Introduction and context

Since the end of the Second World War, the process of facilitating development in less economically developed countries has been predicated upon the adoption or imposition of western institutional models across all sectors of national economies. In most African countries, the experience with transplanted institutions has been marginally successful, in part because these institutions fail to recognize and integrate the rich historical, cultural and social context of the indigenous peoples (Mabogunje, 1992; Doebele, 1983). Central amongst the early institutional changes were major transformations in land tenure arrangements, most notably attempts to replace indigenous, community-based property regimes with either centralized state-owned forms of tenure or individualized freehold private property (Bruce and Freudenerber, 1992; Farvacque and McAuslan, 1992). The rationale for changes in tenure arrangements, particularly the emphasis on freehold tenure, was simple: indigenous, community-based forms were viewed as inhibiting the growth of emerging market economies because they provided insufficient ‘security of tenure’ to allow for substantial investment in land necessary for agricultural production (Feder and Noronha, 1987).

One of the most sweeping land tenure reforms undertaken in Africa in the post-independence period was carried out by the Government of Kenya (Bruce, 1988; Kiamba, 1991; Okoth-Ogendo, 1991). Aimed at replacing indigenous tenure forms with individualized freehold and leasehold titles, the ongoing Kenyan land registration program has subdivided, adjudicated and registered over 6,885,329 hectares of land and issued approximately 2 million titles under the Registered Lands Act and the Registration of Titles Act (Republic of Kenya, 1994a). Despite its impressive record as a field operation, the success of the Kenyan land tenure reform in promoting economic growth is debatable. The relative success of the Kenyan economy has been attributed to this reform but any causal connection between individualization and growth remains largely unsub-
A resurgence in evictions took place in 1990 when two large informal settlements in Nairobi were razed by the Nairobi City Commission. The National Council of Churches of Kenya estimates that 30,000 people were made homeless by these actions; see Matrix Development Consultants, ‘Nairobi’s Informal Settlements: An Inventory’, Prepared for US AID, REDSO, East and Southern Africa (1993).

The reform has also been blamed for the escalation of property disputes amongst family members, an increased concentration of land in the hands of a political/economic elite, growing landlessness and resultant rural–urban migration and restricted access to land by women (Achola, 1980; Bruce, 1988; Rutten, 1992; Shipton, 1988; Wanjala, 1990).

One area in which the difficulties surrounding the land tenure reform is beginning to be seen most evidently is in the planning and management of growth in Kenyan cities and towns. Kenya’s urban areas are growing at an average of 5.2% per annum, with the smaller cities growing at an even higher rate (Republic of Kenya, 1994b). Within these cities, a myriad of problems surrounding land management and tenure exist, including ineffective land use planning; expensive, inefficient and inequitable infrastructure provision; constrained ability to generate local revenues from land taxes; lack of access to land for informal sector activities and general administrative chaotic arising from incomplete legal application of the reforms, unclear administrative jurisdictions and a general disregard for the requirements of the formal land tenure system by landowners (Ogero and Bassett, 1992; Republic of Kenya Development Plan, 1994b; Smoke, 1994).

One significant impact of this sustained rate of urbanization is that the demand for affordable housing in urban areas has far outstripped its supply. The shortage of housing and land for housing has resulted in the growth of ‘informal settlements’ in many urban areas, particularly the larger cities of Nairobi, Mombasa, Kisumu, Nakuru and Eldoret. Informal settlements in Kenya are primarily located upon government land that has not been officially or completely awarded to individual owners. Most informal settlement residents are tenants renting rooms from landlords who have developed the housing with some form of quasi-legal tenure such as a temporary occupancy license. Squatter settlements outside of the larger cities have a higher proportion of ‘true squatters’ (i.e., builder/occupiers) as residents, although there still are significant levels of tenancy (Ogero et al., 1992).

As with other governments in the developing world, Kenya has gone through three basic responses to informal settlements: eviction/demolition, relocation/sites and services and in situ upgrading (Ogero et al., 1992). In the 1960s and 1970s, the primary response to in-migration from rural areas and the growth of informal settlements was to evict residents and demolish their dwellings in the hope that they would go back to rural areas. Two main tools were used in Kenya for such evictions: bulldozers and fire. The second approach to informal settlements was to relocate slum dwellers to different parcels of land and provide basic urban services to these land parcels. Such relocation/sites and services projects recognized that the so-called squatters were in the city to stay, at least for the duration of their working lives. Typical sites and services projects relocated squatters to vacant land, serviced that land by putting in roads, street lighting, water and electricity and provided financing for housing construction. The third and most recent approach to informal settlements has been to recognize existing settlements, provide needed urban services and facilitate the gradual upgrading of housing units. The idea of in situ upgrading is simple: governments should recognize that squatters have a right to the land upon which they are sitting, provide basic security of tenure in the way of titling and survey and provide basic services such as planning (or regularization of development), sanitation, water points and access roads.

All three policy responses have had limited success. Razing slums did...
not eliminate the need for housing—residents simply erected shelters elsewhere. Most site and service schemes intended for the poorer sectors of society have ended up gentrifying—purchased by the middle class and either developed for their own occupancy or for the rental market. The Dandora Sites and Services scheme in Nairobi funded by the World Bank provides the best example of this phenomenon. Of the original beneficiaries, only 25% still reside within the settlement as owner-occupiers, the rest of the parcels have changed hands (Ogero et al., 1992). Finally, in in situ upgrading projects, the objective of providing security of tenure to the poor through titling has not been achieved due to similar illegal and informal transfers of property and gentrification of projects.

In the face of these problems, a number of actors have begun to question the appropriateness of the Western freehold land tenure system and the formalized urban planning practices adopted by national and local authorities. Discussion has come full circle with increasing attention being paid to formulating alternative institutional arrangements which adapt the formal land tenure system and land management institutions to reflect what is perceived to be the hallmark of the indigenous land tenure system: commonly-managed property or ‘the commons’. To this end, a common-property form developed in central cities of the United States, the Community Land Trust (CLT) model, has generated significant interest in Kenya and has been adopted as an experimental land tenure form by the Ministry of Local Government and the Commissioner of Lands Office (Matthei and Hahn, 1991). It is being implemented as part of a settlement upgrading initiative in Voi, a secondary town in southeastern Kenya.

Interest in the CLT model has arisen because the CLT appears to be a land tenure form which is respectful of indigenous common-property traditions and local resource control while being amenable to market objectives. Notably, the roots of the CLT model are drawn from the developing world, particularly Africa and India (Institute for Community Economics, 1982). In brief, CLTs combine community ownership and control of land with individual ownership of improvements on the land. Individuals have a number of well defined rights including the right to bequeath user rights to the property and build improvements upon the land; the community retains the right to make decisions on the permissible use of land and other natural resources and controls alienation of land. Some property rights are shared in this arrangement—for instance, individuals have the right to sell the improvements they have made to the property, however the sales price is controlled by an equity formula in order to retain affordability (Institute for Community Economics, 1982). Absentee ownership is restricted: in order to have access to land, one must live on the property.

The research reported here undertook a preliminary examination of the Community Land Trust model as a new, alternative, community-based tenure form for the African context. This research is restricted to Kenya, and as a case study of a particular secondary city is restricted in its generalizability. However, as noted both above and below, within Kenya and beyond on the African continent there is increasing interest in the role that community-based tenure might play in urban reform. For example, South Africa recently passed land reform legislation which provides the legal basis for the formation and functioning of bodies similar to community land trusts called ‘Communal Property Associations’ (Republic of South Africa, 1996).

The principal research activity was a set of interviews with key participants in the formation and facilitation of the Voi CLT; the interviews were selected using purposive sampling. A total of 24 individuals were inter-
viewed during January 1996, including 7 members of the Tanzania–Bondeni Settlement Residents Committee in Voi. The interviews were of a semi-structured fashion. The interview group was asked to elucidate their understanding of their own and others: (a) perceptions of the strengths/weaknesses of the Kenya land management system and its impact upon urban areas, (b) motivation/rationale for support of the CLT as an alternative land tenure form, and (c) the replicability of the Voi CLT experiment to other informal settlements in Kenya.

We served as the interviewers and believe our perspective greatly aided in the research. Bassett worked in the Kenyan Ministry of Local Government in the early 1990s and helped to originate this experiment. Her role was that of a participant-observer over the course of three years when the project was beginning. Jacobs helped to formulate and disseminate the original CLT concept in the United States.

In summary, the goal of this research effort was to undertake a preliminary assessment of a very innovative tenure experiment addressing one of the most vexing problems in African development—providing access to land and affordable housing for the urban poor. However, we view this work as exploratory and our conclusions about it are tempered by its limited scope and still-early stage of development.

The CLT experiment in Voi, Kenya

In the early 1990s, a small donor-sponsored urban management project located in the Ministry of Local Government (MLG), called the Small Towns Development Project (STDP), began to consider options for implementing informal settlement upgrading projects with a few of its partner towns. In addition to the problems of service delivery, public health and aesthetics associated with informal settlements, the STDP and its associated towns were concerned with the financial implications of informal developments. Most centrally, until informal settlements are ‘regularized’, that is ownership established and titles issued, local authorities are unable to assess property taxes. It was in an effort to broaden the base for local property taxation that the STDP first began to consider upgrading.

To address the question of land tenure, the STDP began to consider alternatives to individual leasehold title for its informal settlement upgrading work. One idea, introduced in Kenya in a 1991 Ford Foundation study, was to use the American Community Land Trust model as a tenure form for providing access to land in low income urban areas in Kenya (Matthei and Hahn, 1991). The study suggested that the idea had some potential, but needed further investigation and testing since the Kenyan circumstances were so different from those of the United States. Sufficiently intrigued by the concept, the STDP and the national level committee overseeing the upgrading decided to offer the model as a tenure option in the upgrading projects. Two settlements had been selected for upgrading, Mtaani-Kisumu Ndogo in Kilifi town, and Tanzania–Bondeni in Voi town (see Fig. 1).

Assessment of the CLT model

Why did the STDP and MLG consider the CLT model in the first place? Why did they feel sufficiently intrigued by the model to offer it as an option to the communities with which they were working? Judging from interviews with STDP planners, MLG officials, representatives of the local authority and community members themselves, the CLT model was
perceived as having a number of advantages, although different actors saw different advantages to the model.

**Advantages to the Government of Kenya and donor agency, GTZ**

There were four main reasons that the Government of Kenya (GoK) and the STDP became interested in the idea of the CLT model. These reasons were: (1) its promise to eliminate the 'windfall' element of upgrading projects, (2) its provision for community control of land, (3) the prospect
of creating a community-based organization for longterm development partnership, and (4) the increased possibility of access to established financial sources.

Elimination of the 'windfall' aspect created by the upgrading project. GTZ, the donor agency, and the GoK wanted to retain the current residents (or beneficiaries) in the settlement area. They did not want the project to gentrify as had been the case with most previous projects. By eliminating the windfall aspect of the project through the provision that alienation of land would be controlled by the community and by allowing only for sale of improvements, it was hoped that the temptation (or incentive) to sell out would be lessened.

This aspect of the model, however, was not universally liked. Some planners involved in the project saw this element of the CLT model as paternalistic and wondered why the poor should be granted what could be characterized as second class ownership (in comparison to individually titled tenure).

Provisions for community control of land. Central government officials also viewed the model as advantageous for fostering community self-reliance and risk sharing. The GoK and STDP recognized that in past upgrading projects there have been beneficiaries who did not want to sell, but due to the burden of the project (survey fees, registration fees, deadlines for housing development) or family emergencies have liquidated their only asset—the land. By vesting control of the land in the community group and by setting up procedures for group payment of obligations, it was hoped that the model would facilitate beneficiaries to keep their land.

Creation of a coherent community-based organization for longer-term community development activities. A third perceived advantage of the model was that it establishes a local democratically controlled organization (with a board of directors, etc.) who could work as a partner with the municipal council and the donor on longer term projects. One critique of previous settlement upgrading projects is that they have failed to pay sufficient attention to issues of community economic development and the alleviation of poverty. Critics note that improving standards of living through provision of infrastructure and housing will not succeed without developing livelihoods.

Access to finance. The final advantage from the perspective of the GoK and the donor was that the community land trust model might be able to tap into existing sources of finance for housing. A fund established for upgrading of informal settlements offered by the National Association of Cooperative Housing Unions (NACHU) was of particular interest. Endowed by the Ford Foundation, these ‘rehab monies’ are available to settlements that formed housing cooperatives.

Advantages to the community

Judged from the perspectives of the GoK/STDP and the community itself, the CLT model was seen as having four possible advantages for the community.

Social security/community self-help. Both the STDP and the community were attracted to the model because it seemed to provide better social
security for the community. The STDP viewed joint ownership as a mechanism through which the community could help the less economically able members of the community, particularly with payments for items such as a land survey. Importantly, community-based ownership was seen as a way of ensuring that beneficiaries of the project did not become landless.

**Maintained important ownership rights.** Although the CLT model is based on community rights to land, it also incorporates important individual ownership rights. These individual rights were seen as protecting residents rights to undisturbed use of the property (within limits) and providing the correct incentives for housing improvement. The most significant individual rights in the model include the right to sell the house and related improvements, the right to privacy, and the right to bequeath housing and land assets to one's children.

**Access to capital as a collective.** Community residents were very interested in the model's promise of access to capital. The financial community in Kenya is very conservative and unwilling to provide loans to low income individuals. By applying for loans as a group, membership in the CLT would allow local residents to overcome biases against older people, women and informal sector employees.

**Strengthened ability to control their own land.** The final advantage was that the model enabled local residents to control who had access to their land. Other projects for squatters where land had been misallocated were well known to the residents of the targeted upgrading projects. It was felt that if the community had one title, if 3000 people 'owned' the land, rather than one, the land was less vulnerable to grabbing by outsiders. Likewise, the community was attuned to the interest of outsiders in purchasing land from the less well off. During the period of debate prior to the land tenure decision, the residents of Tanzania–Bondeni experienced significant lobbying to adopt individual titles by persons interested in buying from departing residents. Finally, women were very interested in the model. Because most freehold and leasehold titles have been registered in the names of the male heads of household, it is alleged that many women end up landless when their husbands encumber their property without consent.

**Advantages to the municipality**

The municipalities' perspective on the CLT versus leasehold tenure was more mixed. Since the local authorities were primarily interested in regularizing development for the purposes of revenue generation and service delivery, either system of land tenure was acceptable. Upgrading itself was the most highly desired goal. Two slight advantages were seen for the municipality with the CLT.

**Expansion of property tax base.** The CLT model was seen as slightly more advantageous in regards to the expansion of the property tax base. Because the model would result in a group title, the trust would, as a corporate body, be responsible for payment of property taxes. The local authority, therefore, would need to only deal with one body and not individual landholders for payment. Not only would this simplify tax administration, but it was seen that the likelihood of delayed or defaulted tax payments was lessened.
Prevention of further squatting. Since the CLT model requires owner-occupancy of anyone leasing land from the CLT, local authorities hoped that it would prevent the displacement of current residents and thus inhibit the growth of additional informal settlements by those displaced.

Selection of the CLT model

In late 1993, the residents committees of Tanzania-Bondeni in Voi and Mtaani-Kisumu Ndogo in Kilifi selected the type of land tenure for their upgrading project. Two options were offered: individual leasehold titles or a community (group) leasehold title. The individual leasehold titles would carry the normal deed restrictions. The residents of Mtaani-Kisumu Ndogo selected individual title. However, much to the surprise of many of the planners working in the project, the residents of Tanzania-Bondeni settlement in Voi voted overwhelmingly to have a community title. Only those persons who owned structures in the settlement were eligible to vote since due to limitations in land they would be the primary beneficiaries of the upgrading project.

The strong positive vote in Voi was seen as reflecting the large number of female-headed households in the community, the generally older demographic profile of the structure owners, and the knowledge and self-identification as a community by residents (see Fig. 2, Community Profile). The negative votes in Voi were primarily from younger members of the community who were concerned about how they would secure land plots in the future, and who seemed more interested in the possibility of selling individual titles for the cash they would bring.

The CLT consequence

Following the decision to establish the CLT in Voi, the STDP and GoK began to work in earnest to accommodate the CLT model within the structure of Kenyan law. To date two legal bodies have been constituted as the Tanzania-Bondeni Community Land Trust. The first is a society, registered under the Societies Act. This body is responsible for the day-to-day workings of the community-based organization. The second body, the trust, is registered under the Trustees (Perpetual Succession) Act. The trust is solely concerned with administration of land matters. The trust will hold the title deed of the land for the society. The trust’s other duties include issuing leases to society members, determining fees for land rental, making decisions on land uses (in conjunction with the society), providing oversight of sale of improvements and controlling any proposed encumbrance, alienation or purchase of land. In addition, four housing cooperatives have been organized due to limitations on total disbursements available for individual coops through the rehabilitation fund of NACHU.

A physical plan for the community has been developed based on extensive input from the community. In accordance with the plan, houses have been demolished and relocated, roads built and infrastructure installed. However, as of late 1996, the Commissioner of Lands Office has not yet issued the group title deed to the trust. Despite this there is confidence that the deed will be forthcoming and much development activity and housing investment has occurred. Residents, for instance, have begun to build houses using permanent building materials, plots have been fenced off and long-term crops such as fruit trees have been planted.

In Nairobi it seems as if everyone associated with low income housing and informal settlement matters is aware of and intrigued with the poten-
Socio-Economic Characteristics as of Sept. 1990

Population

- Total Population: 2993 persons
- Population Density: 214 persons/hectare
- Households: 644
- Structure Owners: 262 households
- Tenants: 382 households

41% of Owner Households are female headed

The settlement is fairly stable: 23.2% of the residents had lived there over 6 years

Income Levels

Income levels are low:

- 38.9% indicated they earned less than 1,000 KES/Month
- 12.6% 1,000 to 2,000 KES
- 9.8% more than 2,000 KES

(comparatively a civil servant makes between 7-8,000 KES/Mo)

Housing Characteristics

- 62% of houses were temporary (mud/wattle, tin roofs)
- 36% "semi-permanent" (cement floors, whitewashed walls)
- .9% permanent

Heterogeneous settlement: Ethnically mixed (Taita, Kambas, Kikuyus, Luos, Swahili)


Figure 2. Profile of Tanzania–Bondeni settlement.

tial of the Voi CLT. Shelter Forum, a loose coalition of NGOs working in the housing sector, has discussed the model at their annual conferences. The model has been suggested as an option for an upgrading project being undertaken by the Netherlands government in Dandora, Nairobi. The Kenyan government recognized the project as one of the most innovative in the country and selected it as one of Kenya’s ‘best practices’ for the 1996 U.N. HABITAT conference in Istanbul, Turkey. At the national level, everyone is aware of the shortcomings of other models, of the need to do something, and of the apparent success of the experiment in Voi.

The question of replicability

While it is interesting, even significant, that the Tanzania–Bondeni settlement in Voi initiated a CLT, and that at this stage the CLT appears to be a success from the point of view of the GoK and the donor agency, the municipality and the community, the real issue is whether the experience in Voi can be replicated in other settlements in Kenya. During our research visit, the question of replicability became the focus of our interviews.
Based on these interviews and our analysis, we have identified ten factors that may impact upon replication of the Voi experience. They are noted and discussed below. While factors are listed in hierarchical order, this does not imply any level of importance among them. At this stage we can say that all of the factors contributed to the success of the Voi experience. It is difficult to say how critical any one or more factors are to the replication of the Voi experience, although we do speculate on this in the final discussion of upgrading activities in Kilifi.

Factors for replicability

Type of community—homogeneity versus heterogeneity in community composition. Intuitively one might expect that for a group to choose a common property title they would be homogeneous. That is, that it would be their shared background in ethnicity, language and/or ‘institutional’ history together which would lead them to act as a community toward land tenure. Yet, many observers of the Voi project stressed that the community has been able to select a community title and work so well together precisely because the community is heterogeneous in composition. In particular, it is the fact that there are a variety of ethnic/tribal groups in the settlement, none of which was clearly the dominant group, that created an atmosphere conducive to choosing community-based tenure.

Lack of traditional claims upon land. The land upon which the Tanzania-Bondeni settlement exists, and where the CLT will be titled has been government land since the building of the Uganda Railway by the British in the late 1800s. If there are traditional, tribal claims upon this land they appear to have been relinquished or overridden by the governmental claim. Thus the land is, in a very real way, ‘public’ land—that is, land owned by everyone, and by no one. This makes the proposal for a CLT a relatively easy proposition in contrast to a situation where there may be traditional claims upon land. Among many interviewees there is skepticism as to whether the CLT model could work in areas, even urban areas, where there is a greater institutional memory about traditional claims upon land.

De facto community land tenure institutions. Although there were no official or tribal land institutions, there were de facto rules governing land tenure in the settlement in the years prior to the upgrading project. Notably, these de facto land tenure institutions operated in a manner similar to the CLT model. According to the Residents Committee, people who wanted to settle in the area had to obtain permission from the local chief and the wazee wa kijiji (elders). Most people who came to the settlement did so because they knew others who were living in the settlement. People who were granted access were shown a spot of land upon which to erect a house for occupation. While they were squatting, residents of Tanzania-Bondeni never owned the land, but they did own their own houses. Moreover, when people left the settlement they were able to sell their own houses to incoming persons. Incoming residents paid the owner for the structure, but knew that he/she did not have claim to the land since they were officially seen as illegally occupying the land.

The residents of Tanzania-Bondeni thus seemed to have an intuitive understanding of the CLT model when it was presented to them. They did not seem to find the notion of separation of land and improvement ownership difficult to understand, as it reflected their current situation. To a
certain extent, the CLT provided a way to regularize the *de facto* land tenure system.

*Age of community/community coherence.* As noted above, the Tanzania–Bondeni settlement in Voi is unusual in the tenure of its residents; over a quarter of its population have resided in the settlement for over six years, and many residents have lived their whole lives in the settlement. This is a community in the full sense of the term—people know each other, are aware of each others activities and families and have concern for each other. In addition, this is a settlement with a longstanding history of community self-help. One Voi resident described the settlement as ‘a group of thugs and thieves united’ who would work together in the middle of the night to build homes for one another. These conditions of community self-knowledge and self-help, and living and working together under adverse conditions for so long, are not conditions that will be easily replicated in settlements of a more transitory population.

*Community characteristics: gender and age.* The demographics of the Voi community appear to have also affected the selection of the CLT model. Over 40 percent of the settlement is comprised of female-headed households. Women, the Residents Committee stressed, were very attracted to the idea of the trust. In particular, the apocryphal story of land loss for women—that the husband gets drunk and loses the land in a bet—seemed to resonate with the women in the community. Women were attracted to the idea of community control because it was seen as protecting them from pressures within the family to sell the land.

Additionally, the age of many of the residents of the community also appears to have been a significant factor in choosing the CLT. Because many of the residents are elderly their opportunities for accessing capital for housing improvement is slight, even if they have an individual title to a plot of land. The access to capital through the formation of the trust (and housing cooperatives) was a very attractive feature of the model for these residents.

*Size of town.* Supportive though skeptical observers of the upgrading project in Voi stressed that the CLT experiment was taking place in a small town. Many persons felt the project would only work in a small town where people know each other better and had the opportunity to build community ties such as those found in Tanzania–Bondeni. Others, however, disagreed with this analysis. For these observers, economic adversity and the need to work together to gain access to land was most important unifying factor in the CLT decision and the project’s success to date.

*Value of land.* Several interviewees speculated on the role of land value in the CLT decision. Specifically, they noted that the Tanzania–Bondeni settlement land had little market value for alternative uses—either by being in demand by higher income families for housing, or for conversion to commercial use. As noted above, Voi town is a small community which exists primarily as a market center, transportation way station and residential area for labor for an adjoining sisal estate. So, individuals had few if any opportunities to profit from holding individual titles; there would be little they could do to convert these titles to cash. From the perspective of the interviewees who raised this point, a major factor to be considered
before further use of the CLT model is whether the CLT can work in an area with strong alternative demands on the land base.

Role of local authority. Throughout the process of exploring the CLT model with the residents of the Tanzania–Bondeni settlement, representatives of the local authority were supportive of the idea and took no actions to interfere with or disrupt the project’s evolution. The staff of Voi Municipal Council, particularly the two town clerks that have worked in the town during the period of the project, have been very open to working with the residents and have constrained small political threats to the process. Such a relationship is unusual in Kenya where local authorities still tend to see informal settlements as eyesores and most recently as a focus of support for opposition political forces. Without this type of support, many observers felt that the upgrading project would surely have failed.

Role of donor. The formal support from key individuals and ministries within the Government of Kenya has been strong. The then Deputy Commissioner of Lands agreed to chair the national level committee overseeing the upgrading project. Negotiations with the owners of the sisal plantation and the Kenya Railways have been facilitated by this office. In official conversations, senior officials in the government have expressed government’s commitment to upgrading in general and support for the model in particular. They note that their support for the model stems from their clear understanding of the failure of alternative approaches.

It is unclear, however, how much of the government’s stance is due to a genuine interest in addressing this problem or stems from the desire to satisfy the interests and agenda of the donor agency. GTZ, through the STDP in the Ministry of Local Government, has played a central role in getting the CLT model discussed and established in Kenya. It is not clear how supportive the government will be of further CLT experiments if a donor is not involved and applying external pressure for action. Given the extent of corruption that has occurred relative to land allotment in Kenya in recent years, it is especially unclear how much support the government will give a CLT project proposed for establishment on more valuable and politically sensitive land, such as in informal settlements in Nairobi.

Institutionalization of technical assistance. A tremendous amount of technical assistance was provided to Voi town and the residents of Tanzania–Bondeni for the project. Planners from the STDP made themselves available for innumerable meetings and training sessions. Social workers from the local authority have worked closely with residents in the settlement. To some extent some level of this technical assistance was only necessary in Voi because this was the first time the CLT was being adopted. During the process the town, the donor and the GoK learned a great deal about what needs to be done and not done. However, interviewees acknowledged that a significant contributor to the ‘success’ of the Voi CLT stems from intensive technical assistance.

The unanswered questions are what level of technical assistance will be necessary for future CLT projects, and who will provide it. Clearly, it will be impossible to replicate this level of technical assistance provided in Voi; Voi was a learning experience for all concerned, and now the technical personnel need more efficient use of their time and resources. If CLT model is to be used in a widespread manner to address informal settle-
ment upgrading, a permanent, rather than ad hoc, structure of technical assistance must be developed and institutionalized.

The counter case of Kilifi

To speculate on the relative importance of these ten factors for future use of the CLT model in upgrading projects, it is instructive to briefly contemplate the sister project to Voi, namely the upgrading project in the Mtaani-Kisumu Ndogo settlement in Kilifi. Residents of Mtaani-Kisumu Ndogo, as was noted earlier, selected individual leasehold title with restrictions on resale as the tenure form for their upgrading project.

Superficially, Kilifi and Voi share many commonalities. Both settlements are located in small towns. Both settlements are long-standing communities with a mixture of ethnic groups. Both residents committees went through similar community mobilization and intensive leadership training.

But the differences are more striking. Most significantly in Kilifi the traditional tenure system was strong. The coastal region of Kenya (approximately ten miles inland from the ocean) was, for many centuries, under the control of the Sultanate of Oman (Miller, 1971). A basically feudal system, the Sultanate awarded land rights to individual Arab owners. These persons in turn subleased their land to local residents who paid rents for the use of the land. Ironically, settlers in Mtaani-Kisumu Ndogo became ‘squatters’ only after Independence when the government of Kenya declared the settlement area government land and did not honor prior arrangements. Secondly, the value of land in the settlements is very different. Mtaani-Kisumu Ndogo is located on prime real estate in a resort town just north of Mombasa. Whereas in Voi there are few alternative uses for the land, in Kilifi the land has high commercial potential particularly as tourism development continues. Thirdly, there is the social composition of the community. While Mtaani-Kisumu Ndogo is a heterogeneous community, it is highly segregated with the oldest residents, Swahili people, uninterested in sharing control over land with recent immigrants. Finally, the local authority in Kilifi was not a disinterested party in the upgrading project. Political interference was substantial with local elites recognizing opportunities for personal gain through an allocation of individual titles to settlement residents.

Based on this counter-example, it would appear that the key factors for success of the CLT model center on: the existence of traditional claims upon land, the value of land, the social structure of the community and the role of the local authority. These are the four characteristics in which the Mtaani-Kisumu Ndogo settlement in Kilifi is most distinguished from the Tanzania-Bondeni settlement in Voi.

Conclusion

Throughout the developing world in general, the most significant land use management phenomenon is urbanization. As the peri-urban areas are pressed upon by migrations from the countryside, urban and national governments are having to address a slew of complex problems, including environmental degradation and sanitation, inefficient urban development patterns, demands for urban services, and, to the extent the development is informal and illegal, an inability to generate revenues from these new settlements so as to be able to address these problems.

Governments and donor agencies have many reasons to want to address this situation—from humanitarian, social justice concerns to more narrow fiscal and public administration interests. However, the record on action

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Community-based tenure reform in urban Africa: E M Bassett and H M Jacobs

taken to ameliorate this situation is itself poor. Projects are ill conceived, poorly implemented and/or just do not work. Governments and donor agencies now know what is not a good idea, but have few notions of what might be an alternative.

What is clear about this phenomenon is that land tenure is at the root of its solution. The inability of people and families in informal settlements to have secure rights in land impedes their ability to improve their lives, and the government's ability to regularize development processes and to capture tax revenue.

The dominant model for land tenure globally is individual title. But it is precisely the individualization of title that is at the root of some of the attempts to improve conditions in these areas, attempts that have failed. The Kenyan government has recently experimented with a form of community-based tenure, the community land trust, for informal settlement upgrading and the initial results are quite positive. It seems that community-based tenure can serve the interests of the local residents, governmental authorities and donor agencies for establishing secure yet market responsive rights in land. In fact, the results of the experiment appear so successful, and the knowledge of the limitation of other models is so clear, that at the national level it seems that everyone—governmental officials, donor agency representatives, academics and NGOs—is prepared to move forward with the expansion of the CLT model to informal settlements throughout the country.

But a careful examination of the CLT experiment in Voi suggests caution. It may be that a very particular set of circumstances facilitated the adoption of this land tenure alternative. The rejection of the CLT model in Kilifi hints at this. At a minimum, it is clear that at this stage it would be premature to presume that the CLT model is the solution to the problem of informal settlement upgrading. Voi is a small town, Tanzania-Bondeni is an informal settlement with very special characteristics, and the CLT model emerged from a unique set of circumstances. While replicability of this experience needs to be pursued, even actively encouraged, for the advantages it offers, success in replication is in no way assured.

Perhaps what is most important about this experiment is its challenge to the mainstream of land tenure theory. This theory tell us that what people universally want and will pursue is individual (or family) title to land. This theory is reinforced by the global move to democracy and market economies, and their historical linkage to individualized tenure (and the notion that these three institutions are mutually reinforcing). The CLT experiment in Voi is a clear demonstration that there are instances where individual interests are best served by community-based tenure. The CLT experiment in Voi shows us that community-based tenure need not be rejected as archaic, pre-industrial and pre-market in origin, and thus ill-suited to the needs of people and communities in the twenty-first century.

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