

**SECURITY OF TENURE IN URBAN AFRICA: WHERE ARE WE, AND WHERE DO
WE GO FROM HERE**

BY

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Distinguished participants, ladies and gentlemen,

The subject of land in Africa is both a critical and a sensitive one. UN-HABITAT's global mandate covers all human settlement, although we are often known as the agency for cities. In the cities of the developing world, slum upgrading is one of our key tasks where security of tenure and land are of critical concern.

In 2001, 924 million people, almost one-third of the world's urban population, lived in slums. The majority of these people are in the developing regions, accounting for 43 percent of the urban population. Sub-Saharan Africa had the largest proportion of the urban population living in slums in 2001 at over 70 percent. It is projected that without serious mitigating action in the next 30 years, the global number of slum dwellers will double to about 2 billion.

There is growing concern about slums, as clearly stated in the year 2000 United Nations Millennium Declaration. In light of the increasing numbers of urban slum dwellers, governments have recently adopted a specific target on slums. It is contained in Millennium Development Goal 7, Target 11, which aims to significantly improve the lives of at least 100 million slum dwellers by the year 2020. Given the enormous scale of predicted growth in the number of people living in slums, the Millennium Development target on slums should be considered as a bare minimum that the international community should aim for.

Because land is literally at the base of slum formation, addressing the slum issue means taking the land issue seriously. Given that experience has shown that it takes 15-25 years to change a country's land administration system, we cannot afford to wait if we wish to improve the lives of slum dwellers now.

Ladies and Gentlemen,

Many people think that the way to solve the problems of insecurity of tenure, homelessness and the development of slums is through large scale land titling. While this approach is of course important and necessary, it is not enough on its own to deliver security of tenure to the majority of citizens in most developing countries, especially in Africa. The best figures available indicate that less than 30 percent of the land in developing countries is titled. In many countries of Sub Saharan Africa, this drops to below one percent.

There are many reasons for this, such as the fact that customary tenure has a very strong influence. This means that family and group rights are very important to ordinary people. Land titling programmes generally are based on the privatisation of land and the awarding of land titles to individuals. Land titling therefore works against the needs and aspirations of ordinary people in Africa, including in urban Africa where informal forms of land tenure are often adaptations of rural customs.

To reach the Millennium Development Goal of improving the lives of 100 million slum dwellers by 2020 in Africa will require the development of innovative approaches to

security of tenure that are not based on land titling alone. UN-HABITAT's Global Campaign for Secure Tenure has a dual focus on advocating change and assisting Member States to introduce innovations which strengthen the tenure security of the majority of people, especially the urban poor. The Campaign promotes negotiation as an alternative to forced evictions, and the establishment of innovative tenure systems that minimize displacement by market forces. By focusing on security of tenure, UN-HABITAT promotes the progressive realization of housing rights and specifically the goal of 'affordable shelter for all.'

These activities of course contribute directly to the realization of the Millennium Development Goals. The focus of the Campaign is unambiguously aimed at promoting a set of policies, strategies and tools that will directly benefit the urban poor throughout the world. It addresses the issues of forced evictions, secure tenure for both men and women and, equally important, the right of women to equal inheritance. It enables UN-HABITAT to engage with organisations of civil society, local authorities, professionals and policy makers in order to promote policies and practices favourable to the urban poor.

Ladies and Gentlemen,

A number of United Nations member states in Africa have realised that land titling is not a panacea for all tenure security ills. Consequently over the last decade a number of countries such as Namibia, Mozambique, Uganda, Tanzania have been re-thinking their approaches to land, and Africa is now at the forefront of new approaches to land administration. UN-HABITAT is working with member states to encourage and assist with these innovations.

Land tenure innovations have often been designed for rural areas or have been designed to be applied in both rural and urban areas but with a strong rural bias. This is largely because poverty has tended to be defined in terms of rural poverty. UN-HABITAT is working with Member States who are innovating in the land sector to assist them in implementing new schemes both at a national level and within urban areas, and to scale up from pilot demonstrations to national coverage.

Ladies and Gentlemen,

Some of the innovations that will eventually change the lives of the urban poor include firstly, the introduction of a range of more appropriate tenure systems, aside from titling. These include occupancy rights, anti-eviction rights and adverse possession rights. We believe that security of tenure should be understood as a continuum with titling at one end, and that there are a range of tenures that can supply tenure security to the urban poor and which can be improved over time.

Innovations in the new land laws being passed in Africa are based on a number of themes. The first theme is drawn from the Poverty Reduction Strategy Papers that contain a number of cross-cutting principles that affect land: poverty alleviation, decentralization, good governance and transparency, service delivery and protection of women. These are principles also enshrined in the Habitat Agenda that was signed by 171 member states. We do not believe that the needs of the urban poor can be addressed outside of these principles.

Following from this, a range of innovative land administration approaches have been developed in a number of African countries. These include:

- decentralized local land administration offices,
- cheap or free tenure protection for the poor,
- information campaigns at national levels on people's land rights,
- the transfer of information to ordinary citizens about their land rights,
- adjudication procedures that also protect the occupants of the land (not just those being titled or holding registered titles),
- the refocusing of land professionals on management tasks instead of their undertaking routine work which can be done by less qualified technical people,
- incremental upgrades of tenure security over time,
- adaptation of the conventional land registration system to accommodate the poor,
- the use of other forms of legal evidence for the poor to be able to protect their assets,
- the protection of women's land rights,
- flexible sporadic titling and flexible boundaries in customary areas.

The second set of innovations we are seeing in Africa with regard to land relate to dispute resolution. This aspect became a significant cost factor for Uganda that led to an inability to implement its 1998 Land Law at scale. An earlier draft of the South Africa's communal land law was considered too expensive in terms of the institutional structure required to mediate this issue.

The third set of innovations we are seeing in Africa relate to the technical design of the land administration system. In regard to this, a range of cost saving features can be found in the designs. This relates to savings both for the citizens and the state.

Some of the most critical issues in **land administration** design relate to the fact that it must have national application, be affordable to the poor, and yet not over-ride customary and/or local tenure -- where it is the tenure system of choice. Different countries have taken different approaches to do this. Uganda chose systematic demarcation for spatial information and dispute resolution, with voluntary titling only. Mozambique opted for occupancy rights with sporadic titling for investors. It chose not to title the poor but to carefully adjudicate investor titling to ensure it does not infringe on the rights of the poor. Namibia opted for 'starter' titles for tenure in informal settlements. These can be upgraded over time to stronger and more individual titles. That is, innovative unconventional approaches to land administration had to be introduced as conventional systematic titling approaches following the rest of the world were considered to be unaffordable and not relevant to local requirements.

Also, we are seeing the introduction of new gender friendly laws in a number of African countries. These laws make co-ownership and co-tenancy possible between spouses, make it possible for women to prevent the sale of the land and house by their husbands, and ensure that women are also titled either on their own or with their spouses when the land is first titled. However while some progress has been

made with regard to equal rights to land and use rights for women, it is not wide enough in terms of the number of countries adopting these approaches. Also, good policies and laws are often not implemented because of; 1) lack of regulations; 2) local customs that over-ride the national law or; 3) poor women lack the knowledge about their land rights. Much more effort needs to be put into this aspect to ensure social justice and sustainable urban land management for cities.

While I have been focusing on some of the key innovations that have been developed in Africa, we must not forget that a very critical aspect of any successful and sustainable land programme in these countries has included a focus on process and not just product. Multi-stakeholder negotiation at every step was a key to the creation of these new laws and land administration approaches. While this is essential, it has been incredibly time consuming, and the multiple steps needed to get to national roll out can take up to a decade.

Ladies and Gentlemen,

UN-HABITAT would like to see these kinds of innovations all over Africa benefiting the urban poor. Consequently we are assisting Member States wherever we can to scale up these innovations and to apply them to urban areas. Currently we are working with the Ministry of Water, Lands and Environment, in Uganda, in partnership with the World Bank, to assess the innovations which have been introduced in that country. As development partners we are calculating the cost to the state and to the citizen of the innovative designs for tenure security, their impact on poverty and on women's land rights, and we are finding out how the new land law can also be applied to the urban areas. This is being done by assessing the existing 3 pilot programmes and assisting them to implement another 6 pilots. We intend to follow up this partnership with the World Bank to upscale innovations in other countries.

In addition to this, UN-HABITAT, together with other development partners such as the World Bank, DFiD and SIDA, has identified the fact that we have insufficient land tools to implement the appropriate land policies for the urban and rural poor. UN-HABITAT is therefore working at the global level to develop pro poor land tools to ensure that the Habitat Agenda can be implemented and the MDG targets can be met. We are also doing this in conjunction with the World Bank, DFiD and SIDA, but this endeavor is still at an embryonic stage.

To conclude, with regard to tenure security in Africa, especially urban Africa, we know we have a problem regarding security of tenure for the poor. However, having said that, other areas of the globe have similar problems. In Africa we are not only aware of our problem, but we are already innovating to address those problems. At UN-HABITAT we want to assist Member States to be aware of the new innovations, so they can start innovating themselves. We are doing this by building partnerships with other global organizations that share similar objectives. Let us hope that through such pioneering efforts the urban and rural poor will come to know what adequate shelter for all really means and that, in addition to this, their livelihoods will be secured through having secure tenure.