

The potential for tenure-responsive land use planning in Kampala



In brief

- Kampala is a city that is growing rapidly at an estimated rate of 3.9% per year. It is estimated that the daily workforce comprises of 4.5 million people.
- To date, much of this urbanisation has been unplanned. There have been various attempts at designing a planning framework. In 2012, the Kampala Physical Development Plan (KPDP) was finalised.
- The KPDP has faced numerous implementation challenges. A particular reason is that its implementation was based on the assumption of resolving the complex land tenure situation in Kampala. However, due to various administrative and political reasons, this is unrealistic in the short term.
- Therefore, the Kampala Capital City Authority (KCCA) is now looking to develop detailed neighbourhood plans. These will need to develop a framework that can work within the complexity of the tenure system. The proposed methodology, tenure-responsive land use planning (TR-LUP), is one way to do this and has various other benefits as a participatory planning tool. Furthermore, in the long run it may also help improve tenure security.
- A holistic urban planning approach is necessary to coordinate the private and public investments that enable productive and liveable density within cities. Therefore, it needs to be prioritised in the case of Kampala.

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Background

Kampala was originally planned for 150,000 inhabitants but its current resident population is 1.75 million with a daily work force of about 4.5 million. The city's annual demographic growth rate is 3.9% and its population is estimated to reach 20 million by 2040. The city's burgeoning urbanisation, coupled with the fact that much of the urbanisation to date has occurred in a haphazard manner, has led to various problems, which include the development of scattered unplanned settlements. This has been aggravated by the encroachment into marginal land, especially wetlands. In order to reverse this trend and better plan for the city, the Kampala Capital City Authority (KCCA), which manages the city, finalised a comprehensive and ambitious plan in 2012 called the Kampala Physical Development Plan (KPDP). The main aims of this plan were to:

1. Guide orderly physical and sustainable development of Kampala;
2. Update and replace the 1994 Structure Plan and to provide short and long term developmental goals for the KCCA.

Within the plan, a number of proposals and mechanisms were put forward to address these aims. This included creating a multi-focal and functional city centre and, through this, the enlargement and extension of the central business district. It also envisaged the construction of an urban freeway for better accessibility to employment and businesses. Furthermore, in order to harness the sprawl of shops and public services, the plan proposed creating a new hierarchy of service centres and sub-centres.

Land tenure in Kampala

To date, however, the KPDP has faced implementation challenges. More specifically, one of the assumptions at the outset of the plan was that the complex land tenure regime is resolved. Land tenure in Uganda, particularly in the city of Kampala, is considered to be one of the most complex in the world. There are three major tenure structures in the city. These are:

- **Freehold:** The holder of the land has various rights including to sell, lease, mortgage, pledge and sub-divide and holds these rights in perpetuity or for a period less than perpetuity that may be fixed by a condition. This land is managed by titles issued by the Uganda Land Commission.
- **Leasehold:** This type of tenure is created either by contract or by operation of law between two parties under which one person, namely, the landlord or lessor, grants or is deemed to have granted another person called tenant or lessee, exclusive possession of land. In Kampala, this comprises KCCA's land and this is currently managed by the Kampala District Land Board, an entity of the Ministry of Lands, Housing and Urban Development

- **Mailo:** This tenure type is unique to Uganda and traces its origins to the 1900 Agreement between the Buganda Kingdom and the British Crown. In short, this is the land owned or managed by the Buganda Kingdom, via the Buganda Land Board. It also involves holding registered land in perpetuity and the registered mailo owner of land, as with the freehold owner, has the rights to use, sell, lease, mortgage, pledge and sub-divide. However, a major difference from other types of tenures, is that it permits the separation of ownership of land from the ownership of developments on land that have been made by a lawful or bona fide occupant.

Additionally, in the Greater Kampala Metropolitan Area (GKMA), there are some areas under customary tenure. However, this is less important than in other cities in Uganda.

This land tenure regime results in one of the most binding structural constraints to urban planning. This has fostered unclear and insecure property rights and, as a consequence, investment and urban land re-development in Kampala has been slow. There have been some achievements in the field of land regularisation and administration to date. However, large-scale reform is unlikely to take place in the short term as it is a highly political issue. This is therefore an unrealistic assumption posited at the outset of the KPDP and a major reason for failed implementation. Even without any reforms, the city will continue to grow and therefore it is important that planning can still take place within this complexity.

Tenure-responsive land use planning

In order to operationalise the KPDP, the KCCA is now looking to develop detailed integrated neighbourhood plans for different parts of the city. In order to ensure that these can be operationalised, it is therefore important to take the complex tenure system into account. One of the planning methodologies suited for these types of environments is tenure responsive land use planning (TR-LUP) developed by Chigbu et al (2016). This is a generic framework that has to be adapted according to the different contexts it is implemented in. In general, it provides an operational framework that can incrementally establish land tenure security at the local level, through specific land use planning activities. The combination of planning and enabling increased land tenure security can be useful for the context of Kampala's neighbourhood planning programme.

The TR-LUP can be defined as a process of conducting land use planning in ways that enhance land tenure security and can generally be broken down into an eight stage process:

Stage 1: The first stage commences with the creation of a multidisciplinary land use planning team that is representative of all stakeholders.

Collaborative consultations will serve as a key process at this stage.

Stage 2: Then objectives and targets for TR-LUP are set at this stage. It is crucial that at this stage the planning team works with the local communities to be able to prioritise their needs. It then uses these to formulate clear and realistic objectives including land tenure security improvements as one of the key objectives.

Stage 3: Collaborative assessments are done in order to grasp the land use and tenure security gaps in the project area. Conducting land use inventories based on face-to-face dialogue and making commitments to positive changes in tenure security are important features at this stage. Data collection on land rights, tenure and use, as well as environmental, legal, cultural, political and socioeconomic information is key for the development of the plan.

Stage 4: At this stage, a draft land use plan that is tenure responsive is prepared. Depending on the other objectives the stakeholders may have in terms of land use planning, the scope of this initial draft will vary depending on the context within which it's developed.

Stage 5: The draft plan is then presented to stakeholders for approval. At this stage it is necessary to use community meetings to ratify the proposed plan and document all outputs. The proposed plan should be submitted to the relevant authorities for endorsement. Once it is approved, it is then adopted as a working document.

Stage 6: Implementation of the approved plan is the sixth stage. Given the approach adopted by this process and the fact that communities were involved, the implementation should lead to the emergence of improvements in land use and tenure security. This also requires flexible and committed leadership.

Stage 7: The penultimate stage is the setting up of a process for monitoring and evaluating progress in implementation. This creates effective feedback mechanisms for necessary adaptations and improvements.

Stage 8: This is the final stage and is used to identify best practices from the overall process, as based on shared agreement. This can then be transferred to other projects or parts of a country with a commitment to learning on urban planning.

Further advantages of the TR-LUP approach

The TR-LUP approach involves a community-participatory planning approach. A further benefit of this is that it will not only ensure community participation, but also be an opportunity to raise awareness on the value of planning and bring clarity to land tenure issues. Residents in the city could, to a certain degree, have ownership over the planning

process and this could positively and incrementally impact land tenure regularisation.

It is also a multidisciplinary, collaborative and trans-sectoral process. Thus, its implementation is not limited to a single profession, but includes experts in land use planning and tenure security issues as well as those with academic and professional training in disciplines such as sociology, economics, spatial planning or real estate surveying. It is important that there is experience of the local context in the proposed project area as well.

Implementing TR-LUP

Land tenure complexity in Kampala requires a localised planning approach which may vary from one area to another given the differences in challenges across the city. Therefore, neighbourhood planning is a very favourable approach in this context. However, to ensure its success, pilots need to be undertaken in selected areas that are representative of Kampala's different land tenure regimes. The criteria for area selection should be based on factors that could, for example, include areas important for economic growth, where planning could significantly improve livelihoods of urban residents or where it is needed to protect the environment. This pilot phase would ensure that any lessons could inform how the rest of planning should proceed. It would also provide an indication of the required resources needed to implement planning for the whole city.

While international expertise may be required for some technical areas and for financing, it is imperative that the TR-LUP neighbourhood planning process is driven locally. This will help ensure that the outcome of the planning process can be understood and owned by all stakeholders and thus will face less challenges when it comes to implementation.

The capacity and resources of planning departments within the Ministry of Lands, Housing and Urban Development (MLHUD), KCCA and other local government authorities need to be strengthened. Given the diversity of expertise that is required for TR-LUP, it may not be necessary to recruit all the relevant personnel on a permanent basis. Furthermore, the role of more local entities, such as those found at the sub-county, parish and village/ward level, are critical when it comes to neighbourhood planning. This is both the case in the design but also in the implementation and enforcement phase. Hence, local leaders and KCCA's physical planning need to be fully involved in the neighbourhood plan design.

Any effective planning process needs to be supported by reliable data and evidence. This is particularly important in the context of neighbourhood planning to ensure that it can capture the on-the-ground reality. For example, a detailed inventory of type of rights and their beneficiaries for

each tenure system, at least for those areas considered for neighbourhood planning, should be undertaken. This should be combined with the assessment of existing local neighbourhood conditions and the outcome should be able to help with an understanding of the types of rights that exist on each plot, those that would be affected and therefore the level of compensation that might be required if the neighbourhood plan implementation requires some relocation. This inventory should be done before the design of the plan because this information will be critical in determining how planning is undertaken.

Whichever planning approach is adopted, there will be significant financial considerations. For example, when it comes to the implementation stage of neighbourhood planning, there is no doubt that some form of relocation and compensation will be required. In situations where affected communities need to be relocated, the sites should be planned and provided with the required infrastructure and services in advance to ensure that there is no proliferation of informal settlements. KCCA and other respective local government authorities will need to designate areas where affected people can move to, even if the city needs to acquire this land.

Making urban development and planning a priority

For urbanisation to be efficient and effective, the central government needs to prioritise it, both politically and in terms of resource allocation. Without this, transformational urban initiatives, including neighbourhood planning, will be jeopardised when it comes to implementation. A holistic urban planning approach is necessary to co-ordinate the private and public investments that enable productive and liveable density within cities. Furthermore, well-functioning cities require that economies of scope and complementarities be leveraged in the provision of physical infrastructure like roads, drainage, street lighting, electricity, water, sewerage, and waste disposal alongside policing and health care. With foresight and strong implementation, urban planning can provide this coordination. However, for it to be successful, it requires the commitment of all stakeholders as well as each level of government.