Land for housing in African cities: are informal delivery systems institutionally robust and pro-poor?

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Aims of the research

- to improve understanding of informal urban land delivery systems
- to increase understanding of the institutions (formal state law and informal social rules) that underpin land transactions and disputes
- to assess the strengths and weaknesses of alternative land delivery systems
- to identify and explore implications for policy
Hypotheses

- The success of informal land delivery systems is due to their:
  - practical attributes
  - social legitimacy

- As urban development proceeds, the informal institutions that regulate land transactions and use change:
  - over time, including borrowing from formal rules
  - between residential areas depending on their stage of development
  - may break down.
Case study cities

Criteria for selection:

- Anglophone
- Different
  - colonial & post-colonial policies
  - governance arrangements & experiences
- Medium sized cities

- Eldoret, Kenya: Rose Musyoka
- Kampala, Uganda: Emmanuel Nkurunziza
- Enugu, Nigeria: Cosmas Uche Ikejiofor
- Gaborone, Botswana: Faustin Kalabamu and S Morolong
- Maseru, Lesotho: Clement R Leduka
- (Lusaka, Zambia: Chileshe L Mulenga)
Methodological approach

- City level analysis
- 3 residential settlements
  - Peripheral developing
  - Partly consolidated
  - Consolidated/inner city
- Secondary sources
- Primary data:
  - Sample surveys of plot holders
  - Key informant interviews
  - Focus group discussions
- Court records
Channels of land delivery for housing

- Approach to analysis: identification & assessment of all the main channels of land delivery for new development, especially for low income groups, moving from most formal to least formal

- Criteria for assessing strengths & weaknesses
  - Scale
  - Cost to those seeking land
  - Security of tenure
  - Access to disadvantaged groups, especially the poor and women
  - Service provision
  - Dispute resolution
Main conclusions

- It is no longer possible for poor households to access land + relatively minor exceptions
  - Members of indigenous landowning communities in Enugu
  - Settlers in wetland areas in Kampala
  - People who pool resources to buy part-shares in landbuying companies in Eldoret
  - Allocation of customary land or serviced plots in Gaborone

- Majority obtain land through purchase
  - Sales of customary land (Maseru, Enugu, Botswana)
  - Informal subdivision by land buying companies (Eldoret)
  - Informal subdivision by mailo owners & tenants (Kampala)
a) Purchase of land through the market

- Eldoret – dominant for all income groups – informal subdivision by landbuying companies

- Kampala – dominant for all income groups, subdivision by mailo owners and tenants
Purchase of land through the market

**Strengths**

- Significant supply
- Affords some access for the poor
- Letters of agreement generally witnessed, respected & recognised in application for title
- Access by women + means
- Disputes often resolved by Local Councils (Kampala) or elders (Eldoret)
- Trust between shareholders in landbuying cos based on shared ethnic origin

**Weaknesses**

- Insignificant in some
- Not to the poorest
- Possibility for multiple sales using different witnesses
- Record keeping by lowest level of gov’t poor (Kampala)
- Married women constrained by social rules & customs
- LCs/elders may be partial/corrupt
- Excludes other ethnic groups from membership (Eldoret)
b) Delivery through state-sanctioned channels

- Botswana Land Boards
  - customary land vested in boards on behalf of citizens for allocation to individuals
  - Issue customary land certificate for indefinite period
## Delivery through state-sanctioned channels

<table>
<thead>
<tr>
<th><strong>Strengths</strong></th>
<th><strong>Weaknesses</strong></th>
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<tbody>
<tr>
<td>- Significant land supply</td>
<td>- Acquisition of land hindered by disputes over compensation</td>
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<tr>
<td>- Security of tenure</td>
<td>- Requirements for survey + servicing prior to allocation restricts supply</td>
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<td>- Women heads entitled, + in theory married women</td>
<td>- Excess demand strains capacity and encourages unofficial payments</td>
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<td>- Married women don’t get in practice without permission of husband</td>
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c) Delivery of customary land to members of the group

- Maseru
- Enugu
Delivery of customary land to members of the group

**Strengths**

- Often free
- Access to poor members of the group
- Security of tenure to men
- Fast
- Institutions widely understood & generally respected within the group
- Dispute resolution mechanisms generally effective & respected

**Weaknesses**

- Access to women only through men
- Contribution to new land supply declining
- Limited supply for members of groups owning land in built-up area (Enugu)
d) Purchase of customary land

- Maseru – predominant & open
- Enugu – predominant (also formal layouts)
- Kampala – significant
- Gaborone – significant (predominant in peripheral areas, but disguised as inheritance)
**Purchase of customary land**

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<tr>
<td>n Significant supply</td>
<td>n Possibilities for multiple sales of same plot</td>
</tr>
<tr>
<td>n Provides access to land to non-members of group (and members)</td>
<td>n Gov’t intervention may restrict supply (Gaborone)</td>
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<td>n Relatively cheap</td>
<td>n Market price restricts access by poor</td>
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<td>n Facilitates access to land for women</td>
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<tr>
<td>n Degree of security varies</td>
<td>n Insecure, especially if sales have to be concealed or evictions anywhere in progress</td>
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Purchase of customary land

**Strengths**

- Efficiency of market increases as institutions emerge
  - to improve information flows (brokers – Kampala, Enugu)
  - to provide written evidence of transactions
- Formal legal system accepts these types of written evidence
- Institutions supporting system widely understood

**Weaknesses**

- Systems of keeping records undeveloped
- Documents not always valid/trusted – try to upgrade to state-sanctioned titles (Enugu)
e) Self allocation

- **Kampala** – wetlands
  - Strength – immediate free access by the poor
  - Weaknesses
    - Later subdivided for sale – illegal sales of government land
    - Poor environmental conditions
    - Unserviced & often difficult to service
    - Insecure

- **Maseru** – of family land, by women, small numbers

- **Gaborone** – limited, of family land, in peripheral customary area (though term used by government to express disapproval of informal subdivision)
Main conclusions

Informal land delivery systems are
- a response to failure of the formal system + low levels of compensation when land is appropriated
- often effective in delivering land for housing, due to their characteristics and social legitimacy

Institutions (social rules) that regulate transactions tend to be derived from customary institutions, but these
- have changed over time
- borrow from and mimic formal rules and procedures
- take advantage of formal rules (especially ambiguities and inconsistencies in them) where possible
- when they weaken, actors seek to use formal institutions: state law - courts, title
Main conclusions (cont)

- Main supply of land for housing is generally through informal systems, but
- It is no longer possible for poor households to access land for new residential building + minor exceptions
- For many new households, especially the poor, the only way of accessing urban property is through parents
  - plot sharing or subdivision
  - inheritance, scope for which will decrease in future as plots become too small
Main conclusions (cont)

Informal delivery systems have both

- Strengths: provide significant supply of land to various groups, sometimes including relatively poor & women, and

- Weaknesses:
  - sometimes poorly located & planned
  - generally inadequately serviced

Their contribution is constrained by their relationship with the formal system and government, as much as by their own shortcomings
Policy implications

- Informal land delivery systems should be tolerated and accommodated, but
  - Weaknesses identified and addressed
  - Strengths identified and enhanced
- Main threat to wider security of tenure often evictions by government, so it should desist
- Security can be enhanced by accepting documentation innovations in informal systems –
  - Popularly understood
  - Cheap and procedurally simple
Policy implications

- Recognition can contribute to
  - Service provision (via cost recovery)
  - Revenue generation for local authority

- Recognition and acceptance should be designed so that, wherever possible, the poor are not further disadvantaged

- Legislation needs to be revised and formal land administration decentralised, in order to build on the strengths and address the weaknesses of informal systems in a local context

- Adequate compensation when land is expropriated would improve relationships between government and actors in informal systems