

Land Administration in Africa

Searching for Land Tenure Security

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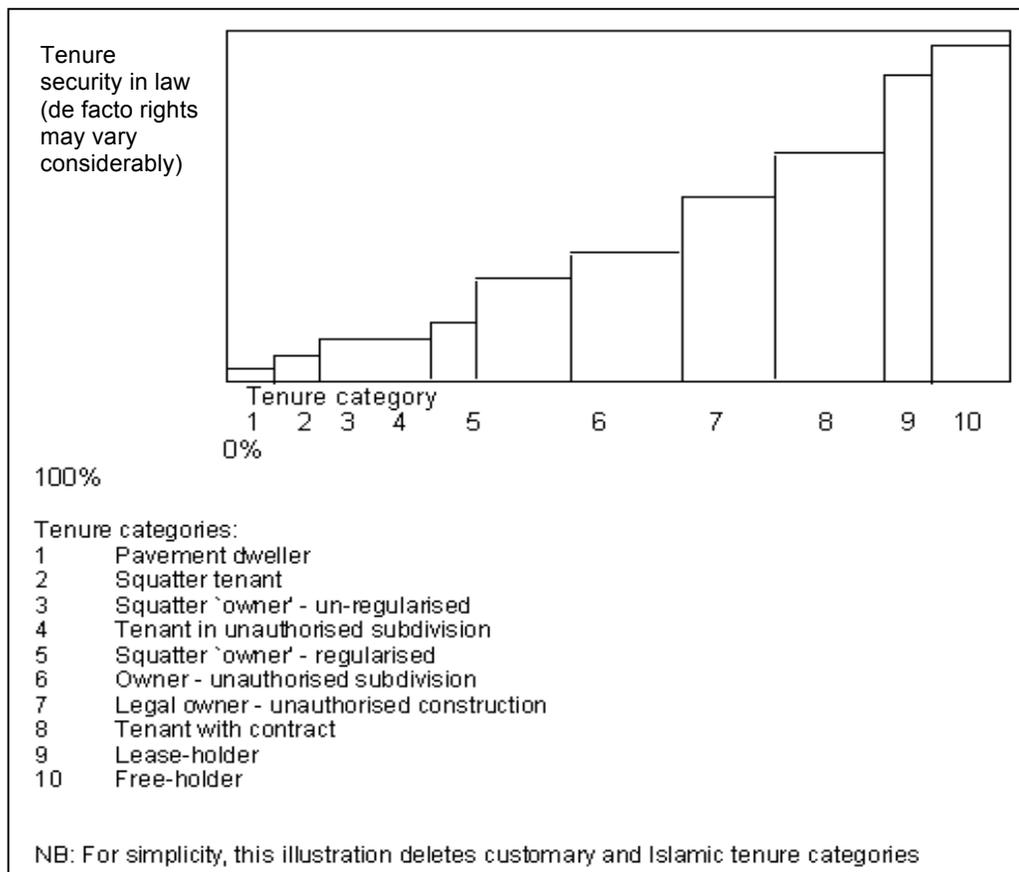
Alternatives to Titling

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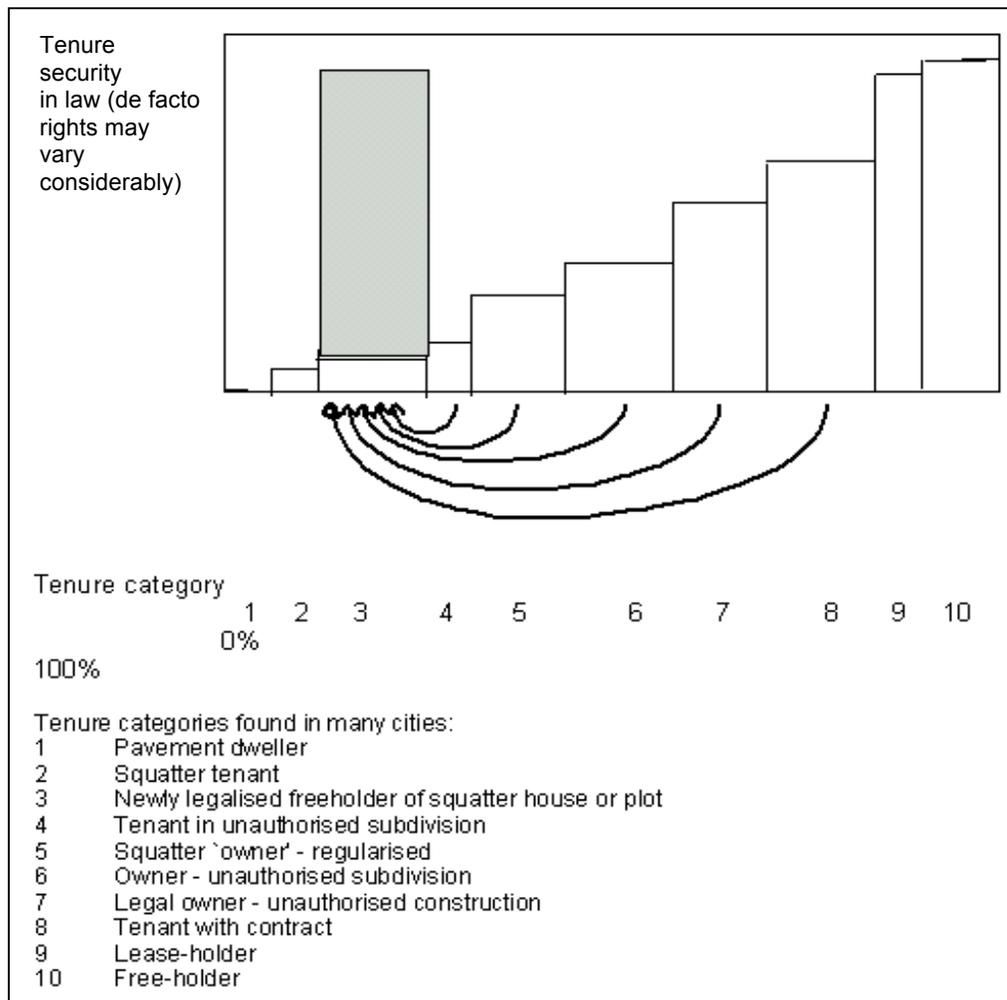
Some key tenure issues in Africa

- Urban growth is increasing competition for legally sanctioned land for housing in and around urban centres. This is forcing many households into insecure or semi-legal alternatives.
- Central and local government agencies are unable to provide affordable and appropriate secure land for the poor at the scale needed.
- The formal private sector is not presently meeting the need for affordable urban development, partly due to regulatory constraints.
- Tenure systems are extremely complex and reflect many historical, cultural and institutional processes.
- As urban areas expand, they encroach into areas where customary systems apply, creating further ambiguity and insecurity.
- These processes have increased the range and scale of illegal and semi-legal tenure systems to create a continuum of tenure categories rather than simple legal or illegal development.

Typical distribution of urban tenure categories by legal status



Likely consequence of providing titles to `owners' of squatter houses



Why alternatives to titling are needed

- Not always benefit those intended. Tenants in particular may lose out.
- Significantly distort land and housing markets if provided at less than market values;
- Not increase access to formal credit if incomes are low;
- Result in households losing their homes if repayments are not made as required;
- Expose owners to property taxes and other charges;
- Result in negative equity if property prices go down;
- Require owners to assume full individual responsibility for property maintenance;
- Place a heavy burden on land administration agencies responsible for surveying, registering and allocating titles.

Alternative tenure options

Non-formal tenure systems:

- Pavement dwelling
- Squatting
- Purchased land, but no documents
- Legal ownership, substandard and unauthorised development
- Legal ownership, acceptable standard but not approved development

Customary tenure systems

Religious tenure systems (eg Islamic)

Intermediate tenure systems:

- Moratoria on Relocations and Evictions (MORE) (proposed Cambodia)
- Prevention of Illegal Eviction (South Africa)
- Permissions to Occupy (Namibia, South Africa)
- Temporary Occupation Licenses (TOLs) (Kenya, Uganda)
- Occupation rights (Mozambique, South Africa, Uganda)
- Group rights (Mozambique, South Africa, Uganda)
- Certificates of Comfort (CoCs) (Trinidad and Tobago)
- Certificates of Rights (CoRs) (Botswana)

Rental and communal tenure systems:

- Public rental
- Private rental - individual
- Private land rental -communal (Thailand)
- Shared equity (eg part rent, part purchase)
- Leasehold
- Social concession (Cambodia)

Ownership systems:

- Starter titles (Namibia)
- Provisional titles (Uganda)
- Share Block Options (South Africa)
- Community Land Trusts (especially Kenya)
- Co-operative, communal ownership or Community Property Associations
- Condominium ownership
- Delayed individual ownership (eg mortgage purchase)
- Individual freehold

Selecting tenure options

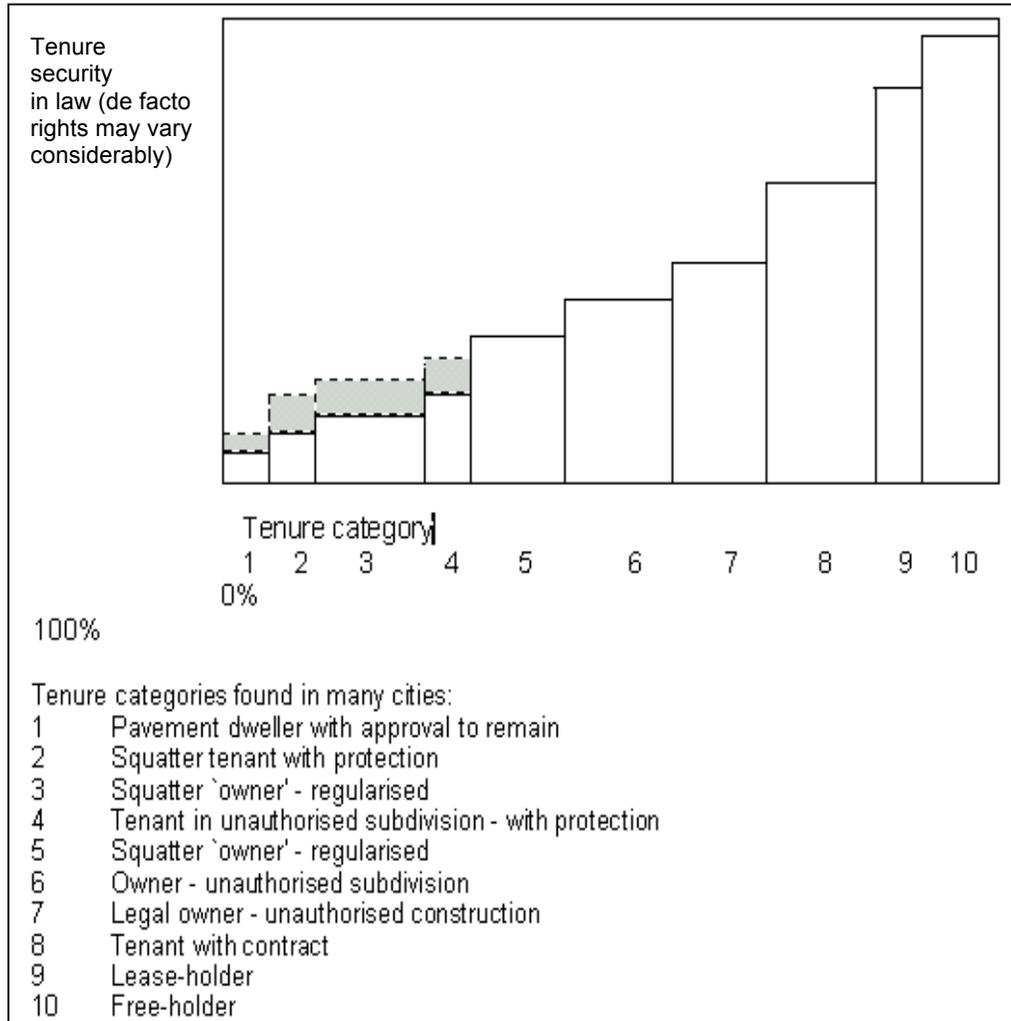
Tenure policy needs to be considered as

- *Spatial planning and infrastructure provision*
- *Part of urban governance*

Five commonly adopted approaches to achieving these objectives:

- Impose master plans. Such approaches invariably reflect a concern for visual order rather than meeting the needs of the poor.
- Granting of full individual property ownership either in-situ or in relocated sites on the urban periphery.
- Introduce or expand 'intermediate' forms of tenure. These enable low-income groups to live in areas which would otherwise be unaffordable.
- Increase rights of occupancy, use, development, etc, for all households in unauthorized settlements, especially for women. Once the situation has been stabilized, emphasis can then move to building on existing local tenure systems with which people are already familiar, before importing new options.
- Integrate tenure policy with urban planning and infrastructure provision policies.

Likely consequences of improving tenure rights in unauthorised settlements



The figure suggests that a rights base approach increases tenure security for the most vulnerable social groups. It also increases social equity without distorting land or property markets.

What should governments do?

FIRST

We must accept that there is no single form of tenure which meets the different needs of all social groups. All tenure options have benefits and limitations. Needs also change over time.

How do we get to where we want to be?

To get to where we want to be is probably advisable to adopt an incremental, rights-based approach. This increases short to medium term security whilst allowing the authorities time to increase their capability to prepare a more comprehensive and locally sensitive approaches. One option is to adopt a five-stage approach as follows:

1. Provide basic short-term security for *all* households in slums and unauthorized settlements. This can best be achieved through land proclamations or moratoriums for a specific period (eg 3-6 months)
2. During this period, survey all extra-legal settlements and identify any that need to be relocated. Offer residents of all such settlements priority for relocation to sites that offer close access to existing livelihood opportunities together with long term tenure options.
3. Designate all other extra-legal settlements as entitled to medium term forms of tenure with increased rights, but not necessarily full titles.
4. Offer all communities that meet agreed good governance criteria long term communal tenure.
5. Any households seeking individual titles, would need to obtain the agreement of the community, agree boundaries with their neighbours, and be responsible for financing and completing the necessary legal and administrative procedures, including the appointment and payment of surveyors and lawyers and property registration.