

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



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Aims of the research

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



Hypotheses

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

n Anglophone

n different

- colonial & post-colonial policies

- governance arrangements & experiences

n medium sized cities

n Eldoret, Kenya: *Rose Musyoka*

n Kampala, Uganda: *Emmanuel Nkurunziza*

n Enugu, Nigeria: *Cosmas Uche Ikejiofor*

n Gaborone, Botswana: *Faustin Kalabamu and S Morolong*

n Maseru, Lesotho: *Clement R Leduka*

n (Lusaka, Zambia: *Chileshe L Mulenga*)



Methodological approach

n city level analysis

n 3 residential settlements

- peripheral developing
- partly consolidated
- consolidated/ inner city

n secondary sources

n primary data:

- sample surveys of plotholders
- key informant interviews
- focus group discussions

n court records



Channels of land delivery for housing

- n 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
- n 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

- n 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

- n 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

- n Eldoret – dominant for all income groups – informal subdivision by landbuying companies
- n Kampala – dominant for all income groups, subdivision by mailo owners and tenants



Purchase of land through the market

Strengths

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

Weaknesses

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



b) Delivery through state-sanctioned channels

n 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

Strengths

- n Significant land supply
- n Security of tenure
- n Women heads entitled, + in theory married women

Weaknesses

- n Acquisition of land hindered by disputes over compensation
- n Requirements for survey + servicing prior to allocation restricts supply
- n Excess demand strains capacity and encourages unofficial payments
- n Married women don't get in practice without permission of husband



c) Delivery of customary land to members of the group

n Maseru

n Enugu



Delivery of customary land to members of the group

Strengths

- n Often free
- n Access to poor members of the group
- n Security of tenure to men

- n Fast
- n Institutions widely understood & generally respected within the group
- n Dispute resolution mechanisms generally effective & respected

Weaknesses

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



d) Purchase of customary land

- n Maseru – predominant & open
- n Enugu – predominant (also formal layouts)
- n Kampala – significant
- n Gaborone – significant (predominant in peripheral areas, but disguised as inheritance)



Purchase of customary land

Strengths

- n Significant supply
- n Provides access to land to non-members of group (and members)
- n Relatively cheap
- n Facilitates access to land for women
- n Degree of security varies

Weaknesses

- n Possibilities for multiple sales of same plot
- n Gov't intervention may restrict supply (Gaborone)
- n Market price restricts access by poor
- n Insecure, especially if sales have to be concealed or evictions anywhere in progress



Purchase of customary land

Strengths

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

Weaknesses

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



e) Self allocation

n *Kampala* – wetlands

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

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

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



Main conclusions

- n 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

- n 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)

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



Main conclusions (cont)

§ Informal delivery systems have both

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

Ø 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

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



Policy implications

- n Recognition can contribute to
 - Service provision (via cost recovery)
 - Revenue generation for local authority
- n Recognition and acceptance should be designed so that, wherever possible, the poor are not further disadvantaged
- n 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
- n Adequate compensation when land is expropriated would improve relationships between government and actors in informal systems

