TRADING PLACES

Accessing Land in African Cities

Mark Napier, Stephen Berrisford,
Caroline Wanjiku Kihato,
Rob McGaffin and Lauren Royston

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This book provides an analytical perspective that is rigorously informed by detailed empirical work, and offers policy advice that is pragmatically grounded in the realities of governance and everyday urban life. *Trading Places* provides no quick fix, but rather a perspective that allows us to 'cope with complexity' and a set of proposals to progressively reshape the relationship between the market, the state, and the urban poor. It requires us to be 'more nuanced, more incremental, more patient', but offers us the hope that this approach will lead to land markets that will work more equitably and to state interventions that are more responsive to the lives and needs of the urban poor.

Trading Places provokes us to think differently, but also leaves us with a new sense of optimism. I congratulate Urban LandMark for this publication, and for the many other contributions it has made over the past seven years. May its influence expand and may this lead to real change in the lives of those presently living in poverty in cities across Africa.

Prof. Philip Harrison, South African Research Chair in Development Planning and Modelling, School of Architecture and Planning: University of the Witwatersrand

Fresh and surprising insights based on years of robust analysis that will take policy makers in a very different direction to current practice. This book is critical reading for anyone wanting to shape a more secure life for the most vulnerable of Africa's city dwellers.

Helena McLeod, Director: Energy and Environment Partnership (EEP), Southern and East Africa

The developing world is urbanising fast. In the process new systems of urban land ownership, transfer and governance are also emerging – often from the bottom up. Understanding how these work, and how they interface with wider markets and with existing land governance regimes, is crucial to urban development that makes space for the poor. This book offers fascinating new insight into these dynamics.

Dr Kate Philip, Programme Manager: Inequality and Economic Marginalisation, Trade & Industrial Policy Strategies (TIPS)

Urbanisation and concomitant growth of informal settlements has reached a crisis point. The growing violent protests are testament to this crisis, with access to land a central point of conflict.

Trading Places addresses these issues through examining the nature of markets, property tenure, and regulation with specific emphasis on their impact on the poor. It argues that markets, particularly informal markets, are important mechanisms for the poor to access land and develop local economies. The value of the book is that it provides a wealth of evidence for its arguments and brings to the fore an understanding of the social dimensions of markets and local practices.

Monty Narsoo, Governance Advisor: South African National Upgrading Support Programme

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Foreword

Trading Places is an inspired culmination of nearly a decade of careful research and policy advocacy by the Urban Land Markets Programme Southern African (Urban LandMark). The book is succinct and persuasive in the presentation of the approach developed by Urban LandMark, but it has also retained the sense of depth and complexity that characterises the work of the programme.

Urban LandMark has already had a significant impact on policy development and scholarly work in southern Africa, influencing, for example, South Africa's National Development Plan, and new policy initiatives within metropolitan municipalities, including the City of Johannesburg. However, the message and influence of Urban LandMark must be spread even more widely, within and beyond southern Africa. Hopefully, this book will be an effective instrument of propagation.

Urban LandMark is boldly pro-poor in its approach and intentions. In its analysis and recommendations *Trading Places* offers a way out of a current development impasse. It mediates across, and offers a meaningful alternative to free-market deregulation, romanticised notions of self-help by the urban poor, and state-driven attempts to resolve inequity purely through formal planning and regulative processes. It accepts the prevalence of transaction-based activities in urban life ('the market'), and acknowledges the role of the state in mediating access to the land, but it does so without naivety. It reveals, for example, how state interventions often flounder against byzantine complexity of cities and how the functioning of land markets frequently marginalises the poor. Most importantly, it shows how conventional market or state perspectives ignore the extent to which the urban poor transact and create markets within the city.

Trading Places provides an analytical perspective that is rigorously informed by detailed empirical work, and offers policy advice that is pragmatically grounded in the realities of governance and everyday urban life. *Trading Places* provides no quick fix, but rather a perspective that allows us to 'cope with complexity', and a set of proposals to progressively re-shape the relationship between the market, the state and the urban poor. It requires us to be 'more nuanced, more incremental, more patient', but offers us the hope that this approach will lead to land markets that will work more equitably, and to state interventions that will be more responsive to the lives and needs of the urban poor.

Trading Places provokes us to think differently, but also leaves us with a new sense of optimism. I congratulate Urban LandMark for this publication, and for the many other contributions it has made over the past seven years. May its influence expand, and may this lead to real change in the lives of those presently living in poverty in cities across Africa.

Philip Harrison[1]

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Preface

Trading Places is about a new understanding of how people living in African cities access land and renegotiate real estate markets. It is the result of seven years of work developing pro-poor interventions to make urban land markets work better. The work included building up a new body of evidence, engaging in policy change processes, broad-based stakeholder engagement, and testing the new approach in different sites.

The work is a collective effort by a range of people working with the Urban Land Markets Programme Southern Africa, also referred to as Urban LandMark. The programme was funded by UK aid between 2006 and 2013. The work of the programme was an attempt to advance beyond the conventional housing and urban debates of the 1990s and early 2000s, and thus sought to change practice.

One way this book takes the debate forward is by combining an understanding of the physical, social and economic forces, which shape rapidly urbanising cities in Africa. Living on unregistered land in slum conditions is the daily reality for the majority of urban dwellers. Most new urban growth takes place as people access officially unrecognised land.

The work described in this book involved bringing together the urban experts who typically work in the development field (e.g. planners, architects, social scientists, lawyers and the like) with another set of experts who traditionally have not engaged as much in the Africa urban poverty debates, namely property economists, developers and financiers.

The book asserts that understanding complex land issues as well as the market forces described in property economics provides a key to addressing the challenges that arise during the transition from predominantly rural countries to increasingly urbanised

nations. The apparent complexity of this interface leads many to conclude that urban development remains an unsolvable challenge.

This frustration then leads to two extreme responses: let cities grow as they are growing, without much intervention, and then attempt to regularise or formalise them afterwards; or, alternatively: try to enforce an imported system of planning, governance and land commodification, which has worked on other continents, to guide urban development towards better and more efficient urban outcomes.

This book offers a new proposition. Given a fuller grasp of the real dynamics at work in the agency of poor households and communities engaging in land markets, evidence shows that there are indeed practical ways in which the formal planning system can adapt to rapid urban growth. There are ways for practitioners and governments to work with the deeply seated meanings of land as well as with economic forces and the need for investment. Over time this approach can lead to better outcomes where cities are more efficient and more people can progressively realise their rights as city dwellers. More secure land tenure and more effective urban planning can increase the resilience of many more households and communities, especially in the face of the ever-expanding challenges of migration, rapid urbanisation, climate change and unequal economic growth.

Urban LandMark's evidence-based work spanned three dimensions over the life of the programme: a focus on how the market works (and can be improved) in poor communities; on the daily realities of life for people accessing urban land and trying to hold on to it; and on the institutions and governance of land and markets. These dynamics shape space and places in ways that last for centuries.

The book follows this same sequence. The first chapter discusses the state of the debates around urban land on the continent. Chapter 2 unpacks ways to understand more clearly the complexity of markets in African cities and how to improve market functionality. The third chapter describes the agency of people in engaging in the land market and what people do practically to survive and prosper in the absence of a responsive land governance system. Chapter 4 looks at how land is governed and why many regulatory interventions have

failed. The fifth and final chapter reviews the debates and evidence that have been presented in the book, and places the new approach within its historical context.

In shaping the approach in the writing of this book there are many to thank. Among them, in particular, we would like to thank the five co-authors who have worked together as a collective over a number of years to describe the learning; and the staff of Urban LandMark who provided the platform from which all of the work was achieved, including Lerato Potele, Lucille Gavera, Girly Makhubela, Mary Phalane, Abueng Matlapeng and Jonathan Diederiks.

We are indebted to current and past staff of the UK's Department for International Development, especially Hugh Scott, Helena McLeod, Kate Philip, Subethri Naidoo, Andrew Nethercott and Raja Dasgupta, who have all shaped the approach. Our Advisory Committee and advisors guided and supported the work over many years, including Gemey Abrahams, Anton Arendse, Catherine Cross, Dave de Groot, Thandisizwe Diko, Hermine Engel, Becky Himlin, Geci Karuri-Sebina, Fred Kusambiza, Karina Landman, Sharon Lewis, Francois Menguele, Mpiliso Ndiweni, Duma Nkosi, Max Rambau, Kecia Rust, David Solomon, Ahmedi Vawda and Francois Viruly. FinMark Trust provided financial management and other support and we thank David Porteous, Andrea van der Westhuizen, Maya Makanjee, Prega Ramsamy and the other Mark Napier.

The facilitators of this writing process – Helene Perold, Philanie Jooste, Aislinn Delany and Stuart Marr – added tremendous value. Many people and organisations were commissioned over the years to collect evidence, document cases and formulate new ideas, all of whom made a significant contribution. These people and organisations are named in the publications they were responsible for. All of their contributions made it possible to share new perspectives on finding solutions to the complex realities that face urban land dwellers in fast-growing African cities.

Mark Napier

Chapter 1

Land and markets in African cities: Time for a new lens?

Mark Napier

Most people living in cities in Africa live outside of the legal system, without clear rights to the land they occupy. These pieces of land make up the so-called slums which surround and permeate most growing cities, and which are home to between half and three quarters of African urban residents (Kessides 2006:22).[1] According to the latest UN-Habitat *State of the World's Cities* report, 'today, of every ten urban residents in the world more than seven are found in developing countries, which are also hosts to an overwhelming proportion of humankind (82 per cent of the world's population)' (UN-Habitat 2012). Land reform initiatives and planning law reform projects over the last five decades have failed to make a significant difference to the lived reality of this majority (Berrisford 2011). The question is, how do people manage to access land and shelter under these conditions where the formal governance system and the market in registered land is failing to supply what is essentially a basic need, the need for space to live?

Research by Urban LandMark (Marx 2007) uncovered many stories of people moving to cities and finding places to stay. One of these accounts came from Nozipho, who moved to the city of Cape Town from the predominantly rural Eastern Cape Province in South Africa:

> I grew up in Umtata, Eastern Cape. Then I went to Gauteng before moving to Cape Town. Before living in Enkanini, I was renting a backyard space in Makhaza.[2] I was living there with my relative. As time went by I decided to look for a place of my own. It's difficult when you stay with other people, especially if you have children. Sometimes the landlord doesn't like you in his yard.
>
> I just saw that people were building their shacks here, so I decided to come too. I knew some of the people who were living here.
>
> I like it here because I have my own place. Transport is not far from us, shops and banks are close. But we do not have things that we used to have in Makhaza. There we did not pay extra for water, electricity and toilets. Here I fetch water from a house and pay the owner. Every month we pay rent for toilets. If we want electricity we have to ask from those at the houses and then pay for it. But now we are used to living without electricity.
>
> There are no documents to show this is my place. But that's OK. My relatives know that this is my place, and people around here know. They know because they see me living here. I don't have to do anything special to stay here, except to clean where I stay. If I move from here I can sell my shack.
>
> When I came here there was no committee and nobody to report to, you just placed your shack. It is

> not the same because now we have a [residents'] committee and they are the ones in charge now. You have to attend meetings.
>
> There are no spaces around here any more for new people. They don't want people from other places to build shacks. But people do sell when they move out. They only sell material if it is still in good condition, but not the site because we also didn't buy the sites.
>
> The only way to live here now is to buy from someone who already has a place here and is selling or moving. The owner must introduce you to the committee. You must come with a letter from where you are coming from. That letter would say what kind of a person you are and why are you moving away from where you would be coming from. You give the letter to the committee and show your Identity Book. The committee must give you permission to buy a shack from someone who is selling, or to use a space to build your own shack. I don't know anyone who rents a shack here. (Urban LandMark 2010:3)

For many new urban residents, the city can be an inhospitable place. For poor households in particular, finding a place to live and work in the city is a struggle because legally registered and serviced land is rarely available or affordable. So the most common course of action is to access space in informal settlements to meet immediate shelter and subsistence needs.

Because of slum formation, which absorbs home seekers, much of the spatial expansion of cities in Africa comes from the growth in the number of people living informally. Practitioners and commentators who have observed and tracked slum dynamics,[3] and international development agencies in general, have recognised for many decades that ongoing slum growth constitutes one of the key urban challenges to modern society. Despite at least

50 years of focused attention from the middle of the 20th century onwards, legally sanctioned and supported access to land remains unattainable to the majority in most cities and towns.

With extensive resources committed globally to fighting urban poverty, and having had a Millennium Development Goal devoted to improving the lives of 100 million of the over one billion slum dwellers (UN-Habitat 2006: iv), why have the many multilateral and bilateral funding organisations and city administrations not made more of an impact?

Much depends on how we as commentators, researchers and practitioners understand what is going on, how we see urban growth and the state of people's livelihoods, and the lenses we choose to look through while assessing the nature of the challenge. Understanding just how Nozipho succeeded in finding a place to stay in Enkanini in Cape Town starts that journey.

Understanding urban growth

Much of the understanding of urban growth and the housing challenge has centred around urban governments simply not being able to cope with the number of people coming to and living in cities. As the 1996 UN-Habitat Agenda states:

> The most serious problems confronting cities and towns and their inhabitants include inadequate financial resources, lack of employment opportunities, spreading homelessness and expansion of squatter settlements, increased poverty and a widening gap between rich and poor, growing insecurity and rising crime rates, inadequate and deteriorating building stock, services and infrastructure, lack of health and educational facilities, improper land use, insecure land tenure, rising traffic congestion, increasing pollution, lack of green spaces, inadequate water supply and sanitation, uncoordinated urban development and an increasing vulnerability to disaster.

> ... Rapid rates of international and internal migration, as well as population growth in cities and towns, and unsustainable patterns of production and consumption raise these problems in especially acute forms. In these cities and towns, large sections of the world's urban population live in inadequate conditions and are confronted with serious problems, including environmental problems that are exacerbated by inadequate planning and managerial capacities, lack of investment and technology, and insufficient mobilisation and inappropriate allocation of financial resources, as well as by a lack of social and economic opportunities. (UN-Habitat 1996: Preamble, Paragraph 8)

These certainly are the characteristic problems associated with slums, and the dynamics which lead to their formation and growth. But why can people find a place to stay in slums in vibrant cities, but cannot afford reasonably well located, formally registered land, and officially approved housing? It is more complex than people simply being too poor. There are many advantages associated with urban life, and great opportunities in growing economies. People would not move to centres of growth unless there was at least a perception of opportunity and of a better life than that which people like Nozipho experienced in rural areas.

The full picture is far from clear.

The role of the state in servicing land and providing housing, and the importance of improved urban planning and management, are only one part of solving the puzzle. As towns and cities continue to grow, so too do the numbers of people living in slums, despite a global commitment to improve the conditions of people living in informal settlements. 'What is historically unprecedented is the absolute rate of urban growth in Africa – averaging almost 5 per cent per year, implying close to a doubling of the urban population in 15 years' (Kessides 2006: xiv).

The failure to make much impact on how many people are accommodated on legally declared land, suggests that there are

other elements at play that are not sufficiently understood or addressed. Two aspects are usually underplayed or missing from the conventional development discourse. Their re-introduction would go some way to explaining why the poor struggle to access formally recognised places to live and work in the city.

The two aspects are land, as a resource, and land markets, as the basis for the mediation of access to land. Land and markets need to be better understood, drawing on real evidence to build a fuller picture so that urban practitioners can better design interventions to improve the situation.

The meaning and value of land

Firstly, there is the discussion of the role of land in the urban context. From a development perspective, land issues in Africa tend to be viewed predominantly through a rural lens. Yet in less than twenty years' time half of the continent's population will live in urban areas and by 2050 the continent will be 60 per cent urban (UN-Habitat 2010:41). Cities and towns are the main sites for slum formation and vulnerability. Without minimising the rural challenges, this implies that the development sector cannot keep seeing the land problem in the African context as mainly rural and agricultural.

There is also a tendency to view land in Africa as a fairly plentiful resource, but access to well-located and serviced land in urban areas is limited by lack of investment in infrastructure and by current patterns of ownership and control. As cities and towns continue to grow, competition increases among urban actors (such as current and prospective land owners, developers, investors and landlords) for well-located land near the existing public infrastructure and services, and the poor are most likely to come off second best.

National governments tend to see land as a national resource to be planned, regulated and allocated by the state on a broadly equitable basis. But the predominant reality is that the market in registered and unregistered land (influenced by the agencies behind those transactions) leads to outcomes which look nothing like the plans which governments put on paper.

In this context there is an added layer of complexity. The discussions of land and property are often emotive because land has many meanings. Land is an asset, a resource, and can be traded in the market as a commodity. But land is unlike other commodities and is often valued for social, cultural and historical reasons that have little to do with the monetary value that might be recouped on the open market in transactions between strangers. Land may be valued as an ancestral home, a means of achieving self-sufficiency and independence, and an inter-generational route out of poverty. Where there is a history of dispossession – as in much of Africa – demand for urban and rural land has particular historical and symbolic significance. In all of these cases, people may be unwilling to transact in land purely as a market commodity, no matter the price.

> When the whites came we had the land and they had the Bible. They asked us to close our eyes and pray. When we opened them again, we had the Bible and they had the land. (isiXhosa proverb, cited in Rumney [2005])

Historical and legal contexts also make a difference to the way in which land is understood as a resource or a commodity (see UN-Habitat 2010). There are a range of regulatory systems which seek to govern the sale or exchange of land. In Tanzania and Mozambique for instance, nationalisation policies have made it illegal to own or sell land, although the buildings or other improvements on the land may be bought and sold (Urban LandMark & UN-Habitat 2010: 18).

To give an idea of the richness of tenure diversity, here is a recent summary description of the West African situation:

> The land governance procedures introduced by the French, the British and, to a lesser extent, the Portuguese have mostly been taken over by the newly independent States who wanted to keep tight control on land allocation and management processes.
>
> The two prevailing legislations in the region are the French civil code and British common law. In

> Francophone countries, land legislation is still based on the colonial civil code which recognises the public domain of the State that cannot be alienated; the private domain of the State that can be alienated under certain conditions; private land for which a title has been issued; customary land; and *terres vacantes et sans maître* (land with no clear status, unclaimed or vacant).
>
> Ambiguities between the concepts of 'public domain' and 'State domain' blur the boundaries between alienable and unalienable land, frequently to the benefit of those working in government bodies involved in land allocation. (UN-Habitat 2010:117)

In many African countries, customary forms of land ownership thus continue to operate, where traditional leaders allocate land and may receive in return a gift of thanks, but not usually a market-related payment.

Understanding these many meanings and values associated with land is an essential part of understanding the dynamics of the urban context in Africa. Sometimes the depth of meaning and history associated with holding land has effectively suspended the discussion of how urban land should be managed and transacted in cities in Africa. However, if urban economies are to grow and be inclusive of the aspirations of poorer households and communities, this discussion is crucial.

Putting land markets into perspective

A second element that does not feature very much in conventional development discourse is the role played by land and land markets. Sometimes, in discussions of 'the market', people refer only to private sector interests (such as finance-backed investors, developers and construction companies), and their influence on what cities look like and where poorer people can afford to live.

The issue of land markets was raised in *The Habitat Agenda* (UN-Habitat 1996), but was limited to the recommendation that business should be encouraged by market-based incentives to invest more, and that more finance and subsidies for the poor should be provided to reduce the gap between what people could afford and what the formal system could produce. *The Habitat Agenda* thus produced a clear idea of 'making markets work',[4] but this did not address the way the whole real estate market works, nor how the vested interests operating in urban areas could effectively lead to the exclusion of poor people.

The discussion of the market in land and shelter changes by taking a step backwards and looking at all the actors in the real estate market. This makes it possible to view all the transactions – whether registered in some formal government-held register, or simply witnessed by a respected community member.

Markets need to be considered because of the role they play in setting the value of land and shelter, and their usefulness in explaining the patterns of distribution of scarce resources. Land ownership patterns and the dynamics of real estate markets make well-located, serviced land expensive; this in turn increases competition and makes it difficult for the poor to access habitable land. People may be successful in accessing land on which to live or do business, perhaps with the assistance of the state, but as land values increase it becomes difficult to hold on to such land.

A detailed treatment of the 'challenge of slums' in the *Global Report on Human Settlements 2003*, placed clear emphasis on the importance of better land governance and access to finance, as part of the answer to unequal land access:

> In many developing countries the legal and regulatory frameworks, particularly with regard to land markets and land acquisition (including land registry, land valuation, and legal instruments to facilitate land acquisition), are ineffective.
>
> Furthermore, the poor often do not have access to the financial resources needed to buy houses, as

> the existing housing finance system[s] are not accessible to them and subsidies for housing are not properly targeted. Without significant improvements in the legal, regulatory, and financial systems, the problem of current slums is only a glimpse of an even worse future.
>
> In general, slums are the products of failed policies, bad governance, corruption, inappropriate regulation, *dysfunctional land markets,* unresponsive financial systems and a fundamental lack of political will [emphasis added]. (UN-Habitat 2003: xxxii)

Here blame is clearly laid at the door of the state, whose ability to govern land and to regulate markets is questioned. Government agencies and financial institutions also fail to extend enough low cost finance to facilitate market access.

At this stage in development thinking, not much was said about how urban land markets actually operate, especially for the poor attempting to access space. Where markets were discussed, the focus tended to be limited to issues of affordability for the poor, and on systems of incentives and subsidies to correct this.

Understanding the problem of affordability and the way land was valued, was not high on the agenda. As a result, a full discussion of the dynamics of the whole urban land market was missing, along with the origins and current realities of the patterns of land ownership and control. In addition, the dissonance between colonial land governance systems and customary systems was also underestimated, especially on urban peripheries where the two systems often meet across an urban boundary.

By expanding the discussion to who dominates land and market access, it is possible to start getting closer to an understanding of the real picture, or to grasp what is really going on. The discussion thus needs to become bolder, and to face the key issue of who owns what and who controls what. At the same time, the agency of the poor is central to how cities are developing in spite of those ownership patterns and unsupportive regulations. This is the discussion

of the political economy of urban land in Africa. It involves a review of how people are already using markets, how markets could be used as a positive force and the interventions required to maximise such benefits.

Factors constraining the debate

Part of the reason why the full debate hasn't yet been held lies in the widely varying notions of land and property. Development experts on land in Africa apply one register, which references itself mainly off rural and historical evidence. A different register is used by property or real estate economists and those discussing investment on the African continent.

The lack of engagement between these different perspectives means that each is only considering a piece of the puzzle.

An incident that illustrates these different registers took place at a conference hosted by the South African Property Owners' Association (SAPOA) in Cape Town in May 2008. SAPOA is a diverse voluntary association representing many different views and interests, including those of large and medium-sized property owners, managers and financiers. At this event, a debate took place between two academics: a professor of economics associated with SAPOA for many years (Professor Francois Viruly[5]) and a professor in human rights law (Professor Shadrack Gutto[6]). The law professor had recently chaired an expert panel established by government to review the patterns and possible regulation of 'foreign land ownership' in South Africa.

In their opening comments, the law professor talked about the historical dispossession of people in Africa from their land, cultural connectedness to the land, and collective ownership of a national resource. The economist talked about the market and about the need for foreign direct investment. The greater the investment, he argued, the greater the benefit to the economy of the country, whatever form that investment might take.

Whilst the law professor's discourse was couched in culture, history and agency, the economics professor's was couched in the

immutable logic of the market. The South African government could legislate in some way against 'foreign' land ownership, he argued, but the market would respond and self-correct so that new opportunities could be exploited under the new legislative system. The state representing society might like to imbue land with meanings and attachments, but the market would attach value to that meaning only if it was relevant in any given urban context.

In this debate there was very little common ground between the two perspectives. It illustrated why state policy makers and planners remain surprised by the ongoing displacement of the poor in urban areas, and why economists remain largely frustrated by the state's well-meaning attempts to intervene on behalf of the poor. The bigger picture of how urban market systems operate is lost. Governments view large private sector actors as being concerned only with profit, and construe markets to be somehow unjust and antagonistic to development. Furthermore, urban officials fear that opening up real estate markets to investors might lead to a loss of administrative control and even rampant speculation. The private sector in turn views government and its regulations as an irritant.

Until recently, urban and housing development experts have not given much consideration to understanding how markets work, and the way in which markets influence land values and competition for space, especially as these affect poor households and communities who are somehow thought to exist outside this system. Similarly, those involved in property economics have spent little time with development practitioners or the state, considering the challenges of addressing the needs of the poor. Large numbers of relatively vulnerable people are integrating themselves into urban societies and economies without much help from formal regulatory systems and institutions. While many economists argue that the market will self-regulate excessive profit making, the inefficiency of markets (and land markets in particular) mean that it can take decades to self-correct. In the meantime huge social, economic and political consequences could materialise from the loss of shelter, the dispossession of homes and the disruption of livelihoods.

The net result is that the various protagonists have largely failed to have the urban land debate in the African context, and the

affordability barriers and price cliffs remain insurmountable to the majority of the newly, and not so newly, urbanised. What is needed is a more meaningful conversation and mutual understanding between the actors in the state, in the customary sector (e.g. traditional leaders), the many actors in the private sector, and people on the ground – including communities and individuals investing in land. The actions of all sectors (whether intentional or not) influence access by poorer people to habitable land and shelter in urban areas.

Advocating for a more nuanced understanding of markets should not be seen as the promotion of uncontrolled speculation and excessive private sector profiteering. While investment by private sector actors is crucial, a better functioning market can be as much about equal access (to land, to shelter, to trading space, to information) as it is about creating the conditions for private sector investment. It is precisely for this reason that state actors should understand markets better, so that the private sector development yields are well understood. This creates the conditions for realistic negotiations between public planners and private investors.

Ways of seeing markets

Urban land markets operate on many levels, from the informal to the highly formalised. If the market is understood as a series of transactions and exchanges (with rules and institutions to support those transactions), it is clear that the market is at work even in the alternative, so-called informal mechanisms through which many poor people attempt to meet their needs for land and shelter. The market is a set of events over time that cumulatively influences the value of land and buildings, and therefore affects affordability and spatial mobility.

When compared with formalised real estate processes, informal settlements provide quicker, easier and more affordable access to places and spaces to live, trade and produce than either the state or the private sector could easily match.

In a South African study of nine different settlements in 2007, people who were looking for shelter took an average 34 days to

find and occupy a shack room in a backyard, and 69 days to move in to a shack in an informal settlement. Government housing was available, but when waiting lists were taken into account, it took people a few years to access shelter through state allocation (Marx 2007).

The state typically does not release serviced land anywhere near fast enough to meet the demand, while private sector developers and financiers tend to target their investments and supply in the most profitable areas, unless they see a viable opportunity towards the bottom of the pyramid. Many actors in the sector calculate that supplying land or shelter at the bottom end of the market is too risky. By necessity then, a range of officially unrecognised actors (for example, poor households, informal landlords and land vendors) step in and become key role players in building the city from the bottom up, albeit unofficially.

Where the state has failed to provide land or housing (directly or indirectly), and where the private sector may not be interested in doing so, other market supply systems tend to fill the gap. This is often described as the 'informal economy', or the 'informal housing market'. Essentially, however, it is part of a single urban land and housing market system in which the forms of tenure and the records of transactions are localised and are generally not recognised in the formal legal and regulatory systems.

The systems are highly interlinked since land markets do not float free from power relations. The land holdings of the state and of private land owners clearly influence land values, and have done so over many centuries. Land is a commodity which is location specific or locked in one place (as any fast food franchise owner will agree) and better land is held by more powerful interests that most often are backed by the formal system. The highest bidder wins, especially one that can defend its claim. The fact that wealthier land actors can outbid others and defend their rights in the formal legal system, impacts on poorer communities who occupy land in the path of future development (Napier 2008). The effect is that at some point land becomes very valuable and the lack of recorded, defendable land rights often results in eviction, with people having little recourse to the same formal system. Stronger actors can also hold

on to vacant land for future benefit, which creates scarcity and drives up value, but which also creates opportunities for investment.

From a policy perspective, being able to 'see' markets and gather evidence of how they work opens up a new dimension that may not have been visible before.

Finding ways to make markets work better for people entering urban economies or those wanting to advance within the same urban system, is not the same as promoting some kind of 'free market' deregulation approach. In fact deregulation may not be the best way of addressing the land issue in rapidly urbanising cities in Africa. Rather, it is a matter of recognising the pervasiveness of markets, which have operated all along. Transactions happen everywhere and habitable urban land is a scarce resource in African cities. The rationale behind market choices and the flow of information may be socially based, as Nozipho's story makes clear, where friends and relatives play a central role at all stages of finding shelter and defending tenuous land occupation rights. However, there are costs involved in any chosen course of action – whether direct costs, transaction costs (the costs of participating in a market), or opportunity costs (opportunities forgone once a choice is made).

Moving to Enkanini provided Nozipho with a place of her own in which to raise her children, something she felt was a priority. She had to make trade-offs to get a place of her own as she then had to pay for services that she had not paid for before. But this was outweighed by the advantages of having her independence and being close to transport, shops and banks.

There was a clear economic logic to the chain of decisions that led Nozipho to where she was staying. Within these off-register markets, social relationships with people living in the community are as important as any exchange of money. Relationships are an essential factor in how people find out about new places to live and how they decide who to trust. Nozipho had felt comfortable moving to Enkanini because she knew others living there. While Nozipho did not have any proof of her claim to the site, she was not concerned, because her relatives and neighbours knew that it was her place.

The choices that people face in finding a place to stay, or in defending a place already occupied, and the costs and the rationale

behind localised decisions, make it clear why the supply of unregistered land is so attractive when compared to legally-sanctioned supply.

MISSING THE MARK IN HOUSING SUPPLY

There are clear examples that illustrate why state actors functioning in the real estate sector can get it wrong when they ignore markets, or act as if market forces are somehow suspended when the well-intentioned state engages in urban development. This Angolan example shows that state developments targeted at middle income citizens cannot be viewed as being detached from location or the market.

The 'new city' of Kilamba is a Chinese-built development in Angola, established at a reported cost of USD 3.5 billion. It was intended to address part of Angola's chronic housing shortage. However, the city, designed for several hundred thousand people, is only slowly attracting occupants and at the time of writing is home to barely a tenth of that number.

The slow uptake of properties is blamed on their high cost – between USD 120 000 and USD 200 000 each – which is well out of the reach of the average Angolan, an estimated half of whom live on less than USD 2 a day, and even out of reach for middle income households.

Most of the country's tiny middle class already have homes – yet they are the ones who could afford the apartments if they took a mortgage. For others a lack of land registry documentation has complicated the access to bank credit and many people feel uncertain about the viability of investing in Angola's so-far untested real estate market.

Source: Burgis T (2012) Property scene reveals Angola's wealth gap, 13 July 2012, The Washington Post.

Despite the barriers to accessing registered land, poor people are actively involved in markets through the range of transactions they conduct while working to meet their need for shelter and a place to work, trade and raise their families. By understanding these

transactions and how they relate to and are influenced by the transactions of other role players such as government and the private sector, it is possible to start building a more complete picture of the dynamics of life in the urban context.

If these experiences are also understood from the viewpoint of the transaction costs involved, or how long it takes people to find a place, and how much they have to invest in the process, then it is clear that slum formation is fairly efficient when compared to formal, often corrupt and inefficient official systems of supply, which are largely devoid of local meaning. Local meaning is embedded in a land management system when community members and government officials share a common understanding of who has what, and what land uses and practices are acceptable or not acceptable within the community. An official system of planning and law built on pre- and post-industrial European meanings of land and property may not be meaningful at a local level in rapidly urbanising cities in Africa.

The ongoing sense of surprise that slums continue to exist and grow on the continent is misplaced and unnecessary if one understands how the market works for the poor.

From basic land to complex land markets

The role of governments is to mediate access to land on some kind of equitable basis so that the competing interests of urban inhabitants can be managed (see Chapter 2). In most cases the state is in a very strong position because it regulates land, it leads on future spatial planning, it calls financing institutions to account, it legislates on tenure forms, and it keeps the land registries and holds the cadastre. The state is often a sizeable land owner itself.

The majority of urban residents live outside the official system, suggesting that the dominant reality for most is not the official version envisioned in formal planning processes.

Rather than rigidly pursuing an official form of land management and the official channels towards accessing space for shelter and conducting business, this book calls for the different systems

of real land management to meet one another. The informal (sometimes neo-customary) systems of land access, recording transactions, land use management and dispute resolution are as widespread, if not more so, than the version of urban land management typically countenanced in law.

But equally important is the fact that systems of land management developed to mediate land occupation and use in a customary setting are not well adapted to rapidly urbanising metropolises, cities and towns with high levels of competition and overlapping occupancy and use rights.

Rapidly urbanising conurbations not only have low density slums where subsistence agriculture and animal husbandry endures. Many cities also have multi-storey buildings of apartments (see Huchzermeyer 2011) where the individual link to a physically bounded plot of ground might be unclear. The layers of use in African cities are often much richer and more complex than the highly zoned cities in other parts of the world (see Zack & Arnot 2012). For example, African cities have both formally planned and informally growing transport nodes where many different types of transport interlink, and where smaller and larger markets locate to capture the passing trade. These are complex systems.

Creating a more appropriate system of land use management where the tenure rights of the majority of urban dwellers are properly recognised, and where many of the customary views of land are understood and codified, is not likely to be a simple matter. Access to 'raw' or undeveloped survival land might be the entry point into a city for many people, as Nozipho's experience illustrated. But that is only the starting point of a much longer, multi-layered intergenerational process.

This chapter began by mentioning *The Habitat Agenda* (UN-Habitat 1996), and the way it described the challenges confronting cities and towns at the time. By 2010, the UN-Habitat's *The State of African Cities* report devoted five chapters to describing access to land markets in the five sub-regions of the continent. This holds out hope that all urban actors will be able to engage effectively from more informed positions, especially if national governments and municipalities accept their responsibility to govern land by taking

into account the need for investment *and* the rights of all to the city.

If African cities are to become the economic engines of development on the continent, then the land and urban development systems need to be able to cope with the complexity in ways that are more just and equitable. Only then will the dream of urbanisation be attainable for more than just the urban elites. Although the diversity of history and the complexity of the legal and market systems is daunting, great encouragement can be derived from the many ways in which people on the ground manage to survive and thrive. The central challenge revolves around how the legal and governance systems, and the market support institutions, catch up with that reality. Collecting solid evidence of what is going on is the first step, which then makes it possible to move rapidly towards action from this more informed position. The perspectives and experiences captured in this book seek to start this journey.

Endnotes

1. 'For all of Africa, over 70 per cent of the urban population is estimated to suffer shelter deprivation in terms of inadequate housing, water supply, or sanitation. [...] The UN-Habitat Global Urban Observatory estimates the number of slum dwellers in terms of five criteria of shelter deprivation (nondurable housing structure, overcrowding, lack of safe water, lack of sanitation, and insecure tenure). The estimate is based on the first four criteria, as there are currently few good estimates of tenure status.' (Kessides 2006:48, citing UN-Habitat 2003)

2. Both Enkanini and Makhaza are on the Cape Flats, on the eastern periphery of the City of Cape Town.

3. Early individuals who represented the housing and land 'development community' included John Turner, Charles Abrams, William Mangin, Rod Burgess, Shlomo Angel and Hassan Fatty. Multilateral agencies that focused on housing and urban issues included UN-Habitat and the World Bank, along with many bilateral donor agencies and philanthropic agencies.

4. Urban LandMark implemented a 'making markets work' approach in the land sector. This approach was developed and promoted by donor organisations such as the UK Department for International Development (DFID), the Swedish International Development Cooperation Agency (SIDA) and the World Bank to address how economic empowerment can enhance the achievement of social development objectives. For more information see: http://en.wikipedia.org/wiki/M4P, www.m4phub.org/, www.sida.se/Global/About%20Sid/S%c3%a5%20arbetar%20vi/12700_Market%20Development_C4.pdf.

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Chapter 2

Defining markets: A set of transactions between actors

Rob McGaffin and Caroline Wanjiku Kihato

Poverty reduction is usually the cornerstone on which most development policies and programmes are premised. However, true development should be defined as the production or emergence of responses that improve the ability of people to function in their environment (Earthlife Africa 1992). This is because, as Nussbaum (2006) and Sen (2000) argue, poverty should be viewed as capability deprivation (a lack of capability to live a decent life) and that development should be a process where people's capabilities are created and strengthened to enable them to attain an acceptable quality of life. The goal of development is not just about achieving a certain standard of living, but rather about the ongoing enhancement of the capability to achieve this state. One of the key ways in which this can be done is to enable people to, 'invest in ways that build their capital assets such as land, education, social networks and so on' (Moser cited in Kihato & Royston 2013:2).

The central argument is that socio-economic mobility is brought about by increasing the poor's capability to grow and realise assets. There are several factors of production, including land, capital, labour and the more recently recognised entrepreneurship. These are the key ingredients required for the production of goods and services and ultimately capital assets. While all these factors are critical, land is unique. It is important because, firstly, the demand for land is a result of the activities that occur or could occur on its surface. Unlike other factors of production such as labour, which is a direct input in the production process, land acts as the 'host' to the other factors and resultant economic activity. In economic terms, land has derived demand. Secondly, the location in which the factors of production are put to work determines the extent to which they are able to generate assets. By definition, there are limited locations where the factors of production will be optimised to generate assets. As a result an opportunity cost occurs, as the use of a well-located piece of land for a particular activity and by one particular actor prevents another actor from putting the factors of production to work on that site.

The fact that land is such a critical element in the means of production and that it is scarce and fixed in nature, means that any attempt to improve the capability of the poor must begin from a 'rights-based approach' that ensures everyone has a fair and equitable chance of accessing this critical element.

Competition for scarce, well-located land rarely occurs on a level playing field: where some groups for historical reasons have been given unfair bidding power, the result is exclusion and poverty. For this reason, it may be necessary for governance institutions (state or community-based) to intervene to address these skewed power relations. However, there are additional reasons why land needs to be 'governed'. Land is fixed in space and therefore it is difficult for people to avoid the negative effects (externalities) of certain activities occurring on a particular land parcel or area. As the true costs of the externalities are often not borne by the person undertaking the activity, there is no incentive for them to be reduced, and such activities may thus need to be controlled by state or community governance structures.

In addition, the value of land and its use as a means of production are not only determined by the internal characteristics of land (e.g. size and shape), but also by its relationship to other amenities in the area (infrastructure, schools, transport, policing, etc.). Due to the fact that it is often difficult to exclude non-paying people from using these amenities and services, and given that the amenities generally require substantial capital outlays that can only be recouped over generations, there is often no incentive for private actors to provide such amenities and services. Consequently, state and broader community investment is required.

LAND IS A UNIQUE ECONOMIC RESOURCE

There are a number of reasons why land is a unique resource.

It is **immovable**, and therefore fixed in space, unlike labour, capital and entrepreneurs which are mobile factors of production.

Land is a **finite** resource with limited availability at any location. This fosters competition over land use, especially in cities where there is often high demand for land.

Each parcel of land is **unique** and unlike another, which affects its perceived and market value.

Land also has **cultural value**, which means that its worth is determined not only by 'objective' market forces of demand and supply, but also by the value people place on it. For example, ancestral lands and burial grounds have a non-monetary value to a community.

Unlike other resources, land has far-reaching social, political and environmental consequences in African (and other) societies.

Ensuring adequate rights to and governance of land is thus critical if the means of production are to be adequately used to increase the capabilities of people to create a decent life for themselves. However, whilst necessary, such rights and governance will not in and of themselves result in development. Maximising the factors of production – land, capital and labour – depends on different entrepreneurs combining them innovatively in a myriad of different ways, in different locations, over different periods of time. For this

to happen, land, capital and labour need to be invested in, leveraged and traded. Rights and governance thus establish the platform on which the factors of production can be used to create assets and promote socio-economic mobility.

What roles do markets play in facilitating these activities and enabling the poor to realise the benefits that accrue from such investment? Although structurally they can be highly exclusionary, local evidence shows that the poor are active agents in markets and, in many cases, structure and use them to increase their capabilities to bring about better developmental outcomes (Kihato & Royston 2013). The position is thus not whether markets are right or wrong, but rather that they exist.

As markets play such an important role in the development process, it is important to understand how they operate. What are the overarching structural issues that undermine the functioning of markets in general, and specifically how do they undermine the ability of the poor to enhance their capabilities? This requires an understanding of how the use of markets is inhibited among the poor, and how people creatively engage and structure markets to overcome these constraints. It enables one to identify the structural barriers requiring intervention, and the local practices that could possibly be co-opted and adapted at scale to bring about a more equitable and efficient system. As Sen (2000:28) states, policy-making has to be 'parasitic on the understanding generated by epistemic investigations'.

However, important as it is to understand *how* markets function, it is equally important to understand the context in which they are increasingly functioning in urban areas. This chapter therefore examines urban areas as the location for market activity; it defines and explores the nature of land markets in urban areas, and looks at the role of the state in land markets.

Urban areas as the location for market activity

Urban living is characterised by the need to transact.[1] While by no means unique to urban contexts, transacting is central to surviving

and prospering in urban areas as people cannot provide for all their needs themselves and because many of the opportunities created in urban contexts can be accessed and maximised by transacting. The dense nature of urban areas also means that activities are conducted in limited space for which there is intense competition (see box below).

URBANISATION AND ECONOMIC GROWTH

Urbanisation creates the conditions for greater production and rapid productivity as cities grow. Cities offer considerable economic efficiency benefits through economies of scale arising from the close proximity of factories and production facilities in higher density areas. As a result, firms have lower production costs due to reduced transport costs, proximity to markets, and better forward and backward linkages. The costs of providing services thus become cheaper as people live in increasingly dense conditions.

For example, the concentration of populations in cities allows city governments to provide bulk services like water, electricity, and at times housing, at cheaper prices than any individual firm and household would be able to provide. There is greater sharing of education and knowledge, which leads to greater innovation in industries. Dense populations also allow for increased specialisation and lower transaction costs as, among others, skills are better matched with production.

In other words, because of the economies of scale, cities become engines of growth, providing economic opportunities, allowing for higher levels of production with the benefits of lower costs, and shared public investments (see Quigley 2009).

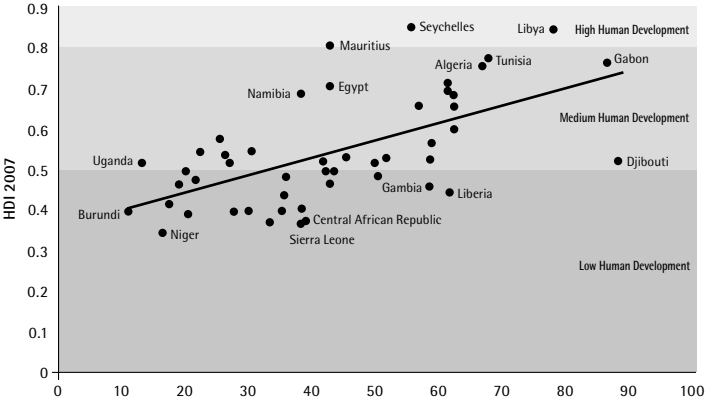
Urban areas allow for economies of scale and agglomeration, which in turn allow specialisation to occur, and for resource generation and distribution to be maximised. The growing level of urbanisation we see today is evidence of this benefit.

Even as households take advantage of the employment opportunities and wages that arise from higher productivity, the transition

to urban areas is not as straightforward as individuals simply moving to cities in search of higher wages. Indeed, migration to cities is a complex and dynamic process, and people use a network of relationships and resources between rural and urban areas, and between cities, to meet their needs and support their social and economic lives. Notwithstanding these complexities, there is a general trend towards growing wealth through urban living, with people generally doing better in urban areas.

The following graph, taken from UN-Habitat's *The State of African Cities 2010* report, shows this by and large to be true. The Human Development Index (HDI), a composite measure of social and economic variables, improves as nations urbanise. Although there are outliers where geographical factors, oil or war have had consequences on HDI/urbanisation readings, most countries follow the general trend.

FIGURE 1 The relationship between HDI and urbanisation



Source: UN-Habitat, 2010

Urban living has afforded many people significant socio-economic benefits and opportunities, and has enabled public services to be administered efficiently to a vast number of people. Nevertheless, the scale and rate of urbanisation, the political context in which it happens (such as colonialism or apartheid), and the presence of

inequalities and instabilities[2] have meant that many urban areas exhibit high levels of deprivation in absolute and relative terms. Even though people continue to move from rural areas to cities in search of better wages and an improved quality of life (Borjas 1989, Todaro 1982), increasing unemployment, poor wages and the lack of adequate infrastructure to support human life impact negatively on human development.

Thus, the neo-classical premise that households will generally do better in cities because of the higher wages they can command, does not hold for all (Todaro 1982). But why do people keep moving to cities even when there are limited jobs and opportunities for wealth creation? Economists explain that the continued migration to cities, particularly in developing countries, is a result of households' expected rather than real incomes. In other words, people make the decision to move to cities because they assume higher wages and a better quality of life, even when the reality presents a significantly different picture.

This is indeed the case in African cities. Unlike cities in the west, African cities have grown without the concomitant economic levels seen in other parts of the world. So, while cities continue to experience net growth in population due to migration and births, the majority of those who live in African cities live in slums with no security of tenure, adequate water and sanitation, nor infrastructure and employment opportunities.

TABLE 1 Population of slum dwellers as a proportion of the urban population in selected African cities

	1990	1995	2000	2005	2007	2010*	1990	1995	2000	2005	2007	2010*
	Urban population (000s)						Proportion of slum dwellers (%)					
Nigeria	33 325	42 372	53 048	65 270	70 539	78 845	77.3	73.5	69.6	65.3	64.2	61.9
South Africa	19 034	22 614	25 827	28 419	29 266	30 405	46.2	39.7	33.2	28.7	28.7	28.7
Egypt	23 972	25 966	28 364	31 062	32 193	34 041	50.2	39.2	28.1	17.1	17.1	17.1
Morocco	12 005	13 931	15 375	16 763	17 377	18 374	37.4	35.2	24.2	13.1	13.1	13.1

Source: UN-Habitat, 2010

With Africa's urban population projected at one billion in 2030, land resources in cities are becoming critical points of competition and conflict. Growing populations imply that there is increasing pressure on cities to provide economic opportunities, housing, infrastructure and social services to existing and incoming urban dwellers. All these activities need space, and the pressure of population growth, finite land resources, limited state capacity, and limited or skewed economic growth, imply that not all urban dwellers have access to land for housing or livelihoods. As such, the availability of land resources – the ways growing cities utilise land and the means by which populations acquire, regulate and trade land – has important consequences for a city's socio-political, spatial and economic character.

Given land's unique features, the dynamics of its economy are critical in shaping the nature of development outcomes in African cities. The urban land market determines how urban land is used, the location of activities, the nature of the built environment and urban spatial form. Whether it is used for manufacturing, retail and residential spaces, parks, slums, central business districts, or peri-urban settlements, all these activities are outcomes of the urban land market.

Just as neo-classical economics has failed to explain how markets have led to increasing deprivation in many African cities, development discourse has equally failed to address how markets have been used by many, including the poor, to gain greater access to the city and to reduce poverty. For this reason, it is important to define what markets are and to understand how they function.

The nature of land markets in urban areas

Urban land markets in Africa are complex. The number and complexity of the transactions involved result in the emergence of sub-markets through which these transactions occur. Markets are made up of interactions between a variety of endogenous and exogenous factors, local and global actors,[3] and multiple regimes of authority and relationships of exchange. The supply of urban land in African

cities, for example, is determined by a variety of factors: customary practices, common law, religious laws and practices, everyday social practices, conversion of agricultural land in urban peripheries, and state policies and practices. In many African cities, the state recognises common, customary, and religious law – in particular Sharia law – which allows for the individual ownership of land. These legal means of land acquisition are based on different tenets of ownership. Customary law recognises group ownership, while common law recognises individual ownership and the alienation of land. Managing these different types of land regimes is in itself difficult, given limited state capacity, skills and resources. Yet, in addition to the legal means of owning land, a significant proportion of urban land transactions in cities occur outside state legislation and are not legally recognised, although they may be unofficially tolerated.

In order to facilitate and mediate this complexity, various societal agents set up the 'rules of the game' that may or may not be formally regulated and managed by the state. Yet there is an underlying market logic that underpins urban land markets, whether in the formal or informal realm. Forces of demand and supply shape all urban land markets, and these factors have a significant bearing on urban land dynamics on the continent. In this sense, land markets are no more or less than basic arrangements that allow people to interact to achieve mutually beneficial (but not necessarily equal) outcomes.

Land is not a 'neutral' commodity. Its demand and supply are influenced by social and political processes in any given society. For example, lack of access to land for the urban poor often means their exclusion from socio-economic processes and increasing poverty. Poverty manifests itself in the development of slums in which people live in squalor, with consequences for health, safety and livelihoods. The distribution and ownership of land in society also has political implications, particularly where the elite controls the ownership and use of the land. These inequalities could have political consequences such as social unrest, land clashes and war. As such, the extent to which land is accessible in urban areas has far-reaching socio-economic and environmental consequences.

Sen (2000) further highlights that markets can be highly problematic when they exclude certain participants, or include them

on highly unequal terms. At the base of exclusion is the fact that competitive bidding is central to many markets; those who have or can generate the most resources from a site can out-compete the other participants in the market. In those societies with high levels of inequality, the exclusionary impact is particularly severe.

THE COMPETITION FOR SPACE IN TWO SOUTH AFRICAN CITIES

The inner city of Cape Town is a sought-after location for middle to high-income residential, office and retail space users. The demand produces relatively high land prices which, when added to the cost of construction, pushes building costs to approximately ZAR 18 000/m^2. In order to repay the finance necessary to undertake such construction, any residential space needs to be rented out for approximately ZAR 150/m^2 per month. Given that the vast majority of the city's population can only afford to pay between ZAR 1 000 and ZAR 2 000 per month towards their housing needs, this means that most of the city's people are able to rent only about 10m^2 in these areas. Since more profitable uses can be generated on this space and the state does not permit accommodation of this size, residential opportunities in the inner city effectively exclude a large percentage of the city's population.

Interestingly, when left to its own devices the market can respond to the need for such space. In Hillbrow, Johannesburg, for example, people pay around ZAR 800 per month to share a bedroom space in an apartment. Since most rooms vary between 12 and 20m^2 in size, this translates into a cost of approximately ZAR 100/m^2. Considering the older state of the buildings in Hillbrow, this provides a sufficient return to enable the market to provide such space and, importantly, to out-compete other uses (e.g. commercial uses) and higher income users for that space.

This suggests that, while the bidding process can make markets highly exclusionary, this effect can often be exacerbated by the norms and standards imposed by society and the state.

Where markets follow a capitalist logic, one must be aware of their instability and contradictions. Central to a capitalist system is the

accumulation of capital that is in constant search for a home and commensurate return relative to the risk involved. This leads to flows of capital in and out of land sub-markets and between land markets and non-land markets. The complexity of this system, its bureaucratic inefficiencies, regulations, poor information and market predictive ability, along with a psychological herd mentality and a healthy dose of greed, often leads to a set of inherently unstable systems prone to cycles and crises (Harvey 2011). Therefore, while it is argued that markets can play an important role in improving the capabilities of people and households, it is prudent not to ignore the inherently volatile and unpredictable nature of a capitalist-based market system.

However, while markets are key to capitalist pursuits, they are not limited to the world of private ownership and profit maximisation. Work done by Kihato & Royston (2013) and Shisaka Development Management Services (2004) have shown that many property transactions in lower income housing areas in South Africa and other African cities are driven by social imperatives and facilitated through markets based on community norms and practices. In reality very few markets will be driven by pure profit motives. Syagga *et al.* (2002) point out that, in the African context, locally constructed markets set up to overcome the problems associated with regulated markets usually reflect a hybrid of socially-driven, customary markets and legally constructed, price-driven markets. In fact, as markets are socially constructed institutions created to facilitate transactions, by definition they will all be socially driven to varying degrees. Even the very profit-orientated commercial property markets are driven by people who conduct business through social relationships and institutions.

Another criticism of markets is that they enable more powerful interests to exploit the poor through, for example, 'land grabs'. However, as discussed above, the poor often use locally, socially driven markets to withstand such external forces or to negotiate better terms of engagement – although they often cannot fully fend off corrupt practices and threats of eviction. Furthermore, the act of a poorer person transacting an asset to an external party is not a problem per se, as this act can realise the value of an asset and

facilitate socio-economic mobility. However, if market inefficiencies exist and information is poor, asymmetries in the negotiation can occur and weaker parties can lose out.

An often-quoted example of this in South Africa is of someone selling a state-subsidised house below the cost of constructing the house. The difference between the price paid and the initial cost of the house is a function of two factors: firstly, the low demand for the house by the market, often due to its poor location and the low level of income among prospective buyers; secondly, the high cost of delivering the house. This high cost is often partially a result of poor supply-chain management, onerous standards, inefficient provision of development rights and infrastructure, and maladministration in the delivery of state-funded housing. As a result, it would be incorrect to argue that the market transaction is totally to blame for the 'exploitative' price difference between the cost of the house and the price paid in the transaction.

As urban life is dominated by transaction-based activities, markets permeate and characterise people's existence in all urban areas. The fact is, markets are not exogenous, stand-alone entities that people engage with on a temporary basis and then extract themselves from. In this sense, the poor cannot be shielded from the impact and operation of markets by somehow 'removing' them from these systems. Similarly, the problem is not simply that the poor are 'excluded' from markets; nor is the solution merely a matter of 'opening' these markets up to the poor. There is evidence (see box alongside) that when the poor are excluded from 'formal' land markets, they generate their own markets, their own regulatory frameworks, their own rules of the game and their own means of securing their assets. In many cases, upward mobility of the poor has occurred where city living has facilitated the creation of niche markets allowing for the creation of a merchant class (such as the Ethiopian and Somali trading communities in South African cities like Johannesburg and Cape Town).

The Somali traders operating in South Africa are, however, not tied to the local trading 'rules of the game' and hence can compete on price, giving them a significant competitive edge over the local traders. In addition, the Somali traders regularly engage in bulk

buying, which reduces their input costs and makes them more competitive. Drawing on the thinking of Gladwell (2008), one can further hypothesise that many of the Somali immigrants in the Cape Town suburb of Delft originate from urban areas such as Mogadishu where competitive trading is part and parcel of everyday life, providing them with a trading skills base. These traders are now looking to purchase formal upstream wholesale businesses that supply the local retailers, again highlighting how markets interact and how the different actors use them to advance their position.

DEVELOPING AND ACCESSING MARKETS IN JOHANNESBURG AND CAPE TOWN, SOUTH AFRICA

Research undertaken by Urban LandMark and others (Zack & Arnot 2011) highlights many ways in which the poor constitute important markets and engage with them to maximise their position. In Jeppe Street in the centre of downtown Johannesburg, traders, predominantly of Ethiopian origin, dominate street retail in the area by outcompeting both high-end recognised retailers and other street traders: they pay rentals approximately four times the highest rentals paid in exclusive suburban shopping centres. The key to being able to pay such rentals is to rent small spaces and use this space to sell high volumes of goods that are stored in cheaper basements nearby.

In effect, the traders are tapping into two different property markets to facilitate their business activities – expensive, visible retail property and cheap C-grade office basement space. The traders are able to sell the necessary high volume of goods because they service the large cross-border consumer goods market, where significant quantities of goods are bought in Johannesburg to be consumed or re-sold in neighbouring countries. The traditional high-end retailers do not service this market, and by filling this gap, these traders have created a thriving retail and property market in the area.

Another example comes from predominantly Somali traders who have come to dominate and change the retail market in Delft, a poor area on the outskirts of Cape Town. Historically, the South African traders in the area have tended to conduct their business on a 'survivalist' basis

where retailing was not seen as a permanent occupation, but rather an interim activity to see them through until more permanent formal employment could be secured. Furthermore, many of these traders originate from the rural Eastern Cape Province and are likely to have limited experience in trading in competitive urban areas. Due to the vulnerable position of these traders, a series of social norms dictate the terms on which they can compete with each other. For example, competing in terms of price is seen as unethical and unfair; consequently traders compete through non-price mechanisms such as location, product presentation and customer engagement (Charmers *et al.* 2011).

Shortcomings of state regulated markets

A common response by the poor to being excluded from 'formal' markets is to transact through 'informal' processes. These processes are often viewed by authorities and 'formal' businesses as unacceptable and/or temporary – either to be eradicated or assisted to reach a 'formal' state. Closer inspection usually reveals that the indicators used to make these distinctions are arbitrary. They do not promote understanding of how these markets increase people's capabilities, nor do they assist in finding ways to improve such markets. For example, many enterprises are categorised as 'formal' or 'informal', depending on whether they are registered for value-added tax or have a business trading licence. Yet these indicators say nothing about the nature of the market institution itself or how it does or does not facilitate transactions. These are state imposed categories which, if altered, could change a market from being 'informal' to 'formal' overnight without there being any change in the nature or functioning of the market itself.

Furthermore, Kihato & Royston (2013) have shown that, contrary to popular belief, 'informal' markets are far from disorganised and unregulated. Rather, they are governed by a set of norms and practices put in place by community structures rather than the state. In this way, urban spaces are co-constructed through a number of markets that are managed and articulated through various governance regimes that include the state, but go beyond it (Kihato &

Royston 2013). By definition therefore, this categorisation is conceptually flawed and not helpful. Not only is this categorisation incorrect; it can also systematically undermine the capability of a market and prevent it from operating successfully in its environment. Many examples exist (Burzynski 2011) where the authorities shut down 'informal' activities, and often the authorities are legally prevented from providing much-needed basic services to areas that have an 'informal' status.

Some argue that the distinction between 'informal' and 'formal' is best understood as a continuum rather than as two distinct categories. However, this too is conceptually limited because, as discussed above, the categorisation is often externally imposed from the perspective of the state and the law. In terms of these definitions, these markets are definitely one or the other – a business either has a business trading licence or it does not. More importantly, though, most markets do not operate in a bubble and unregulated markets frequently engage and transact with regulated markets. For example, privately provided affordable rental housing in the Cape Town township of Du Noon is built on sites formally registered in the deeds office. These houses are, however, usually constructed without formal building permits and often are built over registered cadastral lines. Nevertheless the buildings are made out of bricks and mortar using construction techniques and standards similar to those used for residential dwellings found in low to middle-income suburbs in Cape Town. The question is, is this a formal or informal dwelling? More importantly, is it a useful question to ask and is the distinction valid?

The issue is therefore not whether 'formal' or 'informal' markets exist and whether one is better than the other. Instead, it is necessary to identify whether the governance of these markets weakens or strengthens their role in enhancing capabilities. The question that needs to be asked is: What outcomes are desired and how can the governance of these markets be changed to achieve these outcomes?

For example, with respect to finance, registered title is not an end in itself, but is a means to an end: it facilitates secured lending practices by enabling a claim to, and transaction of, a property held as security against a loan. The task, therefore, is to determine whether

other more cost effective and accessible mechanisms can be used to achieve a similar outcome.

The prevailing belief that 'formal' markets produce more favourable outcomes is also flawed for a number of reasons. Firstly, the formalisation of a market system can impose a number of cost- and skill-related barriers. Usually, due to the legal complexities involved, professional skills (e.g. lawyers) are required and fees and taxes have to be paid that are often disproportionate to the size of the transaction. For example, Downie (2011) has shown that the cost of a formal lower income housing transaction can be as much as 25 to 30 per cent of the value of the house.

These costs and complexities created by a state regulated system create barriers for all participants in the market. However, some of the more established and better resourced players are in a stronger position to overcome these constraints by employing professionals, for example, and can effectively outcompete the weaker participants in the market. Yet, this scenario is not as clear cut as it appears: markets are social constructs and the participants often use their social positions to manoeuvre themselves into better bargaining positions.

Research undertaken by DEMACON Market Studies (McGaffin & Gavera 2011) on the impact of formal retail centres in emerging economies provides an illustration in this regard. Due to market saturation in most of the suburban areas in South African cities, many retailers and developers have expanded elsewhere to take advantage of the underserviced retail markets in the urban townships and rural towns that are often situated in former apartheid 'homeland' areas. These areas usually lack formal cadastre and legal title; land management systems are often unclear, with many areas still governed to varying degrees by customary processes. As a result, formal developers find it difficult to acquire and hold land, and to raise finance on the back of land security. This usually forces them to negotiate with local communities to secure a site, and in this process a share of the equity in the retail development is passed to the community through various mechanisms (community trusts, provision of facilities, etc.). This demonstrates how communities manipulate the transaction to overcome their weak economic and financial bargaining position.

However, while this may result in a better developmental outcome for a community, it is often not without its shortcomings. Many examples exist where only local elites and community leaders benefit from these transactions, and the lack of clarity around the required market process can lead to corrupt practices and significant delays in a development. These outcomes frequently result in many investors opting to invest elsewhere, depriving the area of much needed external investment.

The second reason why the formal regulation of markets can be problematic is that in most cases the state apparatus is not geared to handle the scale of market activity, resulting in significant bureaucratic delays and additional costs to the market participants. This is illustrated in South Africa where, under apartheid, the title deed registration system was designed and resourced to serve the minority of the population. Following democratisation in 1994, the country has not been able to cope with applying a sophisticated land registration system to the broader population.

Notwithstanding the shortcomings of state regulated markets outlined above, it is important to recognise that markets that lack this regulation can also undermine the capabilities of the participants in these markets. For example, research done by Gordon *et al.* (2011) and Downie (2011) has shown that the lack of registered title can significantly undermine the security of a household and its beneficiaries over the long term. Furthermore, the ability to lend into and raise finance in non-regulated markets is particularly difficult. For secured lending to occur, a lender has to be able to lay a claim to a property and be able to transact that property. Theoretically, assuming that an active market exists, an unregistered property could be transacted informally, although this would be difficult for reasons of corporate governance, among others. Without legal title, however, it is unclear how the lender would be able to lay a claim to the property in the event of non-payment of the loan. In many markets, secured lending is inappropriate, but in some housing sub-markets, households could benefit from the lower lending rates associated with secured lending, and therefore the lack of registered title definitely undermines their capabilities.

Realising value through land and property

Of particular importance to markets, especially land markets, is the fact that transactions occur in space, and that location can have a huge impact on whether markets can improve people's capabilities – their ability to achieve a better quality of life. Hence, it is not only critical that people can exercise their rights, but that they can do so in particular locations. With respect to land and property, value is usually a function of a set of features that are internal to a site (such as size and quality), as well as features external to the site (such as access to amenities, transport logistics, degree of visibility, and safety of the broader environment).

As many people have been excluded for political and economic reasons from well-located sites, the challenge is to either open up existing, well-performing market locations to poorer and marginalised communities and/or to create new locations with positive attributes closer to such communities. For example, transport infrastructure can significantly change the location attributes of a site and increase the surrounding values as a result. However, the use of public infrastructure in this regard is most effective when the wider developmental conditions around the infrastructure are improved and the economics of the broader area are changed.

If poor development conditions exist, it is unlikely that the value creation potential resulting from the infrastructure provision will be realised and maximised. Poor development conditions exist when there is poor urban management, limited land is available, complex land ownership patterns and poor levels of infrastructure prevail, and development rights are lacking or difficult to obtain. This is therefore an area where public authorities can intervene meaningfully to maximise value creation.

However, although proactive public intervention is necessary to create favourable development conditions, it is not sufficient to maximise the value creation potential of public infrastructure provision. Risk capital and business expertise and experience are required as well, to create and realise the value. Furthermore, as value is generally a function of income, the provision of infrastructure needs to change the level of spend in the particular location.

In other words, if the provision of infrastructure does not change the level of income that an area can attract and capture, then by definition, additional value is unlikely to be generated. If, for example, upgrading a railway station does not alter the number of commuters who pass through the station, improve the level of commuter spend in the adjacent area or increase the number of commuters wanting to live near the station, then the level of value added by the station upgrade is likely to be low.

When markets fail

Besides being exclusionary, markets, especially land markets, are prone to failure. Markets fail in two broad ways. The first is when there is insufficient income to create an effective demand for a product or good. However, it could be argued that this is not the failure of the market itself, but rather a function of the context in which it operates, and it is questionable whether the market should be seen to fail when it does not provide a good or service in the context of insufficient effective demand. If there is no effective demand for a service or product, a market should not provide it as in time the market will fail. The sub-prime housing crisis in the US is an example where a market provided housing ownership to households who did not have the effective income to pay for it. Not only did this undermine the financial system, it also led to significant loss of household assets and savings in the process.

It is more useful rather to see markets failing when, despite the effective demand for a service or good, markets do not provide it. This failure generally occurs for the following reasons.

Firstly, markets need certain conditions in order to function properly. These include low barriers to entry and exit, significant knowledge about the market being equally available to all participants, being able to compare relatively homogenous products, the presence of many players, and inputs that can be shifted easily in response to price and other signals. Owing to land and property's fixed nature, heterogeneity and associated high capital costs, these conditions do not exist in land and property markets and, conse-

quently, they are prone to failure. Unfortunately, many of these conditions are exacerbated by state policies and interventions.

Secondly, markets do not respond well to externalities where the actions (both positive and negative) of one party are felt by another party, despite no action of their own. Again, due to its fixed nature, land and property are particularly susceptible to the impact of externalities. This is because the party or parties causing the impact do not receive the necessary signal or incentive, and they thus do not respond to the impact.

Lastly, markets do not operate well where public goods exist. Public goods can be divided into three categories: community goods, collective goods and merit goods (Harvey & Jowsey 2004). Community goods such as police services cannot be divided and are non-exclusionary (free-riders can't be excluded), and therefore individuals cannot be charged a price based on how much is used. Collective goods such as electricity supply usually require such high capital outlays that they can only be provided if huge economies of scale are achieved and long repayment periods can be accommodated. As a result, monopolies tend to be the providers of such goods. Lastly, merit goods such as education or healthcare are those goods on which society places greater value than do individuals or communities. Merit goods have an interesting application in the context of South Africa's subsidised housing.

Many South African commentators are critical of the eight-year resale restriction imposed on houses provided by the state, saying that it undermines the economic and financial value of the house and prevents socio-economic mobility. This raises an important dilemma. On the one hand, such a restriction precludes the right of households to make trade-offs between competing needs. As a recipient of a subsidy house stated, 'I can delay my housing needs, but I can't delay my child's high school education when they are 12 or 13 years old.'

On the other hand, selling the subsidy house may result in the household having to move back into an informal settlement, which may exacerbate the health issues (such as tuberculosis) in the settlement and place a greater cost burden on the state health system. Therefore, due to the negative health externality created, the state

may place a greater value on the subsidy house than the individual household does.

The role of the state in land markets

A common response by the state to market failure in land markets is to provide property directly to its citizens in the form of land and housing . This response can be effective where the causes of the market failure are correctly identified and a capable and efficient state apparatus exists. However, state responses are often flawed, inefficient and can result in further market distortions.

This is because, in an effort to be equitable, many state policies provide a standardised product to everyone, despite different people having different land and space requirements. The inability of public policy to cope with these diverse requirements and the limited availability of certain types of spaces means that people's capabilities are undermined and the intended developmental outcomes of most programmes are not realised. The failure arises from the fact that land and space can contribute to increasing capabilities, but this is determined heavily by where it is located. While land may be abundant in many cases, well-located land is not, which usually produces intense competition for it. This has two consequences. Firstly, many uses and groups are out-competed and excluded and, secondly, the space is usually intensely used – as is evident from the over-crowding of inner city buildings or relatively better located informal settlements.

As a result, rather than looking to provide the land and housing directly, in many cases the state would be better off reducing the barriers to entry to existing well-located sites and creating more well located sites by combining the factors that create such sites e.g. infrastructure, good schools etc. No privately owned land exists in a vacuum and many of its attributes, such as location relative to urban amenities, are determined by surrounding state-owned land and facilities such as roads, schools and infrastructure. By increasing the supply of better located and well-serviced sites, the level of competition will drop, making them more affordable and thus creating access for more people and uses.

Furthermore, the state's systems are often central to defining the land in question and in determining what the land can be used for. Market transactions are not once off events but represent a process or series of steps, many of which have direct or indirect state involvement. Government policies on urban land ownership play a significant role in the supply of land in African cities, and have consequences for infrastructure investment and urban development more generally.

Different countries have had, and continue to have, different policies on urban land, which affect patterns of land ownership and the nature of urban development. Under apartheid, for example, black South Africans were not permitted to own land in most South African cities. Much of the investment in infrastructure for retail, residential and manufacturing occurred in wealthier parts of the cities close to residential areas previously reserved for white South Africans, with little investment made in economic infrastructure for black outlying townships. In Tanzania, the nationalisation of land in 1967 meant that the fees payable for land were far less than its market price and the cost of installing infrastructure. This dampened the appetite for investing in urban development. In Ethiopia, after the revolution in 1974, individuals could not own more than half a hectare of land in the city and family members were restricted to one house. The rest of the land was nationalised. While it provided an opportunity for poor Ethiopians to live in the city, the low rents collected in nationalised dwellings could not keep up with the maintenance and development needs of existing infrastructure, resulting in its decay (Rakodi 1997). In Mozambique, the Constitution of 2004, based on the Land Law of 1997, stipulates that land belongs to the state and prohibits its sale, mortgage or alienation. However, a vibrant land market continues to operate, based on improvements to land rather than the land itself as a transferable commodity.

These examples illustrate how government policy has consequences for investment patterns in urban areas. Whether the exclusionary policies of apartheid South Africa or the nationalisation policies of the revolutionary government in Ethiopia, these ideolo-

gies determine the extent to which investors are willing to risk developing property in urban areas. In addition, public policy determines how much money is available in state coffers for investment in new infrastructure and the operation and maintenance of existing infrastructure and property.

The state is also often directly involved in various markets as a landowner and tenant. For example, the state leases significant office space from private landlords in most of South Africa's major cities. Ironically, this demand for office space in these well-located areas increases the value of these buildings. This in turn prevents many of the buildings being converted into affordable residential accommodation, which is a policy objective of the state. In some cases the state is indirectly the landlord in these markets. South Africa's Public Investment Corporation, which is responsible for managing the pension funds of all state employees, is recognised as being the largest owner of commercial property, controlling and managing a significant portfolio of the country's retail, industrial and office space. Similarly, many South African parastatals and government departments possess large land holdings and their choosing to retain or release this land into the market can have large impacts on the availability and price of land.

The role of the state as a regulator also has major impacts on markets and the degree to which people are able to participate in these markets. As a regulator, the state imposes numerous standards on the goods and services produced in the market. These include the standards imposed on building construction. While many of these standards have beneficial health, safety and environmental outcomes, they can have a significant impact on the costs involved, which in turn may have unintended consequences. If the standards are excessive and the consequent costs are too high, the development of affordable accommodation will not be feasible and development will not occur within the law. This leaves residents with no choice but to rent from illegal landlords in buildings that do not comply with the most basic health and safety standards. Alternatively, the costs of providing high standards have to be passed on to the tenants and end users in the form of higher

rents and prices. The imposition of such standards is thus in many cases a tax on the poor without their knowledge or consent. Clearly a balance has to be achieved.

Lastly, the state is reliant on the market for the revenue generation necessary for it to fulfil its mandate. This usually occurs in the form of property taxes and user-charges, but increasingly the state is entering into public-private partnerships where both parties share in the risks and benefits of engaging in market activity. In South Africa examples of these include the provision and management of public infrastructure such as roads and rail systems through tolling arrangements and the rapid rise in the number of city improvement districts throughout the country. This use of markets, especially local land markets, to raise funding is likely to increase in the future in South Africa as there is growing concern that, 'municipalities are becoming increasingly dependent on national infrastructure grants to fund their capital budgets. This is not a sustainable trend, because it means the tariffs for the main municipal services are not covering the infrastructure costs of providing those services. There is also a concern that the use of conditional grants by national government reduces municipalities' scope to set their own expenditure priorities, and thus weakens their accountability to local communities' (South African Treasury 2011). As a result, national and local governments are looking to use value-capture techniques to engage with markets to increase local revenue generation (McGaffin & Gavera 2012).

The state's involvement in the provision of goods and services can however be very problematic. This is not to say that there is not a case for state provision of goods and services, especially those of a public nature; rather, this shouldn't necessarily be the fall-back position in the face of market failure. Firstly, the state's resources are generally limited and its supply-chain requirements are often bureaucratic and not geared towards achieving the greatest value for money. Secondly, while in many cases effective demand may be low, most households are in a position to pay for a particular level of good or service, and hence a far greater resource base can be mobilised to meet a range of living standard requirements. Thirdly, by definition, the state is generally required to provide goods on

an equitable basis, which generally produces the negative consequence of a 'one size fits all' product or service being delivered when in fact a variety and choice are required. Following on from this, markets are far more likely to be able to innovate and provide nuanced responses to local needs.

The role of markets in facilitating investment

Ultimately the eradication of poverty depends on strengthening the capability of people and communities to improve their standards of living. Due to the absolute backlog of many basic needs and the high degree of inequality in this regard, the total resource base needs to grow and the way in which it is divided needs to change.

Increasing the resource base depends on growth, which in turn requires investment. Incentivising investment depends on creating a reasonable expectation of future value and instilling confidence that this value can be realised. Value could be defined in economic, financial or social terms.

However, increasing the resource base alone won't necessarily reduce poverty; how the resource base is divided also needs to be addressed. For this reason, investment needs to be focused at an individual/household, enterprise, community and state level. If an entity such as a household is responsible for investing and creating value (by incrementally expanding their house, for example), they have a legitimate claim on the value created when it is realised – by selling the house, passing it on to their children, etc. In other words, they become shareholders in the urban space and an entry point is developed to access the resource base. Another example would be municipalities investing in infrastructure and capturing some of the value generated through a value creation mechanism. In this way they increase the resource base, but also reduce their reliance on equitable transfers and conditional grants, which gives them greater flexibility to address poverty at a local level.

In addition to creating a legitimate claim on the value generated, locally-focused investment increases the investment pool and therefore maximises society's value creation potential. In light of

the enormity of the task of reducing poverty, the entire resource base of society needs to be drawn upon. Locally-based investment (by households for example) enables local innovations and knowledge to be drawn upon, and for trade-offs to be made by those best placed to make them. Lastly, because inequality and poverty have a spatial dimension, by definition geographical investment is needed to break this pattern.

The key objective, then, should be to create environments that are conducive to investment. These are created when there is a reasonable expectation that value will be created by the investment and that the value can be realised by the investor. It is here that markets play a key role as they facilitate the transactions that are needed to realise the investment value. Households, for example, will be less inclined to invest in their properties if they can't transact (e.g. sell it or pass it on to relatives) the property to realise its value, or if someone else can take the property and future value away, through an action such as an eviction. Investment is situated in space, and having access to space of a particular type is a key aspect of creating a conducive investment environment. Therefore, it is critical to understand how the poor access, acquire, hold and transact land.

The goal of development is not just about achieving a certain standard of living, but rather is about the ongoing enhancement of the capability to achieve this end. Markets impact on how transactions influence capabilities and asset creation. It is therefore important to define what markets are, how they operate, and how they can improve capabilities and structure the investment process in a more equitable and efficient manner.

Endnotes

1. Acknowledgement to Liza Cirolia for this point.
2. See Harvey (2011) for a detailed discussion of the inherent contradiction and inevitable crises created by capitalism and capital accumulation.
3. Another example would be municipalities investing in infrastructure and capturing some of the value created through a value capture mechanism. In this way they increase the resource base but also reduce their reliance of equitable transfers and conditional grants, which gives them greater flexibility to address poverty at a local level.

Chapter 3

In the meantime ... Moving towards secure tenure by recognising local practice

Lauren Royston

Colourful plastic buckets line up along the wall built around the standpipe, waiting for the pressure to increase. When it does, the water will finally flow and their owners will arrive to claim their buckets and a place that they hold in the queue. People here are patient.

We are walking past a water kiosk in a section of Mtandire, a peri-urban settlement in one of southern Africa's capital cities, Lilongwe, Malawi. G, a local leader, tells us that people settled here when the chief gave them land in 1974. 'No,' we are told, 'people did not pay for the land from the chief.'

Although people call this place a village, densities are high, residents are no longer members of the same clan and little land

is left over for cultivation. On the very edge of the capital city, this is a very urban place to live. 'Village' seems to refer to the ways things are done here, rather than the geography of the settlement.

'Yes,' we are told, 'people can sell land when they leave, because they have built on it.' Arriving at a price is a negotiated process in which personal circumstances feature as much as the characteristics of the property.

Later we are told, 'Yes, the chief does receive money from people'. But we thought people here haven't paid for the land? 'No, this is not a payment for land. It is a token of appreciation to the chief.'

The logic of how things work is clear to the people who describe it, but can challenge outsiders' understanding of both ownership and payment. A tribute is not quite the same as a land price. Nor is a chief's land allocation quite the same as a land sale, although it leads to what is locally regarded as ownership.

What we see in places like this, and others like it, is that the problem of urban land access is not so much a 'gap' between formal and informal, as a 'mismatch' between different systems which co-exist.

The choice of descriptor matters as a way of thinking about the direction of change. The focus of Urban LandMark's work in the tenure security/land markets nexus has been exactly about this question: Is it feasible to bridge the divide in urban land markets between formal/official/legal on the one hand, and informal/local/practice on the other? Is it possible to fit together pieces of this puzzle that don't quite match, and adjust and adapt practice to produce more tenure security?

Urban land access is not a neutral issue in southern Africa, whether you are a poor Mozambican woman in a peri-urban Maputo slum, a rich Angolan investor, a Chinese property developer, or a recent title-holder in South Africa. Property is an emotive issue because both historical and contemporary experiences configure who has access to land, and on what terms. While history varies in the countries that make up the southern African region, experiences of colonisation, post-colonial conflict and current unequal economic relations are more or less shared. Land features across these histories, sometimes in conflict-ridden and violent ways.

History configured land access, and more particularly access to the benefits of land, in terms that were largely racially and economically determined. Culture was important, too, because of the clash between imported European law and African indigenous and customary systems of land holding and governance. The meaning of land, and the legitimacy of who governs it, is very often socially determined. To make matters more complex, none of these systems have remained static. Alive to the demands of rapid urbanisation, systems have adapted over time and continue to do so today. Such systems co-exist as they adapt, often resulting in hybrids that are neither exclusively Western or African, neither legal nor illegal, neither formal nor informal, neither private nor customary, neither local nor official. Outsider observation is complicated in these circumstances, and it can be difficult to develop pro-poor interventions.

Post-colonial law-making has moved many countries in the region out of colonial legal regimes; what remains constant across time and space, however, is that urban property in southern Africa is exclusive. It is exclusive because of the unequal terms on which southern Africans engage with it. Because the urban land market is the most significant institution that mediates the access of the region's people to urban land, it cannot be ignored.

Work over seven years of evidence-building by Urban LandMark revealed that poor southern African women and men engage actively in the urban land market institution (Marx 2007a, Raimundo & Raimundo 2012, Development Workshop 2011, Progressus Research and Development 2013a, Progressus Research and Development 2013b). Although the research sites varied considerably, there is evidence of transactions occurring even in countries where the land is nationalised or land cannot be sold legally. The evidence also shows that far from being disorganised, locally managed processes are in place for accessing, holding and trading land.

When this research started seven years ago, very little was understood about the presence of these markets, how they function, whether (or to what extent) they work for poorer urban residents, and what could be done to improve them. This chapter is based on the findings that land markets are operating in parts of southern

African cities where poorer people live – largely, but not exclusively, slums, informal settlements, *bairros* or *musseques*. It focuses on what has emerged about the nature of these markets – what characterises them, where authority resides and where the strengths and weaknesses appear to lie. Its central concern – and indeed that of this book – is about creating more equal access to urban land and the potential benefits this holds. This chapter argues that improving tenure security is a foundation for improved access to land, and outlines what this might mean in practice.

The presence of urban land markets

The process of building the empirical base of enquiry started in southern Africa with a study in Cape Town, Ekurhuleni and eThekwini (Marx 2007a). The survey instrument was adapted for use in a study in Luanda (Development Workshop 2011) which built on a study that had been conducted seven years prior, and subsequently in Huambo, Angola. A further adaptation of the survey was then administered in two settlements in Maputo (Raimundo & Raimundo 2012) and in 2012 the survey, with adaptations, was run in Lilongwe, Malawi and Tete, Mozambique (Progressus Research and Development 2013a and 2013b).

The six 'operation of the market' studies researched how poor people access, hold and trade land in selected settlements. The early conceptual framework for this work (developed by Marx 2007a) relied on two key ideas: firstly, that transactions provide evidence of a market; secondly, that a transaction is a process with a series of sequential steps, which are not necessarily linear, rather than a single moment such as a contractual agreement. Steps include finding people or organisations with whom to contract, establishing the legitimacy of others with whom to transact, calculating or valuing the land or the rights to land, contracting or coming to an agreement, holding land and the rights that accrue to the holder and, finally, termination. These steps framed the questions in the original survey instrument, which was adapted over time. As a result this sequence is evident in findings across the studies. In this

chapter, the steps in the transaction process underpin the market characteristics section below.

A key question for the programme was whether or not markets exist in parts of cities where poorer people live. In the South African context the research focused on specific settlement typologies which included: informal settlements (Nkanini in Cape Town, Somalia in Ekurhuleni, and Blackburn Village in Durban); RDP or state subsidy housing areas (Delft in Cape Town, Kingsway in Ekurhuleni, and Old Dunbar in Durban); settlements with a high incidence of 'backyard' or small-scale, informal rental arrangements (Watville in Ekurhuleni); peri-urban areas that could be classified as 'neo-customary' (Sobonakona Makhanya in Durban); and council flats or public rental estates (Manenburg in Cape Town).

The well-developed settlement typology for Luanda[2] gave geographic focus to the work there. The typology contains ten categories based on a set of settlement characteristics, which include the level of development (and by whom), infrastructure and services, housing quality, and population density. The study selected four of these types, which apply to 74 per cent of the total population of Luanda.

In Mozambique the site selection focused on a number of informal settlement areas: Luis Cabral and Hulene B in Maputo, and Sansão Muthemba and Matundo in Tete. In Lilongwe two peri-urban settlements (Mtandire & Chinsapo) were identified[3] where land administration is of a (neo)-customary nature since the settlements are located on the urban edge, outside of the municipal boundary.

Early research findings demonstrated that, contrary to conventional wisdom, land markets do indeed operate in poorer parts of the three metropolitan areas (Marx & Royston 2007). One of the study's main conclusions was that informal settlements occupy an important place in the urban land market and play a critical role in urban land access. This finding contributes to growing opposition to the policy dictum of 'informal settlement eradication'. The markets perspective adds a new dimension to the debate: it proposes that without considering alternative land supply mechanisms, eradicating informal settlements would undermine the way in which the urban land markets function in poor communities.

The characteristics of land markets

The overarching finding that land markets are pervasive in informal settlements is based on evidence that the features of transactions in these communities are generally similar, including finding people to transact with, establishing the trustworthiness or validity of the transaction, entering into agreements and producing evidence to defend claims, the purchase of property and the role of price, and the presence of arrangements to manage conflict over market transactions. The research explored how these processes manifest themselves, the presence of the state, and implications for security of tenure. The findings are discussed below.

Social relationships

The original three-city South African study (Marx 2007a) characterised the markets as 'socially dominated', because the social networks of which people are members bring together those that 'seek land and those who have land'. In a socially dominated market money may be exchanged, but price is not the overriding factor that frames the transaction. Since the first study, social relations have emerged as significant across the cases, although with important nuances. Social relationships are evident especially in two steps in the transaction process identified earlier: finding others to transact with, and checking trustworthiness or establishing confidence about the validity of the transaction.

Family and friendship networks feature across the studies most strongly when people are finding others to transact with, (over 80 per cent in the Malawi study and over 60 per cent in the South Africa studies). In the Maputo study 45 per cent relied on family and friendship networks when finding a place to stay, while in the Tete study most respondents heard about the settlement from a family member (43 per cent) or friends (29 per cent). In South Africa, 'people living around' was also a significant category of response at 16 per cent, indicating that people are using social networks to find a place to stay.

The surveys enquired how people establish trustworthiness or

check the validity of their transactions, and the findings once again identify the importance of social networks. In Malawi rental and ownership markets exist in the two study settlements and both can be identified as being socially determined. In the rental market confidence that the agreement would be valid was obtained through the respondents having been introduced to the contracting party by family or a friend. In the ownership market this confidence was obtained through the chief as well as through family and friends.

In other words, the Malawi study shows that people do buy property from strangers, but this transaction is mediated by both family network and the chief. So, for example, in Mtandire just under half (43 per cent) of respondents bought from a stranger introduced by a family member or friend, and a quarter of respondents (23 per cent) bought from a stranger introduced by the chief. In Chinsapo, a third of respondents bought from a stranger introduced by the chief, another third introduced by a family member or friend, and a further third introduced by someone known by the family or a friend.

Reliance on social relations featured strongly in the Luanda study, with a significant portion of respondents indicating that their neighbours can provide testimony that the place belongs to them. In the South African informal settlement sites, a significant proportion of respondents felt that they took a chance because the land was empty, indicating a high degree of risk taking. Thirty per cent of respondents said the committee system – the locally agreed way of doing things – is the means to check trustworthiness, while a further 20 per cent relied on family and friends. For 11 per cent reliance on documented evidence, in the form of a receipt, was significant. In the Tete study sites responses confirm the importance of social relations, as for 19 per cent friends and family would verify the trustworthiness of the transaction, and for 13 per cent family had given them permission to stay. For a further 13 per cent the confirmation granted by the head of the block was the basis for knowing the agreement would be valid.

The study findings contradicted the view that there is only one type of urban land market – that which is normally associated with price and regulated areas of cities (Marx 2007a). This assumption 'tends to dismiss other ways of transacting around land as dysfunc-

tional, thin or defective, or quite simply absent ... and (i)t fails to recognise other forms of economic rationality' (Marx & Royston 2007:13).

At the same time the current framework, which is socially dominated, 'offers very few opportunities for the poor to themselves transform ... (the) discriminatory patterns that are set by the state and the market' and in South Africa these patterns are 'invariably geographically pre-determined by the imprint of apartheid and post-apartheid spatial planning' (ibid.:170).

Local land management rules

Entering into agreements is another step in the transaction process identified earlier, and a variety of local rules are present in the case study settlements. Far from being informal, in the sense of lacking organisation, most people engaging in these markets enter into agreements when they transact land, and have some kind of evidence to back up their claim, whether oral or documented.

In Maputo nearly half of respondents had some kind of agreement; a *declaração* for 29 per cent and a verbal agreement for 19 per cent. A *declaração* is a written document, an affidavit, which is issued by the ward secretary and carries his/her official stamp. It is also recorded in the settlement register. Only 6 per cent responded that they had no agreement, indicating that having an agreement, whether it is verbal or documented, is an important aspect of accessing land. More people in the Tete study indicated that a *declaração* secured their agreement, at 57 per cent. A verbal agreement was also important, at 20 per cent. In Luanda about 86 per cent of the total number of respondents had some kind of documentation that demonstrates that they had a right to occupy the property. In South Africa most households in informal settlements relied on written agreements ('given a receipt'). In Malawi most respondents who owned property obtained rights to the property through an agreement witnessed by the chief or a document given to them by the chief (98 per cent in Mtandire and 90 per cent in Chinsapo). In the rental market in the Malawi study, rights to the property were secured through being given a document from the owner (49 per cent in Mtandire and 58 per cent in Chinsapo).

These results confirm the existence of some form of evidence to defend claims, for many, and in some cases for most residents. It is important, however, to take into account those for whom such evidence does not exist in upgrading processes, and to understand the reasons for an absence of local evidence. It may point to particular vulnerabilities and/or exclusions and provides important clues for building more appropriate policy responses. For example, many respondents perceive themselves to be secure, but might well be under threat when more powerful property interests come into play. As a consequence, giving some kind of official recognition to evidence that enables property owners to defend their claims is an important place to start.

These markets are organised locally but they derive their authority in varied ways. Across the case study sites the agreements mostly take place between people known to each other locally as neighbours or as friends. The South African study concluded that most poor people only know other poor people; poor communities are characterised by lack of access to knowledge about land, urban development and land-based opportunities. When poor people are operating in highly localised markets, they 'find it difficult to trade up or out of the socially determined range of land options' (Marx 2007a:171).

In Malawi local institutions have the backing of custom. In South Africa the documentation is local and the sources of authority are local. Mozambique and Angola are different because, although the land management institutions are local, they derive their authority politically and historically. And in Mozambique the main form of evidence used locally – the *declaração* – is also inscribed in law as being a requirement in the onerous titling procedure, which gives it more authority locally, authority which is derived externally.

Local land management practices and tenure arrangements are thus shown to be more credible than policy and law.

Legitimacy of land management practices

The legitimacy of local land management practices derives from a variety of sources of authority (social, political, customary and

historical) and emerges as a significant feature of transactions throughout the settlements in which the studies were conducted. In the case of disputes, however, it was found that recourse is mainly sought from local or provincial officials, or politicians.

For example, an overwhelming majority of respondents in the Luanda study (86 per cent) are in possession of unofficial property documents to demonstrate their occupancy rights, with half holding a purchase/sales declaration and others citing a contract of sale as evidence. In Angola official forms of evidence were held by a mere 8 per cent of respondents in the study sample. In Maputo the *declaração* is the primary form of documented evidence as 29 per cent of households responded that they had received one from the *Secretario de Bairro*. Others had a verbal agreement or an agreement witnessed by others (16 and 5 per cent respectively). Fewer than 3 per cent of respondents were in possession of a DUAT, the official form of registered right. In Tete the majority of people were in possession of a *declaração* (57 per cent), which is an even more widespread form of evidence than in the Maputo study. In both Luanda and Maputo the important role of local level authority features significantly. In the Luanda study the residents' committees emerge as being important, while in Maputo it is the ward secretaries and the lower level neighbourhood structures like the *chef de quarterão* and the *chef de cazas*. If a neighbour is to bear witness to claimed rights of occupation, then the committees are likely to be the location of this testimony. The authority vested in these local institutions is historical in origin. The residents' committees were historically established as party political institutions and nowadays people perceive them to be official, or part of the state, and in Angola they are not.

Community-based organisations were active in the South African informal settlement sites and seem to be widely recognised as legitimate authorities (Smit 2008). The committees control access to and use of land in the settlements. They have rules which committee members are required to follow, such as rules for the access and use of land, for conflict resolution, monitoring visitors, keeping the area clean, and attending community meetings.

The incidence of conflict is one indicator of how functional

the local land management arrangements are and for the legitimacy of the market transactions. Who do people turn to in the event of conflict? What processes and procedures do they use? Insight into these and other questions helps understand the legitimacy of local institutions.

In Malawi conflict was experienced only in respect of those who own property. In Mtandire 10 per cent and in Chinsapo 12 per cent of respondents experienced problems after the agreement was made and these concerned disputes over the boundaries of the property. Overwhelmingly, people approach the chief in the event of a dispute. Although social networks (family and neighbours) also feature in Mtandire, the chief is the significant authority.

The incidence of conflict in the Luanda study is very low, at only 2 per cent. Most instances had been resolved by the time the research was completed. Only one dispute was reported with family members, while the remainder were boundary disputes over property demarcation. In Maputo and Tete conflict was experienced in 7 and 6 per cent of cases respectively. Conflict arose due to disagreements with neighbours, the same site being allocated twice, someone trying to take a portion of the land, plot boundaries, and eviction.

In the event of conflict, few people in the Luanda study would turn to former owners, showing that there is faith in the validity of the transfer documents. The evidence throws light on the perceived role of the state: people turn to the residents' committees (28 per cent), the local administration (18 per cent) or provincial government (14 per cent). In 32 per cent of responses, local and provincial government are combined. As the residents' committees are seen to be part of the municipal administration, the perceived role of the state is even more significant at 60 per cent. Interestingly, the first Development Workshop study (2011) tracks the dynamics of conflict resolution preferences and shows how people put more faith in social networks than in the state (actual or perceived): 60 per cent of respondents preferred to rely on family and neighbours. The residents' committee featured as the third option, at 20 per cent. Seven years later the research found a shift toward government officials as the authority, which seems to indicate that people came

to prefer an externalised source of authority in the event of dispute.

For the majority in the Maputo study arbiters of disputes are cited as being the local authority figures, the ward secretaries and the head of the housing block, at 58 per cent together. In Tete the head of ten houses features most prominently as a potential arbiter at 58 per cent with the ward secretary at 15 per cent. Notwithstanding these variations, the local leaders are significant in both studies. In South Africa responses indicate reliance on social networks in informal settlements as neighbours and previous owners are the most important people to turn to in the event of dispute. In RDP settlements the responses were different, with the municipal councillor or municipality being identified as the two most important sites of recourse. Neighbours were also selected by a large number of people, although they featured as a first choice for only 15 per cent. These findings show that the external authority of the state is seen as more important in the official than in the informal settlements. The state is not present in informal settlements in a conflict resolution capacity, but as discussed later, neither is the state absent from informal settlements.

The findings across the studies thus vary, with legitimacy deriving from social, political, customary and even historical sources of authority, and in some cases a combination of some or all of these factors. Importantly, there are cases in which recourse in the event of conflict is identified as an external source of authority, notably the local or provincial administrations or politicians.

Financial factors

Across the studies evidence emerged that, although price is a factor in property transactions in poorer communities, the markets are influenced by both financial and social considerations.

In Luanda the purchase of vacant land was most frequently cited as the means by which people access property, with house purchase being the next most significant. The significance of this finding is that most people are not occupying, or squatting on, land or in houses that they did not pay for. In the Maputo cases nearly half the respondents bought their properties, most of whom said they were

paying for the land. Purchase is also the most significant means of access for those who own their properties in the Malawi study, for over 90 per cent and 70 per cent in Mtandire and Chinsapo respectively. Although the tribute is paid to the chief more by those who own than rent, there was evidence that renters who knew about and paid a tribute, did so on a more recurrent basis than those who own, where it is a single payment. A tribute seems to be inconsistently applied, as about one-third of people who own in both settlements are not aware of the need to pay a tribute, whereas over two thirds of renters are unaware.

In Tete purchase features together with municipal allocation as the most significant way by which people access land, at 28 per cent for both types. Issues like the condition of the house, size of the plot, and comparison with neighbours are used in Tete to determine price.

In the South Africa study an average of 26 per cent of households in shack settlements exchanged houses every five years. In RDP housing, where there is a limitation on the resale of houses for eight years in South Africa, some 11 per cent of households were transacting and of these 6 per cent were sales (the remainder were non-monetary transfers). The study found that people consider it appropriate to transact on the basis of price when, for example, households have improved their dwellings.

One of the main conclusions was that, where purchase is a significant channel of land supply, financial logic exists alongside the social networks. In the South Africa study, rather than seeing urban land markets as being polarised into either financially dominated or socially dominated markets, an alternative view emerged: that financially-dominated and socially-dominated markets co-exist with each other. In Malawi a neo-customary land management approach co-exists with a financial approach, where the majority of people purchase their properties and the chiefs are responsible for aspects of land administration.

State presence

The state is not absent from most of these processes. In the South African informal settlement sites some government body was

generally involved in attempting to prevent the growth of the settlement (Smit 2008): a councillor, municipal official, a development forum. And registration processes are an important point of interaction between state and people, where the municipality numbers shacks and registers people (in this case, to apply for housing subsidies).

The context is different in the Malawi study, where the sites are outside the municipal boundary on traditional authority land. Here the city council does not appear to be involved in land management (although it has provided water services), but would be in theory were the municipal boundaries to be extended and the two settlements to then fall within the municipality's jurisdiction. On the other hand, the chief plays an important role in land management, a role which co-exists with social networks. For example, he is an important intermediary, not dissimilar from an estate agent, in land transactions between strangers, as are family and friendship networks. He is not very active in the rental markets which are more socially determined. The chief is also a state player because of the hierarchy of upward and outward accountability that exists: a village headman reports to a group village headman who in turn reports to a traditional authority (referred to as the 'TA') who in is accountable to the district commissioner. A seemingly definitional point about whether the settlements are villages or informal settlements appears to be a governance issue about who is responsible: district council and chief, or city council without chief.

In Angola and Mozambique it is more difficult for observers to clarify the presence of the state. The state and local institutions overlap considerably because of the dynamic role of local committees in Angola and local authority figures in Mozambique since the end of the civil wars in both countries. During the wars these local institutions were originally party political structures and appointees who then assumed a land management function, which is perceived as an official function because of the blurred boundaries between FRELIMO (Mozambique Liberation Front), MPLA (People's Movement for the Liberation of Angola), and both states. In Mozambique, the role of the ward secretaries has in fact become more official in recent dencentralisation reforms, but their role in

property sales remains unofficial as land cannot be sold legally. In Tete there is more clarity on the role of the municipality, as 40 per cent of respondents in Matundo and 31 per cent in Sansão Muthemba indicated that the ward secretary sent them to the municipality with a 'letter of the land' (*declaraçã*o). In Angola the local committees are not arms of the state, although many residents perceive them as such. In practice the authorities of state, party and social networks are co-existing.

Security of tenure?

Official forms of registered tenure by and large are not a significant form of evidence in the case studies. In the South African case study cities only 36.8 per cent of the respondents in the RDP housing projects refer to title deeds as their means of securing tenure. Of this figure, 25.4 per cent of respondents were given a title deed and 11.4 per cent indicated that a title deed was coming. For many people, therefore, the title deed was not perceived as being important for making agreements. In Maputo only 2.6 per cent of the surveyed households had a DUAT, and in Luanda official forms of evidence were barely used: only 8 per cent of the total respondents indicated that they possess any official form of evidence. In Malawi almost no one had a title deed. Yet people perceive their rights to be secure.

The Luanda study shows that paying for property is one of the main reasons that people perceive that their land rights are secure. It is significant that 14 per cent had no document to prove their right of occupation. This figure marks a shift downwards over time, as 24 per cent of respondents in the earlier study indicated that they had no proof. By far the majority of people, however, believe that their rights are protected because they have documents to prove it, or because their neighbours can bear witness. At present this perception is not matched in law, as the law protects people's claims in limited ways only.

In Malawi almost no respondents had ever had a title deed. Most respondents feel that their rights are strong or getting stronger, although less so for renters in Chinsapo. This is probably explained by the recent occurrence of evictions there. Once again, social

networks are an important reason why people feel their rights are secure: most respondents indicate that their neighbours can prove that the property belongs to them and some identify 'becoming part of the community' to explain their perceptions of being secure. Documented evidence – in this case having a letter from the chief – is the second most significant reason why people feel secure.

In Tete most people (63 per cent) feel that their rights are strong. This sense of tenure security is stronger for those who accessed land through the neighbourhood leaders and the municipality, than for those who accessed their land privately. Documented evidence and social relations feature as the reasons for why people feel secure; having a document or a name on a neighbourhood leader's list (64 per cent) and neighbours supporting a claim (15 per cent).

In Maputo most people (68 per cent) believe that their rights are strong or very strong. Explanations for this belief are spread between both social relations and documented evidence. Nearly 20 per cent of respondents said that their neighbours could prove that the property belongs to them, while having a document that proves it (13 per cent), and having their names on a list held either by the head of the *quarterão* or the head of the housing block, together constitute a total of 21 per cent. Having a house number, allocated either by the ward secretary or by the municipality, constitutes a further 15 per cent of responses explaining why people felt their rights are strong. Numbers constitute another kind of evidence, so having a record of some sort or another can be seen as the main reason why people feel secure, at a combined 36 per cent. This result attests to the importance of the local land management arrangements.

Are lives improving?

The surveys ask whether or not people's lives have improved since they moved into the settlement being researched. In Malawi most respondents feel that their situation had improved, but this was more prevalent among people who own property than those who rent. The main reasons for this response relate to the cost of living being

cheaper in the settlements, with better access to services, particularly water. The community feedback process in Malawi shows some of the reasons why renters feel less satisfied than owners. These include unpredictable rental increases, problems with having visitors, a lack of standard rentals, poor maintenance, and eviction without notice.

In the South African informal settlement cases, results paint a different picture. Fewer than 50 per cent of respondents indicated that their situation had improved, while 30 per cent feel that their circumstances had remained the same. Perceptions of improvement are probably related to what people value about the place, namely proximity to employment and transport connections. For 20 per cent the situation had in fact worsened. The results for the South African RDP settlements are very similar: most RDP respondents had moved from informal settlements, but only about half indicated that their situation had improved since moving. This is surprising, because of the significant state investment in RDP settlements when compared to informal settlements. Despite being serviced settlements with subsidy houses, RDP settlements must present relative disadvantages to explain this finding, most probably related to poor location in the city.

Neither municipal ownership of land nor legal municipal status are pre-conditions for access to services, especially water, in Malawi, while in the South African urban context municipalities and utilities are unlikely to invest in settlements without any legal status. In fact, this issue is what drove the City of Johannesburg to legally declare a category of informal settlements through an amendment to the zoning scheme. In Lilongwe it seems that the municipality acts quite flexibly and adaptively by extending water services infrastructure although it is clear that the legal (public or customary) and jurisdictional (city council or district council) status of peri-urban settlements needs to be clarified for upgrading to proceed at scale. This type of administrative recognition will be addressed later in the chapter.

The results in Maputo, where 55 per cent of respondents felt their situation had improved, are not very different from South Africa. The reasons in Maputo are varied but largely relate to a reduction

in the cost of living and the family staying together. The reverse is true for people who felt their situation had deteriorated, showing that affordability and the family network are significant factors. Improved access to services is a reason cited in some cases, but was not significant. Just under half the respondents in the Tete study felt that their situation has improved (48 per cent), but a similar proportion (45 per cent) responded that their situation had stayed the same. For most people in both settlements the reasons that life has improved relate to a reduction in living costs, improvements to the house, and access to services (water in Matundo and electricity in Sansão Muthemba).

From these findings it is evident that the factors that make for improvements in people's lives are social and economic in nature. We cannot read too much into the comparative data as the settlements vary considerably, but it is possible to conclude that having an affordable place to stay, access to services and a good location with access to employment opportunities and transport networks, are important pre-conditions for improved circumstances and for markets to function in pro-poor ways. In Maputo being able to stay with one's family is also significant.

Vulnerability of access and location

In the case of urban land markets, exclusion is not an absence. Poor urban residents are active in accessing land in slums or informal settlements, which play a critical role in urban land access. These markets work for poor people in the short term, because they are quick, cheap and easy to access, but the problem is that in the longer term they 'lock people in' (Marx 2007a). Location is of critical importance to more equal participation in the land market, because it raises the value of the property asset and thereby increases its realisable potential. Poorer urban residents are less likely to access well-located land, and even if they did so historically, they are under increasing pressure of relocation as more powerful urban actors, like property developers and investors, move in to purchase land.

This is particularly evident in post-conflict societies where areas that were previously unattractive to investors have become more appealing now that conflict is over. In these situations, perceived security of tenure is unlikely to protect the interests of people living on valuable land from displacement, and the need for legally defensible rights is being identified as critical. Even with rights that can be defended in law, the accessibility of legal aid is a pre-requisite for people to defend their rights.

Settlements in poor locations might be under less pressure from more powerful political and economic interests, but they do not provide people with the opportunity to realise value. In these cases markets function well in promoting access, but are more limited when it comes to wealth generation through transactions. Smit (2008:98) proposes that pro-poor functioning markets would be 'where households are able to access a variety of different options with adequate shelter and adequate services in suitable locations at an affordable cost and with a reasonable de facto security of tenure, and where more households are able to have legally-recognised tenure so that they have greater long-term security and that owners of property are able to sell their properties at reasonable prices when they wish to'. His conclusion is that, while markets enable access by the poor, they are not very functional because they seldom perform on a combination of all these indicators.

Inequality is the central problem. In the markets lexicon, it is a problem of distribution or allocation. There is no silver bullet, no miracle waiting to happen which will bring these benefits to the lives of southern Africa's slum dwellers. Growing the size of the property pie will never be enough. More equal distribution of the benefits through better allocation is dependent on well-informed, pro-poor law making and policy development. But this is only a part of it, and because of the complex project of appropriate and feasible law and policy design, most likely the least immediate. Equally significant, if not more so, is the official recognition of existing land management practices and rights to land. What might this mean in practice?

Implications for practice

Informal settlements, or slums, play an important, and most likely long-term, role in the urban land market. Political and policy recognition of informal settlements is required to replace the persistent resistance to their existence, which often plays out in evictions and demolitions. Becoming more accepting of informal settlements means taking a step toward entrenching more secure rights. This involves replacing resistance with what UN-Habitat (2012) refers to as 'passive' tenure security, which means that settlements are no longer under threat of eviction or are no longer being evicted.

More 'active' tenure security would be a progression toward being able to access increasingly more of the benefits that secure land access has the potential to facilitate. Generally such benefits require more than removing an eviction threat, and this is where the markets lens can be useful as it encourages an emphasis on the preconditions for investment. Access to more official recognition is required if investment is to flow, and in the slums context this generally means public and small-scale household investment.

In practice the large-scale titling route is generally the way to achieve official recognition. However, there are few options and they take a very long time to arrive. The case studies show that different kinds of official intervention share similar characteristics: township establishment, demarcation and parcelisation, registered tenure whether title, leasehold, DUAT or *registo predial*, or a housing subsidy. For urban poor residents the ways in are limited and official intervention tends to come in a single shape or form in each city. Can rights be secured progressively in advance of official intervention so that informal settlement residents can themselves improve their lives without the risk of eviction? The studies show that a body of practices that have developed in settlements, over many years, have not yet received official recognition in any shape or form. In other words, returning to the opening premise of this chapter, a mismatch exists between co-existing systems – one official based on the law and policy, and the other local, constituting actual practices. Is there space for something in between?

Having more channels of supply that are officially recognised

will open up access to more of the benefits that improved status – whether of a legal or administrative nature – can provide. Rather than developing new programmes, policy interventions and market mechanisms that multiply supply channels, an alternative approach is to recognise the local practices in land accessing, holding and trading that already exist; practices that this chapter has sought to illuminate. These constitute alternative modes of land access or supply, and with less resistance and more recognition, increase the options for supporting urban residents in their own efforts to gradually improve and consolidate their urban access.

Officially-recognised mechanisms that can be used to secure de facto rights to productive and residential land can be distinguished as either being administrative or legal in nature (Smit & Abrahams 2010). Administrative recognition requires policies or administrative practices to give residents more tenure security by authorities demonstrating commitment through, for example, council resolutions, extending infrastructure, occupation letters, occupancy registers, shack enumerations, block layouts, utility bills, and so forth. Legal recognition entails using a recognised legal procedure to confer legal status on an area. It usually results in declaring the area in terms of the law – for example as a settlement area, an area zoned for informal housing, etc.

Framing administrative or legal mechanisms may require the innovative application, and perhaps enhancement or adaptation, of existing laws and practices. Planning law and local land management arrangements are generally useful starting points.

The operation of the market study is one method that helps to identify the nature of these local arrangements, the authority that underpins them, and their strengths and weaknesses.[4] With more insight into how things currently work in local practice, it becomes possible to look at how these arrangements can be officially recognised.

For example, local registration practices – where community organisations maintain registers (books, files, or lists) of occupants – have the potential to become more official forms of evidence of occupation rights if municipal consent is negotiated between community organisations and the city or town council. With this

type of administrative recognition of occupation rights, tenure security has improved and the exclusionary aspects of access rules and the very local nature of the land market can also be mediated. Over time the administrative mechanism can progress with the addition of a geo-spatial component to the register, a shack number, a stand number, an address on a settlement map, a GIS (geographic information system) point, and so forth.

Planning law is another place to look for mechanisms that can officially recognise existing land rights, which are currently secured locally. In this case the recognition is of a legal nature. For example, zoning instruments can be used to legally declare a settlement. The right kinds of regulations can produce basic land use management functions and procedures such as occupation certificates or agreed application processes for non-residential uses. To increase tenure security these regulations should build on and adapt local forms of evidence (affidavits, declarations, letters from the chief or other locally-based authority, as well as the lists or registers at block or settlement scale) and local processes of decision making. Adaptation should work towards increasing accountability and openness in such practices. This expands the practice of what constitutes secure tenure and multiplies the avenues into official recognition, thereby increasing the options for improving livelihoods and increasing investment.

Is individual title the desired goal?

While there is a case for a continuum in identifying progression towards greater security of tenure in city-specific contexts, the larger debates are about whether individual title constitutes the most secure form of tenure. Is individual title the end point of progression, the desired outcome in the southern African context? The answer resounds in the affirmative, both from the policy and legal perspective. The answer from practice is different.

The debates regarding tenure security have been dominated by two schools of thought: does titling advance secure land tenure and development in developing countries? Or is it ineffectual or

detrimental to socially more relevant systems (Cousins *et al.* 2005)? This is not a neutral debate. It is generally loaded with political values that are based on assumptions about society and economic imperatives, which are often rooted in particular historical and national contexts. In addition to the pro- and anti-titling lobbies, a third position on titling has emerged, which represents a compromise between group and individual titling. The arguments underpinning these positions are not static, and discernible shifts are evident over time. Particularly complex are the anti-titling arguments, which are diverse in both focus and the conceptualisation of tenure.

The policies of many southern African countries continue to support titling approaches to securing tenure. Hernando de Soto's (2000) claim in *The Mystery of Capital* that capitalism can work for the poor if only the dead capital in property were to come to life through title, invigorated this debate. However, for poor people, title seems fairly neutral in respect of both credit and investment, as poverty is the overriding factor which limits people's access to credit, their appetite for indebtedness and their ability to invest in improvements. An incremental approach to tenure security aims to facilitate public investment through official recognition, without title being a necessity. For those households that can afford it, evidence of tenure security – such as a utility bill or a street address – has the potential to facilitate small-scale borrowing, again without title being necessary.

The titling debate is enormously important as it shapes large-scale donor- and publically-funded investment. And yet the titling debate is often one not worth having in the context of informal settlement upgrading in some countries in southern Africa, largely because the debate tends to become mired in politics, patronage and, very often, vested interests. For example, in the contemporary period in both South Africa and Angola, national ministries promised citizens the delivery of millions of houses, with registered tenure, within a set period of time. In both countries this undertaking is politically inspired, with not inconsiderable potential for corruption, and it has the impact of turning local practices of the kind described in this chapter, into illegal actions, poorly received, if not resisted, by the state.

Furthermore, the histories of colonialism, apartheid and civil war are alive in living memory. History favoured the few and land access and ownership are no exception in this regard. Exclusion is not merely a historical legacy: post-war and post-apartheid local elites constitute the new few and broad-based ownership of the economy, including ownership of property, has current and contemporary urgency.

In these contexts, it might be more pragmatic to sidestep the titling debate altogether and examine what may be possible within a different approach to land management and tenure security – one which realistically achieves progression toward more security over time, whether or not it results in title or some other legal form of tenure. While specific contexts will define what may be possible, a continuum can assist to identify – or develop, if they don't exist – incremental stages of tenure security, or options for tenure security. These include blanket legal declaration of a settlement, street addressing, co-management of local occupation registers, giving spatial expression to existing rights through mapping processes, and paying much closer attention to land management functions, especially dispute resolution, in informal settlements.

So while the titling debate is important, it is generally far removed from the informal settlement upgrading practitioners, be they community-based or official. It makes pragmatic sense to work with what currently exists – both in law and in local practice – in order to achieve more immediate upgrading and tenure security results: identifying the laws that can be used innovatively to serve adapted ends, confirming the status of local practices and adding municipal or administrative weight to them, and ensuring that there is external recourse to protect the interests of more vulnerable community members against the local characteristics of land markets and the exclusionary social networks which may configure them.

Of course innovation limited to a settlement or even a city would be very restraining indeed, if the work did not have a more strategic intent. And that strategic intent is adaptation – adapted practice and adapted law. Where opportunities for policy influence exist, as is the case in Malawi at the time of writing, they should be taken. The

body of local practice, and the local practitioners – the land managers, the community authorities, their advisors and representatives – should actively negotiate to positively influence processes of reform, to adapt policy and law to fit better with local practices. But, as shown in Chapter 4, law reform is a long-term process. Behind the idea of side-stepping the titling debate lies a concern to lift the everyday experiences (who you talk with to get a place, how you establish trustworthiness, if and when you make a profit, where to go with a dispute, and so forth) up and out of apparent complexity, settlement specificity and rich diversity, into something resembling an alternative way of doing things, a significant body of practice. And then to work towards appropriate adaptations of local practices that will necessarily come with official recognition, such as recourse to external authorities for dispute resolution, co-management of local registers, wider access to information concerning property transfers and sales, deepening the democratic aspects of local institutions, and ensuring that they do not discriminate against women and children.

Returning to one of the opening metaphors, this is not a bridge building project – between two polarities – that carries people from one side to another. Our research found evidence of co-existence: in sources of authority, in the different logics of land markets, in practices that are neither completely official nor completely unofficial. This is more like a mismatch than a gap that can be bridged, and a mismatch requires adaptation, rather than integration, formalisation or regularisation. Like a puzzle, the pieces need to be manoeuvred and fitted, then refitted, before the picture is complete.

Practical mechanisms to improve tenure in the here and now hold clues for longer term adaptation of both local practice and the law. Official recognition will itself adapt local practice. While adapted practice must influence the long-term project of law reform, it should also increase access to the benefits associated with improved tenure security in the meantime, as the meantime can be a lifetime.

Endnotes

1. The collaboration occurred between Urban LandMark, a South African agency that operated between 2006 and 2013, funded by the UK's Department for International Development, and Development Workshop.
2. Developed by Development Workshop.
3. In partnership with the Centre for Community Organisation and Development (CCODE).
4. More qualitative methods, such as key person and household interviews or community feedback sessions, are also important to qualify and nuance the quantitative results.

Chapter 4

Getting land governance right in sub-Saharan cities: More than land administration

Stephen Berrisford

It is too easy to argue that land markets will work better for poor women and men if the laws that govern the different dimensions of those markets are rationalised and improved. If laws are clearer, simpler and fewer, the argument goes, then transaction costs are lowered, opportunities for corruption are reduced, and the general populace is better able to participate in and benefit from the market.

A number of high-level international agencies call for a more rational and efficient system of land and planning laws. For example, the 2009 World Bank Urban and Local Government Strategy (World Bank 2009:16) asks, 'How then should cities proceed?' It then answers its own question by pointing out that:

> Experience suggests that only a few regulations are critical: minimum plot sizes and minimum apartment sizes, limitations on floor area ratios, zoning plans that limit the type of use and the intensity of use of urban land, and land subdivision ratios of developable and saleable land in new greenfield developments. (World Bank 2009:16)

The solution to this apparently straightforward task is that:

> Cities can use urban planning audits to determine which regulations should be changed to enable density and urban form to move in tandem with urbanisation.

This illustrates an optimistic hope that the mere act of regulatory rationalisation will trigger desirable market outcomes.

More recently the following point was identified as one of the key issues raised at the 2012 World Urban Forum in Naples:

> Legal and regulatory frameworks aimed at giving access to land for the urban poor should be based on clear understanding of how urban land markets work. (UN-Habitat 2012b)

This brief statement suggests that the conceptualisation and design of new legal and regulatory frameworks for urban land needs to be grounded in an understanding of how the market works. It moves beyond the hope that legal reforms will in and of themselves lead to market outcomes that are more favourable to the poor and excluded. This approach complements that of the United Nations' Special Rapporteur on Adequate Housing, Raquel Rolnik, who argues that:

> It is increasingly recognised that land administration and urban planning cannot be considered purely technical matters. They can be manipulated to serve private interests, with major risks of exclusion and

> discrimination. This is especially problematic when the rule of law is absent or out of reach of the poorest and most vulnerable. (Rolnik 2012:16)

She goes on to ask, 'Who benefits from the status quo and who is excluded? Who sets the agenda for land governance and land management reform? How are the benefits of reform distributed?' (ibid.). These are questions that have to be answered before embarking on urban land reform. Central to finding answers to these questions is an understanding of how the market in urban land operates.

Closer to home, the fourth meeting of the African Ministerial Conference on Housing and Urban Development in 2012 issued a strategy document published by UN-Habitat, *Optimising the Urban Advantage*, that argues:

> [There is an] urgent need to review and adapt the corpus of laws guiding urban development and the delivery of basic services [...] Several countries are right now engaged in the exercise of enacting and/or reconciling laws pertaining to planning, local governance, and service delivery. It may be useful, while taking advantage of the reform momentum, to review existing laws with the objective of streamlining them and bringing [them] into line with the desire of promoting compact urbanism. It is also desirable to adopt simple norms and basic principles that can guide urban development and facilitate the transmission of tools and guides to end-users. (UN-Habitat 2012a:12)

Here again, the emphasis lies on a challenge that is primarily one of simplification, of 'streamlining' and of isolating 'simple norms and basic principles'. Without negating the value of such interventions, they represent an incomplete picture of what is needed to get urban land markets to deliver real opportunities to the majority of citizens. These reforms are often necessary, but they are very seldom sufficient. The philosophical and political foundation of the laws also has

to change, to create an urban land governance system that addresses what Raquel Rolnik (2012:16) describes as the 'political economy issue', the fact that 'the laws, institutions and decision-making processes relating to the access and use of housing and land are highly influenced by the existing power relations within society'.

This chapter first discusses an idealised vision of how an urban land governance system works. This is a vision that differs starkly from the urban land governance reality, especially in the cities of sub-Saharan Africa. Many of the proposed elements of urban legal reform are premised on the assumptions that underpin this vision. The chapter outlines how the sub-Saharan African context differs from the idealised vision, and proposes a pragmatic approach to achieving fundamental urban legal reform over time.

How urban land governance is meant to work

In the idealised city, the state and its citizens work symbiotically to create better places for people to live and for businesses to generate profits. Whether the state is represented by local, sub-national or national government, the consensus is that state efforts alone cannot produce a vibrant, liveable city. That requires a complementary blend of individual investment and energy with the judicious exercise of state regulatory power and, of course, state investment. Similarly, merely cramming lots of people together in close proximity to each other does not make a city.

The qualities of urbanity emerge from balancing individual (and often competing) interests, and this is generally best achieved through rules and the adjudication of possible breaches of those rules. The institutions responsible both for the promulgation of those rules and their adjudication need not necessarily be state bodies. Often, especially in those parts of the cities that are not formally planned or approved, these bodies operate by customs developed over time, or by bodies that reflect context-specific combinations of state and non-state authority. However, this chapter focuses on the state-based rules and institutions, but examines them in light of their inevitable integration and overlap with non-

state bodies. Most of the impetus for urban land market governance reform comes from the premise that it is the state's machinery that has to change – the rules as well as the rule-making and rule-adjudicating bodies.

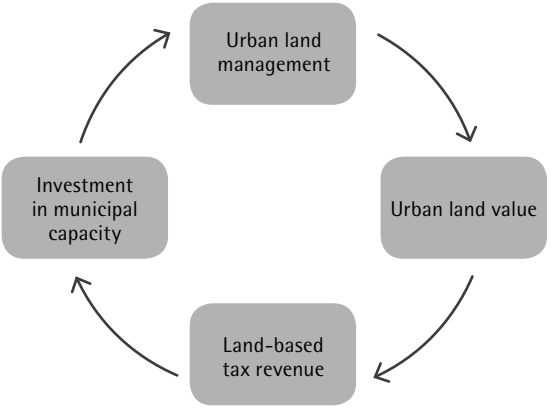
In the idealised vision of urban land governance, the state exercises its regulatory powers to mitigate the negative economic, social and environmental impacts of land development and land use of individual households and firms and ensures that the benefits are shared equitably. This scenario depends on a virtuous cycle of urban land governance, depicted in Figure 2. It is also reflected in UN-Habitat's 2013 *State of the World's Cities* report:

> One positive outcome of urban growth is that it increases urban land values. Components of urban planning systems – such as re-zoning, granting of planning permission, and the provision of infrastructure and services – also contribute to higher urban land values. Experience in North and Latin America shows that value capture can be an effective way to link urban planning and land use regulations, as well as to control land use, finance urban infrastructure, and generate local revenue to fund urban management. (UN-Habitat 2013:94)

In the virtuous cycle of urban land governance shown overleaf, the state puts in place a regulatory framework (institutions and rules) to manage and administer land tenure, land use and land development. As that regulatory framework is implemented it creates land value, primarily through ensuring certainty for investors large and small. As that land value grows so it is taxed by the state, establishing flows of revenue that can then be reinvested both in the effectiveness of the regulatory frameworks, and in the construction and maintenance of physical infrastructure. This creates more land value, which in turn builds more revenue that enables the state to plough more money into the urban system. The higher the level of security in investment, the more people – from the poorest household to the largest multinational – will invest in their land and property. The cycle

grows inexorably stronger over time, albeit subject to the ebbs and flows of the property market and the economy as a whole. The inherent logic of this cycle reinforces itself, driven by mutually reinforcing incentives and pressures.

FIGURE 2 The virtuous cycle of urban land governance



This is the model that policy-makers hold close to their hearts. It is the premise on which they design governance interventions in the urban land sector. Both country government officials as well as the representatives of the major international development agencies believe that, if this cycle can be established, it will be impelled by its own dynamism and its own internal logic to resolve the multitude of urban dysfunctions and inefficiencies so prevalent in our cities.

The work of Urban LandMark, however, reveals the deep and often irreparable fractures in that argument. It shows that a different logic is needed to guide urban land governance in African cities. This new logic has to be built on the back of a much more astute and nuanced understanding of how urban land markets work and how the majority of citizens secure their homes and businesses in the context of overwhelming poverty, weak governance structures and political flux.

How the model cracks

The conditions prevailing in most African cities make it virtually impossible to attain the urban land governance ideal described above. That African cities are diverse and different is trite, but that they experience a range of shared challenges – especially in relation to urban land governance – is also widely acknowledged. The challenges that most starkly undermine the logic of the virtuous cycle of urban land governance include the following:

1. Regulatory frameworks for urban land governance prescribe standards for legal procedures, for land tenure certainty, for physical construction, and for land use that impose costs that are not affordable for most citizens.
2. State institutions – at all levels – lack the political confidence and capacity to apply these prescribed standards to the wealthy and powerful, who tend to be the only people materially in a position to comply with them.
3. There is inevitably widespread non-compliance. Compliance becomes the exception rather than the norm. This manifests in poor building quality and a relative scarcity of secure, formal land tenure rights.
4. Where standards are applied and enforced it tends to be done selectively and punitively, with the effect of worsening the already precarious position of the poor and marginalised.
5. Where land value is created through the application of the regulatory framework, it arises from the scarcity value created by rules that apply to a limited part of the city and which exclude the majority of both citizens and properties. Consequently the price of land and land development opportunities in those areas rises rapidly.
6. Most land in the city is not registered in official land registration systems, does not have official building permission, and falls instead under a range of more localised land governance systems in which the state invariably plays a limited role and in which community or customary leaders exercise de facto power.
7. The capacity of the state to levy property-based taxes or indeed

any taxes at all is limited. There is thus no revenue-based incentive for the state to extend the application of the land governance regulatory framework since doing so is unlikely to give rise to a material improvement in the public fiscus. Instead, such application is more likely to generate community hostility, incur the anger of local politicians and aggravate officials' own and already overwhelming experience of conflict and frustration.

8. Even where there is effective collection of property-based revenue, the weak, often corrupted, governance structures are under immense pressure to direct those funds towards meeting a host of needs other than re-investment in the management of the urban environment.

This damning picture of urban land governance in African cities needs to be qualified in two ways. Firstly, it is not only in African cities that the virtuous cycle of urban land governance breaks down. The universally contested nature of both city politics and urban land markets ensures that the cycle is under pressure everywhere, particularly from vested interests. From Vancouver to Vientiane examples abound of the cycle cracking, if not breaking down completely. The virtuous cycle is never perfectly realised, but in African cities the breakdown is most striking and most pervasive. Secondly, as indicated earlier, African cities are diverse and the intensity and scale of urban land governance challenges differ widely between them. Nevertheless, one would be hard-pressed to find a city on the continent where the day-to-day reality of land governance matches the virtuous cycle even loosely.

The picture in African cities is thus one in which the cycle operates erratically at best, and more often than not fails to operate at all. In the limited cases where it does operate with a modicum of efficiency, it does so to the benefit of entrenched and vested interests. This confluence of failures paints the poor into a tight corner, regardless of the numerous examples of poor people developing ingenious and practical escape routes from such circumstances. The dominant logics that drive the urban land governance system in practice, whether through the institutions of the state or community-based structures, are rent-seeking, political patronage and

ethnic solidarity. These combine to create a series of trip-wires that contain poorer citizens physically within certain parts of the city, and trap them economically in a part of the market in which there is inadequate protection of investment. They place the poor under unacceptable threat of displacement and put a ceiling on asset value growth. Poor people excluded from participation in the formal land market demonstrate a resolute and flexible capacity to adapt and to improve their situations within the informal market. However, they remain cut off from the benefits afforded to those able to participate in the formal market. The longer the division between the two remains, the more difficult it is to breach, and the deeper patterns of inequality are entrenched.

The idealised governance model cracks precisely because the phenomenon that is being governed is a market, in which participants compete for the best possible material advantage. It is very difficult to see the ideal model working where cities are so dominated by poverty, where urbanisation pressures are so strong, and where opportunities for economic improvement are so scarce. The relative scarcity of opportunities to participate in the formal land market places enormous pressure on the holder of such opportunity to realise the maximum financial value from it and enables him or her to ask a very high price. For poor people lucky enough to gain access to such opportunity through a process of regulatory reform, the most rational financial decision is to sell it. For those not so lucky, the high price barrier ensures that such opportunity will continue to elude them. Interventions explicitly designed to achieve, sustain and grow high land values will always create a market dynamic that, unless mitigated by other measures, will progressively exclude the poor.

If one considers any of the individual steps that are likely to be recommended as part of the realisation of the idealised cycle of urban land governance one quickly sees how the implications for the poor in a typical African city are probably negative. For example, one can argue that the first step would be the delineation of individual plots and the granting of a title deed to the rightful holder of the plot. Yet, where family configurations are fluid and patriarchy is strong, there is a high probability that the person to

benefit from this initiative acts to dispossess other members of the household who, until then, had enjoyed relatively secure tenure. In the same situation it will soon become apparent that the likely costs of complying with the legal requirements for surveying, registering and transferring the plot will exceed the financial capabilities of all but the wealthiest citizens. Any calculations by the land administration gurus of how much property tax revenue the local municipality will be able to skim off the land values created out of the newly individualised and registrable plots, collapse in the light of the political difficulty of extracting revenue from the people who can least afford it and who represent a major voting constituency. For the foreseeable future the value of regularising informal, unregistered or unlawful land holdings or land uses for the purposes of raising municipal tax revenue is ephemeral and perhaps a distraction. In the medium to longer term, however, it has to be kept squarely in the reformers' sights. Ultimately it will be the basis on which the incentives are developed to create a system of urban management that works effectively for all citizens.

Furthermore, any governance intervention with the aim of raising the value of land within the formally registered system is one that is likely to have an exclusionary effect on the poor. Let us remember that land on which to live and work is neither a luxury nor a privilege, but a universally acknowledged human right. The higher the price of urban land, the more difficult it will be for poorer people to secure and hold it, and the greater the prospects of those who are already better off, improving their material conditions.

A mismatch between governance and impact

The resources of official state agencies are focused on the regulation and control of transactions at the top end of the market. Institutions such as, in South Africa, the offices of the Registrar of Deeds and the Surveyor-General, create a system described proudly as world class, but in fact are acknowledged by a World Bank study as affording *too much* protection to the sanctity of property transactions. The study by advisers Gavin Adlington and Tony Lamb (World Bank 2011)

argues cogently that the effect of the state checking, double-checking and checking again each and every property transaction, is one of high fees and transaction costs. This results in large numbers of people operating outside the system, carrying out informal and unregistered transactions. The limited state capacity to perform these functions is thus confined to the processing of transactions at the top end of the market, with little left over to manage those at the bottom. The phenomenon of more than a million subsidy houses built and handed over to beneficiaries in South Africa without accompanying title deeds is but one manifestation of this problem, amply demonstrated in Urban LandMark's 2011 publication *Investigation Into the Delays in Issuing Title Deeds to Beneficiaries of Housing Projects Funded by the Capital Subsidy* (Gordon *et al.* 2011).

Unsurprisingly, therefore, the majority of people get on with carrying out urban land transactions outside the statutory system. They create local and customary land governance institutions and practices that are affordable and relatively efficient. These institutions and practices do not provide the level of assurance provided by state structures and systems, nor do they necessarily launch a household on to the formal property ladder. But they are affordable, they are widely used, and they are clearly sufficient for many purposes. State institutions frequently express frustration, even outrage, that these practices continue, yet there is very limited movement within the state apparatus to change the very real, widely acknowledged factors that make the formal system so unattractive to so many people.

The reality that confronts us grows only more absurd and is less and less likely to lead to a workable future. On the one hand state resources focus on the maintenance of exceptionally high legal and procedural standards. This raises the costs of participating in a formal property transaction to unaffordable levels. On the other hand citizens in their millions get on with the business of buying, selling and renting urban land independently of that system, using organs of state that ought to be applying their scarce resources to achieve entirely different policy objectives. Thus, for example, the local police officers are drawn into the certification of property transfers instead of focusing on their mandate to fight crime.

Municipal councillors adjudicate property-based conflicts rather than representing their constituents' interests in the municipal council. The energy, the money and the innovation that could be directed towards creating a more inclusive and more efficient system are instead channelled into processes that perpetuate the already wide gaps between the wealthy and the poor. The illusion that the current system of governance might one day be made to work for everyone fuels an approach that effectively entrenches privilege and marginalises the poor. This is an approach that is not sustainable. It also pulls the rug of legal certainty out from under the urban land assets handed over as part of state-driven land and housing programmes.

Invariably this picture, which is primarily applicable to national institutions, also appears at the municipal level. Here the planning and land use management systems seek to address an ever widening number of environmental and economic objectives through the addition of more and more procedural and regulatory requirements. Containing urban sprawl, conserving architectural and cultural heritage, regenerating inner cities, protecting high potential farmland and managing biodiversity are each, for example, individually laudable activities of the state. Taken together, however, they have the cumulative effect of constraining the supply of formal land development opportunities and thus increasing the price of urban land for development within the formal system. They also add substantially to the professional burden carried by an increasingly beleaguered cohort of municipal officials, reducing their capacity to address the urban land needs of the poor and the marginalised. So great is the strain on these officials in many municipalities that, not only are they constrained from applying their expertise to the needs of the urban poor, but they are also frequently rendered incapable of fulfilling a wide range of other mandates. In practice they are thus effectively hobbled in their efforts to regulate or guide the activities of powerful interests in the land development system. Consequently they are seldom able to achieve the environmental and economic objectives that depend on firm and confident governance, while simultaneously maintaining ever-higher barriers to the poor. The complaint that more capacity is needed to ensure

implementation often elides into the complaint that more capacity is needed to carry out service delivery to the poor, without a critical assessment of what should be implemented and how it might impact on the needs and interests of poor communities, especially in relation to their circumstances within the urban land market. Directing capacity and resources towards a system that leads inexorably towards more exclusion and less access for the various categories of poor people is clearly not a good idea.

Two strands of intervention

Urban land governance in any context is complex. It is never a straightforward approach of applying legal and economic formulae to achieve a stated set of objectives. Urban land is characterised by its unique attributes as both an asset supporting wealth creation as well as a source of livelihood and the basis for family and household security. Its political and economic value is so significant that it seldom yields to one-dimensional prescriptions. Nowhere is this truer than in southern African cities, which combine historical legacies of oppression and dispossession with contemporary challenges of inefficient economies, unsafe, unhealthy (and deteriorating) environments, weak institutions of (formal and customary) governance and extraordinary inequality.

The southern African urban context is not only complex, it is one that is dominated by elite interests that are both diverse and frequently unaccountable. Whether in the form of large landowners able to hold city authorities to ransom, traditional leaders balancing their historical role with opportunities to exploit vulnerable subjects, state agencies retaining large parcels of land, or economic and political elites with significant personal investments in urban land, none of these interests has much to gain from wider participation by the poor in the urban land market. At most, participation is perhaps viewed as holding the bare minimum of property assets needed to survive and provide reasonably convenient labour services.

Intervening with a view to strengthening the position of the poor in the urban land market thus requires both a many-pronged

approach and a medium- to long-term perspective. There are no quick fixes to breaking down the barriers that keep the poor on the physical and economic margins of the urban land market. Nor will one intervention alone be likely to have a meaningful impact. The powerful vested interests that benefit from the current patterns of operation of the market will always and necessarily oppose such interventions. Consequently a strong political dimension arises in the design of any set of possible interventions.

Urban LandMark has come up with a number of proposed interventions, many of which are set out in the 2012 publication *Managing Urban Land: A guide for municipal practitioners*. Essentially the approach advocated is to approach the market from two directions.

Firstly, interventions are needed to enhance the supply of affordable urban land tenure and land development opportunities. This demands a series of legal and institutional reforms that break down barriers to access, ensuring a stronger and more consistent flow of legally secure land market opportunities. Such opportunities consist both of legally protected rights that can be held, traded for fair value and augmented over time, as well as interests that might lack the same legal protection, but afford the holder of the interest greater security, especially of tenure, and the use and development of land. The reforms required to realise such opportunities include, for example, simplifying and rationalising the requirements for registering land rights, facilitating the approval of land use changes, and using planning processes to recognise the interests of people living in cities even where they do not necessarily enjoy formal rights to land or a building. Infusing all these efforts has to be the concern that the holders of the newly supplied opportunities are able to hold on to them in ways that enable them to derive sufficient financial, social and economic advantage.

These interventions have to keep in mind the twin concerns of lowering transaction costs as well as lowering the actual cost of taking up an urban land opportunity. In an urban environment there is always competition for financial opportunities and this is especially so in relation to land tenure and land use. The tighter the supply of land opportunities, the higher the price. Ensuring access to these opportunities thus depends on sustaining that supply.

An important way of lowering the risk of downward raiding by better-off citizens seeking cheaper land opportunities, is to sustain and grow the supply, creating an expanding pool of opportunities that can both meet more demand and moderate price increases.

As the supply of urban land opportunities is increased, it becomes important to generate land value capture mechanisms, to ensure that both the investment by the state in enhanced supply, as well as the windfall benefits of that investment, are recouped. Lall *et al.* (2010:xxxv) acknowledge that using 'regulations rather than pricing' creates a 'trade-off between environmental sustainability and greater economic efficiency of the city'. This trade-off can be very stark in the case of African cities, presenting city governments with almost impossible choices. Lall *et al.* go on to argue that an 'alternative fiscal instrument based on capturing land values' could be more effective at achieving desired spatial and economic outcomes.

Secondly, a different set of interventions is needed to strengthen the ability of the poor effectively to demand these same opportunities. Here initiatives to promote and strengthen incremental land tenure as well as policy interventions to support small-scale private rental all have roles to play. A key contribution has been the evidence of just how resourceful and innovative poor people are at establishing and participating in informal land markets (e.g. Marx 2007). It also shows that despite such ingenuity they remain effectively trapped in markets that accommodate trade in assets (informally designated land), but which bar them from accessing the market that supplies the more valuable and more strongly protected asset of formally recognised land. The challenge is how to create effective demand among people currently excluded from the operation of the formal market, to enable them to participate efficiently and easily, and to establish a basis on which to build, incrementally, an increasingly strong and resilient foothold in a market where the odds are stacked against them.

In cities such as Johannesburg and Cape Town there is an appetite for procedural innovations, using existing town planning regulations that recognise the interests of poor people in remaining securely in their homes despite a lack of other legal requirements for secure tenure. This example represents one way in which a

municipality can innovatively (and with relatively little effort) strengthen the position of poor people vis-à-vis land market forces, making it possible for them to create incrementally a more solid platform on which to build a more secure home (Smit & Abrahams 2010:23, City of Cape Town 2012:5.2).

Parallel to innovations such as these must also be the development of an efficient and progressive system of property-based local taxation. As the state apparatus begins to expand the effective demand for urban land opportunities, and as less well-off citizens begin to exercise that demand, so the state needs to bring them into the property-based taxation system, slowly but surely. This is how the eventual realisation of the idealised cycle of urban management will be achieved. Whitehead *et al.* (2010:67) highlight the risks of rapidly developing countries trying to regulate their control over their urbanisation processes, risks that are 'fraught with the danger of enriching particular groups at the cost of the community as a whole'. She concludes however that, if the regulation manages to 'enhance efficiency, government may have to accept rent seeking as a necessary cost – while at the same time attempting to improve enforcement procedures within general legal and taxation systems' (ibid.), thus showing the need to match regulatory reforms with fiscal reforms.

There are thus two strands of intervention. One involves tackling the supply of urban land market opportunities from within the organs of the state and through relatively high-level legal and policy reform. The second strengthens the demand for these opportunities, focused on more practical, more local and more direct interventions to support poor households to establish and protect their interests (see Chapter 3). These are two streams of intervention, moving in different directions, but with the shared end goal of a governance system that is both fairer and gives more options to poorer people to exercise choice and to protect the value of their investments in their homes and businesses. No single legal or policy intervention is the answer to achieving either strand of intervention. Achieving them will be the product of ongoing and sustained pursuit of individual measures, built on a growing body of evidence and advocacy, and incrementally piecing together a system that works both more efficiently and more equitably. Interventions that are likely to have

a beneficial impact on access to the market for poorer households will often meet resistance from elite interests responding to threats, real or perceived, to their interests. Achieving these interventions is thus inevitably a protracted and contested process.

A new agenda for urban land governance reform

Although significant new thinking is emerging (including through the activities of Urban LandMark), this work also highlights areas in which further and more rigorous research is needed. The emergence of new thinking lays the basis for a new agenda for urban land governance reform, but signals that significant further work is needed to drive that agenda into the future. In particular the challenge lies in taking up Raquel Rolnik's (2012) call to address the 'political economy issue.' As a new agenda is built on the idea of two strands of intervention, so too there has to be constant vigilance that the different areas of intervention are striking at the heart of the market forces that currently drive Africa's urban land markets. Are they addressing inequality? Are they building a foundation for a system of city governance that not only gives more people access to urban land market opportunities, but also supports them to remain in control of those opportunities and to grow them over time?

A sufficiently full understanding of how the 'whole' urban land market works in a city is still elusive. Is there any articulation or causal link between price movements at the high end of the market and those lower down? Do we fully appreciate the costs of participating in the more formal parts of the land governance system? Are our legal and institutional arrangements appropriate to carry the market forward in a way that will make it work better for the poor? Answering these and other questions requires more rigorous research and a sustained programme to draw out more compelling arguments for the two strands of intervention to make the market work better for the poor. We must direct governance instruments in Africa's urban land markets to strengthen, not weaken, poor people's chances, give them access to the market (and especially the formal market) and strive to include them as the market moves

through its inevitable cycles, both upward and downward. This is not an easy challenge to meet, but it should not be ignored any longer.

Urban economies that are not built on a stable land market are themselves unstable. City governance has to focus on building stability steadily and progressively, without losing sight of the final goal. Nor should pursuit of that goal blind us to the contradictions that inevitably emerge. Improving the rules and institutions that make up urban land market governance must at the same time build and strengthen the wide knowledge base. The more cities' land markets are understood, the better can one design governance interventions that will achieve positive outcomes.

Building a system of urban land governance that includes most citizens and generates economic growth is not a futile objective, nor is it a grand gesture of the impossible in the face of insurmountable odds. It is a goal that can be achieved, but only through initiatives that are grounded in a pragmatic understanding of how markets in urban land work, what drives those markets, and how individual interventions are likely (or not) to result in particular market outcomes. However, this goal cannot be achieved by the wishful combination of earnest entreaties for more robust political will and simply hoping for the best. The dynamics of the land markets in all our cities show that a more nuanced, more incremental and, above all, a more patient approach is likely to produce the desired results.

Chapter 5

Choices and decisions: Locating the poor in urban land markets

Caroline Wanjiku Kihato and Mark Napier

> There is a reason why people live in the slum. You look for somewhere where you can live comfortably. Some people were born here and so this is home. There are people who have stayed here even if their life has improved; they find it is a place where they can do business. Maybe they have children and they want them to go to school. Staying in the slum makes it possible to realise some of these dreams. We make choices to live here. (Millicent Auma Otieno, Kibera resident and founder of Kibera Women's Self Help)

World cities face a bleak future. Global capital, state failure, structural adjustment programmes (SAPs) and a misguided non-profit sector collude to create a world of 'megaslums' which are 'characterised by overcrowding, poor or informal housing, inadequate access

to safe water and sanitation, and insecurity of tenure' (Davis 2006: 22). Davis argues that slums are the product of structural processes in cities whose growth is 'driven by the reproduction of poverty, not by the supply of jobs' (ibid.: 16). In trying to understand growing poverty in the global economy, leading economist Dani Rodrik contends that the increasing asymmetry between capital and labour values, the decoupling of markets and regulatory institutions, and growing informalisation of work is leading to high levels of inequality and poverty within developing countries and between developing and developed economies (Rodrik 2012).

> Cities of the future, rather than being made out of glass and steel as envisioned by earlier generations of urbanists, are instead largely constructed out of crude brick, straw, recycled plastic, cement blocks and scrap wood. Instead of cities of light soaring toward heaven, much of the twenty-first-century urban world squats in squalour, surrounded by pollution, excrement, and decay. (Davis 2006: 16)

These analyses provide powerful explanatory frameworks for understanding, at least in part, why growing African cities are reproducing poverty and why the nature of their growth is characterised by informality.

But while structural analysis provides a comprehensive understanding of the scale and nature of the challenges facing cities of the south, particularly the problem of slums or unauthorised settlements, it does not delve into how people live in those slums: how they access shelter, food, land and economic opportunities, and the ways in which they resist, manipulate or undermine government policies and participate in the economy. In fact much of the literature on urbanisation in Africa tends to see informality and the growth of slums as a crisis resulting from uncontrolled or disorderly urbanisation. Poor governance, ineffective urban policies, and weak economies are blamed for the proliferation of large tracts of impoverished urban spaces (Halfani 1997, McCarney 1996). Although broad economic and political forces undoubtedly shape

the nature of urban relationships that create the cities we have today, seeing urbanisation solely through a structural lens blinds us to the ways in which ordinary urban dwellers respond to governance frameworks and economic barriers. As Lindell points out:

> An exclusive focus on the relations between civil groups and the state seems to be insufficient to capture the complexity of governance in African cities today. It runs the danger of rendering invisible the relations and processes of governance taking place outside the institutions of government and, consequently, the highly complex patterns of urban politics to which they give rise. (Lindell 2008:1882)

By looking at the nature of land governance and economic forces, as well as the ways in which urban dwellers overcome or manipulate these to access and secure urban land, this book provides a holistic approach to interrogating urbanisation more generally and land markets in particular. In Africa access to markets in registered urban land is highly unequal. As discussed in Chapter 1, more than 50 per cent of urban dwellers on the continent live in informal settlements (Kessides 2006), where the majority lack access to adequate shelter, water and sanitation, and security of tenure.

Using an approach that acknowledges the importance of both structure and agency, Urban LandMark[1] has, over a period of seven years, explored the structural processes, governance policies and market conditions that shape urban habitats in southern Africa. Empirically grounded evidence from across the region lays bare how urban dwellers *make decisions* around land, devise mechanisms for securing land, and access basic services within a context of insecure tenure (see Chapter 3). This brings together a 'top down' and 'bottom up' approach to urban land processes in southern Africa and views urban land markets as urban spaces that are shaped, not only by prevailing economic and political forces, but also by people's local practices. In other words it looks not only at how markets and state policies shape urban dwellers' decisions around land, but also how, through their actions poor people impact

on broad political and economic processes. This makes it possible to recalibrate the understanding of urban land economies and governance, and to propose empirically-grounded recommendations likely to make urban land markets work better for people in poor communities. By exploring the intersection of structure and agency in some of Africa's urban land markets, the balance between the constraints of context, and the opportunities and choices inhabitants can exercise in that context, this book presents an analysis of how the state and markets can produce more equitable, inclusive land policies and practices.

Using urban land markets as the entry point, the chapters in this book explore how people living in informal settlements with weak security of tenure interact with the state, urban policies, regulatory frameworks, the economy and urban land (Chapter 3). They outline the dynamics of the land economy in African cities and the nature of land governance (Chapter 4). By knitting together political and economic forces with local land practices, it becomes possible to show how ordinary urban dwellers gain a foothold in the city and to see how their land practices are generated by poorly designed governance systems, which create precarious yet enduring local regulatory systems. The empirical evidence shows people in poor communities make rational market decisions even in the context of insecure tenure, and how the categories of 'formal' and 'informal' make little sense in contemporary urban land markets. Although the work interrogates local land practices, it is careful not to romanticise the actions of 'the poor', recognising that structural barriers continue to play a significant role in land (in)security for the majority of urban dwellers.

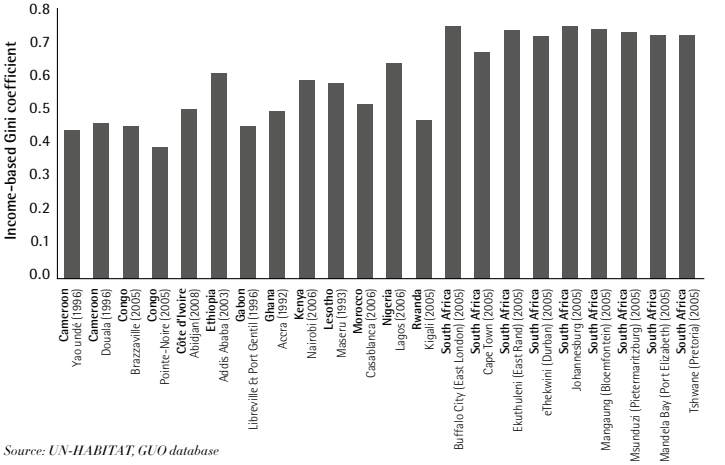
Davis (2006) warns of the dangers of being too optimistic about the informal sector, contending that seeing slums as stepping stones towards upward social mobility is unrealistic.

Urban LandMark's approach strikes a balance. It recognises both the opportunities and barriers experienced by households living in slums. It also acknowledges that there are varying degrees of vulnerability among slum dwellers. As Millicent shows in the opening quote of this chapter, slums *can* be stepping stones for some households in the city. While slums are problematic in many ways,

they also present opportunities for both urban dwellers and policy makers to build a more stable foundation for the realisation of progressive rights to urban assets and, by extension, to sustainable livelihoods. These opportunities can be exploited by changing the way in which land tenure and rights in cities, markets and governance are understood.

Chapter 1 argues that understanding and intervening in predominantly poor and very unequal cities in Africa depends on having the tools to view land and markets differently. This involves seeing urban growth, slum formation, and income/spatial mobility from the perspective of the most vulnerable. Highlighting the land practices of those living on the city's margins,[2] and exploring the nature and character of their participation in the urban land market, as well as their engagement with regulatory frameworks, reconfigures how land markets in African cities can be understood. Rather than simply providing a descriptive account of urban land markets in slums, the research has sought to answer broader questions about African cities. Not only does it detail how the urban poor access, secure and transact land in the city (see Chapters 1 and 3), but it explores how these local practices impact upon broader governance and economic debates and socio-spatial geographies (Chapters 2

FIGURE 3 African urban economic inequalities – income-based coefficients



Source: UN-HABITAT, GUO database

and 4). In other words, taking into account how people devise and adapt their own regulatory systems around securing, buying and mediating land conflicts, changes the perspective on governance, the economy, and those who are labelled 'the poor'.

This journey of gathering evidence, engaging role players and stakeholders, and examining urban land markets must also alter or shift the objective of 'making markets work better for the poor'. The research shows that ordinary city dwellers have generated mechanisms to engage markets in the face of market asymmetries, barriers to entry, and the absence of adequate legal land supply mechanisms. However precarious these market engagements are, they point to the *agency* of people living in contexts of land insecurity and poverty. While livelihoods or assets that do not have effective rights can by no means be regarded as sustainable in the long-term, they act as a buffer to poverty in the short- to medium-term. Empirically grounded experiences not only challenge conventional responses to urban land tenure and governance; they also present alternatives for more equitable, secure and inclusive land markets in Africa's cities. Indeed, Chapter 3 calls for multiplying the routes into official recognition, which in turn increases prospects for a wider access to investment. Recognising the local practices in land accessing, holding and trading that already exist presents an alternative to developing new programmes, policy interventions and market mechanisms that multiply supply channels. Reducing resistance to and increasing recognition of such local practices widens the options for supporting urban residents in their own efforts to gradually improve and consolidate their urban access.

The consequences of unequal land markets

Chapters 1 to 4 show that African cities are growing at a rate that far outpaces the provision of urban services and the increases in employment and income presented by economic growth.

On average African cities exhibit the highest inequalities in the world, both individually (where city-specific data is available) and collectively (where Gini coefficients are available only for rural and

urban areas). Many African cities can be found in the very high and extremely high inequality brackets (UN-Habitat 2010:25).

UN-Habitat's *The State of African Cities 2010* report states that 'African cities on average exhibit the highest inequalities in the world' (UN-Habitat 2010:25). Of those that were measured in the graph above, South African cities had the largest income inequalities, although there is evidence to suggest that cities like Luanda experience significantly high inequalities as well (Cain 2013).

Much of this inequality manifests in the way land is distributed. Indeed, access to well-located, serviced, affordable and secure land in cities is highly skewed, with wealthy populations having disproportionate control over land resources. As early as 1996 there was recognition that 'illegal or informal land markets have provided the land sites for most additions to the housing stock in most cities of the South over the last 30 or 40 years' (UNCHS 1996:239). As shown in Table 2, land inequalities are on the increase as growing cities display larger disparities between wealthy and poor populations. This book argues that these inequalities are a result of:

- historically skewed patterns of land ownership;
- inequality of economic opportunities and market access;
- weak and non-tradable land rights;
- poor governance and state regulation; and
- a lack of political 'voice'.

A 2010 World Bank study on land illustrates the nature of land inequalities in Africa. Using two indicators – the availability of land information, and access to land – the results show the significant disparities in urban land markets. Table 2 shows that in southern Africa, for example, the availability of land information in major cities is 75.5, but the measure of the accessibility of land information is only 37.26, implying that the number of people who have access to available information about land is significantly lower. When compared to other parts of the continent, the gap between available information in land and its accessibility is highest in southern Africa. These market asymmetries no doubt impact disproportionately on poor people.

TABLE 2 Availability and accessibility of land information in southern Africa (based on main cities) (100 = fully available or fully accessible)

	Country	Availability of Land Information Index	Accessibility of Land Information Index
Southern Africa	Angola	60.0	36.8
	Mozambique	62.5	33.3
	South Africa	85.0	47.4
	Zambia	75.0	37.5
	Regional Average	**75.5**	**37.26**
Eastern Africa	Ethiopia	2.5	0.0
	Kenya	85.0	22.2
	Tanzania	62.5	36.8
	Uganda	77.5	25.0
	Rwanda	50.0	38.5
	Sudan	30.0	30.8
	Regional Average (without Ethiopia)	**51.25** (61.0)	**26.88** (32.26)
Western Africa	Burkino Faso	50.0	31.6
	Cameroon	55.0	52.6
	Ivory Coast	75.0	47.4
	Ghana	85.0	30.0
	Liberia	15.0	28.6
	Mali	5.0	28.6
	Nigeria	67.5	50.0
	Senegal	75.0	50.0
	Sierra Leone	30.0	26.3
	Regional Average	**50.8**	**38.3**
Sub-Saharan Average		**58.5**	**41.3**
Global Average		**70.6**	**33.9**

Source: Compiled and calculated from Investing Across Borders 2010: 82–168, World Bank, Washington DC

As is outlined in Chapters 1 and 2, the characteristics of land as a resource present unique challenges and opportunities in addressing its fair distribution in society. The fact that land is physically finite, not moveable and is implicated in cultural, social and political processes implies that it differs from other factors of production. It is precisely because of its unique character that the challenges which

growing cities present for land urgently need to be addressed. With increasing pressure on land, high levels of competition could be a source of political and social instability; the ways in which cities address the land question thus has a bearing on their future social, economic and political sustainability.

Moreover, there is a convincing market argument for addressing the political economy of land. Inequality is not good for social security or the economy. Studies have shown that more egalitarian societies have stronger and more productive markets.

When personal and property rights are enforced only selectively, when budgetary allocations benefit mainly the politically influential, and when the distribution of public services favours the wealthy, both middle and poorer groups end up with unexploited talent. Society, as a whole, is then likely to be more inefficient and to miss out on opportunities for innovation and investment (World Bank 2005:2).

Insecurity is bad for markets because it reduces investments and savings, both of which are essential factors for economic growth. Land is not just the hardware on which economic activities take place; it is shaped by the 'software' of politics, social conditions and cultural norms. It is not possible to talk about urban land markets without looking at power and inequality, social stratification and the means by which some social classes dominate others. As Sen (1999) argues, there is something fundamentally wrong, even immoral, with social inequality. And the growth of African cities, with an expanding gap between an elite minority and a poor majority, is resulting in precarious and unpredictable urban forms with highly uncertain futures. This urban trajectory implies not only chronic and endemic poverty, but also spatial vulnerability arising from weak or absent urban planning.

Towards an equitable urban land development agenda

The development debate has evolved significantly since 'the stages of growth' model popularised by economic historian Rostow in the 1950s and 1960s (Rostow 1971). With a significant influence on

development institutions and thinking at the time, he argued that all societies passed through similar development phases, moving from 'traditional societies' to economies of 'high mass consumption' (ibid.). For Rostow, the propelling forces behind the transition from traditional to modern societies are the levels of investment and consumption. The greater the investment and consumption, the more likely a society is to move towards modernisation. This linear model of development, translated into theories of urbanisation, characterises urban development as an evolutionary process and suggests that the trajectory from 'Third World' to 'First World' city could be realised with the right economic policies and investments.

Indeed, an integral part of the case for developing strong markets is the transformation from 'traditional' to 'modern' society through people's necessary alienation from their traditional socio-cultural institutions:

> Economic development of an underdeveloped people by themselves is not compatible with the maintenance of their traditional customs and mores. A break with the latter is a prerequisite to economic progress. What is needed is a revolution in the totality of social, cultural and religious institutions and habits, and thus in their psychological attitude, their philosophy and way of life. What is, therefore, required amounts in reality to social disorganisation. Unhappiness and discontentment in the sense of wanting more than is obtainable at any moment is to be generated. The suffering and dislocation that may be caused in the process may be objectionable, but it appears to be the price that has to be paid for economic development; the condition of economic progress. (Sadie cited in Berthoud 2003:73)

Similarly, in his influential book *The Great Transformation* (1944), economic historian Karl Polanyi makes the point that one of the significant markers of modern society is the separation of the economy from the moral, customary and religious rules that governed

pre-modern societies. Pre-modern economic behaviour was embedded in social rules. 'Custom, law, magic and religion cooperated in inducing the individual to comply with rules of behaviour, which, eventually ensured his functioning in the economic system' (Polanyi 1944:55). The ascendancy of markets, and their separation from social rules, was considered a fundamental component of modernisation. For this to occur, a certain kind of alienation from cultural ties and social relationships was deemed necessary. Neo-classical economists argue that one of the defining characters of a market is the ability of strangers to transact at 'arms' length'. Conversely, markets bound by social norms and relationships are considered inefficient because individual behaviour is encumbered by 'irrational' socio-cultural norms and values.

This book debunks the myth that there are fundamentally different urban land systems in operation, where 'the poor' barter for space in some kind of pre-capitalist economy applying some inscrutable neo-customary rationality. It contests the notion that the market in formally registered goods functions separately and more equitably to create and build wealth. Although socially dominated markets, where social ties and values are significant in the transaction and regulation of land, are indeed different from 'financially' dominated markets, where the price of the commodity dominates choice, the sub-sectors of the market in urban space are deeply intertwined. There is a tendency in policy circles and urban scholarship to conflate 'informality' with an urban crisis brought on largely because of the inability of cities to cope with the ever-increasing demand for services, employment, land and housing. The option for many urban dwellers has been to seek these outside formal state-regulated areas and in the informal sector. In South Africa, the association of informality with crisis was crystallised in the 'first' and 'second' economy debate sparked by former president Thabo Mbeki. Mbeki distinguished between an impoverished and underdeveloped second economy, and a thriving and growing first economy:

> As we have asserted, success in the growth of our economy should be measured not merely in terms

> of the returns that accrue to investors or the job opportunities to those with skills. Rather, it should also manifest in the extent to which the marginalised in the wilderness of the Second Economy are included and are at least afforded sustainable livelihoods. South Africa belongs to them too, and none of us can in good conscience claim to be at ease before this becomes and is seen to become a reality. (Mbeki 2005)

The speech led to debates among leading South African institutions like The Presidency, the Department of Human Settlements, and the Development Bank of Southern Africa, among others, which saw the second economy as the arena of poverty, exploitation, underdevelopment and unemployment in contrast to the first economy as characterised by growth, employment and prosperity. The governance impulse was to incorporate the informal economy into the formal one. This tendency to create binaries between the formal and informal city, activities and economy is evident in urban literature. While binaries do have descriptive power to broadly characterise differences in lived realities, they have led to the false conclusion (as in this case of the two economies) that poor people are somehow only victims of structural form, and lacking in agency. The solution this prompts is that the formal system somehow expands in its current form, without alteration. The reality is that the bulk of new growth in African cities is being shaped by the agency of the poor, and that the imported systems of planning and land tenure are largely incapable of responding to these developments.

This book contests ideas that the poor have their own 'separate' land economy. It rejects the idea that their transactions, typically in the arena where state regulation is not strong, do not follow a logic similar to those in formal land management systems and thus should be treated differently. Instead it argues that economic behaviour in the so-called formal and informal sectors is embedded in social and institutional contexts – what Mark Granovetter calls, 'the embeddedness of economic behaviour' (Granovetter 1985: 482). All economic behaviour, he argues, is bound by social and institu-

tional rules. As such, individuals' decisions in socially and financially dominated economies are influenced by rational individual economic actions, and by the beliefs, value systems and social institutions in which they are located. In Mozambique there is little difference in the family networks that assist one of their members to obtain access to a piece of land in peri-urban Maputo, and an 'old boys' network' that uses its contacts to buy a building in the city. The only difference is the legality of the transaction: the transaction in the city has legally defensible rights, while, technically, the transaction on its periphery has none. In the city transaction the costs of legally transacting, of licencing and of maintaining and defending rights are intentionally or unintentionally set so high that any rational individual would choose to remain in the system on the periphery until the demonstrable benefits of registration make more sense.

Shifts in development debates

It is easy to see why economists have dominated development debates since the 1950s, and why their arguments remain compelling today. Economistic models offered irresistibly simple measurements of, and solutions to, development. Development was synonymous to economic growth, and measures such as the Gross Domestic Product (GDP) became seductive in their ability to compare and rank country economies, and present blueprint solutions to underdevelopment. But the idea that development is solely about levels of income and consumption has met with resistance. Even as early as 1962, the Economic and Social Council of the United Nations (ECOSOC) recognised that economic growth could not be separated from social change. 'The key concept (of development) must be improved quality of people's lives', the report *Proposals for Action* of the First UN Decade of Development 1960–1970 declared (cited in Esteva 2003: 13). With the focus on 'human-centred' and 'basic needs' development, development thinking in the 1970s recognised the need for the social upliftment of those left behind by economic growth. Indeed, the development of the Human Development Index (HDI),

a composite measure of human development that includes literacy, mortality rates, etc. makes an attempt to capture the multiple facets of human development. But the welfare and safety net responses did little to shift the idea that economic growth was about incomes and consumption levels. As such, poverty remained an 'add on' within the broader pursuit of increasing GDPs and income per capita figures (Moser 2005).

By the beginning of the 21st century, the challenge to income measures of development had begun to consolidate around a new development agenda (see Sen 1999, Nussbaum 2006 and 2011, Moser 2005). The failure of income transfers and the provision of social services to address poverty and inequality led to what many term the 'New Poverty Agenda'. Nobel prize-winning economist Amartya Sen's thesis that development should focus not on outcomes (incomes), but on people's capabilities to lead the life they value and have reason to value (Sen 1999), laid the foundation for the decade ahead. 'Sen and I argue', Nussbaum writes, 'that if we ask not about GNP only, but about what people are actually able to do and to be, we come much closer to understanding the barriers societies have erected against full justice for women and the poor' (Nussbaum 2006:48). Consequently, there has been a shift from the hard-edged structural adjustment and free market arguments of the 1980s and 1990s, to a concern that development needs to be about social issues – democracy, equitable sustainable development and livelihoods (Hagen 2003). 'The traditional view of relying on sound macro-economic policies and free markets for development must be augmented by a commitment to the mechanisms of voice' (Rodrik 2012).

If previous decades focused on what poor households lacked in income, the new poverty agenda's focus is on people's livelihoods rather than national economies. This turned the spotlight on poor communities, and how *they* survive structural socio-economic processes, and what capabilities they require for upward social mobility. Rather than seeing poverty primarily as deprivation, advocates of the new poverty agenda seek to understand the nature of poverty through existing human capabilities and assets – that is, through the potential of what poor communities have, not what they

lack (Sen 1999 and 2000, Nussbaum 2006). Thus the long-term path out of poverty requires poor households to make investments in ways that build their capital assets such as land, education, social networks and so on (Moser 2005). Indeed, the 2002 Johannesburg Summit on Sustainable Development pointed to an international commitment to social aspects of development with an emphasis on community-driven development, empowerment and good governance. Even the World Bank's *World Development Report 2006* concedes that inequality cannot be addressed by looking only at income inequality. Rather, power relationships, political voice and democracy need to be addressed in order to enhance households' capabilities for upward social mobility:

> concern with equality of opportunity implies that public action should focus on the distributions of assets, economic opportunities, and political voice, rather than directly on inequality in incomes. (World Bank 2005:3)

This understanding of what it would take to move populations out of poverty had a significant influence on land debates. As Chapter 1 shows, much of the debate on land has tended to focus on rural areas. The question of rural land – security, production, redistribution, socio-cultural value – has diverted attention from urban land issues. Although the issue of urban land inequality is gaining importance as urban populations increase, the focus on urban land in Africa is a recent phenomenon in development debates (see Rakodi & Leduka 2003, whose groundbreaking work shed light on how urban dwellers access land in Africa's cities).

For the most part, where urban land is discussed, the focus has been on the growth of slums and the failure of state policies and governance to regulate urban growth, and invest in basic urban infrastructure. The result, as Davis (2006) aptly points out, is the production of habitats with little or no access to basic shelter, water or sanitation. While the role of the state in managing, adjudicating and determining land regulations is important, much of the discussion highlights state failure and the concomitant market

dysfunction, without understanding how those who live in slums and informal settlements make decisions about land and location in the cities. The actions of ordinary urban dwellers, the ways they manipulate, undermine and succumb to land market barriers and state regulations, are obscured in debates that centre on structural explanatory frameworks. Indeed, part of 'seeing' the urban land market differently implies gaining an understanding of how markets work 'from below'. This recasts common understandings of governance and markets by taking into account both structural processes and local practice as co-creators of land governance and economic development. The next step is to explore how existing, often intransigent, formal systems can be made more responsive so as to recognise, incorporate and codify local practices with the intention of land regulations becoming supportive and reflective rather than merely imposed and expensive.

Alongside the focus on people's capabilities and assets, another idea was beginning to crystallise around the role of markets in development. After long-led disillusionment with 'trickle-down' economics, there seemed to be growing consensus among international financial institutions and bilateral donors that markets are an important mechanism for the distribution of opportunities and wealth. The World Bank's *World Development Report 2006*, puts it this way:

> When markets are missing or imperfect, the distributions of wealth and power affect the allocation of investment opportunities. Correcting the market failures is the ideal response; where this is not feasible, or far too costly, some forms of redistribution of access to services, assets, or political influence – can increase economic efficiency. (World Bank 2006: 2)

Similarly, the UK's Department for International Development's (DFID), 'making markets work for the poor' (M4P) programme, provided a platform to reintroduce the market into poverty debates. For M4P advocates, the problem is not the market per se, but the poor's exclusion from it. As such, with the right kind of access to

markets, poor households can participate in the economy in ways that build their asset base and reduce their vulnerability to poverty (DFID 2005).

Both the conceptions of understanding poor people's capabilities and assets, and the idea that markets, if well regulated and governed, can be used as mechanisms for the fair distribution of wealth, have influenced Urban LandMark's work over the last seven years. The research has explored these capabilities, showing how poor people access secure and transact land to which, according to the law at least, they have no defensible rights. Understanding the household and community capabilities of the poor makes it possible to see their vulnerabilities, build on what they already do to secure their livelihoods, and strengthen the areas in which they are vulnerable – their effective rights, participation and economic opportunities and market access. Having a better understanding of local contexts and agency makes it possible to build on how markets are already working, scale up opportunities for wealth creation across growing cities, and establish institutions which are more responsive and which reflect rather than oppose local systems of governance and conceptions of land use and ownership.

Recommendations for practice

Policies can contribute to the move from an 'inequality trap' to a virtuous circle of equity and growth by levelling the playing field – through greater investment in the human resources of the poorest; greater and more equal access to public services and information; guarantees on property rights for all; and greater fairness in markets. But policies to level the economic playing field face big challenges. There is unequal capacity to influence the policy agenda: the interests of the disenfranchised may never be voiced or represented (World Bank 2005: 3).

This book is concerned with how local land practices, land governance and land markets interact to shape the ways in which those at society's margins access land in order to build their livelihoods. It concludes that the problem is not with markets per se, but

in the unequal ways in which they are structured. Polanyi (1944) points out that we should 're-embed the economy in society'. This underpins the case for more inclusive urban land markets, not only for ethical or 'feel good' reasons, but because it makes economic sense.

Chapter 2 is based on the premise that development should be about enhancing people's capabilities. This involves creating opportunities for investment because, firstly, it creates value, and secondly, it creates a legitimate claim to the value that is created – people become shareholders in urban space and an entry point is created to access the city's resource base. Many different investment opportunities should be created (individual, household, community, corporation etc.) so as to address inequality, draw on as many resources as possible, and to take advantage of local entrepreneurship and knowledge. As transactions are critical to the investment process, markets, under the right circumstances, can play an important role in enhancing capabilities.

Given the asymmetries in accessing markets, both the state and civil society play a significant role in ensuring more inclusive cities. The task ahead for creating equitable urban land markets is difficult, but it is not insurmountable if we consider the following actions:

A global urban land markets agenda

1. Mainstream urban land markets across a variety of development sectors and agendas such as housing, infrastructure development, poverty reduction, livelihoods, etc.
2. Mainstream urban land issues across a range of multilateral, bilateral and government institutions operating in African cities.
3. Develop land tools which are based on empirical data and sensitive to the contexts of poor people and communities. Create environments that empower the poor to participate and protect their position in the land and other property markets.

Governance and urban land markets

1. Improve the governance of urban land markets. This is a long-term project in which the risks arising from quick-fix interventions outweigh the benefits.
2. While the comprehensive overhaul of existing regulatory systems is unlikely given limited resources and possible political resistance, incremental improvements in regulation, taxation and management of urban land are needed, always with a view to the individual and cumulative impacts on (urban land) markets.

Understanding urban land markets in Africa

1. Increase efforts to understand how markets work. This will assist in the identification of inefficiencies and barriers that make markets exclusionary, and will highlight local innovative practices and processes that could be applied more broadly to make markets achieve better developmental outcomes.
2. Increase efforts to make markets more efficient by *inter alia* improving market information and data (e.g. affordable land and housing data centre) and removing barriers to entry and exit (e.g. by reducing unnecessary regulations/restrictions [building codes, sale restrictions] and lowering transaction costs).
3. Package public investment to create locations that are conducive to investment.

Towards more equitable land tenure

1. Strengthen the **supply** of urban land and development opportunities. All urban land market governance interventions must be assessed primarily in terms of whether or not they strengthen the supply of these opportunities.
2. Build the capacity and power of poor people to effectively **demand** urban land tenure and development opportunities through strengthening local institutions and incrementally building rights.
3. Carry out urban **land market impact assessments** when developing new urban land market interventions.

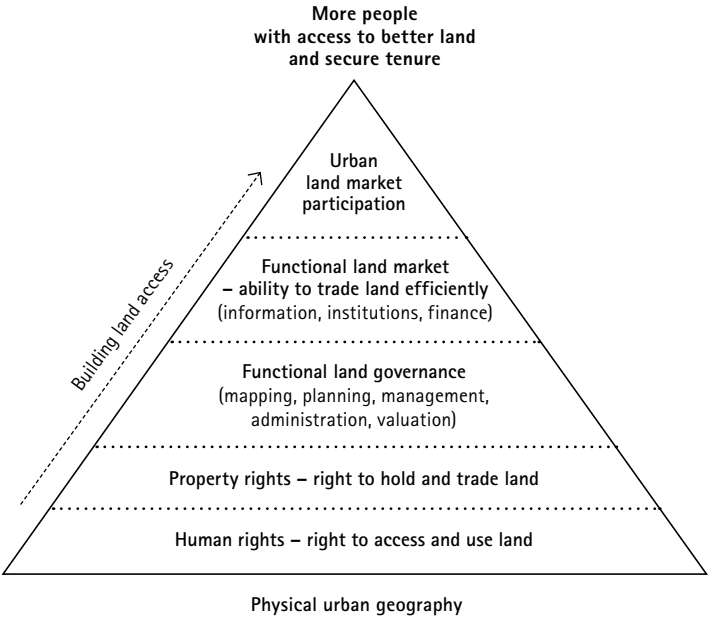
If the action plan is to have an effect, and there is to be any chance of systemic change in the urban land sector, more agencies need to join the endeavour. University centres, government support agencies, think tanks, professional organisations, community-based organisations, and non-governmental organisations can all work to deepen the evidence base and advocate for change. Evidence, which reveals how markets work from the bottom up, becomes the reference material for new ways of making decisions around urban interventions.

In addition, practitioners on the ground should demonstrate changes in practice, especially in the field of slum upgrading and the release of state land *ahead* of growth rather than *after* urbanisation has already happened.

For countries facing what can seem an insurmountable task of improving land governance and markets systems, it is worth noting that certain foundational elements can be put in place over the medium to long term. The work on accessing land markets has shown that it is not a matter of choosing whether to improve land rights or to work on property rights and market functionality, but that they are interconnected. Actions can be initiated on all fronts. This leads to an understanding that building access to markets from the bottom up can work, as countries build and strengthen the layers needed to make the whole system work. The diagram on page 111 serves to illustrate these layers or foundations for a functional and accessible land market.

The system works better if human rights and then property rights are in place. Land needs to be well administered and managed for the public good and to stimulate investment at all levels. Market interventions to lower barriers to entry and the costs of transactions are more effective with the rights-base and the good governance in place. The physical urban geography is the setting in which this all plays out, making a difference to how places are made and shaped. This book argues that more equal access to this system can lead to improved livelihoods and open the doors to more of the benefits of urban life.

Foundations for a functional land market



Trading places

Trading Places recognises that the poor are highly active in the land market and that the prospects for change depend on taking their perspective into account. *Trading Places* also implies that there is an urgent need to address unequal access to land and property. This book offers the reader the opportunity to trade places by looking at the challenge of accessing habitable urban land from all sides, not only that of the elites.

With systemic change in mind, the formal system needs to meet local practice somewhere in the middle, and a new social contract brokered around land access in cities. The currently parallel systems of land management have to reconcile with one another in very practical ways. This will give rise to a new, more appropriate, system of land governance where more than only elite interests are served.

Part of the long-term solution is about addressing deep inequality, and balancing the access of the have-nots against the rights of the haves. It is about attracting ethical investment, and at the same time building and protecting the rights of the least powerful actors in the market.

Part of the solution is about achieving systemic change to empower poor households and communities to defend their land rights in an increasingly competitive economic context, by strengthening their property rights and ability to bid more competitively for appropriate amounts of space in which to live and conduct business.

Part of the solution lies in understanding how better market participation can allow long-term poverty alleviation and asset building across generations.

And a final part of the solution is about altering laws and regulations and state-imposed charges to lower the costs of entry and transaction. In the meantime the state needs to recognise and defend existing occupation and use rights until the legal system is reformed.

All these elements are essential to build new foundations to grow sustainable cities over decades and centuries which can accommodate sustainable urbanisation and fairer participation in urban economies.

Africa is seen as the new investment destination. The long predicted 'rush on Africa' is essentially about access to resources. Access to land near economic opportunities is central to achieving more equal growth. And cities will remain the engines for sustaining future economic growth. Realising this potential for growth depends on making a concerted effort and targeted investments in getting urban land to work for all urban residents, sooner rather than later.

Endnotes

1. www.urbanlandmark.org.za

2. The use of the word 'margins' refers to urban dwellers who operate outside of state governance frameworks, are often politically and socially marginalised, and whose lives are often, but not exclusively, located in the urban periphery.

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Acronyms

CCODE	Centre for Community Organisation and Development
DFID	UK Department for International Development
ECOSOC	Economic and Social Council of the United Nations
FRELIMO	Mozambique Liberation Front
GDP	Gross Domestic Product
GIS	geographic information system
HDI	Human Development Index
MPLA	People's Movement for the Liberation of Angola
RDP	Reconstruction and Development Programme (South Africa)
SAPS	structural adjustment programmes
SIDA	Swedish International Development Cooperation Agency
SAPOA	South African Property Owner's Association

Glossary

alienation of land	Alienation is the capacity for a piece of property or a property right to be sold or otherwise transferred from one party to another (www.wikipedia.org).
bairros	A Portuguese word referring to a community or region within a city or municipality (www.wikipedia.org). A ward or neighbourhood.
chef de cazas	A Portuguese term, used in Mozambique, referring to a local leader, usually the leader or chief of ten houses (lower order than a block).
chef de quarterão	A Portuguese term referring to a local leader: the leader, or chief, of a block (higher order than a *chef de cazas*) in Mozambique.
customary law	Traditional common rule or practice that has become an intrinsic part of the accepted and expected conduct in a community (www.businessdictionary.com).
customary tenure	The right to occupy or use land is governed by members of the local community. The procedures related to the access and use of customary land are understood by the community, but may not conform to the country's statutory procedures (www.urbanlandmark.org.za/downloads/tm2011_04.pdf).
declaração	A written document, an affidavit, issued by the ward secretary and carrying his/her official stamp. It may also be recorded in the settlement register.

DUAT	The *DUAT* is a title deed for occupation of the land [in Mozambique] and gives the right for land use by nationals, foreigners and local communities. In 2006, the legislation was amended by the Urban Land Regulation, which defined urban land access through the Decree 60/2006, which gives the responsibility of land access to the municipality so that the municipalities have the right to entitle people with *DUAT*s (www.urbanlandmark.org.za/conference/2012_reports/2012_report_jose_ines.pdf). It is a registered title to use and benefit from the land; land ownership is vested in the state. It stands for the *direito de uso e aproveitamento da terra*.
first economy	The metaphor of Two Economies is a short hand for **socio-economic dualism**: a dominant First Economy that is at the cutting edge, globally integrated and with a capacity to export manufactured goods, services and primary commodities. Alongside this economy is another [Second Economy] that is marginalised, exists at the edges, consists of large numbers of the unemployed and the 'unemployable', and does not benefit from progress in the First Economy. The 'two economies' do not occupy distinct geographic spaces, but are interrelated and inter-connected in many ways, and they are found in both urban and rural areas (www.thepresidency.gov.za/docs/pcsa/social/briefsynopsis.pdf).

former homeland area	[In South Africa] during the apartheid years (1948 to 1994), racial segregation intensified. During the 1950s the pass law system restricted Africans from accessing urban areas unless they had employment there. The Group Areas Act further demarcated South Africa into areas based on race and resulted in massive forced removals. Later, the apartheid government transformed the reserves into ethnically determined 'independent' homelands, which were accompanied by further waves of forced removals and land dispossession ... By 1994, 40% of the country's population, or approximately 16 million people, were living in extreme poverty in the former homeland areas (www.urbanlandmark.org.za/downloads/lgaf_booklet.pdf).
Gini coefficient	The Gini coefficient measures the inequality among values of a frequency distribution (for example levels of income). A Gini coefficient of zero expresses perfect equality, where all values are the same (for example, where everyone has an exactly equal income). A Gini coefficient of one (100 on the percentile scale) expresses maximal inequality among values (for example where only one person has all the income) ... Gini coefficient is commonly used as a measure of inequality of income or wealth (www.wikipedia.org).
informal settlements	According to the OECD, informal settlements are: • Areas where groups of housing units have been constructed on land that the occupants have no legal claim to, or occupy illegally. • Unplanned settlements and areas where housing is not in compliance with current planning and building regulations (unauthorised housing).

land grab/ acquisition	According to Oxfam, land acquisitions become land grabs when they violate human rights, fail to consult affected people, don't get proper consent and happen in secret. Land grabbers overlook the possible social and environmental impacts of the land deal. Governments, banks or private investors buy huge plots of land in some of the poorest countries in the world. Often the people who live on the land, and rely on it to feed their families, do not have a say when is sold and do not receive compensation (www.oxfam.org).
leasehold	Leasehold tenure is the right to hold or use land for a fixed period of time at a given price, on the basis of a lease contract (www.urbanlandmark.org.za/downloads/tm2011_04.pdf).
margins	The use of the word 'margins' refers to urban dwellers who operate outside of state governance frameworks, are often politically and socially marginalised, and whose lives are often, but not exclusively, located in the urban periphery.
musseques	Settlements called *musseques* house the urban poor in Luanda and other large towns (http://global.britannica.com).
neo-customary land tenure	Land for housing that is provided by a catch-all understanding of informal processes that combine customary practices, other informal and formal practices. 'Neo-customary land tenure is understood to involve social institutions, including central and local government institutions but the basis remains the groups that make land available to their members (www.urbanlandmark.org.za/downloads/Operation_of_the_land_market_Literature_Review.pdf).
quarterão	A Portuguese word meaning a block.

RDP settlement	A residential area made up of subsidised housing for low-income households. An initiative of the South African government, it was coined the Reconstruction and Development Programme (RDP).
real estate	Property consisting of land and the buildings on it, along with its natural resources such as crops, minerals, or water; immovable property of this nature; an interest vested in this; (also) an item of real property; (more generally) buildings or housing in general (www.wikipedia.org).
registo predial	A Portuguese term, used in Angola, referring to a registered property right.
second economy	Refer to 'first economy'.
Secretario de Bairro	A Portuguese term meaning a local leader (the ward or neighbourhood secretary).
shack settlement	A shack is a type of small, often primitive shelter or dwelling ... Shack settlements are also sometimes known as slums or shanty towns (www.wikipedia.org).
Sharia law	Sharia is the moral code and religious law of Islam (www.wikipedia.org).
slum	A slum, as defined by UN-Habitat, is a run-down area of a city characterised by substandard housing and squalor and lacking in tenure security. Many shack dwellers vigorously oppose the description of their communities as 'slums', arguing that this results in them being pathologised and then, often, subjected to threats of evictions. Although their characteristics vary between geographic regions, they are usually inhabited by very poor people (www.unhabitat.org).

squatter settlements	A residential area in an urban locality inhabited by the very poor who have no access to tenured land of their own, and hence 'squat' on vacant land, either private or public … a residential area which has developed without legal claims to the land and/or permission from the concerned authorities to build; as a result of their illegal or semi-legal status, infrastructure and services are usually inadequate (www.gdrc.org/uem/define-squatter.html).
terres vacantes et sans maître	A French term meaning land with no clear status, unclaimed or vacant.
title deed/titling	The legal document that reflects registers. The ownership of a property in a deeds registry (www.urbanlandmark.org.za/conference/2012_presentations/mark.pdf).
token/ tribute	Payment, often to traditional leadership, for services rendered.

Trading Places recognises that the poor are highly active in the land market and that the prospects for change depend on taking their perspectives into account.

This book invites you to trade places, and to see urban land from a different point of view. It critiques commonly held assumptions about urban land markets and argues that the neo-classical understanding of land markets does not necessarily fit current practices on the African continent. In fact, large-scale interventions which aim to roll out title and assume that increasing land ownership leads to increased investment, productivity and wealth, simply miss how the majority of land users in African cities gain land security and invest in it.

While greater land security provides the conditions for higher levels of production and growth in wealth, it is critical to understand how ordinary urban dwellers acquire, hold, trade and mediate land. This reveals a new kind of land economics at work – one that is not a retrofit model of what has happened elsewhere, but operates according to a sophisticated, if fragile, economic logic.

Using evidence from work done by the Urban Land Markets Programme Southern Africa, the book presents a clear picture of how urban land markets work in African cities. It shows that the strict distinctions often made between the formal and informal urban land markets make little sense in the real world, and that interventions need to be designed to address the whole market and all urban inhabitants.

"Trading Places *deepens the debate on access to land and provides valuable pointers to meeting these challenges. It should be required reading for development practitioners, particularly state officials. It expanded my understanding of the inventiveness and resilience of communities in their attempt to prosper in the cities.*
Monty Narsoo, Governance Advisor: National Upgrading Support Programme

The developing world is urbanising fast. In the process new systems of urban land ownership, transfer and governance are also emerging – often from the bottom up. Understanding how these work, and how they interface with wider markets and with existing land governance regimes, is crucial to urban development that makes space for the poor. This book offers fascinating new insight into these dynamics.
Dr Kate Philip, Programme Manager: Inequality and Economic Marginalisation, Trade & Industrial Policy Strategies (TIPS)

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