



Pro-poor land registration in peri-urban Oshakati (Namibia): an assessment

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Peri-urban areas in African cities are dynamic with respect to land tenure. Statutory, informal and customary tenure systems often co-exist and interfere with each other. This often results in loss of tenure security, especially for people with low incomes. Recently, innovative land registration tools have been designed to cater for the poor. The question arises whether these tools have the desired impact. This question is answered by confronting the existing tenure regimes with the implemented innovative land registration tools.

A case-study has been carried out in Oshakati, a small town in Northern Namibia. The tenure dynamics mostly relate to the transformation of customary land (Communal Areas) into Council land through the proclamation of Town Lands in 1993. Two innovative programs concerning land registration are discussed. The first is a government-driven program to implement the Flexible Land Tenure System (FLTS). The FLTS, still drafted as a Bill, introduces upgradable titles, which are easier and cheaper to acquire compared to the existing formal freehold titles. The second is a NGO-driven program on saving schemes. Such schemes work almost according to FLTS-principles within the current legal framework. The association forming the saving scheme acquires a block of land and subdivides it among its members where individual plots are administered by the association.

The FLTS-pilots and one saving scheme have been assessed through qualitative methods. Concerning the pilots, the innovative titles could not be issued as the Bill has not yet been enacted. Meanwhile, the adjudication and surveying exercise resulted in increased levels of perceived tenure security, notwithstanding the fact that de jure security did not change. The saving scheme was able to provide tenure security to its members through their private land registration system. It is concluded that the saving schemes are successful, although on a limited scale, by virtue of their social organization. The FLTS has the potential of delivering tenure security, however the non-enactment and implementation uncertainties leave much to be answered.

Introduction

Cities in Sub-Saharan Africa grow rapidly, Namibia is no exemption. For example, LAC (2005) reports an annual growth percentage of 5.4% in Namibia. It is expected that 60 % will live in urban areas in 2030, while the current figure stands at 41% (Mooya and Cloete, 2007).

Urban growth mainly takes place in the peri-urban areas. Changes in land use and population density are obvious characteristics of peri-urban areas. One less visible, but important, characteristic is their dynamics with respect to land tenure. Tenure systems from different origins co-exist and interfere with each other, like customary systems inherited from the rural past and statutory systems gradually expanding from the town center. In addition, informal tenure is emerging in peri-urban areas, as people do not manage to access land through formal ways.



The existence of informal tenure and the multiple tenure systems contribute in general to lower levels of tenure security. Tenure security is defined as the degree of confidence held by people that they will not be arbitrarily deprived of the land rights enjoyed and/or of the economic benefits deriving from them. This paper focuses on the poor, as they often suffer from the tenure insecurity; they may get evicted or are not able to reap the benefits from their investments. Wealthy people, often better informed, have in general easier access to land and more opportunities to bring land under formal tenure and consequently enjoy the economic benefits from it.

Tenure security cannot be determined easily, it contains both objective and subjective elements, or legal (*de jure*) and factual (*de facto*) dimensions (Kanji, N., et al, 2005; Deininger, 2003). This paper distinguishes between legal and perceived tenure security. For instance, people might have a high, *de facto*, perception of their own tenure security, whilst their legal title to the land might be weak. The existence of multiple tenure systems results in diverging land claims, with varying levels of legal validity. A continuum of land rights can be used to relate the existing land rights to tenure security (Payne, 1997).

Land registration is one of the possible tools to formalize informal areas (or areas containing multiple tenure systems). It claims that tenure security of the beneficiaries will increase, leading to more investment and contribute to the improvement of livelihoods. History has learned that massive land registration projects did not have the intended results, and that in most cases the poor did not benefit at all (Durand-Lasserve, 2003). Therefore, pro-poor land registration has been introduced, specifically aimed at improving tenure security for the poor. The central question of this paper is to assess the impact of these tools, whether land registration does provide tenure security to the poor. There are examples of implementation of pro-poor land registration in long existing, high density informal areas, however there are no examples found of implementation during the early stages of urbanization. This paper focuses on these early stages. If pro-poor land registration has positive effects and is implemented at an early stage, it might contribute to the reduction of the development of unplanned informal settlements and to improve the livelihoods of its inhabitants.

The conceptual model where the relations between urbanization, land tenure, land registration and tenures security are visualized, is given in figure 1. The ellipse visualizes the focus of this paper.

This paper first explains the research methodology briefly. It will continue to discuss the tenure situation in Oshakati, the town which was selected as fieldwork area. The applicable national land laws and policies are integrated throughout. The processes related to urban development and formalization will follow, whereby special attention is given to the Flexible Land Tenure System (FLTS) and the so-called saving schemes. A continuum of land rights will be designed in the analysis section. The paper will end with conclusions concerning tenure security related to the saving scheme and FLTS in Oshakati.

Research methodology

This case-study was carried out in 2008. Namibia was visited twice, first to assess the national laws and policies by studying available reports and documents and interviewing national experts and the main stakeholders. In this way, the legal dimension of tenure security is known. This visit was also used to select a suitable town for the fieldwork, which had to be carried out during the second visit.

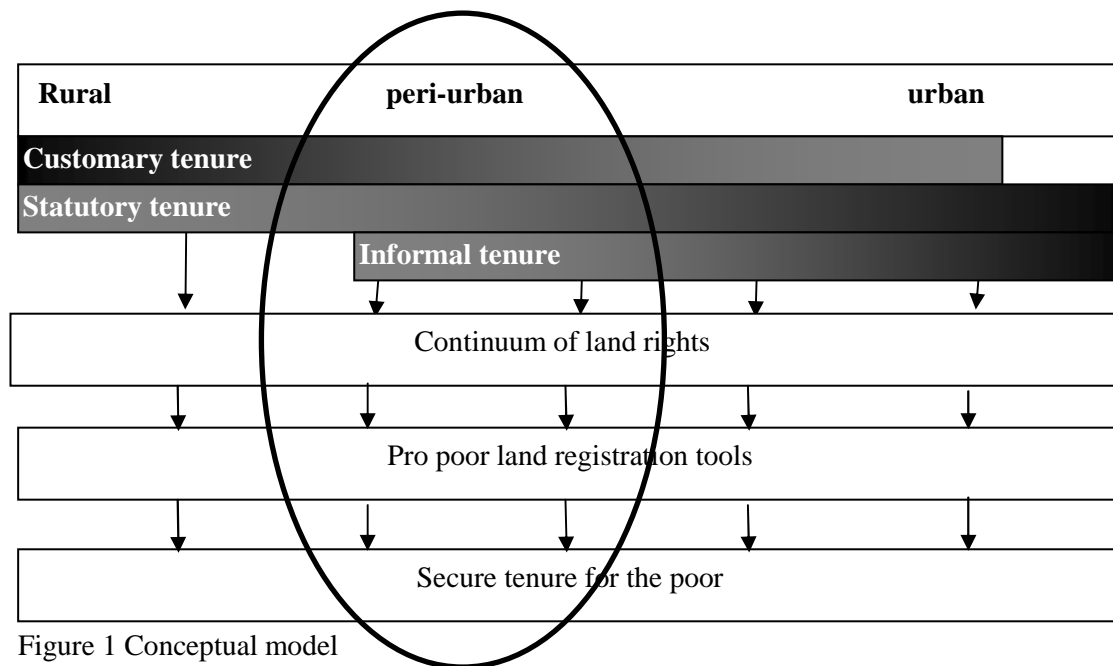


Figure 1 Conceptual model

The fieldwork concentrated on interviewing in total 26 local residents in the peri-urban and informal settlements. An interpreter with a background in land administration did the actual interviews, as they were held in the local language. In addition, local stakeholders were interviewed and available reports and documents were studied. From the fieldwork, perceptions on tenure security were captured, as well as the effects of the formalization attempts by the local government.

Oshakati is chosen as a pilot study, for various reasons: it is a rapid growing town, it is expanding into former customary land, it contains informal settlements and pro-poor land registration pilots have been carried out. Concerning the pilot projects, remark that “results from these projects are not in the public domain and so it is not clear what lessons have been learnt” (Mooya and Cloete, 2007).

In the next section, the land tenure systems in Oshakati will be discussed.

Land tenure in Oshakati

Oshakati was founded in 1966. It is the regional capital of Oshana region and lies within the area of Owambo Traditional Authority¹. Its population grew from 2950 in 1970 (Hangula, 1993) to an estimated 42,000 in 2005 (LAC, 2005; Frayne et al., not dated). Oshakati competes with Walvisbay to be the second largest town in Namibia, with the capital Windhoek at the uncontested first place with 240,000 inhabitants.

An important physical characteristic of Oshakati is that it contains so-called oshanas, which are prone to flooding. Urban dynamics estimates that 50% of Oshakati is covered by oshanas. These oshanas are already partly built-up by informal settlers. Early 2008, Oshakati was flooded severely, many houses were flooded. Oshakati Town Council (OTC) acted by announcing that people in informal settlements

¹ Oshakati means center in the local Owambo language, as the town is regarded as the center of all Owamboland (Hangula, 1993)

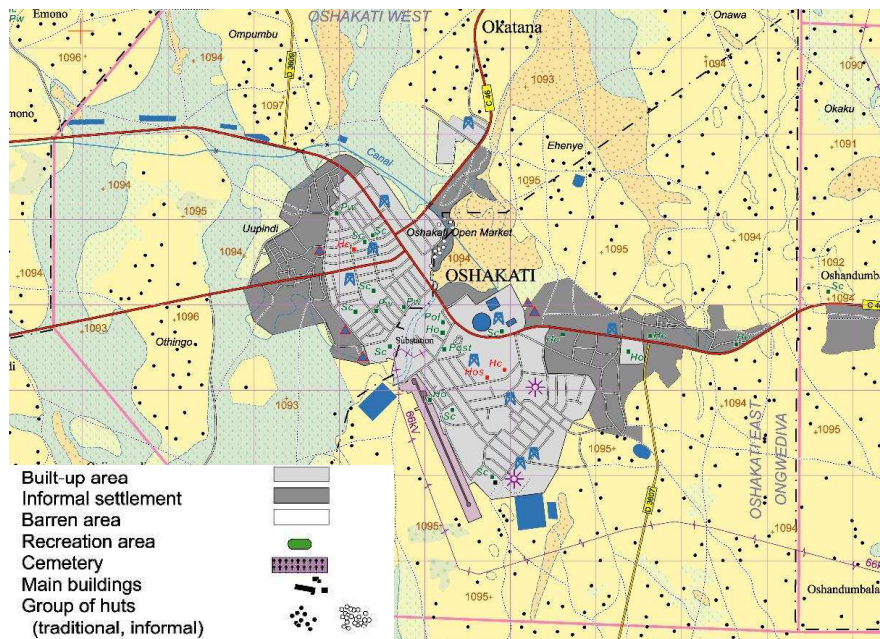


Figure 2 Topographic map Oshakati 1:50:000 (1996) with Townland boundary ©MLR

might be relocated to higher areas. In addition, people in informal settlements were no longer allowed to develop any property, not even rebuilding damaged buildings. Official plot allocation and development of services in informal settlements came to a hold. These oshanas also limit the available land area for the urban expansion of Oshakati.

In Oshakati, one can distinguish three main land tenure systems (as goes for the whole of Namibia):

1. Statutory tenure;
2. Customary tenure;
3. Informal tenure.

These categories will be discussed below.

Statutory tenure

Statutory tenure in Oshakati deals with urban land where standard concepts of state, municipal and private ownership apply within proclaimed boundaries under statutory law (LAC, 2005). These areas are clearly displayed on the topographic map classified as Built-up area (see figure 2). Most plots are held under freehold. Land is registered at the Registry of Deeds (under the Ministry of Lands and Resettlement, MLR) in Windhoek. The conditions of the Lands and Deeds Registry Act and the Land Survey Act apply. Plots which are sold to the public under freehold, are handled by the Local Property Office of Oshakati Town Council (OTC). Around 1140 freehold plots (also called erven) in Oshakati were registered in 2001 (Urban Dynamics, 2001).



Customary tenure

Around 40% of Namibia, so-called Communal Land, is governed by Traditional Authorities. On land issues, customary tenure is applicable, whereby mostly use rights are given for residential and agricultural uses. The national government is regarded as the owner of Communal Areas, it holds the land in trust for the indigenous communities (LAC, 2005). People live in so-called homesteads, they are traditional farms. A group of homesteads is represented by a traditional headman.

The freehold areas of Oshakati used to be surrounded by the Communal Areas. Over time, settlements have continued to develop on these Communal Areas, nearby the statutory areas. Settlers normally asked permission from the Traditional Headman to settle and built a residential house. The informal settlements were legally developed under control of the Traditional Authority. They initially can be regarded as customary settlements; however in literature they have always been referred to as informal.

Oshakati, like other cities in Northern Namibia, grew rapidly in the post-Independence period, eventually on the Communal Areas. In 1993, through the Local Authorities Act of 1992, Oshakati was proclaimed Townland (see the pink line in figure 2; Hamata, et al., 1996). From the moment of proclamation, the area fell under jurisdiction of OTC and no longer under the Traditional Authority. As a result, the official land tenure regime suddenly changed from customary into statutory tenure. In this way, OTC got control over rural or unused land and the already existing informal settlements. The traditional people and informal settlers were suddenly subject to statutory law and “were liable to register with the local authority and to pay a monthly plot rent (N\$ 6-12)” (Fjeldstad et al, 2005).

The conversion of customary into statutory tenure did not end the customary practices, they are still interfering with informal tenure. The Traditional Authority continued to exist for the Communal Areas outside the Townland boundary, and the traditional institutions within the Townland boundary mostly remained intact. The following examples were found during the fieldwork:

1. Cattle owned by the homesteads walking through informal settlements. This causes conflicts because the cattle destroy gardens and other property. Initially, cattle walking freely are a customary right, not however it is not recognized under statutory tenure.
2. Informal headman are existent within some informal settlements. They can be seen as urbanized traditional headman and may play a role in land allocation.
3. Informal and traditional headmen are still recognized by the community, people said that they will turn to them in case of land related conflicts.
4. The headmen still feel they have responsibilities. On the question who has the final authority over land, one traditional headman replied: “I am the one with the final authority, but the municipality is the one that has the most.” He was keeping a land register as well, which was regarded as illegal by OTC. This is also described in (LAC, 2005).

Informal tenure

Informal tenure is the result of informal land acquisition, where no (or not all) formal procedures have been followed. An estimation of the Namibia Housing Action Group (NHAG) is that currently 130,000 people live in informal settlements in Namibia.



There are about ten informal settlements in Oshakati. The majority dates from the 1960's and 1970's and continued to grow, first when land was under control of the Traditional Authority and after 1993 when it was under control of OTC.

The distribution of the people within each land categories is given in table 1 which is compiled from the Oshakati Structure Plan (Urban Dynamics, 2001).

Sector	Estimated population	% of population
Formal residential	7918	22,1
Informal residential	25976	72,6
Homesteads	1875	5,2
Total	35769	100

Table 1 Population Oshakati Urban Dynamics Oshakati Structure Plan (Urban Dynamics, 2001)

Concerning urban management, OTC faces challenges both to manage and control urban development. It contains measures like eviction or relocation of illegal settlers, formalizing the existing informal settlements and manage urban expansion. These items will be discussed below.

Tenure related urban processes

Eviction/relocation

Eviction and relocation are possible measures for an authority council to deal with informal settlements, however they have a large impact on the livelihoods of those affected. Fear for eviction and relocation consequently contribute to higher levels of perceived tenure insecurity.

Informal settlement dwellers are reported to be 'accepted' by Namibian authorities, only the ones living in so-called impermanent houses, like iron shacks are particularly vulnerable to eviction (Fjeldstad et al, 2005). COHRE (2006) reported on few occasions of evictions within the period 2003-2006, some were not on Town Land. LAC (2005) states "Eviction is uncommon in Windhoek, it is usually due to water and electricity payment arrears continuing for long periods." Media reports on evictions in urban settings do exist, however in most cases, evictions do occur due to non-payment of services and not because of lacking of legal title. Additionally, eviction of tenants by landlords may happen more frequently. Problems with legal title are reported as well, however, they seldom lead to forced eviction.

No written evidence has been found on forced eviction in Oshakati. During the interviews, some respondents knew about evictions. However, after discussing these cases, they turned out to be relocations of illegal settlers by OTC to more suitable areas for residential land use. Relocation may be initiated by OTC because the settlers are illegal and have to settle somewhere else (which includes a process of formalization). Secondly, they may be relocated because the settlement is zoned for other purposes (like business area). Thirdly, because the land they stay is not physically suitable for residential purposes, like areas prone to flooding. In case of relocation, no compensation in cash is offered. Relocated squatters are given a new place to stay and transport assistance to move their belongings (very often the shacks are taken and rebuilt). They do not get any other compensation. Only people who have permanent buildings approved by OTC or the traditional homesteads are entitled to cash compensation when relocated. One relocation area was visited during the fieldwork.



This area was surveyed and plots were demarcated. People were not allowed to build permanent structures so they continued to stay in shacks.

Those who settled illegally felt quite confident that they could stay at their place. However, at the same time, they said that they still feel threatened by the OTC. Some also mentioned lack of recognition by the council. Most illegal settlers are aware of the possibilities of relocation as they know of such council actions. Some respondents have been afraid of being evicted or are being afraid to be relocated themselves. One relocated resident felt more secure compared to his situation before, as he was relocated by the council.

Urban expansion

For formal urban development, OTC has to follow the statutory acts, which will lead to the sale of freehold plots. It includes the Town Planning Ordinance and Township and Division of Land Ordinance and the Namibian Planning Board (NAMPAB) and an approved General Plan by the Surveyor-General.

When the local authority needs land for development, they first have to acquire the land from the homesteads. They can be relocated by the local authority to make room for urban expansion. According to (Hamata, et al, 1996), this was seen by the local community as post-independence colonialism and exploitation of the peasants by the development planners.² UN Habitat (2005) states “Although many people hold the view that the state owns such land and should be able to deal with it as it sees fit, the Constitution nevertheless requires that it is necessary to formally acquire the land rights that certain citizens hold in relation to it.” In case homesteads are relocated, the value for compensation, to be set by MLR, is considered to be low. Poor people, the majority of the people in Oshakati, can not afford to buy these plots. For these people, OTC makes land available through surveying plots and registering its users at the Planning Department. Such projects are not subject to the official planning procedures, the plans are just approved by OTC.

During the fieldwork, it was envisaged to interview people in the peri-urban areas (formal areas excluded) in order to investigate their access to land and awareness of their tenure status and to take notice of their perceptions of tenure security. However, OTC did not provide access to the homesteads as OTC was in negotiation with them for their relocation.

Formalization

A standard procedure for formalization does not exist in Oshakati, it is carried out within varying contexts. The most basic approach is to apply house numbering and registering its inhabitants. This numbering is not being investigated. Only formalization which has been carried out extensively through the Oshakati Human Settlement Improvement Project (OHSIP) between 1993-1996 will be described below.

The project aimed at the improvement of livelihoods in the informal settlements, especially through the construction of services and development of small businesses. Within OHSIP, a key role was given to Community Development Committee's (CDCs). They consisted of settlement representatives (Frayne et al, not dated). CDC's were also given a role in land allocation. Traditional leaders did join

² For more historical information and socio-economic effects of the proclamation on Oshakati, see



the CDC's later to reduce the ambiguities and confusion on land allocation. The headman was integrated in the CDC's structures and became the chairman of the land allocation sub-committee of the settlement. Nowadays, CDC's may still exist in settlements. However, some are more active than others and some ceased to exist³. Its role is to see and help the needs of the people within the settlement and to cooperate with OTC. Some CDC-members indicated that they don't have powers any more to allocate land, others claimed that they still have the power, although there is no land available.

Over time, not all households have been formalized whereby the influx of illegal settlers did continue, a new tenure category can be introduced as is suggested by Urban Dynamics (2001): this Town Planning consultant subdivided the informal component into an illegal and legal component. People in legal informal settlements have permission from OTC to reside at that place. They are registered at OTC (Planning Department) by name and plot or house number. The plot will be part of an *erf*, the legal entity under statutory tenure. Plot numbers are issued when the area is planned and surveyed by order of the Council. If allowed, people may apply for development permission to erect permanent structures. An example of development permission given by OTC in a letter (2006) reads as follows "According to our records Mr. has right on this plot no.... at Oneshila, but the plot in question is not yet proclaimed. The plot is still a part of Portion of Erf 1373, Extension2-Oshakati. He has the right to develop the above erf." Only such plots are eligible for the construction of services (individual water, sewerage and electricity connections). It is not clear if legal or statutory instrument is applied, therefore, such arrangements are called undefined council leases in this paper, in short council leases. In order to get an idea of the ratio between informal and illegal settlers, Urban Dynamics (2001) estimated the number of households in legal informal settlements as 4120, and the number in illegal informal settlements as 875.

During the formalization as executed within OHSIP, the idea of a flexible tenure system (FLTS) was born and partly implemented, which attracted national and international attention as it promises to provide tenure security for the poor.

Tenure related projects

As formal access to land is difficult for the poor, they can decide to acquire land informally. If they organize a group, they have better opportunities to acquire land through negotiations with the local authority. An example are the so-called saving schemes, which will be discussed in the next section.

Flexible Land Tenure System (FLTS)

Lack of affordable freehold land is mentioned as the key problem for the delivery of land to people with low income. To overcome this problem, a second property registration system was proposed, which is parallel to and interchangeable with the existing system. Such a system should provide an affordable, more secure, but simple right, which can be upgraded according to what the government can afford at any given time (Christensen et al, 1997).

³ On the evaluation of CDC's reference is made to Frayne et al. (not dated).



FLTS can only be applied within proclaimed villages, settlements and towns. It cannot be applied on Communal Lands⁴. The FLTS can be applied in upgrading existing settlements and in developing new settlements (see figure 3).

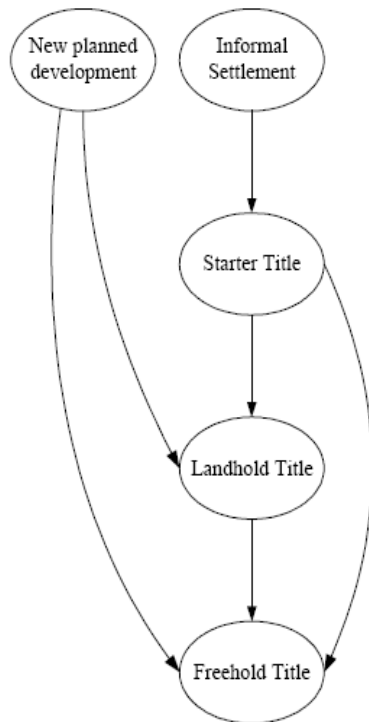


Figure 3 Principle of FLTS (Christensen et al, 1997)

The FLTS introduces two new subtenures:

1. starter title: a statutory form of tenure registered in respect of a block of land (blockerf);
2. landhold title: a statutory form of tenure with all of the most important aspects of freehold ownership but without the complications of full ownership.

The starter title is given within a block, without delimiting the extent of each individual plot. The blockerf may be held in ownership with a government body, community organization (group, association) or even private developer. The whole block is registered as a single entity in freehold ownership both at the Registration of Deeds in Windhoek and the Local Land Right Office⁵ (LRO) (article 13.2, FLTS Bill, 2006). All (potential) inhabitants of the block have to form an association with a Constitution. The maximum size of a group is set at 100 members (or households). Within the block, the starter titleholder must abide by the rules set up by the association. The starter title is transferable; it cannot be used as collateral for credit. The blockerf is surveyed by professional land surveyors. The landhold title relates to defined plots for individuals. The LRO registers the landhold

⁴ In Communal Lands, communal land titles are issued through the Communal Land Reform Act.

⁵ In earlier drafts FLTS (and related publications) referred to Local Property Offices, however, these offices deal with freehold tenure. For that reason, the FLTS draft was changed and the office was renamed the Local Rights Office.



titles and are under the responsibility of the MLR and located at the local authority. The cadastral layout is done by a land measurer. At this stage, there is no intervention from the Ministry of Lands. In addition, the landhold title can be used as collateral for credit and is, with respect to credit facilities, comparable to freehold. In order to upgrade to freehold, no resurvey is needed, the conversion from landhold to freehold would be less costly compared to start with freehold directly. In order to upgrade, at least 75% of the members have to agree. The local authority may compensate the ones who refuse to upgrade and sell the erven to interested outsiders.

The FLTS pilots has been piloted during the OHSIP project, in existing settlements, and from 2000 onwards, in order to test its feasibility, in existing settlements and on vacant urban land. Although formalization of existing settlements were out of scope of the research, it was decided to interview people and CDC-members who did participate in the OHSIP-project to find out how the ideas of the FLTS materialized.

During the OHSIP-project, two pilots were carried out in Oshakati (Gold, 2006) and one in Rundu. These pilots were especially aimed to specify the technicalities of the surveying exercise. The settlements were surveyed and plots were demarcated. It is not clear whether some kind of documentary evidence was given to the households, the statements of experts and inhabitants contradict on this matter. Two respondents mentioned to pay land rent, 12 N\$ monthly. Most respondents felt confident after the project, one was aware of the announcement of the possible relocation of informal settlements to higher grounds. Surprisingly, some CDC-members did not know of the FLTS.

The pilots from 2000 and onwards in Oshakati have been carried out by the land surveyor who is seconded from MLR to OTC. He has been involved in four FLTS-pilots (Ompumbo, Evululuko, Okandjengedi-South, Okanjengedi-North). In total approximately 2000 plots have been surveyed. In these pilots, no association has been set up nor starter title has been issued. Individual 'landhold' plots were surveyed directly from the start. As FLTS is still drafted as a Bill (4th version, 2006) and has not been enacted yet⁶, no formal arrangements could be made after the pilots. No title certificates have been issued, and cadastral maps have not been maintained (Hackenborch et al, 2005). So the pilots were more or less surveying exercises, to be prepared for an eventual enactment of FLTS. (Hackenborch et al, 2005) estimate that between 3600 and 5400 households are eligible for titling under FLTS (whereas 2000 as said have been surveyed already, but need registration).

Although the pilots did not cover all aspect of FLTS, the people involved did enjoy the results of the exercise. Some people got permission to build permanent structures after the land was surveyed. People paid charges to OTC, although not all of them paid land rent. Especially the water bill was regarded as a solid proof of ownership by one respondent.

Saving schemes

Saving schemes are community based organizations to improve the livelihoods of its members. The members have to pay fixed contributions as savings on a regular basis. A saving scheme can have various aims, like supporting small businesses or providing access to land and supporting housing development. They operate both in urban and rural areas. Saving schemes may be linked to umbrella

⁶ The Bill has been sent to Parliament in December 2009 <http://www.hellonam.com/news-politics/68746-cabinet-decisions-8-december-2009-a.html>.



organizations, of which Namibia Housing Action Group (NHAG) and Shack Dweller Federation of Namibia (SDFN) are the largest. The Namibia Housing Action Group (NHAG) was established in 1992 as an umbrella organization for low-income housing groups (LAC, 2005). SDFN⁷ started in 1998 with 30 saving schemes from NHAG (UN Habitat, 2005). It was decided to separate support (technical, legal and financial) through NHAG from community organization and empowerment through SDFN.

From the latest available annual report, the following information is relevant for this research (SDFN/NHAG, 2009):

- In 2008, there were 587 SDFN saving schemes (138 in Windhoek), representing around 18,000 members. As for saving schemes in general, SDFN saving groups may have other objectives than providing access to land and/or that they are located in rural areas.
- In some regions, the number of members decreased, which is ascribed the slow land delivery processes in these regions causing impatience and withdrawals from the saving groups.
- The total value of savings in 2008 was reported to be N\$ 4.8 mln (US\$ 375,000), of which 44% were land savings.
- SDFN also manages a Loan Fund (Twahangana Fund). In 2008, 317 beneficiaries received a total of housing loans of about N\$ 5.6mln (US\$ 440,000).
- In the same year 3,530 members have secured tenure in Namibia, mostly on the basis of community managed land tenure.

The general procedure described for a SDFN saving scheme dealing with land and housing development is as follows: A saving group start when a community is formed after one or more meetings. All members have to sign a constitution, which regulate the group's affairs and describe each member's rights and duties. The scheme will apply for a group erf from the council. This erf will be delivered either as freehold plot (which makes it comparable to blockerf within FLTS) or as council land. Members will sign an agreement for property rights with the association. A layout planning is made and the plots are surveyed. The Land Committee of the association will allocate the plots to its members. The members can then apply for a loan (either through (Twahangana Fund or other funds). When the loans are issued, every member can build their own house. At the last stage, services should be provided, either by the council or by the members themselves.

In Oshakati there are 18 SDFN saving schemes, with 13 to 79 members per schemes. Some members are trained in FLTS-principles, they try to use it in their projects. However, the coordinator explained that for most people it is not easy to understand: "The understanding of people is poor". There is one saving scheme in Oshakati which dealt with access to land. The members of this saving scheme originated from other groups and formed a new one to develop their own area. The saving group got a block of land from OTC and with help from NHA and the MLR land surveyor at OTC, a plan with individual plots was made. The block is intended to be registered as freehold, however it was not done at the time of the fieldwork. The savings scheme holds weekly meetings to discuss all matters concerning the scheme. Therefore, people are well informed and consequently they gave homogenous answers to most of the questions.

The respondents from the saving scheme did not pay land rent, only water bills and sometimes waste collection was mentioned. However they said that other people in the settlement did pay land rent. The

⁷ According to Standard Bank, annual audited financial reports for the SDFN have consistently shown an absence of financial mismanagement since its start (The Namibian, 18/11/08)



members of the saving scheme got building permission from OTC. The document was for many respondents an important proof of ownership of the building.

Fear of relocation was especially strongly articulated within the saving scheme. Building permission was given before the severe flooding in 2008. When media announced the council's decision that people living in flood prone areas would be relocated to higher grounds, members of the saving scheme consulted SDFN. SDFN requested more information from the Council. Council replied in September 2008 and acknowledged the possible relocation of flood prone areas in informal settlements. Despite the ban on construction in informal settlements, people of the saving scheme continued to build and moved in their house in the period between August-November 2008. At the time of the interviews, some people were still finishing their houses.

Analysis

The tenure systems in the peri-urban areas have been influenced by the following developments:

- Conversion of customary tenure;
- Relocation of illegal settlers (FLTS);
- Formalization in existing settlements (both OHSIP and FLTS);
- Urban development (saving scheme, FLTS).

As a result, the following tenure regimes in Oshakati can be distinguished:

1. formal:
 - freehold;
 - ruled by laws and policies concerning land survey and registration and urban planning;
 - permanent buildings.
2. informal:
 - managed by OTC;
 - undefined council lease;
 - land may be surveyed during OHSIP or FLTS, the land survey is mainly aimed at a proper layout;
 - permanent buildings are possible in general, in some relocation areas, permanent buildings are not allowed;
 - in existing settlements or urban expansions (being permanent urban extensions or temporary relocation areas);
 - people pay land rent and/or other charges to OTC.
3. saving scheme:
 - on council land;
 - private land arrangement with saving scheme association;
 - people did not land rent at the moment of the fieldwork, only water charges were paid to OTC;
 - permanent house with building approval;
4. informal with customary influences:
 - recognized by OTC;
 - undefined council lease;
 - existing homesteads;
 - people pay land rent to OTC;
 - can be surveyed or registered as it fits in a new plan;
 - relocated and compensated when land is needed for urban expansion.



5. illegal:

- not recognized by OTC;
- mainly shacks;
- people do not pay charges to OTC.

Table 2 summarizes the relation between land tenure and tenure security through the continuum of land rights. As homesteads were not interviewed and formal areas were out of the scope of the research, they are not included in the table. Existing informal settlements were also out of scope, only the FLTS-pilots were investigated. Concerning informal tenure, there is a wide range in recognition by OTC, through administering house numbers, through surveying plots, through allowing permanent building, through raising land rent and other charges. These variations might result in variations in perceptions of tenure security as well. The legal tenure security for the undefined council leases is determined as low, as the undefined council lease is not defined in national laws and regulations.

	Illegal	FLTS-pilots (council lease)	Saving scheme (council lease)
Perceived tenure security	Little: people feel not recognized, fear of being relocated	Sufficient; although fear of being relocated due to flooding risk	High because of development approval and land right agreement; although fear of being relocated due to flooding risk
Legal tenure security	None	Low	Low

Table 2 Continuum of land rights in peri-urban Oshakati

FLTS and saving schemes are both community based systems. Potential land holders have to join the community involved. The community is the base for its success, as is proved with the savings scheme. Because of the savings, which are collected almost daily, and the weekly meetings, people are informed and help each other. People are also stimulated to share experiences with other saving schemes, at regional, national and international level. For settlers, who want to settle individually, they can either settle illegally or approach OTC for the (unlikely) provision of plots (either freehold or council lease).

Conclusions

OTC tries, with the limited resources available, to provide tenure security and development opportunities to its inhabitants. Because the formal procedures are too expensive and too lengthy, OTC has resorted to some kind of informal planning system, through which 'simple' layouting and surveying, plots are created. Based on such plots, permission for the construction of permanent buildings can be given and council charges for land and other services can be collected. However, OTC can not fully cope with the continuing influx of illegal settlers and the already existing non-formalized settlers.

Within the peri-urban areas in Oshakati, there has been no complete implementation of land registration systems. Only layouting and land surveying have been carried out in some parts. This resulted in higher levels of perceived tenure security among the beneficiaries. On the other hand, the



announcement by OTC that all areas in informal settlements which are prone to flooding could be relocated, had the opposite effect.

The saving scheme has been successful in terms of the provision of land and housing to the poor. Through the provision of the land to the scheme, the land rights agreement between the association and each individual, the provision of loans and the development permission issued, people managed to develop their own house in a secure way. However, the danger of relocation did negative effects on the perception of tenure security. Because no freehold title had been issued, the legal security is regarded to be low. With freehold, the group would have a stronger position against relocation, although an objective assessment on flooding risk for the area is still required. Saving schemes can not be seen as an overall solution, as their numbers are too small and depend on the individual's initiative and willingness to join a saving group.

The FLTS-pilots have contributed to the peri-urban development as is described through the informal planning system. Till now, only the surveying part of FLTS has been successfully applied. FLTS can, when enacted, fill the legal gap in formalization which currently exists at OTC. In addition, it will increase the level of legal tenure security. Concerning an eventual implementation, many challenges are waiting ahead, to mention a few:

- it is questionable if all existing settlements can be formalized through FLTS. Many blockerven haven't to be registered as freehold, all settlers within a blockerf should join the starter or land hold association to be able to participate. This also holds for the FLTS-pilots which have been carried out, no associations have been formed. In case the layout of erven have to be adjusted, there are no rules and regulations designed yet.
- the establishment of Local Property Offices (funding, personnel, equipment, etc).

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