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Journal Article

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Version: Accepted (Refereed)

Citation:

McAuslan, P. (2011) Urban planning law in Liberia: the case for a transformational approach <i>Urban Forum</i> 22(3), pp.283-297
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Urban Planning Law in Liberia: The Case for a Transformational Approach

Patrick McAuslan*

Introduction

This article is based on a report on the urban governance and land situation in Monrovia that I wrote in Liberia¹ in 2009. It was in this report that I developed ideas that may be seen as transformational and in doing so made use of ideas and approaches already in existence but not perhaps put forward in a postconflict land and housing context before. This article draws on further thinking and work done since that report was written.

It is necessary to set out some basic facts about the current situation in Liberia and in Monrovia. Liberia is still in the midst of a postconflict statebuilding process. Great strides have been made in many areas of governance and the country has been at peace now for 6 years. However, there are still many aspects of governance and policy which give cause for concern in Liberia and one of these is the urban governance and land situation. Fifty-nine per cent of the population now live in urban areas² according to a UN estimate. Over 1 million people – around 35% of the population – live in Monrovia. This very rapid increase in Monrovia's population has not been matched by any real increase in housing, infrastructure and services. Few slums have clear title. In mid 2009, 50,000 people were threatened with eviction which fortunately came to nothing. The highly centralised system of government drives people to come to Monrovia: they have to come to Monrovia to see relevant officials or their MPs: such persons do not go to the districts they represent or are meant to work in.

Nor is just urban land where there are problems. Land rights or lack of them was one of the deep-seated causes of the civil wars which plagued Liberia for so long. Right at the start of her Presidency, President Johnson-Sirleaf said land reform would be top of her agenda. In

* Professor of Law, Birkbeck College, University of London. Nothing in this paper must be taken to reflect the ideas or policies of UN-Habitat on whose behalf I undertook a mission to Liberia in 2009. My mission to Liberia was principally to participate in the Orientation Programme for Land Commissioners of the newly established Land Commission. I was also to write a report on the urban land and governance situation in Monrovia.

¹ S. Ellis (2008) *The Mask of Anarchy: The Destruction of Liberia and the Religious Dimension to an African Civil War*. 2nd ed. The book is a sombre picture of Liberia but well worth reading. It only goes up to the election of Charles Taylor as President of Liberia in the late 1990s so does not cover the last decade – more civil war, Taylor's deposition, an internationally brokered peace agreement and the election of Ellen Johnson-Sirleaf as President – apart from a brief introduction to the 2nd edition. But the underlying social construct called Liberia will not have changed in the last 10 years.

² An urban area is defined as any place with more than 2000 inhabitants so the 'real' amount of urbanisation is lower

October 2010 the Land Commission, established, after a two year consultative process, in 2009 held a national conference to consider issues of the management and administration of urban land. President Johnson-Sirleaf opened the conference and repeated her call for land reform. But nothing had happened on that issue between her first and second statements. The dangers of doing nothing have been well set out by Jon Unruh³ together with suggestions for what should be done.

Despite these facts being well known, there is practically no mention of the need for replanning or reconstruction or upgrading Monrovia or other urban centres in official papers and reports on economic reform, environmental security or statebuilding, or on the role of aid and donors. The UNDP is supporting community-based recovery programme with elected local councils. The World Bank and the UN Capital Development Fund are also supporting decentralisation programmes and projects as are virtually all other UN agencies and bilateral donors but these seem to be proceeding in an urban policy vacuum. UN-Habitat produced an excellent report on the urban situation in Liberia in 2006⁴ and a Country Programme Document in 2008 calling for the development of urban policies and urban land policies but there has so far been no follow-up in Liberia. The Land Commission's conference on urban land in October 2010 might be the start of a response but it has not been possible to access either the agenda for the conference or the papers given thereat so one is more or less in the dark on that⁵. In these circumstances, it seems not merely reasonable but essential that some ideas and suggestions are put forward publicly to spur a debate on urban policy and urban land management. A policy of drift which appears to be the preferred option is not conducive to sorting out urban problems which are growing more serious by the day.

The Urban Problematique in Monrovia

As Monrovia is by far the biggest urban centre and the one with most of the problems of rapid urbanisation in Liberia it seems sensible to concentrate on this city. There is no lack of basic evidence about the urban situation in Monrovia.

- the legal framework of urban local governance is out of date, geared very much to a centralised approach to local governance – deconcentration at best as opposed to

³ Jon D. Unruh (2009) Land Rights in postwar Liberia: The volatile part of the peace process, 26 *Land Use Policy*, 425 – 433. The article quotes the President's comments on the need for land reform; p.425.

⁴ UN-Habitat (2006) Liberia Urban Sector Profile, Nairobi.

⁵ The chair of the Land Commission is reported as saying at the outset of the conference that "land has become a major issue in Monrovia. We are hoping as a result of the conference to devise some basic guidelines that can help us develop an urban land policy." In the same news item it is reported that two years ago a survey by the then Truth and Reconciliation Commission concluded that there was a strong possibility of Liberia returning to violence unless the government took steps to address the land issue. VOANews.com 6 Oct 2010

devolution – and even at the centre is split between several different Ministries which operates to prevent any kind of coordinated approach to local problems;

- urban planning laws are out of date. The zoning laws date from the late 1950s and read like the zoning laws of a Mid West small town in the USA. There is no urban planning law as such.
- the overwhelming majority of the urban population live in unplanned, informal and ‘illegal’ settlements, either on public land or privately owned land, are extremely poor and live in extremely poor quality accommodation; they have no security of tenure;
- much of the urban infrastructure has been destroyed in the course of the civil wars;
- Liberia is still in a post-conflict situation with all the special land issues to which such a situation gives rise; in particular continued and unresolved conflicts over land – who has the better right to occupy what land.

The transformative approach to reform

Two key policy approaches which inform a UN-Habitat Country Report on Liberia may be quoted here as providing the philosophical basis for what will follow:

- *A profound re-conceptualisation of the role of the urban sector is the most likely solution...this re-conceptualisation could have an immense impact on institutional and governance structures and the systems that regulate them...Interventions should include a redefinition and refocusing of mandates, structures and functions...of local government...Good governance encourages the participation of local populations in the decision-making process that affects their welfare and well-being...*⁶
- *Land problems are emerging as a matter of urgency... The urbanisation process has been unregulated, haphazard and chaotic resulting in the increase in demand for land, shelter and delivery of basic services...Consequently, land administration and management issues are now impacting on the peace. As a result, there is an urgent and institutional challenge to strengthen security of tenure issues.*⁷

⁶ UN-Habitat (2008) Country Programme Document: Liberia, Nairobi, p.6

⁷ Ibid., p.10

These two statements are in effect calling for a complete transformation⁸ of urban management and urban land management in Liberia. van der Walt sets out the theoretical framework of transformation in the context of land reform as follows:

The central question of this book is whether it is possible to theorise property in the context of social and political transformation that highlights the fundamental tension between protection of established property interests and promotion of socio-economic justice through some form of redistributive politics...

Generally speaking, the upshot of recent property theory has been to provide reasons for the argument that property is not absolute and that it can be and is regularly subjected to restrictive regulation based on valid considerations of morality and public interest...[B]ut the property analysis I have in mind raises more fundamental issues by asserting that traditional notions of property do not suffice in transformational contexts, where the foundations of the property regime itself are or should be in question because regulatory restrictions, even when imposed in terms of a broadly conceived notion of the public good, simply cannot do the transformative work that is required.⁹

This required transformative approach to urban land and governance reforms in Liberia is now set out and explained.

The Right to the City: towards a transformed urban future for Liberia

A “profound re-conceptualisation of the role of the urban sector” can best be brought about by adopting policies and laws based on The Right to the City: a right for all in the city to be there; to have or acquire secure tenure to their homes (particularly the absence of arbitrary evictions); to participate in the processes of urban governance and in particular in the planning and financial management of their local areas; to have uniform standards of administrative justice applied to them by officials; and to have uniform access to dispute settlement fora and processes to assist them to resolve their land and other disputes peaceably and justly.

⁸ The key text discussing the implications for postconflict (and other like situations) land administration is A J van der Walt (2009) *Property in the Margins*, Hart, Oxford to which I am greatly indebted for the evolution of my thinking on this issue.

⁹ A J van der Walt op. cit., 13, 16. Although not mentioned in his book, an early example of a transformation approach to land law reform in South Africa is the Transformation of Certain Rural Areas Act No. 94 of 1998 dealing with land held by the Coloured communities in South Africa. J M Pienaar, Lessons from the Cape: Beyond South Africa’s Transformation Act in L Godden and M Tehan (2010), *Comparative Perspectives on Communal Land and Individual Ownership*, Routledge, Abingdon, 186 – 212.

The Right to the City is a conceptualisation of the messages of the Habitat Agenda and the Global Plan of Action as later developed and elaborated in the Global Campaigns on Urban Governance and on Secure Tenure for the Urban Poor. In national policy and legal terms, it can most clearly be seen in Brazil's City Statute of 2001; Turkey's Law on Informal Settlements (which dates from 1966), and its 2007 Urban Transformation Law and in the South African Development Facilitation Act 1996 (since repealed and replaced by provincial urban planning laws). Briefly, commentators have summarised the 2001 Brazilian and 2007 Turkish laws as follows:

The City Statute has four main dimensions, namely a conceptual one, providing elements for the interpretation of the constitutional principle of the social function of urban property and of the city; the regulation of new legal, urbanistic and financial instruments for the construction and financing of a different urban order by the municipalities; the indication of processes for the democratic management of cities; and the identification of legal instruments for the comprehensive regularization of informal settlements in private and public urban areas...¹⁰

The intended Law empowers the municipalities in the designation of several types of special planning areas for the purposes of implementing projects concerning protection, regeneration, intensive development, and public and/or private investments...They are entitled to determine the location and size of areas for such operations, prepare plans and projects.

The municipality or the majority of the property owners in an area could form partnerships for the redevelopment and/or joint management of the area. Besides physical operations of clearance, development, protection, such projects are envisaged to cover policies of finance, management, ownership and means of socio-economic development. Protecting the rights of the original owners, the municipalities in these areas could carry out lease agreements, servitudes, comprehensive project development...¹¹

¹⁰ E. Fernandes (2007) Constructing the 'Right to the City' in Brazil, 16 *Social and Legal Studies*, 201 – 221, 212. See too C.S. Carvahlo and A. Roszbach (2010) *The City Statute of Brazil: A Commentary*, Sao Paulo, Cities Alliance and Brazil Ministry of Cities.

¹¹ A. Ulu, (2007) Regeneration of Urban Areas in Cities of Turkey: Case Study: Izmit, Conference on Sustainable Urban Areas, Rotterdam, June 25 – 28.

Key elements of South Africa's Development Facilitation Act 1996 which set out General Principles of Land Development which applied throughout the country; and enshrined a new approach to planning law provided, *inter alia*, that:

- Policy, administrative practice and law should...facilitate the development of formal and informal, existing and new settlements...;
- Policy, administrative practice and law should promote efficient and integrated land development;
- Members of communities affected by land development should actively participate in the process of land development...;
- Laws, procedures and administrative practice relating to land development should –
 - be clear and generally available to those likely to be affected thereby;
 - be calculated to promote trust and acceptance on the part of those likely to be affected thereby;
 - land development should result in security of tenure, provide for the widest possible range of tenure alternatives, including individual and communal tenure, and in cases where land development takes the form of upgrading an existing settlement, not deprive beneficial occupiers¹² of homes or land or, where it is necessary for land or homes occupied by them to be utilised for other purposes, their interests in such land or homes should be reasonably accommodated in some other manner...;

Applying these principles to Liberia would involve a total recasting of laws on local government and urban planning, a review and probable fundamental revision of the law relating to compulsory acquisition of land, alterations to the law on prescription (acquisition of land rights based on open, peaceable and continuous occupation of land for a specified period), and a moratorium on evictions of 'squatters'¹³.

¹² "*beneficial occupier*" means in relation to the occupation of land in a land development area where land development takes the form of upgrading an existing settlement, any person who has been in peaceful and undisturbed occupation of such land for a continuous period of not less than five years." Section 1 DFA

¹³ A rigid application of a restitution approach to urban land problems in Monrovia would see thousands of squatters removed from land privately owned by some of the large landowners in Monrovia. Liberia has a land policy and land practices not dissimilar to apartheid South Africa: Americano-Liberians have rights to own land denied to rural 'natives' on the basis of laws dating from the 19th century (the latest of these laws is a 1956 law which permits 'civilised natives' to own land) including acquiring freehold ownership of land in rural areas occupied by 'natives' on the basis of Presidential grants. It does seem quite astonishing that this system and set of laws remains in place.

But that is not all. More important, perhaps than changes in the law, adoption and enactment of these principles would involve a total transformation of the administrative and land tenure cultures of Liberia: in one fell swoop, every citizen would be entitled to own his or her own home; to be involved in the governance of their local area above and beyond voting every now and again for their representatives; and to be treated fairly and with respect by all officials. That is what is involved in a re-conceptualisation of urban governance and land management.

Urban local governance

The Right to the City goes beyond land issues. It is first and foremost a statement of the requirement of a participative approach to governance within urban areas. It involves not just devolution from the centre to a local authority; in large urban areas such as Monrovia, it involves the creation and empowerment of local area councils, so bringing governance closer to the people. An example may be given: the one tier City Council of Dar es Salaam – a city of some 3 million inhabitants – was reorganised in the 1990s into a three tier system: the City Council; 3 municipal councils and 70 ward councils. The principal operational level is the municipal council but ward councils have some important powers and bring local government down to a more human level. The legal framework of urban local government in Tanzania is a fairly standard Anglophone model dating from the early 1980s and would need its own revamping were that country to adopt a Right to the City approach to urban governance but the 3 tier structure is a step in the right direction of bringing governance to the people.

In the case of Monrovia, the only urban local authority large enough to warrant the creation of a multi-tiered structure, a two tier system might be sufficient, provided the second and lower tier authorities were of a size that would be accessible for the citizen and effective in the delivery of services: ideally between 6 and 8 lower tier authorities should be created. If this would likely strain capacity, then the City Council should adopt a programme of establishing area offices with their own budgets and delegate functions to such offices. In time these area offices could become the administrative nucleus of new lower tier councils.

The Right to the City is a broad and general policy statement. It offers a new way forward for urban governance and urban land management. In the context of Liberia, these two areas of concern are inseparable. What must now be concentrated on is the detailed content of the rights which involves a discussion of the possible contents of the laws which would be needed to give practical effect to the rights. There are, it is suggested, two basic laws – one providing for a new approach to urban local government, the other, providing for a new approach to urban land management.

If the Right to the City were to form the basis of any new law to provide for a re-conceptualised approach to local government in Monrovia, then at the forefront of the law would be a statement of the rights and responsibilities of the residents of the city towards each other and the wider community of the city and of the local authority towards its residents. The following is a possible formulation of such rights and responsibilities:

Rights of the citizen:

- to participate both individually and collectively via associations of their own making in urban governance through processes of participatory budgeting, participatory planning, local referendums, popular initiatives and public private partnerships;
- to obtain information from the public authorities necessary to be able to exercise the above rights;
- to live in a safe, secure and healthy environment;
- to obtain equitable and affordable access to basic urban services and facilities of land with secure tenure, potable water, waste disposal and electricity;
- to receive all services respectfully, impartially, efficiently, and timeously;
- to be treated in accordance with principles of administrative justice;
- not to be evicted arbitrarily from where he or she is living;
- to have access to processes of conflict resolution and dispute settlement with respect to disputes over rights to property, land and housing;
- to object to any decision or action of the council or an officer of the council on grounds of illegality, abuse of power, corrupt practices or disproportionality and to have that decision or action reviewed and, if necessary, set aside by an impartial body.

Obligations of the citizen

- to pay local taxes levied in accordance with the law;
- to comply with all lawful requirements of the council, its councillors and officers;
- to live at peace with his and her neighbours;
- to take all reasonable steps to diffuse tensions and settle disputes arising locally; and
- to co-operate with others in maintaining a safe, secure and healthy environment within the immediate neighbourhood.

Primary duty of local authorities within Monrovia

(1) The city council shall have as its primary duty the provisions of a forum for the discussion by organisations and bodies representing all elements of civil society of the ways and means of governance, and the provision of services to the citizenry, in Monrovia; the taking of such actions and the performing of such functions including contracting out to and

facilitating other persons to take such actions and perform such functions as will achieve any one or more of the following objectives within the area of the city for the benefit of all or any part of the residents of the city –

- (a) the promotion and improvement of peace, security and stability;
- (b) the promotion and operation of open and participative government;
- (c) the promotion and improvement of economic, social and environmental well-being, habitations and living conditions;
- (d) the regularisation and improvement of informal settlements;
- (e) the facilitation of the settlement of disputes over property, land and housing issues.

(2) The taking of any such actions and the performance of any such functions as are referred to in subsection (1) shall comply with the principles of administrative justice.

(3) Where any actions or functions are being provided by any institution of civil society or through the operation of bodies functioning in the private sector, then the city council shall liaise with such institutions and bodies and assist them to carry out those functions so as the better to meet the principles set out in subsection (1).

It is important to make the point that these rights and obligations will not stand alone as an add-on to existing local government laws: they will drive the rewriting of those laws so as to give effect to them¹⁴. To give just one illustration, setting the local authority budget will cease to be the preserve of officers and councillors alone with ultimate reference upwards to central government. Participatory budgeting involves local communities via their organisations working with officers of local authorities, setting goals, determining spending priorities, allocating, spending and accounting for funds. It reverses the normal budgetary process which is a top-down one. It will involve central government no less than local authorities ‘letting go’ This would need to be provided for by law.

Urban land management

When it comes to dealing with the land question in post-conflict states, the two principal institutions that need to be rebuilt and supported are local governments and dispute settlement bodies. Central government and its offshoots, e.g. the Land Commission, can and should make policy, enact the necessary laws to give effect to policies, access finance and technical

¹⁴ I have done this in developing a Mogadishu City Law in a UNDP project. The thrust of that law is that the city council is basically a discussion forum for all the civil society organisations that are providing services to the residents of Mogadishu to come together and plan their respective activities; the City Council does not attempt to compete with or take over the role of civil society organisations.

expertise from the international community (and from the diaspora) but the day-to-day business of dealing with people and their land problems – restitution, resettlement, the rapid growth of informal settlements, disputes over land etc – fall to local authorities and local judicial institutions. These front-line institutions need to be revived, rebuilt and reorientated as quickly as possible to tackle the urban land problems in Liberia¹⁵.

When undertaking a mission for UN-Habitat in Afghanistan in 2005 reviewing both urban governance and urban land issues with suggestions for reforms, I wrote a short note entitled *Urban Land Problems: Present Problems: Future Directions*. Revisiting that note I am struck by the aptness of many of its general points for the situation in Liberia. I make no apology therefore for quoting it here: (words in [] are added to or substituted for those in the original):

Cities are the engines of economic growth and the potential seed-bed of disaffection. Both positive and negative aspects of cities and their development involve getting land policies and land management right. The role and duty of governments is to create the conditions for the efficient and equitable provision of

- access of all citizens to land;
- secure tenure for those on the land
- transparent and user-friendly processes for land transactions
- urban land use plans to ensure optimal use of land and capital
- [fair processes and procedures for land acquisition and compensation]
- accessible and cost-effective systems of dispute settlement

.....

What needs to be done

Law is a necessary but by no means a sufficient input into better urban land policies. To the extent that good laws can help and bad laws can hinder the realisation of more equitable and efficient pro-poor and pro-market land policies and practices, the following sets out the range of legal reforms that are needed and the reasons for same:

- the needs of the thousands of mainly poor residents of cities and towns living in planned and unplanned settlements and having very insecure rights to the land they are living on must be recognised and addressed in a positive way – acceptance and assistance rather than denial and demolition must be the way forward. This will involve developing and legislating for
 - determining who has what rights to what land
 - graduated systems of secure rights to occupy housing for urban residents
 - arrangements for the transfer, with or without payment, of title to [public] land to urban residents granted secure title to their homes
 - community systems of recording of interests in a locally kept register

¹⁵ Very oddly, one might think, there has been little thinking or writing at an official or even unofficial level on local government in a postconflict state. One of the few ‘official’ documents is the UNDP/Oslo Governance Centre (2007) *Report of a Workshop on Local Government in Post-Conflict Situations: Challenges for Improving Local Decision Making and Service Delivery Capacities*. Of the first 76 articles in the new *Journal of Conflict and Peacebuilding*, founded in 2004, only 2 are on local government.

- urban planning likewise must start from the reality of cities and towns as they are now rather than from an ideal blueprint...and begin a process of working with communities to improve and upgrade their environments out of which can grow a bottom-up approach to the development of new city-wide urban development plans. This will involve developing and or legislating for
 - programmes to re-arrange land boundaries and plot sizes and shapes to facilitate providing [and upgrading] infrastructure and community facilities
 - small-scale removal and relocation of some housing with compensation
 - a new urban planning law based on the principles of participation, integrated development planning, facilitation of planned development of land, limited and focused 'development control' (requirement of permission to develop)
- land markets must be facilitated but as with any properly managed land management system, they must also be regulated in the interests of efficiency, effectiveness and equity: transparency and due process must be the keys here. This will involve developing and or legislating for
 - the separation of the governmental functions of allocating land from that of regulating the operations of the market for land;
 - setting out transparent systems for public sector land allocation, compliance with terms and conditions of government leases [and grants] and for revocation of leases, [grants] and other governmental land rights
 - a regulatory impact analysis of the existing procedures and processes for land transactions with a view to their revision and reduction...
 - accessible and cost-effective systems of dispute settlement.

How can all these requirements be provided for? There must be a prioritisation of what must be done. The whole area of land markets and their regulation necessarily involves a thorough review of existing law – statutes and case law – and practices and reform is a more long-term exercise which is not essential to meet the immediate needs of post-conflict urban land management.

This leaves urban tenure reform and urban planning and land development reform. The most pressing problem is unquestionably that of informal settlements, the socio-economic conditions therein and political implications of not addressing these conditions. These can best be provided by an urban transformation law.

Towards an Urban Transformation Act

The first step is to summarise the principal deficiencies of informal settlements which a law on transformation, regularisation and regeneration might be expected to deal with. The concern here is with deficiencies on which action on and about land and buildings could be designed to bring about improvements. Principal deficiencies are –

- lack of a formal title to land which limits the possibility of obtaining loans to improve accommodation or to get started in or improve a commercial enterprise and might also limit the amount of compensation payable on expropriation;

- continuing post-conflict disputes between different groups of or individual returnees and current occupiers who may be IDPs on who is the 'rightful' occupier of land;
- continuing disputes between private landowners and 'squatters' whom the former want off 'their' land;
- buildings built without planning and or building control permission;
- irregularly shaped plots of land which limit the kind of building that can be built on them and the services that can be supplied to them;
- buildings often built very close to each other which again limits services which can be supplied to residents;
- hazardous land – slopes, river beds, marshy land, contaminated land, land too close to roads – is used for the building of houses etc;
- where public land is used for settlements, the ever present possibility of eviction without compensation since it is difficult to obtain a title of ownership by long use over public land;
- exploitation of residents by large-scale landowners renting out property outside the scope of any laws providing for some balancing of rights and obligations between landlords and tenants;
- lack of full public services;
- lack of investment in the settlements (other than from the residents) which could improve the economic and commercial prospects of the settlements ;
- the difficulties that may be faced by residents in sorting out property, land and housing disputes where formal courts may not accept or apply the 'informal' laws that exist within settlements; and informal dispute settlement bodies have no mechanism to ensure that their decisions are complied with.

It is not suggested that all informal settlements in Liberia suffer from all these deficiencies; or that all these deficiencies are present all the time in informal settlements. But the above list does give a broad overview of problems affecting many informal settlements that need to be addressed in any law which aims to be comprehensive.

Towards a transformational approach to informal settlements

Two Turkish authors have explained transformation in the context of urban regeneration and the upgrading of informal settlements as follows:

Transformation can be defined as '*a comprehensive and integrated vision and action which leads to the resolution of urban problems and which seeks to bring about a lasting improvement in the economic, physical, social and environmental condition of an area that has been subject to change*'. [italics added] Urban

transformation interventions may vary according to the problems of localities. Some may aim to revitalise a declining activity, or a social function; to encourage social integration in the areas suffering from social exclusion; and/or to return the environmental and ecological deprivation back to a balanced level, while others may aim to regularize squatter areas and illegal urban developments, and to redevelop urban areas where standards of quality of life are highly low compared to other parts of the city. Therefore, urban transformation interventions need to have a deep and multifaceted understanding of the processes and sources of urban problems...¹⁶

This broad definition by these authors is apposite. Turkey has prepared an Urban Transformation Law to provide legal backing for a more holistic approach to dealing with *gecekondu*s. (informal settlements).

The intention behind such laws is clear: regeneration or transformation goes well beyond just tinkering with land use on a piecemeal basis and seeks to facilitate wholesale change and improvement in the areas subject to regeneration or transformation. Furthermore, such laws make clear that a local authority or a statutory body is empowered to take an active role in bringing about improvements either on its own or in partnership with “other persons”: these could be persons from the areas or from outside. So public/private partnerships are a crucial dimension to regeneration and transformation.

The Turkish law focuses its initial attention on land issues: that is the entry into regeneration and transformation. Ulu makes that clear in his description of the Urban Transformation Law. Land provides the point of entry but once in, public agencies may take on a variety of other functions. This then is the most striking and important difference between a traditional approach to informal settlements and a transformational approach: the traditional approach begins and ends with land: a transformational approach uses land as a way in to transform the social and economic conditions of the people living in informal settlements.

Preconditions for and basics of an Urban Transformation Law

If Liberia were to adopt a transformational approach to addressing the challenges of its informal settlements, it would need, as other countries which have gone down this route have found, a law providing for a coherent and comprehensive framework and set of powers to take the necessary actions. But before any such law was prepared or enacted, it would be necessary to take two prior steps: first, to develop and publish a national policy on a transformational approach to informal settlements; and second, a set of ‘drafting instructions’

¹⁶ Egercioğlu, Y and Özdemir, S (2007) Changing Dynamics of Urban Transformation Process in Turkey: Izmir and Ankara Cases, ENHR Conference Rotterdam, June 25 – 28.

or guidelines to provide the parameters for the content of the law. The Land Commission's conference on urban land issues in October 2010 could have chartered the way forward to such a policy but five months on from that conference, nothing in the shape of even the outlines of such a policy has emerged.

However even in the absence of a national land or national urban policy, there are certain general principles, practices and programmes of action and administrative arrangements which any transformational approach to informal settlements would need to be equipped with in terms of legal powers, even if the details would need to be tailored to the specifics of an individual country. What then are these basic elements for the development and facilitation of a transformational approach in informal settlements which should be provided for in a transformation law? They may be listed as follows:

- setting out which authorities shall be responsible for what actions and decisions;
- arrangements for the designation of an area of informal settlements as a transformation area;
- the cut-off date for determining who will be able to benefit from regularising and other improvement measures within a transformation area;
- the preparation of a comprehensive plan for the area;
- modalities for the involvement of the residents of the area in the preparation and implementation of the plan;
- modalities for the involvement of the private sector via public/private partnerships and other arrangements in the implementation of the plan;
- arrangements for the processes of regularising the tenure position of those occupying and using land and buildings in the area;
- arrangements for the processes of land readjustment within the area;
- arrangements for the resettlement of IDPs and returnees;
- arrangements for the resettlement of those whose land will be expropriated;
- financial arrangements including loans and grants.

It is not possible in the space of this article to elaborate on these headings but they are detailed enough to enable the reader to realise that their enactment into law would provide

the basis for a radically different approach to urban governance in Liberia, one that would place the interests of the majority in the forefront of governance and begin the long process of making a reality of the ‘right to the city’ for that majority.

Since the submission of my report outlining and discussing the right to the city and the need for an urban transformation law to the UN-Habitat Office in Liberia in December 2009, the reaction on the Liberian side has been silence. The officials in the Habitat office liked it and made clear their hope that I would be available to return to assist with acceptance and implementation of the report. One can only speculate as to why so far there seems to have been no positive reaction on the Liberian side. There can be no doubt that a transformational approach to the current urban situation in Liberia would threaten large landowners and even after the traumas of the civil wars of 1990 – 2005, Americano-Liberians who make up most of the large landowning class still retain a lot of political and most of the economic power in the country. Given the very clear recognition that land issues played a part in the civil wars it might seem astonishing that the ‘reformist’ government of President Johnson-Sirleaf which took office in 2005 has done nothing to rectify the ‘apartheid’ style land policies and laws which she inherited. But the donor community, aka the USA, in other respects more or less running the government, has not brought any pressure on the government to reform the land laws and the present laws do certainly facilitate the continued granting of large land concessions to foreign investors. In other words a transformational approach to urban land relations runs up against the current donor-driven policies of reliance on the market economy to drive Liberia’s recovery whereas current Liberian urban land policies are foursquare within that model.¹⁷

¹⁷ Two other possible reasons for inaction are, first, that the senior UN-Habitat official proceeded on maternity leave shortly after she arrived and her successor is still getting into the job, neither having had any involvement with Liberia before their appointments. Second, the Land Commission, appointed by the President in October 2009 to get to grips with the land issue, seems pretty moribund. (private communication). That second reason would however chime in with a deliberate policy of inaction on land matters.

It may also be pointed out that in my report I had quoted the relevant section in the 1996 Constitution of Uganda which had conferred ownership rights on all those persons occupying land under customary tenure who up to that point were in law tenants at will of the state – the single most transformative action – postconflict or otherwise – any government in Africa has taken with respect to persons occupying land under customary tenure. This action was a direct result of promises President Museveni made to peasants when he was fighting the Obote 2 regime in the early 1980s in the bush. Suggesting that all peasants in Liberia should at the stroke of a pen receive freehold ownership of their land was not calculated to garner much support in Liberian governing circles.

An equally if not more challenging transformational approach to land issues in Liberia was put forward by Liz Alden Wily (2007) in *So owns the Forest in Liberia? An investigation into forest ownership and customary land rights in Liberia*, SDI Liberia and FERN which developed clear recommendations towards solving potential conflicts over natural resources and suggested that Liberia could set a precedent by returning ownership of land to communities which would lead to improved forest governance, control of illegal logging and remedial action against historical injustices. That too has not been acted upon. Forests are very big business in Liberia both for foreign investors and for the Americano-Liberian elite. Community forestry is a pretty common phenomenon in many African countries.

As noted in this article, several commentators have drawn attention to the need for fundamental reform in Liberia's land policies and practices. While there has been a fair amount of talk on this, there has been virtually no action. Yet as this article has shown there are many examples from Africa and elsewhere as to what needs to be done, the rationale for doing it and the possible legal frameworks which could provide the necessary basis for beginning to do it. It is not merely disappointing but positively dangerous that so little action has been taken in Liberia on this issue. The million plus residents of Monrovia (and the two million plus residents in the rest of Liberia) will not be prepared to wait indefinitely for the opportunity to acquire and own their own land and to participate in the transformation of Monrovia to a well planned and well managed city based on and driven by the principles of justice summed up in 'the right to the city'.