

Rethinking Emerging Land Markets in Rapidly Growing Southern African Cities:

The Political Economy of Urban Land Markets in Africa Examples from Kenya

By

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This paper seeks to explore the dynamics of power and the urban land market; how do existing property markets work in growing African cities in reference to Urban Land Markets in Africa (ULMA), who are the market players and how do they shape the power dynamics of the market.

Introduction

The political economy of Urban Land Markets in Africa (ULMA) is basically about power relations and conflicts associated with control and use of this increasingly scarce resource in South African Cities (SACs). Despite the various efforts of government, individuals and agencies both locally and internationally to improve urban development and particularly those associated with land use conversion and management, land use problems particularly shortages and affordability still persist.

In developing countries like the South African Development Economic Community block (SADEC), mainstream planning practitioners show little awareness of the Urban Land Markets (ULM) in which they intervene. The wide-spread ineffectiveness of ULM and land use controls may reflect a failure to understand market factors as they affect developers, politicians and the poor. Land acquisition—critical to so many government development programmes is becoming impossibility. The market effects of public capital investments in relation to ULMA are allowed to subvert plan strategies when they could

possibly assist them. To be effective in the urban affairs of developing countries, ULMA's planning must greatly reduce its ignorance and neglect of market forces.

The questions that need to be addressed with regard to ULMA include; 1) Why do land use problems persist despite the various government interventions and actions? 2) Under what conditions or situations or circumstance are the policy packages in SADEC introduced? 3) Do the land use management practices, condition and circumstances prevailing in Sub-Saharan Africa permit the kind of policy introduced and 3) What are the situational factors that hinder effective or efficient management of land use in developing societies such as South Africa? And 4) What are the effects of these policies on land and housing markets in the rapidly growing South African cities?

The most serious problems confronting ULMSAC or cities and towns and their inhabitants as enumerated by the Habitat II Agenda (2002) include improper land use and insecure tenure. Similarly, urban land with the kinds of characteristics which would give people the means to create wealth in South African countries (SACs) is in high demand and thus highly sought after by more powerful sectors of the economy. City planners mostly agree that poor people need to be better located in cities in order to improve their access to social amenities and economic opportunities.

Living, or trading, or producing goods on better located land such as SACs also gives people to markets, which locational opportunities improves the outlook for sustainable poverty alleviation. If the people own the land they live on; they can also pass their property to their children and transact in the property market in various ways. Good urban management and land use planning then adds urban services, transport networks, and opportunities for agglomeration in the SACs. This vision has been at the heart of planning for cities in developing countries for decades. And yet it has not happened, for instance in Kenya and South Africa. The poor remain in poor locations, disconnected from physical and market networks, and on low market value land.

In the 21st Century, the world faces the greatest population explosion ever with 200 children being born every minute. Developing countries have the most rapid population

growth, and those in Sub-Saharan Africa the most rapid of all, with a 2.6% annual growth rate between 1995 and 2000¹. Some writers have linked this population growth to environmental degradation², whilst others contest the direct link between environmental degradation and population growth³. One particular concern relating to population growth that is beyond dispute is the very rapid rate of urbanization, with experiences in urban growth of over 3% per annum between 1995 and 2010 (See Table 1 below).

Table 1
Urban annual growth rate in selected Southern African cities
1995-2010

Country	1995	2010	Annual rate of change	
			1995	2010
Botswana	12.96	2.51		
Angola	36	44.1	3.11	1.28
Lesotho	5.33	3.51	3.88	2.88
Namibia	4.62	2.91	1.50	1.59
South Africa	3.45	1.35	0.92	0.80
Swaziland	2.18	1.74	0.12	1.11

This rapid rate of urban growth has prompted increased focus on how to deal with the problems of what the Brundtland Commission called the ‘Urban Challenge’⁴. Researchers and organizations monitoring this situation have provided a number of useful perspectives in relation to the ULMA:-

- ‘More than half of humankind will live in urban areas by the end of the 20th century, and 60 percent by 2020... In coming decades, most of the world's poor will be urban, living under conditions that can be worse than those of the rural poor’⁵.
- There is growing concern about providing for rapidly growing cities in Sub-Saharan Africa, where urban population growth rates are fastest.
- Some of this concern has focused on the provision of food. There has been a significant growth in the importance of urban farming as a source of food and as focus of research⁶.

¹ World Resources Institute, 1999.

² Meadows *et al*, 1992

³ Mortimore, 1998; Tiffen *et al*, 1994

⁴ World Commission on Environment and Development, 1987

⁵ World Resources Institute 1996

⁶ Binns and Lynch, 1998; Smit & Nasr, 1992; United Nations Development Programme, 1996

And yet, while these alarming data are presented, some empirical research is suggesting that the distinction between urban and rural is breaking down and that these ‘places’, previously seen as discrete, are beginning to intertwine⁷.

For example, rural dwellers are too often perceived as being full-time farmers, although they increasingly have to seek non-farm income frequently in the cities⁸. Indeed, there are many areas in Sub-Saharan Africa where non-farm urban-generated income has played an important role in maintaining rural communities. In Northern Nigeria, for example, dry season migration of males for work in the urban areas has been a well-established feature since pre-colonial times⁹.

Definition

The definition of the word ‘urban’ as non-agricultural is a Victorian invention. Archaeological and historical records clearly show that agriculture was an integral part of the urban scene until the late 19th century¹⁰. During the Victorian period, laws were introduced in many European cities to exclude agricultural activities, mainly on the grounds of concern about public health. This approach to city management was subsequently transferred to the administration and planning of colonial cities.

The word ‘urban’ is an adjective relating to a town or city. Its origin stems from a Latin word “urbanus” from ‘*urbs*’ or ‘*urb*’ meaning ‘*city*’. Therefore urban land markets in Africa are all about the socio-economic activities in areas classified as cities (buying and selling) or use of such land for economic purpose (s) (in Africa).

The Kenyan experience

The new constitution of Kenya under Chapter Seven (*Land and Property*) clarifies a number of issues pertaining to land management and ownership.¹¹ In the same chapter

⁷ Potter & Unwin, 1989; Tacoli, 1998

⁸ Rigg (1998)

⁹ Mortimore 1989, 1998; Siddle & Swindell, 1990

¹⁰ Mugeot (1994)

¹¹ Article 77—Principles of land policy
Article 78—Vesting and classification of land

under land and property act (Principles of land policy) Clause 77 sub-clause (1) Land is Kenya's primary resource and the basis of livelihood for the people (Table 1 and 2 bellow), and shall be held, used and managed in a manner which is equitable, efficient, productive and sustainable; and sub-clause (2) The national government shall define and keep under review a national land policy ensuring the following principles— (a) Equitable access to land and associated resources; (b) Security of land rights for all land holders, users and occupiers in good faith; (c) Sustainable and productive management of land resources; (d) Transparent and cost effective administration of land; (e) Sound conservation and protection of ecologically sensitive areas; (f) Elimination of gender discrimination in laws, regulations, customs and practices related to land and property in land; and (g) Encouragement of communities to settle land disputes through recognized local community initiatives consistent with this Constitution.

Vesting classification and land use

Article 78 Clause (1) All land in Kenya belongs to the people of Kenya collectively as a nation, as communities and as individuals. (2) All land in Kenya is designated as public, community or private.

The population of Kenya is growing at the rate of 6% (or 1.374 million persons every decade). The urban and rural population stands at 32.3% (12, 487,375) and 67.7% (26,122,722) with most of the urban population in Nairobi, Kisii, Kisumu and Mombasa (Tale 2).

Table 2
Rural and urban Population-Kenya

Article 79—Public land
Article 80—Community land
Article 81—Private land
Article 82—Landholding by non-citizens
Article 83—Regulation of land use
Article 84—National Land Commission
Article 85—Legislation on land
Article 86—Housing development

Population, total (millions)	38.8
Population growth (annual %) (2008)	3
Population density (people per sq. km) (2008)	68
Rural population (2008)	30,211,000
Rural population density (rural population per sq. km of arable land) (2005)	536
Rural population (% of total population) (2008)	78
Birth rate, crude (per 1,000 people) (2007)	39
Labor force, total (2007)	17,400,000

Nairobi County has the highest urban population followed by Mombasa, Kisumu and Kisii. The population densities for both Nairobi Kisii and Nyamira counties are however high, compared to the rest of the towns (Table 3 bellow).

Table 3
Population of major counties in Kenya 2009

County	Rural	Urban	Total
Nairobi	2,124,676	1,013,693	3,138,369
Mombasa	635,953	303,417	939,370
Kisumu	655,951	312,958	968,909
Kisii	780,095	372,187	1,152,282
Nyamira	405,017	193,235	598,252
Bungoma	1,104,142	526,792	1,630,934
Nakuru	1,085,451	517,874	1,603,325
Kakamega	1,124,261	536,390	1,660,651

Agricultural growth in Kenya stands at number 77 out of 149 countries of the world. The percentage of agricultural land in relation to total land area is 45.72% with a percentage of 8.17 as arable land with a cereal production of 108,000 Metric tones. Land utilization in the East African region is highest in the United Republic of Tanzania followed by Kenya, Uganda, Burundi and Rwanda (Table 4 below).

Table 4
Land under agriculture
Selected Sub-Saharan African countries

Country	Area (Km ²)
Sudan	1,346,000
South Africa	996,400
Nigeria	726,000
Tanzania	481,000
Kenya	260,200
Uganda	121,720
Burundi	23,450
Rwanda	19,350
China	5,548,510
India	1,801,800

Among the major Sub-Saharan economies; Sudan, Nigeria and South Africa have land capacities under agricultural use in that sequence while China and India follow each other among the leading developing economies.

If groups of people invade land in say SACs, they can perhaps gain locational advantages, and there are examples of this happening in Kenya. But land owners of more valuable land would use the means at their disposal to resist the occupation of their land near to their vested interests or prime areas. Given the 'logic' of the market, poorer communities, and states acting on their behalf, are often unable to bid competitively on valuable land.

Land rights and property rights in Sub-Saharan African Countries (SSACs)

Land rights are closely linked with property rights in SACs. These are defined as the exclusive authority to determine how a resource is used, whether that resource is owned by government or by individuals. All economic goods have a property rights attribute. This attribute has three broad components;

1. The right to use the good,
2. The right to earn income from the good, and
3. The right to transfer the good to others.

So this concept as used by economists' SSCs societies and legal scholars are related but distinct. There is also the aspect of rights regimes. Property rights to a good must be defined, their use must be monitored, and possession of rights must be enforced.

Contemporary urban land use practices

There has been a tendency in the past to over-simplify the nature of urban agriculture in SSACs. For example, there is a twofold distinction between home gardens and cultivation of the urban periphery¹². However, in Kano (Nigeria) and Dar es Salaam (Tanzania) there is considerable diversity in the character of urban agriculture even at a local level¹³. Further, it is dangerous to assume that because urban agriculture or settlement looks similar in SACs, or in different parts of the same city, that the motivations are the same or that the constraints are the same¹⁴. The diversity may be a function of a wide variety of factors which might include:-

- The location and distribution of urban and peri-urban agriculture and settlement
- The motivation of settlers or producers
- Difficulties experienced by settlers and producers
- Problems resulting from urban settlement and agriculture

Further, there is concern that some published work on urban agriculture and settlement suggested that it was the panacea for solving urban housing and food supply problems, without giving full consideration to the wider implications of a future increase of urban settlement and agriculture. Moreover, there is a suggest that urban settlement and agriculture in SACs is just one response of many that can improve urban settlement and nutritional circumstances, but the wider benefits of housing and nutritional security from urban settlement and agriculture tend to only occur under favourable conditions, where for example, there is wide access to resources such as land, labour, water and other inputs¹⁵. Otherwise, there is a tendency for the activities to be much more commercially

¹² Drakakis-Smith (1994)

¹³ Binns & Lynch (1998)

¹⁴ Ellis & Sumberg (1998)

¹⁵ Von Braun *et al* (1993)

orientated, benefiting those in a position to invest in security of tenure and high cost inputs, including paid labour.

The political economy of urban land markets in SSACs

Political economy entails an analysis of the aggregate societal and institutional relations that impinge on the production, marketing and consumption of both food and non-food products that are produced from urban and peri-urban areas in the SACs. The political economy of ULMA is anchored on distribution, control and access to the use of land assets and resources.

Theoretical perspectives: Urban areas and planning in SSACs

Throughout history conceptions of urban and of planning have ‘zigzagged between an emphasis on outcome and process’ in which there are four dominant approaches to city planning upon which they are founded plus an emphasis on how urban area literature exhibits aspects of each.

‘New urbanism’ emerges as a critique of urban sprawl and the underlying design principle (s). The view has an emphasis on a ‘compact, heterogeneous urban area’. The general thrust in the urban area literature is that design and economic imperatives in the new urbanism militate against urban land resource utilization and economic benefits associated with it.

The ‘just city’ and political economy perspective

The ‘just city’ and political economy perspective takes a conflictual view of society and considers that for positive change to happen, those excluded from power should fight for it. This perspective puts faith in the human agency’s capabilities to bring about change no matter what the structural constraints maybe. The key questions posed by this approach are on who benefits from ongoing activities (for this case ULMA) with a focus on groups defined in terms of socio-economic interests and more recently by gender, race and age.

The message for ULMA development programme is that while acknowledging the differential nature of our society, we have to proceed in a way that: a) Embraces entrepreneurship and economic growth or wealth generation simultaneously with concerns for equity b) Capture the elite and middle class as a resource (or social capital).

Development possibility

This possibility is premised on the potential that ULMA holds for the SACs economy, potential that ULMA holds for diluting, solving or exacerbating the urban land problem, reduction of plot sizes and associated implications for ULMA; and the notion that ULMA can be controlled entirely. The best approach is to utilize the basic spatial typology of ULMA that focuses on:

- a) Intra-urban agri-settlement that can be either on-plot or off-plot
- b) Peri-urban settlement spaces that empirical evidence is not conclusive as to the economic viability and environmental safety of ULMA products emanating from these spaces.

Peri-urban settlement and *urban agriculture*

Peri-urban areas suffer not only from social contests for control and access but also from pressures of urbanization and globalization in SACs. The literature on ULMA is generally oblivious to land related socio-political pressures and concentrates more on those arising from sprawling built development. An emerging trend throughout the region is one of increased commercialization of peri-urban land uses and greater commoditization of land rights. For the elites, peri urban areas are potential 'theatres of opportunity and accumulation'. The challenge for governance and sustainable livelihoods in the urban periphery is to go beyond a focus on the poor *per se* and to investigate networks that link the various actors in a given locality. The way forward has to follow two inter-related strands:

- a) That there is need for research on intra-urban land use issues e.g. how to increase settlements, settlement techniques and urban infrastructure techniques.

- b) That urban and peri-urban land use success will be dependent on the context and diversity of local dynamics, especially around land, governance and institutional success to resolve associated conflicts.
- In the field of ULMA and SACs research in general, Urban Land Mark (ULM) is among the few international institutions that have pursued urban development research with a commitment towards local ownership and capacity building.

Alternatively, the literature on urban development has been falling into two broad approaches¹⁶. These are firstly, a body of work that promotes urban development as a solution to the growing concerns about urban housing security. The main reasons commonly given for promoting urban development include;

- The provision of vital or useful housing units
- Various environmental benefits¹⁷
- Employment creation for the jobless¹⁸
- Providing a survival strategy for low income urban residents¹⁹
- Making use in urban agriculture of urban wastes²⁰

Further, a second group of work is described as being concerned with empirical research on urban agriculture²¹. Some of these latter studies have suggested that there may be problems in promoting cultivation in urban areas. Reasons for this include;

- Water shortages, particularly in arid or semi-arid urban environments²²
- Health concerns, particularly from the use of contaminated wastes²³
- Conflicting urban land issues²⁴
- A focus on urban cultivation activities rather than its position in relation to

¹⁶ Ellis & Sumberg (1998)

¹⁷ Margiotta, (1997)

¹⁸ Sawio, (1994)

¹⁹ Lee-Smith & Memon, (1994)

²⁰ Egziaber (1994)

²¹ Ellis & Sumberg (1998)

²² Mvena *et al*, (1991)

²³ Mvena *et al*, (1991)

²⁴ Mvena *et al*, (1991)

- broader urban management issues²⁵
- The inability of urban agriculture to contribute substantially to urban food needs²⁶
 - A lack of clarity over whether it is best to produce in city or country²⁷

A classical locational analysis of farming suggests that high value and perishable crops are likely to be produced close to the urban market. However, in reality this is not necessarily the case and an understanding of local circumstances may provide information about the functioning of land markets and transactions supporting urban cultivation²⁸. The particular circumstances that might make urban agriculture viable frequently involve a complex set of arrangements, such as the changing needs of households, their ability to satisfy those needs through employment opportunities and the breakdown of land regulation and market factors in SACs. Such variables can result in opportunities for urban cultivation that are temporary, risky and non-replicable.

Urban land *values and market*

Titles on their own in SSACs will not create a land market, nor will a land administration system unless it is connected with the way participants think about and organize their land. The ability of the poor to interact with the formal real-estate market to their own benefit once they obtain ownership documents are fundamental questions that are yet to be resolved. The poor are not impoverished because a simple housing market improvement has been ignored or simply misunderstood in SACs.

Moreover, there is a revelation that surprisingly little was written on urban land tenure in developing countries before the 1980`s. Furthermore, the amount of empirical evidence dealing with the full range of statutory, customary and informal or non-statutory systems of urban land tenure and property rights, together with the dynamics of their interaction, remains extremely limited in SACs. This has denied policy makers, administrators and sectoral professionals a sound foundation on which to revise existing tenure policies or

²⁵ Rakodi, (1988)

²⁶ Aldington, (1997)

²⁷ Lynch, (1995)

²⁸ Ellis & Sumberg (1998)

develop new ones in order to enhance innovative approaches and particularly examples of what could be called '*intermediate*' systems of tenure and property rights. As many observers have noted, land is unlike other resources in that it cannot be '*made*' or '*moved*'.

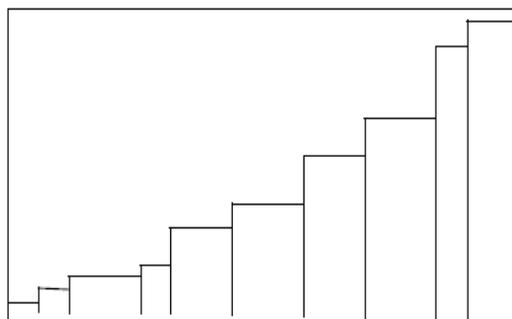
The tenure continuum

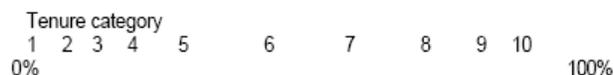
The range and complexity of various land tenure systems demonstrates that it is simplistic to think of urban land tenure in black and white terms, such as 'legal' or 'illegal', since there is generally a continuum of tenure categories within most land and urban housing markets. In many countries, there may even be more than one legally acceptable system operating, so that migrants moving from customary areas to urban centres may be considered to be '*behaving*' illegally, simply because they are operating in accordance with systems which are not acceptable in their new locations.

Therefore; before any *attempt* to intervene in land markets is made, it is therefore vital to assess the full range of *de jure* and *de facto* tenure systems and sub-markets which exist in any city. An example of some of the tenure categories which exist in many cities (including SACs) is illustrated in (Figure 1) though this omits customary and religious categories for reasons of simplicity.

Figure 1
Typical distribution of *urban tenure* categories by legal status

Tenure security in law
(De facto rights may vary considerably)





Summary of tenure categories found in many cities:

- 1 Pavement dweller
- 2 Squatter tenant
- 3 Squatter `owner` - un-regularized
- 4 Tenant in unauthorized subdivision
- 5 Squatter `owner` - regularized
- 6 Owner - unauthorized subdivision
- 7 Legal owner - unauthorized construction
- 8 Tenant with contract
- 9 Lease-holder
- 10 Free-holder

a) The *customary* tenure system

This is found in most parts of Africa, the Middle East, Melanesia and (once upon a time) North America. It evolved from largely agricultural societies in which there was little competition for land, and therefore land had no economic value in itself. In customary systems, land is regarded as sacred, and man's role considered being one of stewardship, to protect the interests of future generations. Allocation, use and transfer are determined by the leaders of the community according to its needs. With urban expansion, the system has become subject to commercial pressures and may only benefit members of the group.

b) The *private* tenure system

This is largely an imported concept in developing countries or the SACs and is generally concentrated in urban areas, where it was designed to serve the interests of colonial settlers. As such, it has co-existed with other indigenous tenure systems. The system permits the almost unrestricted use and exchange of land and is intended to ensure its most intense and efficient use.

c) The *public* tenure system

Virtually all societies acknowledge the concept of public land ownership to some degree. In socialist countries, all rights are vested in the state, while in capitalist countries such as Kenya or SADEC it is restricted to a narrow range of public requirements, such as strategic or communal uses. Although it has frequently achieved higher levels of equity than private systems, it has rarely achieved high levels of *efficiency* due to bureaucratic inefficiency; patronage and clientelism.

d) The *religious* land tenure systems

The traditional forms of tenure in Islamic countries represent another variation in this range. There are four main categories of land tenure within Islamic societies. '*Waqf*' land is land 'held for God', whilst '*mulk*', or private lands, are also protected in law; '*miri*', or state controlled land which carries '*tassruf*' or usufruct rights, is increasingly common, whilst '*musha*', or communal lands, are gradually ceasing to be a major factor under the requirement by land registries that ownership of land parcels has to be proven²⁹.

e) *Non-formal* tenure categories system

As stated above, these include a wide range of categories with varying degrees of *legality* or *illegality*. They include regularized and un-regularized squatting, unauthorized subdivisions on legally owned land and various forms of unofficial rental arrangements. In some cases, several forms of tenure may co-exist on the same plot, as in Calcutta, where '*thika*' tenants rent plots and then sublet rooms to others who sub-let beds on a shift system, with each party entitled to certain rights.

Emerging policy issues

Under conditions of rapid urbanization in SACs, competition for secure, serviced land is increasing in ULMA. This places greater pressure on existing urban land tenure systems and requires governments to formulate policies which encourage efficient urban land use

²⁹ United Nations (1973): Vol V:37

in African cities and improve accessibility to it especially for the urban poor. While addressing this issue, it is necessary to recognize that although land tenure in SACs raises important technical and procedural questions, it is ultimately a socio-political and economic issue, since rights over land cannot be isolated from packages of rights in general.

Perhaps the first point to make is that there are no absolute standards by which security of any urban land tenure can be defined. For urban squatters who have lived in a settlement for many years, their perceived security of land tenure may be indistinguishable in practice from households living in legal housing.

Further, land plots in the formal economy in SSACs now frequently command astronomic prices and even plots or rooms in squatter settlements, which twenty years ago would have been allocated to friends or relatives free of cost, are now sold on an increasingly open market. Even rights to part of a pavement in cities like Mumbai, can attract a relatively large sum within their particular sub-market.

This trend does not mean, however, that the variety of tenure sub-markets in urban land has been reduced, since new commercially based tenure systems have emerged in ULMA concept. In many SACs, unauthorized commercial urban land subdivisions now represent the largest single channel of land and housing supply. As they have expanded, so they have diversified in terms of the level of security provided and the social groups served. Local terms such as Plot/half plot, Kibanja, gecekondou, bidonville and favela, may now subsume processes of land settlement, development and exchange which embody significant differences in perceived tenure status not recognized by outsiders in SACs.

Recent trends in land *tenure policy*

Within the diverse approaches towards land tenure, national land ownership proves popular in SSACs, especially during the 1970s. Further, 20 out of the 40 countries in sub-Saharan Africa had nationalized all lands and extinguished private freehold ownership,

although some have reversed this approach since³⁰. In India, the Urban Land Ceiling and Regulation Act of 1976 sought to bring large vacant private land-holdings under public ownership or control.

However, the increased demands that public ownership place upon the state have invariably proved greater than the ability to develop and allocate lands according to needs, so that a substantial proportion of urban populations have been forced into unauthorized settlements that the policy was intended to prevent. In SSACs where governments have supported private land ownership systems high costs, reinforced by inappropriate urban land regulatory frameworks has forced many lower income households into unauthorized settlements. The resulting insecurity has been compounded by the requirement from mainstream financial institutions for title deeds as collateral for loans. This has restricted access by the poor to formal credit and the opportunity to improve their housing conditions.

Conclusion

Land is an extremely important asset in terms of economic growth and development in any African sector or economy. It also excites intense emotional and psychological attachment in a way that services, materials and finance do not. The growing population in most African cities is already outstripping urban services and infrastructure provision on housing, employment and water.

A precondition for creating equitable and efficient land and housing markets in SACs is the existence of an appropriate land policy. Therefore, systems of land tenure and property rights occupy a central element in the preparation of such a policy. The central issue is therefore; what forms of urban land tenure are most likely to achieve efficiency and equity in different contexts?

Further, the incident of urban land speculation by both urban and rural elites (who at times trade in the national stock exchange, for *example*) or other external investors create calculated panic in the land market in SACs or Africa.

³⁰ Mabogunje (1990)

I therefore suggest a crossbreed of land policy measures that best accommodate all the relevant sections of the communities concerned.

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