Informal Land Delivery Processes in Greater Gaborone, Botswana

Constraints, opportunities and policy implications

Faustin T. Kalabamu

International Development Department
School of Public Policy
The University of Birmingham
England

Department of Architecture and Planning
University of Botswana
Gaborone
Botswana
Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preface</td>
<td>1</td>
</tr>
<tr>
<td>Introduction</td>
<td>4</td>
</tr>
<tr>
<td>- Policy implications and recommendations</td>
<td></td>
</tr>
<tr>
<td>Land tenure</td>
<td>6</td>
</tr>
<tr>
<td>- Pre-colonial land delivery and tenure systems</td>
<td></td>
</tr>
<tr>
<td>- Colonial land tenure systems</td>
<td></td>
</tr>
<tr>
<td>- Post-colonial land tenure systems</td>
<td></td>
</tr>
<tr>
<td>- State land</td>
<td></td>
</tr>
<tr>
<td>- Tribal land</td>
<td></td>
</tr>
<tr>
<td>Urban growth</td>
<td>12</td>
</tr>
<tr>
<td>- Economic growth and increased inequalities</td>
<td></td>
</tr>
<tr>
<td>- Rapid urbanisation</td>
<td></td>
</tr>
<tr>
<td>- Policies</td>
<td></td>
</tr>
<tr>
<td>- Legislation</td>
<td></td>
</tr>
<tr>
<td>Gaborone</td>
<td>18</td>
</tr>
<tr>
<td>- The development of Greater Gaborone</td>
<td></td>
</tr>
<tr>
<td>- Formal land delivery</td>
<td></td>
</tr>
<tr>
<td>- Demand for state land</td>
<td></td>
</tr>
<tr>
<td>- Informal land delivery</td>
<td></td>
</tr>
<tr>
<td>Assessment</td>
<td>31</td>
</tr>
<tr>
<td>- State-led land delivery systems</td>
<td></td>
</tr>
<tr>
<td>- Land for women</td>
<td></td>
</tr>
<tr>
<td>- Land for youths</td>
<td></td>
</tr>
<tr>
<td>- Land for the poor</td>
<td></td>
</tr>
<tr>
<td>- Interpreting Botswana’s success</td>
<td></td>
</tr>
<tr>
<td>Policy</td>
<td>34</td>
</tr>
<tr>
<td>- ‘Ownership’, sale and leasing of state land</td>
<td></td>
</tr>
<tr>
<td>- Codifying tribal/customary land tenure</td>
<td></td>
</tr>
<tr>
<td>- Right of avail and entitlement</td>
<td></td>
</tr>
<tr>
<td>- Demolition of ‘illegal’ structures</td>
<td></td>
</tr>
<tr>
<td>- Compensation for arable land in tribal areas</td>
<td></td>
</tr>
<tr>
<td>- Other issues</td>
<td></td>
</tr>
<tr>
<td>Conclusion</td>
<td>37</td>
</tr>
<tr>
<td>Footnotes</td>
<td>38</td>
</tr>
<tr>
<td>Publications</td>
<td>41</td>
</tr>
</tbody>
</table>
Preface

Informal land delivery processes in African cities

Why research informal land delivery processes?

The colonial powers in Africa introduced urban land administration systems that were modelled on the systems of their home countries. The extent to which indigenous tenure systems were understood, recognised and incorporated varied from colony to colony, but it was generally believed that only a formal system based on a European model could provide a framework for urban development and protect the rights of urban property owners (who at that time were expatriates). These land administration systems, which were inherited at independence, are governed by formal rules set out in legislation and administrative procedures. However, the legislative provisions and the administrative systems that were established to implement them proved quite unable to cope with the rapid urban growth that occurred after independence.

The state-led approaches to development favoured in the 1960s and 1970s were associated with large-scale public intervention in urban land delivery systems. However, the cost of implementation and compliance has been too high for low-income countries, cities and inhabitants. At their extreme, land and property markets were perceived as ineffective or exploitative. These views were translated into attempts to de-marketise land by nationalisation and/or government control over land market transactions. Whether or not the concepts on which such land policies were based were sound, limited capacity at national and municipal levels ensured their failure. Administered land supply has very rarely met demand and attempts to regulate and register all transactions in land and property have been universally unsuccessful. As a result, most land for urban development has been supplied through alternative channels.

In the early years of rapid rural-urban migration many households, including poor households, were able to get access to land to manage the construction of their own houses for little or no payment, through ‘squatting’ or similar arrangements. Following research in the 1960s and 1970s, there was a feeling that the processes of ‘squatting’ and the allocation of customary land by legitimate rights holders were fairly well understood. Upgrading projects of the 1970s were designed and implemented on this basis.

Most countries have now reversed some of the most extreme versions of state intervention, but other components remain despite serious implementation failures. There is considerable doubt about whether recent attempts to improve land management will be any more successful than previous approaches. In part, pessimism about the prospects for efficient and equitable urban land management arises from the continued lack of resources and capacity in government, but it also stems from doubts about the appropriateness of the principles and concepts on which recent urban land policies have been based.

Much research on land and property in African towns and cities assumes that the state has both the duty and the capacity to take on a major interventionist role in land management. It concentrates on documenting and explaining the failures (and more rarely successes) of state interventions. Despite their significant role in providing land for urban development, there has been relatively little recent in-depth research on processes of informal land delivery or the institutions (rules and norms of behaviour) that enable them to operate and that govern the relationships between the actors involved. To improve policy and practice, a better understanding is needed of how formal and informal systems operate, interact and are evolving.

Aims of the research

The aim of the project was to improve understanding of informal land delivery processes in six African cities and their relationships with formal land administrative systems. It analysed the
characteristics of informal land markets and delivery systems

- to increase understanding of the institutions that underpin and regulate transactions and disputes in land
- to assess the strengths and weaknesses of alternative land delivery mechanisms, especially with respect to the extent to which they enable the poor and other vulnerable groups (especially women) to access land with secure tenure, and
- to identify and explore implications for policy.

**The comparative research project**

Coordinated by Carole Rakodi of the University of Birmingham and Clement Leduka of the National University of Lesotho, studies were undertaken in six medium-sized cities in Anglophone Africa, in all of which informal land delivery systems are important, but which also typify different colonial and post-colonial policies, legal frameworks, governance arrangements and experiences. The cities and the local researchers were:

- Eldoret, Kenya: Rose Musyoka, Department of Physical Planning, Government of Kenya
- Enugu, Nigeria: Cosmas Uche Ikejiofor, Federal Ministry of Works and Housing, Gusau, Zamfara State, Nigeria
- Gaborone, Botswana: Faustin Kalabamu, Department of Architecture and Planning, and Siamsang Morolong, Department of Law, University of Botswana
- Kampala, Uganda: Emmanuel Nkurunziza, Department of Surveying, Makerere University
- Lusaka, Zambia: Leonard Chileshe Mulenga, Institute for Social and Economic Research, University of Zambia
- Maseru, Lesotho: Clement Leduka, Department of Geography, National University of Lesotho

The aims of the project and the methodological approach were jointly developed by the researchers. Findings and policy issues were discussed at workshops in each of the cities, to obtain feedback from relevant stakeholders and make a contribution to current debates about land policy and administration in each of the countries studied. The research teams generally identified some of the policy implications of their findings rather than making detailed recommendations, because the researchers all believe that policy formulation and legislative change should be negotiated processes involving all the stakeholders in land management.

The research was funded by the UK Department for International Development. DFID supports policies, programmes and projects to promote international development. It provided funds for this study as part of that objective but the views and opinions expressed are those of the authors alone.
The project in Gaborone

Botswana was included in the study as an example of a southern African country, in particular one in which the British colonial administration had adopted a protectorate system of indirect rule. Both in colonial times and since, the powers of the traditional authorities, especially those related to land, have been reduced but safeguarded. In Gaborone, there has been extensive public sector formal plot provision. Nevertheless, informal settlement has increasingly occurred outside the urban administrative boundary, demonstrating both problems with the formal land delivery system and processes by which traditional land allocation systems, with state sanction, are adapting to urban demand.

The research was carried out by Faustin Kalabamu of the Department of Architecture and Planning and Siamsang Morolong of the Department of Law, University of Botswana. The author would like to thank all the individuals and organisations that helped in the research. In particular, the contributions of the research assistants (L. Gitonga, N. Tema, R. Mselle, A. Mogonono, K. Kgarathi, M. Madziba, R. Masilo-Rakgoasi and J. Motsuminyane) are acknowledged, as well as that of Dr B.K. Aquah who participated at the beginning of the project. The respondents and focus group participants in Old Naledi and Mogoditshane are thanked for their patience in answering our questions. Finally, the contribution of participants in a policy workshop held in Gaborone on 9th February, 2004 is acknowledged.

Following the workshop, a full report of the study was published: Kalabamu, F.T. and Morolong, S. (2004) Informal Land Delivery Processes and Access to Land for the Poor in Greater Gaborone, Botswana, Birmingham: University of Birmingham, School of Public Policy, Informal Land Delivery Processes in African Cities Working Paper 3 (ISBN No. 0 7044 2246 8, see also www.idd.bham.ac.uk/research/researchprojs.htm

For further information contact Faustin Kalabamu, Department of Architecture and Planning, Faulty of Engineering and Technology, University of Botswana, Private Bag 0061, Gaborone, Botswana, E-mail kalabamu@mopipi.ub.bw
Although Botswana is a large country (58,200 km²) with a small population (1.7 million inhabitants in 2001) it has land tenure and management problems that arise, in the first instance, from its geographic and environmental characteristics. More than two thirds of the country’s land mass is covered by the Kalahari Desert or sandveld, which supports some shrubs and grasses but lacks surface water. Due to the lack of large natural water bodies and surface rivers, more than 80% of the country’s population, settlements and economic activities are concentrated along its eastern border or hardveld (Figure 1). The hardveld has better soils and surface water and receives more reliable rainfall than the sandveld.

In light of the above geographic and environmental characteristics, the people of Botswana developed customary land tenure and management systems that sought to ensure equitable access to and use of land-based resources. However, the advent of colonialism and Western influences appear to have constrained the customary land tenure systems, forcing them to adapt. The changed circumstances provided new opportunities and challenges for utilising land as a source of livelihoods. These called for new rules and procedures for accessing, owning, transferring, and disposing of land rights. Closely related to this has been the question of who administers, controls and allocates land rights. This question is important because, as Berry notes, those who control land accumulate power and wealth and those who have power control the distribution of land and wealth1.

The objectives of this summary are
a) to highlight the main features of customary land delivery processes and how these have been influenced by the legal, economic and political structures introduced during the colonial and post colonial eras;
b) to identify and analyse the characteristics of informal land markets and delivery processes in Gaborone and its surrounding settlements;
c) to assess the strengths and weaknesses of formal and informal land delivery mechanisms in and around Gaborone; and

d) to identify and explore the implications for policy.

The report is divided into eight sections. After this introductory section, land tenure systems in the pre-colonial, colonial and post-colonial periods are discussed in turn. Next, urban development, policies and legislation are analysed. These sections provide a context for exploring formal and informal land delivery processes in Greater Gaborone. The last but one section is an evaluation of land delivery processes in Greater Gaborone. The last section provides recommendations and various options for improving land delivery processes in the study area (see also p. 5).
Policy implications and recommendations

i. It should be made clear to recipients of state land that they are leaseholders rather than outright owners.

ii. Cost recovery for the capital costs of infrastructure provided to plots allocated by government should be spread out over a period of time, to avoid the anti-poor bias caused by insisting on up-front payment.

iii. Leaseholders should be free to sell their outstanding rights and interests in land, in the interest of promoting more efficient urban land markets.

iv. Codification of customary land tenure is desirable and should include clarification of the role of land boards.

v. Land boards should be regarded as trustees rather than owners of land. They should be guided by and accountable to the relevant local community.

vi. Each citizen should be entitled to a single lifetime grant of a residential plot on tribal land. Additional plots should be purchased through the market.

vii. Structures erected without permission should become state property rather than being demolished and alternative penalties devised for those who do not comply with regulatory requirements.

viii. The basis and arrangements for paying compensation to indigenous land rights holders whose land is taken by a tribal land board for re-allocation should be reconsidered, to reduce resistance to and evasion of the official process for delivering land held under customary tenure for urban uses.
Land tenure

Pre-colonial land delivery and tenure systems

Besides the geographic and environmental conditions highlighted above, pre-colonial land tenure and delivery processes in Botswana were largely shaped by subsistence farming systems, as well as the patriarchical structures and institutions that characterised the various tribal groupings in the region. Then, land was the most important source of livelihoods, as it supported survival through the extraction of wild vegetables, honey, hunting and firewood, as well as the grazing of goats, sheep and cattle and limited production of cereal crops – notably sorghum. At that time, cattle ownership was the sign of wealth, social status and power.

Social and administrative structures

Each tribe was headed by a hereditary Chief, who was by far the most important member of the tribe. He had outstanding privileges and authority. Each chief was head of a civil-cum-military structure entrusted with judicial, legislative, religious and other powers for maintaining law and order. He was assisted by ward headmen who exercised authority and privileges similar to the chief’s. Although chiefs and headmen were powerful leaders, they were neither absolute rulers nor autocratic despots. Instead they ruled by consensus.

In terms of social structures, Tswana tribes were both patrilineal and patrilocal in that they were based on patriarchal structures and institutions characterised by male political leadership and dominance and corresponding female subservience. Every girl who came of age was expected to be married to a man and to adopt the home of her husband as her domicile throughout her life – unless she divorced the husband. Upon divorce, the woman would return and live with her parents (if they were still alive), her brother or any other male relative in her father’s lineage. Divorce and begetting children outside wedlock were strongly discouraged although men could marry more than one wife. Infidelity by men was condoned and tolerated more than infidelity by women.

Within each household, women, girls and young boys were responsible for building and maintaining houses as well as food production and processing. Women were socially and legally excluded from participating in political, judicial, military, religious and other activities located in the public sphere of men. Men, as heads of households, represented their wives, unmarried women and male children in all tribal and community meetings, courts and gatherings. However, the main duties of men were cattle management and hunting.

Settlement forms and patterns

Due to ecological factors and the need to protect each other, members of each tribe resided in a nucleated village. Some large tribes, for example, the Bamangwato, lived in one huge village – the tribal capital – and several satellite villages. Inhabitants of satellite villages were considered to be part and parcel of the tribal capital. Although villages moved fairly frequently, their general layout remained the same. Land in each village was subdivided into five use zones: residential, cultivation (masimo), grazing, hunting and forestry. The residential zone formed the nucleus of the village and was often sited on a hill where the land was less fertile but the site easier to defend. Surrounding the residential zone were cultivation areas, which were, in turn, surrounded by pastureland, forestry and hunting areas.

Within residential zones, members settled according to wards. A ‘ward’ had both a social and spatial meaning: it was a group of families related to one another through blood or marriage and who lived together in a small village or a section of a large village. The chief’s ward, together with the tribal kgotla (village assembly or assembly point) and kraal, occupied the centre of the village and was surrounded by other royal wards, while wards of the least royal units were sited on the village
No person was permitted to settle permanently outside the village residential zone under any circumstances. The continual shifting of villages, according to Hardie, “allowed for the settlement pattern to be dynamic, accommodating changes in the internal organisation as they became necessary.”

**Land tenure and rights**

The most outstanding feature of the pre-colonial customary land tenure system was the *Right of Avail* – a right that was uniformly applied to all and automatically shared by all people belonging to each tribe. It was from this right of avail that other rights – individual or communal – were deduced. All male siblings had equal rights to be allocated land from their fathers’ holdings or from the tribal reserve, or to inherit land from their fathers, without having to make any form of payment or tribute to the chief or headman. Allegiance to the chief was the only price that men paid for acquiring and maintaining land rights. Inheritance followed the paternal lineage. Women accessed land only through their husbands, fathers, brothers or other male relatives in their fathers’ lineage. No land was allocated to women – whether single, divorced, widowed or in any other circumstances – except among the Bakgatla, where women could be granted arable land rights.

All allocated or inherited pieces of land remained permanently the exclusive property of the concerned family. Land rights could only be extinguished if the holder ceased to belong to the tribe. However, in times of need (e.g. congestion or shifting of the village), land rights could be reallocated as part of the ward or village re-organisation process. Contrary to common European misconceptions at the time of colonisation, chiefs and headmen did not own tribal land – they only administered its use, allocation and transfer. Ownership of tribal land was vested in the entire tribe while chiefs acted as trustees or custodians. Except for land portions reserved for the use of the chief and his family, none of the land was said to belong to the chief in his individual and personal capacity.

Every individual and family belonging to the tribe had a right to access, graze cattle and harvest natural resources (water, honey, firewood, etc.) from unallocated tribal land or land that was not in active use at a particular time or season. Members of a tribe “were free to travel, hunt and collect or harvest natural resources anywhere within [the tribal] territory provided they did not cause damage to improvements (e.g. crops) on land.”

The extended land rights were considered necessary in view of the frequent and abrupt differences in land suitability.

**Figure 2: Colonial land tenure**
Colonial land tenure systems

Within four years of what is now Botswana becoming a British Protectorate in 1985, the country’s land mass was divided into three categories: (i) native reserve lands or tribal territories; (ii) crown lands; and (iii) freehold lands.

Freehold and crown lands

As shown in Figure 2, freehold land covered some of the most fertile land along the country’s eastern border and included farms (e.g. Tati Concession) acquired by European settlers through concessions made by chiefs. The Ghanzi Block was created and allocated to a column of Boers to act as a buffer against German expansion from South West Africa (now Namibia). However, the British colonial administration discouraged widespread settlement and investment in Botswana by European farmers, miners, industrialists and traders and, instead, promoted labour migration from Botswana to South Africa.

Most of the land covered by the sandveld and utilised by the hunter-gatherer San and Hottentots tribes was considered unutilised and, consequently, declared crown land and placed under the authority of the British crown. The High Commissioner was given the power to make grants or leases on crown lands on any terms and conditions he deemed fit.

Changes to tribal land tenure

Five tribal reserves were defined in 1899: the Bamangwato, Bamangwaketse, Bakwena, Batawana and Bakgatla. Four additional territories for the Bamalete, Batlokwa, Barolong and Bakalaka were later carved out of freehold farms. No reserve or territory was created for hunter-gatherer tribes. The administration of land within the tribal reserves remained with the respective chiefs and headmen. The British administration expected customary rules and procedures for access, use and transfer to be applicable to all land within each tribal reserve.

However, contrary to these expectations, the traditional land tenure system did experience some modifications. The pressure for change emanated from several interrelated factors: the introduction of taxes, exposure to non-indigenous consumer goods, labour migration (mainly to South Africa) and commodification of cattle.

To offset some of the costs of administering the Protectorate, the colonial administration introduced several taxes - all payable in cash by every African male adult of the apparent age of 18 years or above. Men who did not own cattle were forced to seek paid employment (mainly in South Africa) while those who owned cattle were forced to sell some of their stock. This resulted in economic inequalities between the majority who were taxpayers and the tax collectors (chiefs and headmen). The latter accumulated considerable numbers of cattle as people sold or surrendered their beasts in lieu of cash payments. Through labour migration some men became cash-earners and were able to acquire more cattle, while some women became beer brewers and sellers to returning migrants. At the same time, due to the prolonged absence of men while in paid employment abroad, women increasingly assumed roles that had hitherto been undertaken by men. According to Larsson, by the 1930s unmarried mothers had set up independent households, while many married women had become de facto household heads.

As rich people accumulated more and more cattle, they began to benefit from services (e.g. disease control and water from boreholes) that were initially offered to European farmers. "Promoted by market forces, boreholes began to be recognised as personal property in the 1930s, and moves towards the private ownership of adjacent grazing lands, a direct and logical extension, soon followed". Owners of boreholes did not permit cattle belonging to other people to graze close to their boreholes lest the cattle were watered from these private facilities.
The above phenomena resulted in three changes to customary or tribal land tenure. First, individuals or syndicates who owned boreholes created zones of exclusive grazing rights around their boreholes, while others fenced their arable fields thereby retaining exclusive use of the land year round and denying other tribe members their traditional rights of grazing on fields after crop harvesting. Second, chiefs started allocating residential and arable land rights to women who had become de facto or de jure heads of households. Third, money paid to chiefs by Europeans and concession hunters had started a process of land commercialisation. Thus both land and cattle became tradable commodities.

**Post-colonial land tenure systems**

The post-independence government adopted and maintained the three tenure systems it inherited from the colonial administration. It has, however, progressively changed the rules and procedures on access, use, transfer and entitlements on state land (formerly crown land) and tribal land, as well as placed a moratorium on creation of new freehold land from state land. The State Land Act 1966 (Cap. 32:1) vested the trusteeship of state land in the President. Some state land has been converted to tribal land and some freehold land purchased and converted to state land. As a result, the proportion of tribal land increased from 49 percent in 1966 to 71 percent by 1998 as shown in Figures 2, 3 and 4. Between 1966 and 1979, the proportion of land in state ownership decreased from 47 percent to 25 percent and has remained the same thereafter. The proportion of freehold land increased slightly from four percent in 1966 to six percent by 1979 and then declined to four percent by 1988. Today, Botswana has one of the lowest rates of freehold land in the region. In comparison to about four percent of freehold in Botswana, freehold/privately owned land accounts for about 72 percent in South Africa, 44 percent in Namibia, 41 percent in Zimbabwe and 38 percent in Swaziland.

**Figure 3: Land tenure categories in Botswana, 1966-1998**

Deeds registers FPSG leases as well as freeholds. A leaseholder may sell or transfer the title to any persons other than the state only after satisfying all development covenants contained in the lease grant. Furthermore, the holder may only sell or transfer what remains of his or her grant period, which leads to a decline in land values as the termination date approaches, to the extent that a “position is reached where it is not in the owner’s interest to further develop the land or even maintain the property” 24.

**Tribal land**

Within two years of independence in 1968, the government passed the Tribal Land Act (Cap. 32:02) which, among other things,

(i) Transferred the administration and power to allocate land rights from chiefs and headmen to land boards established under the same act;

(ii) Vested the right and title to land in each tribal territory to a local land board, the members of which served as trustees;

(iii) Made provision for the establishment of common law leases on communal grazing land.

To the Botswana government, the passing of the Tribal Land Act was necessitated by two factors: the need to improve livestock production 25 and the need to provide people with land rights that could be used as economic assets, that is, rights which are both saleable and bankable 26. To Mathuba, the Act was necessary in order to provide a written law that could easily be referred to 27. However, according to Ng’ong’ola, the passing of the Act sought to strengthen the hand of the Government by providing greater political control over land administration 28.

At that time, chiefs and headmen were being
increasingly accused of favouritism and misuse of their powers to administer and allocate land. The Tribal Land Act was later – in 1975 – augmented by government’s adoption of the Tribal Grazing Land Policy (TGLP) that formalised the exclusive grazing land rights enjoyed by owners of boreholes and large herds of cattle.

The good intentions of the Act notwithstanding, and despite several subsequent amendments to it, tribal land remains a contentious issue because of a number of factors, including:

a) Failure to codify the customary land tenure system, thereby exposing it to various and contradictory interpretations.
b) Failure to take cognisance of all forms of land rights – notably hunting and gathering.
c) Failure to appreciate the need for and the general tendency towards commercialisation of all types of land rights. Until 1985, common law leases could only be granted to holders of grazing land rights. To date, arable (masimo) land rights are not readily bankable or saleable.
d) Exclusion of certain types of land rights from being vested in land boards, notably grazing and borehole rights.
e) Land boards’ lack of grass roots representation and their dependence on chiefs and headmen to verify whether certain pieces of land are available for allocation.

Most contentious claims and counter claims have centred on the interpretation of Sections 10(1) and (2). Section 10(1) in its original formulation vested ownership of tribal land in land boards on behalf of the people belonging to a particular tribe. Section 10(2) removed pieces of land acquired before the act was passed from the jurisdiction of the land boards. Some individuals and the High Court interpreted section 10(2) to mean that all land allocated prior to the establishment of land boards is held by individuals and their heirs in their private and individual capacity. The two sections were amended in 1993 when land was vested in land boards on behalf of the citizens of Botswana and Section 10(2) deleted. Despite the deletions and amendments, ownership of tribal land and the extent of customary land rights remain contentious issues, particularly in peri-urban and urbanising villages.

In order to address shortfalls in land board structures, the Government has continuously changed their composition, the qualifications of land board members and the procedures for electing the members. At present all land board members are either appointed by the Minister or vetted by a central government ministry. Chiefs and active politicians have been excluded from standing for land board membership to avoid their politicisation, although the Minister’s power to appoint land board members may itself be regarded as being political.

Tribal land rights may be held under Certificates of Customary Land Grant or common law leases. According to Section 20(2) of the Tribal Land Act, customary land rights may not be granted for non-customary land uses such as trading, manufacturing, business or commerce, nor may they be granted to a non-citizen. Customary land rights may be converted into 50 or 99 year common law leases at the grantee’s initiative and costs, in addition to the production of a diagram or plan approved by the Director of Surveys and Mapping. Common law leases are renewable, saleable and bankable and may be registered by the Registrar of Deeds.

Upon expiry of a common law lease, land automatically reverts to customary land tenure for citizens and to the land board for non-citizens, without compensation for any improvements effected by the lessee (Section 25) unless the land board elects to pay compensation. Leaseholders are, however, permitted to remove any improvements that can be removed without causing irreparable damage to the land within six months of the termination of the lease.
Urbanisation in Botswana is basically a post-colonial phenomenon. As of 1960, only four settlements - Lobatse, Kasane, Ghanzi and Francistown - were recognised as towns by the 1955 Township Proclamation. Although the Proclamation provided that only settlements located on crown land could be called ‘towns’, Francistown, which was located on freehold land, was included in the list of towns presumably because the majority of residents were Europeans. At the time of independence in 1966, the country did not have clearly stated long-term urban development policies and legislation partly because over 95 percent of the population lived in rural areas (Figure 5).

However, since the discovery and exploitation of diamonds, copper and nickel in the late 1960s, Botswana has experienced rapid economic growth and far-reaching social and demographic transformations. These have forced the government to devise and adopt a series of administrative arrangements, laws and policies to meet the challenge.

Figure 5: Population growth in Botswana

Economic growth and increased inequalities

Although Botswana received minimal investment from the British and remained a poor country until the early 1970s, when exports of diamonds and copper-nickel began, it has since experienced tremendous economic growth. The country has recorded steady economic growth averaging 6 percent annum during the entire post-independence period. Consequently, the per capita Gross Domestic Product (GDP) rose, at constant prices, from Pula 1,683 in 1966 to Pula 7,863 in 1995, and grew in real terms by 8 percent in 1999/2000 and 9 percent in 2000/1. While the contribution of the agricultural sector to GDP fell from 43 percent in 1966 to 4 percent in 1995, the contribution of mining rose from zero at independence to about 17 percent in 1975/76, reached a peak of about 49 percent in 1985/86 and then declined to about 34 percent in 1994/95. The Government has utilised the mineral revenue to finance infrastructure developments, provide services and diversify the economy. Wildlife-based tourism, which was insignificant during the colonial era, is currently the second most important source of foreign currency earnings. Formal sector employment increased from 69,500 in 1978 to 234,500 in 1995.

Colclough and McCarthy attribute Botswana’s exceptional economic performance to the “efficiency, planning capacity, ability to spend, and negotiation skills” of the Botswana leadership, rather than to political stability, regional groupings, or economic factors such as the discovery of mineral resources. The leadership is composed of “men of landed wealth, with a considerable personal stake in the economy” who deserted the chieftaincy “located in commercial agriculture, which also possessed long experience of government and social control.” Unlike other countries on the continent “where government is usually in the hands of petty bourgeois or bureaucratic elites, and policy often has an urban and consumptionist bias, when not downright predatory and corrupt”, the leadership in Botswana has been keen to ensure that neither the economy nor the administration founder. It has, therefore, strived to spend within its means, accumulate foreign reserves and diversify the economy. This strategy has enabled the country to attract more foreign aid and investment than other countries in the region.

Despite the country’s economic boom and the government’s generous expenditure on development projects and public welfare programmes, poverty (defined as “an inability to meet basic needs”) is widespread, especially in rural areas, where approximately 60 percent of all poor households and nearly 70 percent of very poor households in Botswana are found. The predominance of poverty in rural areas has been blamed on a high and increasing proportion of people without cattle, poor crop production and unemployment. The proportion of rural households without cattle is estimated to have increased from 16 percent in some areas (e.g. Katleng District) during the 1930s, to about 33 percent in the 1960s, 58 percent in the early 1980s and about 74 percent in the 1990s.

Due to high unemployment rates among youths and women, poverty is more widespread among women and women-headed households. In 1993/94 about 41 percent of all women-headed households were categorized as poor compared to 34 percent of men-headed households. The relatively high incidence of poverty among women-headed households is also due to high dependency ratios and low incomes, as the majority of women who earn cash incomes are engaged in poorly paid jobs.

Rapid urbanisation

As noted above, at the time of independence most people in Botswana resided in rural areas. According to the 1964 census, the three towns of Lobatse,
Francistown and Gaborone had a combined population of 21,000 inhabitants, accounting for about 4 percent of the country’s total population. However, by 1971 the total urban population had more than doubled, to 59,000 and accounted for 10 percent of the country’s total population (Figure 5). The number of towns had increased to five (with the establishment of the mining towns of Selibe-Phikwe and Orapa). The rapid growth of the urban population between 1964 and 1971 is generally attributed to rural-urban migration due to rural poverty. The latter arose from low agricultural productivity and investment of public funds in urban centres. While rural expenditure concentrated on improving veterinary services and construction of administrative infrastructure, investments in urban areas went into mining, construction, manufacturing and other sectors with high job and income multiplier effects. Most of the rural-urban migrants were single, male and young (aged 15-24).

By 1981, the number of urban settlements had increased to eight – with the addition of Jwaneng and the villages of Tlokweng and Palapye – and the urban population to 163,000, constituting 17 percent of the national population. The employment patterns in Palapye were determined by the adjacent Morupule coal mining activities, while those in Tlokweng were influenced by its proximity to Gaborone. Ten years later, in 1991, the number of urban centres had increased to 24 and the urban population to 619,000 or 47 percent of the country’s total population. As of 2001, the urban population stood at about 877,000 people and accounted for 52 percent of the entire population in the country. It is worth noting that, while in 1981 about 50 percent of the country’s population lived within a radius of 200 km from Gaborone, by 1991 the radius had reduced to 100 km, thereby greatly increasing the demand for land, housing and other services in Gaborone and its surrounding settlements.

In brief, post-independence urbanisation in Botswana has largely been due to the establishment of mining towns (Orapa, Selibe-Phikwe, Jwaneng and Sowa) and in-situ urbanisation of traditional settlements – especially district and sub-district administrative centres; (e.g. Serowe, Kanye, Mmadinare and Moshupa), peri-urban settlements (e.g. Tlokweng and Mogoditshane) and tourist villages (Kasane and Maun). All the former chiefs’ capitals are now administrative, service, commercial and industrial centres, while peri-urban settlements are dormitory towns for people working in the cities.

Rapid urbanisation has had numerous effects on the environment, employment, and social and economic well-being of various groups in Botswana. These effects have been both positive and negative: they include increased demand for land for urban development and an increased volume of informal transactions in land and house construction.

Policies

Urban planning and land management policies adopted by the government since the 1970s have attempted to deal with the problems and contradictions caused by rapid urbanisation. Until the mid-1970s, the government concentrated on the acquisition and servicing of land for the establishment and construction of new mining towns and on building houses for civil servants. It introduced self-help housing schemes in the mid-1970s when it realised that the Botswana Housing Corporation (BHC) - established in 1970 - was unable to meet the housing needs of all urban residents, notably the lowest income group, without substantial subsidy, which the government could not afford.

Between 1973 and 1982, under what were technically squatter upgrading and site-and-services schemes, Self-help Housing Agency (SHHA) departments in various towns serviced some 7500 new plots and upgraded an equal number. All the self-help housing schemes were undertaken on state land, tribal land converted to state land or freehold land bought by the state and then converted to state
land. By the end of 1989 SHHA departments had serviced and allocated 26,709 plots, which accounted for over 53 percent of all residential plots in Gaborone, Lobatse, Francistown, Selibe-Phikwe, Jwaneng and Kasane.

Other major policies adopted in the 1970s and 1980s included the 1978 Urban Development and Land Policy, the 1982 National Policy on Housing and the 1985 National Policy on Land Tenure, which complemented each other and reflected the provisions of the Tribal Land Act and the Tribal Grazing Land Policy. The main thrust of these policies was to provide serviced land for owner-occupied houses to all urban households and thereby pre-empt squatting or the development of informal settlements.

The launching of the Accelerated Land Servicing Programme (ALSP) and the introduction of new urban development standards proposed by consultants and published in 1992 represented an important departure from previous policies. The ALSP and the new standards sought “to maximize residential and marketable land while providing adequate space to meet the physical, social and aesthetic needs of the citizens” and to rapidly place a substantial quantity of serviced land in the market to meet immediate and future land requirements in the major urban areas. Under the ALSP, pit latrines and public water standpipes, which had until then helped to minimise public infrastructure costs for low-income plots, were replaced with private water connections and waterborne sewerage systems.

The ALSP produced a total 22,228 plots of which 21,840 were for residential uses, 249 industrial and 139 for commercial uses. About 47 percent of the plots were located in Gaborone followed by Francistown (15 percent). Although all the plots have been allocated, a substantial proportion remains undeveloped or partly developed. By 2001, over half the low-income plots serviced and allocated under the ASLP were undeveloped (5,185 of 9,325), while 7,799 plots had not been paid for or had outstanding balances. Some plot holders are said to be selling the plots, either because they have no funds to develop them or to avoid repossesson by the government. According to Datta and Jones the ALSP has failed where SHHA programmes succeeded because SHHA plots were granted for free. In addition, water and sanitation services, as well as building material loans, were heavily subsidised. ALSP plot holders have to pay for their plots and borrow from financial institutions without any form of subsidy. Furthermore, the ASLP appears to have been rushed, too big for the country’s domestic economy and to have fuelled ‘demand’ for state land plots, as evidenced by the dramatic increase in plot applications.

According to the 1999 National Policy on Housing, the government decided to change its role from that of a financier, producer and landlord to that of a facilitator, in partnership with the private sector. Under the state-private sector partnership, the government provides primary services (e.g. major roads, water and sewer lines) and allocates blocks of land (up to 10 hectares) to private developers who then subdivide the land and provide secondary and tertiary infrastructure services. Developers may sell undeveloped plots in the market or develop and sell the products. They are required to designate a proportion of the serviced land for low and middle-income groups. To make plots affordable to low-income households, the government can adopt one of two strategies. It may buy plots designated for low-income households from the developer and then reallocate them to beneficiaries at affordable prices. Alternatively, it may pay a subsidy to the developer upfront. The latter is then expected to sell the plots to low-income beneficiaries at affordable prices. In contrast to the SHHA schemes, in which subsidies went directly to the poor, under this partnership the government is subsidising the private sector in the hope that the subsidies will be passed on to the poor, which is highly unlikely.
The responsibility for supplying houses to the destitute has been assigned to the Department of Social and Community Development, which also provides them with food, clothing and shelter. However, the department “provides free housing where the destitute individual has no recourse to any other alternative assistance”\(^50\). To assist very poor and middle poor households who do not qualify for either destitute housing or low-income plots under the private-sector partnership, the Government introduced \textit{Integrated Poverty Alleviation and Housing} schemes. The schemes, which are “based on the assumption that poverty is the underlying cause of homelessness”\(^51\), seek to integrate skills acquisition, employment creation, income generation and shelter provision by engaging youths and other unemployed individuals in the production of building materials (e.g. bricks) and the construction of houses\(^52\).

Another scheme, the Turnkey Project for SHHA, is in the offing. Under this scheme, the Government, in a joint venture with the Botswana Housing Corporation (BHC), will build houses for the rich poor and middle-income households that cannot afford houses currently offered by BHC and the private market. Beneficiaries, to be drawn from current SHHA waiting lists, will be able to buy the properties under tenant purchase arrangements.

With the recent demolition of houses in Mogoditshane, Gaborone, Selebi-Phikwe and other urban settlements, the government appears to have returned to the squatter clearance policy that it abandoned in the mid-1970s. The renewed demolitions of unauthorised housing developments have been rekindled by the increased demand for land and apparent ‘lawlessness’ that characterised informal land markets in Mogoditshane between 1980 and 2000. The Ministry of Lands and Housing has been particularly concerned that while \textit{“the \[Kweneng\] Land Board was trying without any success to allocate [plots] in accordance with approved plans, some field owners started changing the use of their fields without the authority of the Land Board, subdividing and selling the subdivided portions as residential plots”} (emphasis added)\(^53\). Much as demolition of ‘illegal’ houses serves to remind people of the police power reserved by the state, this policy needs to be revisited and appropriate alternatives investigated, because it is flawed in several ways. As will be argued later, the policy impoverishes people, destroys national wealth, wastes national and land board manpower resources, and creates antagonism between residents, land boards and the government.

\textbf{Legislation}

The Townships Act (Cap 40:02) that replaced the 1955 Townships Proclamation deals with the creation of townships and cities, as well as the establishment of structures for administering the townships. Urban development, settlement planning and land use planning and management are governed by the Town and Country Planning Act (TCPA) of 1977. This act provides for (a) orderly and progressive development of both urban and rural settlements; (b) the preservation and improvement of amenities; (c) granting of permission to develop land; and (d) monitoring the use of land.

The TCPA empowers the responsible Minister to declare any part of the country or a settlement as a “planning area”. Until 1995, only 7 townships (Francistown, Gaborone, Ghanzi, Jwaneng, Kasane – Kazungula, Lobatse, Selebi-Phikwe and Sowa) had been declared planning areas. With the exception of Kazungula and Francistown, all the above townships are sited on state land. Kazungula is located on tribal land while a large part of Francistown lies on freehold land. In 1995, the peri-urban settlements of Tlokweng, Mogoditshane, Tati Siding, Matshegabedi and parts of the North East district around Francistown were declared planning areas as were the district and sub-district headquarters of Serowe, Maun, Kanye, Molepolole,
Mochudi and Ramotswa, Mahalapye and Palapye. Section 5 of the TCPA provides for the establishment of the Town and Country Planning Board (TCPB), the functions of which are to determine applications for permission to develop land and to advise the Minister on the preparation or revision of a development plan for any planning area. The Board consists of a representative of the ministry responsible for town and country planning - in practice, the Director of the Department of Town and Regional Planning (DTRP) - who also serves as the Chairman of the Board; five members drawn from ministries responsible for public works, land, agriculture and/or any other ministry with an interest in town and country planning; and three people appointed by the Minister. In 1980, the Minister transferred development control functions to District, Town and City councils.

Section 17 of the Tribal Land Act, as amended in 1993, appears to have delegated land use planning functions in tribal areas (including peri-urban areas) to land boards. However, physical planners have strongly objected to this, arguing that “DTRP should be the only institution mandated to prepare land use plans and that the work of the land boards should be confined to land allocation”54. This argument is mistaken, because only the Minister is mandated, under the TCPA, to prepare land use plans. The Minister may delegate these functions to any institution, including the land boards.

Decisions of the TCPB only become effective after 14 days and only then if not disallowed by the Minister. The decision of the Minister is final and may not be challenged in any court (Section 12 (3) of the Act). The TCPA also empowers the Minister to consider any application made to the Board and either grant or reject the application, thereby bypassing the TCPB. Again, decisions of the Minister in such cases are final and may not be challenged in any court (Section 14 (3) of the Act). Furthermore, any developer aggrieved by the decision of the TCPB has leave to appeal to the Minister who “may allow or dismiss the appeal or may reverse or vary any part of the decision of the Board whether or not the appeal relates to that part, and deal with the application as if it had been made to the Minister in the first instance” (Section 15 (3) of the Act). Once again, the decision of the Minister on any appeal is final and may not be challenged in any court (Section 15 (3) of the Act). Although the Minister’s decisions are said to be final and not challengeable in any court, the High Court has jurisdiction to entertain any appeal if it is shown that the Minister acted in bad faith.

The same Minister administers several other statutes related to land – namely, the State Land Act (Cap. 32.01), Land Control Act (Cap. 32: 11), Tribal Land Act (Cap. 32:02) and the Townships Act (Cap. 40:02). These Acts, together with TCPA, highlight the extensive powers that the Minister and therefore, the state, enjoy in the control, administration, use and management of land and developments thereon. Suspicions abound that Ministers may have at times abused their powers, as recently alleged by the Lesetedi Commission55. The Commission was set up by the President to find out, among other things, whether the Minister responsible for land matters has powers to allocate State land and whether various successive Ministers had followed correct procedures in certain land allocations and changes of land use. It found that the Minister has no powers to allocate State land and that neither administrative nor legal procedures were consistently followed in making land allocations and changing land uses.
The development of Greater Gaborone

At the time of its conception as the capital of independent Botswana in the early 1960s, Gaborone was a small trading centre with a population of about 3,900 Europeans. Then “all that existed of present Gaborone was a railway station with a few land grants, a hotel, a store … and approximately three and half kms to the east [of the railway station] was the ‘Government Camp’ housing the Protectorate government officials, a store, church, various government offices etc.”. The few non-Europeans who worked at the camp and railway station resided in Tlokweng - a traditional village east of Gaborone. By 1966 a considerable number of government offices had been built and houses for middle and senior government officials erected between the railway station and the Government Camp as shown in Figure 6. A few plots (about 511) were set aside in the Bontleng area for self-help housing because it was then assumed that labourers employed in the construction of the new capital would return to their home villages later.

Gaborone has since grown rapidly in terms of status, population and area covered. As the national capital, Gaborone is the seat of the national government, the Parliament and the House of Chiefs. It houses most central government ministries and departments and the Southern Africa Development Community (SADC) headquarters and secretariat. By 1981, Gaborone, with about 60,000 inhabitants, had almost trebled the ultimate population envisaged by the 1963 Master Plan. In 1986, Gaborone was raised from Municipality to City status. In spatial terms, it had grown northwards and almost doubled its physical size (Figure 7). Ten years later, in 1991, Gaborone had doubled its 1981 population to nearly 134,000 residents and extended westwards across the railway line (Figure 8). According to the 2001 census, Gaborone’s population was recorded at about 186,000 inhabitants.

Gaborone’s population and spatial growth has been paralleled by the growth of surrounding villages – notably Mogoditshane. As shown in the table, during the period 1964-1971, Gaborone recorded an annual population growth rate of almost 24 percent, while the population in surrounding villages declined, which implies that people were migrating from them into Gaborone. However, since 1971 most of these settlements surrounding Gaborone have been growing rapidly. Between 1971 and 1981, Metsemotlhaba’s annual population growth rate was almost twice that of either Gaborone or Mogoditshane. However, during the 1981-1991 and 1991-2001 periods, the growth of Mogoditshane surpassed all the settlements surrounding Gaborone and the city itself. The slowest growing village has been Tlokweng, while Mogoditshane and Metsemotlhaba have been the fastest. The rapid population growth experienced in these settlements appears to reveal the inability of formal institutions to satisfy the demand for land, housing and other services.
Formal land delivery

Gaborone was built on state land surrounded by freehold farms except on its eastern side where it shared a border with the Batlokwa tribal territory. During the 1960s, the government supplied about 2,800 plots, most of which were developed by the then Public Works Department for senior government officers. Only 35 percent of the 2,786 plots were designated for low-income houses, of which 515 were built by the Public Works Department and the rest constructed by individuals on a self-help basis.

In the meantime, most labourers, who were expected to ultimately return to their home villages, built houses for themselves on a piece of state land that later became known as Old Naledi. The development of Old Naledi forced the Gaborone Town Council to initiate its first self-help housing project at Bontleng. In 1966 the council surveyed and serviced plots about 380 of which were allocated with very little control over either the selection of beneficiaries or the building process. The second self-help housing project, Extension 14, was launched in 1972 with financial assistance from the UK Overseas Development Administration (ODA). The project, with about 300 plots, was partly designed to accommodate ‘squatters’ who were being relocated from state land earmarked for industrial development.

Population growth in Gaborone and the surrounding villages

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Gaborone</td>
<td>3855</td>
<td>18799</td>
<td>59657</td>
<td>133468</td>
<td>185891</td>
</tr>
<tr>
<td>Tlokweng</td>
<td>3711</td>
<td>3906</td>
<td>6657</td>
<td>12501</td>
<td>21133</td>
</tr>
<tr>
<td>Mogoditshane</td>
<td>2548</td>
<td>1075</td>
<td>3125</td>
<td>14246</td>
<td>32843</td>
</tr>
<tr>
<td>Gabane</td>
<td>5402</td>
<td>1936</td>
<td>2688</td>
<td>5975</td>
<td>10399</td>
</tr>
<tr>
<td>Mmopane</td>
<td>-</td>
<td>539</td>
<td>584</td>
<td>1249</td>
<td>3512</td>
</tr>
<tr>
<td>Metsemotlhaba</td>
<td>-</td>
<td>50</td>
<td>395</td>
<td>1386</td>
<td>4997</td>
</tr>
<tr>
<td>All the above settlements</td>
<td>15516</td>
<td>26305</td>
<td>73100</td>
<td>169025</td>
<td>258775</td>
</tr>
<tr>
<td>Botswana</td>
<td>514876</td>
<td>596944</td>
<td>941027</td>
<td>1326796</td>
<td>1678891</td>
</tr>
</tbody>
</table>


N.B. Figures in brackets and italics indicate annual population growth rates from the previous census year.
In the mid-1970s, the government purchased Broadhurst and Tsholofelo freehold farms, which at that time lay north of the urban boundary, converted them into state land and expanded the township northwards\textsuperscript{59}. The new developments in Broadhurst and Tsholofelo provided about 6,000 plots for low, medium and high-income housing, industries and shopping facilities\textsuperscript{60}. Self-help housing plots accounted for 70 percent of all plots in the extension. To decongest Old Naledi, some tenants in Old Naledi were allocated SHHA plots in Broadhurst and Tsholofelo, which according to Dickson, somewhat slowed the growth of Old Naledi\textsuperscript{61}. The development of Broadhurst and Tsholofelo, “constituted practically a doubling of the physical size of the town”\textsuperscript{62}. The project was undertaken in three phases –two of which were partly funded by the USAID, CIDA and ODA. The third phase (Tsholofelo) was wholly funded by the Government of Botswana. While low-income plots in Broadhurst and Tsholofelo were developed on a self-help housing basis, medium and high-income plots were developed by the Botswana Housing Corporation, the Botswana Development Corporation and other private sector developers.

During the 1980s, the government acquired several freehold farms - Bonnington Farm, Glen Valley and part of Content Farm – and converted them to state land for urban uses. Most of the Glen Valley farm was put to military use, while Content Farm became an agricultural college and research centre. Bonnington Farm, which measured about 3,000 hectares, was subdivided into residential neighbourhoods referred to as Gaborone West Phases I – IV. Gaborone West Phase I consisted of self-help housing plots, medium and high-income plots and sites for blocks of flats. The Botswana Housing Corporation (BHC) developed most of the plots in the latter three categories. In Gaborone West Phases II and IV, the Botswana Housing Corporation (BHC) developed all the plots designated for ‘low-income’ and medium-income housing, flats and town houses. High-income plots in these three phases (commonly known as ‘surveys and lands’ plots) were allocated to parastatals (e.g. the Bank of Botswana, Water Affairs and the Botswana Development Corporation) and individual developers. It is worth noting that, while SHHA schemes were designed to serve the middle poor and rich poor, BHC low-cost houses are meant for the rich poor and lower middle-income households\textsuperscript{63}. BHC does not build for destitute, very poor or middle poor people. Gaborone West Phases I, II and IV generated close to 15,000 residential plots for a mixture of income groups.

Despite the above efforts on the part of the Government to service and develop sufficient land for urban development, supply appears to have failed to satisfy demand. In 1987 the BHC had a total waiting list of over 26,000 applicants from all income groups.

**Figure 8: Gaborone in 1999**

*Source: Department of Surveys and Mapping, Gaborone*
urban centres in the country. About 20,000 (or 77 percent) were applying for houses in Gaborone alone. Three years later, in 1990, the waiting list had increased to about 29,000, of which 22,000 applications were for Gaborone alone. The demand for residential plots in Botswana’s seven major urban centres for the period 1990-2000 was estimated at 69,768, of which 44,100 were required in Gaborone alone. On the basis of these estimations, the Government introduced the Accelerated Land Servicing Programme (ALSP) discussed earlier.

Under the ALSP initiative, the Government was able to service a total of 10,210 residential plots in Gaborone. About 40 percent of these have been developed by the Botswana Housing Corporation for rich poor, middle and high-income groups. Parallel to the ALSP scheme, the private sector serviced 683 residential plots in Kgale Hill (part of Forest Hill farm) and 850 in Phakalane Estate - both of which are freehold land. However, private developments in Phakalane and Kgale Hill account for only 4.6% of all serviced plots within Gaborone City boundary.

As a result of the above Government and private sector efforts, by 1997 the City of Gaborone had a total of 33,343 serviced residential plots, of which 23,294 (almost 70 percent) were fully developed or being developed. A total of 10,049 state land plots were yet to be allocated or had been allocated to people who were still paying the ‘purchase price’.

The state has not serviced any additional residential plots since the ALSP initiative. It has instead, under the new state-private sector partnership, allocated blocks of state land to private sector developers who are required to service the land and either sell plots or build houses for sale. Between 1998 and 2001 about twenty companies were allocated a total of about 75 hectares of state land to service and build blocks of flats. The largest block (almost 23 hectares) was allocated to Universal Builders, which has since serviced, developed and sold most of the plots and houses it built. The government intends to complement private sector efforts by servicing and delivering approximately 7,873 plots between 2001 and 2005.

**Demand for state land**

From the foregoing we note that the government has assumed responsibility for supplying residential plots and housing since the establishment of Gaborone Township. This may have been prompted by several factors, including Tswana culture in which the chief allocated land to his subjects, and a colonial legacy whereby the Government provided housing for its senior employees. After 1980 generous mineral revenues could have cemented government’s commitment to supply enough land to meet everyone’s needs.

The above resolve, intentions and efforts notwithstanding, the demand for land in Gaborone is far from being satisfied. As noted above, in 1990 the Botswana Housing Corporation had a waiting list of 22,000 applications for houses in Gaborone alone. As of January 2001, the waiting list for residential plots in Gaborone stood at 23,506. Given Gaborone’s population, these figures grossly exaggerate the demand for land. About 48 percent of the plots serviced and allocated under the Accelerated Land-Servicing Programme remain undeveloped and/or not paid for. This shows that many people have made several applications for land, behaviour to which the government has tended to be sympathetic.

Speculation in land is fuelled by the relatively cheap price charged for the residential plots offered by the state. While the private sector offers plots at a price of not less than Pula 120 per m², the highest cost for state land residential plots is Pula 32 per m². The excessive demand for plots delivered by government has prevented those in need or purchasers with sufficient resources from obtaining land through
formal delivery channels and had forced them to resort to informal land markets.

In brief we note that, despite government’s concerted efforts to supply land, the demand for land in Gaborone has not been satisfied due to several interrelated factors – namely, the policy of subsidising land supply for the rich and poor alike; the inability of poor households to afford the plots supplied since 1990; and the evolution of a ‘culture of entitlement’ which drives people to ‘demand’ plots when they have neither the means nor the immediate desire to develop them.

**Informal land delivery**

The inability of the Government and the formal system to deliver serviced plots to those who have either the need or the means and an immediate intention to develop them, has resulted in potential developers acquiring land through informal means (e.g. self-allocation and purchase of undeveloped tribal and state land) and the emergence of unplanned settlements such as Old Naledi and Mogoditshane.

**Old Naledi**

The first and the only substantial unplanned settlement within the city of Gaborone is Old Naledi, which is as old as the city itself and has its genesis from the construction of the national capital. The site that is now Old Naledi was part of a block of state land that was zoned for industrial uses under the 1963 Gaborone Master Plan. The settlement started as a temporary labour camp for people employed by the construction companies that were building government offices, but later became the basis for a bigger settlement. Aerial photographs taken in 1963 (Figure 6) reveal no houses on the site that later became Old Naledi. However, some 388 people claim to have resided at Old Naledi before 1965. Aerial photographs taken on the eve of independence in 1966 reveal a substantial number of houses on the site (Figure 9). At that time, Old Naledi covered an area of approximately 24 ha. By 1971 the settlement had increased in density and spatial extent (Figure 10), covered about 42 ha and had a population of 4,075. Old Naledi served as “the first point of call by migrants from the hinterland who had no formal employment and relied heavily on their kinsmen or tribesmen for accommodation.”

*Figure 9 Old Naledi in 1966*

The government initially tolerated the existence of Old Naledi on the assumption that the labourers who occupied the area would later return to their home villages. However, later it attempted to remove them. First, it attempted to resettle Old Naledi residents in the self-help housing project at Bontleng. Second, the Government mandated the Botswana Housing Corporation (BHC) to erect low-cost houses in an area called New Naledi – just across the road from Old Naledi – in the expectation that on completion of the small, mass-produced houses, residents of Old Naledi would be relocated and their original settlement demolished. However, the Old Naledi residents who were relocated to those houses...
were completely dissatisfied with their new accommodation and quickly returned to their original plots in Old Naledi. It is also possible that rents in New Naledi may have been unaffordable. Consequently, by 1971, over 6,000 people or a quarter of Gaborone’s population lived in Old Naledi, which was the first informal settlement in Botswana to be upgraded.

According to a base line survey undertaken in 1977/78 just before the settlement was upgraded, Old Naledi had a population of 10,019 residents who lived in 2,344 households on 2003 plots. Plot sizes ranged from 66m² to 1200m² but averaged 320m². At that time, only 15 percent of the plots accommodated more than one household, while the number of persons per plot ranged between 4 and 8. Of all the plot ‘owner’ households, 83 percent were headed by men and 27 percent by women. About 88 percent of plot ‘owners’ had obtained their plots through self-allocation, 10 percent through purchase and 2 percent through inheritance.

Using building materials criteria, 27 percent of the houses were classified as low quality (mud, thatch, cardboard or plastic); 48 percent as medium quality (mud, brick, cement block, tin, thatch/asbestos); and 25 percent as high quality (brick or cement blocks, tin, asbestos or tiles).

The survey further revealed that about half of the residents had originated from rural districts close to Gaborone- namely Kweneng and Southern Districts. About 48 percent of the 3,303 adults in Old Naledi were in wage employment, while 39 percent were self-employed and 13 percent were unemployed. 88 percent of the economically active adults were men - of whom 94 percent had wage employment. However, only 66 percent of the economically active woman received wages. The dependency ratio was estimated at 1:2 that is, each working person supported two other adults. Furthermore, the survey revealed that Old Naledi residents - especially men - had strong rural connections. However, most of the self-employed female plot ‘owners’ had weak or no rural connections, indicating that they fell in the category of the very poor.

**Upgrading of Old Naledi**

During the upgrading process, the number of plots in Old Naledi was reduced from about 2000 informal holdings to 1,610 officially recognised plots and the population from 10,000 to about 8,600 residents. About 150 tenants and 350 plot holders displaced by the plot rationalisation were compensated, allocated free plots in either Old Naledi resettlement area or Broadhurst or Tsholofelo self-help housing projects. The plot holders amongst those displaced were permitted to salvage their building materials for reuse in their new locations. The upgrading involved rationalisation and regularisation of plot boundaries; construction of earth roads, storm water drains, communal water standpipes, two schools, a health clinic, a community...
centre and a police station; and the provision of other basic services. The Gaborone City Council encouraged plot holders to improve the quality of their houses by giving them Certificates of Rights and financial assistance in the form of building material loans.

In 1988 the City Council tarred all the major roads in the area, lined all the storm water drains and connected all the public institutions to the city’s central sewerage system. Furthermore, in 1995 all the roads and major pedestrian ways were provided with street lighting. In 2002, the Gaborone City Council commissioned Haas Consult, an engineering firm, to advise it on the feasibility of upgrading Old Naledi to meet the current urban development and planning standards. Haas Consult envisages that the exercise will involve demolition of houses on almost 800 plots to enable expansion of roads, schools, clinics, playgrounds etc. It estimates that a total of P9,102,050 will be required to compensate plot holders whose properties will be affected and that the whole upgrading exercise is likely to cost over P75 million.

Assessment of the upgrading and consolidation processes
Old Naledi appears to have reached saturation point, as evidenced by its slow growth between 1991 and 2001. While the population of the area increased by 200 percent between 1981 and 1991, it only increased by 5 percent between 1991 and 2001. Haas Consult puts the total number of plots in Old Naledi at about 1,700, an increase of about 90 plots since 1981. Of the plot owners surveyed as part of the present study, only 1 percent had subdivided their plots.

Instead of subdividing their plots, most owners have built additional structures. Although the maximum number of structures per plot permitted under the operative Development Control Code is 2 – consisting of a main house plus a servant quarter or outbuilding - there are, according to Gwebu, approximately 6,307 structures on 1,704 residential plots giving an average of 3.7 structures/plot. The average number of people per plot doubled from 6.1 in 1981 to 12.7 in 2001. Overall, the population density had increased from 20 to 80 persons per hectare between 1978 and 2001. Considering that Old Naledi is characterised by single storey structures, these are high densities.

*Old Naledi today*
Of the initial sample of plots in our survey in 2002/3, perhaps a third had absentee owners. Of those for which questionnaires were completed (which had resident owners), 71 percent accommodated more than one household compared to 15 percent in 1978. In 2002/03 one plot accommodated eleven separate households while, on average, 3.25 households lived on each plot (Figure 11). The average number of habitable rooms on each plot was seven, with a minimum of two and a maximum of 19.

Data from our household survey show that 96 percent of owner households have access to their own pit latrine (the rest share a pit latrine with their neighbours) while 26 percent have their own water tap and 74 percent share a tap with their neighbours. Of all the households interviewed, 12 percent had no working adult, 30 percent had only one working adult, 39 percent had two working adults and the remainder (19 percent) more than two. The average number of adults working per household was two. Furthermore, 45 percent of the households interviewed had cattle (an average of 30 head per household). Using the frequency of cooked meals taken by the family each day, 15 percent of the house owners in Old Naledi may be categorised as very poor, 54 percent as middle poor (two meals a day) and 31 percent as rich poor (three meals a day). The high incidence of non-resident landlords indicates that many richer plot owners have moved out of Old Naledi.

Despite improved tenure security, increased incomes (rent plus wages/incomes from employment), building material loans and improved infrastructure, plot holders have not improved the quality of their houses as envisaged. They have found it more profitable to invest in additional rental rooms than in improving the quality of the structures. This apparent contradiction between government expectations and plot holders’ interests is one reason for government’s insistence on high development standards for low income plots under the ALSP projects and the proposed turnkey SHHA project. Complete relocation of Old Naledi was one of the initial options mooted in the recent upgrading feasibility study, which has instead recommended demolition of all the houses on almost half of the plots for road widening.
Mogoditshane

Mogoditshane pre-dates Gaborone Township. It was established by the Kwena chief and his headmen, initially as a cattle post and later as a border post to guard against the encroachment of freehold land alienation into the Bakwena tribal territory. Although, as shown in the table on p.19, Mogoditshane’s population decreased by more than half between 1964 and 1971, it has since grown quite rapidly – especially during the 1981-1991 inter-census period when its growth rate surpassed that of Gaborone.

With the upgrading of Old Naledi and strict monitoring of ‘squatter’ housing within Gaborone Township, effective demand for land spilled over into peri-urban areas – notably Mogoditshane. According to a study undertaken by Kweneng District Administration in 1981, people found it easier, cheaper and quicker to get a residential plot in Mogoditshane than in Gaborone. During this period the responsibilities for allocating tribal land had been transferred (under the Tribal Land Act) from the chief and ward headmen to the Thamaga Sub-land Board with its offices in Thamaga (about 25 km south of west of Mogoditshane). The latter operated under delegated authority from the Kweneng Land Board, which was situated in Molepolole, some 45 km west of Mogoditshane. In practice, the land board relied on local headmen for the identification and allocation of vacant plots. The land board would simply confirm allocations to applicants who presented ‘no objection’ forms signed by the headman.

Due to increased demand for residential plots as Mogoditshane’s population grew in tandem with Gaborone’s growth, land allocations started to extend beyond residential zones to arable areas. Most of the people applying for plots in Mogoditshane had been rejected /neglected by land and housing institutions in Gaborone. Concerned about the rapid sprawl Mogoditshane was experiencing, Kweneng Land Board assumed direct control over

Figure 12: The division of Mogoditshane into traditional and modern areas

the tribal land in the village towards the late 1980s. Headmen and land applicants were directed not to identify plots beyond the ring road (Figure 12) introduced by physical planners as part of the Gaborone West structure plan. The area beyond the ring road was made subject to ‘modern’ town planning procedures, whereby plots were to be demarcated before they were allocated.

The first attempt by the land board to demarcate plots beyond the ring road was stopped by various field owners, who denied ever being consulted with regard to the land board’s intention to repossess their fields. Some also queried the inadequate amounts of compensation offered by the land board\(^85\). Consequently, dissatisfied field owners (including ward headmen) subdivided their fields into 40x40m plots, which they sold to people wanting to build houses. Although they subdivided without consulting the land board, field owners expected that the land board would later formalise the allocations, as was the case with plots allocated by ward headmen\(^86\). These allocations became the subject of the 1991 Presidential Commission of Inquiry into land problems in Mogoditshane and other peri-urban settlements.

The Commission’s findings confirmed, \textit{inter alia}, that arable land had indeed been subdivided and converted to residential use without the authority of the Land Board. Residential plots were being ‘sold’ for at least P8,000 per 40 x 40m plot. The payments were called \textit{madi-a-selepe}, meaning ‘thank you fee’. Some sellers issued fictitious ‘certificates of customary land grants’ stamped with fictitious names such as ‘Mogoditshane Land Board’. Buyers were asked to develop the plots as soon as possible. Cabinet Ministers and high-ranking government officials were among the people who ‘illegally’ acquired land in Mogoditshane.

The Commission cited the failure of state institutions to deliver a sufficient number of serviced plots; easy access to tribal land; the high price of serviced land in Gaborone; and the belief that land boards had no authority over land allocated before 1968 when the Tribal Land Act was enacted as the main factors that contributed to the development of informal land markets in Mogoditshane and other peri-urban villages\(^87\).

Following the Commission’s report, the Government decided that all those citizens who had ‘illegally’ acquired and developed land in Mogoditshane and other peri-urban areas should pay a penalty fee of P5,000 per 40 x 40m plot and a proportionate amount for larger plots in order to have their holdings regularised by the land board\(^88\). One of the Ministers implicated in the report was forced to resign. In addition, a subordinate land board for Mogoditshane was established.

According to the report of a Technical Team set up by the responsible Ministry eight years later in January 2000, about half of 1,558 people who had ‘illegally’ acquired and developed land in Mogoditshane failed to pay the P5,000 penalty. In the meantime, more arable land had been ‘illegally’ subdivided for housing purposes. Furthermore, a number of people who had not previously been identified as so-called ‘squatters’ paid the P5,000 penalty fee in order to have their rights regularised. Some had paid between P25,000 and P43,000 indicating attempts to regularise large tracts of land\(^89\).

Besides its proximity to Gaborone, four other major factors appear to have fuelled informal land delivery in Mogoditshane.

\begin{itemize}
\item First, until the establishment of the Mogoditshane Sub-Land Board in the early 1990s, there was a power vacuum created by the extinction of chiefs’ supervisory role in land matters and the laxity of land boards located tens of kilometres away. Consequently, unsupervised headmen - motivated by the ‘thank you fees’ - assumed powers to themselves, rezoned arable land and allocated residential plots, allocations which the land board confirmed.
\end{itemize}
Second, the land board undermined its own authority when it condoned allocations made by headmen during the 1970s and early 1980s. The land board made yet another procedural error when it directed headmen and land applicants to identify vacant plots within Old Mogoditshane. Headmen and land seekers may have been confused by these rules and procedures or tempted to utilise the loophole in the land allocation process.

Third, due to poor record keeping and failure to issue certificates, there were confusions as to who had or had not been legally allocated land or had their plots regularised by the land board90.

Fourth, as noted earlier, holders of arable land rights are generally dissatisfied with the amount of compensation paid for their loss of use rights. As a result, rights holders thought it wise to subdivide their holdings and sell the plots or otherwise transfer their rights before land board officials arrived with their meagre compensation payments.

Informal land acquisitions in Mogoditshane
According to the 1991 census, three quarters of all owners in Mogoditshane reported that they had been allocated their plots by the chief or land board, 13 percent had inherited their plots, 4 percent had purchased land and only 7 percent had allocated land to themselves. While the 1991 Presidential Commission identified 841 plots that had been informally acquired, a follow-up Task Force identified a total of 1,558 ‘illegally’ acquired plots in the same area – 64 percent of all plots in Mogoditshane. The Commission’s report revealed that formal land delivery systems had completely broken down in the area. Those who allocated and sold land wanted cash payments, while the buyers wished to build houses. Security of tenure was ‘guaranteed’ by written and witnessed sale/transfer agreements and through immediate fencing and/or construction of houses, as well as the prospects of regularisation by the land board on presentation of ‘no objection’ papers signed by headmen. Buyers were urged to build as quickly as possible – even at night91.

The proportion of owners in a sample survey carried out by Malibala in 1998 who reported that they had been allocated their plots by the chiefs or land board was 32 percent. 16 percent had inherited and 27 percent purchased their plots, while 26 percent had self-allocated their plots or been given them for free92. Although Malibala included those ‘allocated for free’ under self-allocation, the proportion of 26 percent is high compared to the 1991 census results.

Contrary to Malibala’s findings, our household surveys and focus group discussions did not produce evidence to illustrate widespread informal land supply systems in Greater Gaborone. Only five percent, four percent and eight percent of households we interviewed, respectively, in Old Mogoditshane, New Mogoditshane and Old Naledi said they had allocated plots to themselves. The low rate of self-allocation in Old Naledi is surprising since we know for a fact that the people who initially settled in Old Naledi were squatters. We also expected New Mogoditshane to have a higher proportion of self-allocatees than Old Mogoditshane. A number of reasons may account for these discrepancies.

First, it appears that once self-allocations have been regularised, land rights holders consider themselves to have been legally and duly allocated land by the responsible authority - SHHA or the land board. As a result, respondents who may have initially bought undeveloped land, self-allocated land or used other ‘illegal’ methods to acquire land have since ‘regularised’ or formalised their acquisitions with the land board and, therefore, consider the land board to have allocated them the land in question.

Second, due to a reluctance to admit wrongdoing in a country where the culture detests disobedience to authority or a fear of retribution, some ‘squatters’ may have hidden their ‘true’ method of land acquisition. Our findings are, however, consistent with the 1991 census data.
Third, a thousand or so properties belonging to ‘illegal’ land occupiers in New Mogoditshane were demolished between 2000 and 2002, which means that the majority of remaining houses had been erected on legally acquired land.

Thus our field surveys show that, as expected, allocation by traditional authorities was more dominant in Old than New Mogoditshane while ‘allocations’ by the land board were more common in New than Old Mogoditshane (see table below). Acquisition of property through purchase was similar at about ten percent of plots in both parts of the area but substantially lower than in Malibala’s study. The proportion of self-allocations was also lower in our study (4-5 percent) than in Malibala’s study (26 percent). The differences may be due to the demolitions that recently took place in Mogoditshane or may reflect fear on the part of plot holders to admit purchase or self-allocation. As expected, acquisition of land through inheritance is very high in the older part of the area (25 percent) and more modest (14 percent) in the more recently developed part.

### Methods of land acquisition in Mogoditshane, 2002/03

<table>
<thead>
<tr>
<th>Method of property acquisition by owner households</th>
<th>Old Mogoditshane</th>
<th>New Mogoditshane</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male head (n=56) %</td>
<td>Female head (n=42) %</td>
<td>All (n=98) %</td>
</tr>
<tr>
<td>Purchased</td>
<td>5.4</td>
<td>16.7</td>
</tr>
<tr>
<td>Allocated by traditional chief / headman</td>
<td>35.7</td>
<td>28.6</td>
</tr>
<tr>
<td>Allocated by party functionary</td>
<td>0.0</td>
<td>0.0</td>
</tr>
<tr>
<td>Allocated by public sector body (land board)</td>
<td>26.8</td>
<td>16.7</td>
</tr>
<tr>
<td>Self-allocated</td>
<td>3.6</td>
<td>7.1</td>
</tr>
<tr>
<td>Inherited</td>
<td>25.0</td>
<td>23.8</td>
</tr>
<tr>
<td>Gift</td>
<td>3.6</td>
<td>7.1</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Source: Field surveys, 2002/03

About 41 percent of all households interviewed in Mogoditshane – 43 percent and 37 percent in Old and New Mogoditshane respectively - were headed by women. In the older area, a quarter of the households had inherited their plots, compared to 14 percent in the newer area. In both areas almost as many women household heads had inherited plots as men. It seems that inheritance is generally defined to include the transfer (excluding sale) of land to relatives before one dies. Inheritance is also used to justify transfer of land without land board authorisation. For example, in the matter between Kgatleng Land Board vs Bontsi Chelane and 13 others, 14 people claimed to have inherited land from one woman who had subdivided her fields. It is doubtful whether the 14 individuals were related to the said woman by blood, adoption or marriage. Just under two thirds of all the heads of households interviewed in both areas belong to the indigenous tribe – Bakwena. As expected, a larger proportion (about 50 percent) of the heads of households in Old Mogoditshane were born in the village compared to 44 percent in New Mogoditshane.

Excluding inheritance and the less common methods of acquisition, it is clear that the majority of plots in Old Mogoditshane had been allocated by the chief or headmen and an even larger majority in New Mogoditshane by the land board. However, even in Old Mogoditshane, the land board had played an
important role and in New Mogoditshane some owners had been allocated plots by the chief and headmen. The traditional authorities appear to slightly favour men, but not markedly so, an apparent departure from custom. More male plot owners had been allocated their plots by the land board in Old Mogoditshane but a much higher proportion of women in New Mogoditshane, demonstrating overall practice that slightly favours women.

It was not possible to collect detailed information on the income and expenditure of surveyed households, but in order to assess whether low-income households can obtain access to land in the area, information on work status, household possessions and consumption of food, all quite good proxies for estimating the wealth status of households, was collected. Over 70 percent of the heads of households who had acquired plots in each area had done so while they were working. Of these 80 percent or more were in full-time wage employment, mainly with public sector bodies or large-scale private firms. However, fewer female than male heads were working (67 percent) and a higher proportion of male heads in New than in Old Mogoditshane (86 percent compared to 73 percent). Moreover, fewer women were in professional/technical occupations.

Today, about 39 percent and 45 percent of the respondents in Old and New Mogoditshane respectively have at least one car, pick-up or van. Three quarters have gas stoves and only a quarter used coal braziers/woodstoves for cooking. About a third of the respondents interviewed eat meat, chicken or fish everyday; and only 2 percent in New Mogoditshane and 7 percent in Old Mogoditshane can only afford one meal a day. Although those who were allocated land through the customary system may have included relatively low wage employees and low-income households, most of those who have acquired plots in Mogoditshane more recently have not been poor. Today, none who own urban land and a house can be categorised as poor, while the vehicle ownership rates and food consumption patterns indicate that around a third of the owners are relatively wealthy.

At the time that they occupied their plots, only 58 percent of the households in Old Mogoditshane had access to proper toilets while 42 percent used the bush for excreta disposal. This was very unhygienic considering that 29 percent of the households obtained water from wells, streams and ponds. In New Mogoditshane, only 22 percent used the bush at the time they first occupied the plots, 59 percent had their own toilets and 20 percent shared toilet facilities with neighbours. Over the years, piped water has gradually been extended, enabling some households to upgrade their water supply and method of sewage disposal, while many others have invested in on-site facilities.

At present, most households have access to proper sanitation facilities and drinking water. In Old Mogoditshane, 84 percent have their own pit latrines, 14 percent have flush toilets and the remaining one percent share toilet facilities with their neighbours. The situation is similar to that in New Mogoditshane, where 75 percent have their own pit latrines, 18 percent have flush toilets and 6 percent share facilities with their neighbours. Unlike when they first occupied the plots, no household uses the bush for excreta disposal. Between 55 and 60 percent of the respondents in Old and New Mogoditshane have their own taps while about a third share a tap with neighbouring plots. However, about ten percent of the respondents still obtain drinking water from wells, streams and ponds in each part of the area.
Assessment

Strengths and weaknesses of the land delivery systems in Greater Gaborone

With the exception of Old Naledi, there has been no widespread informal housing development within Gaborone Township. Within the urban boundaries, the government has quickly demolished the few illegal houses that have sprung up. While the urban area now extends beyond the city boundaries, the land delivery system in the areas concerned has both formal and informal characteristics. In effect, the Government of Botswana has adopted a ‘carrot and stick’ approach in the management and administration of land in Greater Gaborone and other settlements.

State-led land delivery systems

Land delivery systems in Greater Gaborone (and Botswana in general) are strongly dominated, in theory and practice, by state structures and institutions. The government owns and controls about 95 percent of the land within Gaborone Township and, through land boards, indirectly administers and controls all the tribal land outside the township boundaries. It has achieved this control through continual purchase of freehold land on the one hand and the Tribal Land Act on the other.

Having assumed the role of urban land supplier, the state further undertook to supply subsidised, cheap or free-of-cost land to all citizens who reside or want to reside in towns such as Gaborone. This strategy, however, has led to ever increasing ‘demand’ for land. This has, to some extent, been for speculative purposes, whereby individuals allocated land at no cost or cheaply have not developed it but have sold it at market prices, sometimes years later. As a result, state and tribal land allocated to some individuals remains vacant or undeveloped for many years.

Worse still, most land in Greater Gaborone – as in other townships - is neither made available to those who have immediate need for it nor to those who have the means to pay for it and/or develop it expeditiously but rather to those who are eligible. To be eligible an applicant must belong to a category for which plots are available (e.g. first-time-applicant, low-income earner, and resident for a number of years). The eligibility criteria have somehow been construed to mean ‘entitlement’ criteria. Thus some individuals may be applying under various categories because they meet the requisite criteria, rather than because they need the land or can develop it. The ‘entitlement’ mentality is so entrenched that some participants in the Focus Group Discussions conducted during this research expressed a desire to inherit their relatives’ positions on waiting lists.

Land for women

As observed earlier, the data collected in this study show that state agencies in Greater Gaborone do not have open policies or practices that discriminate against the allocation of land to women. All the participants in focus group discussions concurred on this, as summarised by one woman who said that, “There is no gender bias in land allocation. The biasness is found between the rich and the poor. The rich get plots because they manage to pay bribery”.

“We do not know of any specific issue” regarding discrimination against women, said the youths in Old Naledi. However, there “is gender biasness in land ownership, to the extent that our mothers here have registered their own plots in the names of their partners because they [male partners] were earning income. If you inquire from plot holders here on how they got their plot you find that most of the plots here in reality belong to women but because of the respect of men they are registered under men's names”.

Plots are often registered in men’s names because it is assumed by officials that they are the household heads, whether they are cohabiting or married.
Land for young people

Young people feel disadvantaged by the present waiting list procedures for accessing land. First, youths feel “discouraged to apply for land because those who applied many years ago are still waiting”. “… if I apply now for a plot I will wait for about 5 or 12 years without any reply and if you ask you are told to go and wait as they will write you a letter”, said one respondent from New Mogoditshane.

Second, youths said that they are further discouraged to apply for land because “we are not employed so we think of how we will develop those plots in case we get them”, in the words of a young woman in Old Naledi.

Third, youths in Mogoditshane feel disadvantaged by the present system whereby the land board repossesses agricultural land, converts it to residential uses and allocates demarcated plots to applicants from all over the country. To them, the process denies them a right to their ancestral land.

Fourth, young people are against the practice of selling and buying land. They decry parents who sell land because when their children grow up they will have no land to inherit.

Furthermore, because they themselves are not employed, they are unable to buy land. Instead, they want to inherit their parents’ positions on the waiting lists and to be given preferential treatment. “… we apply for land as youth and we are made to wait in a queue with people who already have plots. It could be very helpful if the applications of the youth could be given a special treatment” argued one young man.

Land for the poor

The formal land delivery system in Gaborone has generally ignored the land requirements of the poor – especially during the 1960s and early 1970s. During this period informal delivery systems enabled the poor to access land at Old Naledi, which was free and within walking distance of the city centre, industries and other workplaces. The self-help housing programmes undertaken between 1975 and 1990 benefited the middle and rich poor, since they excluded people without verifiable regular incomes. With effect from 1990, when allocation of free self-help housing plots came to an end, only the rich poor may have benefited from formal state land delivery mechanisms. The poor are likely to be further excluded by the policies and programmes adopted in the 1999 National Housing Policy (see p.15-16).

Formal land delivery processes in tribal areas may have benefited the poor until the mid-1980s when informal land delivery systems started to mushroom. According to focus group informants, it has become difficult to obtain land board allocated plots in Mogoditshane, Tlokweng and other peri-urban areas due to long waiting periods and bribery. Claims of bribery, nepotism and corruption among land board officials were aired in all the six focus group discussions.

According to focus group participants, “You have to know someone at the land board to get land. At times when people go to apply, they will be told to come with /at five (tla ka 5) and those who know will come with P5000.00 for bribery. While those who do not know will come at 5 O’clock and find offices closed,” they claimed.

According to youths, land is no longer as easily accessible as it was in the past. “Land used to be allocated by chiefs in their own way, and when land board took over, the old ways of allocating land were abandoned and the land board regulations are not working well. The land board regulations should have been built on the ones that were used by chiefs”, they said.
Interpreting Botswana’s successes

Despite the imperfections noted above, the state-led land delivery systems have been able to create and maintain relatively well-planned and serviced residential suburbs in Gaborone, as well as relatively orderly land delivery systems. This study has confirmed earlier findings that, unlike other cities in sub-Saharan Africa, perhaps three quarters of all owners of residential plots have legitimate and/or legal land rights over their plots. Although the study areas of Old Naledi and Mogoditshane were originally unplanned settlements, the government has provided room for land rights holders to formalise their rights and punished those who were reluctant to do so.

Maipose attributes Botswana’s successful ‘state-led development’, and remarkable and sustained economic growth to ‘good luck’, ‘good governance’ and ‘good management’—which are inter-related but independently constituted. To Maipose, the country is lucky to be endowed with rich mineral deposits and to have discovered these deposits after, rather than before independence. Otherwise the mineral revenues would have benefited the colonising government. Botswana is further lucky to have avoided widespread European settlement and land dispossession.

Furthermore, the country is lucky to be composed of a “small and largely homogenous population at least in the sense that ‘tribalism’ and ‘sectionalism’ are not sharply used to explain electoral behaviour and leadership competition in Botswana”95. To Good, Botswana’s track record of good governance owes its origin to continuity in the political leadership throughout the three political episodes: from pre-colonial times, during the colonial era and to the present. Unlike many countries in the region, Botswana’s postcolonial leadership was experienced, respected and trusted as an extension of the familiar traditional chiefs’ administration96.

Botswana’s government has managed the country’s mineral resources and economy exceptionally well, which in turn has enabled the country to attract a consistent flow of foreign aid and direct investment. According to Good, the leadership is committed to good management of state/public resources because it has a considerable stake in the economy. Good management of public sector resources enables the leadership to remain in power and to attract foreign investment into the country, which results in windfall gains/profits to the private sector.

Wealth and good governance has been translated into considerable government administrative capacity and a consistent policy of redistribution from growth that has benefited most of Botswana’s citizens. This has been demonstrated in the case of land delivery by a considerable capacity to purchase, subdivide and service land with significant levels of subsidy, as described above. Despite a variety of problematic aspects, this approach has been quite consistent and has pre-empted the widespread emergence of informal settlements within the city boundary.
Policy implications and recommendations

While the government has done remarkably well with delivery of state land for urban development, this summary has highlighted areas that require improvements. The major issues of concern include the conceptions of land ownership, rights of avail and entitlement, and sale of land or land rights. Although some of these relate to state land, most relate to tribal land.

Ownership, sale and leasing of state land

Contemporary rules and definitions of ‘ownership’ of state land are both confusing and ambiguous. In the first instance, the concept of “selling” or “purchasing” of state land is a misnomer because while “selling” implies transfer of ownership, sale of state land in Botswana does not lead to transfer of land ownership from the state to buyers. State land is leased, rather than sold, to individuals. While Certificate of Rights (COR) beneficiaries are granted usufruct rights, Fixed Period State Grant (FPSG) beneficiaries are holders of capitalised leases. We believe beneficiaries have a moral right to know that they are leasing rather than buying land.

Furthermore, the so-called ‘prices’ for state land are only costs for servicing land rather than ‘lump sum rental payments’ as is widely claimed. As noted above, the cost of land has never been included when computing the ‘prices’ for state land plots. Costs incurred by the government when buying freehold land have never been passed on to beneficiaries. In practical terms, state land is granted ‘free of costs’ to all beneficiaries. We believe the time is ripe for the state to consider regular collection of rental charges (perhaps every two, three or five years) instead of ‘lump sum collection’, which makes land unaffordable to the poor. Acknowledging that state land is being leased will facilitate repossession of plots that remain undeveloped for long periods and discourage people who think that they are buying land to own in perpetuity.

Cost recovery for the capital costs of infrastructure provided to plots allocated by government should be spread out over a period of time, to avoid the anti-poor bias caused by insisting on up-front payment.

Understanding and acknowledging the fact that COR and FPSG title owners are leaseholders helps to clarify the fact that only the government can sell state land. As argued elsewhere, COR and FPSG leaseholders may only sell, transfer, cede etc their rights and interests in land for the remainder of their lease periods. It is, therefore, morally, politically and economically justifiable for leaseholders to sell or transfer their land rights and interests as and when they wish. This appreciation will go a long in promoting formal land markets in Greater Gaborone and other urban areas – which the government has been trying to promote since 1982 (p.15-17).

Leaseholders should be free to sell their outstanding rights and interests in land, in the interest of promoting more efficient urban land markets.

Codifying tribal/customary land tenure

As noted above, the Tribal Land Act (in its present form) deals with administrative aspects of customary land tenure, leaving the rest to personal interpretation and misinterpretation. The term ‘tribal’ is also
misleading since such land belongs to all citizens of Botswana. In light of these omissions and differing interpretations, it is recommended that studies and consultations should be undertaken to identify issues, elements and aspects of customary land tenure that need to be codified. The codified land tenure facility should state whether land boards are owners, trustees or administrators of tribal land, and thereafter, define their roles and responsibilities accordingly. It should also state whether the ‘trusteeship’ ends with allocation or is forever.

Codification of customary land tenure is desirable and should include clarification of the role of land boards.

As trustees, the powers of land boards (and their predecessors) should be inferior to those of the tribe or jural community to which the land belongs, but superior to those of individuals within the tribe. Although in the past the chief could overrule decisions of individual families or wards, he could not overrule the wishes of the tribe. At present land boards consider themselves de facto ‘owners’ of tribal land under their jurisdiction. They claim that they ‘own the land’ and only allocate usufruct rights to land occupiers. As trustees, land boards should be guided by policies and wishes made by the respective communities - each land board should be answerable to local residents through kgotlas, district councils or other forums.

Land boards should be regarded as trustees rather than owners of land. They should be guided by and accountable to the relevant local community.

The codified land tenure system should be flexible, providing for local inputs and variations. It should also define the extent to which land occupation and utilisation indicate private and/or exclusive ownership of rights over land or provide for extended rights (e.g. collection of wild fruits, honey etc on Tribal Grazing Land Policy ranches), where such provisions would not compromise superior land rights.

Rights of avail and entitlement

The government should reconsider its commitment to ensure every citizen gets a free or subsidised residential plot in several townships. The commitment raises expectations that the government has increasingly found hard to fulfil – the harder it tries the more applications it receives. To curtail the ‘culture of entitlement’ among middle and high-income groups, we support the Land Policy Review proposal whereby each citizen will be entitled to a single lifetime grant of a residential plot on tribal land. If people wish to acquire additional plots, they should purchase them through the market. The success of such a policy will depend on a complete and up-to-date records system.

Each citizen should be entitled to a single lifetime grant of a residential plot on tribal land. Additional plots should be purchased through the market.

Demolition of ‘illegal’ structures

In view of the high quality of residential and commercial structures ‘illegally’ erected in some areas, the negative social and economic effects of wholesale demolitions, and the high costs of demolishing permanent buildings, we recommend that such buildings become state property, which the state may convert to appropriate uses or auction.
Demolition of buildings should only be carried out in the public interest rather than as retribution for infringements of regulations. There are many better ways through which the state can exercise its authority over law-breakers.

Structures erected without permission should become state property rather than being demolished and alternative penalties devised for those who do not comply with regulatory requirements.

**Compensation payable for arable land in tribal areas**

The compensation payable to indigenous land rights holders when their land is repossessed by tribal land boards for subdivision and allocation should be seen as a fair recompense for the loss of use rights, or landholders will continue to resist and evade official procedures for the conversion of rural tribal land for urban use. Two possible solutions should be investigated:

a) **Dispossessed masimo owners** should be allocated two to three residential or commercial plots in lieu of the loss of their user rights.

b) Compensation should be calculated in terms of ‘lost lifetime opportunities for growing crops, grazing livestock, etc on the said piece of land’. ‘Lifetime’ could be set at 99 years or 999 years if perpetuity is the main contention. A farm with an annual crop yield valued at P100 would have a present lifetime value of P9,900.

These proposals take into account the common view of land as an asset that should be bequeathed from one generation to another in a family.

The basis and arrangements for paying compensation to indigenous land rights holders whose land is taken by a tribal land board for re-allocation should be reconsidered, to reduce resistance to and evasion of the official process for delivering land held under customary tenure for urban uses.

**Other issues**

Other pertinent issues that require re-examination include:

- the powers of the Minister in terms of the Town and Country Planning Act
- ensuring a supply of smaller plots (about 200 m² each) for the very poor, and
- creation of land delivery partnerships between land boards, local communities, the private sector (including the Botswana Housing Corporation) and District Councils for the servicing and delivery of plots for residential and other uses.

These issues were recently covered by the land policy review report and are still under consideration by the government, so are not discussed in detail here. 


Conclusion

Both in the colonial and pre-colonial eras, the government in Botswana has attempted to meet growing demand for urban residential land through the administrative allocation of publicly owned land. Because Botswana has, since independence, experienced rapid economic growth and achieved political stability, the government has had substantial resources and considerable administrative capacity to subdivide and service relatively large areas of land, purchasing freehold farms on the urban periphery when necessary to expand its stock of land. Its ability to make large numbers of serviced plots available for middle and lower-income urban households has enabled it to prevent informal settlement within the urban administrative boundaries, with the exception of one settlement. Tolerated in the early days of Gaborone’s growth because it accommodated what was then seen as a temporary construction labour force, Old Naledi has gradually been regularised and upgraded. Today it continues to perform an important function in the urban housing market, providing a large number of low cost rental dwellings in a central location, although its continued role may be threatened by current upgrading proposals.

The three main contemporary problems with the government’s strategy of meeting the urban demand for middle and low-cost housing through taking responsibility for land delivery are as follows:

i. Demand, as expressed in waiting lists for plots, is constantly outstripping both supply and population growth, fuelled by subsidies to the cost of land and eligibility rules. As a result, many who have not already received a plot have to wait for a long period to obtain one.

ii. Government’s ambition to successively improve the planning, infrastructure and construction standards it adopts and the new financing arrangements it is encouraging have, in recent years, placed publicly provided residential plots beyond the reach of lower income households.

iii. Many individuals have been able to obtain two or more plots through this system. Many have neither the need nor the resources to develop (or even complete payments for) these plots, resulting in large numbers of undeveloped plots. As a result, not only is government capital tied up unnecessarily but also those in need of a plot for their own occupation have to wait for an unduly long time before they are allocated one.

For these and other reasons, land has increasingly been supplied for urban residential use in the ‘tribal’ land area just outside the city boundary, where it is formally under the control of a land board. This was set up by government to take over the responsibility of traditional authorities for allocating land. The research revealed that, although much of the agricultural land subdivided for residential use is formally repossessed and re-allocated by the board, there are a number of problems with this process. Rights holders belonging to indigenous groups have difficulty reconciling their understanding of the rights and responsibilities of actors in the customary tenure system with the rights and responsibilities of the land board. In addition, they are also led by the perceived unfairness and inefficiency of official procedures to circumvent them when they can. It is difficult to assess the exact extent of informality, first, because indigenous rights holders recognise that some of what they do does not comply with official requirements and disguise their actions. In addition, government attempts at enforcement (including demolitions) encourage actors to conceal informal practices. Moreover, periodically the tenure of existing rights holders has been regularised, thereby rendering the previously informal formal. Basically, the Botswana government has put in place a workable system for delivering large volumes of rural land held under customary tenure for planned urban residential use. Nevertheless, there are a number of legal and practical problems with the system, some of them quite significant. This research has suggested a number of ways in which these could be tackled.
Berry, Sara S. (2001) *Chiefs Know Their Boundaries*. Heinemann, James Currey and David Philip, Portsmouth, Oxford and Cape Town


Schapera, 1994, op. cit. p. 84.


Dow and Kidd, 1994, ibid, p. 28.


Schapera, 1994, op. cit, p.23.


Schapera, 1994, op. cit. p. 195-196

Kalabamu, 2000, op. cit. p.306


Colclough and McCarthy, 1980, op.cit.

Colclough and McCarthy, 1980, op.cit, p. 14


Good, 1992, op.cit, p. 72


Dickson, 1990, op.cit. p. 26


28 Ng’ong’ola, 1997, op. cit. p.14
33 Colclough and McCarthy, 1980, op.cit. p.105-107
35 Good, 1992, op.cit. p. 73
36 Good, 1992, op.cit. p.73
39 Jefferis, 1997, op.cit. p. 486
40 For census purpose, an urban area is defined as a settlement with a minimum population of 5,000 inhabitants and where at least 75 percent of the labour force are employed in non-agricultural activities.
44 GOB, 1983b, ibid, p. 28
51 Gwebu, 2003, ibid, p. 425
54 NRS, 2003, op.cit. p. 132
56 Dickson, 1990, op.cit. p. 10
57 Dickson, 1990, op.cit. p. 11
58 GOB, 1983a, op.cit. p.36
59 Dickson, 1990, op.cit. p.13
61 Dickson, 1990, op.cit. p.13
62 GOB, 1983a, op.cit. p.36
65 DTRP, 1997, op.cit.
66 This figure includes about 1,600 plots serviced under a squatter/settlement upgrading exercise in Old Naledi.
68 MLH, 2001, op.cit. p. 40
69 MLGL, 1990, op.cit. p. 25
70 MLH, 2001, op.cit.
71 MLH, 2001, op.cit. p. 15-16
73 DTRP, 1998, op.cit. p. 11
75 van Nostrand, 1982, ibid.
78 GOB, 1983a, op.cit. p. 35; and van Nostrand, 1982, op.cit.
79 Gwebu, 2003, op.cit. p. 414
81 Gwebu, 2003, op.cit. p.417
84 Sithole, 1995, ibid, p.61
85 Sithole, 1995, ibid, p.62
86 Sithole, 1995, ibid, p.62-63
87 GOB, 1992a.
90 GOB, 1992a, p. 12
91 GOB, 1992a, p. 14-15
93 Refers to income earning work and excludes subsistence farming.
95 Maipose, 2003, ibid, p.20
96 Good, 1992, op.cit.
98 Kalabamu, 2000, op.cit. p. 316
Informal Land Delivery Processes in African Cities

Working papers

Policy briefs

Publications can be obtained by either telephoning Carol Fowler on 44 (0) 121 414 4986 or Email: c.a.fowler@bham.ac.uk and also downloaded as a PDF file from http://www.idd.bham.ac.uk/research/researchprojs.htm