

PARTNERSHIP IN INFORMAL TENURE UPGRADES

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Abstract

Most urban dwellers in Sub-Saharan Africa live in informal settlements with inadequate water, sanitation, transport, electricity, health services and other social amenities. The need for upgrading such settlements cannot be over emphasised. However, upgrading of informal settlement is a costly exercise and need the concerted efforts of all stakeholders. Although each stakeholder has a specific role to play, sustainable upgrade require a partnership approach. Partnership should be based on principles of equity, economy, efficiency, flexibility and participation. The informal community should be seen as equal partners and their views and suggestions should be respected. Central government should put in place necessary legislation to empower local authorities who could work closely with the informal community, NGOs and private sector organizations to ensure sustainable upgrades. This paper will provide an overview of partnership techniques and how they can be used in sustainable informal tenure upgrades, drawing on the experiences of an upgrading of tenure at Groutville, South Africa.

Background

Groutville was established as a mission in 1845 and a deed of grant was granted to the mission in 1856. It was one of the few mission reserves in which blacks were granted freehold. However, the introduction of discriminating laws, led to the Mission being declared a Reserves and becoming densely populated with great pressure on land. This led to informal rentals, shack farming and other informal activities all in contravention of existing rules and regulations. This situation created diverse *de facto* land rights against the underlying *de jure* rights. People who had *de facto* rights could be evicted forcefully without any legal protection and the insecurity of tenure that ensued prevented *de facto* right holders from investing in the land. The need for upgrading was obvious.

The government of National Unity, after the dismantling of apartheid in 1994, decided to upgrade tenure for those who had been disadvantaged by past government laws and as a result had inferior tenure. Land tenure upgrade is to contribute to reconciliation and stability and to ensure growth and development in a sustainable way. The Chief Albert Luthuli Land Reform Project in Groutville is an example of this policy.

The upgrading process in Groutville was based on public-private partnership. The central government paid the cost of the tenure upgrade but the local governments was responsible for the upgrading process. The local authority, on the other hand, entrusted the execution of the upgrade programme to a private consortium, Land Data Services, who used their expertise in carrying out all aspects of the upgrade. This relieved the local authority of the use of its scarce human resources and time. This partnership was further strengthened by the employment of respected community members as project cadets by Land Data Services. These cadets saw to the day to day running of the field office, acting as local land administrators. The co-operation of the local authority, the private consultants and the community contributed greatly to the success of the upgrade programme and confirms international literature on the need for partnership approaches in upgrades.

The community participated in the upgrade project in diverse ways. They were involved in the household definition plan, their approval was sought before the final approval of the partition plan, and they also had to give their consent about the general plan before its submission to the Surveyor-General's office for final approval. Community leaders and cadets were trained in conflict resolution and were actively engaged in conflict resolution, through the use of assisted negotiation. The involvement of the community in conflict resolution saved cost and time by avoiding the use of the courts of law, which is a major cause of delay to land delivery.

Partnerships

Cooperation between the private and public sectors is crucial for the development of national geospatial information which is fundamental for sustainable development. However, in Sub-Saharan Africa majority of urban dwellers live in slums, with little or no information. Upgrading of slums will ensure availability of geospatial information and leads to social and economic development.

Neither the public nor private sector on its own is able to address the problem of housing the increasing urban population. This realisation paves the way for innovative approaches, by which the role and relationships of the two sectors, together with NGOs and community based organisations (CBOs) can be transformed (Payne, 1999; Dewar, 1999). It is now generally accepted throughout the world that direct government supply of land and housing or the upgrading of informal settlements has proved ineffective in meeting the various needs at the scales required (Payne, 1999). Increased globalisation of the world's economy reduces public sector options in controlling the land market, and makes some form of partnership the only viable option for influencing the urban land market. Again, the private sector is more efficient in achieving high level of cost recovery

in upgrades than public sector agencies. This is because many people in Sub-Saharan Africa are of the view that it is the responsibility of government to help the less affluent and therefore they are not obligated to repay the cost of upgrades if carried out by government. For these reasons, the UN-HABITAT strongly advocates a partnership approach between the public and private sectors in upgrades and other land management issues (UNCHS, 1996 a, b; UNCHS, 1995; Payne, 1999). Some of the roles of the various agencies are outlined below.

Public authorities

In this context public authorities include bodies at central and local government levels, sub-municipal bodies and parastatal agencies.

The New Delhi Declaration of United Nations Centre for Human Settlement observed a new role for governments in providing access to land and security of tenure. This is to inspire, enable and facilitate formal private sector initiative through appropriate policy framework rather than to be involved in project implementation (UNCHS, 1996b). Private sector organisations engaged in upgrading and providing essential services could be given tax relief as an incentive. Public authorities could create an enabling environment for financial institutions to improve access to credit for NGOs or CBOs during upgrades.

Central government should create policy and administrative framework within which local authorities can create a range of partnerships to suite local condition during upgrades. “Effective and equitable partnership and development processes are best accomplished by a robust and vibrant civil society and accountable and consultative government” (Beall, 1997, 21). Payne (1997) cautions that failure to adapt the administrative systems would render partnership more of public relations exercise than a transformation of government roles in land development and upgrades. Regulatory framework should be put in place to reform the inefficient, slow and expensive legal systems so that conflicts arising out of partnerships during upgrades can be resolved speedily.

The United Nations Centre for Human Settlement (UNCHS, 1996b) argues that central governments should define and formulate national policies and provide legal and administrative frameworks to ensure the smooth operation of local governments. Also, the roles and functions that are decentralised should be specified and backed by legislation which will give the local authority the necessary legal powers to carry out its own development initiatives. UNCHS (1995) argues that land regularisation and management does not only require the establishment of appropriate legal regulatory framework at the national level but also the streamlining of judicial procedures and the revision of outdated legislation and regulation at all levels. This will ensure that central government institutions will not interfere with the decision of decentralised local government. Decentralisation is important because each area in a country is unique with its own problems and opportunities. Thus different informal settlements in different locations of the same city will have different problems and therefore will require different

approaches to their upgrades. Decentralised local administration would involve local communities in planning and implementation of programmes.

Community

The involvement of the community is crucial for sustainable informal upgrade. They should be involved in every decision affecting the upgrade because the “only people who can define and solve problems of development and poverty are those whose lives are conditioned by them” (Sikhakhane, 1997, 4). UNCHS (1995) argues that upgrading should be a response to the expressed demand of the informal community and therefore their diagnoses, request and suggestions must be respected. Burkey (1993) sees participation as the true form of democracy and the only way in which the individual can become fully integrated with society. Schmalzbauer (1997) goes further and argues that in the face of diminishing basic service provision and state support, participation has also become a survival strategy. Thus when the government steps out of the provider role, the community has been encouraged to step in.

Burkey (1993: 207) defines participatory development as an “educational and empowering process in which people, in partnership with each other and with those able to assist them identify problems, mobilise resources and assume responsibility themselves to plan, manage, control and assess the individual and collective actions that they themselves decide upon” (Burkey, 1993, 205). Participatory development of this kind with community empowerment and mobilisation is essential in ensuring sustaining upgrades. The need for education, transparency, dialogue and negotiation in community participation in upgrades is emphasised.

True participatory developments should be educational. There should be multidirectional exchange of knowledge between individual groups, such as residents of informal settlements being upgraded, and external institutions, such as the local authorities or NGOs, as they interact, and such interaction should be characterised by self-awareness and mutual respect. The educational process should be continuous and should affect every individual in the community. Van der Waldt and Knipe isolate three types of knowledge that are essential for every individual in the community for development (1998). These are social knowledge, scientific knowledge and transformational knowledge. Social knowledge is acquired and processed by individuals through their daily association with other people and institutions. The local land tenure system in an informal settlement is an example of this. Scientific knowledge is the knowledge acquired when solutions to problems are based on facts, like the cadastral information about an informal settlement. Transformational knowledge is gained as a result of interaction between social and scientific knowledge when people extend their knowledge in an effort to improve their situation and to raise the level of their community or institution.

Transformational knowledge is necessary in upgrades since it helps the community to make an active contribution to its own development. Awareness by the community of their conditions and the problems they experience and the solutions open to them stimulates them to participate more easily in the upgrade. Thus in the upgrade of tenure,

the community should be educated on all matters concerning the upgrade and this education should guide them in deciding what type of tenure and services they need and their views and opinions should be respected. This involvement may be time-consuming but in the end the upgrading will be sustainable. During the upgrading, problems and needs must be identified by the intended beneficiaries and must not be assumed to exist by external agents or officials. The informal settlers' perceptions of their conditions are different from the perception of outsiders, however sympathetic they may be, and it is only the settlers' perception that should form the basis for any analysis. Community participation will also ensure collective action, which is necessary to achieve empowerment and to address problems requiring resources beyond the means of individuals, like soliciting funds for the upgrades and prior to that, political recognition of the settlement and fighting against demolishing or eviction.

NGOs

Non-Governmental Organisations (NGOs) are normally non-profit organisations which may comprise local, national and international groups or individuals who among other things work for “sustainable human settlements development and the provision of adequate shelter for all...” (UNCHS, 1996a, 19). They are very useful in tenure upgrade and land management generally. Prior to upgrades, NGOs mobilise communities and local resources (UNCHS, 1991). NGOs may educate the community concerning upgrade issues, thereby building capacity in the informal residents. They may also act as intermediaries between public sector agencies and the informal settlers and / or private landowners and informal settlers in acquiring land for upgrades (Farvacque and McAuslan, 1992; UNCHS, 1996a). They operate partly within and partly outside the official system of land management and so can win the confidence of both officials and communities, thereby closing the gap between them.

Lack of funds or inability to recover cost of upgrades by national or local government has been a major drawback in upgrading of informal settlements. NGOs, however, have been very successful in raising funds for upgrades (Hardoy and Satterthwaite, 1995; UNCHS, 1991). NGOs can act as intermediaries between communities, organisations, and international institutions in funding upgrades. NGOs could organise small saving groups based at neighbourhood level and raise money for upgrading purposes (Pimple and John 1999). Hardoy and Satterthwaite (1995) argue that NGOs can match private enterprises on cost records in cost recovery and most of the time provide cheaper services, since they are non-profit making. Apart from the mobilisation of funds for upgrades they could also mobilise the community for self help projects during upgrades.

NGOs and CBOs with the co-operation of local government can tackle some of the problems facing informal settlements. For example, joint efforts can be set up in re-designing existing settlements so that pipes, drains and access roads can be installed and space made for schools and other services during and after the upgrades. They could also drain stagnant pools, clear weeds and maintain facilities.

The New Delhi Declaration of the United Nation Centre for Human Settlements (UNCHS, 1996b) calls for effective mediation by NGOs in bridging the interests of community, government and private sector actors in view of the variety of motivations that drive the actions of various players in the land market. The involvement of NGOs in articulating positions for negotiation in public-private partnerships should be promoted, and they should redress issues of conflict and negotiate agreement among partners. NGOs can provide professionals to be used in resolving conflicts between the various stakeholders during upgrades. They may formulate local plans with CBOs that conform to local needs and expectations and meet basic health and safety needs that are required by local government, during upgrades.

Lack of adequate and current information was noted as a problem for the upgrade in Groutville. This problem is compounded by lack of research and development capacity among local authorities. NGOs could be of assistance in fact-finding missions, compiling maps, making use of their skills to undertake research and documentation and drawing up proposals for upgrading of informal settlements (Pimple and John, 1999). The presence of an NGO in Groutville to research into the land right situation would have produced current and accurate information which would have reduced conflict and saved time and consequently reduced the cost of the upgrade.

Recipe for successful partnerships

UNCHS (1996b) argues that partnership should be based on principles of equity, economy, efficiency, flexibility and participation. In selecting partners for informal settlement upgrades, competency and efficiency and not political affiliations should be the motivation factors. Dewar (1999) warns against political interference as a result of public bodies participating in land and housing partnerships. Partnership relationships must be politically neutral. The community should be seen as equal partners and their contributions and suggestions towards the upgrade respected. In this way, they will embrace the outcome of the upgrade and work towards its maintenance.

While self-interest is an essential element, partnership should be seen as offering each party benefits that can not be achieved when operating independently. “The essential quality that partnership embody is that of complementarity, in which the relative strengths and weaknesses of each partner are offset against each other to produce developments which combine the best attributes of each” (Payne, 1999, 8). In other words, partnership should ensure development that is economically efficient, socially responsive and environmentally sustainable. For example, local government may find it easier and more profitable during upgrades to relax regulations and official standards than to change them, so that private developers can develop land at standards they can afford. Local governments could also turn blind eyes on informal subdivisions and provide settlements with services. Such actions are more effective in helping the urban poor than direct state provision.

Partners should understand and acknowledge the legitimate interest of others. For example, based on the Groutville upgrade; the public sector's interest is to protect the wider public interest and particularly the needs of vulnerable groups and also to raise revenue through property taxes. The primary interest of the private sector (landowners and consultants) is to maximise returns on investment and minimise cost and risk. For commercial developers investment depends on finance, while with NGOs investments depend on social and political terms. The community will be seeking secure and affordable tenure. With such diverse interests, partnership is the best option for guaranteeing successful outcomes for the various actors after open dialogue and reaching a compromise.

Accountability and transparency are crucial in upgrading partnership arrangements (UNCHS, 1996b; Payne, 1999). As the Groutville case study showed, the community not only would want to know and scrutinise the list of beneficiaries but would also want to know why roads are 15m not 0.5m like the normal African paths. Successful partnerships need not be equal in terms of investment or efforts. There is, however, the need for each partner to contribute something distinctive towards a common goal. This could be land right holders marking their plot corners, community leaders engaging in conflict resolution, paraprofessionals surveying and registering land rights and the community engaging in the provision of infrastructure services, all of which result in the upgrading of tenure. Partners, however, should bear the risk of the project together and share profits accordingly. Partnership in upgrades should be achieved through unity in diversity.

Successful partnership depends on the willingness of all partners to co-operate with each other. Weaker partners should take risks rather than refuse partnership arrangement on the grounds that they might potentially be co-opted, and stronger partners should not take undue advantage of weaker ones.

Conclusion

Partnership is a process of working together in mutually interdependent fashion, often with shared responsibilities. A successful partnership ensures each partner derives something beneficial and gains access to something that it does not have from the other partner. There should be a common agenda and goal even if the interest, benefit and powers of partners differ. Partnerships are crucial for successful tenure upgrades.

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