UK Land Policy Forum IX

Urban land governance

July 2019

1 Introduction

The night meeting of the UK Land policy forum was held on July 2nd 2019 at ODI in collaboration with UN-Habitat. The Forum is an initiative under DFID's LEGEND programme, convened by ODI as part of DFID's core land support team (CLST) secretariat.

The purpose of the forum is to provide a focus for debate, information and lesson sharing amongst UK stakeholders to inform DFID and wider UK policy and programming for strengthening of land governance and land rights protection. Participants included CSOs, practitioners, academic researchers, professional and private sector organisations concerned with land, including the Knowledge Management alliance and other consortium members that make up CLST,[1] and DFID representatives.

2 Summary of the discussion

Background

The rapid expansion and development of cities is a reality that creates significant development opportunities and challenges, especially in sub-Saharan Africa. In 2014, 37% of the total population in Sub-Saharan Africa (926 million) lived in urban areas. By 2050 this is expected to rise to 55% or 1.1bn people. This trend is driven by multiple factors, including demographic growth and continued rural-urban migration caused by the loss of livelihoods or the search for better jobs. As a primary location for the development of high-value added sectors, functioning cities are critical to the economic development aspirations and strategies of many development countries. They create jobs, attract private and public investment, foster the development of industries and accommodate growing populations. But in order to do so, cities need to be planned and managed effectively.

Land governance is a critical element of this as it facilitates, if not determines several crucial conditions for inclusive urban development, including a) the capacity of public authorities to raise finance for public services and infrastructure; b) the ability with which businesses can acquire land for investments; c) how urban expansion is managed with respect to existing and future rights holders, and; d) the ability to plan and finance affordable housing at scale in viable locations.

Key messages from presentations

The forum was separated into two sessions, one of which concentrated on the principal political, institutional and operational barriers to achieving effective urban land governance, and the other which explored what urban land governance can learn from rural land governance, and vice versa. Presentations drew on UN-Habitat's experience from around the world, as well as insights from academia and practice, including reports from projects in Latin America and sub-Saharan Africa.

- **There is a need to bring together urban and rural agendas together.** DFID's urban development work has waxed and waned over the years, becoming increasingly complex as urban growth comes up against challenges of peri-urban land rights, as well as ecological and environmental issues. DFID is looking for solutions to make cities more liveable, sustainable and inclusive in the context of asymmetries in information and power.

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[1] The CLST comprises KPMG as programme manager, the Land KM Alliance members including ODI, NRI and IIED.

- **Lessons from UN-Habitat's experience.** Ranges from Dar es Salaam to Nairobi and Dakar, each with different tenure arrangements (informal versus freehold or a bewildering mix of both) but with one common theme: increasingly rapid expansion. Their experience is that land is one of the keys to unlocking urban development potential, but that there is a disconnect between tenure, land administration and development planning. There are also issues around speculation, uncontrolled land use change, growing landlessness and homelessness and issues around acquisition and valuation. Opportunities exist where an integrated approach is adopted that looks beyond land, and where public-private partnerships can be struck to drive urban development and land governance.

- **Land and housing express broader issues.** These are related to social, political and environmental problems, and land should be considered as part of the solution to these. Unequal land access is a manifestation of increasing global inequality, with evermore land concentrated in fewer hands. Meanwhile, climate change and natural disasters are causing mass migration and destroying vital infrastructure. Market forces are penetrating and reducing the social and cultural function of land (and identity). Cities need to be environmentally efficient but must also accommodate many more people.

- **Opportunities and risks are equally great.** Policy and regulatory change needs to encompass informal and customary tenure and legal plurality. It needs to be realistic, not aspirational. There is a huge role for the state in regulating and managing land markets in the public interest, but this is not happening. Tax regimes on land and housing are invariably regressive. A political economy analysis is needed to disentangle all of this and to understand the behaviour of officials and the existence of vested interests of key players and readjust land availability to reflect diverse needs and local conditions. One of the main steps needed is to reduce the costs of entry to the formal land market, creating a one stop shop system for building permits and developing incentives for land administrators.

- **Cities can be engines of growth.** They provide high spatial densities and efficiencies. However, unrealistic and reactive urban planning, retro-fitting infrastructure that is more expensive than planned, and lack of transport mobility and access are major obstacles to achieving this potential. Poor land administration exacerbates these issues and reduces incentives for citizens to comply.

- **Current tools we have for meeting growing urbanisation are insufficient.** Growth of urban population in sub-Saharan Africa was more than the population of the EU over last 30 years. 60% of this growth has been in slums. While political will is often there to address risks, the conditions are not due to weak governance and lack of available land.

- **Social and economic consequences of land use and tenure conversion are varied.** Customary systems can be cheap and rapid, but insecure. Formal systems can be slow and expensive, but secure, unless there is benefit capture by middle- and upper-income groups.

- **There needs to be a linkage between customary and state systems.** People often have to deal with both systems for land transactions. Complexity is therefore very high as customary law is diverse and evolves rapidly, creating tensions and problems for users.

- **We need to recognise value that accrues to developers from public goods for infrastructure developments.** Public sector needs to capture this. E.g. flood protection. However, efficient tax systems don't exist in many countries so other approaches are needed, for instance by requiring commercial developers to provide social housing.

- **There is a need for open data exchange between agencies.** Too much time is spent trying to access publicly available data held by agencies. Governments need to create incentives and KPIs to address this, and expand role of technology. Innovative ways of financing formalisation processes are also needed. Technology can help, for instance blockchain to leapfrog into more flexible manageable systems or by digitising data to capture off-market transaction and create risk profiles for each property. Drones can also be used ("roof lining" technology) for simplified mass valuation and taxation, which can improve property tax coverage in developing countries.

- **Land-based finance can be used to achieve positive outcomes.** E.g. by making it inclusive, participative and affordable, thereby securing gender outcomes, human rights and tackling climate change. Need to pay more attention to marginalised groups, culture and gender. Land-based finance does not always have to be treated as part of land governance, but is a separate policy area/tool.

Key points of discussion from Q&A

- **What is added by switching to formal tenure systems?** It provides security, is legally enforceable and marketable, as well as securing access to credit. But formality can also be associated with higher costs and political instability. We also need to be careful about making assumptions that mortgaging is the most relevant form of credit, as it presumes a freehold or quasi-freehold market. Access to land market is dependent on access to credit, not only tenure.

- **How can we strengthen tenure in customary systems while maintaining customary authority?** 60-90% of land is customary. Evidence is varied but not enough known. Need to recognise people's historic ties to land, including in terms of employment. Customary authorities can be incorporated formally in a management role. However, there are also risks of making various assumptions or generalisations about the role of customary authority. Due diligence is needed to avoid abuse by customary authorities.

- **How do we finance land registration?** It is a public good and needs large-scale government-funded programmes, but transfer fees can disincentivise population. E.g. Buenos Aires, where fees are 30% of property values and 80% of people live in informal arrangements. Taxation can be effective when land values increase (e.g. Bogota). In some countries land sales are less desirable (e.g. China), so urban development finance has shifted from transfer taxes to land value taxation.

- **How to structure land administration?** Centralisation or decentralisation? How can digitalisation be used? How can community participate? Can we adopt responsible land administration principles?

- **Is land registration always a switch from informal to formal?** Or is it a matter of degree? It took West 250 years to develop a universally-accepted tenure system. Developing countries often have less scope and flexibility with new imposed or imported systems, so there is need to enable them to evolve. There are a range of intermediate tenure categories rather than assuming that one system of formalisation is required.

- **How can land-based finance be structured in non-freehold land market contexts?** Freehold is not the only system and cities are growing so fast that it may not even be an option. Where solutions exist, how transferable are they to other contexts and how can they be scaled up?

- **How can technology be used most effectively?** What kind of technology should be used in what contexts? Does technology create a two-tier system?