

Informal Land Delivery Processes in Maseru, Lesotho

Summary of findings and policy implications

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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 Maseru

Lesotho was included in the study as an example of a southern African country with a particular history of colonial administration based on a protectorate system. Traditional authorities have an ongoing political role, although this continues to be contested. Customary land tenure continues to have an important role, although in urban areas there are conflicts between formal and customary tenure systems. Attempts at land reform in the late 1970s were only partially implemented and the provisions of the Land Act have been widely evaded. As a result, discussions on modification and implementation of the legislation are continuing.

In order to undertake an in-depth investigation of informal land delivery processes in Lesotho, Maseru was selected for study, for three main reasons. First, it is the capital city and the fastest growing town in Lesotho, where the informal land delivery system is most extensive. Second, it was the first urban area in which attempts were made to enforce reformed formal rules - the Land Act of 1979. Third, Maseru is the only town on which reasonable documentary data exists.

The research was carried out by Dr Clement Resetselemang Leduka, building on earlier research carried out in 1999. The assistance of Mr. Makalo Theko, who was the Commissioner of Lands in the Directorate of Lands, Surveys and Physical Planning (LSPP) in 1999, is gratefully acknowledged. His authorisation of unlimited access to the Directorate's archives and photocopying facilities was vital to the research, as was the assistance of 'Mé Tsedi Masemene, other staff of the LSPP and numerous other informants, especially people living in the study areas. Many thanks are also due to all the research assistants in both this and the 1999 research. A policy workshop was held at 'Mmelesi Lodge, Thaba-Bosiu on 11-12th March, 2004, attended by about 40 people drawn from various organisations including Maseru City Council; Department of

Lands, Surveys and Physical Planning (LSPP); Land Management and Administration (LMA); Lesotho Highlands Development Authority; Ministry of Gender, Sports and Youth Affairs; Ministry of Local Government; National University of Lesotho; private real estate and property management consultants; and NGOs.

Following the workshop, a full report of the study was published: Leduka, C.R. (2004) *Informal Land Delivery Processes and Access to Land for the Poor in Maseru, Lesotho*, Birmingham: University of Birmingham, School of Public Policy, Informal Land Delivery Processes in African Cities Working Paper 2 (ISBN No. 0 7044 2252 2), see also www.idd.bham.ac.uk/research/researchprojs.htm

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Abbreviations

ALA 1973	Administration of Land Act, 1973
BCP	Basutoland Congress Party
BNP	Basutoland National Party
LA 1973	Land Act 1973
LA 1979	Land Act 1979
LHLDC	Lesotho Housing and Land Development Corporation
LSPP	Directorate of Housing, Lands, Surveys and Physical Planning
MCC	Maseru City Council
NUL	National University of Lesotho
SAA	Selected Agricultural Area
SDA	Selected Development Area
UDS	Department of Urban Development Services

Background

The formal land delivery systems in African cities, based on legal concepts and administrative systems introduced by colonial and post-colonial governments, have proved unable to cope with demands arising from rapid urban growth in a context of extreme poverty and limited state capacity. In practice, most land for urban development, especially that occupied by the poor, is supplied and developed outside state regulatory frameworks. Until recently, there has been little in-depth research on these informal urban land development processes, often simplistically labelled ‘squatting’, despite the ineffectiveness of formal systems and mounting evidence of the importance of secure access to land and housing to the livelihood strategies of poor urban households. Arguably, attempts to devise land administration and delivery systems capable of providing a supply of urban land sufficient to satisfy demand and meet the needs of low income households for secure tenure should build on the success of large scale informal land delivery, as well as addressing its shortcomings. To make this possible, a better understanding is needed of how formal and informal systems operate, interact and are evolving in African cities, including Maseru.

Research aim and objectives

This research aimed to improve understanding of informal urban land delivery systems and markets in Maseru, Lesotho. The detailed objectives were:

- a) To analyse the magnitude and characteristics of informal land delivery systems and land markets in Maseru.
- b) To enhance understanding of the nature and dynamics of the institutions¹ (social rules) that underpin and regulate urban land markets in Maseru, especially those operating in informal land delivery systems.
- c) 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, including women, to access land with secure tenure.

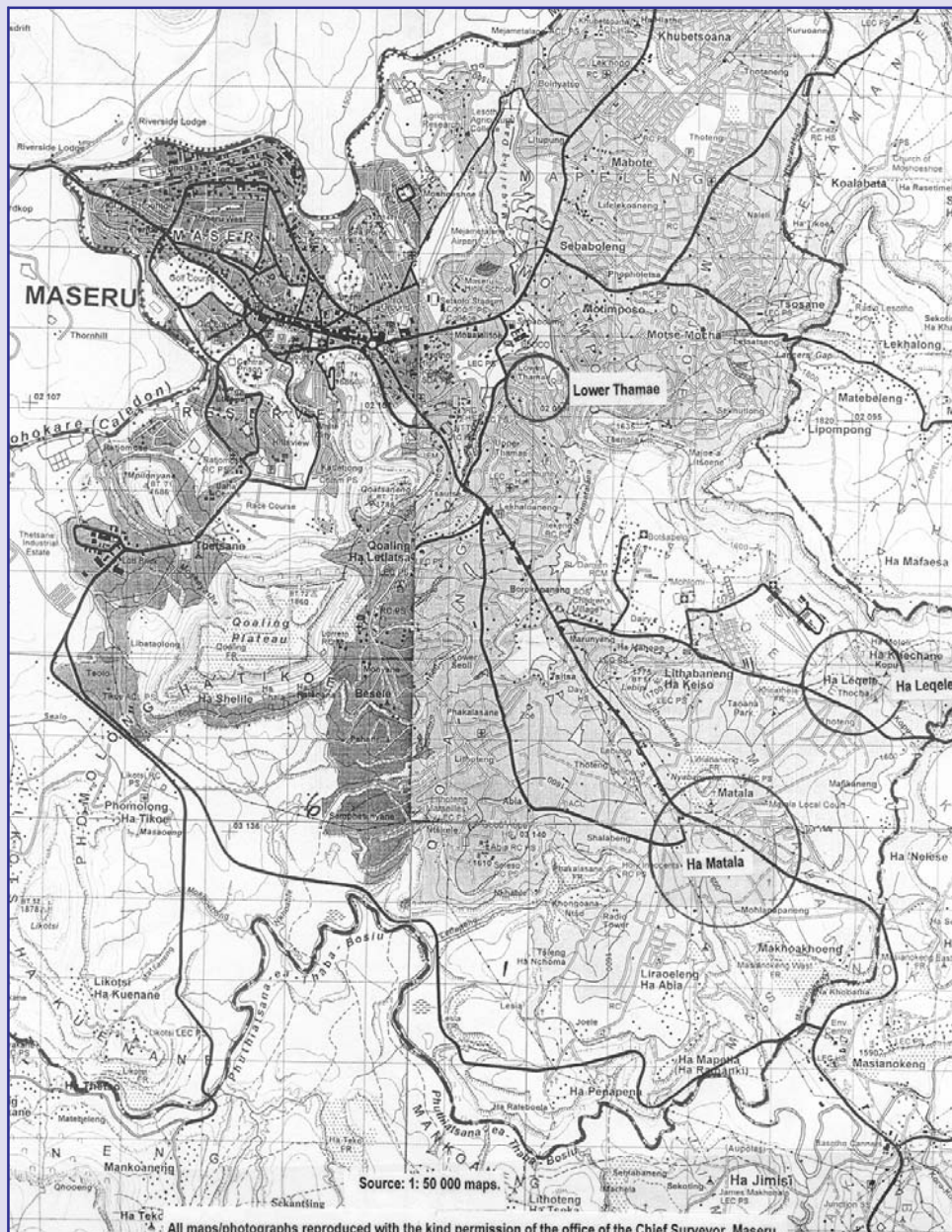
- d) To identify and explore the implications for policy.

The main hypothesis of the research was that the success of informal land delivery systems in delivering large quantities of land for urban development can be attributed to their social legitimacy, but that the institutions that regulate transactions in and use of land come under pressure during the process of urban development, resulting in changes, borrowing from formal rules and/or breakdown.

The project built on earlier research carried out by the author in 1999². Detailed studies were carried out in three informally developed settlements in Maseru in 2002/3 (Figure 1). Lower Thamae (Six Ponto) developed in the 1960s and 1970s and is the most consolidated informal settlement in the city. Ha Matala is a former peri-urban settlement where land has been subdivided under the authority of the local customary chief. It contains the original village area of Ha Matala, an extensive area of private subdivision, and a sites and services area developed under the auspices of the Lesotho Housing and Land Development Corporation (LHLDC) following state acquisition of agricultural land in 1990. For comparison with the consolidated and intermediate settlements of Lower Thamae and Ha Matala, a peripheral area of active subdivision was also studied – Ha Leqele. In this area, the research was hindered because thirty houses in another informal settlement (Ha Tikoe) had recently been demolished by Maseru City Council and many residents refused to be interviewed.

A combination of research methods was used, including a review of secondary data, sample surveys of plot owners, extensive semi-structured interviews and focus group discussions. Further details are given in the appendix.

Figure 1: Location of the study settlements in Maseru



The purpose of this policy briefing is to summarise the main findings of the study and to set out a number of key policy implications and recommendations. The next section will describe the changing political, legal and economic context in which land development in Maseru has occurred. The development of Maseru will then be outlined, with a

focus on patterns of urban development and local governance arrangements. Next, attempts to reform the legal framework for land administration are assessed, identifying some of the problems that have arisen. State experiences with the implementation and enforcement of the Land Act 1979 are summarised. The characteristics of plot owners in

informal housing areas are then contrasted with those in formal areas. Perceptions of the rules governing land delivery through formal and informal delivery systems are explored, followed by processes of

consolidation and the reasons why the informal systems generally work. Finally, the key policy implications arising from the research are identified (see also below).

Policy implications

- Conflicting views over land between the traditional authorities and the central government can only be harmonised by dialogue.
- The role played by local chiefs in land administration should be recognised and consideration given to incorporating them officially in local land delivery and administration.
- The vital role played by informal delivery systems in urban land supply should be recognised and they should be supported rather than proscribed.
- Actors in land delivery systems are more likely to comply with state rules if they are involved in the formulation and implementation of those rules.
- For appropriate formal rules governing land delivery to be devised and enforced, an increase in the capacity of the relevant land management agencies is required.
- Planning requirements related to plot size should be reconsidered, taking into account people's needs for plots that are large enough to permit multiple uses and that provide sufficient space to accommodate their children, as well as the costs of urban sprawl.
- Support to informal subdividers to adopt appropriate layout principles and standards, together with programmes of incremental infrastructure provision, are more appropriate than demolitions, which decrease the supply of urban housing without deterring ongoing subdivision.
- Documents that provide secure tenure should be relatively simple to understand and obtain, especially for owners with limited resources and no desire to use their plots as collateral for borrowing.
- Flexible methods of payment for plots increase access to land by those with low and irregular incomes. Thus the possibility of adopting flexible payment arrangements in formal land delivery systems intended to provide middle and low-income households with access to land should be investigated.
- Infrastructure and services should be incrementally upgraded as settlements consolidate and densities increase.
- Improved land management requires a complete and up-to-date Land Information System.
- In order that informal settlements can be integrated into the urban area, generate revenue and be provided with adequate services, the capacity of the Maseru City Council should be significantly improved.

Context

The context for land development processes in Lesotho

The national and political context

The chiefs and the monarchy in the Lesotho state

The evolution of the Lesotho state is closely associated with the Basotho monarchy and chieftainship. Traditional chiefs have, therefore, been at the centre of all discussions of the national and political context of land delivery processes. Chiefs have always been significant constituents of the state in Lesotho. They were the basis of the pre-colonial state and an integral part of both the colonial and post-colonial states. They were indispensable to the regime that assumed control at independence in 1966 and instrumental in its refusal to surrender power in 1970. Relationships between chiefs and their followers, and between chiefs and the colonial and post-colonial states, were articulated in terms of control over land and its distribution, tensions that were accentuated by the progressive loss of territory to the Orange Free State. Chiefs and the King were also at the centre of the discourse of the political forces that were vying for state control at and after independence.

The fortunes of the chieftainship have closely mirrored the fortunes of the powers that they favoured. Their unlimited powers at the outset of British colonial rule were later considerably reduced. In addition, changes that occurred under colonial rule divided the institution by ensuring that the privileged economic and political position of senior chiefs was maintained at the cost of chiefs outside the royal lineage.

In post-colonial Lesotho, chiefs and the monarchy have been easy prey for politicians, especially those chiefs who had been disenfranchised by the colonial reforms of 1938, who tended to identify with any political movement that promised to reinstate their lost power. At the same time, senior chiefs pulled in the opposite direction, politically supporting a party (the Basutoland National Party or BNP) that seemed to favour the continuation of the institution and

economically identifying with their source of income, the state. Chief Leabua Jonathan (Prime Minister from 1965 to 1985) and later Major General Lekhanya (Chairman of the governing Military Council between 1986 and 1993) quickly realised the opportunities afforded by the chiefs' passion for state favours and used them in the pursuit of their political agendas. For instance, Jonathan used chiefs to support his motions in the Interim National Assembly and as arms of central and local government following the abolition of democratically elected district councils in 1968. At the same time he humiliated the King into accepting ceremonial status as a constitutional monarch and punished chiefs who failed to perform their duties under the provisions of the Chieftainship Act of 1968. The chiefs, especially senior ones, silently obliged in order to safeguard their stipends.

The military coup of 1985 temporarily elevated the status of the monarchy and chieftainship, not out of a genuine desire to restore traditional authority, but simply because, in the eyes of the military, only the King, who was still accorded some semblance of respect amongst the Basotho, could be used to legitimise the military. This was a marriage of convenience that was not to last for long. When the King demanded his lawful (executive) place in the running of government, his powers were immediately withdrawn and he was again relegated to a ceremonial figure. However, the legal instruments that were meant to drive the reform process, especially the Land Act of 1979, were made by a one-chamber legislature, similar to that which had existed prior to independence, in which traditional authorities were a significant component, in addition to being government ministers.

The post-colonial state in Lesotho

Similar to other African post-colonial states, the state in Lesotho has been labelled developmentalist. However, in reality, it is a client developmentalist state whose economic survival depends on foreign aid and investment. Its dependence on foreign

financial resources, which is a consequence of history, geography, politics and economics, has essentially shaped the development agenda of the post-colonial state and the policy-making environment.

The regime that assumed state control at independence, the BNP, was politically conservative and fragile. This was reflected in the politics and system of government in the immediate post-independence period, especially after its refusal to relinquish control in 1970. In order to maintain control of state power, the BNP embarked on a strategy of power concentration, which was marked by increased centralisation of various arms and functions of government, including the abolition of structures of local government. After 1970, the BNP sought to consolidate itself in power and to appease the providers of foreign aid. Repression became the most pervasive strategy, combined with increased politicisation of public administration and non-governmental organisations, marginalisation of political competition through coercion and co-optation, and the expansion of the state bureaucracy and the repressive state apparatus, as well as diplomatic realignments.

For this study, the most significant aspect of the post-1970 strategy of the BNP regime was its appeal to and use of traditional structures of authority at the grassroots level, where central control had become virtually non-existent as a result of the abolition of district councils. Having dismissed the Westminster type of constitution under which political independence was granted as unworkable and inimical to the aspirations of Basotho, the BNP increasingly adopted Sotho traditionalism or ‘doing things *Sesotho*’ as its ideological linchpin³. The BNP was itself a party of chiefs, albeit those who had suffered most under the 1938 British reforms of the chieftainship. It quickly realised that chiefs were not only a useful symbol of *Sesotho*, but were also the only semblance of authority that was physically present and popularly accepted as legitimate at the

grassroots level, in contrast to the BNP’s development committees. Therefore, the legitimacy of chiefs became an important resource for the BNP, which it used to extend the reach of government. The practical manifestation of this ideology was the co-optation of those traditional chiefs who overtly embraced the BNP into the running of the state machinery and coercion of those who did not recognise the regime into doing so.

Another important strategy by the BNP was to turn against the Pretoria regime that had helped it to remain in office in 1970. This enhanced the internal legitimacy of the BNP and endeared it to the international aid community. In an effort to assist Lesotho to extricate itself from economic dependence on a politically hostile neighbour, massive development assistance poured into the country. This assistance was predicated on the modernisation paradigm of the 1970s and 1980s. In Lesotho, as indeed elsewhere in the developing world, the aid was tied to the reform of what was perceived by aid giving agencies to be a traditional subsistence economy, including reform of the customary land tenure regime. Thus, although modernisation was inimical to the BNP’s ideology of traditionalism, aid was accepted in order to sustain the expanded state bureaucracy and extend patronage to an increasing clientele of state bureaucrats and parastatal enterprises, which all depended on state contracts and finance. Lacking a development strategy of its own, the BNP had to accede to a development agenda set by the international aid agencies, especially the World Bank, whilst at the same time clinging to traditionalism. In no other sphere of development policy was this contradictory strategy as conspicuous as in the area of land tenure reform.

Land law

This section discusses the evolution of the legislative basis for land administration in Lesotho. Rules originating from the customary law of land tenure, with a focus on the ‘Laws of Lerotholi’, are summarised and discussed first, followed by an analysis of state efforts to reform the customary rules in the post-colonial period, with an emphasis on the reform programme that culminated in the enactment of the LA 1979.

The ‘Laws of Lerotholi’

The Laws of Lerotholi (1903) are generally regarded as an authoritative source of the customs and traditions of Basotho. These laws spelt out the basic tenets of Sotho customary law of land tenure, as well as rules of allocation and revocation of land. In general, the laws prescribed that land in Lesotho was the property of the Basotho nation, held in trust by the King. Responsibility for allocation and revocation was delegated to senior and junior chiefs, who performed it on the King’s behalf.

Under the Lerotholi laws, customary chiefs allocated land for both agricultural and residential purposes, with married males generally being the principal beneficiaries, although widows and unmarried persons could, at the discretion of their chief, be allocated some land. Since land could not be privately owned except through use rights that were enjoyable for life, it followed that, upon the death of the allottee or change of allegiance from one chief to another, land theoretically reverted to the local chief for reallocation. However, in practice, rights of use were inherited as though land formed part of a family’s estate.

Although the Laws of Lerotholi were generally regarded as an authoritative source of Sotho laws and customs, some land tenure scholars have argued that the laws were invented by the colonial authority in collusion with senior chiefs⁴. It is suggested that,

as a result, they represented the customs of the ruling Bakoena clan, with earlier emphasis on access to land use rights giving way over time to emphasis on the rights of chiefs to allocate land and to administer rules and regulations for its use. Therefore, the Laws of Lerotholi, it was suggested, were able to elevate the interests of chiefs in land over those of other members of society, as chiefs were the principal source of oral evidence on customs and tradition.

The customary law of land tenure was dismissed by many development thinkers of the 1970s and 1980s as an obstacle to the modernisation of agriculture, because it was said to provide no security of tenure and to encourage fragmentation of agricultural holdings. In the urban sector, customary tenure was thought to have hindered the development of an efficient urban land market. In addition, it was asserted that urban land allocated under customary rules led to low-density urban sprawl, because of the size of plots allocated under the authority of chiefs, as well as the irregular layout of settlements resulting from uncoordinated plot allocation. However, it has been argued that many of these assumptions and the reform policies that emerged were based on an inadequate understanding of the customary tenure regime and what, in reality, were people’s perceptions of their rights in land.

Lesotho has no history of indigenous towns. Historically, therefore, there was no distinction between urban and rural land. Such a distinction only emerged when the British colonial administration set aside land for exclusive occupation and use by the colonial government – the government reserves. Within the reserves, the allocation of land was essentially the responsibility of the colonial state, while outside the reserves land was allocated according to the rules of custom.

Under the colonial administration, no land reform efforts were attempted, except for the proclamation of laws meant to enable the appointment of colonial chiefs and to exclude hereditary chiefs from allocating

land in government reserves. The authority of hereditary chiefs over rural land and its distribution remained undisturbed. Efforts to reform customary rules were a post-colonial phenomenon, which emerged in 1973 with the enactment of the Land Act of 1973 (LA 1973) and the Administration of Lands Act 1973 (ALA 1973). The former Act did not effect any substantial change to the role of chiefs in land, but merely added an appendage of advisory boards to assist them in land matters. The latter Act, which was never implemented, supposedly because of opposition from the chiefs, had aimed at nationalising urban land.

The Land Act 1979

Further land reform efforts were tried again in 1979, involving the consolidation of the two 1973 Acts into the Land Act of 1979 (LA 1979). Under the LA 1979, all land (rural and urban) was nationalised, with rights to be leased from the state. Thus, similar to other many other parts of post-colonial Africa, the state became the trustee, instead of the King and his chiefs, and all titles to land in urban areas (except land used principally for agricultural purposes) were converted to leaseholds⁵.

The second main form of tenure under the LA 1979 is the ‘allocation’, which applies solely to rural land. An allocation is made by a chief, assisted by an elected Land Allocation Committee, for an unspecified period. It is a similar form of tenure to that conveyed by traditional or customary allocation, as provided for under the Land (Procedure) Act of 1967 and the LA 1973. The chief issues a certificate of allocation - a ‘Form C’. Rights under an allocation remain, in the main, non-transferable and non-negotiable for cash. What was new was that an allocation was explicitly defined as a ‘use right’ that can legally be inherited (contrary to ‘customary law’ and the LA 1973).

In addition, a new form of tenure for agricultural land that fell within the administrative boundaries of towns was introduced - the licence. This was meant

to facilitate the acquisition of urban land by the state at zero cost, since compensation was not payable in the event that the state acquired such rights for public purposes. The licence was also aimed at discouraging the sale of urban agricultural land by making it unlawful to enter into any form of transaction in land held under licence rights. The rationale for the licence derived from the customary practice under which land was supposedly granted freely and allottees were, therefore, expected to part with it freely for the purpose of implementing public projects. With respect to rural land, customary tenure was maintained in the form of rights of allocation, which could be ceded through inheritance, or as gifts or loans, although not disposed of through sale. In addition, compensation is payable on the loss of rights of allocation to public uses, which, as indicated above, was not the case with licence rights.

The Land Act 1979 (LA 1979) came into existence during the 1970s era of traditionalism-cum-modernisation. This may explain why many commentators on land tenure reforms in Lesotho have considered it to be an outcome of comprehensive consultations with affected stakeholders and a compromise between traditional and modern tenure forms.

However, if the issue of licences vis-à-vis allocations is considered, it emerges that the LA 1979 was neither an outcome of extensive consultation nor a compromise between so-called customary and modern tenures. The basis for this conclusion is that although custom, as known by the chiefs in government and as reified in the Laws of Lerotoli, was the only point of reference, it was called upon only selectively when and where it ensured the continuity of the privileges of the holders of institutional power. This possibly explains why rural agricultural land was freed of the burden of tradition and made an inheritable right, which, bar sales, could be bequeathed in numerous ways, whilst agricultural land within extended urban area boundaries was encumbered with tradition and custom that had long fallen into disuse, reinvented in the form of a licence.

Instead, the LA 1979 was bait for development assistance in both the agricultural and urban sectors, as well as a tool for the deployment of such assistance. Thus, whilst acquiescing to modernisation in line with the agenda established by the principal aid givers, government commitment to the implementation of the LA 1979 in areas outside the purview of donor funds was not forthcoming. The absence of state commitment ensured that the authority of customary chiefs remained virtually intact, which was a reflection of the policy environment in which the LA 1979 was enacted and enforced, as briefly discussed below.

Earlier, the 1973 Land Acts had been based on a policy of non-interference with the established prerogatives of chiefs over land. Unlike this earlier legislation, the LA 1979 was premised on a policy of change, albeit evolutionary change, to existing land management rules and actors. As indicated above, non-interference with the established rights of chiefs was consistent with the ideology of traditionalism or doing things *Sesotho*. However, doing things *Sesotho* found little favour with the principal aid givers, especially the World Bank. The latter was instrumental in forcing the enactment of the LA 1979 by threatening to withdraw aid meant for urban low-

income housing and settlement upgrading projects. The BNP regime was forced to submit to the Bank's pressure, because the regime had become desperate for international aid in order to keep the state machinery running, as well as to extend patronage favours to the urban-based electorate, amongst whom it was most unpopular.

A close scrutiny of the LA 1979 and its implementation framework reveals the remarkable success with which the state left the prerogatives of traditional authorities unchanged, whilst managing to convince the providers of development assistance that land reform had occurred. First, traditional authorities were an integral part of the Interim National Assembly that enacted the LA 1979, as well as being cabinet ministers. They were, therefore, responsible for the formulation and structuring of land tenure reform policy and transforming policy into law. Second, the implementation framework of the LA 1979 ensured that chiefs were represented at virtually all levels of the implementation and enforcement process. For instance, over and above being policy-makers and legislators, chiefs are ex-officio chairpersons of all land allocating authorities and one of their number sits as an assessor in the Land Tribunal.

To facilitate the acquisition of land for public sector projects, the LA 1979 made provision for the designation of areas to be set aside for special development. In urban areas (see Figure 2), these are known as 'Selected Development Areas' (SDAs). They are meant to enable acquisition of land for the purpose of urban development, as well for the upgrading of unplanned areas. The rural counterparts of the SDAs are called 'Selected Agricultural Areas' (SAAs), and are meant to allow the state to set aside areas for the development of agriculture using modern farming methods. The effects of SDA and SAA declaration is to extinguish existing interests in land, pending the grant of substitute rights by the Minister responsible for lands.



Informal settlement on the outskirts of Maseru

Land allocation in both urban and rural areas became the responsibility of land committees, with the chiefs having jurisdiction over the area acting as ex-officio chairpersons. The exception is with respect to urban areas, where only the senior chiefs who have jurisdiction chair the committees. What this means is that traditional authorities no longer allocate land on their own, but are advised by committees and are required by law to abide by the advice of these committees. As indicated above, the Minister responsible for lands also has power to allocate land, but only in SDAs and SAAs. The day-to-day administration of the LA 1979 is the responsibility of the Department of Lands, Surveys and Physical Planning, which prepares and registers titles to land, as well as providing technical support to the committees and the Minister for Lands.

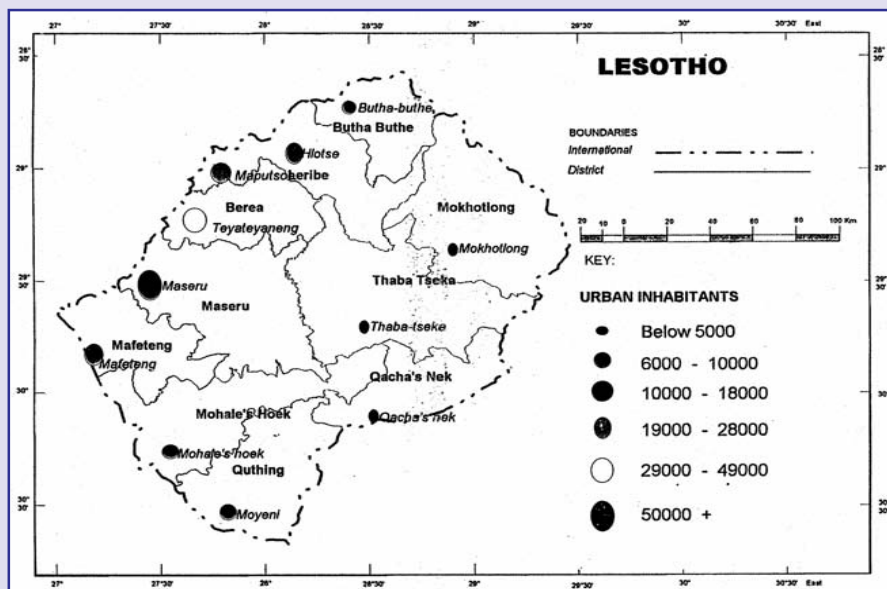
Between 1967 and June 1980, when the LA 1979 came into force, the management of urban land was a confused affair, with various state agents having a stake in its administration. This happened despite the Land Procedure Act of 1979, which stated that day-to-day urban land management was the

responsibility of local authorities. State failure to implement the ALA 1973 did little to ease this confusion.

As argued above, with the exception of areas where the state had succeeded in appropriating land, the extension of urban boundaries to cover hitherto peri-urban traditional villages and their farmland, did not, in practice, result in any substantial change to the allocation of land by chiefs. The latter continue to both allocate land and authenticate allocations derived from private land subdivision, contrary to the provisions of the LA 1979. In particular, chiefs continue to issue Form Cs as documentary evidence of an allocation, backdating them to dates prior to June 1980, when the LA 1979 came into force.

Therefore, instead of the unitary land management system for urban areas that the state had hoped to achieve through the LA 1979, the co-existence of two systems has persisted. These comprise what Leaf has described as a *de jure* system governed by formal rules and a *de facto* system defined by informal rules and other norms of everyday practice⁶.

Figure 2: Location of urban centres in Lesotho



Source: Bureau of Statistics, 1996

Maseru

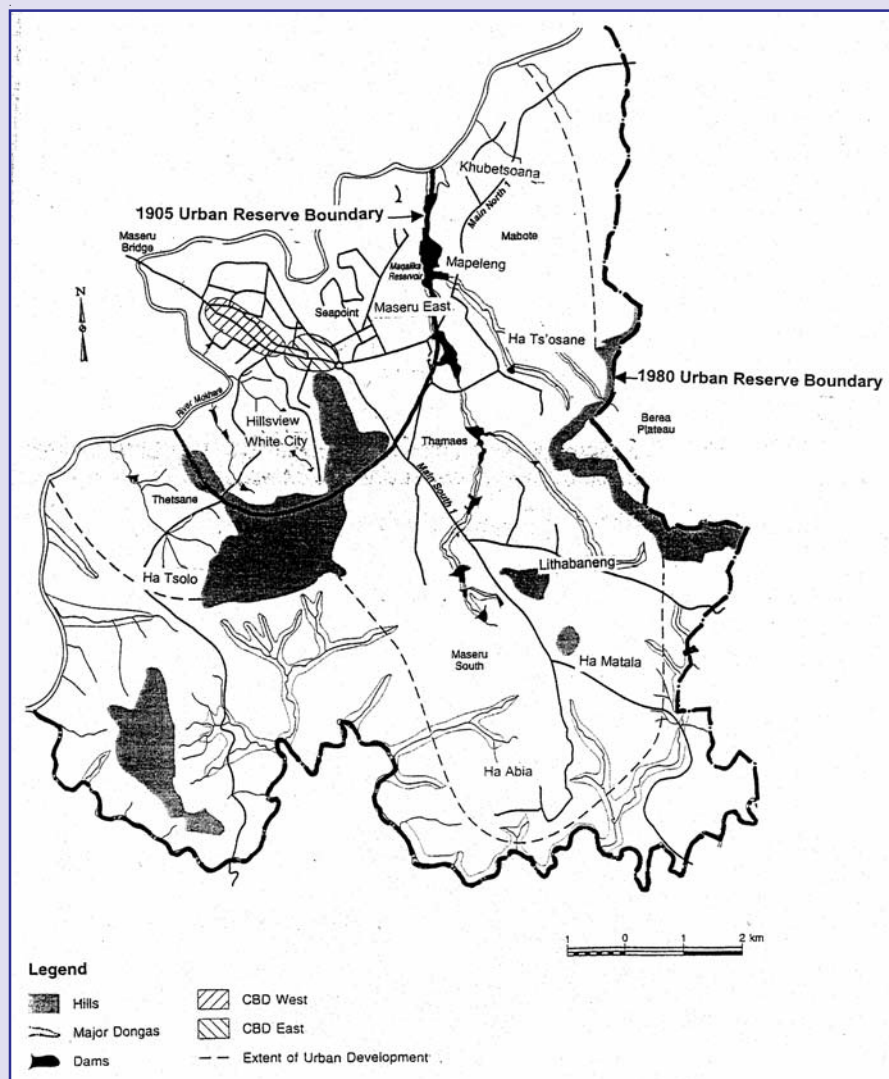
The development of Maseru

The changing roles of Maseru

Maseru was founded in March 1869 during the period of Cape Colony rule and British protection as a police camp and colonial capital. Administrative or government reserve boundaries for the town were formally defined in 1905, several years ahead of other towns whose administrative or 'reserve' boundaries were legally established in 1928. In the early years of the new century, construction of a railway link between Maseru and South Africa was financed by

tax revenues collected in Lesotho by the colonial government. Thus the year 1905 was also significant in the founding of Maseru because it was the year in which the railway was officially opened⁷. Maseru was a district headquarters for the magistrate district of Maseru, as well as being a colonial capital and place of residence for the Resident Commissioner. During the colonial period, the growth of Maseru was contained within the 1905 reserve boundaries (Figure 3).

Figure 3: Changing Maseru urban area administrative boundaries



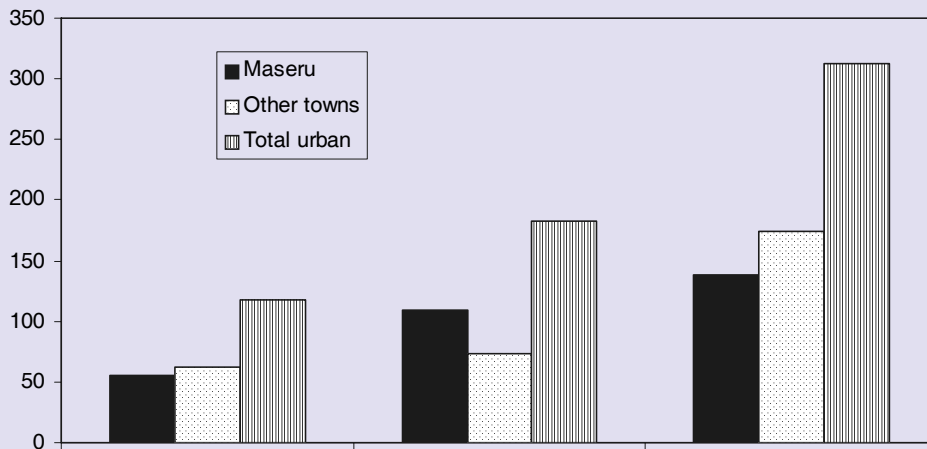
Source: Based on Romaya, S. & A. Brown (1999) "City Profile: Maseru, Lesotho", *Cities*, 16(2), pp. 123-133.

At independence in 1966, the settlement became the capital of the Kingdom of Lesotho and was, until 1986, the fastest growing town. The administrative boundaries that were established in 1905 as a colonial ‘government reserve’ were extended in 1980 to incorporate peri-urban villages that were apparently urbanising fast. The administrative area is currently over 138km², almost five times the area originally reserved⁸.

Maseru grew relatively rapidly following independence. Between 1966 and 1986 the population within its 1980 boundaries grew by 7 per cent per annum, compared to less than 2 per

cent per annum in smaller towns. Between 1976 and 1986, the national urban population increased by about 66 000 people and Maseru accommodated over 80 per cent of this increase. Between 1986 and 1996, Maseru’s annual growth rate dropped to 3.5 per cent, still more than twice the annual national population growth rate of 1.5 per cent. In contrast, smaller towns grew at annual rates in excess of 5 per cent per year during this period. By 1996, as a result, the capital city had a population of approximately 140 000 people, representing about 44 per cent of the total urban population, compared to 60 per cent in 1986 (Figure 3)⁹.

Figure 3: Urban population in Lesotho (‘000s within 1980 boundaries)



At independence in 1966, the government inherited the colonial reserve land. Except for land that was already individually owned¹⁰, all land in the former colonial reserve became state or government land under the general administration of the Minister responsible for land (then the Minister of Interior and Chieftainship Affairs). In principle, therefore, land in the colonial reserve was essentially committed, although not necessarily developed. For example, in 1985, Binnie and Partners estimated that there were between 600-700 undeveloped plots within Maseru’s former colonial reserve boundaries, at that time capable of accommodating some 3 400-

4 000 people at densities of 7-10 plots per hectare. Many of these undeveloped plots were in private ownership¹¹.

Thus within the formally laid out areas of the former colonial reserve, the private market and bureaucratic allocations dominate. The most significant land problem in this area is the low density of development as a result of the large size of residential plots. This, some observers argue, has led to premature suburban overspill and increased home-to-work distances¹². High-income detached houses owned by the state and its agencies are characterised by lavish gardens and lawns. Privately held residential

plots are on average slightly smaller, but are still large by any standards - averaging 1 000m² or more. These low densities could be attributed to lack of appropriate standards to guide lot sizes¹³. In a recent analysis, average plot sizes in private residential areas in the former colonial reserves were found to range between 1 500 and 1 600m²¹⁴.

Beyond the colonial reserve boundaries were scattered traditional villages, each with its own chief/headman, who allocated use rights under a formal system of rules embodied in rural land legislation, namely, the Land Procedure Act of 1967 and the Land Act of 1973. The land that was allocated for cultivation was to be used for that purpose only. Consent had to be obtained from the Principal Chief for change of use from agricultural to non-agricultural purposes. However, as a result of the scarcity of uncommitted (although not necessarily undeveloped) land in the old colonial reserve part of the town, between 80 and 90 per cent of the town's population growth has been accommodated in these areas¹⁵. Here, where land had been left under indigenous ownership, customary and other irregular systems of land allocation dominate. In the stretches of arable land between the traditional villages, gradually settlements have grown into each other through infilling between villages and ribbon development along major roads. In these areas, there has been extensive construction of privately provided rental housing by way of extensive row houses (locally known as *maline*).

These processes have produced extensive areas of mixed land uses and mixed income housing devoid of the regular street patterns that characterise residential neighbourhoods within the colonial reserve. Although there have been some changes in recent years, the level of infrastructure provision in these former peri-urban areas is still extremely low compared to areas within the former colonial core¹⁶.

Political and administrative arrangements for local governance

Colonial moves towards instituting a system of local government appeared in 1928, when the colonial state first separated urban from rural land and specified authority and control over each. In that year, the colonial administration proclaimed reserves for use by the Basutoland government through the Government Reserve Proclamation of 1928. This piece of legislation also empowered the High Commissioner to make regulations to ensure good and efficient government of reserved areas. For this study, the most important set of regulations are the 1941 reserve regulations that made it possible for the District Commissioner to, amongst other things, control and monitor the movements of natives, as well as their employment, oversee public health issues through building control and prohibit the keeping of livestock in the reserves.

An important landmark during this phase was also the creation of district councils, which were provided for in the 1959 constitution. These were corporate bodies and instruments of local government, as well as electoral colleges for the Basutoland National Council. They derived their statutory powers from the Local Government Proclamation of 1959. At independence, therefore, a two-tier system of government, consisting of central and local structures (district councils) was in place, with customary authorities appended to these tiers in various capacities, but still maintaining separate control over the allocation and administration of rural land.

The BNP won the independence elections of 1965 by a small margin and therefore had a rather tenuous hold on government. Immediately following independence, one Sir Walter Coutts was commissioned to look into problems of the existing structures of government administration and to make recommendations for change. Coutts concluded that

the civil service had almost ground to a halt as a result, amongst other things, of indiscipline at all levels of government. Immediately following Coutts' study, in 1967, district councils were suspended. A year later in 1968, the BNP regime passed a Local Government (Repeal) Act that put an end to district councils. The reasons for the abolition of councils were that they (allegedly) complicated communication between the districts and the centre in Maseru and were a potential source of political dissent. Thereafter, a system of local administration became a hallmark of the BNP, both in urban and rural areas.

The willingness of government to re-introduce local government in urban areas was mooted in 1980 in a decentralisation workshop held at the National University of Lesotho (NUL). As a follow-up to the workshop, the NUL undertook a study that was meant to lead to the establishment of a local authority for Maseru, with a view to introducing similar structures in other towns over time. As with the site-and-services and upgrading projects, the World Bank financed the study by the NUL, with a contribution from the government of Lesotho.

To facilitate the establishment of a council for Maseru, the 1980 Urban Government Bill was finally enacted into an Urban Government Act in 1983. A Valuation and Rating Act had been passed two years earlier, to enable property valuation and rating, especially as a source of revenue for the proposed council. However, similar to the Land Act of 1979, for reasons that were unclear, the BNP regime kept

postponing the establishment of the council. It was only in 1989, three years after the military unseated the BNP regime, that a council for Maseru was finally created. There is evidence here too that the World Bank had to exert pressure on government to establish a council by threatening to suspend assistance to the urban sector¹⁷, as well as funding for the establishment of the Maseru City Council (MCC) itself. Eventually, the Bank provided M28 million for the latter (UK £280 000 in 2002 prices)¹⁸.

Although theoretically responsible for the management of the whole city of Maseru, the Council has failed to develop sufficient capacity to extend its activities throughout the urban area. Much of its work has differed little from what the Maseru Township Office used to do. With the exception of isolated project areas in the former peri-urban areas, where recent research evidence shows that it is generally detested by the local population, especially of field-owners, the activities of the Council have been restricted to the old colonial urban reserve¹⁹. The unpopularity of the Council was not unexpected, given that its administration became a nightmare from the first day of its inception. Matters came to a head in 1990, when the entire Council was temporarily suspended and a two-man commission of inquiry appointed to look into the problems that were confronting the management of Council affairs. These initial feuds did little to endear the council to the citizens of Maseru and it has remained in a state of irrelevance and near paralysis ever since²⁰.

Land delivery

Land management and the delivery of urban land in practice

This section summarises state experiences with the implementation and enforcement of the LA 1979 in urban areas.

Implementation of the Land Act 1979

In this section, three areas of implementation are analysed, namely new land grants by urban land committees, title registration and SDA declarations.

The committee system and title registration

Urban Land Allocation Committees are the principal actors established by the LA 1979 to make and revoke land allocations. The principal chiefs having jurisdiction over the area in which a town is located participate in the committees as ex-officio chairpersons. Other members include the Town Clerk, who acts as committee secretary, and three persons appointed by the Minister responsible for lands. Contrary to government policy and in contrast to rural land allocation committees, members of which are elected by local people, no representative system seems to have been contemplated with respect to urban land matters.

In terms of new land grants, declared state policy was that, prior to making a grant, land would be subdivided and mapped (surveyed), as well as provided with minimum services, such as water and access roads. Thereafter, the land would be advertised, in order to give every individual an equal opportunity to apply for a grant, as well to make prospective applicants aware of the costs of land servicing.

In the first two years of the implementation of the LA 1979, approximately 400 plots per year were made available for new grants. During the same period, the urban population grew by about 1 350 households per year. In terms of registration of titles to new land grants, it is a statutory requirement that, once a grant has been made, a registered leasehold

title has to be issued. The LSPP was able to prepare registered titles for only 28 per cent of new grants between 1980 and 1991, which is a period for which records are available. In terms of title conversions, it dealt with 45 per cent of applications made between 1980 and 1991, with an equivalent proportion of applications awaiting survey or held up by other bureaucratic requirements.

The slow progress in issuing titles for new grants and the conversion of old titles into registered leaseholds, as well as the backlog of survey work, demonstrate that the Directorate of Housing, Lands, Surveys and Physical Planning's (LSPP) capacity to handle land administration work generated by the LA 1979 was extremely limited. Indeed, from the first day of implementation, the Minister for Lands and the Commissioner of Lands (head of the LSPP) repeatedly appealed to Cabinet to release funds for the purpose of enhancing the capacity of the LSPP to handle its new responsibilities. Cabinet responded by suspending the advertisement of pre-serviced plots, but no additional financial commitments were made. In 1993, the LSPP sombrely admitted to the incoming Basutoland Congress Party (BCP) regime that it had failed to fulfil its mandate, due to financial and manpower constraints.

The appalling deficiency in government's practical commitment to the implementation of the LA 1979 appears to emphasise the point made earlier that the Act was meant primarily to attract and deploy foreign aid. It is instructive that, in spelling out the implementation programme for the LA 1979, the LSPP specifically singled out, first, those areas that were to be financed by the World Bank as priority areas, which included peri-urban upgrading in Ha Thamae and a low-income housing project in Khubetsoana. Second, it stressed, to a limited extent, title registration for transactions that involved bank loans or mortgage finance, which was initially restricted to Maseru's old urban reserve.



Maseru

Selected Development Area declarations and plot allocation

The declaration or designation of certain areas for selected development was meant to fulfil specific public policy objectives: to enable the acquisition of land for new urban development, implement the upgrading of unplanned settlements and allow the extension of urban administrative boundaries for town planning purposes. Over time, SDA powers were discovered to be useful in rectifying defective titles, that is, rights to land that had been granted prior to June 1980, but not registered in terms of the Deeds Registry Act of 1967. Moreover, early in the implementation of the LA 1979, it was discovered that SDA powers could also be used to allocate land anywhere and to anybody whom the Minister for Lands chose, as long as a declaration was made in the ‘public interest’, which was also left to the Minister to define.

Earlier studies show that, between 1980 and 1985, when Lesotho was under a civilian (albeit illegitimate) regime, about 24 per cent of plots were allocated by the Minister of Lands as direct grants and 76 per cent by urban committees. However, between 1986 and 1991, when Lesotho was under military rule, nearly 77 per cent of plots were allocated by the Minister for Lands as direct grants, against 23 per cent that were allocated by committees. The 1999 study revealed a similar pattern in the study areas in

the old urban reserve, where committees and the Minister for Lands had allocated 46 and 27 per cent of plots respectively between 1980 and 1985. In contrast, between 1986 and 1991, committees had allocated 10 per cent of plots and the Minister for Lands had allocated 70 per cent²¹.

In explaining this state of affairs, it has to be recalled that, when the military assumed state control in 1986, it used the monarchy and chieftaincy as a legitimisation instrument by conferring executive powers on the King, with his chiefs taking control of both central and district administration. Therefore, SDA powers became a tool that the Minister for Lands, whom respondents described as a principal chief and senior member of the royal family, as well as a staunch traditionalist, effectively used to allocate land as he wished and to marginalise committees in the process. However, despite stated government policy, neither the committees’ nor the Minister’s grants were open to all individuals who wished to apply. This is because information about the plots that were available through committees and the Minister was accessible only to a privileged group of individuals, as was information on the criteria for deciding on who qualified for a grant. Ultimately, the capacity of the LSPP to deliver land as required was not only hampered by deficient resources, but also by the exclusionary formal distributive systems, namely the committees and the Minister for Lands.

Selected Development Area declarations in the former peri-urban areas

The land that was available for allocation by the Maseru land committee or the Minister for Lands was confined to the areas within the former colonial urban reserves, where undeveloped land was owned by the state. In contrast, land outside the urban reserves was subject to multiple claims that derived from a variety of social norms and practices, including customary ones. Because of the existence of these multiple claims, the SDA approach to land acquisition for public purposes was adopted. Therefore, this section discusses examples of state experiences with the enforcement of the LA 1979 in the erstwhile peri-urban areas of Maseru.

The first area to be declared a Selected Development Area for the purpose of a World Bank financed low-income project was Khubetsoana. In this area, the state successfully appropriated land without compensation. Although the land acquisition process was largely uneventful, the experiences of field owners at Khubetsoana had telling repercussions in adjacent areas, which frustrated further land appropriation by the state. One such area was Mapeleng/Maqalika, which was declared a selected area for the purpose of providing substitute plots to people who had been relocated from the vicinity of the town's water supply reservoir. However, the exercise had to be abandoned because more claimants came forward than had been planned for. This outcome arose because, although all claimants had evidence of lawful allocation certificates by way of Form Cs, not all such claimants could relate their certificates to specific plots around the reservoir.

Another important SDA area was Ha Mabote, also in the vicinity of Khubetsoana, declared for a mixed income site-and-service project that was co-sponsored by the then British Overseas Development Administration (ODA) and the government of Lesotho. There is evidence to indicate that private land subdivision in this area was

engendered by the appropriation of land without compensation at Khubetsoana²². In Ha Mabote, the state tried to evict 'illegal' occupants using police force, but called off the attempt when it transpired that one of the local chiefs had solicited assistance from the armed forces, many members of which had acquired plots from the same chief at concessionary prices. As a result, the enforcement strategy changed from eviction to accommodation, which entailed the state undertaking to recognise existing (albeit illegal) occupations in the process of implementing the project. However, the change of enforcement strategy by the government opened up an opportunity for private sub-dividers to compile fictitious lists of plot-buyers. These bore no relationship to the sizes of fields owned, burdening the project with accommodating the excess demand for plots. As a result, many field owners were able to make significant profits, as were their chiefs, who charged a fee for every false Form C certificate that they issued. When the ensuing chaos could not be resolved, the ODA withdrew its support and the project collapsed.

The 1987 Land Act Review Commission²³, numerous other authorities and most of the author's respondents argued that in general the implementation of the LA 1979 has been an embarrassing failure²⁴. However, on several occasions, enforcement has been ruthless. Thus the examples of state experiences with enforcement of the LA 1979 that are summarised in this section seem to underscore the fact that, if judged in the context of its agenda, which was to attract and deploy foreign aid for urban housing and infrastructure services, the enforcement of the LA 1979 has been a resounding success. This author does not know of any instance when, with donor funds in hand, the state failed to enforce the Act, nor of any successful implementation when donor funds were not promised. In brief, outside projects established with international donor assistance, the implementation of the LA 1979 has been a disaster, not because it has been impossible to enforce it, but because that was never its principal purpose.

Implementing agencies

The role of the main agencies responsible for implementing the Act is summarised and discussed below.

Maseru City Council (MCC)

The MCC has, until fairly recently, acted only as a broker or mediator in the land delivery process, especially in cases dealing with land acquisition for various projects in the city. However, its involvement in land subdivision and allocation is steadily becoming more significant and controversial. In contrast to the general committee system and the Minister, MCC sources indicate that the urban land allocation committee of the Council has an established set of criteria that is used to prioritise applications for land grants. The first criterion is that an applicant must be a citizen of Maseru. Only when such applicants have been dealt with will consideration be given to any other applicant, prioritising those who do not already have a plot of land elsewhere. A second criterion is that an aspiring applicant has to have money, especially when plots are allocated through a tendering process. However, even where tendering is not done, money is still an important criterion.

Between 1999 and 2003 the MCC released a total of about 256 minimally serviced (water and gravel roads) plots onto the market in the vicinity of the LHLDC's Ha Thetsane Housing Project. The first lot of about 180 plots was released in 1999 and the second lot of about 76 plots was released in 2003. However, the allocation of the first plots in March 1999 suggests that the Council criteria could be changed to suit circumstances, because first priority was apparently given not to citizens of Maseru, but to the Council's own employees. Of the 177 serviced plots allocated in March 1999, about 22 per cent went to employees of the MCC²⁵.

Therefore, similar to urban land committees and the Minister, a lot of questions can be raised with respect to the interests that the MCC serves, as well as the political implications of its decisions. What is obvious is that, over the eleven years for which the MCC has had a role in land delivery, the Council has been capable of contributing only an average of 23 plots per year to urban land supply.

The Lesotho Housing and Land Development Corporation (LHLDC)

The LHLDC is also a secondary player in the land delivery system because as a land developer it comes in only after land has been acquired, often on its behalf, by the LSPP or the MCC. Therefore, the LHLDC is generally invisible, since it is rarely directly involved in land acquisition. In other words, it is a benefactor of the land allocation process, similar to any private land developer. The LHLDC uses its own internal rules and beneficiary selection criteria.

The basic mandate of the LHLDC is to develop housing for rent and sale, as well as serviced sites for all income groups in urban areas. As of 2003, the LHLDC had produced over 6 000 serviced sites in various urban areas. Nearly 70 per cent are located in Maseru, where 86 per cent had been sold by November 2003. Although some LHLDC projects were initiated nearly thirteen years ago, they still had not sold all their plots by November 2003. There was, therefore, a pervasive feeling within the LHLDC that the corporation was unable to market serviced plots as a result of competition from urban land committees and the Minister, who were allocating land without charge.

Second, the LHLDC is acutely aware that urban residents regard their plots as being overpriced, which tends to give the impression that the LHLDC sells land at a higher cost than alternative sources. The cost of a serviced plot in LHLDC site-and-service schemes includes: 100 per cent recovery of compensation costs incurred in the acquisition of

land; costs of services and cadastral survey; management and operations (8-15 per cent); publicity (1.5 per cent); contingencies (2.5 per cent) and mark-up [profit] (18 per cent). It does not include a charge for the land itself. It is the management and operations and mark-up costs that push up the prices of plots rather than the cost of the land²⁶.

Access to LHLDC schemes is based exclusively on applicants' ability to afford the payments. In the case of middle and high income plots, the beneficiary population is self-selecting, in the sense that individuals choose what they can afford, whereas for low-income housing plots, proof of an individual's income by way of a wage slip is required in order to ascertain that the prospective buyer is truly low-income. In other words, wage employment is a prerequisite for a low-income plot, whereas no such restriction was placed on applicants for other plots. For example, at Ha Matala, 78 per cent of those who reported having acquired their plots from the LHLDC were in full-time wage employment, with 11 per cent retired and another 11 per cent unemployed. At Ha Thetsane LHLDC project, Mngadi reports that all her respondents were employed, with 93 per cent in waged work and 7 per cent in self-employed professional work²⁷.

Although a minor player in the land delivery system, the LHLDC's experience presents an interesting paradox that is difficult to explain. Apparently the LHLDC could not effectively market serviced plots, because of competition from urban land committees and Ministerial grants, despite the failure of these two delivery systems to satisfy existing demand. It is possible that to some individuals the LHLDC serviced plots appeared expensive, not only because the corporation's policy is to fully recover the costs of land development, but also because less expensive options are available, including not only free land grants from committees or the Minister but also unserviced plots from chiefs and field-owners.

Department of Urban Development Services (1990-1994)

The Department of Urban Development Services (UDS) was created as a result of lessons learned from the Mabote site-and-services project, after it came to an end. In contrast to the Mabote project, the mandate of the UDS was nationwide, with two sub-programmes: the Infrastructure Development Fund and the Community Infrastructure Support Programme. The role of the former was to secure from providers infrastructure services such as electricity and water for selected neighbourhoods and to recover the costs of reticulation and individual connections from the beneficiaries on an instalment basis, an arrangement that was not possible between service providers and individual residents. The latter sub-programme entailed the planning and implementation of small site-and-services projects in various towns. In this programme, the UDS acted as a land developer in the sense that it acquired *masimo* land through purchase, subdivided it and provided services before selling the plots.

The Mabote project delivered approximately 3 600 plots, benefiting an estimated 1 100 households a year over a period of four years (1986-1990)²⁸. The UDS delivered a total of 6 633 serviced plots, or 1 700 plots per year, between 1994 and 1998. Nearly a fifth (19 per cent) of these serviced plots were in Maseru, where 1 511 households benefited. In terms of electricity, the UDS facilitated the connection of nearly 600 plots nationwide, benefiting 760 households. About 40 per cent of the connected plots were in Maseru alone, where just over 300 households benefited. However, since its merger with the LSPP in 1994, the UDS has neither delivered any more serviced land nor financed any infrastructure services. The UDS was clearly making a significant contribution to the formal land delivery system and its incorporation into the inefficient LSPP was an ill-conceived strategy.

Plot owners

Characteristics of plot owners in formal and informal areas

Formal land delivery systems

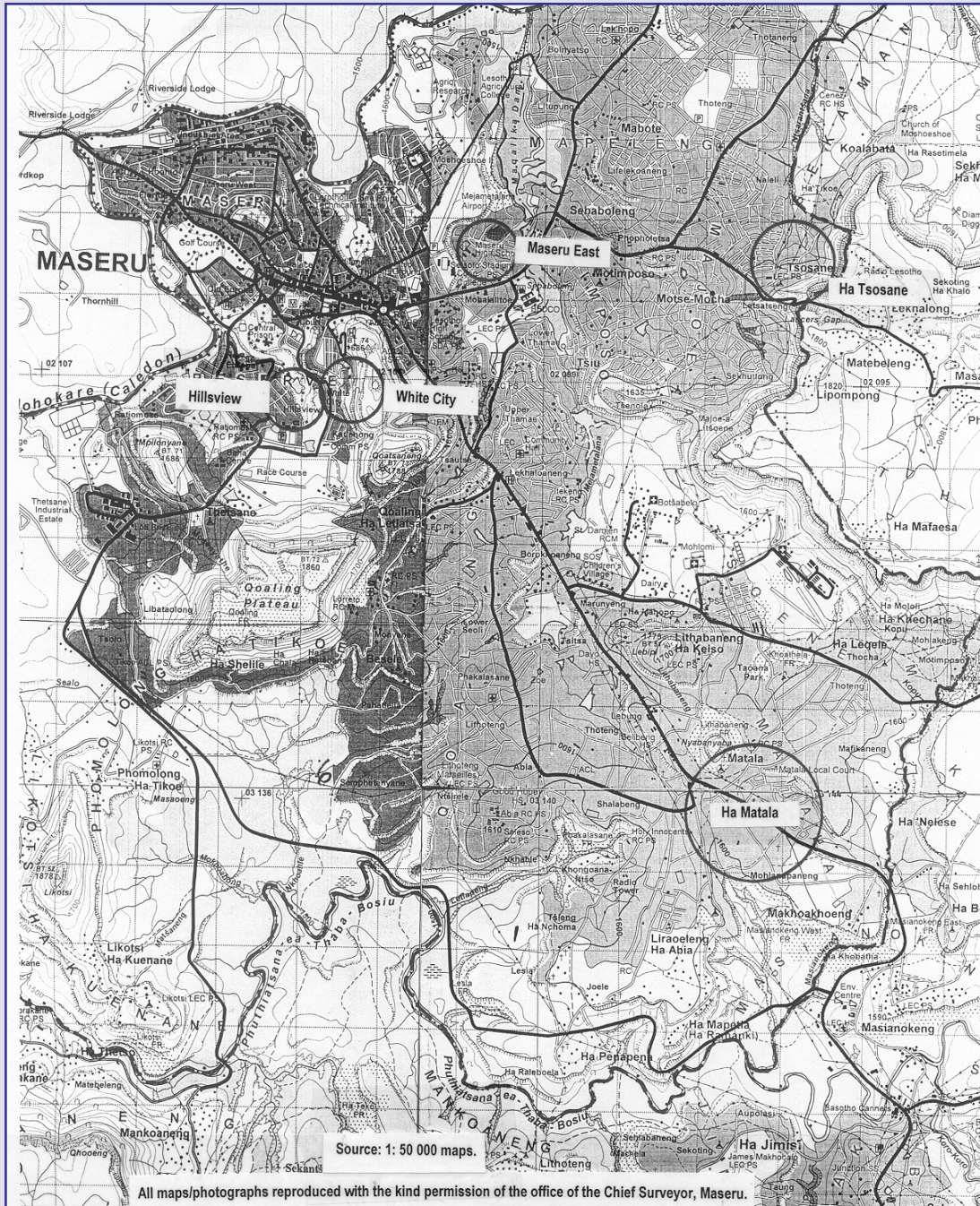
This section summarises and discusses the socio-economic status of beneficiaries of formal delivery systems, drawing extensively on the 1999 study (Figure 4). For the purpose of analysis, plot owners were classified into two groups, depending on whether a housing plot had been obtained as a free grant or through purchase. There was, therefore, a

group of *plot-allottees*, who had obtained plots as free grants, and *plot-purchasers*, who had bought their housing plots. Each category of rules was also divided into supply systems, depending on whether plots had been acquired freely or in exchange for cash. The former were regarded as non-commercial and the latter as commercial (Table 1). Various sources of plots under each of these systems were identified.

Table 1: Land delivery systems in Maseru

<i>Types of rules</i>	<i>Types of social relationships</i>
<p>Formal rules <u>Study areas:</u> 1999: MEWCH (Maseru East, White City and Hillsvie) and LHLDC mixed low and middle-income site-and-service scheme at Ha Matala</p> <p>2002/3 The study included pre-June 1980 Ha Matala, Ha Thamae and Ha Leqele, where local chiefs allocated housing plots on land not used for cultivation.</p>	<p>Non-commercial</p> <ol style="list-style-type: none"> i. Administrative relationships <ul style="list-style-type: none"> • Allocation by state agencies or the Minister • Allocation by reserve headman • Allocation by local chiefs prior to June 1980 ii. Inheritance/gift <p>Commercial</p> <ol style="list-style-type: none"> i. Lesotho Housing and Land Development Corporation ii. Plots purchased from original plot owners iii. Plots purchased from local chiefs prior to June 1980
<p>Informal rules <u>Study areas:</u> 1999: Ha Matala (70 households in informal area and 10 in LHLDC site-and-service area), Ha Thetsane and Ha Ts'osane</p> <p>2002/3 Ha Thamae, Ha Matala (30 additional households) and Ha Leqele</p>	<p>Non-commercial</p> <ol style="list-style-type: none"> i. Free allocation by local chief ii. Plots from family land as inheritance or gifts <p>Commercial</p> <ol style="list-style-type: none"> i. Plots purchased from local chief ii. Plots purchased from private field-owners who have illegally subdivided their land

Figure 4: Location of the 1999 study areas



Three indicators were used as proxies for the socio-economic status of household heads: educational qualifications, employment status and household possessions, based on evidence from household income and expenditure surveys carried out in the

mid-1990s. The Sechaba Consultants and the World Bank consider these indicators useful proxies for household wealth or deprivation in Lesotho and this was strongly corroborated by the results of this study²⁹.

Figure 5: Example of a formal layout - Ha Matala LHLDC



The household survey showed that all household heads or plot-owners in MEWCH (an acronym for the neighbourhoods of Maseru East, White City and Hillsview) had obtained housing plots through formal delivery systems. An analysis of the association between educational qualifications and the rules of access revealed that, in areas of formal systems (MEWCH and Ha Matala LHLDC – see Figure 5), the majority of plot-owners had relatively high educational levels, with 44 per cent having university education and 43 per cent senior secondary education or vocational training. With respect to plot supply systems, over four-fifths (84 per cent) of plot-allottees who had obtained land as free grants from non-commercial formal systems, who were all in MEWCH, had senior secondary education or above, with over half (51 per cent) having university education. In areas of commercial formal systems, nearly all (94 per cent) plot-purchasers had senior secondary education or above, with half of them having university education.

This suggests that access to housing land through commercial and non-commercial formal delivery systems has been easier for household heads with high levels of education and, by implication, high

socio-economic status. Therefore, it might be concluded that formal delivery systems have been elitist and were indeed meant to serve a specific group of people, who were to be the guinea pigs for modern tenure regimes.

Employment status and household possessions were found to be positively correlated with education levels, in that household heads with superior jobs were also the most educated and had the most possessions. As proxies for household wealth, the results of analysis of the association between employment status, household possessions and formal land delivery rules of access to housing land reinforced the findings reported above. The analysis of the association between gender characteristics and the rules of land access confirmed these results, in that access to land, especially through formal rules, was closely associated with the wealth of the individual, rather than gender.

Socio-economic status may be reinforced by social identity and networks, in order to negotiate formal state rules when searching for a housing plot. Although this study did not set out to investigate social identities and networks in detail, useful pointers to their existence became evident when probing for

information about the availability of plots. Formal rules (the LA 1979) stipulate that advertisement in local newspapers and government gazettes are the primary media through which the public will be informed when plots are available for new grants. Individual requests for land grants are, according to law, to be declared by application to urban land committees, which are required to decide on grants only after applicants have been interviewed. However, assembled evidence suggests that there were no formal criteria by which the choice between applicants was made when considering such applications.

Plot-owners who had inherited housing land apart, about a third (29 per cent) of those who had acquired housing plots through formal rules had responded to advertisements. Nearly half (46 per cent) had applied directly to the Minister for Lands or the LSPP and the rest had contacted friends, acquaintances or the reserve headman. The criteria that seemed to be in use with respect to land grants by committees and the Minister indicate that patronage systems and elite networks were at work. Firstly, with respect to urban committees, the status of an applicant's parent(s) or his or her relationships as friend or workmate with some or all the committee members seemed to be important factors in decisions on land grants. Even an applicant's recognition of the importance (past or present) of a committee member seemed to assist the process of obtaining a plot. These can be conceptualised as significant components of elite identities and networks.

In terms of grants by the Minister for Lands, components of social identity and network relationships were also discernible. Coupled with the importance of high social rank, personal acquaintance and wealth were corruption and misuse of office, which were alluded to by various sources. Clearly, therefore, patronage systems and elite networks were strongly implicated in formal delivery systems.

As argued elsewhere, although in theory legal instruments may not discriminate between individuals on the basis of their socio-economic wealth, in actual use, law can be manipulated and used in the interests of particular groups. Access to land through formal delivery systems established under the LA 1979 shows strong impressions of power and privilege, based on the socio-economic status of household heads. In contrast, in areas of informal delivery systems (discussed below), market relations or networks of relationships based on family and friendship ties were important factors that structured property relations.

Informal land delivery systems

One of the main purposes of this research was to analyse the extent to which informal land delivery systems meet the demands for land by all urban residents, especially the urban poor and women.



Lower Thamae at Six Ponto



Part of Ha Leqele

In the absence of true market relations and real estate agents in Lesotho, networks of friends, relatives and acquaintances, as well as local chiefs, were important sources of information leading to the successful acquisition of an urban plot, in contrast to the elite networks that were characteristic of formal delivery systems. In areas of informal delivery systems, over 90 per cent of plot purchasers relied on friends/relatives as important sources of information on plot availability. Friends and relatives also acted as initial brokers in plot acquisition and witnesses to transactions and disputes. A similar proportion of allottees had sought information from friends/relatives, as well as using their own knowledge of what was on offer in their home area.

Land/plot prices and affordability

Overall, the cost of land in the more centrally located and consolidated area of Lower Thamae (M11.00/m²) was appreciably higher than in the peripheral settlement of Ha Leqele (M1.30/m²), although it was still a fraction of the cost of a unit of land in areas of formal land delivery systems such as Ha Matala,

LHLDC and MEWCH. In the former, a unit of land cost M14.00/m² while in the latter it cost M48.00/m² in 2002 prices. The irony, however, was that virtually all focus group participants perceived land prices as having become prohibitively expensive over the years. This could be because ordinary residents compared only nominal prices that did not take account of inflation. The analysis seems to show that in all the areas, a unit of land was more costly in real terms in the 1970s than in the 2000s.

An analysis of the price of plots in relation to minimum wages indicates that plots in areas of informal delivery systems, especially in peripheral settlements such as Ha Leqele, were affordable to a wide range of individuals. For example in 2002, survey data showed that a typical 900m² plot sold for nearly M10 000 in Lower Thamae and M1 200 in Ha Leqele³⁰. Based on a minimum wage of M621 per month, it would take approximately 8 months for an unskilled labourer to purchase a 900m² plot in Ha Leqele, assuming that 25 per cent of gross monthly income was set aside for this purpose³¹. Affordability is further enhanced by the flexible payment arrangements that typify informal land delivery systems (such as instalments and in-kind payments).

The characteristics of plot owners

Similar to the analysis in the preceding section, three indicators were used as proxies of household wealth: educational qualifications and employment status of the head of household and household possessions.

Combined analysis of the data from the study areas of Lower Thamae, Ha Matala and Ha Leqele shows that nearly half (48 per cent) of plot-owners had not attended school at all or had only primary level education, 36 per cent had secondary (junior and senior) or vocational training and less than one-fifth (16 per cent) had university education. Nevertheless many heads of plot owning households were in full-time waged employment at the time of plot acquisition (70 per cent of the total). Sechaba Consultants and

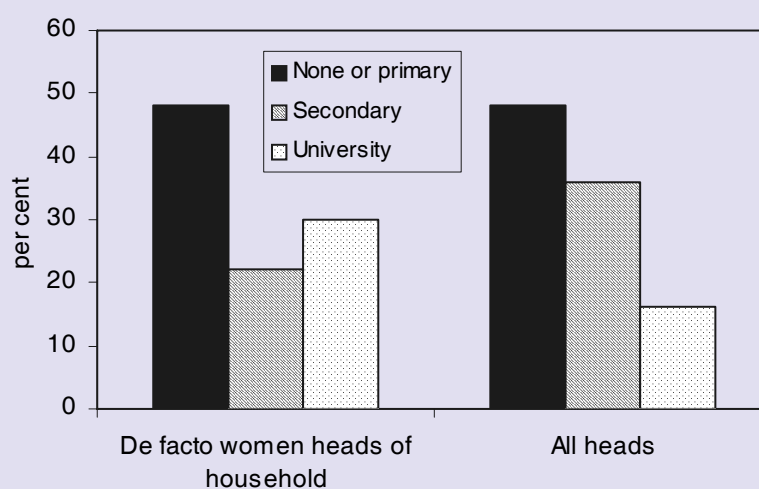
the World Bank note that the poorest households in Lesotho were those headed by individuals with primary education or no schooling. The proportion of plot owners with no or primary education is lower than for all urban adults, approximately three quarters of whom had little education in 2001 according to the Lesotho Demographic Survey. Nevertheless, on the basis of the educational levels of plot owners it was concluded that informal delivery systems have been accessible to a wide range of households, including the poorest. Non-commercial systems appear to have provided access to land for uneducated household heads in the past (prior to 1970 in Lower Thamae and prior to 1980 in the other study areas). Recent land acquisitions are, however, almost entirely through commercial channels. In addition, levels of poverty and deprivation have worsened. As a result, in recent years land in informal settlements has been less accessible to the poorest households with uneducated heads, although relatively poor households can still obtain land, as shown by the analysis of prices in relation to wages above.

Overall, both commercial and non-commercial formal delivery systems seem to discriminate between individuals on the basis of wealth rather than gender. In Lesotho in 1995 54 per cent of urban households

were headed by women: 25 per cent *de jure* (widows, the never married, divorced or separated) and 20 per cent *de facto* (heads by virtue of temporarily absent husbands). There was little difference between households headed by men and *de jure* headed by women in terms of wealth or socio-economic status³¹. In the formal areas studied, about a quarter of plot owners were *de jure* women heads.

Non-commercial informal delivery systems, however, appear to discriminate on the basis of marital status and therefore indirectly on the basis of gender. They have delivered land mainly to married men and rarely to never married men or *de jure* female heads of households (except for those who have inherited land from their husbands), marriage being one of the strongest qualifications for allocation of land under true customary systems. Therefore, *de jure* female heads and never married men seem to have limited options outside commercial informal delivery systems. Two thirds of the *de jure* female household heads who had acquired plots had bought them through such channels. Thus women *de jure* households heads who were plot owners were not the poorest, as illustrated by the higher than average proportion of such women with university level education (Figure 6).

Figure 6 The educational levels of plot owning household heads



Consolidation

Consolidation of informal settlements

Informal settlements expand and consolidate through two processes. One is the continued subdivision of empty or uncultivated land on the periphery of a settlement under a local chief. Such a settlement expands until it reaches another settlement under the jurisdiction of another chief. The outcome is that settlements coalesce to produce extensive areas of un-serviced haphazard subdivisions. Once settlements have grown into each other, peripheral expansion is inhibited, except for settlements on the edge of the built-up area. When this happens, *in situ* consolidation begins, through the construction of rental units, subdivision of existing plots and infrastructure installation. These consolidation processes are discussed below.

Consolidation through construction of rental units

The incidence of rental housing in Maseru is high. According to the Bureau of Statistics, 54 per cent of urban households live in rented accommodation³². In a recent study in the former peri-urban areas of Ha Tsolo and Ha Thetsane West, where 956 households were surveyed, 68 per cent were tenants and 32 per cent were homeowners³³. Sechaba Consultants considered this proliferation of rental accommodation to be the consequence of rapid urbanisation, especially the effect of new garment factories located in their study area. This rental housing is provided in the form of rows of single or double rooms (locally styled *maline*), an indication that plot owners were cashing in on investment opportunities created by the growth of the garment manufacturing industries.

In Lower Thamae, 40 per cent of owner-occupied plots had rent-paying households on their plots³⁴. The proportions were similar for Ha Matala and Ha Leqele, where 12 per cent of plots in each area had rent-paying households. The difference in the proportions of plots with tenants could be explained by the difference in the ages of the study areas and



Densification through maline, shop and residential house at Lower Thamae

their stage of consolidation. In Lower Thamae, the oldest of the three settlements, consolidation through the construction of rental units on owner-occupied plots was, as expected, more advanced. There were also, on average, more tenant households per plot in Lower Thamae than the other two settlements: 1.6 compared to 0.4 in Ha Matala and 0.5 in Ha Leqele. However, on the plots with absentee owners, the number of households per plot was nearly the same in all the study settlements: 4.03 in Lower Thamae, 4.00 in Ha Matala and 4.25 in Ha Leqele.

The number of persons per plot can be estimated using the average urban household size of 3.7 persons³⁵. Overall, on plots that contain rent-paying households, with either resident or absentee landlords, there are approximately 15 persons. This is much higher than the overall average of 4.3 persons/plot in Lower Thamae, 4.5 in Ha Matala and 4.5 in Ha Leqele.

Consolidation through plot subdivision

A second process through which consolidation can occur is the subdivision of existing plots. As briefly alluded to above, this can be triggered by a number of factors, chief amongst which are the subsistence needs of the family. In Lower Thamae, eight households (8 per cent) had subdivided their plots, the first in 1980. An additional 17 plots were the outcome, an average of two plots per subdivision. In Ha Matala, the question about plot subdivision was asked only to the 30 additional households, of which only two reported having subdivided their plots since acquisition. In Ha Leqele, eleven households (11 per cent) reported having subdivided their plots since the date of acquisition, the first in 1987. From these plots, an additional 21 plots were the outcome, representing an average of two plots per subdivision.

The general picture that emerges from the above analysis is that plot owners have generally been unwilling to subdivide their plots. In all the study areas, three quarters or more of the plots fell within the 500m² – 2 999m² range. The average plot size was universally around 1 500m² (Table 2). With the exception of Ha Leqele, where plots were slightly larger, the average plot sizes in Lower Thamae and Ha Matala were fairly similar to those recorded by the Sechaba Consultants in similar areas (Table 2). Thus contrary to the perspective that dominates official thinking, plot sizes in informal and formal housing areas are fairly similar. The main exceptions are housing areas that were specifically meant for low-income housing and the post-1990 formal housing layouts for middle and high income people, in which plots have tended to average 900 m². Interestingly, the most frequently occurring plot size in all three case study areas was 900 m², which perhaps indicates the strong influence that plot sizes in formal layouts exert on informal subdivisions.

In general, it can be concluded that consolidation through the subdivision of large plots is not popular. If the experience of Lower Thamae is anything to go by, then consolidation tends to occur instead through the construction of rental units. If, as this study seems to indicate, more and more owners are likely to build rooms for rent on their plots as time goes by, there will be a need for the gradual provision of improved infrastructure and services to keep pace with increases in density.

Explanations of plot owners' penchant for large plots come from focus groups, especially those held in Lower Thamae, where any demand for new plots has to be met by the subdivision of existing plots. In this area, focus group participants argued that large plots ensure that their children will have somewhere to live in the future. This suggests that a piece of land acquired today is meant to serve not only the



Maline under construction at Ha Leqele

Table 2 Plot sizes in formal and informal settlements

	Lower Thamae (informal)	Ha Matala (informal)	Ha Leqele (informal)	Sechaba Consultants (2002³⁶) informal study areas (owner-occupied plots)	MEWCH Formal areas (2000)
Range (sq m)	500 - 2 999	500 – 2 999	500 - 2 999		
Per cent within range	87	79	74		
Mean (average) (sq m)	1 500	1 400	1 600	1 443	1 600
Median (middle value) (sq m)	900	1 200	1 500	993	1 500

needs of the present, but also those of future generations. This might explain why most focus groups associated the subdivision of fields or existing plots for sale with family hardships, such as a death in the family or the need to pay school fees. A piece of land seems to be regarded as an asset more or less akin to an insurance policy against potential hardship at some time in the future. In more or less similar fashion, Devas argued that acquisitions in the 1980s were essentially speculative in the sense that plots were acquired for future use, rather than to meet immediate housing needs³⁷. This assertion appears valid, given that on most plots it took some time for house construction to take place and an even longer time for *maline* (rental rooms) to be constructed.

In addition to the above explanations, successive studies reveal that large plots in informal settlements are valued because they allow multiple uses (see box). From the 1999 study, it was concluded that, despite similarities with respect to plot sizes, there were substantial differences in the use of plots acquired through formal and informal rules. Nearly 10 per cent of plot owners in the recent surveys had business enterprises on their plots and nearly 20 per cent kept livestock.



Vegetable garden at Lower Thamae



Small shop/café at a gate at Ha Matala

Multiple uses of residential plots

The 1999 survey revealed that, in areas where access to plots was through formal rules, about 5 per cent of plots were under multiple uses, excluding *maline*. Such multiple uses included vegetable gardens (on 56 per cent of these plots) and very occasionally poultry (on 2.5 per cent). In contrast, in areas where access to housing plots was through informal rules, 45 per cent of plots had other uses, excluding *maline*. Nearly three-quarters (70 per cent) of those plots with multiple uses had vegetable gardens; 17 per cent had small and large livestock, such as sheep, goats, cattle, pigs or poultry; and about 7 per cent had a shop/café or some other type of business, such as the sale of bottled gas, wood, coal or beer.

In the current study, 6 per cent of plots in Lower Thamae had businesses on them and 19 per cent had small or large livestock. In Ha Matala, 9 per cent of plots had some form of business while 18 per cent kept small or large livestock. In Ha Leqele, 8 per cent of plots contained businesses and 13 per cent kept large or small livestock.



Open sewage stream at Lower Thamae

Consolidation through infrastructure installation

Generally, owners in informally subdivided peripheral areas have had to rely on their own resources for environmental health services, especially in the early days of settlement – wells and pit latrines. However, in areas connected to the citywide reticulation system, it was possible to make an individual water connection on acquisition of a plot and the proportion of owners doing so has increased over time. Very few had seen the need for or been able to make the transition from pit latrine sanitation to waterborne sewage disposal. Little if any investment in access roads has occurred and access to social facilities is patchy, while no solid waste collection services are provided. As densities have increased, for example in Lower Thamae, infrastructure services have come under increasing stress and environmental quality has deteriorated.



Disused access road turned into solid waste disposal dump at Lower Thamae

Perceptions

Social actors' perceptions of land delivery rules

The purpose of this section is first to discuss how actors perceived both formal and informal land delivery rules, as a prelude to identifying possible explanations for why informal systems seem to work reasonably well in delivering land for housing. It draws on information gathered in the 1999 and 2003 focus group discussions, with corroborating evidence from the semi-structured interviews, the socio-economic surveys and secondary sources.

The last part of the section assesses whether the social rules governing informal land delivery in Maseru engender trust and social legitimacy.

Actors' perceptions of formal land delivery systems

In Ha Matala (1999 and 2002/3), Ha Thetsane (1999) and Ha Tsósane (1999), participants in focus groups expressed various views regarding the formal land delivery systems. The following is a catalogue of some of these perceptions.

1. Formal delivery systems are regarded as too expensive because a lot of money has to be paid out, chief amongst which are survey fees. In addition, there is an obligation to pay ground rent once a leasehold has been secured. However, with the exception of the local chief of Ha Leqele, who was adamant that a leasehold conferred no greater security of tenure than a Form C, the focus groups were unanimous that people who had a lease possessed a stronger form of title. In disputes, it is common knowledge that a person who has a leasehold will be favoured by the courts of law.
2. Accessing land through the leasehold process was considered to be a complicated process, which is understood by only a few people and which requires legal assistance. Leases, they stressed, take too long to process. However participants, especially in Ha Leqele and Ha Matala, seemed to be aware that the process can be speeded up by an applicant paying his or

her way through what they considered to be a very complicated system.

3. The plots that were sold by MCC and the LHLDC were considered to be too small, restricting flexibility in plot use, including the construction of rooms for rent, small business ventures and the keeping of livestock.
4. Group participants regarded the MCC and LHLDC housing areas as being meant for rich people.

Actors' perceptions of informal land delivery systems

Masimo (field) owners were the most important sources of housing land. The main purpose of this section is to discuss how actors, especially these owners, perceived their rights over their land. This is important because under customary laws of land tenure, individual rights to land were considered secondary to those of the larger community or family. An individual could only enjoy use rights, which were inheritable but could not be alienated from the family or community by means other than those sanctioned by the larger collectivity. In Lesotho, this principle is enshrined in legislation related to both customary and statutory tenures. In the former, land allocated for the cultivation of crops cannot be converted to an alternative use unless the principal (not the local) chief gives his/her consent. In the latter, the conversion of arable land to other uses has to have the consent of the Minister responsible for lands.

Two issues seem pertinent here. The first are field owners' perceptions of the extent of their rights over *masimo* and what they believe they can or cannot do with such land. Knowing how field owners perceive their rights to land could go a long way towards explaining informal subdivision of arable land or fields (*masimo*) for private purposes or gain, even though by law (customary and statutory) such land belonged to all Basotho. Understanding these perceptions was also important because in practice,

the subdivision process occurs as though people are transacting in land on which they have full and unencumbered rights. In the process, some land has been alienated from the original families to which it had been allocated. Where no such alienation has occurred, minor interests, such as informal subletting and rental of fields, have been created³⁸. The second pertinent issue relates to the factors that lead to informal subdivision of *masimo* into plots for sale.

Actors' perceptions of rights to land

Responses to the question of rights to *masimo* were pointedly brief. The Ha Matala and Ha Thetsane groups were emphatic that fields belonged to the people to whom they had been allocated and that their right to do as they pleased with their land was beyond question. For instance, according to the Ha Thetsane group, "a field belongs to the person to whom it has been allocated and that person is free to use it as s/he sees fit. S/he can rent or sell it. It is his/her property" (April, 1999). Equally, the Ha Matala group (March 2003) strongly argued that, "at the end of the day, the field owner has every right to subdivide his/her field and to give plots to anyone who is willing to pay. It is his/her field".

Responses to a follow-up question about land belonging to the Basotho nation indicated that, although participants agreed in principle with this maxim, they interpreted it rather differently. To them, that land belonged to all Basotho did not imply that it could not at the same time belong to them as individuals. As one participant opined, "I am part of the nation, so the land belongs to me too" (Participant, Ha Thetsane Group, April 1999). A further probe into why they sold Basothos' land, but kept the money for private use, was met with a response that suggested that participants found the question to be somewhat intimidating: "It should be nobody's business what we do with our money!" (Ha Matala Focus Group, April, 1999).

It may be thought that the sentiments expressed above were precipitated by the appreciating value of hitherto rural land as a result of urban growth. However, in a 1994/5 study of the effects of traditional land transactions on people's inclination to soil conservation, which involved a survey of 330 rural household heads, 93 per cent argued that fields belonged to the people to whom they had been allocated, and that their rights to their fields were unquestionably secure³⁹. In the context of this study of Maseru, it would appear, therefore, that the "customary" norms that are often called upon to define property relations are largely irrelevant.

An important lesson that emerges from the foregoing discussion is that, despite the introduction of a nationalised tenure regime under the LA 1979, people are conscious only of their rights to land as individuals, and do not see these rights as being secondary to those of the nation or the state. There is, therefore, a wide discrepancy between what people consider to be their legitimate entitlements to land in their everyday lives and their rights and entitlements as defined in formal state rules.

Factors behind the subdivision of masimo (fields)

A variety of factors that led people to privately subdivide their fields into plots for sale were unearthed by both the 1999 survey and the focus groups in the 2002/3 study. In the 1999 study, by far the largest proportion (46 per cent) of field owners who reported having subdivided their fields cited the need for cash as the primary reason, followed by those who indicated that they feared that government would take their land without compensation (23 per cent). Other reasons were that their land was already under threat of encroachment by the built-up area of the town (15 per cent), as well as the desire to give plots to family members (15 per cent). Although many of these reasons were provided as single reasons, it is possible that a combination of factors could have led to a decision to subdivide⁴⁰.

Virtually all the field owners who had subdivided for the purpose of selling plots in Ha Matala reported spending the proceeds on food and clothing. Similarly, in Ha Thetsane over three-quarters (82 per cent) of those who had subdivided with a view to selling the plots reported spending their money on food and clothing, with a small proportion having spent the money on school fees (9 per cent) or the construction of a new house (9 per cent). Seeko's (1996) study revealed a similar situation in another former peri-urban neighbourhood (Ha Abia), where over 70 per cent of field owners who had sold plots had spent the money on food and clothing or 'family support', 8 per cent on school fees and 12 per cent on the construction of a new house⁴¹. Clearly these patterns of expenditure suggest that many sales are distress sales.

In focus group discussions in the 2002/3 study, responses to an enquiry about the various ways in which plot purchasers might pay for plots seemed to further emphasise the frequency of such distress sales. In virtually all the focus groups, various methods of paying for plots were indicated. Typical methods were that the plot buyer could build rental units or a house in return for a plot, or pay school fees for the seller's children over an agreed period

of time, or the plot buyer could assist the seller with funeral rites in the event of death in the seller's family. Clearly these methods of payment for plots reflect a situation where land is sold in order to offset financial problems.

As argued in detail elsewhere, field owners and plot purchasers were all acutely aware that the subdivision of *masimo* into plots for sale was illegal. Even if they were not aware of this in the initial stages of the implementation of the LA 1979, they had subsequently understood the position and could have stopped illegal subdivisions, if they had wished to do so. However, focus group participants advanced strong reasons for acting the way they did. First, informal subdivision of *masimo* seems to be a consequence of the manner in which the LA 1979 was implemented. In particular, participants cited the lack of compensation for land appropriated by the state as a reason for subdividing and selling it themselves. Even after 1986, when compensation for expropriated *masimo* land was introduced, the amounts paid were considered derisory compared to returns from individual private sales. Second, *masimo* owners were of the view that they were merely doing what government does, in contravention of its own law.



Informal construction on steep slopes

Two lessons seem to emerge from the foregoing discussion. First, despite customary and statutory provisions, *masimo* owners perceive their rights to land as absolute and unencumbered, not subservient to the state, government or the Basotho nation. In other words, despite the nationalisation of land rights under the LA 1979, they were conscious only of their rights as individuals, which could explain why, despite statutory prohibitions and reference to “custom”, individual *masimo* owners were inclined to transact in land as of right. Second, although low levels of compensation undoubtedly do drive some subdivision by owners, the analysis of expenditure of proceeds from the sale of urban plots suggests that many are distress sales, which are likely to continue, even if adequate or market-rate compensation is introduced.

Sources of trust and legitimacy

At the beginning of this research, it was strongly believed that informal land delivery processes within regulatory frameworks that actors develop to suit local circumstances, and that such regulations are often a hybrid of formal state rules and behavioural norms, including custom. The evidence that was assembled and analysed generally supports this thinking. It was thought that, as informal settlements consolidate over time, significant changes occur, which involve transactions in land, contractual agreements, and disputes arising and being resolved. The hypothesis that drove this study was that transactions are upheld because they are considered to be socially legitimate, this legitimacy was expected to be an outcome of *trust*, defined as expectations or faith in the integrity or trustworthiness of parties to a transaction or relationship. However, very little evidence indicated that transactions were considered to be legitimate because they were underpinned by *trust*. Instead, legitimacy derived from other aspects of the system.

From discussions with various focus groups, it emerged that people resorted to informal land delivery systems not because they trusted such systems or felt they were legal, but because these systems were less complicated than formal systems, relatively inexpensive and well known to those involved. For instance, in 1999, focus group participants were quizzed about why plot acquirers and field owners relied on the services of the local chiefs for sealing plot acquisition transactions. One group indicated that the chief was nearer to them and responded quickly to their needs, unlike the Maseru City Council, which was remote. Another group felt that most people who lived in towns originated from the rural areas and were, therefore, inclined to approach the only land authority that they knew - the local chief. However, transactions that were sanctioned by these chiefs were reported to have serious pitfalls.

First, the Form C is no longer a valid certificate of allocation. All the groups seemed to agree with this. It was argued that this explained why the date-stamp had to be switched back to a period when Form Cs were legal, meaning prior to June 1980, a strategy that I have described as false compliance⁴².

Second, especially in areas that were seemingly unoccupied, there was a danger of double or more allocations, where each of the would-be owners could be in possession of a written agreement that had been duly witnessed and attested to by the local chief. Most focus groups maintained that it was not unusual for an individual to fence a plot, only for another person to begin digging foundation trenches the next day. This also partly explained why there were some incomplete or seemingly abandoned housing structures, in Lower Thamae in particular. All the groups were unanimous that, although acquiring land through informal delivery systems might look like a benign process to an outsider, in practice, it was deceitful and needed to be treated with utmost caution. This, perhaps, explains why each and every thing negotiated between parties to a transaction has to be committed to writing and witnessed.

The absence of trust in informal delivery systems may also explain why plots in the informal areas have tended to be developed faster than those in areas of formal rules. For instance, in the Ha Matala LHLDC area, only 30 per cent of plot owners had built their houses within the first year after plot acquisition, while in MEWCH even fewer plot owners had done so (23 per cent). In contrast, in the informal area of Ha Matala, 48 per cent of plot owners had built houses in the first year after acquisition. To avoid the loss of a plot through a double allocation in an informal area, the best strategy is to put up a housing structure on the plot, as a physical indication of an active claim on the land. This is because, in the event of a double allocation dispute, the LA 1979 provides that the individual who has developed or who occupies and uses land becomes the legitimate claimant.

However, to argue that transactions in informal land delivery systems do not appear to be underwritten by trust is not the same as arguing that these systems lack legitimacy. These systems are widely regarded as legitimate by those who use them. This legitimacy seems to derive from a number of sources, none of which reflected *trust*.

- First, the legitimacy of informal systems appears to derive from the power of the written word. In focus group discussions, it emerged that to ensure that one party does not renege from an agreement, all agreements and transactions have to be written and witnessed. Witnesses include the customary chief and his/her aides or committee members.
- Second, legitimacy is derived from the power of numbers. It was strongly argued in the focus groups that the practice of backdating Form Cs was so pervasive that it would be difficult for transacting parties not to accept the system as legitimate, although it is not necessarily trustworthy.

- Third, legitimacy derives from experience. Here participants seemed aware that evidence from the chief and his/her committee, as well as other witnesses, was often demanded and accepted by the formal courts, should matters go that way.
- Fourth, since most contacts are personal (friends/relatives), it might seem that these initial contacts could engender some element of trust, at least in the early stages of a transaction. However, focus group participants were adamant that such initial contacts provided no guarantee that the deal would be successfully concluded. From this evidence, therefore, it would appear that even the fear of social ostracism did not exist.
- Fifth, legitimacy derives from the fear that an aggrieved party might seek a remedy from the formal court system, a prospect that many people appear to dread, given the expense involved.
- Sixth, focus groups also implied that there was always a possibility that brute force might be used if one party fails to uphold its end of the bargain.

The above points were derived from extensive discussions in focus groups and in-depth interviews with key informants, which were open and candid in all the study areas. Importantly, although residents had faith in the Form C and the local chief, as well as witnesses to a transaction, they were also acutely aware that the Form C, the chief and all the witnesses would be useless if one of the contending parties had a leasehold document.

Policy

Conclusions and key policy implications

Unresolved political and organisational conflict

This study has shown that there is an unresolved political and organisational standoff between the traditional authorities and the central government, which has continued from the colonial period to the present. This conflict, sometimes open, but often covert, has to be dealt with in open discussions between the two groups. The example of Botswana's Land Boards, although not entirely successful, indicates that working with the customary authorities and not against them might be more fruitful.

Conflicting views over land between the traditional authorities and the central government can only be harmonised by dialogue.

In addition, what the Botswana experience illustrates is that land issues are highly localised and need to be handled at the local level. Given that central government is so far removed from local issues, perhaps it is time to begin to rethink the wisdom of marginalising local chiefs in land matters. Consideration should be given to reviving the role of local chiefs in land matters assisted, where appropriate, by elected community members and professional staff from the Maseru City Council. It should, of course, be ensured that chiefs allocated such a role are held responsible for the routine administration and management of land at the local level and made to account for what happens in their jurisdictions.

Although traditional authorities are at the centre of informal land delivery processes, their motive for involvement has been a matter for speculation. They are sometimes accused of playing a significant role in aborting state efforts to implement land reforms.

However, this appears to have been exaggerated. This research has not produced any conclusive evidence to suggest that traditional authorities have deliberately worked against the enforcement of land reform programmes, especially the LA 1979. Chiefs have, instead, behaved very much like any other customary land owner and have only used their *de facto* authority to assist their subjects against what is popularly regarded as unfair land appropriation by the state.

The role played by local chiefs in land administration should be recognised and consideration given to incorporating them officially in local land delivery and administration.

The assumptions underlying land tenure reforms

The study has shown that the LA 1979 was originally based on erroneous assumptions about property rights, derived from customary norms that were said to assume that land was a free good. It has been shown that this principle was applied to agricultural land within declared urban areas, but excluded rural areas, since the latter sustained the livelihoods of the rurally-based landed class of chiefs, especially the senior ones. Although rights in urban agricultural land were subsequently relieved of the burden of invented custom in 1986, the compensation that the state was willing to pay for land it expropriated appears to have been too low to discourage field-owners from privately subdividing their land.

However, it also emerged that compensation was not the only factor that had led to informal subdivision. Many land sales, perhaps a substantial proportion, are distress sales, which would probably lead to informal subdivision even if adequate or market-rate compensation for expropriated land is

paid. It is evident, however, that such sales have also been sustained by a demand for housing land that the state has consistently failed to satisfy, coupled with the discriminatory nature of formal land delivery systems, which have consistently favoured relatively wealthy household heads. This points to a need to support rather than proscribe informal delivery systems. The results of this and other studies demonstrate that, as informal delivery systems become increasingly commercialised, the urban poor are steadily edged out of the land and housing market. Although the poor do seem to fare better in Maseru than in many cities in other countries and under informal than formal systems, there does not seem to be a clear-cut solution to this problem.

The vital role of informal delivery systems in urban land supply should be recognised and they should be supported rather than proscribed.

Are actors in informal land delivery systems ignorant of formal rules?

One of the major concerns of policy makers was that field owners and chiefs deliberately or out of ignorance fail to comply with the law. However, evidence from this study indicates that actors' behaviour was a direct response to state rules and enforcement methods. Their behaviour was neither deliberately antagonistic to state rules nor was it borne of ignorance. The examples of state enforcement strategies and actors' responses clearly show that there was no dialogue between policy-makers and policy-recipients, which, in the opinion of this author, reflects problems of governance, lack of accountability and absence of participatory decision-making, over and above the glaring deficiencies in management capacity.

Actors in land delivery systems are more likely to comply with state rules if they are involved in the formulation and implementation of those rules.

For appropriate formal rules governing land delivery to be devised and enforced, an increase in the capacity of the relevant land management agencies is required.

Do informal land delivery systems lead to urban sprawl?

There is an assumption that informal land delivery systems have led to low-density urban sprawl, because illegal plots are unreasonably large. This study has demonstrated that this assumption is erroneous. While there is a wide range of plot sizes in informal areas, many of the plots are similar in size to those in planned areas. In addition, as informal areas become commercialised and consolidated, initial or further plot subdivision results in plots that are often substantially smaller than those in many formally planned areas. In addition, densities, measured in terms of number of households or persons per plot, were found to be substantially higher in areas of informal delivery systems, especially in the more centrally located and consolidated areas.

Clearly the formal rules set plot standards that result in urban sprawl, even if informal private subdivision does not occur. The Ha Matala LHLDC area seems to indicate that urban planners are beginning to reconsider the appropriateness of formal requirements on plot size – if the plot sizes in some formal residential areas are reduced, this may have a demonstration effect on informal subdivision practices.

Planning requirements related to plot size should be reconsidered, taking into account people's need for plots that are large enough to permit multiple uses and that provide space to accommodate their children, as well as the costs of urban sprawl.

Although able to deliver significant amounts of land to most urban residents, informal delivery systems invariably supply un-serviced land and subdividers lack the resources to instal infrastructure. Informal systems also fail to adhere to planning principles of order and regularity. This, perhaps, points to a niche area where (local) government intervention might be productive. However, such intervention should not be a justification for forbidding and persecuting informal initiatives, as has been the case lately in Maseru.

Support to informal subdividers to adopt appropriate layout principles and standards, together with programmes of incremental infrastructure provision, are more appropriate than demolitions, which decrease the supply of urban housing without deterring ongoing subdivision.

Security of tenure

Although residents claimed that the Form C provides adequate security of tenure, the reality seems to be somewhat different because the same residents seemed to be aware of the many problems that confront Form C holders. Nevertheless, in contrast to formal leaseholds, a Form C represents a simple and relatively cheap form of title document, which might be adapted for the purpose of increasing tenure security in informal settlements. Moreover, the Form C is well understood because it is locally administered and managed.

Documents that provide secure tenure should be relatively simple to understand and obtain, especially for owners with limited resources and no desire to use their plots as collateral for borrowing.

Leaseholds could be available for individuals who need to use their land as collateral, but a leasehold should not weigh any more than a Form C or its variants. Some key informants in informal settlements did not appear to recognise the virtues of leasehold. As a result, leaseholds were regarded as titles for rich people and the procedure for obtaining a lease considered expensive, lengthy and complicated. This perception seems to run in the face of the new land law proposed in 2003, which suggests more than three different types of leasehold. For ordinary people to contend with one or two types of non-agricultural leasehold was difficult enough, but to expect them to grapple with three or more different types of leasehold title is bordering on the absurd. The proposed bill needs to be revisited, with a view to making its provisions simple and user-friendly.

Increasing access to land by low-income households

Recent land acquisitions in informal delivery systems are predominantly through commercialised channels. This might, as pointed out above, work against the delivery of land to the very poorest. However, the advantage of informal practices in contemporary Maseru is that payment is often not strictly in hard cash and is flexible. This flexibility ensures that people of various wealth categories, including the poor, have been able to access land. As noted above, one of the requirements for MCC and LHLDC plots was a regular income, which many urban residents do not have.

Flexible methods of payment for plots increase access to land by those with low or irregular incomes. Thus the possibility of adopting flexible payment arrangements in formal land delivery systems intended to provide middle and low-income households with access to land should be investigated.

Consolidation of informal settlements

Consolidation was noted to occur through the construction of *maline*, and to a small extent the subdivision of plots. The construction of rental rooms ensures that densities increase to levels at which it might be affordable to provide improved services. However, there is a danger that very high densities might become environmentally unsustainable. Indications of this were obvious in Lower Thamae, especially with respect to solid waste and wastewater disposal. Incremental improvements to infrastructure are needed, using approaches and technologies suitable to the density of consolidating settlements.

Infrastructure and services should be incrementally upgraded as settlements consolidate and densities increase.

In order to instal infrastructure and secure payments for services provided, records of plots and their owners and occupants are needed. However, one key lesson of experience that emerges from this research is that the system of land records in Lesotho, Maseru and Maseru City Council is hopelessly inadequate. There is, therefore, an urgent need to establish and maintain a proper Land Information System if land management is to be improved.

Improved land management requires a complete and up-to-date Land Information System.

Lack of management capacity

The MCC was conspicuous by its absence in the informal settlements that now comprise more than 80 per cent of the built up area of Maseru and accommodate a similar proportion of the urban population. As a result, municipal services, such as collection of solid waste and maintenance of access roads, are lacking, as is the collection of revenue. There is a need to integrate these settlements into the wider municipal area, not only in boundary terms, but also in terms of service provision and revenue generation. So far the MCC appears incapable of devising appropriate strategies for bringing informal settlements under its management.

In order that informal settlements can be integrated into the urban area, provided with adequate services and generate revenue, the capacity of the Maseru City Council should be significantly improved.

Appendix

Methodological approach

This research entailed the use of multiple methods of data collection, involving secondary data search and qualitative and quantitative surveys. Multiple methods were employed in order to enable the triangulation of data. The initial effort concentrated on updating the secondary material already available from the 1999 study, including reports, policy papers and new and proposed legislative instruments. This process was undertaken concurrently with the quantitative surveys, followed by qualitative enquiries.

Secondary data assisted in understanding contextual factors, such as economic trends, policy transformations, political changes at national and local (city) levels and population trends. Information on the developmental trends and land delivery processes in Maseru, such as land and court records, maps and poverty studies, was also collected and its adequacy assessed. Most of the secondary data was obtained from the organisations listed below, of which the Directorate of Lands, Survey and Physical Planning (LSPP) was the most crucial, as it is responsible for the implementation of formal state rules.

- Ministry of Local Government (MoLG)
- Directorate of Housing, Lands, Surveys and Physical Planning (LSPP)
- Maseru City Council (MCC)
- Lesotho Housing and Land Development Corporation (LHLDC)
- National Assembly Library
- University of Lesotho (Government Archives)
- University of Lesotho (Institute of Southern African Studies)
- The Bureau of Statistics (BOS)
- The Sechaba Consultants
- The Lesotho Magistrate and High Court.

Sample surveys of plot owners were carried out in the three case study settlements using a questionnaire jointly developed by the six teams involved in the comparative study, which was translated into Sesotho and slightly modified to suit the circumstances of Maseru following a pilot survey. The intention was to achieve a sample size of approximately 100 responses in each settlement. In Lower Thamae and Ha Leqele 100 questionnaires were administered, with a 100 per cent response rate.

Lower Thamae: Compared to other informal areas in Maseru, Lower Thamae has relatively well laid out streets, helped by a World Bank upgrading project implemented in 1984. In addition, the availability of recent orthophoto maps for Maseru (flown in 2000) made it possible to use streets to divide the neighbourhood into twenty sectors of more or less equal size, from which ten were selected at random (using the ‘hat’ method). In each of the selected sectors, interviewers were instructed to identify a convenience sample of ten households in which the head was willing to be interviewed. Notwithstanding that Lower Thamae was surveyed immediately following the eviction of informal residents in some parts of Maseru, the response rate was excellent. Only one absentee landlord was identified, traced and interviewed at her place of residence.

Ha Matala: Surveys had been carried out in Ha Matala in 1999 using a roughly comparable questionnaire. At that time 80 households were interviewed, 70 in the informal part of Ha Matala and 10 in the formal (LHLDC) part. The latter 10 questionnaires were discarded. A supplementary sample of 30 households was added to bring the sample up to the prescribed size, as well as making up for differences between the 1999 and 2002 questionnaires. These households were also selected on a convenience basis, avoiding households that had been interviewed in 1999. Divergences between the 1999 and 2002/3 data sets are pointed out where relevant in the report.

Ha Leqele: In the peripheral settlement of Ha Leqele, streets do not exist in any orderly form. As a substitute settlement that was surveyed following forced evictions and demolitions in a neighbouring area, and that was also an area of active subdivision, a high non-response rate was anticipated. As a result, no attempt was made to randomise our sample. Instead we chose yet again to settle for convenience sampling, with interviewers strictly instructed not to pressure respondents if they were unwilling to be interviewed, but to substitute all non-response cases with the next willing household head. Because of this sampling strategy, it was not possible to trace non-resident plot owners although information from fieldwork guides indicated that the area contains absentee landowners.

Chiefs' aides were employed to act as guides, assist in identification of plot owners and introduce the researchers, although they were requested not to be present for the actual interviews.

All questionnaire data from the three study areas were analysed using SPSS for Windows.

Semi-structured interviews were conducted with a number of office bearers and key individuals who possessed specialised knowledge on different aspects of both formal and informal land delivery processes and problems. They were:

- Commissioners of Land (current and retired commissioner).
- Chief Lands Officer and a selection of junior lands officers.
- Chief Physical Planners (current and retired)
- Director of the LHLDC
- Maseru City Council (MCC) (Director of Planning)
- Chiefs in the study areas
- Individuals with an interest in and knowledge of land policy.

Focus group interviews were the principal tools for assembling data on people's experiences and encounters with both formal and informal delivery rules and processes. The researcher facilitated the focus group interviews, with assistance from an undergraduate student who operated the tape-recorder, kept verbatim field notes and transcribed the tapes. A particular effort was made to obtain the views of both men and women. Thus two of the focus groups were comprised of men only, three of women only, and the remainder were mixed. Drawing from the researcher's experience in 1999, cash incentives (M50.00/[£4.00]/person) were given. Between eight and fifteen people participated in each group and the discussions were mostly conducted in Sesotho. In all, nine focus group meetings, three in each settlement, were arranged in the latter half of April, 2003.

Footnotes

- ¹ For the purpose of this study, ‘institutions’ are defined as “rules, enforcement characteristics of rules and norms of behaviour that structure repeated human interaction”, North, D.C. (1989) “Institutions and economic growth: an historical introduction”, *World Development*, 17(9), pp.1319-1332.
- ² Leduka, R. C. (2000) “The Role of the State, Law and Urban Social Actors in Illegal Urban Development in Lesotho”, *Unpublished PhD Thesis*, University of Wales, Cardiff.
- ³ Frank, L. (1981) “Khama and Jonathan: Leadership Strategies in Contemporary Africa”, *The Journal of Developing Areas*, 15, pp. 173-198; Kabimbaara, J. A. (1993) “The Convolution of Urban Planning with Tradition in Lesotho, 1928-91”, *Environment and Planning A*, 25(7), pp. 1003-1020; Coplan, B. D. and Quilan, T. (1997) A Chief by the People: Nation versus State in Lesotho, *Journal of International African Institute*, 67(1), pp. 27-60.
- ⁴ See, for example, Franklin, A. S. (1995) *Land Law in Lesotho: The Politics of the 1979 Land Act*, Aldershot: Avebury.
- ⁵ Leasehold title also applies to land not used for agricultural purposes in rural areas, for example, commercial property, churches, schools and some categories of residential property.
- ⁶ Leaf, M. (1994) “Legal Authority in an Extralegal Setting: The Case of Land Rights in Jakarta, Indonesia”, *Journal of Planning Education and Research*, 14(1), pp. 12-18.
- ⁷ Ambrose, D. (1993) *Maseru: An Illustrated History*, Morija: Morija Museum & Archives.
- ⁸ The planning area boundaries (which coincided with the 1980 administrative boundaries) were apparently again extended in 1990 to cover an area of approximately 368km². (Report of the 1999 Land Policy Review Commission, 2000). The extended areas encompassed a number of villages whose land is under the administrative authority of chiefs and headmen. Thus it is possible that the planning area extension was prompted by a desire to control the growth of unplanned settlements outside the 1980 boundary which remains the boundary of Maseru City Council’s area of jurisdiction.
- ⁹ By the Bureau of Statistics’ own admission, there were serious coverage errors in the 1996 census (Government of Lesotho (1996) *1996 Population Census Analytical Report Vol. IIIB: Socio-Economic Characteristics and Population Projections*, Maseru: Bureau of Statistics, especially page 4). There is therefore some doubt about the accuracy of the 1996 population figures for Maseru. The slow down in its population growth rate was unexpected. Various estimates made between the 1986 and 1996 censuses were based on an assumption that the city would continue to grow at approximately the same rate as it had done between 1976 and 1986.
- ¹⁰ There are no known records of the proportion of public and/or private land in Maseru. Neither are there records as to the type of titles that property owners held during the time of colonial rule.
- ¹¹ Binnie and Partners (1985) Report on Mabote Sites and Services Scheme, Volume 2: Main Report, Maseru.
- ¹² See, for example, Binnie and Partners, 1985, *ibid.*
- ¹³ See also Ambrose, 1993, *op. cit.*
- ¹⁴ Leduka, 2000, *op. cit.*
- ¹⁵ Leduka, C.R. (1995) “Experimenting with Decentralisation through Devolution: The Maseru City Council”, *Review of Southern African Studies*, 1(1), pp. 1-27.
- ¹⁶ Former peri-urban areas are those settlements that fell outside colonial urban reserves prior to June 1980, but which are no longer peri-urban because they now fall within the administrative boundaries of the city.
- ¹⁷ Qobo, P. (1993) “Rapid Urbanisation and Assimilation of Surrounding Rural Areas into the Urban Fabric – The Case of Maseru”, Paper presented to the RUPSEA Workshop on *Rural-Urban Interactions and Implications for National and Sub-national Planning*, Maseru, 25-28 October.
- ¹⁸ Lebentlele, N. T. (1994) “Urban Management Problems and Their Impact on Planned Urban

Development and the Delivery of Urban Services in Maseru: Maseru City Council”, *Unpublished BA (URP) Dissertation*, Department of Geography, NUL; Qobo, 1993, op.cit.

¹⁹ See Leduka, 2000, op.cit. for details.

²⁰ Coplan and Quilan, 1997 op.cit. For a detailed discussion of the problems that confronted the MCC, see Government of Lesotho (1990) *Report of Commission of Inquiry into Problems of the Maseru City Council*, Maseru, especially pp. 43-44 .

²¹ Leduka, 2000, op. cit.

²² See also Devas, 1989, op.cit.

²³ Government of Lesotho (1987) *Report of the Land Act Review Commission*, Maseru.

²⁴ See also Government of Lesotho (2000) *Report of Land Policy Review Commission*, Maseru: Ministry of Local Government.

²⁵ Leduka, 2000, op.cit.

²⁶ Pers. Comm. LHLDC, November, 2003.

²⁷ Mngadi, L.F. (1997) “An Evaluation of the Thetsane Development Area Housing project”, *Unpublished BA (URP) Dissertation*, Department of Geography, University of Lesotho, Roma.

²⁸ Theko, M. (1998) *The Mabote Project: Coping with Rapid Urbanisation in Maseru*, Maseru: UDS. See also UN-HABITAT Best Practices Database Website <http://www.bestpractices.org/cgi-bin/bp98.cgi?cmd=detail&id=4722> . . . (accessed 09/06/2004)

²⁹ Sechaba Consultants (1994) *Poverty in Lesotho, 1994: A Mapping Exercise*, Maseru: Sechaba Consultants; World Bank (1995) *Lesotho Poverty Assessment*, Human Resource Division, Africa Regional Office.

³⁰ Focus groups in Ha Matala and Ha Leqele mentioned prices ranging between M4 000 and M6 000 for a typical 900m² plot. According to participants, the actual price can vary, depending on the negotiation skills of the buyer. In practice plots have reportedly sold for much more than M6 000 when the household selling the land is

under no pressure to do so, and for less than M4 000 in cases of distress sales, such as death in the family.

³¹ M730 for a copy typist and junior clerk; M849 for a machine operator and light vehicle driver; M650 for a trained weaver/sewing machine operator; and M621-684 for an unskilled labourer (Government of Lesotho, 2001, *Labour Code Wages (Amendment No.2) Order, 2003, Legal Notice No. 87*, Maseru: Government Printers).

³¹ World Bank, 1995, op. cit.

³² Government of Lesotho (2003) 2001 *Lesotho Demographic Survey: Analytical Report Vol. I*, Maseru: Bureau of Statistics.

³³ Sechaba Consultants, (2002) *Regulatory Frameworks Governing Access to Legal Low-Income Housing in Maseru*, Maseru (mimeo).

³⁴ Binnie and Partners (1985) recorded a much higher proportion of plots with rental units on them in Lower and Upper Thamae combined (55 per cent).

³⁵ GOL, 2003, op.cit.

³⁶ Sechaba Consultants, 2002, op.cit.

³⁷ Devas, N. (1989), “The Evolution of Urban Housing Projects in Lesotho”, *Land Use Policy* 6(3), pp. 203-216.

³⁸ See also Lawry, S. W. (1993) “Transactions in Cropland Held Under Customary Tenure in Lesotho”. In Bassett, T. J. and Crummy, D. E. (Eds) *Land in African Agrarian Systems*, Wisconsin: UWP, pp. 57-74.

³⁹ For details see Leduka, R. C. (1998) *Effects of Traditional Land Transactions on Soil Erosion and Degradation*, IDRC Land Tenure Transformation Project, Research Report NUL: ISAS.

⁴⁰ Leduka, 2000, op. cit.

⁴¹ Seeko, M. (1996) “Post-land Sales Survival Strategies in Urban Areas: Ha Abia, Maseru Urban Area”, *Unpublished BA (URP) Dissertation*, Department of Geography, NUL.

⁴² Leduka, 2000, op. cit.

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