that s/he is not being treated fairly. In order to prepare for formal planning requirements, **community-based planning processes** should be explored with a particular emphasis on reserving space for roads and public spaces.
- 2. Conduct ‘know your rights’ campaigns and provide legal aid:** Knowledge of the extent to which the law in Mozambique protects people’s rights to land is an essential factor in tenure security. It is thus important that people are informed about their right to land and how it can be protected. A communication campaign should be undertaken that explains the legal protections in the law, especially the right to good faith occupation. Legal aid should be made available to poor communities and individuals who require support in defending their rights to land.
- 3. Advance legal recognition through demonstration projects:** Tenure security can be increased by providing blanket legal recognition in settlements. For example, assigning group *DUATs* can provide security to more residents more quickly, but to date this practice has been applied mainly in rural contexts. A pilot project could help test the feasibility of providing a group *DUAT* for an urban settlement (Route 7 in the diagram above). Local officials could explore whether the dispensation should apply settlement-wide, or to blocks within a settlement. The pilot project can also

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explore how internal land use arrangements and rights could be managed using existing practices and whether, based on existing practices, the arrangements inside the block would need to be regulated in any way.

Diagram Key routes towards securing incremental tenure in Mozambique



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Mozambique is experiencing high rates of urbanisation and increasing urban poverty, which is most visible in the informal settlements on the outskirts of most towns and cities. If informal settlement upgrading is to be effective and meaningful it should recognise, build on and adapt existing land management practices. Alongside the current emphasis on individual titling, the adaptation and official recognition of local practice will produce more options for increasing tenure security in these areas.