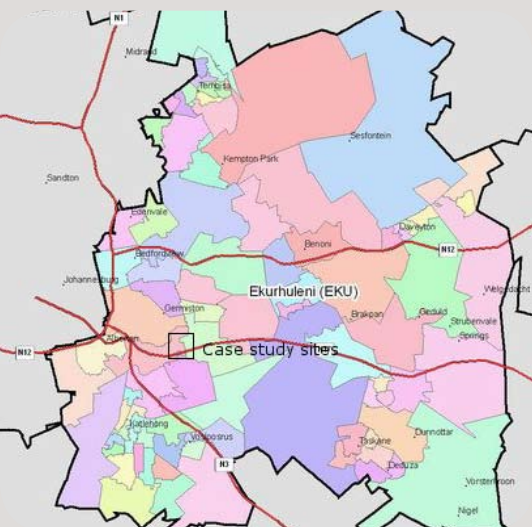


International review of land titling programmes



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International Review of Land Titling Programmes

**with a focus on cases
in Senegal
and South Africa**

2009

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Abbreviations

CLEP	Commission for the Legal Empowerment of the Poor
COFOPRI	Commission for the Formalisation of Informal Property
COHRE	Centre for Housing Rights and Evictions
CORETT	Commission for Land Tenure Regularisation (Mexico)
DFID	Department for International Development (UK government)
EMM	Ekurhuleni Metropolitan Municipality
FCFA	Franc Communauté Financière Africaine (Senegal)
GDP	Gross Domestic Product
GIE	Groupement d'Intérêt Économique (Senegal)
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit (Germany)
ILD	Institute for Liberty and Democracy
IMF	International Monetary Fund
RDP	Reconstruction and Development Programme (of South Africa)
UN-HABITAT	United Nations Centre for Human Settlements
USAID	United States Agency for International Development

1. Introduction

1.1 Issues and objectives

When fieldwork commenced on this project in 2006, the global economy was stable, house prices in many countries continued to rise and land titling and property ownership still occupied a central position in the land policy of many governments and international agencies.¹ The extensive literature advocating titling and ownership continued to expand (eg Panaritis 2007) and those expressing concern at the lack of empirical evidence to back up such policies were marginalised.

Just a year later, the scene is very different. The sub-prime lending crisis in the USA and UK² has led to fears of a global economic recession and the collapse of some financial institutions, including a British bank heavily involved in mortgage financing. The cost of excessive lending to poor (termed 'sub-prime') households in the USA has been estimated at more than US\$400 billion. This figure is likely to be well below the final amount, since the secondary impacts triggered by the loans crisis are affecting confidence in other sectors of the global economy.³

The loans crisis in the USA and UK has served as a rude awakening to financial institutions used to selling on both loans and the risks involved for others to bear. Certainly, there has been a realisation that it is counter-productive to promote land and home ownership to groups who are unable to service loans in a volatile economic climate, when interest rates may drive up monthly payments beyond the ability of borrowers to repay. However, it remains to be seen if the experience has taken the momentum out of land titling programmes in developing countries, where affordability levels are far lower and vulnerability to change is far higher.

A key issue addressed by this report is that the empirical evidence for assuming that land titling programmes can promote economic growth and reduce poverty is surprisingly limited. In fact, it is difficult to identify another development policy that has been so heavily

1 The German government was reported in 2008 to have been so impressed by the economic and social importance of high home ownership levels in the UK that it planned to increase ownership from the existing level of 40% to 60%. It is not clear if this view remains applicable.

2 The sub-loans crisis has arisen from the changing practice by which US banks created a secondary mortgage market to fund additional borrowing and loans. By 2005, one in five US mortgages were to 'sub-prime' borrowers, ie those with poor credit histories, or limited evidence of income, usually because they were poor. Initial payments were fixed for two years, and then became variable and much higher. Consequently, a wave of repossessions swept America as many of these mortgages were reset at higher interest rates. It is thought that as many as two million families may be evicted from their homes as their cases make their way through the courts.

3 The Bank of England loan to the Northern Rock bank alone amounted to US\$60 billion, without any guarantee it will be repaid. This loan equates to UK£720 or 1,000 Euros for every UK taxpayer.

promoted for so long on such limited evidence.⁴ The present research seeks to contribute to the debate on land tenure policy by assessing the social and economic impacts of land titling programmes in two very different African countries, South Africa and Senegal. In this way, the study covers both Anglophone and Francophone countries and relatively developed and undeveloped economies.

Senegal was the first West African country to launch, with the support of the GTZ, a tenure regularisation programme based on the delivery of land titles, in the form of a surface right to owners of dwelling units in informal settlements. The programme started in 1987 in the Dalifort informal settlement. In 1998, it was expanded to other informal settlements in the Dakar-Pikine area, and in other cities in Senegal. Simplified tenure regularisation procedures, ad hoc finance mechanisms and implementing bodies were set up in order to cope with the demand for tenure regularisation. Despite the slow pace of implementation (in 2006, about 1/3 of the 6,450 plots of land identified in 1998 had actually been regularised, and their occupants had received a real property right), the programme is having a major impact in the concerned settlements, inducing improvement in the structural quality of housing, increased access to services and gentrification processes.

The national housing programme in South Africa from 1994-2004 has been essentially a land titling programme, as it is mainly intended to deliver individual titles to predominantly low-income households. Since 1994, the government of South Africa has issued over two million individual titles, making it the largest programme in sub-Saharan Africa. Although South Africa's GDP is higher than that of many sub-Saharan African countries, its prominence in Africa as a model for social and economic development ensures that this programme is likely to exert considerable influence in other countries throughout the region, especially those with a British legal tradition and system of land management.

This study addresses the following key issues:

- What are the social and economic outcomes and impacts of titling programmes? Who has benefited?
- To what extent have titling programmes increased tenure security for all affected groups?
- Has titling improved access to formal credit? By whom? From which sources?
- Has titling led to increased investment in housing and/or infrastructure? By whom?
- Has titling led to improvements in the economic status of poor

⁴ As long ago as the 1950s, it was common in the UK to refer to the merits of a "property owning democracy" as though one could not exist without the other. Whilst private land ownership systems exist in most countries, their extent varies considerably from about 70% in the UK and USA to about 40% in Germany and 35% in Switzerland. The link between property ownership and democracy is therefore tenuous at best, even in mature democracies. However, in the UK, ownership was a precondition for being eligible to vote until 1918, when all men over 21 and women over 30 were given the right to vote, so that it understandably became linked with the development of popular democracy. This may help to explain why so many people in both the USA and UK associate property ownership with social, economic and political progress, despite evidence that other countries have realised these aims without recourse to this means.

households? To what extent and through what channels?

- How adequately has the administration system coped with ongoing transfers of land and property?

In addition, case studies were selected to:

- Assess the impacts titling has had on urban land markets, including the frequency and cost of transactions and prices.
- Indicate access to land and patterns of development
- Focus on the urban scale, though impacts at community/neighbourhood level are also assessed where information could be obtained.

1.2 Background and context

Stage 1 of this study, undertaken during 2006-07, noted that land tenure and property rights have increasingly been identified as a key issue in managing the growth of urban areas and reducing urban poverty. For example, in May 1999, UN-HABITAT launched its Global Campaign for Secure Tenure to address the need to increase protection from forced evictions and promote longer term options for secure tenure.⁵ Similarly, the Millennium Development Goals established in 2000 emphasised the impacts of insecure tenure and its links with poverty and poverty reduction. Sclar and Garau (2003:57) note that “insecure tenure has multiple ramifications for poverty. Legal tenure at the settlement levels is often a prerequisite for the provision of basic services. Without security of tenure, newly serviced settlements are vulnerable to market pressure.” As such, “ensuring security of tenure is an effective tool for alleviating poverty in slums.”

The World Bank has also recognised the importance of secure tenure in promoting economic development and reducing poverty in both rural and urban areas. The Bank organized a series of regional conferences on land and tenure issues in 2002 in order to establish the basis for appropriate tenure policies. At the same time, the governments of Australia, Germany, Norway, Sweden, the USA and other countries increased funding and policy initiatives on land tenure. Similarly, when a new British government was elected in 1997, the importance of secure land rights and fairer land distribution was clearly recognised in a DFID Strategy Paper on economic growth and poverty reduction. In parallel with all this, DFID developed the Sustainable Livelihoods Approach, which recognised the importance of secure tenure as a basis for people to invest in improving their homes and businesses (Quan 2003:3-5).

The increasing consensus on the importance of tenure policy in reducing

⁵ Benschoep (2003:1) notes that “various definitions of secure tenure exist, but the most recent definition that was agreed upon during the Expert Group Meeting on Urban Indicators in October 2002, is: “the right of all individuals and groups to effective protection by the state against forced evictions.” Under international law, ‘forced eviction’ is defined as: ‘the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate form of legal or other protection. The prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights.

rural and urban poverty was matched by an equal consensus on the form such policy should take. Stanfield and Bloch (2002:1-2) state that “in the 1980s, U.S. foreign assistance shifted to emphasise macro-economic policy reform and private enterprise development. This shift was reflected in USAID’s Policy Determination on “Land Tenure” that emphasised land markets, land titling, and real property registration. Land titling also became central to the operations of The Inter-American Alliance for Real Property Rights, which was established to support the Summit of the Americas process in response to the commitments related to real property rights in the region made in the Declaration of Nuevo Leon; the Millennium Challenge Account; the Real Estate Advisory Group; and the Inter-Summit Property System Initiative.

Similar objectives are being pursued as part of the Millennium Challenge Account which implements “the new compact for global development” proposed by the USA in 2002 in Monterrey. The Millennium Challenge Corporation was established in 2004 to administer the Millennium Challenge Account. Property rights and land titling are at the core of this new aid and cooperation strategy. Similarly in Germany, Chancellor Merkel is reported to be preparing to increase the national proportion of home-owners from 40-60% and President Putin has been quoted as stating that home-ownership is a definition of middle class status to which increasing numbers of Russians aspire.

The momentum established by these initiatives is noted by Daley and Hobley (2005:13), who report that “the start of the Thailand Land Titling Program coincided neatly with a major international shift in development policies: during the 1980s the World Bank’s structural



Tokyo Sexwale Informal settlement, South Africa

photo © C. Marx

adjustment programmes and liberalisation policies (and the IMF's stabilisation policies) linked beliefs about the importance to economic growth of privatising and individualising land rights with the broad pro-market tenets of 'neo-liberalism'. This shift was also reflected in the World Bank's 1993 housing policy paper, *Housing: Enabling Markets to Work*, which stated (1993:70) that secure tenure increases housing investment and that "where proper titles are issued, investment in housing may further increase if the titles can be used as collateral for obtaining housing finance." The report went on to state that titling need not be restricted to freehold titles, and may offer titles that can be upgraded to full freehold titles over time.

A major boost to discussion on the importance of tenure security and its implications for social and economic development followed the publication in 2000 of the book by Hernando de Soto which claimed a direct correlation between property ownership and affluence in the West and the lack of this in developing countries.⁶ De Soto claims that the major stumbling block that keeps the rest of the world from benefiting from capitalism is its inability to produce capital, and that whilst the poor already possess the assets they need to make capitalism work for them, they hold these assets in defective forms. By this he means that they lack titles to their properties which they can use to invest in businesses, rendering their assets 'dead' capital. He estimates the total value of such 'dead' capital is at least US\$9.3 trillion. "They have houses but not titles, crops but not deeds, businesses but not statutes of incorporation" (de Soto 2000:7).

Perhaps inevitably for somebody who has been so widely quoted and reviewed, de Soto has claimed that his views have been misrepresented and the recently established Commission on Legal Empowerment of the Poor (CLEP), of which he is co-Chair, emphasises that land titling is not the only option to reduce poverty. However, it also states (CLEP 2006) that access to land ownership is an essential component for poverty eradication in developing countries. A central tenet of de Soto's approach is that ownership is essential if a property is to be usable as collateral for a loan and it is on this basis that many land titling programmes have recently been proposed.

Quan (2003) has also summarised the early influence of World Bank thinking on tenure policy and its predisposition toward individualised land titling programmes, though he recognises the major policy shift that took place in the late 1990s. Nonetheless, titling has continued to exert a powerful influence over many agencies and some national governments. As Cousins *et al* (2005) note in the case of South Africa, "a recent African National Congress discussion document suggests that failure to provide title deeds to land and houses sterilises the enormous value of these existing assets, which could so easily be turned into collateral to secure access to capital." They continue "Government's new housing policy document, *Breaking New Ground*, complains that the 1.6 million new houses funded by the state since 1994 have not become 'valuable assets' for the poor, and emphasises improved access to title deeds as a means of helping the poor participate in residential property markets. These

6 de Soto, Hernando (2000) 'The Mystery of Capital: Why capitalism triumphs in the West and fails everywhere else' Basic Books, New York.

examples demonstrate the increasing influence of Peruvian economist Hernando de Soto and his book.”

The present study was therefore prompted by a desire to assess the empirical foundation on which these policy initiatives have been constructed. The review of literature in Stage 1 identified and reviewed 164 documents relating to land titling in urban and peri-urban areas. However, despite this wealth of material and the lavish claims made on behalf of titling by its advocates, very few examples were found which offered independent assessments of the social and economic impacts of titling programmes.

A second surprise from the literature was that a key reason for the paucity of empirical assessments is simply that very few titling programmes have actually been undertaken in urban and peri-urban areas of developing countries. Many proposed programmes, for example in the Philippines, Tanzania, Egypt and Ethiopia, have not been implemented or expanded from pilot projects into citywide programmes. In Africa, Senegal and South Africa are the only countries where property ownership has been promoted in order to secure tenure, ensure social inclusion and spatial integration of the urban poor and, in the South African case, redress historical inequalities.

It was also evident from the literature that a key reason why property ownership has become so widely promoted is the need not only to provide secure tenure for residents but also to protect local and international investors. As such, a common approach is being advocated to meet different and possibly conflicting policy objectives.

It was against this background that the terms of reference were prepared for case studies to be undertaken in Senegal and South Africa. Following the approval of financial support, experienced local researchers were invited to undertake case studies during the second half of 2007. Key elements of these case studies are summarised in this synthesis report.

1.3 Research methodology

Data on urban land and housing markets in developing countries is invariably limited, unavailable, outdated or inconsistent between cities and countries. Similar constraints to research also apply in the case of specific policy instruments, such as land titling programmes. Even where the data are available, they rarely deal with the key outcomes and impacts. Therefore, although the city case studies drew on secondary data where possible, primary data collection was essential in both cases.

One of the most challenging methodological issues in assessing the impacts of a particular policy intervention is the question of attribution. In this instance, the question is which changes in the social and economic characteristics of those affected can be attributed to titling. Ideally, there should be a before-and-after study of both beneficiaries of titling and a control group with similar socio-economic characteristics at the outset. It is rare for such cases to exist or for the necessary time and funding to be available to conduct a baseline study when they do. In the absence of this option, the issue can be dealt with by developing an in-depth

understanding of local contexts and relevant factors, avoiding bias in the selection of case study settlements and focusing on area-wide, rather than sporadic, titling programmes. Comparative studies within cities can help overcome the problems through the selection of study areas in which key factors can be held constant. The availability of baseline data on an area and its occupants also influences the choice of case studies. It was therefore decided to examine the outcomes and impacts for various social groups, differentiating according to appropriate local dimensions of social difference (e.g. income, ethnicity, religion, caste, gender, political affiliation, age), and distinguishing between households and individuals (especially male heads, their spouses and female household heads). The selection of respondents was thus critical and included, where possible, original and current owners, original and current tenants.

A common research methodology was used in each location, in order to maximise comparability, but this was adapted in consultation with the country research teams to suit local conditions, especially available data. Fieldwork involved a combination of quantitative and qualitative methods. Experience has shown that this is the most effective way of understanding complex and dynamic policy outcomes. Data collection tools used included analysis of secondary data, stakeholder analysis, key informant interviews, a questionnaire survey, in-depth household interviews, maps/photographs. The purpose of each of these is outlined below.

A final consideration was that the research was to be undertaken in a relatively short timeframe in order to contribute to the ongoing activities of the Global Land Tool Network and the Commission on the Legal Empowerment of the Poor. This reinforced the decision to apply a range of quantitative and qualitative research methods.

Secondary data collection and analysis

Available data on urban land and property market trends, the design and progress of the land titling programme, and broad socio-economic characteristics of the city population (especially tenure and wealth ranking/income distribution) were collected. In addition, any previous attempts to assess the outputs, outcomes and impacts of titling were reviewed, together with data on the selected case study areas (see below) e.g. maps, land registers and census data.

Stakeholder analysis

During the early stages of the study, a stakeholder analysis was carried out, based on the review of secondary materials and the researchers' knowledge of the titling programme and other aspects of land administration. The aim of the analysis was to identify the actors who have played important roles in decision making and implementation. A rapid city-wide appraisal was then made to identify specific case study locations. The criteria for selection and number of locations was decided in consultation with the local research teams, and depended on the scale and characteristics of the titling programme under review, whether a control group could be identified and the availability of existing data.

Key informant interviews

The project used semi-structured interviews with key informants in public and private sectors and civil society groups. This provided information on the history and politics of the study areas, their general socio-economic characteristics, the process of reform and implementation and the roles played by various actors. It also helped to identify any gaps in the literature survey and aided in pin-pointing the study sites and any control areas.

Questionnaire survey and in-depth interviews/household histories with selected respondents

A quantitative sample survey of households was undertaken in both countries (576 in Dakar and 456 in Johannesburg). The data from the quantitative study was used to help identify key issues and themes to be explored further in a series of qualitative interviews with selected households identified from the sample.

Focus group discussions

Focus group discussions were held to serve several roles in the study. The first consisted of experienced individuals in the housing, land, and urban sector with expertise to offer on the research, its conceptual framework and the details of the methodology. The second explored the findings of the first set of interviews and formed a guide to the qualitative interviews. Separate groups of men and women discussed gender and tenure issues. The focus groups were extremely helpful in identifying key issues around tenure and title.

Local workshops

Local workshops were held in both countries to discuss findings and policy implications with representatives of key stakeholder groups, including research institutions, civil society, government, and private sector interests.

Surveys in Dakar have been carried out in five settlements, of which four have been, or are being, regularised (see figures 1 and 2 below for locations). The survey sample represents 20% of the population.



An Informal settlement in Johannesburg, called Tokyo Sexwale

photo © C. Marx

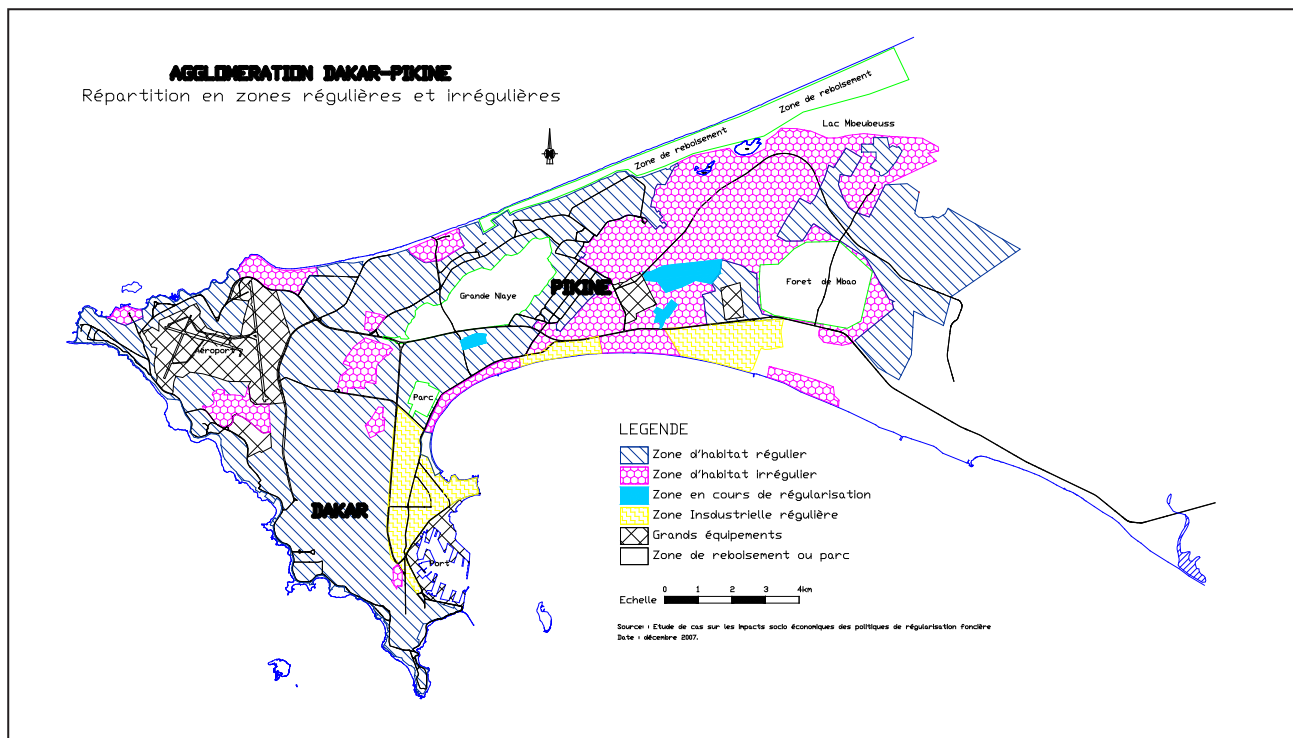


Figure 1.1 Plan of Dakar

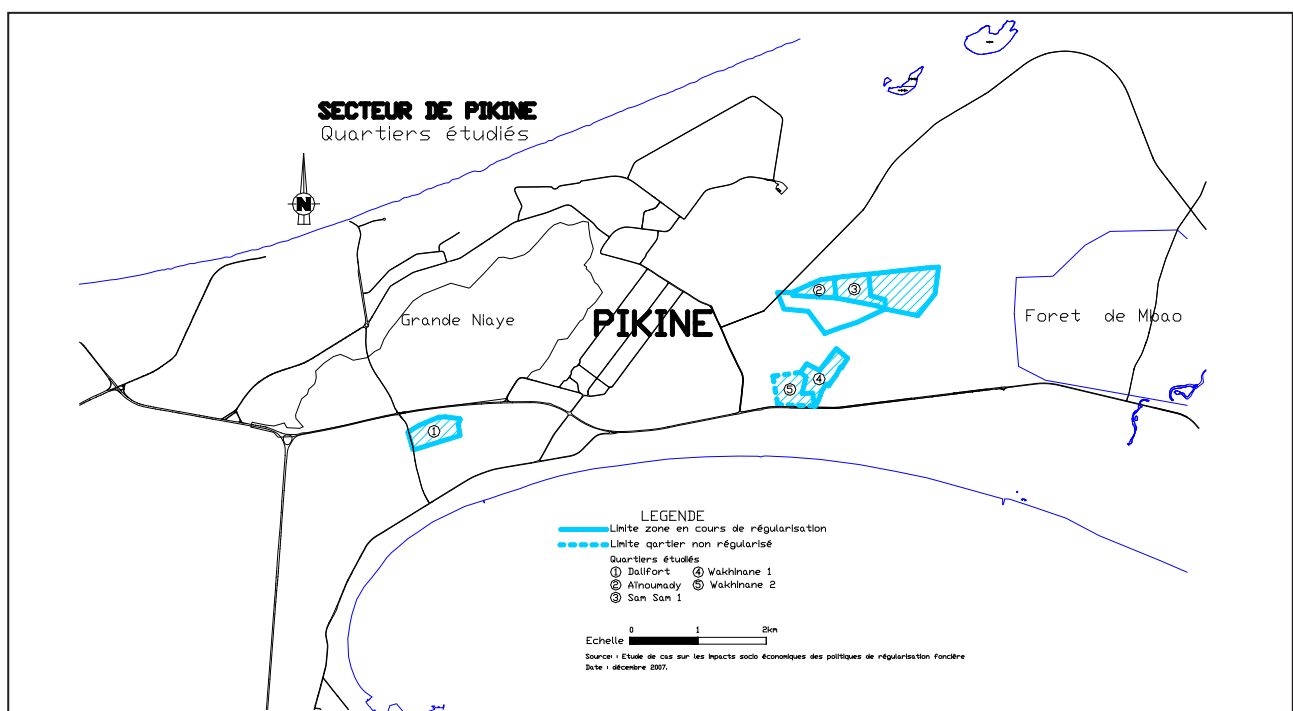


Figure 1.2 Location of Dakar case studies

Dalifort

The settlement began to develop in the 1950s, and is located within municipality of Dakar. It is built partly on customary land, partly on squatted titled land owned by a French national. Most of the land is not suitable for development due to flooding. Commodification of the land market began in the 1960s and 1970s. The threat of eviction and poverty prevented residents building houses with permanent materials. Tenure regularisation began as in 1987 with the support of GTZ. In 1995, Dalifort covered 18.24 hectares and was subdivided into 618 plots.

The total population was estimated at 6,180 (average occupation per plot: 10 persons). The 2007 survey covered 124 plots and 188 households.

Ainoumady

The settlement is located in Pikine and developed in the early 1960s. It is occupied by private sector workers who set up an association and purchased land from Lebou customary owners. Two thirds of surveyed occupants settled in the neighbourhood between 1970 and 1989. The long distance of the settlement from Dakar municipal boundaries has reduced speculation. Proximity of the second largest market-place in Dakar (Thiaroye) ensures relatively good economic activity. Tenure regularisation began in 1993 with the support of GTZ & KfW). Ainoumady covers 14.94 ha and contains 424 plots. Total population is estimated at 4,224 persons. The 2007 survey covered 97 plots and 131 households.

Sam Sam 1

This settlement, also located in Pikine, began to develop in the late 1960s and early 1970s on customary (Lebou) land. It was occupied by rural-urban migrants pushed out of rural areas during the 1980s droughts. The area is far away from areas of employment, with poor access. Paradoxically, many houses, although in poor condition and dilapidated, are built of permanent materials. Survey suggests that this was a way to avoid being evicted. Tenure regularisation is a consequence of that of Ainoumady. Tenure regularisation started in 1996. In 1995, Sam Sam 1 covered 30 hectares, subdivided into 870 plots. Total population was estimated at 8,700 persons. The 2007 survey covered 174 plots and 229 households.

Wakhinane 1

This settlement was founded in the mid 1960s, at the initiative of an association of "Toucouleurs" (an ethnic group from northern Senegal). It has developed along the main Dakar-Rufisque road. Land was bought from customary owners (Lebou). Conflict about the customary sale with some of the original owners, who complained in court, had an unexpected long-term impact on land prices, which increased less rapidly than in other settlements. More than 50% of the owners surveyed in 2007 had settled in Wakhinane between 1965 and 1979. Tenure regularisation commenced in 1996. In 1995, Wakhinane 1 covered 12.32 hectares, subdivided into 405 plots. Total population was estimated at 4,050 persons. The 2007 survey covered 81 plots and 96 households.

Wakinane 2

This is the only settlement among the five selected, that has not been regularised. The settlements started in the mid 1960s along the Dakar-Rufisque road. Contrary to Wakhinane 1, population is ethnically heterogeneous. Land was bought to customary owners (Lebou), sometimes by relatively wealthy persons. Similarly to Sam Sam 1, most constructions are built with permanent materials as protection against forced evictions. The settlement contains about 500 plots, of which 100

were surveyed in 2007, occupied by 153 households.

The case study in Senegal raised a series of methodological and conceptual research-related issues in the context of sub-Saharan African countries.

An initial issue was to adapt a statistical classification system based on French official statistical tools and classification (*the Institut National des Statistiques et des Études Économiques - INSEE*), and adopted by Senegalese administrations, to local perceptions and circumstances. Another problem was the reluctance of some surveyed households, already 'exposed' to different kind of surveys, to respond to the survey questions. Identifying the actual tenure status of a respondent was also important, but rather difficult. In order to be recognised as an owner, people might declare that they are the full owner of the property, even if they had only access to land through informal and customary land delivery channels.

An initial issue was to adapt a statistical classification system based on French practice, as understood by professionals, to local perceptions and circumstances and to find city dwellers already 'exposed' to different kind of surveys and willing to respond to the survey questions. Identifying the actual tenure status of a respondent was also important. In order to be recognised as an owner, people might declare that they are the full owner of the property, even if they had only access to land through informal and customary land delivery channels.

There are frequently confusions between expectations, wishes, future and actual projects, especially when land issues are involved. Translation of the survey outputs from French into English was a minor problem, though difficulties were encountered during the survey, when shifting from French, the official language of Senegal, to local languages used by many respondents and back to French.

Whilst some data was found, there was little on informal settlements and few previous studies had been undertaken to assess the social and economic impact of tenure regularisation projects. In this context, qualitative surveys would have been more relevant, although they would not have provided quantifiable evidence. They would also have required highly specialised surveyors, and a shared meaning of key words and concepts between the surveyors and respondents. Nevertheless, processed answers revealed a good level of coherence and can be considered as reliable. When compared with existing statistical sources, information and data on demography, employment (rate of activity) and incomes (average incomes per household) validate and confirm that the samples surveyed can be considered as representing the average situation prevailing in low income settlements.

In the South Africa studies, the case study settlements were selected in areas most likely to demonstrate the impact and outcomes of land

titling. The area selected was the Ekurhuleni metropolitan municipality (EMM), which is to the east of, and adjacent to, central Johannesburg in Gauteng province (see fig 3). The municipality had a population of approximately 2.5 million people in 2002. Although Gauteng is one of the smallest provinces in South Africa in terms of area, it contributes over a third of South Africa's GDP. Ekurhuleni metropolitan region is a major industrial hub and is experiencing high levels of both economic and demographic growth. However, economic prosperity does not benefit all communities within the metropolitan area, which has an overall 47% unemployment rate.

It was necessary to control for a number of factors to ensure the reliability and validity of the data generated within the financial and time constraints of the project. In selecting case study sites, areas with different tenure regimes were identified which shared a similar location, resident socio-economic profile and age and size of the settlement (as measured by the number of households). Key methodological factors were:

Similar socio-economic characteristics of the respondents in the different sites. It was considered desirable to compare areas with similar household socio-economic profiles, in order to focus on the impact of tenure rather than income or wealth, and to select settlements that were not too disparate in terms of their age and size.

Type of settlements (informal settlement, *in-situ* upgrade and Greenfield relocation). The purpose of the different settlement types was generate data on the impact of titling on an area-wide basis.

Proximity of areas so as to ensure that all of the types of settlements were similarly located and afforded similar levels of accessibility to urban amenities.⁷

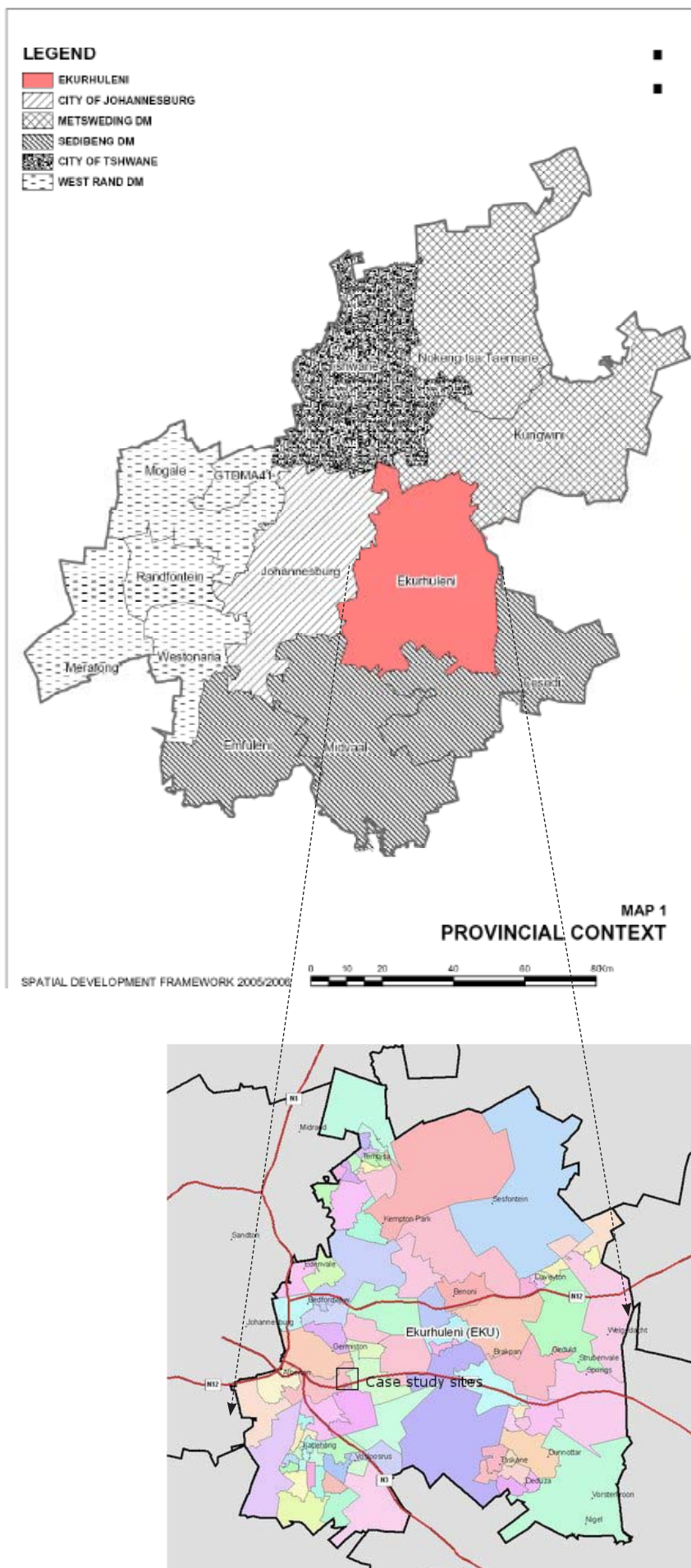
Population size to ensure that the sample size would be sufficiently representative to provide confidence in the results

Age of settlement to ensure that the settlement is relatively stable and is not characterised by any dynamics of uncertainty associated with a new settlement

Length of time that residents have had possession of title deeds (to ensure time for the impacts to be felt through, for example, accumulating savings to invest in housing improvements).

The area that was selected is the Reiger Park Ext 5 area, which provides a range of tenure situations in close proximity. There is an informal settlement (Tokyo Sexwale), an *in-situ* upgrading project that has been titled (Ramaphosa) and a relocation project where people have been relocated to a Greenfield area and received titles (Egoli Village).

⁷ The importance of holding the variable of 'location of the settlements' constant in considering the impact of titling is demonstrated by Jackoby, H.G. and Minten, B. 2007: Is land titling in sub-Saharan Africa cost-effective? Evidence from Madagascar. *World Bank Economic Review* Advanced access June 30, 1-25. This is because different locations in the city present different opportunities and constraints for household investment.



Tokyo Sexwale

Tokyo Sexwale is an informal settlement that is contiguous with Ramaphosa and difficult for the non-resident to distinguish as a separate settlement. The settlement is fairly new and has its origins in the violence of the early 1990s, as households in Ekurhuleni looked for settlements away from the main areas of political fighting. Many of the early residents came from the rural areas and most are not from Gauteng. The settlement is home to 1,971 households and is recognised as an informal settlement by the local authorities.

Ramaphosa

The original settlement was built just after the Second World War as a number of people migrated to the mining-rich area in search of jobs. The settlement was named Stirtonville until 1963, when the segregationist laws of the Apartheid government ensured that the previous mix of Black, White and Coloured residents was dismantled. The settlement became a Coloured township and was renamed Reiger Park. The households who settled in Ramaphosa occupied the land illegally and initially faced a great deal of resistance by the previous government, facing forced removals and bulldozing of their shacks on several occasions.

Egoli Village

Egoli Village is a Greenfield housing project of the Ekurhuleni Metropolitan Municipality Department of Housing. It is one of many council projects scattered across the area in a bid

to adequately house low-income people. The project was started in 2000 and only completed in 2007. The settlement is now home to about 928 people, all of whom earn below the level defined as eligible for housing subsidies. The development includes the provision of formal “RDP” (Reconstruction and Development Programme) starter units, which are basic freestanding 40m² housing units on a serviced plot or stand. The houses, which are built by companies contracted by the local authorities, provide an unpartitioned unit that has neither a ceiling nor paint but is a cement and brick structure with an inside flush toilet and running water in the kitchen.

Interviewers were instructed to minimise the use of key terms such as ‘title deeds’ and ‘land ownership’ and use other ways of generating data on the issues. This was because such terms had various interpretations in local usage. Since the research was focused on households that have freehold title, it was necessary to select households that were likely to have freehold title without this being the defining feature for the respondent.



Egoli Village Greenfield settlement -government subsidised housing consolidation

photo © C. Marx

2. Research findings: Titling programme impacts

2.1 Tenure security

Perhaps the single most important justification for land titling programmes is that they increase tenure security. Certainly, they provide legal clarity to areas and groups which may not have existed previously. However, what does this mean in practice? As many observers have noted, tenure security cannot be considered as a simple matter of legal or illegal, formal or informal status; it is therefore a relative concept and a matter of perception as well as law. As Palmer (1998:86) points out, “security can never be absolute. It can never be measured directly because it cannot be defined objectively. To a large extent, security is what people define it to be.”

When assessing their tenure security, households compare their present situation to that of others in both the same and other tenure categories. Where they feel vulnerable to eviction or displacement on unfavourable terms, levels of tenure security can be low, irrespective of their actual tenure status. Where such fears are minimal, or non-existent, people feel secure. On this basis, land titling programmes increase tenure security more in those areas where evictions and market displacements are common than in those areas where they are minimal or non-existent.

This link between tenure security and fear of eviction or displacement is borne out by the literature review. For example, in Lima, Kagawa and Turkstra (2002:60) note that “land invasions were tolerated, which meant that squatters on state land held informal property rights.” In other words, most squatters felt sufficiently secure without titles to invest in improving their homes prior to the major titling programme launched by President Fujimori in 1996.¹ Similarly, when residents in several squatter settlements in Trinidad and Tobago listed their top ten concerns, not one mentioned tenure, presumably because the lack of any significant evictions by government meant that they felt secure.

To complicate matters, the literature also reveals evidence that the possession of a title does not necessarily provide security and can, under certain conditions, actually *reduce* it. For example, in Afghanistan, the World Bank (2006) reported a Norwegian Relief Council survey indicating that “the issue of legal deeds does not seem to be directly related to security of tenure and to the resolution or elimination of property disputes.” It continued, “the more formal the documentation, the more it is prone to corruption and to dispute. Security of tenure is not premised on holding legal deeds but is primarily premised on local cohesion and social stability... those living in middle-to-low income properties in older, unplanned, but established settlements in the city seem to have higher security of tenure.”

¹ In fact, Kagawa and Turkstra (2002:60) quote Calderón (1998) to the effect that land titling programmes have been carried out in Peru for many years and in Lima alone, 200,000 municipal titles were issued during the 1980s.

Possession of titles may result in increased market pressure from private developers on inner city informal settlements located in prime urban areas. Provision of land titles, considered a protection against evictions, can accelerate market driven displacements. This phenomenon can be observed in an increasing number of cities. It must be analysed in the global context of the persistent imbalance between supply and demand of land for housing, the scarcity of prime urban land for development, increases in the market value of urban land, and increasing commodification of informal land markets (Durand-Lasserve and Royston, 2002).

Although forced evictions are well documented (COHRE 2004) there are no figures for the scale of market-driven displacements. Yet recent observations made in two different urban social, cultural and economic contexts, in Phnom Penh, Cambodia and Kigali, Rwanda (Durand-Lasserve, 2006), where the development of a formal land market is being accompanied by the implementation of a nationwide land titling and registration programme, suggest that their number is much higher than that of forced evictions. Provision of individual property rights permits a shift from forced evictions to less risky “negotiated displacement.” It is less brutal and accordingly less visible, as it can be achieved following individual case-by-case negotiations. Most observers consider that the very principle of negotiating is more important than the terms of the negotiations, especially regarding the price agreed, even when the price does not reflect the development value of the land. In addition, while some owners wish to sell, as the scale of displacement grows, it becomes increasingly difficult for remaining owners to resist pressure to sell.

Intriguingly, it appears that land titling programmes are often implemented or proposed in countries or cities where residents in unauthorised settlements already enjoy a degree of *de facto* tenure security, as in Egypt, India, Mexico, Peru, South Africa and Tanzania. In Egypt, for example, Séjourné (2006) reports that between 2000 and 2004 the ILD sought to introduce tenure formalisation through land titling, though occupants in informal settlements already enjoy sound security of tenure (see also Sims, 2002). In Benin, where the Millenium Challenge Corporation was planning to launch a nationwide land titling programme, Precht (2003) reports that people already enjoy considerable security of tenure. Thirdly, in Tanzania, the ILD is introducing a citywide land titling programme in Dar es Salaam (de Soto and Cheneval, 2006), where existing tenure arrangements already ensure security of tenure in informal settlements (Kironde, 2006). Because these communities already enjoy tenure security, titling is unlikely to have a significant impact

A key issue is the impact titling has on providing secure tenure for women, who suffer widespread discrimination within both customary and statutory tenure systems. The most extensive, though by no means the only, coverage of gender impacts of titling programmes is included in the reports published by UN-HABITAT in 2005, which provide findings from many countries in Africa and Latin America.²

² See UN-HABITAT (2005, 2005a). Case studies include Brazil, Colombia, Lesotho, Mexico, Mozambique, Namibia, Nicaragua and Zambia, as well as references to many other countries.

Evidence of women's comparative insecurity with regard to tenure rights comes from many countries, but is well illustrated by the case of Albania, where the Land Tenure Center (LTC 2002:28) notes that titles are registered in the name of the head of the family and that this head is "almost always the eldest male in the family. There are some women registered as heads of household, around 5%." Women's situations vary considerably depending on whether they are single (never married), married (or cohabiting) or divorced/widowed and on the family law and inheritance systems of the country in which they live. Land policies often refer to 'providing women with equitable access to secure tenure' without exploring the implications of this complexity. Efforts generally focus on provision for joint tenure, ensuring that women who are household heads can obtain secure tenure or retain rights to the marital home when a marriage ends through death or divorce. Considerable efforts to improve the rights of women are reported from several countries. *See box 1*

Box 1 Initiatives to improve women's land rights

In Mexico, UN-HABITAT (2005a:98) reports that "officials in the Commission for Land Tenure Regularisation (CORETT, the national agency in charge of regularisation of informal settlements on *ejido* land), claim that over 50% of regularised plots are certified to women."

Colombia has introduced joint ownership titles (UN-HABITAT 2005).

In Andhra Pradesh, India, the state Land Revenue Code and Social Welfare Department Guidelines for the Implementation of the Land Purchase Scheme for House Sites in 2004 states that land titles "shall be issued in the name of women beneficiaries" (Banerjee 2004).

In Peru's land titling programme, Angel *et al* (2006:12) claim that "56% of COFOPRI titles have been granted to women, while only 44% have been granted to men, increasing female participation in the formal sector." Also in Peru, Kagawa and Turkstra (2002:65) note that "if a household is composed of a couple and their children, both the man and the woman's names are recorded on the land title to ensure equal rights to the property. If the household is composed of several siblings, all are recorded."

In Laos, Land Equity (2006:115) reports that "there were practical problems to recording the ownership of a jointly owned parcel of land on forms, but this was identified and the format of the titles was reviewed. Considerable attention is also now being given to informing women of their legal rights relating to land."

In Cambodia, Deutsch (2006:ii) indicates that the issuance of land titles under the Land Management and Administration Project is likely to have positive effects on women's and their family's welfare, agricultural productivity, poverty reduction and women's empowerment.

These examples reveal significant and welcome progress in strengthening women's property rights, which is of wider benefit to society. However, changes to the law and policy do not necessarily result in a rapid change of practice. For example in Mexico, procedural constraints remain after policies and laws have been changed. Deere and León (2001:303) writing on Peru contend that "women who own land are often disadvantaged in the land titling process because, among other things, they have a low level of literacy and do not possess legal documents. Also, to participate in the land titling program in Peru one must be a registered voter and many women are not registered." Cousins, B *et al* (2005:3) also record procedural problems in South Africa, where there was a decrease in security of tenure for many people at the Joe Slovo Park settlement in Cape Town: "Ownership was registered in the name of only one member of each household, often resulting in reduced security for women and members of the extended family."

As if legal and procedural factors were not enough to deny women justice, cultural factors clearly provide an even more entrenched barrier that will take years, and possibly even generations, to change. D'Hellencourt *et al* (2003:37) report in Afghanistan that "despite women's property rights being protected by the statute law, they are not customarily respected." In Mexico, the UN-HABITAT report (2005a:122-123) concludes with a disappointing recognition that "even if laws could be amended to include express declarations of equality and non-discrimination, deeply rooted behaviours, customs and social norms persist that interfere with their adequate application and enforcement."

With regard to the impact of titling on tenants, assessments are surprisingly limited, in view of the large proportion of tenants in many informal settlements and the fact that they invariably represent the poorest and most vulnerable section of the urban population. Clearly,

titling may result in significant increases in land and property values which owners may seek to realise through increased rents, forcing existing tenants out and denying the area to low-income households. Payne (1997:46) and Benschop (2003:3) report that where there are numerous tenants in an informal settlement or customary area, freehold often forces existing low-income tenants out, as they can no longer afford the rents, which rise dramatically after titling. This is clearly an issue which has a major impact on the application of titling programmes in settlements with a significant proportion of existing tenants.



Street in Dalifort, Dakar 2007

photo © S. Ndiaye

Surveys carried out as part of the present research in four regularised settlements in Dakar were combined with the output of surveys previously carried out in two of them by M'baye (1996) and Precht (2002). They provide valuable information about the impact of tenure regularisation on tenants, especially in the case of Dalifort, where real property rights (surface rights) were issued between 1988 and the early 2000's. Detrimental impacts on tenants had been anticipated from the very beginning of the tenure regularisation programme, as well as the risk of massive land speculation to the benefit of a limited number of families. This is why, in Dalifort: i) tenants were considered eligible for tenure regularisation (this was not included in the other regularisation projects because it was considered too complicated), and ii) to prevent a small number of rental shack owners benefiting from tenure regularisation, they were required to pay extra charges amounting to twice the cost of regularisation. This restriction proved to have limited impact, as the price set by the administration, even with the extra charges, was far below the market value of the regularised property.

Evidence from both the Senegal and South Africa case studies confirms that, whilst there are substantive differences between formal, informal and customary tenure categories, perceptions are important in determining tenure security.³ For people living in informal settlements in Dakar, security of tenure is gained through two processes: i) recognition within the neighbourhood, which is considered the most important (customary ownership and private sale agreement provide such security); ii) formal recognition by the state, which is seen as a long-term objective. Although customary ownership is not formally recognised in the 1964 law on the National Domain, people who settled in the so-called "traditional villages" of the urban fringe enjoy a high level of security of tenure (Precht, 2003).

In Dakar, tenure regularisation contributes to improved security of tenure. However, it must be

Box 2 Cost of housing implications of tenure regularisation in Dakar

In 1987, 71% of households in Dalifort were tenants, or were accommodated for free in rooms and shacks (Precht 2002). 60% of the people claiming ownership of rooms or shacks (despite having no legal basis for this claim) were living on the same plot, 13% were living on other plots in Dalifort, and 27% were living elsewhere, indicating a significant proportion of absentee 'owners'. Most existing tenants benefited from the first stage of tenure regularisation, as they were offered either a "surface right" on the plot they occupied, or a plot in the relocation site adjoining the settlement. The number of 'owners' increased by 25% between 1987 and 2000 (GERPES 2000), as these beneficiaries claimed their plots. At the same time, rents increased sharply for remaining tenants, as shack owners transferred onto them the costs of tenure regularisation and physical upgrading of the settlement. According to Gueye (2000), between 1987 and 2000, the average rent for a room in Dalifort jumped from 3,000 FCFA to 150,000 – 20,000 FCFA.

Illicit registrations, sometimes encouraged by administrative practices, later weakened the situation of tenants. The Presidential Decree of 1991, organizing tenure regularisation in informal settlements, authorised owners of several plots to register plots in addition to the one they already occupied, if "duly justified", and at twice the normal price of regularisation for a single owner-occupied plot set by the project (from 2,500 to 5,000 FCFA per square metre). Even when doubled, this is far below the market price of a regularised plot (13,000 to 14,000 FCFA per square metre in 1995) (M'baye, 1996) and enabled 'owners' of more than one plot to claim legal ownership of several plots at a discounted price. In addition, in many cases reported by Sidibe (1990) and Precht (2002) in Dalifort, multi-plot owners benefited from tenure regularisation through 'men of straw' (extended family members, and sometimes their own tenants).

³ The tenure categories identified by the South African team include: Formal ownership, intermediate ownership, expectation of ownership, informal ownership, occupying, formal rental, informal rental and 'looking after'.

stressed that residents in most informal settlements already enjoy *de facto* guarantees supported by government commitments made at the very beginning of the tenure regularisation project in 1988, legal measures adopted in 1991, and administrative and customary practices.

One of the paradoxes of tenure regularisation is, therefore, that it benefits communities that are not directly exposed to evictions because their settlement is located: i) on land within the private domain of the State, National Domain land, or on private land (for which a land title was issued prior to the law on National Domain of 1964), and ii) on land suitable for urban development and designated for residential development in planning documents. These two conditions make the land potentially eligible for tenure regularisation. The surveys carried out in Dakar in 2007 confirm that most occupants consider that, as they own the dwelling unit, they are the owner of the property, including the land, whatever their tenure status is. Accordingly, they believe that they enjoy full tenure security. This is reflected in the percentage of self-declared 'owners', compared with the percentage of actual real property rights holders. For example, 80% of surveyed households in Aïnoumady consider that they are "owners", yet, only 22% of occupants entitled to a property right had received it by December 2007. In Wakhinane 88% of surveyed households consider that they are "owners", but only 43% of occupants entitled to property right have received it. In Sam Sam 1, 89% of occupants consider that they are "owners", yet, only 18% of occupants entitled to property right have received them. The provision of titles therefore makes little difference to perceived tenure security, which is already high.

Another reason why perceptions of tenure security are high, even in informal settlements, is that physical upgrading is interpreted by beneficiary communities as a form of official recognition and a commitment to long term occupation, whether or not they have paid the cost of tenure regularisation. In this context, one can assume that beneficiaries' interest in tenure formalisation is not just security of tenure, but the access it gives to the formal land market.

According to Sidibe (1990) and M'baye (1996), security of tenure is not only perceived as protection against eviction; it is also a protection against encroachments. In informal settlements, security of tenure can be weakened by disputes between neighbours about plot boundaries.

In these circumstances, the first and most important step towards tenure regularisation is the census of households entitled to receive a surface right and the preparation of the layout plan that determines plot boundaries prior to physical upgrading and tenure formalisation. Identification of potential rights holders and plot boundaries is equally important, since the mere announcement of tenure regularisation exacerbates land disputes in settlements. All potential beneficiaries are involved in the exercise, which is carried out collectively at community level. The delivery of a real property right (in the case of Dakar, a "surface right") comes later, after physical improvement and sometimes land readjustment, and provides formal security of tenure. This is a much longer process that may take years.

The Senegal case study reports that a significant percentage of people entitled to a surface right in regularised settlements have not yet been delivered this right (only 56% of owner occupants in Dalifort have received a surface right, 47% in Aïnoumady and 38% in Wakhinane 1). There are three main reasons for this:

- Delays in the administrative tenure regularisation process (République du Sénégal, 2006, Fondation Droit à la Ville, 2004 and 2006);
- Potential beneficiaries do not have sufficient resources to pay the cost of regularisation;
- People are unwilling to pay for the cost of regularisation as long as they feel that they are protected against evictions because they are entitled to tenure regularisation, and they do not intend to sell their right.

This suggests that at least some households in Dakar consider that having the option of completing the titling process is sufficient for obtaining tenure security. Thus, finalising the process can be delayed indefinitely, especially if completion exposes them to additional expenditure which they regard as unnecessary. Many members of the Economic Interest Groups (*Groupe d'Intérêt Économique* or GIE) that are formed at the start of tenure regularisation consider it unnecessary to complete the process. Participation in a GIE provides in itself adequate security of tenure. This explains why so many potential beneficiaries of “surface rights” do not apply for them or, according to key informants, apply only if they intend to sell their property.

Not all residents of informal settlements, however, have tenure security. During regularisation, settlements exposed to eviction are those located on land unsuitable for urban development (for example subject to seasonal floods or landslides), or those developed on public land needed for infrastructure (such as rights of way) or public utility purposes, such as the construction of highways. This resulted in the eviction and relocation of about 3,131 households (approx. 28,600 persons) in 2006-2007 in South Pikine Area (République du Sénégal, 2007). Such settlements are, by definition, not eligible for tenure regularisation, but most of them will be relocated in Keur Massar Area. However, in contrast to the policy prevailing until the mid-1990s, the public authorities now provide evicted households with relocation options.

In South Africa, it is clear that although registered titleholders benefit from the fullest and widest form of rights and recognition, possessing a title deed has little effect on owners' perceptions of their tenure security. When households in the three communities surveyed were asked if they were afraid that somebody could take their home away, very few households thought they could be moved, irrespective of their tenure status. In addition to those with formal ownership claims, over 90% of households with informal ownership and over 95% of households who were ‘occupying’ their property were confident that they could not be arbitrarily removed. As one interviewee stated, “even if I don’t have a C form, after all these years I don’t think anyone can move me from my stand.” The possession of a title clearly reassured another resident, who reported that “the title deed protects me, in other words allows me

to stay here; even if a person comes to bulldoze me I can produce this paper.” (Interviewer) *What can you use it for?* “I think just to protect myself in this place. The title deed is the most important because it gives me the rights to be here.”

The South African case study revealed that titling had a very positive impact on increasing tenure security for women by specifying them on ownership records. This is a key finding, especially since female-headed households constitute a majority in all three case study settlements (58%, 68% and 73%). The titling process is addressing the systemic inequalities in South African society and the vulnerability of female-headed households is being reduced, with the intention of mitigating the effects of poverty. Stakeholders confirmed during the qualitative research that women who have been allocated RDP units are far more likely to apply for a title deed (Kamanga and Brits 2007).

The importance of the title deed and other official documentation and role they play in making a household visible is not just recognised by one department or part of government. Households use their “papers” in a variety of limited contexts e.g. for registering their children for school or to access services. Communities and families also reinforce the importance of documentation and title by arguing that it is the title deed that provides the ultimate proof of ownership. During interviews, there were reports in Ekurhuleni of women going to the conveyancers’ offices, on the advice of other, predominantly female, community members, to check their ownership status and whose names were on the title deed (Kamanga and Brits 2007). Local authorities also respond to the call from communities for legalisation. As the process progresses, each side becomes more visible to the other, with the final goal being an object or status that is recognised by both sides.

Beyond the case study settlements, Allanic (2003) notes in a study of Mandela Village, Tshwane Municipal area, Gauteng Province, that “since 1994 all residents have enjoyed *de facto* tenure security. Although most still lack legal property rights, their general attitude is that they are rightful land reform beneficiaries who will ultimately hold an individual title deed to the piece of earth they claim as their own. Nowhere are house construction and property improvements regarded as risk capital outlay. Most individual households regard themselves as possessing *de facto* ownership rights, notwithstanding the slow pace of actual tenure upgrading via the land reform process.”

In South Africa, the qualitative research revealed that owners’ belief that they will be able to obtain eventual title is partly based on the broader observation by poor households that wealthier households depend on the institution of private property and hence, that the institution is unlikely to be easily done away with. It also appears to be based on an understanding of urban development dynamics and a belief that, in time, the development process will deliver a title deed. The qualitative research results reinforced the view that while the respondents did not know about specific land legislation, their general view is that the current government is unlikely to take up the practices of the previous government and evict them arbitrarily.

2.2 Investment in housing and/or infrastructure

One indication of tenure security is the degree to which residents are willing to invest in home and environmental improvements. The superior tendency of land titling to stimulate investment in housing and property development has been advanced as a key factor in the promotion of titling rather than other forms of tenure. This is on the assumption that households will only invest in property improvements if they own their assets and that such investment will be protected by law. As such, evidence concerning the impact of titling on investment constitutes a key issue in assessing titling projects and programmes. In order to determine the extent to which land titles are a catalyst in stimulating investments in home and environmental improvements, comparisons are made between households of similar incomes in both authorised and unauthorised settlements. Of course, the use of titling to stimulate property investment can benefit commercial investors as well as residents, though their interests may be very different.

However, evidence of a link between titles and investment in house improvements is not always clear. Although Field (2005) claims that “strengthening property rights in urban slums has a significant effect on residential investment: the rate of housing renovation rises by more than two-thirds of the baseline level”, it is important to clarify that she is not claiming that titling *per se* is the means of encouraging such investment, but increased property *rights*.

Observers of the situation in Peru (eg Calderón 2004:298) note that “when poor urban families feel secure about staying in the dwelling they occupy, in other words they know they will not be evicted, they are more likely to invest in housing construction and to establish contact with public or private service companies to obtain water, sewerage and electricity connections.”

Thus, where informal settlements are recognised in other ways, investment may be encouraged despite lack of titles. For example, the Colombian Constitution entitles all citizens to access public services on the sole condition that they can pay for them and as a result levels of investment appear high in informal as well as formally titled areas.⁴ Similarly, in countries where the threat or perception of eviction is minimal or non-existent, such as Turkey, Trinidad, Egypt, Morocco and many West African cities, owners appear willing to invest whether or not they have formal tenure status. Moreover there is also some evidence, for example in Eldoret, Kenya (Musyoka, 2004) and Albania, that households may invest in substantial construction *because* they lack formal tenure and are therefore seeking to create *de facto* security through structures on the ground.⁵

Therefore, it may be the *perception* of security and the anticipated benefits of increased property rights which exert a greater degree of influence

⁴ In another example, the Draft Slum Policy of India states that “households in all urban informal settlements should have access to certain basic services irrespective of and tenure or occupancy status” (GOI 1999, quoted in Banerjee 2004).

⁵ Private communication from international consultant.

over levels of investment than titles *per se*, while constraints on such investment may be related less to lack of title than to other factors (such as low incomes). According to Angel *et al* (2006:14) in Mexico, “because property is relatively secure even without titles, homeowners do not wait for titles to make improvements to their homes. Any lack of investment appears to be controlled more by limited income than lack of title.” Similarly, in Cambodia, Deutsch (2006:39) reports that “investment is also dependant on other factors, such as household income level, savings and priority-felt needs for upgrading the dwelling unit. Of the households that made investments to their property, 70% said that they would have done the improvements to their property even if they had not received the new land title.”

A further consideration is that levels of investment may be significantly influenced by the location of the land parcel. In Cambodia, for example, levels of housing investment by households relocated to new development projects on the urban periphery of Phnom Penh was extremely modest, as many simply could not afford to live in such locations and many moved to be nearer employment opportunities. In South Africa, there is anecdotal evidence of distress sales by households with titles in peripheral locations, who sell their homes at less than the subsidised construction cost (Verhage, 2007). The sales are generally due to inability to afford costs of services (in cases where an indigence policy has not been developed) or taking on more credit to furnish and finish the home than the household can actually afford. This also suggests that direct comparisons of investment levels in titled and untitled areas are not valid if relocation is involved, since the threat of such relocation to residents in untitled areas will inevitably adversely affect their decisions on investment in their current houses (a form of investment blight) as well as in the resettlement area.

Another consideration regards the extent to which titled settlements are compared with informal settlements under threat of eviction. Banerjee (2004:7) reports from India that “in Bhopal and Visakhapatnam there was a sudden spurt of building activity immediately after *pattas* (titles) were distributed in settlements that were earlier slotted for removal. This was seen in Bhopal in all settlements with annual *pattas* and also some with 30-year *pattas*. Such a reaction was not seen in settlements that were listed for *in-situ* improvement and were not under threat of removal. This suggests that it was the change from low to high levels of security that stimulated investment and that even annual, or 30 year *pattas* were sufficient to stimulate investment.” Bannerjee also cites Risbud (1999) who found that in Delhi, *pattas* did not stimulate investment in houses in risk areas such as beach fronts, steep slopes and flood prone locations, suggesting that even legal tenure has not guaranteed investment in such situations.

The literature confirms therefore that the relationship between the possession of a title and levels of investment in house or environmental improvements is dependent on a wide range of factors. In order to isolate titling as the determining variable, comparisons must be made between titled and untitled communities and settlements that are as far as possible

identical except with respect to their tenure status. In the Senegal and South Africa case studies, surveys and qualitative research addressed this issue in both titled and untitled settlements.

In Senegal, the relationship between the allocation of real property rights and investment is difficult to assess, as tenure regularisation was generally accompanied by physical restructuring and upgrading, plus the provision of basic services and improved roads. Three factors make it difficult to isolate the impact of tenure regularisation on investment in housing and/or infrastructure: (i) the initial condition of the housing stock in the settlement and the level of services and infrastructure before regularisation, (ii) the length of the regularisation process and the actual number of eligible households that have been delivered a property right, and (iii) income distribution and corresponding investment capacity of households in each settlement. However, some settlements (e.g. Sam Sam 1 or Whakhinane 1) have implemented tenure regularisation without significant physical improvements, and another settlement (Wakhinane 2) has experienced neither physical improvement nor tenure regularisation, providing an opportunity to isolate titling as a determining variable in investment levels.

The survey provides information on investment made by households in home and environmental improvements following tenure regularisation and the allocation of real property rights.

Investments in housing concern mainly: i) the replacement of shacks built using non-permanent materials with dwelling units using permanent materials; ii) physical improvement of the existing dwelling unit (often construction of a roof in asbestos or concrete); and iii) adding rooms to the house.

The most visible changes can be observed in Dalifort, the first settlement to be regularised, over the last two decades. In 1987, before tenure regularisation, 90% of the dwelling units were shacks of temporary materials. In 2000, after regularisation, 48% of the houses were built of permanent building materials (GERPES, 2000), a proportion which increased to 68% in 2007.

The Dakar surveys indicate that tenure regularisation had an impact on improvements and extensions of houses by beneficiary households. Investment mainly focused on the following improvements that require a significant level of investment:

- roof improvements (iron sheets or non-permanent materials are replaced by asbestos concrete roofs or terraces)
- construction of additional rooms at ground level
- construction of an additional storey.

Improvements in the structural quality of houses are more frequent in the regularised settlements than in the non-regularised one (Wakhinane 2). In Dalifort, expansion of the floor areas is most important. This phenomenon seems to be closely related to the development of rental accommodation.

The highest proportion of owners investing in roof improvements

is in Aïnoumady, with over half to two thirds of owners doing so in the other areas. A significantly higher proportion of households have invested in the more expensive vertical extension of houses in regularised settlements. This suggests that beneficiaries have been encouraged to invest following the allocation of real property rights.

Though these figures suggest that tenure regularisation has an impact on investments in housing, in Dalifort they can also be attributed to a series of other interrelated factors:

- The long time since the tenure regularisation process in Dalifort was initiated compared with other settlements
- Dalifort's prime location, which encourages owners to invest in the construction of rental rooms: improvement and expansion of houses are frequently linked with the development of rental accommodation: i) demand for rental accommodation encourages property rights holders to invest in housing improvement and expansion (vertically or horizontally); ii) in turn, income from rent increases revenue that can be invested in housing
- Demand for land and its impact on land markets and land prices
- Residential mobility and ongoing process of gentrification (see section 2.6), as reflected in the coexistence of high-quality houses and shacks (Precht, 2001).

The impact of tenure regularisation on investments in environmental improvements is more difficult to isolate. For example, in regularised settlements in Dakar (excluding Sam Sam 1 and Wakhinane 1), provision of infrastructure and environmental improvements accompanies tenure regularisation, so investments in environmental improvements by beneficiaries of real property rights depend, to a large extent, on

the investments being made in infrastructure at settlement level (improved drainage, sewerage, water supply and roads, which usually require land readjustment and the design of a new layout plan).

Costs of upgrading, improvements and tenure regularisation are supposedly covered by the contribution of beneficiaries of the property rights, on a cost-recovery basis: the property right is delivered after payment by the beneficiary, through the EIG, of the cost of land, plus administrative costs and fees, plus the cost of infrastructure. In fact, cost-recovery is not effective and

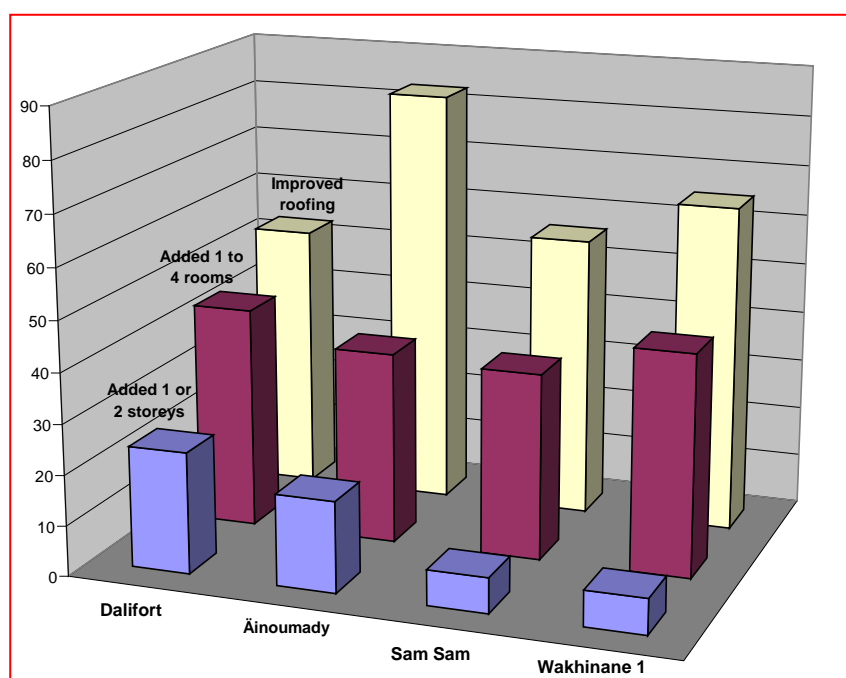


Figure X. Proportion of households making improvements (Dakar surveys)

improvements to the local environment, as well as provision of basic infrastructure, are heavily subsidised, with minor contributions from beneficiary households.

It must also be stressed that environmental improvements are severely restricted by the very low incomes of the majority of the population living in informal settlements.

The South African surveys revealed that 45% of households possessing a title deed and 30% of households with some form of intermediate ownership had made improvements to their homes, whilst 33% of households who own their properties informally had also made improvements. Clearly, the possession of a title increased the proportion of owners investing from 30-33% of the sample to 45%. When probed, most households who had not invested in their homes claimed that the reason was a lack of finance.

However, the type of improvements varied greatly. Here the most common improvements made will be considered first, although the cost of these improvements is much lower than the less frequent substantial improvements. The majority of those that had improved their homes were motivated by a need to make them more liveable. The RDP units received by households with their titles are bare brick faced units, so residents need to plaster and paint the internal walls before moving in. Painting and plastering represented 11% of improvements by owners holding title deeds in Ramaphosa and 4% of changes in Egoli Village. Alterations accounted for 6% of improvements in Ramaphosa and 8% in Egoli Village. Improvements that enlarged the dwelling accounted for 7% of changes in Ramaphosa and 8% in Egoli Village. The remaining improvements related to issues such as security, fencing and so on. Most of the people interviewed in the qualitative interviews explained that these changes were simply to make the house more beautiful or, as one respondent said, "When I came here the house was not painted, and I felt that I couldn't live in a house not painted. It was only bricks." Thus the higher proportion of titled households who had invested in improvements may have more to do with the nature of the units that are handed over to beneficiaries and their perceived lack of quality and liveability than the simple possession of the title.-

Fencing was another fairly common improvement, to designate the boundaries of their property and to ensure that the plot is protected from encroachment. A second reason is security, to enable households to defend their spaces, suggesting that the main motivation for investment overall was not to increase the value of their newly titled asset or a reflection of increased tenure security, but simply to make their new houses safe.

A higher proportion of households in Tokyo Sexwale had added a room than in either the 'to-be titled' area of Ramaphosa or the titled settlement of Egoli Village. This is likely to be due in part to the ease with which people can add to their structures in informal settlements, where no applications to authorities are needed and there is often more space to add rooms. The residents of the formal units in Ramaphosa

and Egoli Village must apply to the council for any changes to their units and are often constrained by the awkward location of the units, which are placed in the centre of the plots, leaving little room to extend in most directions. Of the rooms that were added, most seem to be for residential purposes, either for existing family members or for members of the extended family. 41% of male-headed households which added a room reported that it was for siblings to have a place to sleep. In contrast, the majority of female-headed households who added a room (83%) said that it provided extra space for the existing household. Very few residents in any of the settlements had added rooms for business or commercial activities, which includes renting them out. In fact, only 4% of female-headed and no male-headed households who had added a room reported that it was for starting a business. Thus, investments in titled settlements do not necessarily generate increased incomes, especially if the regulatory environment is seen as a barrier.

In the South African cases, the types of investments made are not examples of the enlivenment of dead capital, but rather investments to complete the structure, make improvements to its habitability or clarify its boundaries. In fact, substantial improvements, such as adding rooms, were more common in the informal settlements that are free from the regulatory constraints of the formal settlements. In very few cases did households cite an increase in the value of their property as a reason for the improvements and, by the same token, none of the households believed that the property had increased in value as a result of the investments made. For the most part, the type of improvements addressed the needs of the households at the time they were made and the type of housing inhabited.

One particular benefit was clearly felt: 91% of households that had made improvements felt that the place was more their own as a result of having made the changes. All three settlements expressed this sentiment, irrespective of housing or settlement type or gender (93% of male-headed and 90% of female-headed households concurred).



Egoli Village Greenfield settlement, South Africa

photo © C. Marx

Households do not take the decision to invest lightly: the findings seem to show that households with formal or intermediate title or those with informal ownership are more likely to invest in their homes than those without title or a sense of ownership. Overall 37% of households chose to increase the amount that they invested in their properties as a result of receiving some documentation (not necessarily official documentation). Importantly, though, 63% chose not to change their investment regime (and

even to decrease the amount that they spent on their homes) when they received additional documentation.

In total, 38% of households had increased the money they spent on their current place when they received the document substantiating their ownership. Of those saying that they had increased their investment following receipt of their documents, 84% were in Ramaphosa and Egoli Village. 40% of households in Ramaphosa and 24% in Egoli Village said that they had increased investment when they received their documents, which in these two cases were most likely to be 'happy letters' or title deeds.⁶ Interestingly, 38% of households in Tokyo Sexwale also said that they had increased expenditure when they received their documents (43% of all households with informal ownership). There were few differences between male and female-headed households and of those which had increased investments, figures for both male and female-headed households comprised more than a third of the sample.

Of the various ownership categories, informal owners were more likely to have increased their investment (43%), the main reason being that the shack needed fixing up (27%) or that extensions were required (12%). Thus, 24% of households in Tokyo Sexwale said that investment had been increased to cover the cost of building materials.

2.3 Access to formal credit

The ability to use property titles as collateral in accessing formal credit is widely considered as a key reason for selecting land titling over other tenure options. The issue correspondingly receives considerable attention in the literature. Bromley (2005:2) observes "titles are also said to permit individuals to gain access to official sources of credit—banks, credit unions, lending societies—using their new title as collateral for loans to accomplish several desirable outcomes: 1) start a business; 2) upgrade a dwelling; or 3) undertake investments so that agricultural production will be augmented. All of these outcomes are seen as a means whereby the poor can help themselves without the need for grants and various anti-poverty programs from the international donor community, or even the aid of national governments. It is simple, cheap, and effective."

Predictions about increased access to formal credit following titling are certainly ambitious. According to Graglia (2002:13-14) "Banco Sudamericano expects mortgage portfolios to expand by 5 to 10% within the [Peruvian] banking system in 2001, with much of the growth generated among lower-income groups whose household income ranges from \$200 to \$300 a month." The key question is the extent to which such expectations are realised in practice.

Certainly, land is recognised as a common means of securing a mortgage. Land Equity (2006:53) cites World Bank reports that 95% of commercial bank loans to *businesses* in Zambia are secured by land, 80% in Indonesia, and 75% in Uganda. A more pertinent question in

⁶ 'Happy letters' refer to the documents that beneficiaries of RDP houses sign when they first move into the accommodation and the purpose of the 'letter' is to confirm that they find the accommodation acceptable.

terms of the impact of land titling programmes is to what extent they enable newly titled households to obtain formal credit. This in turn raises further questions:

- What is the scale of credit allocated (e.g. absolute numbers obtaining credit secured on property, and as a proportion of all titles issued)?
- Does titling make credit available to the poor?
- What is the credit used for?

Taking the well-known and influential example of Peru first, Cantuarias and Delgado (2004:10) report that “credits granted by the formal financial system, have increased by 47% in 3 years (2000-2003), from US\$ 249 million to US\$ 367 million; while the number of credits granted has grown 53% in the same period (from 154,000 to 235,000). Despite this success, only 45% of the initial potential market was reached.” They state that “the total number of mortgages constituted between 1999 and December 2003 is approximately 65,000”, representing an average of approximately 13,000-15,000 mortgages a year. Whilst impressive, this is a small number given that the programme had allocated more than one million land titles by that time. Also, no mention is made concerning the income levels of those accessing formal credit or the purposes for which loans were made.

Another study of Peru claimed that 45% of property owners with recently formalised titles had solicited loans (Panaritis 2001:12, 20, 22) and adds “this is an increasingly large group that includes both the poor and the middle class.” Two qualifications would appear relevant concerning these claims. First, the source claims that the owners of recently formalised land have *solicited* loans, but does not give the proportion of those who had obtained them. Second, Panaritis notes that demand was from “both the poor *and* the middle class” but provides no evidence on the relative proportions of these two groups.

Field and Torrero’s (2006) study in Peru describes very different outcomes. They found that the odds of titled households obtaining a private loan did not improve and also that more than a third could not get a loan or would not take one. In particular, they found that “there is no evidence that titles increase the likelihood of receiving credit from private sector banks” (2006:1). They continue that private banks “are not using property titles to secure loans.” A similar finding was made by Mitchell (2006:15-16) in reviewing evidence of the use of property as collateral for a loan. He states that “the evidence available shows there is little or no positive impact. If those with informal property seek title, it is not to risk it in taking out loans. The titling program the ILD itself devised and managed in Peru, the largest to date, demonstrated this clearly. Four separate studies of the program found that it had no discernible effect on the supply of business credit.” Mitchell also concludes (2006:22-23) that there is an “advantage of informal savings and investments over using real property as collateral for credit. First, it draws savings into productive activity rather than real estate investment. Second, it is typically controlled by women, who are more likely than men to direct

income towards the basic needs of children and the household.”⁷

Elsewhere, the impacts of titling on credit appear equally modest. In Argentina, Galiani and Shargrotsky (2004, 2005) compared one titled and one untitled settlement that were otherwise identical.⁸ They found that whilst no household without a title had obtained a mortgage, the figure for those with titles was only 4%, but gave no reason.

Angel *et al* (2006:15) also report a lack of increase in access to mortgage credit from newly titled households in Mexico, noting that “although a title is a necessary precondition for access to loans in the formal market, utilization of credit does not appear to be widespread among regularised communities, even after titles are issued.”

Similarly, a survey of several African countries by IIED (2006:12) notes that “while more research is required, there is no evidence in the case studies that poor groups seek to use land titles as collateral. The risk of losing land is felt to be too great, and employment and income are key factors to obtain loans. There is little evidence that smallholder farmers or low-income urban residents use land titles to secure capital. Only distress sales of land are common and security of tenure is sought above capitalization of assets.” Within Tanzania, a survey of Sinza C, a planned settlement in Dar es Salaam by Byabato (2005:72) found that “80% of households interviewed would not seek formal credit from a bank if they had to use their title deeds as collateral. The main reason was that they feared losing their prime asset – their property.” Similar views were expressed by owners with informal property rights in several cities studied in Anglophone Africa (Rakodi and Leduka, 2004).

According to the international literature relating titling to formal credit, it would therefore appear that:

- the scale of formal credit, such as bank loans, to newly titled households is extremely modest;
- there is even less evidence concerning the provision of such credit to the poor and;
- virtually nothing is reported concerning the uses to which any such credit is put.

One of the reasons for this limited impact could be the terms and conditions under which banks provide credit. McAuslan (2006:10), for example, warns that “the use of land as security and an engine of wealth creation in Africa will continue to be problematic until more creative mortgage systems and laws are applied.” This suggests that under current

7 According to Mitchell (2006:10), the main argument advanced by de Soto in support of titles as facilitating access formal credit “is to the idea that in the United States many people launch small businesses by borrowing funds using their homes as collateral. How significant is this source of credit? De Soto cites no evidence for the claim, and the data available on small business credit in the U.S. does not offer much support.”

8 A key feature of the studies by Galiani and Shargrotsky of the residents of San Francisco Solano, in the County of Quilmes, Buenos Aires Province, is that “at the beginning of the occupation, both groups share the same household pre-treatment characteristics. Since the decision of the original owners of accepting or disputing the expropriation payment was orthogonal to the squatter characteristics, the allocation of property rights is exogenous in equations describing the behavior of the occupants.” (ibid:3)

formal sector financing arrangements, the poor are as reluctant to borrow from banks as the banks are to lend to the poor, irrespective of whether applicants possess titles or not.⁹

The limitations of using titles to increase access to credit, and the dangers to which this exposes the poor, have recently been acknowledged by the World Bank, which accepts that “there may be many circumstances where formal titles will not have an effect on access to credit. At low levels of income and in the absence of other mechanisms for social security, land serves as a social safety net. Foreclosing on the land of households who have defaulted on credit would deprive them of the basic means of livelihood and may not be socially desirable which is essentially the reason for customary systems restricting the marketability of land. Even where formal law decrees that land should be fully tradable, such legislation may be impossible to implement” (World Bank, 2003:37).

The literature also identifies other factors that significantly influence the impact of titling on access to mortgage credit. These include:

- The form of title or, in the case of long leases, their duration.
- Planning rules and construction norms. These may impact on land rights as they do not always allow legal building. For example, Banerjee (2004:9) notes that in India some households would not qualify for a loan because their plot size too small and many plots can only be approached through lanes less than the minimum required width. Also, Nkurunziza (2004) reports that in Kampala, plots in informal settlements that are smaller than the prescribed minimum cannot be legalised.

This, then, is the evidence from the international literature. In assessing the impact of titles on access to formal credit in the case study countries, evidence with respect to the key questions from the case study countries is summarised below.

In Senegal, the field survey indicates that tenure regularisation has very limited impact on access to (formal) mortgage credit, irrespective of whether the objective is:

- To invest in economic activities or to set up a business/commercial activity.
- To buy another property.
- To build a new house on the plot, or upgrade an existing one.

With regard to access to credit, a clear distinction must be made between credit granted by commercial banks and specialised institutions such as the Banque de l’Habitat du Sénégal (BHS) which are, or can be, mortgage loans for which the property right is used as collateral, and small loans granted by micro-credit institutions.

⁹ Although there is clearly a demand for credit, the ability of the poor to make that demand effective is limited. This requires a willingness on the part of providers to make loans on suitable terms available to poor people – which micro-credit organizations are much better at than other financial institutions.

Having a real property right, such as a 'surface right', does not necessarily give access to mortgage credit. In addition to collateral, banks usually ask for a bank guarantee provided by another person, or ask the borrower to provide evidence that he or she has a regular income. The Senegal surveys confirm that access to bank loans for the acquisition of a property or the construction or improvement of a house in regularised settlements is in general very low: 5% in Dalifort; 21% in Aïnoumady; 13% in Sam Sam1; 13% in Wakhinane 1; 4% only in Wakhinane 2, which has not been regularised and is not scheduled for regularisation. The surveys do not provide evidence that the property rights delivered on the occasion of the tenure regularisation project are used as collateral. Although the low percentage of loans granted in the unregularised Wakhinane 2 settlement would suggest that there is a relationship between tenure regularisation and access to credit, the *terms* of the relationship are not clear. In Dalifort, where important investments have been made in housing construction, and where a steady gentrification process can be observed, access to mortgage credit is particularly low. Savings are preferred to credit. According to key informants, this can be explained by the relatively high incomes of newcomers, and dissimulations in land transactions resulting from legal restrictions on transfers of property rights.

Banks are reluctant to provide mortgage loans to low-income property rights holders unless the land is well located and has access to basic infrastructures and services.

Firstly, access to mortgage credit is not considered as a priority objective for most people living in regularised informal settlements. Reasons include:

- The formal credit system is not adapted to the needs and economic situation of low-income families. (In the 5 surveyed settlements, between 40% and 62% of people live on daily incomes of less than US\$0.9).
- Poverty of the communities concerned, with low incomes and unemployment: a lack of savings excludes the vast majority of households from any form of credit other than micro-credit. Loans are granted for a maximum period of 20 years. Personal deposits required by the banks vary between 10% and 20% of the loan.
- Low rate of economic activity (this is determined statistically by the proportion of the population aged 15 and more in active employment) combined with irregular incomes. The rate of labour force participation in Wakhinane 2, the poorest settlement, is low, with only 21% employed (either in the formal or informal sector); even in Dalifort, only 26% of those aged 15+ are working.
- The high cost of credit (the rate of interest plus administrative costs and insurance). The average rate of interest for a mortgage loan is 12% per year. The Banque de l'Habitat du Senegal (BHS) provides loans at lower rates: 8% to 10% per year, up from the rate in 1998 which was between 6-7%. The borrower must also subscribe to insurance covering life, job loss, fire, and disability.
- The risk of expropriation if repayments are not made by the fixed date, particularly with well located land.

Secondly, most families rely on their own savings, or on extended family savings and solidarity systems to purchase property, housing construction and improvements.

Thirdly, low-income families can borrow money from moneylenders who operate at local and settlement levels. According to key informants in the surveyed settlements, many people rely on this semi-formal credit system. Rates of interest are higher than those of micro-credit institutions, but access to credit is simple, rapid. Private land sale agreements – not necessarily property rights – can be given as collateral to the moneylender, to be returned to the borrower when the money is reimbursed.

Fourth, alternative credit systems, based on community and group savings, have been set up and promoted in all regularised settlements as an accompanying measure to tenure regularisation. Their functioning derives from – and relies on – the traditional revolving savings and credit system, usually set up at neighbourhood level, known as “*tontines*.” These micro credit groups have benefited from the creation of Economic Interest Groups at settlement level when regularisation projects are being prepared and implemented (World Bank, 2004). Women’s organizations play a major role in micro-credit organization and management. The objective of community saving groups is to provide micro-credit to improve the economic situation of the beneficiary households (poverty alleviation), in order to help them cope with the costs of physical and tenure upgrading. However, the loans granted are modest and targeted mainly at the development of home-based activities and are insufficient to finance housing construction, expansion and upgrading, or major improvements. Micro-credit is based on community organization and mutual trust amongst group members, and between them and the NGOs or other institutions involved (*Groupe Agence Française de Développement*, 1999). Property rights are not used as collateral.

Tenure regularisation and physical upgrading have clearly contributed to improved access to micro-credit and to the development of micro-credit institutions. However, one cannot assume that this is the result of the provision of real property rights alone.

Observations made in Dalifort over the last two decades (Mbaye, 1996, Precht 2001), as well as qualitative interviews in the regularised settlements, suggest that the creation of Economic Interest Groups at the start of the regularisation process acted as the catalyst. In Dalifort, the Promotion of Economic Activities (PEA), a project supported by GTZ in 1989, included the creation of a revolving fund which granted micro-credit to residents for the development of home-based economic activities. The PEA was dissolved in 1990, due to mismanagement. Another micro-credit institution set up in 1995, the *Caisse Populaire d’Épargne et de Crédit* (CAPEC), formally recognised by the Ministry of Finance, was unable to fulfil its mission for the same reason. The most successful institution, the *Institution Mutualiste Communautaire d’Épargne et de Crédit* was created in 1998. In its first three years of activity, about 80% of the loans were granted to promote small commercial activities. According to Precht (2001), the tenure regularisation project was a precondition for the success of this initiative, but it is not clear whether the success must

be attributed to the physical improvement of the settlement, to street addressing (that gives every resident a postal address), or to the use of the property right to secure the loan.

Survey findings in South Africa show that provision of a title has little effect on borrowing or access to credit. In fact, few low-income households (14%) borrow money at all, with most expressing a deep fear of debt. Of those who have borrowed money, most have used banks, but not one household has used their home as collateral for a loan. Perceptions of households and the lending criteria of financial institutions are two important reasons why, in all cases, the loans that had been taken out from banks were unsecured, irrespective of the form of tenure held by the household. First, the qualitative results reveal an unwillingness of the households to risk the only asset that they possess and so debt has to be taken on in a personal capacity, which relies on abiding by particular norms of social networks (see also Collins 2006). Second, given that it is usually the lender that sets the criteria for the terms of the loan, the fact that households are not required to use their title deed as collateral suggests that lenders are not basing the terms and conditions on title deeds as a form of security. Formal financial institutions are reluctant to use title deeds as collateral because experience has shown them that it is difficult to take possession of an owner-occupied property and sell it at its full market value if the borrower defaults. In other cases, banks are aware of the restrictive clause surrounding the sale of RDP houses and know that it would be difficult to navigate the bureaucratic red tape that such a sale would require (Verhage, 2007).

Respondents were questioned about the largest amount they had borrowed in the previous five years. A variety of sources are used – micro-lenders, family friends, family, savings clubs, employer loans and other options. However, banks are the single most common source of loans, taken out by about 8% of households. In Tokyo Sexwale, 8% of household heads had taken out a bank loan in the previous 5 years. The figures are 7% in Ramaphosa and 8% in Egoli Village. This suggests that there is little difference in the borrowing patterns of the household heads between the different settlements; informal, upgraded or relocated.

The most noticeable difference emerges between male and female-headed households. Twice as many male-headed households have borrowed from banks than female-headed households (12% compared to 6%). Part of the reason for female-headed households' greater reluctance to borrow is that they have lower monthly cash flow and their income is more unreliable. This makes it difficult to make consistent repayments and meet the terms of the loan.

None of the respondents reported taking a loan for longer than three years. Amongst loans taken from banks, most have a two-year redemption period. Notwithstanding the short redemption periods, the experience of borrowing from formal banks appears to have generally been positive. More than 70% of household heads that had borrowed from banks and micro-lenders expressed the view that they would borrow from these sources again. This may have to do with the relatively short-term nature of the loans being obtained, reducing exposure to unreliable income

flows that would threaten the ability to meet the repayments on the part of the borrowers.

There is no indication that access to bank credit is a way of 'unlocking dead capital' for investment in profit generating activities. Only 5% of the few bank loans taken out were for business purposes and in no case was the property used as collateral. The greatest proportion of bank loans (37%) was for home improvements.

In theory, South African holders of titles have the ability to use their land as collateral to obtain finance.¹⁰ However in practice, having a title does not mean that the property owner can automatically obtain finance against it as banks and other loan providers consider many other factors. For example, the 5-year statutory time limit on the sale of state subsidised housing, as provided by the Housing Act 107 of 1997, discourages lending institutions.¹¹ Nevertheless, having title to land is a necessary first step in the process of benefiting from the formal finance systems.

The South African case study findings are consistent with previous research on South Africa which shows that poorer people are wary of formal mortgage loans (Boudreaux 2006; Tomlinson 1999; Royston 2006; Rust 2004). Research also suggests that there are limited opportunities for financial institutions to provide mortgage loans for public housing stock that is likely to be transferred to private ownership (Morkel 2005).

The main finding is that very few of the households in any of the case study settlements have taken out loans, including bank loans. The results show that people generally try to avoid debt and are unwilling to jeopardise their main asset by mortgaging it. The only other means of financing large or exceptional items is to accumulate savings.

More households save, but still a small proportion because of limited incomes. Banks and burial societies are the most common savings institutions. Although the case studies did not focus on the purpose of saving, the results suggest that a significant proportion of those that do save are doing so to cover the expenses associated with death and funerals, which is why burial societies are an important means of saving. Other research suggests that comparable households save primarily for specific events such as annual school fees, Christmas expenses or general groceries and minor housing improvements (Collins 2006). The general sense from those who had made improvements was that they had borrowed money from their family or used their own savings. This was a consistent reply to a series of open questions.

¹⁰ The Deeds Registries Act 47 of 1937 provides the necessary procedures through which registered land can be mortgaged. The Act provides that, should the owner of the land default on payment, the lender has the power to foreclose and sell the property. It is this element of collateral that the formal registration system provides that, in theory, makes it possible for the financial system to lend to property owners.

¹¹ Section 10B of the Act.

2.4 Municipal government revenues

The integration of informal settlements into the formal urban land and housing market is widely held to increase the potential for local governments to raise revenue from property taxes, including capital gains and inheritance taxes, as well as fees for land registration, transfer. This can then be used to finance the provision of improved services and create a virtuous circle of increased competence and improved local governance. However, the issue is complicated by the fact that taxes and other charges may be collected by one agency or authority, while benefits, such as improved services, may be provided by others. Also, land titling makes residents visible to the authorities and the authorities visible to the residents; which group benefits most from this, in what ways and to what extent? This section will focus on property taxation.

To make an accurate assessment, it is necessary to obtain information on both potential and actual yields from property tax, showing property tax as a proportion of local government tax revenue (and total local government funds, which usually include transfers from central government) before and after the implementation of large scale titling. Such information is extremely difficult to obtain and the literature does not provide clear answers to these questions.

Burns (2006:3) reports that “land titling can lead to substantial increases in government revenue. This has occurred in Thailand during the implementation of the 20-year Thailand Land Titling Project (TLTP) which commenced in late 1984. Citing survey data, he shows a steady increase in annual revenues from 1985 of about US\$150 million to a peak in 1996 of over \$1,200 million. Even after the property market crash of 1997, revenues collected by the national Department of Lands remain at an average of almost \$400 million a year nationally, a substantial sum.”

In cases where property values rise substantially following titling and properties are revalued to reflect the increase, taxes based on such values will theoretically generate correspondingly large revenues. However, this places heavy demands on newly titled households, whose incomes may remain low and/or irregular. In such cases, the only means of paying such taxes and charges may be to sell the property, as is reported in South Africa. Conversely, if taxes and charges are set according to affordability levels, the consequent net increase in revenues may be small and possibly even smaller than the costs of collection.

It cannot be assumed that property values, and capture of any changes in value resulting from titling, can be assessed efficiently. Lunnay (2005:9) suggests that land titling projects implemented in Asian countries have, to a lesser or greater degree, all experienced problems with property. He notes that “the very successful project in Thailand experienced great difficulties in introducing a new valuation authority. Although a central valuation function was established it is largely restricted to providing values to support the registration function of the Department of Lands. Attempts through the titling project to pass a new Land Valuation Act proved unsuccessful.”

Exposure to increased costs may be seen as countering other financial benefits of land titling, either perceived or actual, and there is evidence that this does apply in some contexts. For example, in Mexico, UN-HABITAT (2005a:107) reports that “some *ejidos* prefer not to regularise the land for human settlements to evade paying the land tax, which obviously promotes informality in land markets.” A similar situation is described in Pakistan by Payne (1997:8), emphasising the need both for taxes and user charges to be set at affordable levels and for the delivery of services people want. Furthermore, there is evidence that it has been possible to increase tax revenues and extend services without a formal titling programme (e.g. Musyoka 2004).

In the tenure regularisation and physical upgrading projects in Senegal’s urban areas, property rights are delivered to the beneficiaries when they have fully paid i) the price of land to the Taxation Department as set by the administration, plus the administrative costs of regularisation, fees and stamp duties; (ii) their contribution towards the cost of development and provision of infrastructure to the Physical Upgrading and Regularisation Fund (*Fonds de Restructuration et de Régularisation*). Nothing is paid to local authorities.



Financial benefits of tenure regularisation for local authorities are expected to derive mainly from the payment, at a later stage of the titling process, of real estate tax, and tax on property transactions. However, the impact of the provision of real property rights on municipal government revenues is limited, at least in the short and medium terms.

According to the Tax Code, real estate taxes apply to both formal and informal properties. Some owners in regularised settlements, usually the wealthiest ones, can benefit from a ten-year exemption because their houses conform to official construction standards. Those owners who cannot comply with the standards, or whose house has not been built recently, have to pay taxes. This encourages dissimulation, reducing revenues from taxation. In practice, the vast majority of people living in informal settlements do not pay real estate taxes because of the assessed low value of their properties.

In many parts of Dalifort, shacks are being replaced by rental flats

photo © S. Ndiaye

Low levels of revenue from real estate taxation can be also attributed to another factor. In many cases, house owners have simply not yet been recorded by the Taxation Department (*Service des impôts*). In most informal settlements, there are no official records or census of residents, and no postal addresses. In this regard, it is not the allocation, in itself, of a property right that improves tax recovery, but the identification of potential tax payers in the first place. This is done in the preparatory stage of tenure regularisation, following the census of all households, the identification of those who are entitled to tenure regularisation, and the setting up of the Economic Interest Group (EIG). The question is therefore whether the allocation of real rights is the fastest, cheapest and simplest way to identify potential tax payers, or whether other approaches, such as “street addressing,” would be sufficient.

The tax on property transactions amounts to 15% of the assessed value of the property. Revenues from taxation on transactions are shared equally (50%-50%) between central government and local authorities. It concerns only the formal property market. As transactions made in the informal market are not recorded – and accordingly escape taxation – one can expect that tenure regularisation will improve municipal government revenues. In fact, qualitative surveys suggest that being caught within the property tax net may have discouraged households entitled to a property right from finalising the tenure regularisation procedure, as long as they have the required guarantees that they are eligible for tenure regularisation and will be allocated their property title when they have fully paid the cost of regularisation. Key informants in the surveyed settlements consider that tax evasion is one of the reasons (along with poverty and dissimulation with respect to non-authorised transactions) for the reluctance of beneficiaries to finalise payments for the property right to which they are entitled.

Thus in principle, tenure regularisation should increase revenues for central government and local authorities. However, in reality, formalisation makes a negligible contribution to local government revenues. There are several reasons for this:

- The limited scale of tenure regularisation in Dakar and Pikine (though this might have increased revenues if it had, in fact, been implemented on a larger scale)
- Widespread tax exemptions due to the low assessed value of the properties;
- Lack of appropriate tools;
- Dissimulation with respect to transactions, to avoid administrative restrictions imposed on the transfer of property rights;
- Illicit collection of taxes.

So far, the financial costs of tenure regularisation in the Senegal cases have been much higher than the revenues from taxation. Tenure regularisation is heavily dependant on grants and loans from bilateral agencies (mainly the GTZ) and central government subsidies. However, improvements in the economic situation resulting from tenure regularisation, as observed in the regularised settlements, may have a positive long-term economic

impact, although this is not measurable at present given the available data.

Occupants in settlements entitled to tenure regularisation frequently invoke the risks of increased taxation as justification for not applying for a Surface Right. Many people consider that they have more to lose than to win. In Dakar, given administrative practices and the general poverty of the communities concerned, the taxation issue can be seen as a major obstacle to the large scale implementation/replicability of tenure regularisation. From the very beginning of the regularisation programme in Senegal, cost recovery has always been below the most pessimistic forecast, and the programme could not have survived without massive subsidies.

In South Africa, revenue generation is less of a consideration in the allocation of titles than the integration of households and individuals into the formal land ownership process. When they register on the housing list, their names, addresses, family structures, and income levels are all recorded by the government system, making them more and more “visible”, as they appear on an increasing number of state systems. Visibility to the state is potentially a double-edged sword: on the one side it allows households to access social grants and possibly benefit from the social wage; on the other it makes households liable for payment for goods and services and all the attendant dangers. Beneficiaries also become locked into a place and the fluidity of movement and change that is necessary for many low income and very poor household income strategies may be lost (Tomlinson 2006).

In Ekurhuleni Metropolitan Municipality (EMM), beneficiaries receive “happy letters”, (‘intermediate ownership’) which say they have moved onto a property. Titles follow, but it generally takes a number of years before households receive their copies (Verhage 2007). Households are then eligible and liable for the full array of municipal services, including water, electricity, refuse removal, and possibly municipal rates, which may be beyond their financial means.

The National government has recognised that the services associated with formal housing are too expensive for poor households and has encouraged local and provincial authorities to formulate “indigency policies”, which provide very low income or “indigent” households with free basic services and exemption from rates and other municipal charges. In 2001, the National Cabinet approved a proposal for the provision of free basic electricity and water to poor households. *[too confusing]* In order to cover the expenses of the indigency policy, the municipality uses a cross-subsidisation model, whereby the revenue generated from wealthier citizens’ residential and commercial activities is used to subsidise the operating costs of the indigency policy.

Increased revenue from formalising and titling poor households is clearly not evident in the Ekurhuleni case, as most households, once identified and registered, seem to require an increased contribution from the municipality. The exemption from payments equates to revenue foregone by the municipality. This situation seems likely to continue if the level of poverty and unemployment in EMM remains unchanged.

2.5 Impacts on economic development for poverty reduction

Tenure formalisation, and titling in particular, has been advocated (CLEP 2006:1) on the “the conviction that poverty can be eliminated though increasing tenure security.” This claim raises several major policy implications. However, from a research perspective, it also raises certain key methodological challenges. The most critical of these is to isolate the extent to which titling is the determining variable in any change in economic development or poverty reduction. The second challenge is to measure any increase in assets or household incomes for specific groups over specific periods and a third is to compare these to inflation. Finally, it may be that any short term costs or benefits are offset by medium or long-term costs or benefits.

This issue is addressed in widely quoted papers on the titling programmes in Peru by Field (2003a, 2003b), who found evidence that “newly titled households work an average of 17% more hours than do squatter households awaiting a title and are also 38% more likely to participate in organized activities outside the home.” She also reports a 47% decrease in the probability of working inside the home and a 28% reduction in the probability of child labour. No data is cited as to whether the increased hours relate to increased incomes or, since many squatter and titled settlements around Lima and other major Peruvian cities are located long distances from major employment areas, if they include the additional time and cost of travel to such locations and therefore may not represent a significant benefit.

In a review of Field’s research, Mitchell (2006:19) draws very different conclusions from her findings. He argues that “while newly titled property owners failed to use their houses as collateral, they did realise an important benefit. They began to work harder.” Mitchell challenges key methodological aspects of Field’s research which he claims undermine the conclusions of her survey. He states that “more than half the titled neighbourhoods were in Lima, whereas a majority of the untitled neighbourhoods were in provincial cities, mostly in just two towns. It is very probable that households located in the capital city, and closer to commercial centres and in other ways more accessible for titling, would be more likely to have opportunities for employment outside the home. This, rather than the titling program, offers a more plausible explanation for their higher labour force participation.” However, as noted above, many of the settlements on the periphery of Lima were, in fact, many kilometres from major employment locations, whilst settlements in provincial urban centres might well be physically closer. Mitchell’s criticism is therefore itself open to challenge, suggesting further clarification is needed on this key point.

Galiani and Shargrodsky (2005:28) found no evidence of titling generating an increase in “household head income, total household income, total household income per capita, total household income per adult and employment status of the household head” in their study in a suburb of Buenos Aires, Argentina. They continue, “in spite of land titling, these families are still very poor... their household income

amounts to only 38% of the official poverty line, and 94% of households are below this line” twenty years after titles were allocated.

According to Yose (1999) quoted by Cousins B *et al* (2005:3), in the case of the Joe Slovo Park settlement in Cape Town “some socio-economic impacts [of land titling] have been negative. Informal economic activities have been displaced (and sometimes relocated to nearby informal settlements). Social networks were disrupted as the allocation of plots ignored kinship ties and social networks. The small size of the houses also meant that landlords were unable to accommodate extended family member or tenants, upon whom the landlords relied for rental income.”

It is difficult to make any general conclusions from this mixed evidence. In changing the legal status of land and housing from unofficial to official, an indirect consequence is that unofficial economic activities, such as home-based businesses may not be permitted, seriously undermining the livelihoods of newly titled households. A key consideration is whether mobility increases because of increased choice or as a necessity, as may be the case of titling programmes in peri-urban areas or housing communities relocated from inner city locations.

Evaluation of the impact of tenure regularisation on economic development in the Dakar case studies, which were implemented from the late 1980s onwards, is complicated for several reasons. First, tenure regularisation in Dalifort and Aïnoumadi was accompanied by important investments in physical upgrading and by the provision of basic services. In the interpretation of poverty reduction, it is extremely difficult to differentiate which improvements must be attributed to tenure regularisation, and which ones are the results of the provision of infrastructure and basic services.

Second, in all surveyed regularised settlements Dalifort, Aïnoumadi, Sam Sam 1 and Wakhinane 1, Economic Interest Groups (EIGs) were set up to identify right holders eligible for tenure regularisation and to determine the contribution that each beneficiary household must make to the costs of physical upgrading and provision of services. EIGs provided a sound framework for the development of community based organizations and micro-credit local institutions. They have contributed to the development of commercial activities at settlement level, in which women are playing a leading role. Although tenure regularisation has seen the development of commercial activities, it is not a direct link.

Third, economic activities and improved rates of employment in the surveyed settlements depend on external factors. For example, in Dalifort, key informants indicated that middle and high-middle income residential development around the regularised settlement provided new job opportunities to residents. Fourth, gentrification following tenure regularisation introduced another series of considerations.

These considerations are identified by Precht (2001), reporting from Dalifort. The tenure regularisation and physical upgrading project has generated new economic development opportunities and, accordingly, new resources for residents including construction of rental rooms, and development of commercial activities and services provided to middle-

income residential developments built near Dalifort over the last 10 years. The survey the authors made identifying economic factors in the settlement show that most of them settled in Dalifort in the 1990s, following regularisation, because they obtained guarantees that they would not be exposed to eviction. They used their own savings to set up small-scale businesses. Their investment has impacted on local employment, and their commercial activity has contributed to improving access to basic goods and services in the settlement. However, according to the settlement's inhabitants, they have indirectly hindered investments by the original residents who were poorer than newcomer investors, and unable to mobilise small savings.

Precht concludes that (p. 86) "for those individuals that have not been able to mobilise external resources, the main advantages of tenure regularisation was limited to the possibility of being employed by newcomer investors, to the rental of part of their plot or dwelling unit, or to find employment in the more affluent neighbourhoods that had developed near Dalifort." In-depth interviews with households in the outer periphery of Dakar and Pikine indicate that the settlements are deprived of economic activities. The grant of the surface right was not sufficient in itself to improve significantly the socio-economic situation of households.

The National Housing Programme titling programmes in South Africa began in 1997, so have not been implemented for as long as in Senegal. This limits the scope for measuring the impact on economic development and poverty reduction. It must be considered that titles are provided as part of a national housing provision programme which allocates substantial individual subsidies intended to equate to the full economic cost of the land, house and services involved. Whilst inflation has reduced the extent of this subsidy, it still means that the assets of all beneficiary households have effectively increased by the economic value of the subsidy received. This is, however, distinct from any benefit from titling per se. It also appears from the qualitative studies that the monthly incomes of titled households have not been significantly improved.

It is very difficult in the South African cases to identify the social and economic impact of land titling on poor households when concepts of ownership amongst these households are neither confined to nor defined solely by a title deed; when levels of housing investment are driven by circumstance rather than future financial returns; when saving and borrowing are muted by low household incomes; and when newly titled households are largely exempt from property taxes and service charges. To anticipate one of the major conclusions of this study, there are very few instances where the impact of titling can be attributed directly to the possession of a title deed. The distinction between the impacts of a titling system and those of individual possession of a title deed starts to provide a means of understanding the results of the research. However, this is not to say that there are no direct impacts, as follows.

The first is that the results show that household heads with formal ownership claims are the most likely to feel that their situation is better in their current place than in their previous place (75.6%), and least

likely to feel that their current situation is worse than in their previous place (13.2%).

The second direct impact of holding a title deed is that household heads feel more empowered to defend their ownership claims and rights to the land. Results from the qualitative survey consistently demonstrate that, amongst the respondents, this is perceived to be one of the most powerful benefits of possessing a title deed, despite the fact that 91.1% of the respondents stated that they had never actually used their title deed for such a purpose.

The third direct impact is that women are allocated a legally defensible asset. In this way, the titling process is addressing systemic inequalities in South African society. Here, at least, there is a reduction in the vulnerability of female-headed households, with the intention of mitigating the effects of poverty. Stakeholders confirm that women, who are allocated RDP units, are far more likely to apply for a title deed (Kamanga and Brits 2007) and make up 60% of customers at one of the country's biggest building material suppliers (van Onselen 2007).

2.6 Impacts on urban land and housing markets

Disaggregating the impacts of land titling programmes on the administrative, institutional, legal and economic environments into which they are introduced is complicated, given the multi-faceted aspects involved and the problem of isolating individual factors. Impacts will also be influenced by whether titling programmes involve a quantum change or a modest readjustment in the ways in which land is held, or the relationships between people and land.

One assumed benefit of titling is that it facilitates property transfers to create or expand land markets. On this assumption, possessing clear title should enable and encourage an increased level of land and property transfers in an open, formal market. However, the international evidence does not always support this. As noted by Lanjouw and Levy (2002:1011), "when a buyer cannot be sure that a household will honour the 'sale' of its property, and when a property owner cannot be sure that a renter will honour his commitment to leave, households have a more limited range of people with whom they can transact, perhaps including only friends and family members. In general, this limitation impedes the allocation of properties to households who would value them most."

Residential mobility within the large cities of Latin America is very limited, and is equally low in Bogotá and Santiago for those with or without titles (Gilbert 2001:7), whilst Angel *et al* (2006:14) report that in Mexico "there is very little buying and selling of homes in consolidated communities, except in desirable areas that are subject to gentrification." This suggests that while advocates of land titling wish to encourage an active land market in which households use property as a commodity like any other asset and move 'up-market' when possible to improve their social and economic status, in practice, newly titled households do

not routinely adopt this practice. Instead, they continue to regard their properties primarily as homes and the basis for family and community life. However, observations made by Angel *et al* about land sales following tenure regularisation of informal settlements located “in desirable areas”, suggest that informal settlements located in prime urban areas may be particularly exposed to accelerated gentrification following land titling (Durand-Lasserve and Royston, 2002:235-236).

One can refer to three situations in which post-titling sales *do* appear to be significant. In the Joe Slovo Park settlement in Cape Town, Cousin B *et al* (2005:3) quoted Jacobsen (2003) who estimated that “about 30% of the new houses had been sold, generally for between R5000 and R8000. Almost all sales were informal, and the formal land registration system had broken down.” These prices are actually lower than the cost of providing such properties, substantiating anecdotal evidence of distress sales by households forced to sell because they cannot even afford service charges.

The second case in which property sales have increased following titling programmes relates to situations in which titles have been provided in peri-urban locations to which residents have been relocated from informal inner-city settlements. In Phnom Penh, Deutsch (2006:34-35) found a high level of land speculation, and post-titling land sales in peri-urban areas where poor squatter households had been relocated. He quotes a village chief as stating that “as a result of speculators purchasing and holding land in the area, the population has actually dropped by almost 60% in the two years since land titles were distributed.” Similar findings are reported by Khemro and Payne (2004), who noted that in titled areas in peripheral locations “most of the re-settlers have kept their plots but do not live there anymore. Many plots were built with small run-down huts and the doors were locked. The relocation projects are actually increasing, rather than reducing, urban poverty and only a few of the original families remain in the (surveyed) area.” During the surveys, anecdotal evidence also emerged of a demand by some residents in informal settlements for land titles to be granted so that they could sell their plots at an enhanced value and clear their debts, some of which were from excessive gambling. In this case, titling has clearly increased residential mobility and accelerated land transfers, but not for the reasons advanced by its advocates.

The third situation in which post-titling sales increased is when households have realised windfall gains of titled properties in locations attractive to higher income households or private developers. Many governments (eg Brazil and India) actually seek to *restrict* sales of newly titled properties in order to insulate communities from speculative pressures. In India, the land titles issued by Madhya Pradesh state government to over 177,000 families provide legal tenure security, but cannot officially be sold or transferred. This constraint restricts residential mobility, though it is not known how many households effect unregistered transfers. It is, however, widely accepted that Power of Attorney is used by households seeking to transfer properties into the open market, though prices in

such cases are discounted from full market rates.

In the case of Dakar, Senegal, restrictions on transfers had generated an active parallel informal land market. In Dakar, two main sets of measures were adopted in order to limit land speculation (GERPES, 2000), but these had no tangible effect. This was because: i) households were entitled to regularise only one plot of land at a price determined by the administration, but they were permitted to regularise other property at a price twice higher than the administered price, but still much lower than the market price and; ii) restrictions were imposed on beneficiaries of property rights preventing the transfer of rights without prior government authorisation for a period of 5 years. This restriction resulted in the development of an informal land market of regularised plots.

The literature therefore reveals evidence of two opposing approaches by governments concerning the integration of titled areas into the formal land and housing markets. In some cases, transfers are encouraged, but do not always happen for the reasons predicted, whilst in other cases, transfers are discouraged for social reasons, but may actually take place. It is possible that the problem of predicting outcomes may be the result of introducing dramatic and sudden changes to property values, or attitudes towards property which do not reflect the priorities or needs of the groups affected. This lies at the heart of the issue as to whether it is preferable to effect a complete transformation of the legal and economic status of informal land into the legal and formal market, or whether a more incremental approach may be more effective.

Land titling programmes place heavy demands on land administration agencies, since they involve several administrative procedures, including:

- Surveying the areas to be titled
- Recording survey information
- Checking areas to be titled for conformity with official planning norms
- Identifying claimants
- Resolving conflicting claims
- Preparing and allocating title documents
- Preparing the land registry
- Updating the registry as transfers occur
- Communicating with other authorities regarding land taxation.

Many of these agencies are overstretched performing routine tasks, so their ability to adapt to new challenges within a dynamic policy and economic environment imposes further demands. Augustinus (2003) states that “large scale and sweeping tenure reform can lead to a loss of security of tenure by underestimation of the record-keeping requirements required to implement reforms, and putting pressure on already weak administrations to carry out tasks (land survey, adjudication, titles/deeds registration) for which they do not have the human and financial resources.” Initially, the tenure regularisation/delivery of property rights in Dakar required 44 steps and involved 12 different central and local

administrative offices and other entities (Durand-Lasserve and Sall, 1993). Following drastic procedural simplifications in 1993, these steps have been reduced to 14, involving 10 different administrative offices and other entities. A specialised implementing agency, the Foundation Right to the City ("Fondation Droit à la Ville" - FDV), was created in 2000 to speed up the land regularisation process.

The initial titling allocation process involves different teams and departments undertaking new tasks and operating within agreed, and possibly new, procedural guidelines. Such changes inevitably take time to operationalise and can cause serious delays which alone can prejudice programme outcomes. For example, a World Bank report on Indonesia (World Bank 2004:5) indicated that weak administrative capacity had slowed the pace of land titling to the point where only 30% of all plots were registered in the forty years since registration began and that unless the pace quickened, it would never catch up with the total number of parcels, since these were increasing at more than one million a year. Similar observations can be made in Dakar, Senegal, where the tenure regularisation programme was launched in 1987 in Dalifort. In 1999, 12 years after the tenure regularisation had been launched, only 25% of entitled households had received their property right (Precht, 2001). The conversion of property rights into freehold land titles, that should have been a routine procedure according to the law of 1991 on tenure regularisation, proved to be nearly impossible. Only two applications had been submitted in 1999, but were rejected by the administration, which invoked technical processing problems. Key informants in the surveyed regularised settlements in 2007 confirm that nearly no property rights allocated during tenure regularisation projects had been successfully converted into freehold titles.

The Dalifort regularisation project expanded to major informal settlements of Dakar metropolitan areas in the 1990s and had delivered, in June 2006, less than 1,280 "surface rights", a form of real property rights. At this pace, decades would be needed to respond to the titling needs, despite drastic simplification of procedures and the setting up, in the late 1990s, of a specialised entity responsible for speeding up the titling process (République du Sénégal, 2006).

Firmin-Sellers and Sellers (1999:1119) report that in Cameroon, title recipients "waited an average of 6.3 years between their initial application and the actual receipt of title." They also report that since "titling is a long, uncertain process, nationally, only 6% of all applicants successfully navigate the titling process."

For Land Equity (2006:103), one reason for delays in Greater Accra, Ghana, was that "the process of land titling is also overly complex and not well understood by the various actors involved. There have been about 45,000 applications for title since 1986, and just over 11,000 titles have been issued, all except one in Greater Accra."

In Tanzania, Magigi (2006:1079) states that "land use planning procedures including preparation of the plan, presentation and endorsement by the Municipal Council to final approval by the MLHSD took a total of 5

years. For persons wishing to use the land title or wishing [to] get his/her land regularised, this is too long and may be [a] disincentive.” This experience seems almost universal (e.g. Rakodi and Leduka, 2004).

Time was a central issue in the highly effective COFOPRI programme in Peru, where Graglia (2002:12) states that it “was designed to be time efficient. That was a critical part of the problem to be solved. The travel time—the total amount of time it takes a Peruvian to complete the formalization process—varies from as little as a few hours to up to five days, instead of a few years. Systemic congestion has not surfaced as an issue to date.” This is undoubtedly a major achievement, though a large proportion of the titled plots were on government owned per-urban land which was relatively simple to develop and title. Such advantages do not exist throughout other developing countries.

Once titles have been allocated, they have to be recorded in the land registry, which then needs to be permanently updated if titles are to retain their legal validity. As Feder and Noronha (1987:164) note “there is no point in introducing a system of title registration where the capacity to continuously update the registers does not exist.” This is illustrated in the case of Cambodia, where Deutsch (2006:44-45) found that residents with titles in peri-urban areas were more likely to advise others to register transactions, presumably because of the active land markets in these areas.

The impact of titling on staff competence and working practices is rarely reported. However, in Albania, LTC (LTC 2002:36) note that “with managers in place who have proven to be dedicated to inappropriate management practices, it is very difficult to institute procedures to minimise such practices as kickbacks and bribe acceptance.” As a result, “for many project staff and government officials, the project has become a mechanism for generating personal income rather than an instrument for achieving broad social and economic goals.”

According to Land Equity (2006:96) “staff retention can also be problematic in governments that are unstable or regularly change leadership positions. Other circumstances of staff retention issues occur due to systematic land titling procedures that can involve staff spending long periods in the field, working from temporary field offices, over many years.” On this basis, the approach adopted in Peru of creating and training a well-paid and motivated staff cadre was fully justified.

However, even the most effective administrations can be undermined by a failure to replace inappropriate administrative requirements or enforce acceptable ones. According to Banerjee (2004:10) “once tenure is regularised, plot holders pay little attention to conditionalities or to forms of tenure (license, lease, etc.). Neither is there any attempt from civic authorities to check violations or modify rules to suit local conditions. Regularisation of any kind seems to create a sort of blanket amnesty.”

A major administrative consideration in implementing land titling programmes and maintaining land registries concerns the level of government at which these should take place. The relative merits and limitations of centralised or decentralised titling programmes is discussed

in the South American context by Chilevsky (2003:59) when she notes that large-scale centralised programmes, as in Mexico and Peru, have been successful in terms of the number of titles given. However, they have not necessarily worked well with local communities and the Peruvian programme is now administered by local governments. On the other hand, decentralised programmes usually have an important component of community participation, though this could make implementation more expensive and slower. Another constraint with decentralised programmes is insufficient staff in municipal and provincial institutions with the skills needed to undertake these programmes. Municipalities and provincial governments are often overly bureaucratic and inflexible in working with civil society organizations, and this provides a major obstacle to effective implementation.

Cantuarias and Delgado (2004:1) consider that a major factor in the rapid implementation of the massive titling programme in Peru was the fact that COFOPRI and the RPU enjoyed full independence, meaning they had technical, functional, and administrative autonomy. This, together with high level political support, certainly helped the Peruvian programme to achieve its ambitious numerical objectives and the decision to decentralise the maintenance of land registries to the local level may prove to strike the right long-term balance, since it will be easier for residents to register transfers at a local office.

Policies which seek to replace customary legal practices and traditions with statutory legal systems impose particular challenges. According to Land Equity (2006:135), “there are examples such as Indonesia and Ghana where developing countries have sought to dismiss traditional forms of tenure and customary land practices in the belief this would speed the path to development. This fails to recognise reality and ultimately presents more problems than solutions.” Land Equity (2006:23-24) notes that “the formal land registration system in most countries is often not neutral and where titling is implemented, people with customary tenure may in fact lose their rights. Women and overlapping rights holders are very vulnerable in these circumstances. It is because of this situation that African countries are introducing new forms of land tenure which are more appropriate.” They also note that in Africa “for a range of reasons, many of which are related to governance issues, it is extremely difficult to implement large-scale national land titling programs, or to enforce land use controls. Hence most land titling is confined to the major cities and usually the capital city areas where cash crops have been/or are being grown.” They continue, “systematic titling for much of Africa is not considered an option for a range of reasons, largely related to the experience from the mid 1950s in Kenya, where systematic land titling led to a range of problems including ‘land grabbing’ by the urban elite.”

Given the enormous increases in land and property prices that titling programmes can generate, it is not uncommon for governments to manipulate programmes for individual and group benefit. In Kenya, the Ndungu Commission established in 2003 found evidence that at least 200,000 illegal titles were created between 1962 and 2002. Close to 98% of these were issued between 1986 and 2002. Furthermore, “illegal

allocations were done on the orders of the President, other senior public officials and well connected politicians or businessmen. Beneficiaries of grabbed land included ministers, senior civil servants, politicians, politically connected businessmen, and even churches and mosques” (Ndungu 2006:5). The Chair of the Commission notes sadly that although the new government undertook to implement all its recommendations, “the report has not been implemented in the structured manner we had recommended.” Even more sadly, Kenya is not the only example of land titling programmes being subject to political manipulation for party and personal gain.

The need for long term political support is accepted in the report by Land Equity (2006:61) when stating that “the land titling activity in Thailand was planned over a 20 year timeframe and the activity in Indonesia was planned over 25 years. A long time-frame can be a challenge for governments focused on election cycles and to donors used to projects with durations no longer than five years.”

Opposing impacts of tenure regularisation on land markets

Case studies of the citywide tenure regularisation programme in Dakar, Senegal, show that the programme is having two opposing impacts: i) it has accelerated the formalisation of informal land markets (provision of transferable real property rights) and; ii) it has induced an “informalisation” of formal land transactions (to avoid taxation or temporary restrictions put on the transfer of real property rights). These two phenomena are closely interrelated and cannot be disentangled.

Tenure regularisation has an impact on informal land markets, but its impact on formal land markets is limited. It has encouraged the property market because the settlements do enjoy security of tenure and tenure regularisation is being accompanied by physical restructuring of the settlements through the provision of basic amenities and infrastructure. Rising property prices in Dalifort have boosted demand for land and promoted speculative strategies.

Increased land prices following regularisation in Dakar have encouraged land transfers. The realisation of windfall gains and distress sales combined together impacted on the volume of land sales by the lowest income groups. According to a survey made by Mbaye (1996) on land sales in Dalifort between 1991 and 1995 (in the 6 years that followed regularisation) more than 11% of the plots had been sold. The author estimates that 69% of land sales are “distress sales”, (16% are made by regularised occupants that cannot pay for the cost of the surface right and prefer to sell the plot, formally or informally, before they are deprived of their right to be regularised. The remaining 15% are people who want to settle elsewhere or have to sell the land following inheritance). The majority of sellers stay in Dalifort, where they become tenants. About 25% move to informal settlements in the urban fringe.

Slightly more than 50% of buyers come from other areas in the Dakar urban area and 40% are Senegalese workers living abroad and sending money back home to Senegal. A regularised settlement such as Dalifort

in the mid 1990s attracts mainly middle income buyers who can have access to land with secure tenure status at a price which is lower than in formal developments, and benefit from the simplicity of informal, although secure, transactions.

In 2000, GERPES estimated that 20% of all regularised plots had been sold. Yet, the name of the original beneficiary remains on the official records of the administration and of the IEG. However, in the short term, the Dakar case study suggests that market driven displacements do not follow tenure regularisation immediately, but must be seen as a long-term trend. This can be illustrated by the regularisation project carried out in Rail, in the northern part of Dakar city centre, a small settlement of 1 hectare with a majority living as tenants. The programme was launched in 1996 with the support of French co-operation, and was evaluated two years later. At this early stage of regularisation, the vast majority of the beneficiaries expressed satisfaction about the regularisation: it had resulted in a sharp decrease in housing expenditures, which fell from 5,000 to 15,000 FCFA (rent paid to shack owners) to 2,700 FCFA (the negotiated contribution to tenure regularisation whose tenants benefited).

Gentrification is happening in all of Senegal's informal settlements located in prime urban areas, whether or not they have been formally regularised. However, the extent of market-driven displacement generated by informal sales of formal titles allocated at the occasion of tenure regularisation cannot be quantified as surveyed households usually dissimulate this practice.¹²

Tenure regularisation and informalisation of land delivery channels/markets

As restrictions have been put on land sales/transfers for newly regularised properties in Dakar, many transactions have become informal, although land administration officials are involved. Non-directive interviews indicate that frequently land titles have been sold to a person who authorises the original beneficiary to stay on the land, or who rents out the shack to low-income households pending the construction of a high-standard house. Legal restrictions put on transfers of land titles during the five years that follow tenure regularisation encourages this practice. From its early stage, tenure regularisation in Dakar had an impact on land markets and land prices. As soon as the Dalifort regularisation project was announced, but prior to it being officially launched, influential residents in the settlement and owners of rental houses in the settlement, as well as some absentee shack-owners, managed to buy a large number of houses and shacks on the informal land market, and claimed that they were entitled to tenure regularisation. In other cases, an arrangement was made with tenants to declare the property under the name of a family member of the owner (Precht, 2001).

Rather than creating a formal land market, tenure regularisation has

12 Whilst market driven displacement may be acceptable if the displaced households leave voluntarily and receive compensation at market rates, experience shows that this is rarely the case. Many transfers are distress sales (Prechts, 2001) and enable well informed and well connected developers (and often officials) to acquire well located land at discounted prices. As a result, the main benefits are captured by the most affluent segments of the urban population.

frequently encouraged the development of new forms of informal land delivery channels/markets. According to municipal sources in Dakar, most land sales in newly regularised settlements, especially in Dalifort, are not declared, because they have not been formally authorised. Usually, 50% of the agreed price of the land is paid by the buyer to the original beneficiaries of surface rights when the private agreement is signed. The balance can be spread over a few years. Original surface right holders can stay on the land until the buyer takes it over and develops it or, more frequently, move out to an informal settlement in the periphery of Dakar and Pikine (such as Yembé in the case of Dalifort). The informal transfer will be formally regularised in a later stage. Paradoxically, formalisation of land tenure has resulted in the informalisation of formal practices.

Tenure regularisation impacts on land prices

The surveys in Dakar reveal a strong increase in land prices in all neighbourhoods.¹³ The average parcel price in 1997 was: in Dalifort, 1,540,000 FCFA; Aïnoumady, 880,000; Sam Sam 1,714,746; Wakhinane 1, 2,250,000; Wakhinane 2, 1,180,000. Prices for the same parcels/plots recorded during 2007 in the five settlements indicate that the price has been multiplied more than ten times in Dalifort, by 8 times in Aïnoumady, by 7 in Sam Sam 1, by 2.4 in Wakhinane 1, but less than four times in Wakhinane 2, which has not been regularised, demonstrating that regularisation has a major impact on land price increases.

The regularisation project of Medina Fass M'Bao settlements (1,400 plots) was launched in 1993 with the financial support of the French Cooperation (*Agence Française de Développement*, AFD). An impact evaluation made in 1999 (AFD, 1999) also confirmed a sharp increase in land prices. The average price of a plot before regularisation was 260,000 FCFA. This jumped to 3,590,000 FCFA 5 years later (an increase of 14 times). Such an increase cannot be attributed solely to the physical upgrading of settlements carried out in parallel with tenure regularisation, but also to land speculation.

Note that the provision of property titles is a prerequisite for the development of housing projects by formal private investors. However, they are not sufficient to ensure the success of a land and/or housing development project. Location of the land and access to infrastructure (access roads and service networks) are essential conditions for investment by formal private developers. In some areas, it is inappropriate to measure the role of tenure regularisation in increases of land prices which can be attributed to other factors. For example, Mbaye, in 1996, and Precht, in 2000-2001 suggest that residential development for middle and upper income groups which took place in the vicinity of the regularised settlement in the early 1990s (Hann Mariste and Belvedere developments) have boosted land prices in Dalifort, where land had been allocated at the administered price of 2,500 FCFA. Between 1991 and 1995, the

¹³ Land prices increased far more rapidly than inflation, which has consistently remained low in Senegal following the devaluation of 2004. Between 1997 and 2007, inflation has never exceeded 2%, except in 2003 when it reached 3%.

price of land in Dalifort has multiplied more than 5 times.

The trend in land price increases seems to be irreversible, thereby exposing the regularised occupants of land with low incomes to be displaced by rich people who buy only for the sake of accessing property or for speculation (lease, appreciation, hoarding) with the consequence of creating new irregular/informal areas through the resettlement process. However, increases in land prices since 2000 in urban and peri-urban settlements cannot be attributed only to tenure regularisation. A shortage of formal supply compared with demand has been a major contributing factor. Under the tenure regularisation programme in Dakar, only 2,010 property rights were actually delivered between 1988 and January 2008. When existing projects are completed – this will take up to 10 years at the current rate – it is projected that 8,000 property rights will be delivered.

According to key real estate business informants in Dakar, other factors have a part to play in land price increases:

- De facto security of tenure which impacts on informal land markets, boosted by a high demand of land for housing.
- Liberalisation of land markets following political change in Senegal in 2001.
- Macro-economic trends, such as the over-investment of foreign capital (Arab countries, other sub-Saharan African countries) in property markets and real estate development in Dakar, Senegal being considered a politically stable country, and Dakar a globalised city.

Location of the settlement within the city fabric also impacts on land prices. The sharp increase in Dalifort is related to the proximity of the settlement to the city centre and areas of employment.

When considering the impact of low-income housing and tilting provision in Ekurhuleni, South Africa, one needs to be aware of the larger land and housing dynamics and systems in operation. Land and housing markets are often conflated in the literature and as a result they are often written about and spoken of as one market, or land is seen merely as an input into the housing market (Ovens *et al* 2007). Whilst land is no doubt a necessary component in the housing market, there are a number of factors and concerns that are specific to land and housing sectors. The general nature of these two sectors, as well as their connections and disconnections, will be briefly outlined.

The large-scale provision of low income housing has a significant impact on urban property and land markets and therefore affects the ability of low income households to move up the property ladder. This is a further consideration when attempting to understand the nature of low income home ownership in South Africa. Although the housing subsidy per unit is just under R30,000, the formal cost of building a low income unit is estimated to be more than double that, with experts arguing that it is closer to R70,000 per low income RDP unit in a proclaimed township (Nell 2007). As such, the government has taken steps to protect its asset in the form of the 'restrictive clause' that is attached to all low-income

Box 4 Cases of informal sale

Elsie, Age 64; Egoli Village, South Africa:

"Okay, because you want to know I will not lie to you. They don't go to the municipality or the Department of Housing. It's just between a seller and a buyer.

The thing is, we are not allowed to sell before ten years. That's why people are not going to the municipality. So for the seller there's an advantage because they don't wait for 10 years but for the buyer there's no advantage because there's no signing of papers and there's no witness to say you bought the house. The ownership is not transferred to you as a buyer and when the municipality asks if it's your house you can't say it's your house; you'll lie and say it's your sister's house and you are looking after it.

I think that, and still maintain that, some of the people who are able to sell these houses are those who kept their old houses in the old townships or wherever they came from. They were able to sell before 10 years because they didn't go the legal way like consulting the municipality or going to Johannesburg housing. They would sell a house to you illegally and when the people from housing come to check if the house is yours you say it's your sister's house."

title deeds (Arendse 2007; van der Walt 2007). The restrictive clause stops households from selling their RDP units to anyone other than government for a period of what was 8 years but has recently been changed to 5 years. The idea was that, if households want to sell their units, then government should have the first option, so that the unit can be passed on to another qualifying beneficiary. The fear was that the units would be sold to higher income groups or non-qualifying households and as a result the housing backlog would never be addressed.

In practice, there have been no reports of beneficiaries selling their units back to government, although there is a great deal of anecdotal evidence of households selling their units. Gauteng Housing officials claim that in a recent occupancy audit of government-provided units, over 70% of the sitting tenants are not the households of record i.e. are not the original recipients of the title deed (Stevens and Dube 2007). Most households who sell do so informally and are thus not formally transferring the title deed to the new owner. Rather, transactions are taking place through the expedient method of new owners writing their names on the title deed or through swearing an affidavit at a local police station (Kamanga and Brits 2007). Although the individual households and the larger communities recognise these claims, the deeds registrar has no record of the change of ownership and as a result the purchaser does not have a legally defensible claim to the property. There is also apparently a trade in other official documents, which either give some kind of limited right to the current location or to a place on the waiting list.

The housing markets in the three case study sites were examined to try and identify their current trends and dynamics and to see if title and formal units make a difference to this process.

When households were asked if they planned on moving out of their current place in the next few years, only 5.7% responded positively (over three quarters of whom were either renting informally or had some kind of informal ownership). Only 2.7% of households with formal ownership and no households with intermediate ownership indicated that they planned to move in the next 2-3 years. Of the few that said that they might move in the next few years, none mentioned selling it when asked what they would do with their current place. However 45% of households stated that they would leave a family member in it.

There is, nonetheless, other evidence of the sale of properties. Field workers were asked to request to see the documentation that households claimed to have to see if the name on the document had been changed. The results revealed that of the title deeds held by households, most of whom were in the formal and upgraded settlement, 14.8% in Ramaphosa and 16.4% in Egoli Village had a different name, with a higher percentage of male-headed households (19.8%) than female-headed households (13.8%) having changed the name. Over 10% of those with title deeds where names had changed claimed to be 'looking after the property'.

Thus more people than originally reported are either buying and selling their units and documents, or allocating them to friends or relatives. However, they have a very clear idea about what this transfer means for them and their households.

The urban land and housing market needs to be considered at two scales. At the metropolitan-wide scale, the Ekurhuleni municipality clearly has a problem getting hold of well-located land at a price it can afford which, to some degree, puts it at the mercy of the private sector. High land costs mean that low-income housing is often built on the urban periphery. It also means that housing is relatively expensive to provide due to competing interests. Currently, therefore, it is hard for households to “climb the housing ladder” and to use their homes to generate wealth. In fact, the value of most units seems to lie in the ability of households to retain them within the family network (as evidenced by the number of households willing to give their homes away but not willing to sell them). Even when examining the number of households whose documents and names do not add up, the market for units does not seem particularly large and certainly seems to be no larger in formal areas than in informal ones. As for title making the process of sale easier, there is no evidence to suggest that having a title deed makes sale an easier process. In fact the restrictive clause on the RDP units seems to make formal sale more difficult and prevents homeowners from taking advantage of any shifts in the housing market to make a profit. It also drives households who want or need to sell underground and ensures that neither the buyer nor the seller are in any way protected. The low income housing sector is deeply entwined with larger property and land markets, which need to be considered if changes to the low income housing sector and its dynamics are to be fully understood and used in order to meet the needs and satisfy the interests of low income households.

One of the main benefits advanced by proponents of titling is that, through formalisation of ownership, households will gain an appreciating asset. It is hypothesised that a formally owned house can be used to improve the financial wellbeing of a poor household as they can use the unit as collateral for a loan, sell it at an appreciated rate, or use it as a place from which to conduct business. There is also a sense that formalisation should make the transacting process a great deal easier and more efficient.

However, the ability of low-income households in South Africa to generate wealth from their properties is severely limited (Nell 2007). On one hand, the ability of households to use their homes to generate capital is extremely limited due to very low returns on the sale of low-income housing and the inability of households to leverage capital from their homes. On the other, a number of reports record that there is a great deal of resistance on the part of low-income households to the idea of selling units in townships.¹⁴ In the TRPM 2004 study, only 26% of all interviewed households were willing to consider selling their units at all. In our research 97.2% of the respondents stated that they would not be willing to sell their title deeds. However, as will be shown later in this section, a higher proportion have sold informally.

¹⁴ See the Township Residential Property Market, 2004, www.finamrktrust/themes/trpm/trpm.asp for further details.

A major reason for informal rather than formal sales is that households can only afford to replace their units with something of similar quality, due to the low prices that they can get for their RDP units. As such, households cannot afford the next rung of the 'housing ladder', as their original homes are not appreciating rapidly enough (TRPM, 2004). In cases where households manage to generate sufficient capital to access better quality and more expensive housing, their choices are severely curtailed.

The results indicate that a significant number of households are not "trading up" or moving up the housing ladder. Significant proportions in each settlement type and tenure form have moved places but stayed in similar conditions. By the same token, many households in Egoli Village who now have formal housing and either formal title or intermediate ownership had come from situations of formality in other towns, cities or townships. It is only where upgrading has taken place that it seems the majority have improved their housing and tenure status and then the residents had little choice since it was a decision taken by the municipality. Thus, it seems that, where the principle of 'willing-buyer/willing-seller' can be exercised, restrictions on supply allow only the lucky few to move up from informal housing to formal units, and any further climb is halted.

There are a number of competing interests in urban South Africa, all of which are trying to access land for their own purposes. The South African Property Owners Association (SAPOA), the 'Voice of South African Property', was recently quoted as saying that "...land availability [is] a growing constraint in the delivery of housing in SA."¹⁵ The enormous profits to be made in the South Africa upper end property market have made private developers hungry for land to develop. Finance institutions and private companies are aware of the burgeoning middle class and the constantly growing high end property sector and are doing their best to cater for them. This puts them in direct competition with the government, which is desperately trying to access the limited supply of well-located land for low-income housing. The national Housing Subsidy Scheme and the land reform programme are two of the key programmes that are attempting to transfer land title to low income households (Napier and Ntombela, 2006).¹⁶ Through these programmes the state is attempting to obtain urban land to house and title low income households. However, in general, poor households feel excluded from the workings of the urban land market and a recent study (Urban LandMark 2007) reported that low income households see the land market as something beyond their reach and only for the wealthy and generally White minority.

In South Africa, holding a title does not appear to make houses easier to sell in the formal market. There was no evidence from the surveys to suggest that households with a title find selling their units easier than other households. In fact the restrictive clause seems to force households to sell their units informally.

¹⁵ http://www.property24.com/Property24/Hub/HomeOwners_Default_Full.aspx?articleid=5081

¹⁶ Napier, M., and Ntombela, N., 2006: Towards effective state interventions to improve access by the poor to urban land markets, paper prepared for Urban LandMark, 2006.

3. Conclusions and Policy Implications

3.1 General issues

Titling programmes are undertaken for several reasons, though two appear particularly common. The first is to promote individualised land and housing markets in which property is regarded primarily as an economic asset to be traded like any other commodity. The second is a more social reason which regards titling as a means of increasing security and enabling poor urban residents to have a stake in society as full citizens.

These two themes are often presented separately in the mainstream literature, making it difficult to reach firm conclusions on the basis of the evidence from previous research and reinforcing the importance of considering them together when studying the impact of titling within a comprehensive framework. The central objective of this research was to assess the social and economic impacts on beneficiaries identified by the promoters of land titling, rather than the impacts of extensive land titling on land and property markets and municipal capacity. However, a more holistic approach is recommended in any future studies. The South African and Senegal case studies demonstrate that the policy, economic, property market and administrative environments in which land titling programmes are implemented all have an impact in their own right.

When titling programmes are undertaken for primarily economic reasons, they have generally failed to realise the objectives of policy makers. Investment by beneficiaries in land and housing, their access to formal credit and their contribution to municipal revenues have not noticeably increased more than under other tenure regimes, including many unauthorised settlements, and there is no significant evidence of poverty levels being reduced. However, one caveat is needed, in that most titling programmes implemented in urban and peri-urban areas have been undertaken during the last 15 years, while economic impacts may require a longer timeframe in order to be measurable.

The outcomes of titling programmes implemented for primarily social reasons also appear to be limited. Whilst there is considerable evidence, from the literature and the two case studies, of increased tenure security from titling, it is equally clear that many alternative forms of tenure, including some in unauthorised settlements, also provide high levels of security. The key issue is that of government policy and practice. In those countries where the threat of eviction is tangible, clearly the possession of a title is highly valued. Equally, where no threat exists, people feel sufficiently secure to invest what they have in housing improvements and in these cases titles are not regarded as important, and may even have negative connotations due to the increased financial commitments and visibility to the authorities that they entail.

Furthermore, in cases where titling is undertaken for social reasons, the simple fact that government agencies are seen to be sympathetic to the needs of residents in various unauthorised settlements in itself makes titles less important. Other tenure options can offer similar benefits to both residents and governments, possibly at a lower cost. However,

titling programmes have achieved one undoubted benefit in most countries where they have been introduced. This relates to the practice of recording married women as joint owners, or sole owners in the case of women-headed households. This represents a particularly significant benefit compared to many customary and informal tenure regimes.

When titling programmes are undertaken on a small scale, due to resource or other constraints, land market distortion can be considerable, since prices increase following regularisation, especially in well located settlements. In such areas, newly titled households are often tempted to realise the windfall gains available, with some becoming vulnerable to market displacement on less than favourable terms when many others have sold out or perhaps due to their limited awareness of formal land market prices. Where programmes are undertaken at a large enough scale to minimise market distortion by spreading the costs and benefits widely, they place very heavy demands on land administrative agencies. For example, in Rwanda, it is proposed to register 7.9 million land parcels over a 13 year period, requiring an average daily allocation of 2,400 titles, well beyond the existing administrative capacity. The government has proposed reducing this period to 5 years, or a daily average allocation of 6,300. The land titling programme in Thailand had allocated 11.65 million (or 90%) of the programme target of 13 million land titles by 2003, but this took a period of 20 years and required a staff of up to 12,000.¹

Furthermore, unless all subsequent transfers are recorded in land deeds or title registries, then the newly formalised land markets will once again revert to informality. Titling is not, therefore, a policy instrument to be adopted without careful consideration of the human and financial resources required, together with the impacts on those directly and indirectly affected.

The remainder of this final section summarises selected aspects of the findings of research on the social and economic impacts of land titling programmes on their beneficiaries: tenure security, investment in housing and/or infrastructure, access to credit and economic position, as well as on the wider questions of municipal revenue and property markets.

3.2 Tenure security

The idea that titling provides tenure security is difficult to prove because many regularisation programmes have been implemented in areas where owners already enjoy it. In cases where titling *has* increased security, it is not necessarily possession of the title that provides tenure security - the promise of a title is generally sufficient and beneficiaries are often deterred from completing the process if to do so exposes them to what they consider unnecessary costs. Under such conditions, titling does not fully integrate informal settlements into the formal land and housing markets, but instead increases the complexity of land tenure regimes.

¹ International Conference "The Thailand Land Titling Programme: Challenges to Land Administration" Programme of Advisory Support Services, HTS, DFID. 2003.

The South African case study also needs to be assessed in an historical context within which the Black majority had been denied any rights to land for generations and naturally associates titles with the benefits of full citizenship and the economic benefits enjoyed by the white minority, rather than simply increased security.

An initial census to determine plot holders and boundaries can be enough for a formal surface right to be delivered. While examples exist which show a positive effect of titling on tenure security, there are many others in which it fails to do so, and may even *reduce* security by increasing the payments for which owners are liable or subjecting them to pressure to sell. Certainly, the Senegal case study suggests that, when tenure regularisation takes place in very low-income settlements, it does not result in better security of tenure, but tends to accelerate gentrification processes through market-driven displacements.

Titling has to some extent identified and addressed issues concerning women's security of tenure, by, in some cases, listing married women as joint owners and women household heads as sole owners in land registries and title deeds. This has improved women's position compared to many customary and informal tenure regimes, but women's secure access to housing also needs to be provided by means other than titling, such as changing cultural attitudes towards women's rights and a continued effort to ensure that statutory provisions are enforced.

The research also showed that land titling is not the only means of increasing security and may place heavy burdens on land administration agencies for marginal benefits.

3.3 Investment in housing and/or infrastructure

Titles, or the promise of them, have been shown in both the literature and the two case studies to encourage investment in house improvements and extensions. In both the Senegal and South Africa case studies, titling can be seen to have encouraged investment, since both titled groups and those expecting titles have invested more than those groups not considered eligible.

However, a number of other factors are also influential. These include not only the economic position of individual households but also the length of time since titles were allocated, the location of the settlements involved, the combination of titles with the provision of services and other upgrading measures. In some cases, these other measures are sufficient to stimulate investment, whilst in other cases, the simple *perception* of tenure security was sufficient to stimulate investment.

An important influence on investment is the degree of autonomy that households have regarding the nature and form of investments in housing improvements or extensions. In the South Africa case study, it was shown that more additional rooms are built in the informal settlement than in the settlements with, or about to receive, titles. Formalisation may, therefore, impede investment and inhibit the provision of additional rooms for rent, which can increase the incomes of plot holders and

provide inexpensive rental accommodation for the very poor.

Assumptions regarding the impact of titling on home investments suggest that, by investing, households increase the value of their asset, which means that the amount that can potentially be redeemed through the sale of the unit is higher. Evidence from both the literature and the case studies shows, however, that few households regard their homes as having an external monetary value. None of the households surveyed mentioned that they improved their homes to increase the potential sale price. Value seems to lie instead with the increased sense of ownership that a household derives from making improvements and in possessing something that can contribute to family welfare and can be passed on to the next generation. In short, newly titled owners are more likely to invest in order to improve the liveability of their houses than to increase their asset value.

The clear conclusion from the evidence is that titling is one of many means of encouraging investment in housing and land, though not the only one. Tenure regularisation has been shown to generate rapid investment when there is a big jump in security of tenure from the impending threat of eviction to the right to occupy land. However, the evidence also shows that where residents do not consider themselves at risk of eviction, tenure status may be a marginal influence on levels of investment (Banerjee 2004:7).

3.4 Access to formal credit

Titling has been advocated as a major means of stimulating economic growth and reducing poverty because property owners can use their titles as collateral in obtaining formal credit. Such an ambitious claim has spawned an extensive literature, though there is very little evidence to support such claims. Even in Peru, where titling programmes are reportedly among the most successful, there is no evidence that titles increase the likelihood of low income owners receiving credit from private sector banks or other sources of formal credit. Furthermore, studies have concluded that when those with informal property in Peru seek title, it is not with the intent to obtain loans.

One of the reasons for this limited impact is undoubtedly the terms and conditions under which banks provide credit. The formal credit system in most developing countries is not adapted to the needs of low-income families, while formal micro-credit is generally not available on a large scale. As a result, most households, irrespective of their tenure status, rely on their own or on extended family savings, and solidarity systems for major expenditures related to the purchase of properties, and housing construction and improvements. Of those who borrow, most use informal systems such as moneylenders who operate at local and settlement levels. According to key informants in the case studies, many people rely on such semi-formal credit systems. Rates of interest are higher than those of banks and micro-credit institutions, but access to credit is simple and rapid and conditions are more flexible.

Titling advocates emphasise that, by being able to use their titles to access formal credit, poor households can raise funds to start, or expand, businesses. However, the proportion of surveyed households who have taken out loans to develop businesses is tiny (only 5% of the few loans taken out) and in no case have households seeking loans used their houses as collateral. According to Mitchell (2006:10), even in the USA, 40% of very small businesses borrow no funds at all and the most common source of loans for those that do is a personal credit card.

The clear conclusion from the evidence from this and other studies is that titles do not increase access to formal credit. It is equally clear that low-income households are expressing a deep, and rational, fear of debt. Given that recent excesses in the use of credit to expand home ownership in the USA and UK have contributed to an international economic recession, such reservations amongst households and financial institutions in developing countries demonstrate an appropriate degree of prudence.

3.5 Municipal government revenues

Evidence of increased revenues as a result of land titling is limited to a few cases. Several factors are involved:

- The ability of newly titled, but still relatively poor households to bear the costs of increased taxes and charges, particularly if they cannot see any direct benefit in return.
- The costs of collection. Where these are equal to, or greater than, the revenues generated, the incentive is low for municipalities to collect property taxes and other charges.
- The allocation of revenues. If local authorities are treated by central or local governments as agents for collecting revenues to be passed onto higher levels of government, incentives to maximise collection levels will be reduced.
- If taxes levied on property transfers are considered excessive by either buyers or sellers, high levels of under-reporting, or even illegal transfers, may become endemic, undermining the integrity of the formal land and housing market.

All or any of the above factors have been found to result in the revenue increases expected to follow land titling programmes being less than anticipated. The payments for which they become liable have also deterred many households from completing the titling process, thereby perpetuating and extending informal land and housing markets. Even in middle- and high-income settlements in Dakar, people do not have land titles to avoid paying taxes. In this city, as long as house-owners understand that they have de facto security, they usually do not need to upgrade their administrative permits into land titles that would result in increased expenditure.

Generating increased revenues need not represent a high priority in relatively affluent countries such as South Africa. The South African

Government actually subsidises low-income housing and has redefined local authority boundaries to enable adequate revenue generation and redistributive and safety net policies. In poorer countries, such as Senegal, administrative capability is also more limited, so the ability of households to pay, and of the authorities to collect taxes and charges, are both modest. Imposing high charges or other costs on the occupation or transfer of property will only serve to inhibit the development of efficient land markets.

In considering this issue, a distinction needs to be drawn between property tax and user charges for services. The former is often unimportant as a source of municipal revenue, although its significance varies widely from country to country. Even where property tax is important, it is almost always brings in less revenue than transfers from central government, and is often used for administrative costs and the provision of public goods, the benefits of which cannot be clearly attributed to individual households. Thus residents are less likely to see the benefits of payment than from charges for individual services. In the case of user charges, even low income urban residents are prepared to pay for essential services, provided that they regard them as providing value for money, although safeguards to ensure access by the poorest are always required. Often, it is possible to improve infrastructure and services and to recover at least some of the costs of provision without titling.

In conclusion, governments should not expect to generate increased revenues from titling or other forms of regularisation in low income areas, at least not in the short to medium terms. Governments should instead concentrate on assisting residents to register their claims to land in ways which facilitate the development of transparent and socially legitimate land and housing markets and improving basic infrastructure and services.

3.6 Economic status and poverty reduction

Claims that land titling can stimulate economic growth and reduce global poverty are not supported by the evidence of the review of literature or the case studies undertaken for this project. This applies equally to the longstanding programme implemented in Senegal and to the well resourced programme undertaken in South Africa. In other cases, it is too early to comment on their effectiveness in reducing poverty, since they have not been implemented for a sufficiently long period.

The South African studies confirm that titling for low income households is not integrated into important legal, financial, and market processes. The current system is designed for the wealthier elements of society and does not appropriately support the low-income home-owning sector. Most banks do not cater to low-income households, do not consider the value of title deeds for low cost properties and the titling system does not assist households to join the property or land markets. The legal system also operates for households with higher incomes and fails to recognise that poor households lack access to the tools, instruments and systems that would allow them to use it effectively.

Poverty reduction depends on a lot more than getting the mechanics right. The interaction of people's experiences, social networks and social identities, together with political affiliations, all impact on whether titling affects poverty reduction. It is always "title and" In the South African case study, it was 'title and gender' and 'title and household income' that were key channels. It is not, therefore, appropriate to isolate titling (in its formal legal sense) and impose it in the context of practices in relation to which, at best, it has a marginal meaning or importance.

The South Africa case study shows that people's 'asset poverty' has decreased, but that this is due largely to the substantial subsidies allocated, not the possession of land titles *per se*. How the possession of an asset influences their 'income poverty' will only be determined in the longer term and is contingent on too many other factors to enable an impact assessment now..

Identifying titling as a determining variable is fraught with conceptual and methodological challenges and as a result the evidence is so far inconclusive. While it is useful to disaggregate impacts into social and economic categories, it is more useful to think of these categories together to understand titling, and tenure policy in general, in a more holistic way. In separating social and economic impacts, economic aspects invariably get privileged - when in 'reality' they are completely intertwined with the social dimensions of owners' lives. In this respect, one of the attractions of titles to many residents in informal settlements is that they provide official recognition of their rights as citizens, though this increased visibility to the State can be offset by exposure to additional charges and costs and the disbenefits of titling involving relocation may outweigh the benefits.

3.7 Urban land and housing markets

In the case study settlements, possession of a title deed has reduced the vulnerability of households to arbitrary eviction and loss of property, decreased the vulnerability of some female-headed households by providing them with an asset and rights that are ostensibly backed by the state, and is linked to perceptions that the living environment has improved. In order to determine the full effect, these advantages need to be weighed against: the quality of the asset provided; the additional financial burdens that arise from becoming integrated into the formal market and municipal finance system; and the location of the asset in relation to civic amenities and facilities.

The South African case study clearly shows the need for tenure policy to be closely integrated with spatial planning, livelihoods support and the provision of public utilities and facilities. In many countries, the emphasis on ownership has forced project agencies to develop new housing on cheaper land on the urban periphery, rather than in a range of higher density mixed-use developments nearer to employment areas and existing services. A first time visitor to South Africa could even be forgiven for asking if economic apartheid has replaced racial apartheid, given the spatial segregation of low-income Black and high income White popula-

tions. Whilst the dream of home ownership is being realised for increasing numbers of households, it is less clear that poverty levels have been reduced or the quality of life improved for the majority as a result of land titling. There is also little evidence that market principles are being applied to low cost land and housing policy in South Africa.

A key issue to consider is governance. Protagonists of titling who focus primarily on its financial/economic aspects may be inclined from the findings of this report to conclude that titling is beneficial in principle and that negative impacts are due to failings in policy design or governance (“the programme has not been implemented properly; there was corruption”, etc.). However, the South African case study shows that despite central and local government commitment, adequate resources and a strong cadre of professional staff, the allocation of land titles has failed to create more dynamic and socially responsive urban land and housing markets. It is difficult, therefore, to avoid the conclusion that negative impacts must be due to the inherent limitations of titling as a policy instrument, not merely poor policy design or a failure of governance.

Another issue concerns the time span over which impacts are measured. The Senegal case study has been implemented for long enough to be able to conclude that titling has not generated a more dynamic and accessible formal land or housing market in Dakar, instead introducing new dynamics into informal markets. Whilst titling is more recent in South Africa, and it is too early to assess its impact on residential mobility in the conventional sense, the evidence that a proportion of households in titled settlements are ‘looking after’ a property indicates that informal transactions in titled plots are occurring.

It is not possible to assess the legal and practical status of the rights transacted without examining the prevalence of contestation, the availability and social acceptability of informal dispute resolution mechanisms, the reaction of land administration agencies to increasing volumes of informal transfers and the attitude of the formal courts to the transactions.

The evidence of the literature and case studies shows that while a minority of households with titles sell or transfer their plots, this is invariably in the form of distress sales or as a result of market-driven displacement. The majority do not regard their newly titled properties as commercial commodities to be bought and sold on the open market, as is widely predicted by proponents of titling. Instead, people give more priority to using their homes as a place to raise their families, assert their rights as full citizens and have something to pass onto their children.

In cases where individual forms of land tenure are not widespread, as in much of sub-Saharan Africa, this and other research has indicated that land titling may serve to undermine existing tenure systems and social cohesion without offering measurable short or medium term benefits. Whilst they may legally enhance the rights of women, this may run counter to cultural practices and therefore result in problems of enforcement. In other cases, such as South Africa, where titling is associated with substantial benefits that were previously the sole prerogative of the affluent White minority, a more positive attitude on the part of beneficiaries is understandable and titling can be adopted with more confidence in realising social benefits.

For land titling programmes to exert a significant positive influence on urban land and housing markets, it is necessary for them to be adopted

on a large scale. Of all the international examples of urban land titling programmes implemented to date, two examples stand out. These are Peru, where over a million new titles were issued during the 1990s in and around the major cities, and Thailand, where about 12 million titles were allocated nationally over a twenty year period. However, both these examples depended on strong and continued central government commitment, substantial external funding and local conditions which made it much easier to ensure success than in most countries.² The fact that the well-resourced titling programme in South Africa has, so far, failed to improve the functioning of land markets in favour of the low-income majority, suggests that other policy instruments are required. This may include incentives to encourage private developers to offer more affordable options in new developments and involving civil society groups in the improvement of existing urban settlements.

The literature and case studies reveal evidence of two opposing approaches by governments concerning the integration of titled areas into the formal land and housing markets. In some cases, transfers are encouraged in order to promote active land and housing markets, but do not always happen because households prefer to remain in their newly titled homes. In other cases, official restrictions seek to prevent households realising the enhanced value of their newly titled plots by selling them into the formal open market. However, reluctance to comply with the administrative requirements or accept the price offered by government leads households who want to sell to do so informally, so that land registries no longer provide an accurate record of ownership and the development of formal land and housing markets is inhibited.

It is possible that the problem of predicting outcomes may be the result of introducing dramatic and sudden changes to property values, or attitudes towards property which do not reflect the priorities or needs of the groups affected. For example, few households would reject the offer of a formal title if offered it. However, it has been demonstrated in both the case studies that a significant proportion of eligible households decide not to complete the whole process of registering their title with the authorities. The prospect of being able to obtain a title may be as important in influencing a household's attitudes and actions as actually possessing one. This lies at the heart of the issue as to whether it is preferable to effect a complete transformation of the legal and economic status of informal land into the legal and formal system, or whether a more incremental approach may be more effective.

For land administration agencies, beneficiaries' reluctance to complete the titling and registration process severely inhibits the development of more efficient land and housing markets and undermines the value of legal certainty of titles for those who have completed the process.

In conclusion, the findings suggest that urban land tenure and housing policies need to be considered more in line with the way in which low-income households view their houses, which is primarily as a place in

2 For example, Lima and other expanding Peruvian cities are surrounded by unlimited expanses of government owned land which can easily be subdivided and allocated to low-income households at minimal cost.

which to build their lives. Once such a view is accepted by policy makers, prospects for success are likely to increase.

3.8 Policy implications

The policy implications of the findings presented in this report need to be explored in conjunction with those responsible for land tenure reforms at country level, so this final section only presents some pointers to the aspects of policy that need to be considered.

Advocates of land titling programmes reading this report may conclude that the policy remains valid and the main problem lies with its design, implementation or governance. In other words, details of the changes to tenure and administrative systems, the process of implementation and the arrangements for ongoing administrative may be defective or inefficient. However, titling in the South African case study of Ekurhuleni, has been well resourced and does not support such a conclusion. Despite adequate resources, institutional capability and good governance, titling in South African has provided few of the financial benefits anticipated by policy makers.

Social and economic impacts of titling programmes vary according to the objectives and circumstances under which they are undertaken. Three broad categories are identified, each with policy implications:

1. **Titling of existing informal settlements within urban areas.** This may result in dramatic increases in land values over a very short time, particularly in well located areas. The prospect of such an increase, even if not justified in practice, 1) encourages competition between potential beneficiaries within and outside the area concerned, which may impede delivery of titles to legitimate claimants; 2) adversely affects the poorest social group who are likely to be renting in such areas and; 3) encourages market-driven displacement of newly titled owners at prices closer to current use rather than future market value. Titling programmes under such conditions should therefore be discouraged, particularly in cases where a significant proportion of residents in informal settlements are renting accommodation, in favour of exploring options for the gradual integration of selected settlements into the formal land and housing markets which do not make them attractive to higher income buyers and developers.
2. **Titling of new areas, mostly on the urban periphery, undertaken as part of slum or squatter relocation programmes.** These programmes are usually undertaken as part of city 'beautification' or market-driven development programmes, although they also include resettlement of residents of informal settlements in physically unsuitable locations such as flood risk areas. Governments operating such programmes tend to be authoritarian and conservative in character and may be more concerned about protecting the interests of an affluent minority than the contribution or rights of lower-income groups. Such approaches have the intended or unintended consequence of forcing the poor to the urban periphery, often with

no, or minimal, compensation. Generally, it is preferable to minimise relocation and resettlement, since it decreases the security of relocated households. Where it is essential, locations that will enable them to reconstruct informal livelihoods and reach wage work are needed.

3. **Titling undertaken as one option amongst others in new development areas, but generally in the urban periphery where new development sites are more readily available.** Such programmes may be offered by private developers on a commercially viable basis to those who can afford the purchase of a plot and associated costs. This approach has the potential to enable landowners in the urban periphery to negotiate a fair price for their land, developers to make an adequate profit and cities to increase the proportion of formally developed land. Measures to increase public information on land and housing markets can increase market transparency and enable all stakeholders to make informed decisions when considering their options. The main constraint on such market-based developments is that costs are often far higher than necessary because of regulatory constraints in the form of inappropriate planning and building standards, restrictive official regulations and complex administrative procedures. Relaxing these constraints could enable titling programmes in new development areas to offer more affordable options for those households seeking home ownership. Titling programmes under such conditions should be encouraged and facilitated by investment in trunk infrastructure (roads, water, electricity) in suitable areas.

A further implication of our findings is that the number of land titles required within a programme and the capacity of the administrative system to deliver these must be assessed. It is equally important to ensure that adequate financial and human resources are available to maintain land registries and titles indefinitely, following sale or inheritance. This is vital if the value of titles in guaranteeing security is to be maintained.

There is a need for introducing or expanding facilities for providing credit to lower income households. However, these do not and should not be dependent upon the use of title deeds as collateral, since most low-income households seek small loans which can more appropriately be based upon credit ratings through savings. There are many international examples of such approaches which deserve support.

Another need is for reviewing the regulatory framework by which government agencies seek to manage urban land and housing markets. The case studies demonstrate that regulatory controls concentrate excessively on the level of the individual property, where the costs may far outweigh the benefits, whilst failing to adequately address more structural issues such as the relationship between the State and private developers and ensuring that an adequate supply of affordable land with appropriate basic infrastructure is available for subdivision. The present project has confirmed the findings of other research (see Payne and Majale 2004) to the effect that relaxations to planning and building

standards, regulations and procedures can promote more equitable land and housing markets. Finally, the research has confirmed that scope exists for expanding public sector influence over land and housing markets through public-private partnerships and regulatory controls which require specific social or environmental benefits as part of commercially based urban developments.

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The Global Land Tool Network

The main objective of the Global Land Tool Network (GLTN) is to contribute to poverty alleviation and the Millennium Development Goals through land reform, improved land management and security of tenure.

The Network has developed a global land partnership. Its members include international civil society organizations, international finance institutions, international research and training institutions, donors and professional bodies. It aims to take a more holistic approach to land issues and improve global land coordination in various ways. These include the establishment of a continuum of land rights, rather than a narrow focus on individual land titling, the improvement and development of pro-poor land management, as well as land tenure tools. The new approach also entails unblocking existing initiatives, helping strengthen existing land networks, assisting in the development of affordable gendered land tools useful to poverty-stricken communities, and spreading knowledge on how to implement security of tenure.

The GLTN partners, in their quest to attain the goals of poverty alleviation, better land management and security of tenure through land reform, have identified and agreed on 18 key land tools to deal with poverty and land issues at the country level across all regions. The Network partners argue that the existing lack of these tools, as well as land governance problems, are the main cause of failed implementation at scale of land policies world wide.

The GLTN is a demand driven network where many individuals and groups have come together to address this global problem. For further information, and registration, visit the GLTN web site at www.gltn.net.

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About this publication

This publication from the Global Land Tool Network belongs to a series of research reports examining the changing landscape of land tenure security in developing countries. The reports provide up-to-date information to land professionals and policy-makers working in the land sector and help to raise awareness on what is being done at the country level. They are available for download from www.gltn.net.

One of the important findings in this report is the surprisingly limited empirical evidence that land titling programmes can promote economic growth and reduce poverty. The research and case studies presented here contribute to the debate on land tenure policy by assessing the social and economic impacts of land titling programmes in two very different African countries, South Africa and Senegal. The findings and analyses cover both Anglophone and Francophone countries and relatively developed and undeveloped economies.



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GLTN contributes to the implementation of
pro-poor land policies to achieve
secure land rights for all
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