

ASSESSING COMMUNITY MEDIATED SETTLEMENTS: ENUGU, NIGERIA'S NEO-
CUSTOMARY APPROACH TO LAND DELIVERY AND DEVELOPMENT AT THE
PERI-URBAN INTERFACE

by

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ABSTRACT

Like most states in Nigeria, the Enugu state government is unable to meet the high demand of land for housing development in Enugu and as a result, the vast majority of land available for purchase is through customary sources. Rapid urbanization is expanding and the urban population is seeking relatively affordable land for development. This is happening predominantly in the peri-urban areas of Enugu. It is in this area where community-mediated settlements (CMS) are developing. CMSs are joint ventures between local communities and the government that provide subdivided land for development. These initiatives are neo-customary in nature as they have aspects of customary, informal, and formal methods of land sales and subdivision amalgamated in their practices. For the most part, CMSs are primarily characterized by a lack of basic infrastructure and services and long delays in development. Considering that most of the population in search for subdivided land depends on the CMS process of peri-urban development, this dissertation gains an insight into neo-customary land delivery systems for residential development in peri-urban Enugu City to discover opportunities for improvement of these systems.

The Institutional Analysis and Development Framework (IAD) is used to capture and frame the CMS process and suggest how this system of land delivery and development can enhance the benefits of the creation, delivery, and execution of these settlements and mitigate their weaknesses. A case study of two CMS communities in east Enugu's periphery was conducted to achieve a contextual comprehension of the institution of CMSs by means of semi-structured and unstructured interviews and archival review of documents and this was achieved by means of examination of the essential roles of actors in the CMS process. The research revealed numerous themes that are consistent with the existing literature. The study revealed that there is a level of embeddedness or institutionalization with existing Enugu (post-colonial) public planning functions and structure. These two systems are merging into a kind of practical "syncretism" between the two planning cultures. Nonetheless, the study further revealed how

communities are pre-emptively engaging in land development practices in order to avoid the undercompensated expropriation of community land by the state government. The study revealed not only opportunities for mixing residential and agricultural land uses in order to benefit community mediated settlements, but also the relatively excessive expectations put on the government to extend infrastructure to the urban periphery while CMSs must make do with self-help and alternative measures of infrastructure provision.

TABLE OF CONTENTS

ACKNOWLEDGEMENTS	I
ABSTRACT.....	II
TABLE OF CONTENTS	IV
LIST OF FIGURES	VI
CHAPTER 1 INTRODUCTION	1
PROBLEM STATEMENT	2
PURPOSE OF STUDY.....	4
JUSTIFICATION	6
CHAPTER 2 LITERATURE REVIEW.....	7
NIGERIAN URBAN GROWTH.....	10
PERI-URBANIZATION AND COMMUNITY MEDIATED SETTLEMENTS.....	11
NIGERIAN URBAN PLANNING SYSTEM AND CHALLENGES	15
1978 LAND USE DECREE.....	18
CMS FROM ANOTHER NIGERIAN CITY.....	19
COLONIAL IMPACTS ON PLANNING	21
MODERN PLANNING IN NIGERIA.....	24
CHAPTER 3 METHODOLOGY	30
DATA COLLECTION	37
PARTICIPANT OBSERVATIONS AND INTERVIEWS WITH KEY INFORMANTS.....	39
DATA CONDENSATION	40
CHAPTER 4 FINDINGS.....	42
BIOPHYSICAL CONDITIONS AND STUDY AREAS.....	43
ATTRIBUTES OF THE COMMUNITIES.....	44
CHAPTER 5 ACTION SITUATION	50
ACTORS.....	55
RULES IN USE	57
POSITION RULES	57
AUTHORITY RULES.....	59
AGGREGATION RULES	61
INFORMATION RULES.....	63
CHAPTER 6 PATTERNS OF INTERACTION.....	67
RELATIONSHIP BETWEEN GOVERNMENT AND COMMUNITIES.....	67
OUTCOMES	70
BENEFITS.....	73
WEAKNESSES	75
CHAPTER 7 DISCUSSION	80
NEO-CUSTOMARY LAND DEVELOPMENT ACTIVITIES	80
MASTER PLANNING IN ENUGU	82

OTHER MOTIVATIONS BEHIND CMSS	84
IMPRACTICAL EXPECTATIONS OF CMSS	85
URBAN PLANNING RECOMMENDATIONS	86
APPLICATION OF STUDY TO OTHER AFRICAN CITIES AND BEYOND	90
CHAPTER 8 CONCLUSION.....	92
RESEARCH LIMITATION	93
IMPLICATIONS OF STUDY FOR RESEARCH	93
IMPLICATIONS OF STUDY FOR PRACTICE	94
REFERENCES.....	96
APPENDIX.....	106

LIST OF FIGURES

Figure 1. Location of Enugu in Nigeria and Nigeria in West Africa.....	8
Figure 2. Enugu Urban Area	11
Figure 3. Ostrom’s IAD Framework	31
Figure 4. Advertisement of major land development enterprise.....	31
Figure 5. Pre-Field-Work “Hypothesized IAD framework”	36
Figure 6. Observed IAD Framework.....	43
Figure 7. Map of Nike Community with Ibagwa-Nike and Iji-Nike shown	48
Figure 8. Example of a layout plan in Ibagwa-Nike titled, Unity Estate Layout.....	52
Figure 9. Iji-Nike Community Office Entrance.....	65
Figure 10. Lack of drainage in a planned layout in Iji-Nike Community.....	71
Figure 11. Single electricity pole in Ibagwa-Nike Community	71
Figure 12. Lack of drainage and unpaved roads in Iji-Nike Community	72

Chapter 1

Introduction

Currently, 80% of land for housing in Enugu City originates from Community Mediated Settlements (CMS); Nigeria's largest supplier of subdivided land. 10% of land comes from the government, and 10% from the private sector. Land from the government and the private sector are on high demand but in low supply. The majority of land available for purchase therefore stems from CMSs whose subdivision and development process involves locals, planning consultants, surveyors, government planning authorities and middlemen (both formal and informal). In Enugu City, the capital of Enugu State in southeastern Nigeria, this is the dominant source of subdivided land available for housing development. The CMS process is essentially an alternative to government-initiated top-down land subdivision and acts as a bottom-up, workable, joint-venture between local communities and the government. Rapid population growth and those searching for relatively affordable land for development are rapidly encroaching the peri-urban areas of Enugu, and it is in these areas where CMSs are developing. Enugu's peri-urban environment is characterized by land settlements formed with lack of basic services and urban infrastructure and long delays in development. This is serious, considering the fact that most of Enugu City, with a population of 972,000 people, relies on CMSs for access to land for housing development. The CMS process is meant to plan for residential communities along with public and commercial uses, roads, and utilities while having the future in mind. Besides serving as an alternative for government-initiated subdivided land, CMSs are an alternative to slums with no formal guiding authority. It is therefore crucial to gain an understanding of CMSs as neo-customary land delivery/development practices and discover any opportunities for improving this system.

Enugu is a medium-sized imperial city, (Okeke and Ukonze, 2019) with a colonial history. It is often treated as an underdog city because it does not draw the attention of major businesses or foreign investment companies (Ventures Africa, 2014). The city was however, selected in 2014 to join the 100 Resilient Cities Network established by The Rockefeller Foundation (Okeke and Ukonze, 2019). This demonstrates Enugu as a model city making significant strides towards resilience. Enugu is a commercial, financial, and industrially booming city with seven universities. It is an attraction for citizens from many neighboring states as it is full of investment, job, and academic opportunities (Ononugbu et. Al., 2010). These are some of the factors that have contributed to Enugu's rapidly growing urban population. In Nigeria, urbanization has increased from 15% in 1950 to 51% in 2019 (Federal Ministry of Housing and Urban Development, 2006). As a result of this growing urban population, there has been increasing demand for cheaper subdivided land in urban peripheries. In Enugu, population growth is expanding into its urban peripheries. This creates a peri-urban interface (PUI) where development is encroaching adjacent rural lands. In many African cities like Enugu, these peri-urban areas are a dynamic combination of rural and urban conditions that are in a constant state of flux with regards to development processes and roles (Simon, 2008 and Onyebueke and Ndukwu, 2017).

Problem Statement

As a result of the Structural Adjustment Programs (SAP) imposed on developing countries which had borrowed from the International Monetary Fund (IMF) or the World Bank, countries were required to adopt neo-liberal policies which, among other things, reduced public sector intervention in the market (Onyebueke and Ikejiofor, 2017). The consequence of this in Nigeria was a decrease in the provision of government layouts and public housing. The inadequate supply of housing and land for housing is a major concern facing many cities in Nigeria (Ogu and Ogbuozobe, 2001). This has contributed to the creation of slums, poor housing, inability to

supply the demand of land, and lack of basic infrastructure. It has also led to landowning communities taking advantage of the land market and initiating subdivision schemes (Oneybueke and Ikejiofor, 2014) through neo-customary practices which are “a combination of reinterpreted customary practices with other informal and formal practices” (Durand-Lasserve, 2004, p.3). CMSs have drastically increased between the mid-1980s to the present with serious implications for the major role of local communities in peri-urban land development and their relationship with government institutions and formal policies. It is important to fully grasp how these two systems (formal and customary) are merging into a kind of practical “syncretism” between the two planning cultures.

For the most part, the Nigerian Town and Country Planning Law of 1946 is the foundation for urban planning in Enugu. The primary concerns of the 1946 Town and Country Planning Law were public sanitation and to control physical planning by Nigeria’s colonists. There have been other planning laws such as the 1992 Nigerian Urban and Regional Planning Act and the 2012 Nigerian National Urban Development Policy (NNUD) which sought to bring a reform to Nigerian planning practices, but such laws have not been adopted or implemented in many states. In 2004, Enugu State made marginal revisions to the 1946 Town and Country Law, but the content remained relatively the same. It has been argued that these laws are out of context with Nigeria’s social, cultural, spatial dynamics, and its informal environment and therefore these imported Western theories are out of place (Ogu 1999, Berrisford, 2013, and Huxley & Yiftachel, 2000).

Prior to Nigeria’s independence and some years after, the country had heterogeneous land tenure laws, issues with multiple sales of one lot, and land speculation. As a result of these issues, the 1978 Land Use Act was instituted which vested all land in state governments. From this point forward, land could no longer be owned outright, and land purchasers must obtain statutory or customary Certificate of Occupancies (CofOs) in order to lease property from the

government or community owners. Under this national legal framework, it is the 2004 Revised Enugu State CAP 149 Town and Country Planning Law and the 1978 Land Use Act that therefore guides and regulates land development and delivery systems in Enugu.

From an occidental perspective, it is easy to dismiss CMSs and its development process as irrational and informal developments with no formal review, lack of infrastructure, and underdeveloped settlements with little to no structure or planning behind its creation. Some scholars are quick to dismiss African planning as a failed attempt at modernity. According to Watson (2002b), "it is not possible to think about planning in Africa outside the issue of development" (p.46). She argues that civil society is extremely dysfunctional and there are deep rooted factors that prevent consensus-building. There is doubt concerning the capabilities of locals to commit themselves to engaging in local planning initiatives as they may be primarily concerned with survival where there is economic scarcity. According to Harrison (2006), multiple rationalities is evidence that urban development practices in different parts of the Global South are not simply a perversion of development practices of the Global North, but rather, these practices have their own rationale. This is the situation in Enugu where local communities have come together to create workable neo-customary initiatives for the provision of land for residential development and other uses where the government has been unsuccessful.

Purpose of Study

The purpose of this qualitative study is to fully grasp neo-customary land delivery/development systems for residential development in peri-urban Enugu City and discover opportunities for improvement of these systems. As this study is contextually anchored in its location, a qualitative study was performed to carry out observations of the processes actors use to engage in this land development system. The potentials, issues, and performance of CMSs will be analyzed in order to assess peri-urban community development. The development stages in the

CMS process are first, the decision to market communal land; second, the registration and subdivision of land; third, the sale of land¹; and fourth, the consolidation phase.

In this study, Ostrom's Institutional Analysis and Development framework (IAD) is used to capture or frame the CMS development process and how it operates within the context of Enugu's post-colonial urban development framework. The IAD is a systemic process for analyzing institution(s) on many levels in order to understand how they operate and change with the aim of producing recommendations for policy reform. The undertaking of CMSs are posited as the action situation displaying how actors make decisions, engage in certain interactions, and grasp the outcomes of their interaction. The qualitative study included interviews with actors, comprised of locals from two communities in Enugu City, staff from government agencies, and actors from the private sector which are involved in CMSs. The two communities, Ibagwa-Nike and Iji-Nike, are part of a larger land-owning group in Enugu which are the Nike people. Nike was the chosen study area because their communities are the largest customary landowning group in Enugu (Onyebueke and Ikejiofor, 2017) and as indicated in 2014 when it was selected to join the 100 Resilient Cities Network, has many potentials.

The research provides answers to the question: How does the CMS process, as a neo-customary land delivery/development system, functions to provide developable land in peri-urban Enugu City and what opportunities exist for enhancing the benefits of the process, while mitigating its weaknesses? This study intends to contribute to the growing body of literature concerning land development and delivery practices in Nigeria as customary land makes up the majority of land available for development in the country. It has the potential to inform future urban planning policies and neo-customary land development practices.

¹ The sale of land does not confer ownership as understood in the US, but the right to use the land. This right is conferred in the form of leases.

Justification

From the 1960s, immediately after Nigeria's independence, communities stepped in and began creating community mediated settlements (CMSs) as a process for providing land for housing where the government lacked the capability to do so. Andersen et al. (2015a, p. 331 and 347) "have described this evolving "bottom-up" planning that is defacto praxis in the city'..." and claim that one of the many potentials of these schemes is for the government to guide rather than control urban development (Andersen, et al., 2015a, p. 335). Nigeria's urban landscape is characterized by unplanned, rapid urban growth, proliferation of slums, inadequate infrastructure and basic services, and poverty (Ogbazi, 2013). With increasing population pressures and the search for developable land, many are purchasing relatively cheap land in Enugu's urban peripheries. The reality is that this type of growth leads to sprawl and its consequences are "poverty, food insecurity, unemployment and misemployment, housing shortage and slum growth, overcrowding and infrastructure overload, and environmental threats" (Blanco, et al. 2009, as cited in Onyebueke and Ndukwu, 2017). As local and state governments hold development review authority over CMSs, the opportunity arises for a partnership between government and communities to make rapid urban expansion amenable to reaching sustainability goals in development arrangements. As CMSs are the dominant source of land supply for housing development in Enugu, it is crucial to understand how these systems operate in the midst of formal planning laws, how planners are working with them, and to address existing and potential planning challenges that come with CMSs. It is also crucial to find ways of capitalizing on the benefits of CMSs in Enugu.

Chapter 2 Literature Review

Nigeria is a country located in Western Africa. It currently has a population of about 189 million people and holds the position of having Africa's largest economy with 48.1% of its population categorized as urban (Worldometers, 2016). The country encompasses over 300 tribes, and amongst the largest includes Hausa-Fulani, Igbo, and Yoruba. It is currently comprised of 36 states with Abuja as its capital. The country achieved its independence on October 1, 1960 from its British colonizers after being under its colonial administration for 46 years (Britannica, 2002). Enugu state, located in southeastern Nigeria, will be the focus of this study. Enugu state is unique as it was carved out of Anambra state (state located southwest of Enugu) in 1991. It is currently 2,765 square miles. The state is known for its mountainous landscape with its highest peak rising to about 300 meters. It harbors about 3 million people and a great majority of its population are of the Igbo tribe and Christians. The state's main crops are yam, cassava, palm oil and rice. Its capital is Enugu City, and will be the study area. The City currently has a population of about 972,000 civilians and is 215 square miles in size (Widjaja, 2016).



Figure 1. Location of Enugu in Nigeria and Nigeria in West Africa

Source: Worldatlas, 2020

Urban development in Enugu City is characterized by spontaneous pop-ups that occur outside of the legal framework. There are many informal businesses and residential units along the eastern region of the city. About 70 percent of the urban population in residential neighborhoods live in high-density developments (700 people per hectare) in the Ogbete (Coal Camp), Ogui New Layout, Abakpa, and Emene neighborhoods (western region of city). About 28 percent of the residential developments are medium density residential (350-400 people per hectare) in Achara Layout, New Haven, Maryland, and part of Trans Ekulu, (western central region of city). About two percent of the urban population in Enugu City are low density residential developments comprising about 18-60 people per hectare. The residential structures are comprised of bungalows, flats (apartments), and semi-detached duplexes. Many of these areas have degenerated into slums with most of the structures being composed of tenements. Residential areas along public streets have progressively been converted to commercial uses because of infrastructure connections and accessibility to public markets (Nwobodo, 2011). There are minimally defined boundaries between commercial uses and residential uses. Most industrial uses are situated in Emene which is the eastern part of the city. Street vending is the most popular form of employment in the informal sector as this labor suits many rural-urban migrants (Onodugo, et al, 2016). There are three local government areas (LGA) in Enugu: Enugu North, Enugu South, and Enugu East. The focus of this study will be on Enugu East LGA.

Nigerian Urban Development

Even with national laws and state plans present, the state government and local government areas (LGAs) have been unable to implement urban planning laws and physical plans because of their lack of functional capabilities. This combined with high population growth, has led to unplanned and spontaneous development in the periphery of the city. Growth by expansion

occurs when disjointed developments and residential settlements not connected to cities begin to get incorporated into city limits because of expansion pressures (Atu et al., 2012). These developments can range anywhere from formal housing estates, to unregulated residential settlements in the city's peri-urban areas (Ogu, 1999). In Enugu, much of the urban expansion process is characterized by development performed outside formal systems leading to random developments. Growth by densification, is described by infill development where growth is found in existing urban neighborhoods. Higher density settlements begin to appear where there was little to none initially. Land use development models in developing countries are similar in various ways. In many instances, the native elite remain in the core of the city while professionals move to adjacent neighborhoods which are more spacious in nature. The urban poor who have typically moved to the city generally settle at the fringe of the city adjacent to non-conducive land uses where there is a lack of infrastructure (Lowder, 1993). There is typically high congestion, high population density, lack of sufficient and adequate infrastructure, and poor environmental quality.

Most of Nigeria's current urban landscape is characterized by complex and unplanned urban settlements with its core being composed of various zoning districts. Even in informal settlements, complexity in these areas vary as described in the following. Informal settlements in the center of cities are the oldest and sizeable areas with low quality residential development and a high number of residents. Squatter settlements located in the periphery of cities typically harbor incoming residents. Informal settlements on the periphery typically occur along major roads and are usually linked with some form of new on-street market employment that has created jobs without the availability of housing. These areas have less dense populations in comparison to informal settlements in the inner city and their inhabitants are socially diverse as these areas tend to accommodate newcomers. Many times, these areas are next to industrial areas and public markets (Fourchard, 2003).

Nigerian Urban Growth

Nigeria's urban population has grown from 33.7% as of 1998, to about 50.3% in 2018. This is about 96 million people (Central Intelligence Agency, 2018). This indicates a significant rise in urbanization as half of Nigeria's population now dwells in urban areas. Although an urban area may be characterized as 20,000 people or more in an urban settlement, there is no universal standard for urban areas. Criteria such as population, urban structure, employment, etc. are all considered when qualifying an urban area. Upcoming urban areas with populations around 20,000 people typically do not have sufficient infrastructure or building densities in comparison to older larger cities. Nigeria's urban population is expected to increase to 67% by 2050 (URN, 2017). Enugu state has a population of approximately 3 million people with about 1,881,500 people living in urbanized areas (Enugu State Government, 2019). Urbanization is increasing exponentially because of decreased mortality rates, increased fertility rates, rapid urban expansion and densification of rural areas, which have resulted in the reclassification of these settlements from rural to urban. The city is characterized by a deficiency of housing, escalating house rents, and lack of adequate infrastructure at the city's periphery. Enugu City as many other cities in Nigeria, is rapidly urbanizing and growing as a result of migration and high birth rates.

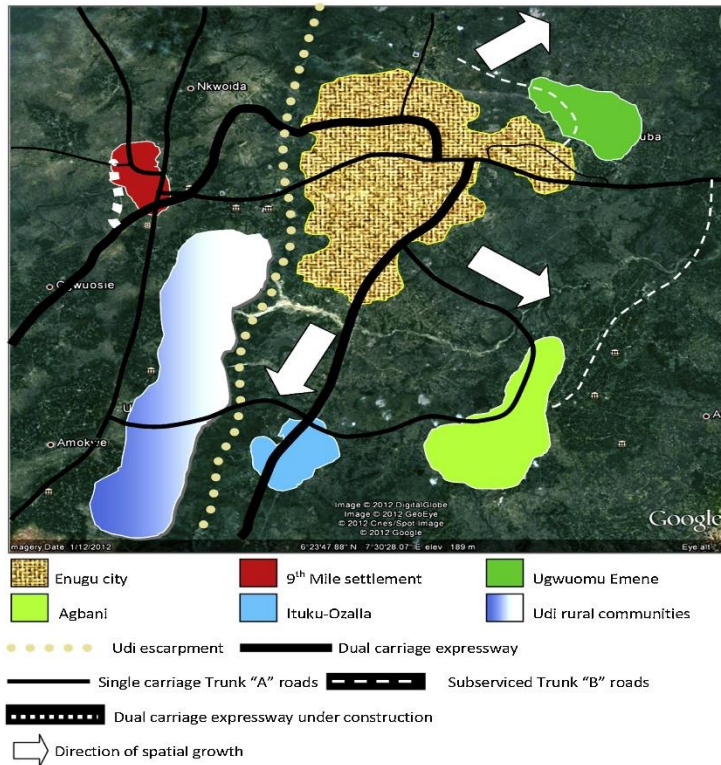


Figure 2. Enugu Urban Area

Sources: Google Earth Satellite, 2012 and Okeke and Ukonze, 2019

Peri-Urbanization and Community Mediated Settlements

Onyebueke and Ikejiofor (2017) call peri-urbanization interface (PUI) the development encroachment upon rural lands which are characterized by increased numbers in population, sources of food, building materials and diversity of land uses. In this area, most developable land is provided by customary landowners and CMSs. CMSs are the largest supplier of subdivided land in Nigeria and are essentially formally planned layout schemes for development. CMSs correspond to fringe areas teeming with population and new residential developments. Onyebueke and Ikejiofor (2017) discovered that from 1961 to 2014 there have been a wholesale increase in land subdivision initiatives through CMSs and a drastic decrease in initiatives through government schemes. The development methods used are a hybrid of both institutions (customary and formal) and are viewed as more flexible and less cumbersome than formal institutions. Although counterintuitive, the actors involved in these settlements are not

only village committees selling land and initiating new communities, but also comprise of private sector actors and government organizations (Onyebueke and Ikejiofor 2017).

In Nigeria (Enugu), an “autonomous community” is the smallest political administration and is a village led by a traditional ruler “Igwe” or king. Such charters are recognized by the Enugu State Autonomous Community Law of 1999. It is the Igwe and his council which make decisions on common community matters such as the decision to subdivide and sell community land. Each council or administration is composed of the Igwe as chairman (who usually has a five-year tenure), a secretary, a treasurer and other members (Monye, et. al. 2003). Many villages rely on land committees to manage land transactions under the purview of the Igwe’s council. The land committee is known as the “power of the attorney” and is composed of 6-8 male family members who serve a 5-year term (Onyebueke and Ikejiofor, pg. 331, 2017).

CMSs-customary-rights-holding communities initiate the development process with the following stages:

1. Marketing communal property: This is the first step in land development for housing. The Igwe’s (traditional ruler) council are the powers of attorney and are responsible for managing and serving as witnesses to all land transactions. Anyone interested in buying land from a communal reserve must still go through traditional leaders for permission to attain land from the community. According to the 1978 Land Use Act, land is leased rather than sold outright. In this case, individual plots of land are leased, which prevents community alienation and allows for future community involvement as it relates to management of the estates. Community involvement creates a learning environment whereby locals work together with surveyors, government officials and urban planners to provide site plans, surveys, and other relevant plans necessary for housing development. It is important to note that the CMSs process is quasi-formal so government agencies are involved in this process of the urban land supply. Anyone interested in buying land from a communal reserve must still go through traditional leaders for

permission to obtain land from the area. Because buyers typically want some type of formal tenure rights, in case of a future dispute, they buy at least 1 plot (6,250 sq. ft.) of land as this is the minimum size requirement for formal registration/titling.

2. Land subdivision and registration: This second step in this process involves surveying, subdividing and registering the land. Each development in Enugu is required to be surveyed by a licensed and professional surveyor. Plots are usually 20x30 square meters to ensure compliance with subdivision regulations. The land purchaser hires a surveyor to identify the boundary of the property. Some surveyors are enlisting the help of urban planners to ensure approval of the subdivision application. In the case of non-slum CMSs, in order to get the layout registered, a layout application is submitted to the Commissioner of Lands and Urban Development through the Director of Planning. (It is important to note that not all CMSs are registered with the Survey Department.) According to the Enugu State Land Instruments Registration Law, every layout is required to be registered with the Enugu State Survey Department. This department is under the Ministry of Lands and Urban Development. Such submittals are accompanied with some proof of ownership such as a title deed or registered survey plan. Besides the base registration fee of about almost 250,000 naira (\$700.00), there are other associated tipping costs associated with approval of the plans (Onyebueke and Ikejiofor, 2017).

3. Land sale and accumulation: The third step involves selling of communal land. Prices are determined by location, access to roads, infrastructure, proximity to the floodplain, etc. Also included in the price of land are informal charges assessed by the community such as lease document fees, land receipt, development and traditional rites fees. According to Onyebueke and Ikejiofor (2017), land purchased from CMSs are much more affordable than property located on government-initiated layouts because of factors such as access to infrastructure or higher potential of future infrastructure access. Sale proceeds go directly into the community's

account or directly to the family's account depending on if it is community or family owned property. Informal middlemen are involved in the selling process and are responsible for bringing together the buyer and seller. They usually get up to 10% of land sales. They facilitate the negotiation process concerning land prices and have important information about the property up for sale. They are much more prominent and ubiquitous than formal broking firms.

4. Consolidation Phase: This final phase is the period between approval of the plans and habitation of built up houses. The speed at which this occurs depends upon the CMSs proximity to built-up urban areas, existing infrastructure and connecting roads. Many of the infrastructure's components (e.g., roads, sewer, electricity, water, storm water) are slowly developed through self-help efforts initiated by the communities. The government is seldom involved with this phase of development.

Onyebueke and Ikejifor (2017) and Rakodi (2005) identified the following weaknesses and strengths of the CMS alternative land delivery and development process.

Weaknesses of alternative land delivery systems:

- Unplanned developments are likely to occur if subdivision regulations are not followed or if properties are not spatially planned. Such developments often lack basic infrastructure and do not have access to roads (Rakodi, 2005, pgs, 5-8).
- Documents may not always be legal. Letters of agreements or sale between the buyer and seller may not always be valid/trusted or may be forged (Rakodi, 2005, pgs, 5-8).
- Systems of maintaining records are undeveloped. Documents that arise out of land transactions such as letters of agreement do not have a maintenance/storage system (Rakodi, 2005, pgs, 5-8).

- Even though some family members may agree initially, some sales may later be refuted by family members. This situation may occur if at the time of the sale, not all relative family members were present (Rakodi, 2005, pgs. 5-8).

Strengths of alternative land delivery systems include:

- The practices grasp the very essence of “authentic workable alternatives that are unique and creative adaptations of the modern” (Harrison, 2006, p. 326-328 and Onyebueke and Ikejiofor, 2017, p. 336).
- These initiatives guide rather than control urban development and are a precursor to possible public-private partnerships directed at decreasing state involvement (Onyebueke and Ikejiofor, 2017, p. 338 and Andersen et al., 2015).
- There are feasibility, people oriented and community driven capacities (Onyebueke and Ikejiofor, 2017, p.337).
- Although the multiple subdivision or sale of a plot of land occurs at times, indigenes of local communities consider such an act taboo and sacrilege to land. Fines and/or ostracism are imposed on individuals who commit such crimes (Onyebueke and Ikejiofor, 2017, p. 336).

Nigerian Urban Planning System and Challenges

The legal and administrative basis for urban planning laws originates from Nigeria’s colonial government. During Nigeria’s colonial history, the 1946 Town and Country Planning Law was instituted in order to control physical development by means of layout schemes. The Town and Country Planning Law was based on the 1932 British Town Planning Law. Planning administration authority was centralized in the hands of the colony (modern state) government. Property owners had the ability to submit layout schemes to the planning authority (Central Authority at the time) and the planning authority had the ability to prepare and adopt layout schemes. In 2004, Enugu State revised the 1946 Law and created the 2004 Revised Enugu

State CAP 149 Town and Country Planning Law. The only significant difference between the 1946 law and the 2004 law is the metrics. In 1992, the Nigerian Urban and Regional Planning Law (NURPL) was passed and was intended to replace the 1946 Planning Law (Dung-Gwom, 2011). The NURPL established a three-tier government where planning responsibilities are divided between the National and Regional Planning Commission (NRPC) (federal), State Urban and Regional Planning Board (state), and the Local Planning Authorities or Town Planning Authorities (LPA) (local government) (Onyebueke and Ikejiofor, 2017).

The Federal government is supposed to be responsible for creating and implementing a National Physical Development Plan; the preparation of Urban and Regional Planning standards; fostering education for Town Planners (equivalent to American Institute of Certified Planners); and supporting government staff. The state government is (in theory) responsible for creating and implementing regional plans, and the local government is responsible for creating and implementing local and town plans. A national physical development plan is meant to serve as the planning apex from which state and local government planning will follow. The hierarchy of plans is top-down and the local and state government is meant to provide annual reports indicating the level of conformity to national plans (Dung-Gwom, 2011, p. 3). The reality is that there has been no creation of a National Physical Development Plan in almost 30 years since inception of the 1992 NURPL, hence no national framework for urban planning. Most states, including Enugu, have yet to domesticate (adopt) the NURPL.

The NURPL also had a provision for Improvement Area Plans (IAPs). Improvement areas are local plans which are meant to be chosen for restoring, revamping and upgrading the physical setting, social amenities and infrastructure of the area with a timeline proposed. Such upgrading is meant to be brought about through input from residents, the Control Department, and other departments from the Ministry of Lands and Urban Development. Information from land registrations are to be used to create such plans and forecast needs for infrastructure, road, and

other necessary developments. Before the areas are designated, surrounding residents or property owners are notified and public meetings are held between prospective effective parties and local government officials. Such plans are necessary to justify resource allocation and distribution (The Nigerian Urban and Regional Planning Law, 1992).

In 2012, the Nigerian National Urban Development Policy (NNUD) was adopted by the federal government. Its purpose is to “promote a dynamic system of urban settlements, which fosters sustainable economic growth, promotes efficient urban and regional planning and development, create autonomy within the three-tier government, as well as ensures improved standard of living and well-being of all Nigerians” (Federal Republic of Nigeria, 2012). A couple of the federal government’s strategies includes the establishment of a suitable institutional framework for guaranteeing logical development and effective management of Nigerian urban settlements and the classification and profiling of cities to facilitate meaningful policy intervention. It also calls for local governments to prepare necessary development plans such as residential layouts, maintaining infrastructure, develop capacity in each tier of government and facilitate land delivery and housing. It created the Urban and Regional Development Board (URDB) which would be responsible for creating urban development policies, supporting the capacity of local governments, and preparing state plans (Lamond et al., 2015). The 2012 NNUDP has not garnered success because of the lack of institutional capacity as it relates to functionality between the state, federal and local governments; and because of the continued top-down, bureaucratic relationship between the state and local government in the formulation of the NNUDP. Such a relationship limits the effective participation of relevant stakeholders and has led to the planning system being culturally uninformed by cultures of the respective environment (Zubairu, 2015).

1978 Land Use Decree

Nigeria's 1978 Land Use Decree Act (LUD) was instituted for the purpose of vesting land in each state to its governors for overriding public interest. For the first time in Nigeria's history, a uniform system of land tenure and control was enacted. No longer can natives act as freeholders to their native land. At best by law, native owners can hold rights of occupancy. The key point here is that individuals can no longer own land but can only possess it. The government, in practice, "owns" all land. The two types of "Rights of Occupancies" are Statutory Rights of Occupancy and Customary Rights of Occupancy (Butler, 2012). Statutory rights are to be granted by the governor while customary rights are to be granted by local governments. A state lease can last up to 99 years. Both governments have the right to cancel any rights of occupancy on land. All methods of transfers of land (lease, mortgage, conveyance, etc.) must have the consent of its state Governor or Local Government.

The government's purpose of the 1978 Land Use Act at the time was to work towards equity in the acquisition of land and land rights for all people in Nigeria; administering a stronger government control over land use and development; combining land distribution and acquisition processes throughout the country; and decreasing issues amongst citizens. These objectives were essential considering the oil boom of the 1970s. During this period there was a peak in urbanization and then an urgent need for public services, infrastructural developments, and housing. This became more difficult to attain as land speculators swarmed Nigeria. (Okonkwo, 2013).

In the context of the Land Use Act of 1978 (state institutions), indigenous owners are able to register their land. If the parcel is located in an approved layout, the owner makes an application to the Ministry of Lands and Urban Development; if the land is not located in an approved layout the applicant must apply to the State Land Use and Allocation Committee. In Enugu, this committee is not active and the Permanent Secretary of the Ministry of Lands and Urban

Development acts in place of this committee. Under both application processes, the standard process of verification, surveying, and certificate of occupancy is allotted. Amongst the three institutions that facilitate land delivery in Enugu, the most unwanted by indigenes is the Land Use Act, according to a focus group conducted by Ikejiofor (2005). From their perspective, the system acquires land for one purpose then ends up utilizing it for another use i.e., land being subdivided to groups in society who are well connected; or may have a disregard for historical or sacred sites by knocking down ancestral structures for the sake of development. This has generated lack of trust for the government among customary landowners.

CMS from another Nigerian City

There are two tiers of government in Enugu State: these are the local governments and state government. The state government exercises power through ministries which are led by commissioners. The governor and commissioners execute the policies and programs that are established on a statutory level. Amongst the different roles of the local government is urban land administration along with the upkeep of roads, water delivery, and waste collection.

Although, many times the responsibilities of the governments intersect, the state government often takes up the duties of the local governments. One of the many ministries in the State government is the Ministry of Lands and Urban Development. For the most part, layouts are prepared for formal areas by the government or indigenous communities and approved by the government. Currently, "80% of Enugu's land is owned by customary owners, 10% (right of occupancy) by the private sector, and 10% by the government" (Ikejiofor, 2006, p. 452). Access to land primarily originates from customary landowners who have subdivided their land by means of a layout scheme or by informal subdivision, i.e., land that is not registered in a planned layout.

Due to SAPs, many Nigerian state governments were affected in their abilities to provide public housing and government schemes. SAPs were enforced on African nations by the World Bank and International Monetary Fund (IMF) since the 1980s (Watson, 2002b). Countries which

borrowed from these institutions were required to implement neoliberal policies in order to acquire new loans or decrease their interest rates on current loans (Lensink, 1996). Many African nations reduced state influence in their economies, decreased the size of public sector personnel, lowered trade barriers, and engaged in privatization. The neo-liberal development philosophies pushed for the globalization of capital rather than the restraint of capital within the nation (Agnew and Grant, 1997). As a result of these changes, there was a reduction in the provision of government schemes and CMSs which signified the weakening economy as a result of the SAP. During the post-SAP period, the number of government schemes continued to decline while the number of community schemes were quickly increasing (Onyebueke and Ikejiofor, 2017). This has led to a residential sprawl in peri-urban areas in Africa (Briggs and Yeboah, 2001).

At the national level, the 1978 Land Use Act is overseen by the Survey Division of the Ministry of Lands and Urban Development, while at the state level, the 2004 Revised Enugu State CAP 149 Town and Country Planning Law is overseen by the Town Planning Authorities and Town Planning Department at local and state level governments respectively. According to Ogu (1999), the two divisions often do not work collaboratively to coordinate habitable and harmonious land use patterns. An example of this can be observed from Benin City, the capital of Edo state (state in mid-west Nigeria) where CMSs were approved because official administrative requirements were met, but in reality, disorderly housing developments were produced. There is inadequate provision of infrastructure which includes a disregard for the layout of streets, absence of electricity poles, drainage, extension of water pipes for present or future development or sewage (Ogu, 1999, p. 359). This is common in many Nigerian cities, including Enugu. These issues are caused by larger structural forces at hand including, corruption in government, SAPs (Harrison, 2006), and the fact that large investment in land-use planning is not a guarantee of revenues for public infrastructure such as, roads, sewer, storm water systems, treatment plants for potable water, electricity, garbage collection, public schools,

parks, hospitals, etc. For many African cities, there has been a decline in the state's capacity or distribute services in subsequent years (Watson, 2002b). Although for most planners, their role is limited to address these major structural issues at large, there may be an opportunity to address issues at a local level (Watson, 2002b).

Government developed sites are typically more expensive and accessible to the rich as only 10% of land in Enugu is owned by the government; resulting in a high demand and low supply. The rest of the population must rely on customary owned land from CMSs in order to have access to land. In Benin, planning rates which are supposed to take care of the construction of roads, provision of water pipes, sewerage and the installation of electricity poles, are expected to be paid by prospective developers. In reality, these rates are typically only paid in government acquired layouts and not community lands; leaving customary owned CMS land in the peri-urban areas without suitable infrastructure. In some situations, the residents take it upon themselves to install some of these infrastructures but, they are not adequately integrated. In some situations, for example, there are provision of drains but no facilitation of collection and disposal. This results in blocked drains caused by solid waste; therefore, leading to flooded streets when it rains (Ogu, 1996). Many of the community mediated settlements in Enugu share similar qualities. Ad hoc programs are then created as a recourse to remedy situations when they get out of hand; this method is reactive rather than proactive in nature.

Colonial Impacts on Planning

At the advent of Nigeria's colonialization, the objectives for planning settlements were "modernization and civilization" by means of instruments such as, "master planning, zoning, building regulations, and the design concepts of the time, such as garden city concept, a neighborhood design concept and Radburn layouts concept; and later urban modernism" (Olujimi and Enisan, 2015, p. 2). Private property rights and the commodification of land was also introduced and enforced by British colonists. Pre-colonial planning was led by community

leaders and chiefs (in charge of communal land) and based upon an agrarian economy which was driven by local customs. Both chiefs and community leaders had the right to administer and designate land for various uses. Communities were developed around traditional rulers which ensured enhanced communal interaction. Responsibility of the development of pre-colonial Nigerian settlements were the responsibility of the community as a whole. (The Nigerian Institute of Town Planners, 1991).

In 1900, there was the Land Promulgation Act which allowed British colonists to have authority over Government Reserve Areas (GRA) and European Quarters in Enugu's central, while traditional rulers maintained control over urban and rural settlements. The 1917 Township ordinance created classes of township which legalized the segregation of European residences from Nigerian settlements (Twenty-Five Years of Physical Planning in Nigeria, 1991, pgs. 5-6). It was in the GRAs and European Quarters where infrastructure was concentrated and development standards from the 1917 Township Ordinance were enforced in the interest of the colonists. Migrants were attracted to the central part of the city in search of economic opportunities as Enugu was a coal-mining city. The workers lived in the outskirts of the GRA where they lived in shanty towns as a result of the lack of housing. The indigenous settlements were designed so there was maximum economic benefit for the colonists.

As mentioned earlier, Enugu's current planning practices are dictated by British colonial laws from the late 1940s; meaning that the current laws are both outdated and disconnected from the City's reality. The planning laws created during this time period were implemented forcefully to control the masses with their own interests at the forefront. According to Berrisford, "Laws designed to regulate urban development in Europe or North America in the early and mid-20th century are an inappropriate blueprint for contemporary Africa" (Berrisford, 2013, p.3). Imposed land use theories which successfully operated in Western societies could not be used to explain the urban spatial processes in Nigeria as industrialization preceded urbanization in Western

societies, unlike in Nigeria (Ogu, 1999). Indigenous space was dispossessed by British colonists and remade based on their terms. Colonists created the abstract of space through the scaling of bodies as means for production. Women were in the home; laborers in the fields, and natives separated from the colonists. Natural and indigenous sources were also altered; open land reserved for pasture land; rivers used as prospective trade routes; and natural resources such as coal were used to generate revenue for the colonists (Lefebvre 2003 and Porter 2010). There was a hierarchy of space created for those that colonized indigenous lands. This hierarchy of spaces was based upon sentiment and affect rather than reason (Stoler, 2004). Porter (2010) coins the term, “spatial cultures” to signify the culture of planning in government activities and ones’ perspective of the composition of space.

Porter (2010) is of the position that (post) colonial nations will always be implicated by the philosophies of colonialism in various ways. There are new types of processes adopted by (post) colonial countries that are essentially Western planning methods. These “new” processes maintain a dominant power which consist of more or less the same spatial cultures (Porter, 2010). As mentioned in the foregoing, Enugu State revised the 1946 Law and created the 2004 Revised Enugu State CAP 149 Town and Country Planning Law with the only significant difference being the metrics and removal of reference to colonial authority. According to Fischler (2000), change in procedures are not enough to constitute a genuine ‘fix’ to the impacts of colonial planning. The first professional planners in Nigeria were trained and guided by laws which originate from Nigeria’s colonists; laws which have been minimally revised so that the intent of the original law has remained more or less the same. Initial Nigerian planners were trained by professionals from the United Nations Development Program (UNDP) and some Nigerian university staff were sent abroad for training in urban planning.

In Nigeria, and Africa in general, colonial influences have impacted planning education as evidenced in the teachings of top-down master planned, Le Corbuserian approaches (Olujimi

and Enisan, 2015). Burayidi (1993) has noted that many current African universities have taken a “one world” approach to teaching planning theory that could be applied in any part of the country rather than a specific context. Nigerian politics maintains Le Corbuserian and progressive visions for many capital and major cities because they are rapidly urbanizing and developing; and trying to emulate model cities in Nigeria such as Lagos and Abuja (most developed cities in the country). This is evident in CMS scheme requirements which, for the most part, places the responsibility of providing infrastructure on the government. These cities are typically top-down; master planned; and strictly segregated by uses. African planning scholars recommend that in order to address the diversity of urban issues in a context-specific manner, there needs to be improved planning education for both prospective and existing planners (Agbola, 2005; Onorkerhoraye, 2006; Olujimi and Enisan, 2015).

Modern Planning in Nigeria

The master plans of Nigeria and many African countries as a whole were originally designed to economically serve the interests of its colonists. Indigenes migrated to urban areas in order to embark in low-skilled labor in British industries; in this case, it was the coal mines in Enugu City. The plans primarily served as tools to ensure the exploitation of agricultural and mineral resources; with no sincere interest in the growth and development of the country (Harvey, 1990; Doherty, 1977; Bardinet, 1977; and Rodney, 1972). Their designs were lofty and expensive in execution with the objective of creating wide expanses of green belts dividing socio-economic classes, sophisticated infrastructure, and wide streets that would accommodate automobiles (Mabogunje, 1990). The ideal cities would be very much spread out, which would make it increasingly difficult to maintain and provide services. This is in stark contradiction to the realities of modern-day cities in Nigeria. Master plans in many Nigerian cities have primarily remained obsolete or revised for the most part. Many fault the lack of institutional capacity that Nigeria has to create and successfully implement plans because of weak legislation, dearth of

sufficient human resources, and political interference (Arigbigbola,2007 and Lamond et. Al, 2015). Besides these assertions, infrastructure projections in the master plan could not keep up with the rapid physical growth of the city. The first city master plan for the city of Enugu was established in 1917 and it is one of the oldest in the country. As mentioned earlier, it is one of the tools used by colonialists to create a desired environment. The last attempt to create a master plan was in 1978, but it was never approved or implemented.

Collaborative and participatory planning has been explored as means of planning in (post) colonial nations to move pass the colonial legacies of top-down regulated planning. Many urban development scholars and institutions agree that African nations should opt for legal reform so that laws are realistic, inclusive of stakeholders, and compatible with current conditions.

Participatory and communicative approaches facilitate trust building, communication, knowledge sharing, mutual understanding between stakeholders and planning officials (Innes and Booher, 1999). The reality is that locals of many peri-urban and rural areas perceive public planning as an alien “autocratic” method of controlling individual’s property rights (Ogu, 1999). Habermas attributes communicative approaches to the creation of structures that enable social interaction and solidarity in reaching a common interest or goal. Even with such espoused planning methods implemented, the reality of power relations may very well still come into play as they may impact planning and other important public decisions or consensus may lead to outcomes which already favor dominant participants (Hillier, 2002).

Ogbazi (2013) recognizes the efforts of the 2012 NNUD as a participatory and communicative approach to planning but questions Nigeria’s institutional capacity to meet such expectations. Planning in Nigeria is often times ad hoc in nature, only responding to situations when they have reached an emergency status; applying knowledge from interest groups who have been involved in past programs; and experiences as tools for planning (Mabogunje, 1990 and Ogbazi, 2013). This is an incremental approach that wears away the purview of comprehensive

planning. According to (Ogbazi, 2013, p. 112) there needs to be included in the planning process, “techniques of working groups and city consultations as platforms for identifying, negotiating and prioritizing issues, formulating and implementing strategies” Focusing on local development activities and trends as it relates to the actors involved may be more relevant than a master plan which mainly plans for the long run without addressing issues of immediate concern. It is therefore crucial to develop an innovative planning approach to address urban challenges which includes, the social construction of knowledge and application of pragmatism and professional knowledge in planning (Healey,1997). Participation and collaboration between relevant stakeholders and planners, government support, and information sharing are necessary for a contextually effective planning approach; a method which surpasses that of a master plan or incremental planning (Ogbazi, 2013). When there is an understanding between actors about the social rules there is a higher chance for compliance with the rules. This approach underlines solving context-related issues within the confines of the city’s available resources.

Lamond et al. (2006) recommend an integrated approach to urban development and governance initiatives whereby urban sector stakeholders are involved in participation. This will make a difference between piecemeal haphazard and strategically expanding cities. According to Lamond et al. (2006), strategic cities are attained through well-developed plans which reflect realities of current conditions, whether formal or informal, and using that information to create practical plans for the subject city. A shift from an expert led approach to a participatory, integrative approach might assist in addressing immediate development needs as opposed to long-range plans that may not have immediate relevance. This approach has proven less than effective being that, during the 1970s and 1980s, foreign planning consultancy firms began to make their way into Nigeria soon after the country’s independence. Many of the country’s layout plans were created by firms which excelled in technical skills but lacked knowledge concerning

the social and cultural context. This may explain the multitude of layout schemes that have yet to be developed (Dung-Gwom, 2011). As mentioned earlier, many Nigerian state governments lack the institutional capacity or framework to implement the 2012 NNUD which created strategies for addressing issues such as slum upgrading, inadequate infrastructure, access to land, and the urban economy. The technical capacity, information, and resources are not present (Federal Republic of Nigeria, 2012). UN Habitat (2000) recognizes that mobilizing local resources is much more effective than external resources. Perhaps there has not been enough attention to the power of local communities and organizations (Ogbazi, 2013) and their potential contributions.

From the foregoing it is apparent that the ineffectiveness of the post-colonial traditional planning framework has not been capable of addressing the realities of rapid urban expansion, physical, social, or economic demands. The framework for modern-day planning practices in post-colonial societies and “their structures of meaning are drenched in colonial historiographies”, thus the continual colonial relations are present; even to the point of the way conversations are structured and restrained (Porter, 2016, p.16). Although it is impossible to transcend existing politics and colonial histories, it may be important to take inclusive approaches to planning in Enugu while working within the existing parameters of urban planning and networks of power, as power “cannot be reasoned away” (McGuirk, 2001, p.213). In the context of Nigeria, master plans are rigid colonial tools that were used to control methods of production and functionality that favored the economic interests of colonists. It may not be appropriate or responsive to the dynamic economic, social, or political forces that actually shape Enugu City.

While it is true that local initiatives are limited, considering the many high-level forces such as massive national debt, continuing poverty, public sector corruption, and economic distress, it is important to acknowledge that Africans are creating productive alternative means of land development at a micro-scale. As opposed to viewing Nigeria or Africa as dilapidated and

incomplete cases of modernity, it is important to recognize how African residents and communities are responding to “conditions of vulnerability — in the process of becoming something new that is both part of and separate from Western modernity” (Harrison, 2006, p. 323). McIntyre’s work discussed various rationalities within the context of modernity. Modernity is now global and “no longer has a governing center and master narrative to accompany it” (Goankar, 2011, p.4). Different parts of the Global South have various versions of modernity and its “critical to the construction of other ways of thinking” (Harrison, 2006).

Mignolo (2000) advocates for a post-colonial “border thinking” which may be found in the “interstices between occidental rationalities and rationalities of the colonized” (Harrison, 2006, p.325). Border thinking is not simply an alternative for what occurs in the Global North, but finding ways to make connections that produce new perspectives of viewing. It may allow new methods of place-making which lie between Western rationalities and other common rationalities of which originate from the Global South. Research suggests that policies or plans that are capable of incorporating this interstice or network of alternative rationalities are more likely to have a helpful impact on the citizens it affects (Harrison, 2006).

The CMS process is Nigeria’s innovative, practical, and adaptive land development framework for urban development. CMSs are autochthonous, yet a “modern” response bridging the gap between the inadequacies of the post-colonial system of public planning (facing exponential demand for housing and infrastructure), and ancestral indigenous forms of communal land management and indigenous practices of making developable land available to land buyers and subdividers external to the community. They need to be further explored to understand potential methods for improvement as there are many identified shortcomings. The study therefore seeks to answer: How does the CMS process, as a neo-customary land delivery/development system, functions to provide developable land in peri-urban Enugu City and what opportunities exist for enhancing the benefits of the process, while mitigating its weaknesses? These methods of

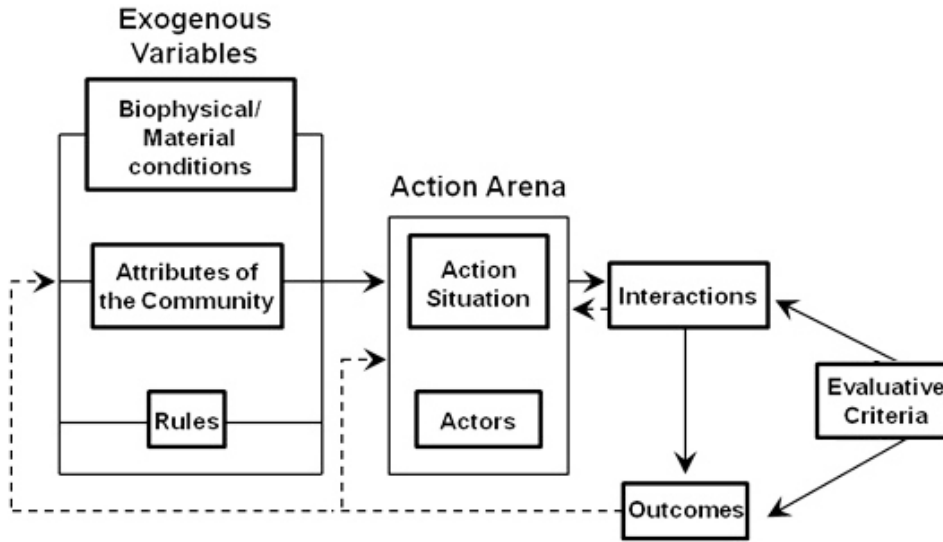
improvement may assist the government and city planners to further facilitate this process. Post-colonial methods for land development cannot be held to the expectations of Western standards. The research therefore intends to add to existing literature concerning alternatives to the provision of land for residential subdivisions. This question will be answered by means of the Institutional Analysis and Development framework. The fieldwork will allow me as the researcher, to evaluate the roles of actors and processes used in the creation of CMSs and the question will be addressed by means of participant observations and interviews with key informants which is focused on context-specific factors that involve current and future planning and the study of individuals in their environment.

Chapter 3

Methodology

Before embarking on the field work, the original research question was: How are Enugu Government Planning authorities capturing information about the informal housing land development process and incorporating it into the formal planning process (current and long range) to allow planners to plan for the future development of community mediated settlements?

It sought to determine whether planning government authorities were working with or resisting informal or alternative housing development methods to achieve Nigeria's goal for sustainable development. Under the IAD model (Ostrom 2005), this question was identified as the action situation to be investigated during the field work as shown in Table 2. The components of the pre-field-work IAD framework were built based on information obtained from the literature review as a "hypothesized framework," which would be confirmed or revised depending on the findings of the field-work carried out in Enugu. The intention was to shed light on informal housing development practices that could aid CMSs at all four stages of the process to better interface with the formal government planning system. The stages include the decision to market communal property; land subdivision and registration; land sale and accumulation and consolidation phase. The decision to market communal land is led by the Igwe (traditional ruler) and carried out by the power of attorneys. The community may choose to sell land to major land developers or to simply subdivide the land for themselves and engage in CMS creation.



Ostrom, Elinor; Understanding Institutional Diversity copyright 2005 by Princeton University Press. Reprinted by permission of Princeton University Press.

Figure 3. Ostrom's IAD Framework
Source: Ostrom, 2005



Figure 4. Advertisement of major land development enterprise
Source: Author

Land subdivision and registration includes the following. According to the Enugu State Land Instruments Registration Law of 2004, it is required that new development or land in layout plans be surveyed by a licensed surveyor and be registered with the Enugu State Survey Department. Before CMSs are approved, the Local Planning Areas (LPAs) verify ownership through proofs of ownership such as title deeds, and registered survey plans are required.

Registered land means increased tenure security for land buyers and facilitates an opportunity for the state government to collect annual ground rent (Oneybueke and Ikejiofor, 2017). With regards to land sales and accumulation, CMSs provide the largest amount of purchasable land to the public. More often than not, communities engage the services of informal middlemen to organize a land buyer, whether it is an individual or entity like a land development enterprise. If the buyers are not major land development enterprises, they are individuals looking to use the land for various uses or seeking to speculate on properties. The cost of land is dependent upon access to roads, availability of services, and includes other unofficial fees such as traditional fees, charges for lease documents, land receipts, and development levies (Onyebueke and Ikejiofor, 2017, pgs. 333-334). The cost of land in CMSs is much more affordable than land sold in public layouts as the latter are often times infrastructure-serviced or have a higher chance of being serviced in the future. Profit from land transactions are used to fund community needs such as scholarships for youths seeking higher education, construction/maintenance of community buildings, or any other social obligations. The consolidation phase of CMSs consists of the construction of infrastructure and services; of which development occurs incrementally. Most development in CMSs takes many years to occur, and when it does, it is completed haphazardly due to lack of sufficient resources. The infrastructure that does get built, is usually initiated by the local community.

Following the ‘hypothesized IAD framework’, the understood attributes of the community and biophysical conditions were confirmed during the field work. The proposed research sought to uncover processes that play out in the informal realm of land development for housing that the formal government could take advantage of for guiding CMS development. Rules that occur during these processes were categorized according to their impact on the proposed action situation. It was hypothesized that CMS rules for selling land obeyed customary practices which took place outside the purview of government sanctioned transactions, for the most part, with no

land registration and as a means to expedite land subdivision rather than following the government's formal layout approval process and rules. The latter is typically characterized as being extremely bureaucratic and expensive in time and money.

The position rules identify the roles actors play in the action situation and the assumed rules are identified below (Polski & Ostrom, 1999 p. 16 – 17).

-The Lands Department from the Ministry of Lands and Urban Development is responsible for administering Certificate of Occupancy (CofO)s, registering leases, power of attorney and other similar ownership documents.

-The Town Planning Department from the Ministry of Lands and Urban Development is responsible for reviewing and approving submitted layout plans.

-The local planning authorities are responsible for reviewing and forwarding layout plans to the Town Planning Department from the Ministry of Lands and Urban Development.

-The chieftain is the first point of contact for any type of land development that will occur on communal land. They are the group responsible for procuring a planning consultant, surveyor and establishing contact with government planning authorities.

-Customary landowners are those who own land privately through inheritance.

-Land purchasers are those who have purchased plots before or after land has been a part of an approved layout.

-Middlemen are those who bring the land purchaser and buyer together.

Authority rules are actions taken by participants in specific roles, such as governing (Polski & Ostrom, 1999 p. 16 – 17). Chieftain were seen as having the authority to adopt certain customs when engaging in the sell, subdivision and consolidation of the land. They also have authority to follow formal institutionalized rules. The Lands Division has the authority to accept or reject

documentation or procedures that arise from customary/alternative practices or formal procedures. The formal procedures for land subdivision, registration and consolidation originate from the 1992 Nigerian Urban and Regional Planning Decree (NURPL). The formal procedures for the transfer of ownership and accumulation originate from the 1978 Land Use Act. It is these documents that give staff from the local planning authorities and the Ministry of Lands and Urban Development the tools to make their decisions. Improvement Area Plans (IAP) are areas that are designated for urban renewal, upgrading and rehabilitation. Input from relevant planning authorities and residents are used as sources of information to designate these areas.

Information rules affect the information available to participants in the action arena (Polski & Ostrom, 1999 p. 16 – 17). All land transactions are to be documented with the chieftain/record keeper of the community. Concerning the Lands Division, all land transaction information are required to be accessible to the public. The purpose of this is to avoid multiple sales of one property and keep track of the different types of ownership on properties.

Aggregation rules determine how decisions are made in an action situation (Polski & Ostrom, 1999 p. 16-17). The formal procedures for land subdivision, registration and consolidation originate from the 1992 Nigerian Urban and Regional Planning Decree (NURPL). The formal procedures for the transfer of ownership and accumulation originate from the 1978 Land Use Act. It is these documents that give staff from the local planning authorities and the Ministry of Lands and Urban Development the tools to make their decisions. The informal rules for land subdivision, transfer of ownership, registration and consolidation originate from traditional customs. Historically, transfer of ownership occurred by means of inheritance and purchase by interested buyers. Witnesses were used as means of record keeping. If any Infrastructure was installed at all, it was done so by those who developed the property.

The interface between planning authorities and relevant land development stakeholders was assumed to be the action situation to be examined in the field. The actors included local

planning authorities, community's chieftain/s of communal land, customary landowners, land purchasers, government planning authorities and middlemen. All these actors were hypothesized (and are) as being part of this interface. It was through these interfaces that the anticipated interactions would be observed. The possible posited interactions included:

- The possibility of the local government reaching out to local communities to gather information concerning traditionally registered and alienated properties
- Local and state planning authorities interacting with communities to designate areas in need of Improvement Area Plans (IAPs)
- Local authorities keeping records of land transactions and continuing to accept letters of agreement and land sales receipts as proof of purchase during the application of title process
- Possible types of private-public-community partnerships would be emerging as outcomes of these interactions.

The hypothesized possible outcomes presumed planners capturing and using information from informal land transactions such as transfer of ownership and quasi-informal methods of the creation of CMSs to create IAPs and to update the current master plan.

With regards to informal transfer of land ownership, the documentation of land sales, any sort of transfer of ownership, proposed use of land, size of property, and location were expected to be tracked by community record keepers and that state planning authorities could use this information to forecast the direction of development, type of development and infrastructure needs. This information would assist in accurately designating the location of IAPs and the type of improvements necessary for a particular area. The knowledge of quasi-informal CMSs production could be a beneficial tool in updating the supposed 1982 Enugu master plan. The CMSs would inform planners of population trends and the amount of housing that would be

coming into its peri-urban areas. This information could also inform planning authorities on areas that need roads added (upgraded or enlarged); water and sewer lines installed or extended and areas where storm drainage facilities need to be built.

A display of the previous research design is shown below depicting how Enugu government was hypothesized to have managed alternative land development in peri-urban areas

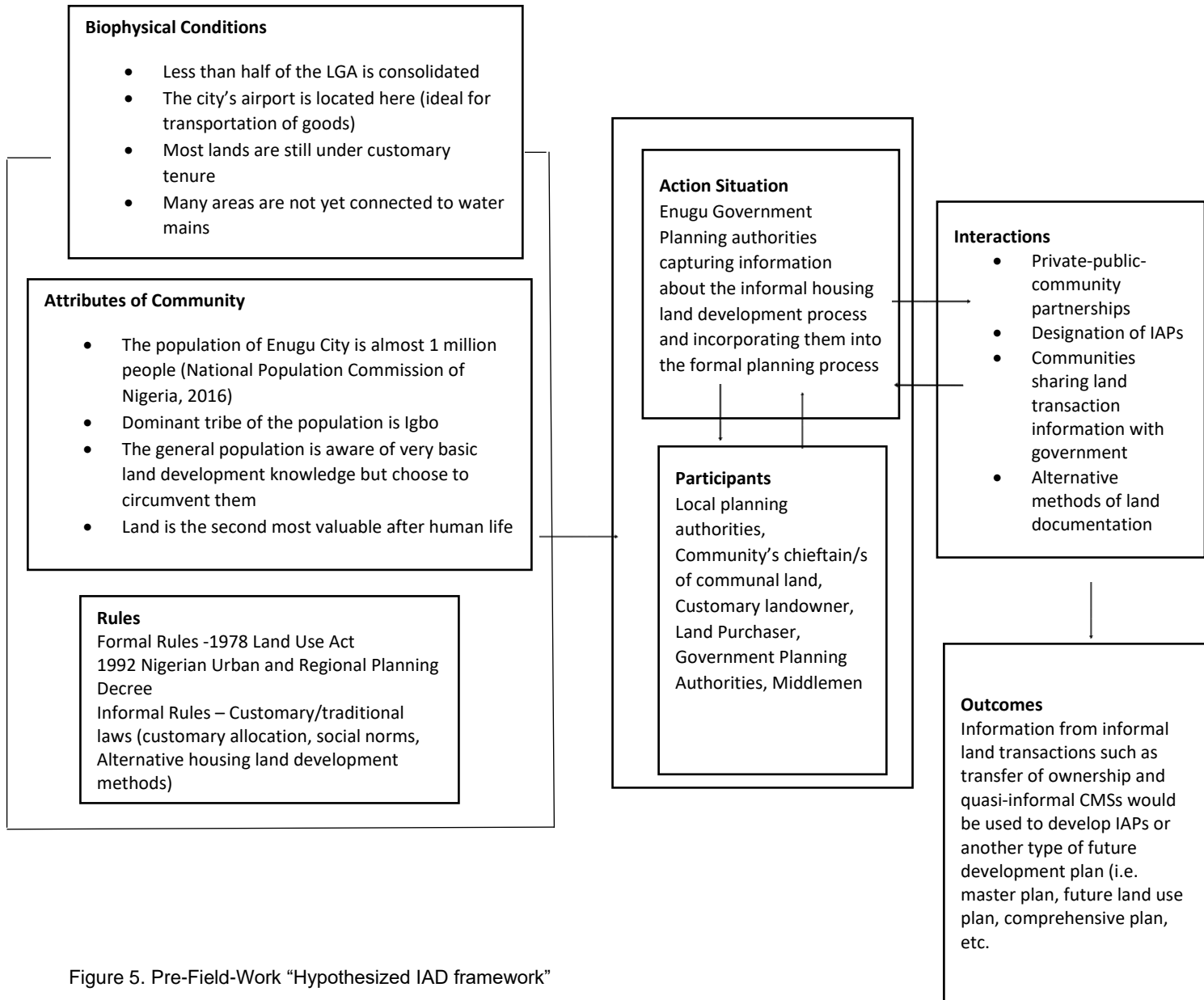


Figure 5. Pre-Field-Work “Hypothesized IAD framework”

Initially, CMSs were conceived as an alternative *informal and customary* method to conventional planning methods in Enugu. The field work revealed that the CMS process had been enabled by the 2004 Revised Enugu State CAP 149 Town and Country Planning Law and that operationally, the process borrows from formal policies, customary practices, and informal trends. Since Nigeria's independence, communities have been working with planning consultants, surveyors, and government planning authorities to deliver and subdivide land for new settlements. Thus, the action situation in the field shifted to seeking an understanding of how CMSs are operating in the midst of a post-colonial system of public planning (facing exponential demand for housing and infrastructure), and ancestral indigenous forms of communal land management and indigenous practices of making developable land available to extra-community land buyers and subdividers. During the field work the research question evolved to: How does the CMS process, as a neo-customary land delivery/development system, function to provide developable land in peri-urban Enugu City and what opportunities exist for enhancing the benefits of the process, while mitigating its weaknesses?

Data Collection

Before the fieldwork, I sought to strictly perform semi-structured interviews, participant observation, and archival review of documents, but with the new information I was receiving from my interviewees, my interview sessions began to get dominated by follow-up questions to my original questionnaire. Each interview took about 45 minutes to two hours. The participant observations were carried out before, during, and after the interview sessions. I had the opportunity to observe interactions between the locals and planners at all levels of government and planners interacting among themselves. Locals from Ibagwa-Nike took me around to visit two approved CMSs, each at different stages of development: the first was undeveloped lands with bulldozed paths just wide enough for one car to pass through and a few parcels of land which had been demarcated with a fence and gates; the second was significantly more

developed with a dearth of drainage, significant amount of waste on the streets, no sidewalks, and electricity poles which appeared as if they were about to collapse. Staff from the Town Planning Authority of Iji-Nike also took me around to visit two approved CMSs, each at different stages of development. They were similar to that of Ibagwa-Nike.

In regard to the archival review of documents, I collected a copy of the Physical Development Guide for Enugu Nigeria from a director at the Enugu Capital Territory Development Authority (ECTDA). This document is authored by the Enugu State Chapter of the Nigeria Institute of Town Planners and is given to the public when they make certain applications to develop in Enugu (building permits, layout plans, etc.). Its purpose is to guarantee the public is aware of standards and procedures for quality development within Enugu State. This book provides insight as to how formal planning policies are communicated to the public from government planning authorities and its written expectations. I also collected copies of an informational brochure and copies of actual CofOs from the Ministry of Lands. The informational brochure explains the processes for certifying certificate of occupancies, deeds, leases and other title documents. It includes a series of FAQs and objective statements explaining the purposes of obtaining these legal documents. I obtained three copies of CofOs, one for a commercial property and the other two for residential. They are all located in approved CMSs and have information such as a time limitation for which buildings are to be erected (within three years), monthly rent paid to the government, proposed value of the buildings, and the local government in which the developments would be sited. All personal information was redacted.

I collected a 24" x 36" copy of an approved CMS plan from the Ministry of Lands and Urban Development. The plan was approved in 2012 and indicates residential, commercial and public lots, open spaces, utilities, setbacks, and road widths. These are the dominant uses in residential CMSs.

Four approved planning schemes were collected. Each approved CMS plan is associated with a planning scheme which contains all the development standards that will govern the development of a CMS. The schemes indicate the objectives of the development (e.g. the density, proposed uses, proposed impact of the CMS on neighboring communities, etc.), setbacks, lot sizes, floor area ratio, maximum building heights, parking, designated public land uses and open spaces. The schemes specify the time period and funds that will be used to construct the roads, drains, culverts, water supply and sanitary services, along with the institution (government) responsible for its installation. According to the schemes, these infrastructures are funded by the planning rates paid by the landowners or plot holders of the land to be developed. If the sponsors of the scheme prefer to construct the roads themselves, they may submit a written request to the Enugu East Town Planning Authority for approval. Among other requirements, under the *General Provisions* section of the Physical Development Guide for Enugu Nigeria, the schemes are actually required to provide for and build roads prior to the construction of the buildings, but in actuality they fail to do so. Most structures are built prior to the construction of roads because it is common knowledge that long delays for the provision of infrastructure are pervasive. Land developers or individual land purchasers interested in developing their land don't wait on the government to construct roads.

Participant Observations and Interviews with Key Informants

The study relied on participant observation and direct interviewing of key informants. The objective of the observer was to gain a greater understanding as to what is considered ordinary or customary to individuals living within the study area. Participant observations in combination with interviews allowed me to investigate and achieve a contextual comprehension of the institution of CMSs by means of semi-structured, unstructured interviews, and archival review of documents. This was achieved by means of examination of the essential roles of actors in the CMS process.

The study's observations and interviews were performed in the Ministry of Lands and Urban Development, the Enugu East Local Planning Authority's office, ECTDA's office, in the home of a customary land owner, power of attorneys' offices, informal middlemen's home, in university lecture rooms, in a planning consultant's office and in the office of community secretaries. I recruited local participants for this study via snowball sampling of the contacts provided by Nike Community's website administrator. He provided me phone numbers and I requested interviews through the *WhatsApp* media. Many of the subjects interviewed would refer me to other people in the community who would be open to discussing the research topic. I was able to get contact information for actors in the formal institutions through a former director at the ECTDA, whom I also contacted and requested interviews via *WhatsApp* media. A senior level staff referred me to the planning consultant because this actor had worked as a planner before and is very fluent in current planning affairs in Enugu and Nigeria. A director at the Ministry of Lands and Urban Development directed me to professors and faculty in the urban and regional planning department from the University of Nigeria Nsukka so I can get the theoretical side of planning in Nigeria along with its reality. After all the interviews were completed, I transcribed all recorded interviews.

Data Condensation

The subcoding method was used to find trends amongst the transcribed recordings of the semi-structured and unstructured interviews. This method is used particularly for qualitative studies with many participants and a variety of sites. It is typically used after a more general coding scheme has been employed. The subcoding comes into play when more direct classification can be tagged onto the initial code (Miles, Huberman, and Saldana, 2014, p.85). After each transcription was made, I created first-draft self-reports which captured my reflections and synthesized descriptive summaries that led to my data analysis (Miles, Huberman, and Saldana,

2014, p.97). General codes that signified a trend from the interviews and self-reports were created, then subcodes were tagged onto the initial codes.

I then proceeded to the Second Cycle coding method; pattern coding. This coding method synthesizes first cycle coding into smaller groups; “categories or themes, causes/explanations, relationships among people, and theoretical constructs.” (Miles, Huberman, and Saldana, 2014, pgs. 90-91). I attached definitions to each of the codes so that meanings could be identified with them. A chart of the codes is included in the appendix. This method led me to discover a revised action situation which more accurately grasps the CMS process in Enugu City.

Chapter 4

Findings

To display and discuss the field work findings, the new IAD framework labeled “Observed IAD Framework” was used. Figure 6 displays this framework with the new information gained from the interviews and observations carried out in Enugu City from September 3rd to September 27th 2019 and findings from the communities are fleshed out in this chapter.

CMSs are initiatives which are collectively owned and created by indigenous communities and the IAD framework was chosen because it “encapsulates the collective efforts of this community” (McGinnis, 2016, p.1) and assists in understanding the ways in which institutions function and change over time. Methodologically, the observed IAD framework also corresponds to a system or network for displaying the study’s information as “a collection of *nodes* or points connected by *links* or lines that display streams of participant actions, events, and processes” (Miles, Huberman, and Saldana, 2014, p.107). The IAD framework assists in the analysis of performances by means of comparative institutional assessments (Ostrom, 2011). More specifically, the framework focuses on the “action situation” that leads to interactions and outcomes and aids in identifying an analysis of performance. The framework assists the researcher in comprehending “complex social situations and breaks them down into manageable sets of practical activities” (Polski and Ostrom, 1999, p.6). Drawing upon participant observations and key informant interviews, I explore the function, implementation, and history of CMSs in Enugu City as they relate to Ostrom’s framework in order to gain key understandings on the technical, institutional, and participatory aspects of CMSs. This analysis will use the IAD framework to examine the institutions in place by studying community mediated settlements in the communities of Iji-Nike and Ibagwa-Nike and produce recommendations for reform in practice and policies.

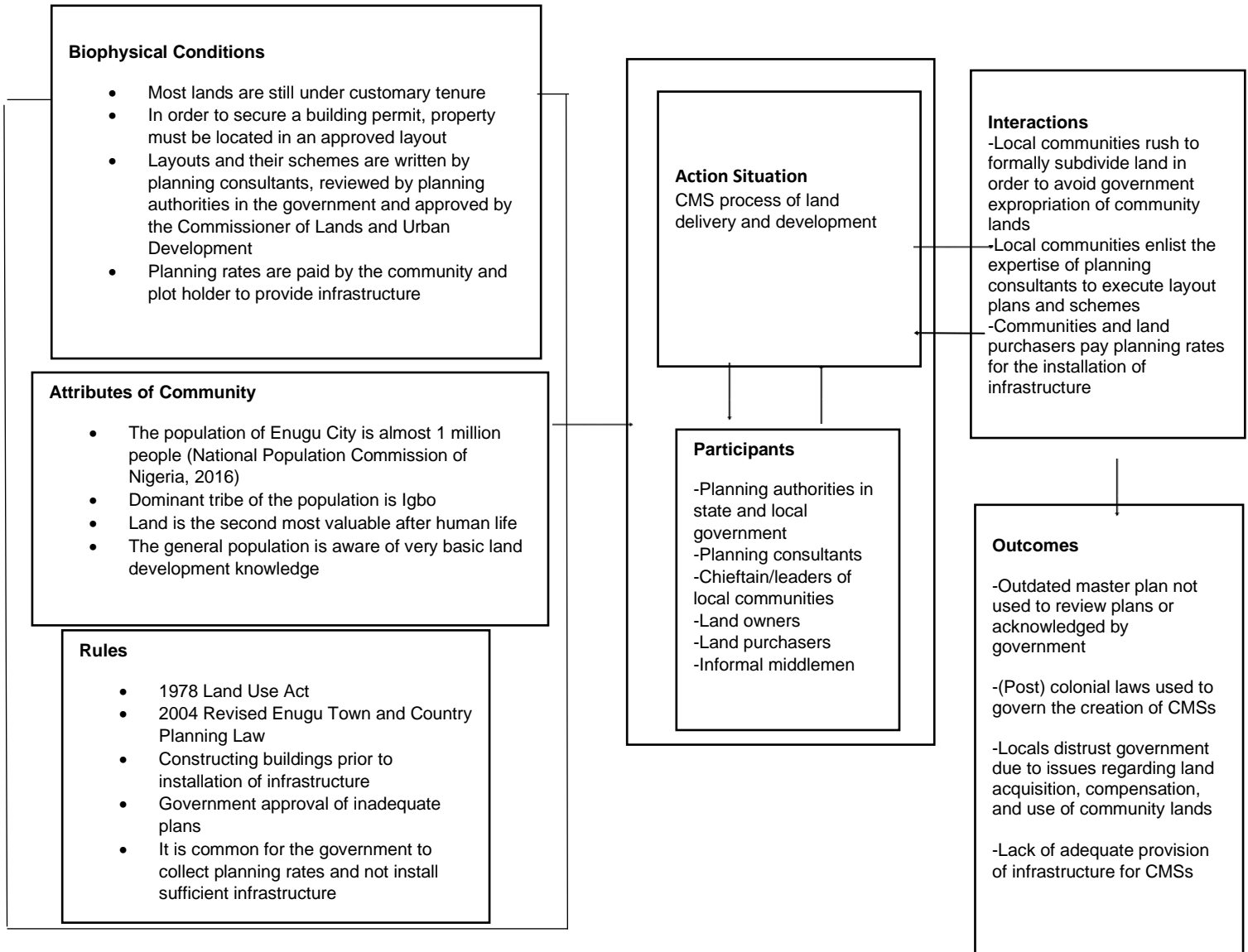


Figure 6. Observed IAD Framework

Biophysical Conditions and Study Areas

Enugu City is located at the foot of a plateau and is a trade center for yams, palm oil, corn, onions and cattle. Enugu East local LGA is less than 50% consolidated, it is well connected by roads and rails to other parts of Enugu state. The state's airport, Akanu Ibiam International, is

located in the city. According to Ikejiofor 2017, privately supplied land from subdividers and land from government layouts are the most expensive as they often have secure tenure and access to infrastructure. Consolidated properties are more expensive compared to inaccessible un-serviced properties. For the less consolidated areas, family/community-initiated layouts often do not have the financial or political capability to install infrastructure.

It is the responsibility of the government to provide extension of roads, water mains, drainage, provide culverts and connections to the public electricity grid through the provision of planning rates by the plot purchaser and/or community. Often times newly purchased land is located off the side of dirt roads because of the lack of access to roads. In reality, newly purchased land is characterized by developing on an incremental basis (Ikejiofor, 2006 & 2009). These properties are usually at least 6,450 sq. ft. in size because this is the minimum size for a piece of land as identified in development regulations for purchasers to acquire a formal title. Land purchasers want security in such market transactions to ensure there is protection from the formal courts in case any land ownership issues arise in the future (Ikejiofor, 2009).

Attributes of the Communities

Most parts of the city are still under customary tenure and the city's population is almost one million. (National Population Commission of Nigeria, 2016). Briggs and Yeboah (2001) have noted a shift to house building in the peri-urbanization interface (PUI) as "the driving force behind the expansion of cities during the post- structural adjustment program (SAP) periods in some African cities" (Onyebueke and Ikejiofor, 2017 & Briggs and Yeboah p. 21, 2001). One of the peri-urban areas in which population and development is expanding is into the Nike community. Nike is an autonomous community in Enugu State, southeast Nigeria that is composed of 24 communities (Nike Kingdom, 2019). The two communities I selected for my case studies are Ibagwa-Nike and Iji-Nike. Both communities are dominantly composed of people from the Igbo tribe. They have local constitutions that govern land matters such as land sales, land development processes, transaction fees, change of ownership, and land disputes.

All land that belongs to the communities are handled through the holders of the power of attorneys of the community or board of trustees. Lands which belong to families are managed by families and land which belong to individuals are handled by individuals. For the most part, the locals are aware of basic land development knowledge which concerns the process for creating CMSs. They are actively involved in the process from the decision to market land to the consolidation phase. During interviews, many of the locals quoted the 1978 Land Use Act with ease and recognized the authority of the government over land. Many were also aware that without working with the government and other relevant stakeholders such as planning consultants and surveyors, the creation of CMSs would not be possible.

a. Ibagwa-Nike Community

Ibagwa-Nike is a community that is composed of 5 villages. According to Nike Kingdom (2020), the origination of Ibagwa-Nike started from the son of a war lord from a neighboring state which migrated to Ibagwa-Nike in the 10th century. The son had five sons, who are responsible for the current lineage of Ibagwa-Nike. Ibagwa-Nike is the oldest community in Nike (Nike Kingdom, 2020). According to one of the community officials, there are approximately 9,000 indigenes and approximately 3,000 non-indigenes in Ibagwa-Nike, totaling up to a population of approximately 12,000 people. There are about ten approved CMSs in Ibagwa-Nike and the extent of infrastructure provided is relatively poor. The roads are generally untarred and many are barely capable of providing access to and from the layouts as they are wrought with potholes. As there is no running water, the population purchases larger water tanks from a local water supply company in order to get access to water. When asked about drainage, the community official chuckled at the question and stated that “such facilities are huge capital projects. The community does not have such.” (Ibagwa-Nike Palace Secretary, June 21, 2020). All of Enugu state is provided electricity through the Enugu Electricity Distribution Company (EEDC). It is infamous for over-billing and delivering highly

irregular service. Many landowners or tenants of apartments opt out of the provision of electricity because of this. Most of the housing types consist of single-family homes (what they refer to as a bungalow – one story), small apartment complexes (4-8 units), two story homes (what they refer to as a duplex), and slums.

The villages have chiefs that represent the Igwe's (traditional ruler) Council for Ibagwa-Nike Community. Villages of this community have to endorse those appointments then the Igwe has to approve them and register them as the holders of powers of attorney under the Ministry of Lands and Urban Development. The larger and smaller villages appoint the number of power of attorneys proportionately to their sizes and each member has a term of four to five years. According to the Secretary, "You know in Nigeria, the law states that all lands belong to the government, so we are just customary owners/managers. The state has to know whatever we are doing with our land" (September 17, 2019). Their constitution states that holders of the village's powers of attorney have the power to sell land. Before selling, they must produce a layout plan approved by the government in any parcel of land in the community. The powers of attorney stated that the dominant and only permitted land use is residential, but I personally witnessed many small informal retail/food vending spots throughout the community.

b. Iji-Nike Community

Iji-Nike is composed of two communities; Umuenwene and Umuchigbo. Each has its own board of trustees (or land committee) which manages its own resources, including land. The elders of the community elect them and decide that the board of trustees will act on their behalf for the next five years. Their terms are five years. The Secretary stated that its purpose is to, "sit and visualize the tomorrow" (Iji-Nike palace official, September 17, 2019). The land committee is part and parcel of the regular part of the Executive Committee. In Umuenwene, there are three major families and those families

bring out five male board of trustees. So, it is assumed that anything they have signed, the other trustees have signed as well. According to the secretary, “Uguwanyi was the first Igwe who met the colonial masters that came into Enugu.” He was a paramount ruler and was ruling all of Nike. Nike used to be a slave route during the colonial era because they captured people and kept them there for transportation. According to Nike Kingdom (2020), a woman named *Ugo Mbeke* was known for trading with slaves and because the community of Nike was at war with a neighboring community, Nike people negotiated with her to acquire warriors that would assist with the war. During this period, Iji-Nike was the most powerful people and they fought with Ngwo (another indigenous group) and many other groups. That is why it’s called *Nike*, meaning *powerful people*. The primary land use in this particular community is residential but, most of the locals are petty farmers. Most of the housing types consist of single-family homes (what they refer to as a bungalow – one story), small apartment complexes (4-8 units), two story homes (what they refer to as a duplex), and slums. There are about 10-20 layouts and the infrastructure is characterized by poorly built facilities. The palace secretary stated that there is little to no drainage, to the point that when it rains, it floods. “The flooding has been known to take people away” (Iji-Nike Palace Secretary, July 5, 2020). For the most part, there is no pipe borne water and most either build a well to draw water or enlist the services of local utility companies to provide massive water tanks. The land purchaser typically builds a septic tank and soak away pit to dispose of household solid and wastewater. This is a cost-effective alternative to connecting to a central sewerage system, especially in rural areas where properties are more spread out (Odoko, 2018). As mentioned for Ibagwa-Nike, the EEDC provides electricity for this community and services are irregular and expensive. For the most part, roads are untarred. The weight of cars and trucks on the dirt roads leads potholes and eventually damages vehicles that use the roads. The Palace Secretary of Iji-Nike stated that even when a contract is

awarded to a company to install capital-intensive infrastructure, the work is poorly executed (July 5, 2020). Much of the population are local farmers and street vendors. Most men deal with yams while women deal with cassava.

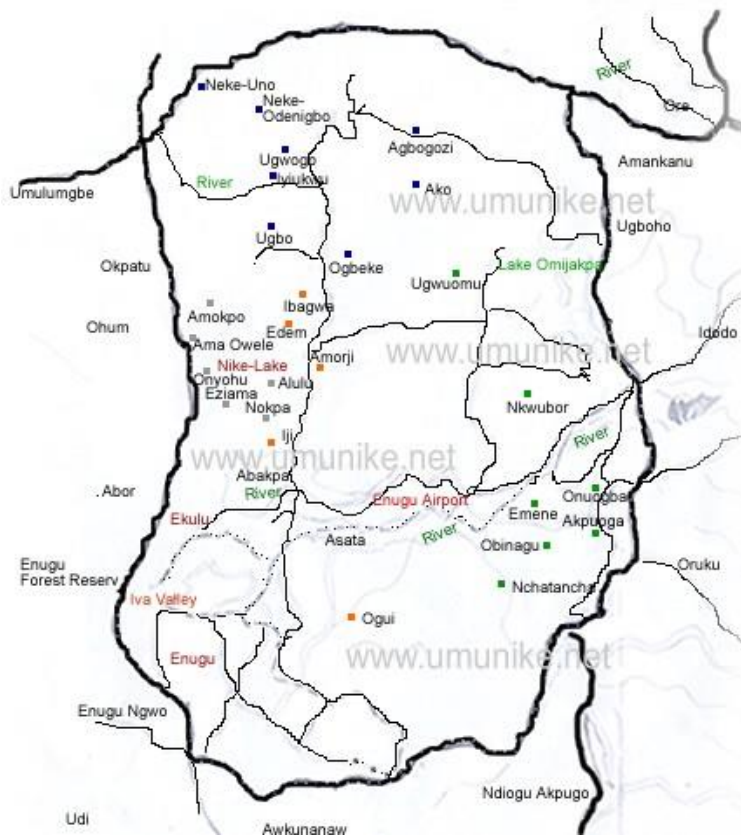


Figure 7. Map of Nike Community with Ibagwa-Nike and Iji-Nike shown
Source: Nike Kingdom, 2019

This chapter identified the revised action situation framed within the IAD approach which recognizes the CMS process of land delivery and development as a formal alternative to government provision of layouts in Enugu City. The existing conditions and attributes of the CMS communities were also identified. The action situation concerning the CMS process of land delivery and development will be further discussed in Chapter Five. The patterns of interaction delineating the methods of transaction between actors that lead to outcomes are identified in Chapter Six, followed by Chapter Seven which discusses the neo-customary land

delivery systems in Enugu as well as opportunities to enhance their benefits while mitigating their weaknesses and challenges.

Chapter 5

Action Situation

The action situation is an important part of the IAD framework which allows the scholar to decipher how to analyze actors at a particular level. The “action situation” is the central component of the IAD framework, in which actors participate in patterns of interaction, choose their actions, make observations, and become aware of the outcomes of their interactions (McGinnis, 2016). In this case, the action situation involves the CMS processes in Enugu’s urban peripheries. Lands for housing in the urban periphery of Enugu are mainly delivered through the CMS process. CMSs are layout schemes undertaken by a combination of community leaders, planning consultants, attorneys, land surveyors and government planning authorities. According to senior planning staff in the Enugu East Town Planning Authority (EETPA), layout plans are similar to planned developments or planned unit developments in the United States. They outline residential developments along with parks, open spaces, number of lots, commercial sites, parking, setbacks, and road widths. These layout plans even come with a set of development standards which detail the objectives of the development (i.e. density level), land uses, agreements concerning drainage and the construction of roads, water supply, electricity connections, sanitary services, and building design.

Below are the steps for layout submittals for approval to the EETPA:

1. A perimeter survey is submitted which shows the topography of the land.
2. The owner hires a certified planner or surveyor to create a subdivision layout.
3. This subdivision layout or layout plan must be submitted to the EETPA, thereafter a preliminary inspection of the site will be performed by staff. The developer/owner is then responsible for paying certain planning fees for the installment of infrastructure and construction of roads.

4. The layout plan is submitted to the EETPA Chief Executive (Chief planner of the Local Government Area (LGA)) for approval. The Chief Executive makes a recommendation to the Local Chairman who then must sign off as well. The recommendation is based upon the Enugu State Town and Country Planning Law Cap 149 of 2004, verification of the proposed use(s) in the layout are compatible with the existing surrounding uses if any, accessibility to the site, sufficiency in amenities, road sizes, setbacks, parking, and density. The signing off is purely administrative. The plans are then forwarded to the Ministry of Lands and Urban Development where it is received by the Permanent Secretary. The Permanent Secretary's responsibility is to circulate the CMS applications first to the Lands Department, second to the Survey Department, and third to the Town Planning Department. The Lands Department is responsible for verifying ownership through submitted title deeds, registered surveys, or other proofs of ownership. This stage ensures that the rightful owners of the property are submitting the CMS application. The Survey Department then verifies that the property is not located on public (government owned) land. They also verify the accuracy of the boundary submitted in the survey. The Town Planning Department then vets the CMS based upon the same criteria used when it was evaluated at the local level. They also check to make sure there are no discrepancies in the documentation submitted, for example, the title of the layout matches on all documentation submitted. If there are any issues or comments over the submittal, the layout plan goes back to the applicant to make the necessary changes. If there are no issues with the submittal, the application, the director of Town Planning makes a recommendation of support to the Honorable Commissioner of Ministry of Lands and he/she approves the CMS on behalf of the Governor. The approval is purely a bureaucratic procedure. The layout plans for new communities are essentially the only documents which provides some sort of planning for the future. It

can take months for these layout plans to get final approval from the Ministry of Lands and Urban Development.



Figure 8. Example of a layout plan in Ibagwa-Nike titled, Unity Estate Layout

The indigenes are responsible for hiring and working with planning consultants. The indigenes express to the planning consultants where they want their markets, soccer fields, public spaces, post offices and other residential facilities to be located. The powers of attorney will work with the consultant town planner to incorporate these requests in the plan. According to the senior staff, their responsibility is to review their request and check if it's compatible with the Enugu State Town and Country Planning Law Cap 149 of 2004. They also verify if the proposed uses are compatible with adjacent existing land uses. A senior official at the EETPA indicated that these layout plans are the methods used to plan for the future within their capacity as these developments can take anywhere from 20 – 30 years (or longer) to get fully built out. The senior EETPA staff member mentioned that, “the government is supposed to provide infrastructure to

encourage people to come in [buyers to develop the lots according to the layout plans]. They are supposed to put electricity, sewage, roads. But they don't in practice. Most times, if possible, it's the community that paves the road. The community may help to put in certain infrastructure at times or if the government has interest, they may consider to put in infrastructure at a certain time" (Senior staff from the local government, September 5, 2019).

The minimum fee every community must pay for the application/registration of a CMS is 250,000 naira (approximately 650 dollars) (Onyebueke and Ikejiofor, 2017 and Planning Consultant July 3, 2020). There is also a publication fee which provides for the publication of layout application notices in a national newspaper. The publication of this notice allows for the public to become aware of the application of a layout just in case there is someone who may want to contest ownership of a portion or all of the land. The notice is in the newspaper for 42 days. The community also pays a ministry fee that goes into the state government's internal revenue account. The state uses the fees to run the government. After CMSs are approved and registered with the government, individual land buyers or land developers register individual plots by obtaining a CofOs. This allows the lessee to lease the land for up to 99 years; some are 45 years. This grants tenure security for the lessee and prevents the land purchaser from buying a land that has already been sold to another. The Enugu East TPA collects planning rates, inspection fees, building completion certificate fees, registration/application fees, stages of work fees, planning rates, and fencing fees from the land purchaser. "When the planning rates are submitted, the TPA uses the fees to pay for infrastructure. It is a joint venture between the community and the TPA" (Planning Consultant, July 3, 2020).

There are two options for the installation of infrastructure. The first is more common. In theory, after the CMS' layout scheme has been approved by the government, the TPA will calculate the expected planning rates that are meant to provide the complete infrastructure used to develop the layout and use funds from the TPA to install all the infrastructure. As plot holders apply for

CofOs and submit building plans, they pay the planning rates and other fees; allowing the TPA to recuperate its initial costs one by one. "In reality, many TPAs only have enough funds to bulldoze the roads and create access, although, there are some TPAs that are financially capable enough to fulfil such capital projects. Enugu East Local Government Area is one of the richest local governments in Enugu state and is the focus of this study. According to a planning consultant, "It depends on the leaders and who's in power, sometimes the money that comes in is not used for its purpose...it depends on the integrity of the leaders" (July 3, 2020). The second option is much less common. It involves the community completely installing all the infrastructure after the CMS is approved by the government. As individual plot buyers or land developers apply for their CofOs and submit building plans, they pay the planning rates to the TPA. The TPA then pays the fees back to the communities. This option mostly occurred during the 1970s and 1980s where communities were more often financially capable of fulfilling such capital-intensive projects and intended for plots to sell at much higher prices as they were serviced.

One of the primary purposes of the 1978 Land Use Act was to cease "land grabbing and speculation" (Famoriyo, 1979, p.72). Prior to the Land Use Act, it was common for individuals or families to buy up large portions of land only to hold on to them until a period in time when its value would grow exponentially. It was a means of investment. In order to implement the Land Use Act prohibition, no land purchaser can apply for a CofO of more than 5,000 square meters (.5 hectares) irrespective of the number of plots purchased for residential land (1978 Land Use Act Part VI Subsection 5(a)). If someone decides to purchase more than 5,000 square meters (.5 hectares) of land from a community or an individual, they would not be able to secure a CofO for the property (Ogu,1999). Someone in this situation could potentially enlist the services of an attorney to draft a letter of agreement between the land seller and themselves (the purchaser), but this may be troublesome as the CofO is the highest standard of tenure security in the

country. In case of a dispute in land ownership, no proof of ownership holds more power than a CofO. When land purchasers register their land and obtain a CofO, it is also an opportunity for them to ensure that plots are subdivided into sizes of not more than 20 x 30 square meters which is the standard plot size per the Enugu State Town Planning Department (Onyebueke and Ikejiofor, 2017, p. 332). For agricultural land, communities or individual landowners of rural land are restricted to 500 hectares if they decide to seek customary rights of occupancy.

As mentioned in the literature review, 80% of land for housing comes from customary landowners, 10% from private owners and 10% from the government. Government acquired land usually develops and is occupied at a much quicker rate than that of CMSs. Reasons for this is because infrastructure goes into the layouts immediately. According to the senior staff, “If it’s government land they would put in the infrastructure. Down here, [the community] they will neglect it. Since it’s a community layout, it’s the community that should be putting in the infrastructure. Ideally, if the community does the layout, let’s say there are 1,000 plots, if they sell 20 plots, they should use the funds to put in the infrastructure. But the individuals will say no, let’s just share the funds. That’s why you see layouts suffering.” (Senior planning staff at the local government, September 6, 2019) He also attested to the fact that in theory, the government layouts are supposed to be acquired for overriding public interest. In reality, the government acquires land when they want to build houses for civil servants, like politicians or legislatures. If development is not for this caliber of people, they don’t have much to do with acquiring or developing land unless it is for an institution such as a school.

Actors

Land purchasers are individuals who purchase lot(s) from approved CMSs after they are approved for development. Most of the land purchasers are looking for land to build homes. They are responsible for paying fees to the state government for infrastructure such as sewer, water, roads, and drainage.

Middlemen bring together individuals who want to sell their land and those who want to purchase land. These middlemen have been around for ages as they have access to prospective owners wanting to sell their land; the names of the customary rights owners and the price the land is going for. They are much more prominent and ubiquitous than formal broking firms.

Planning Consultants are private professional planners whom communities hire to plan layout plans and draft the schemes. They utilize the Town and Country Planning Law to prepare these schemes and liaise between the government and community.

Customary landowners are those who have inherited land from their predecessors. This role is extremely important as they own 80% of land in Nigeria. Similar to community chieftain, customary landowners have the responsibility of hiring planning consultants to draft the layout schemes and prepare the layout plans.

The Ministry of Lands and Urban Development

- Lands Division administer Certificate of Occupancy (CofO)s, reviewing submitted layouts, registering leases, power of attorney and other similar ownership documents.
- The Town Planning Department from the Ministry of Lands and Urban Development is responsible for reviewing and approving submitted layout plans.
- The Survey Department is responsible for vetting and registering all submitted surveys. They verify land boundaries and ensure proposed subdivisions are not located in government owned land.
- The local planning authorities are responsible for reviewing and forwarding layout plans to the Town Planning Department from the Ministry of Lands and Urban Development.

The chieftain (along with powers of attorney) are the first point of contact for any type of land development that will occur on communal land. They are the group responsible for procuring a planning consultant, surveyor and establishing contact with government planning authorities.

Rules in Use

The following section describes the “rules in use” in the function of the CMS process. “Rules in use” encompass the rules affecting action situations. According to Cole (2005), “rules-in-use” were insufficiently defined by Elinor Ostrom, and researchers using the IAD framework have tended to use them in a general sense encompassing both formal (codified) and informal (customary) rules affecting action situations. This study adopts this general view of rules-in-use, which includes: position rules, authority rules, aggregation rules, and information rules. This is where an action situation lies.

Position Rules

Position rules specify roles of participants in a given action situation (Polski & Ostrom, 1999). Community chieftains or leaders have the role of preparing land to be subdivided and registered. They hire surveyors to create boundaries of CMSs to be registered with the government. The community leaders also have the responsibility of hiring planning consultants to draft the layout schemes and prepare the layout plans. According to the powers of attorney of Ibagwa-Nike, one of the main contributors to the layout schemes is the traditional ruler. When asked why he was a major contributor, the reason given is simply because he is the ruler. According to the power of attorneys, no technical skills or knowledge of planning is necessary for the traditional ruler to have an input. They are responsible for paying registration fees to the government for the application of CMSs.

Planning authorities are appointed in each local government area (LGA) and in the Ministry of Lands and Urban Development. Planners have the role of processing and reviewing planning

schemes and layout plans. Both local and state planning authorities provide comments to planning consultants. The planning authorities check for criteria such as road widths, location of school(s), location of amenities, lot sizes, access to the layout and setbacks. They also go on site to verify if the proposed use(s) in the layout are compatible with the existing surrounding uses if any. The local planning authorities forward their approved plans to the state planning authorities. The position of surveyors in the Survey Department is to confirm evidence of ownership by the said community. A professional survey and another document (one indicating the communal history of the property) indicating proof of communal ownership would usually suffice. They are also responsible for verifying the boundaries of the proposed CMS by confirming the location of survey beacons. The application is then forwarded to the director of Town Planning. The director determines if the submittal meets state law requirements but does not actually go on site to verify adjacent uses. According to the director of Town Planning, "There are so many community sponsored layouts submitted throughout the state. The state government doesn't have the capacity to visit every site, that is why we have local governments" (Senior Staff Ministry of Lands and Urban Development, September 10, 2019). If there are any issues or comments that need to be addressed, the layout plan and layout schemes are sent back to the planning consultant and powers of attorney in order for the issues to be addressed. After the director of Town Planning at the Ministry of Lands and Urban Development has reviewed and approved the layout plan and scheme, the scheme is forwarded to the Honorable Commissioner of Ministry of Lands where he/she will approve the plan on behalf of the governor.

The powers of attorney (otherwise known as the land committee) are appointed to handle land transactions and are responsible for representing the CMSs in front of the local planning authority. They act under the guidance of the Igwe's council (chieftain) who have made the decision to sell and subdivide land. The powers of attorney typically manage the entire land

transaction process. There are anywhere from seven to eleven members and they serve a five-year term. After a layout has been completed, they are awarded plots of land for their work.

Authority rules

Authority rules specify actions taken by participants in specific roles, such as governing (Polski & Ostrom, 1999 p.16-17). The rules which govern formal activities is the Nigerian Urban and Regional Planning Law of 1992, whose purpose is to enforce planning administration and ensure the state government administration has enough powers to guarantee proper development (federal law); and according to a planning consultant interviewed, “This law is truly Nigerian in nature. It was prepared by Nigerians and for Nigerians” (Planning Consultant, September 10, 2019). Unfortunately, the law has not been adopted by the Enugu State government and consequently, not implemented. The planning consultant interviewed stated that, “Some people, politicians in government who feel threatened by that law, they want to sit on the implementation.” He also stated that some government officials are obstructing implementation of the law. “Some of them feel that if the law comes into effect, they will lose their job because a number of them are performing duties similar to what the law has provided for.... but they are not qualified” (Planning Consultant, September 10, 2019).

The planning consultant, senior staff from the Enugu Capital Territory Development Authority (ECTDA) and senior staff from the Ministry of Lands and Urban Development all confirmed that Law Cap 149 was reviewed in 2004 but the content is the same as the 1946 Town and Country Planning Law. According to the consultant, the 1946 document was prepared by colonialists and did not protect the locals’ interests and according to senior staff from the Ministry of Lands and Urban Development, the extent of the amendment in 2004 is insignificant; just a minor change from pounds to metric. The content of the document is the same.

Communities also have their own set of laws and it is referred to as their local constitution.

According to the palace secretary of Ibagwa-Nike, “Powers of attorney have the power to sell

land to individuals. Before selling, they must produce a layout plan in any parcel of land in our community. That is in our constitution. They must get a layout plan of the area they want to sell.” (September 10, 2019). This requirement aligns with the Enugu State Town and Country Planning Laws which requires all proposed subdivided land to be submitted as a CMS for the government’s review. Communities also have various avenues through which property sales may be verified. According to the palace secretary of Ibagwa-Nike:

If a person wants land to buy they will come to me to verify. If an individual [indigene] is selling [land], they have to present a certificate of transfer of allocation. After the payment and every other thing, they will still transfer the records into this office. After four years according to our constitution, four years because that is the tenure of the powers of attorney, all these documents will be handed over to auditors showing all the transactions, the deeds throughout the years, the records.

The purpose of auditing is to ensure there is accountability within the communities and to ensure multiple sales of one property is avoided. According to the secretary, it is difficult to get duped into buying an already sold property as there are four places to verify if a property has been sold. Prospective land purchasers can check with the powers of attorney, in the office of the traditional ruler’s (the palace), the palace secretary (office of the general secretary), and the surveyor for the layout. This is the surveyor that the community has hired to survey a particular CMS. After the CMS has been registered with the government, it is the surveyor’s responsibility to keep records of all the plots that have been “lifted”, sold, and registered with the Ministry of Lands and Urban Development.

During the process where a planning consultant works with communities to design the layout, he/she not only consults the Enugu State Town and Country Planning Law as a point of reference, but consults with the traditional ruler and powers of attorney as well. The traditional ruler and powers of attorney act as spokesmen for the community so that the local’s requests are manifested in the CMSs. The powers of attorney, along with the Igwe, meet to discuss the best uses of land for the CMSs before hiring a professional planner. They are not solely dependent upon the planning consultant to design the CMSs. Historically, towns and villages

were planned in harmony with socio-economic activities of the indigenes in order to produce a close-knit community. It appears this has continued as the provision of local markets is prolific in many CMSs.

There is a master plan for Enugu City from 1917 but there is no state master plan (Ogbazi, 2013). There is a draft for the 1982 master plan, but it was never approved or adopted.

According to a senior level staff at the Ministry of Lands and Urban Development, the reason being that it was never approved due to politics. "It's an old proposal [the 1982 master plan] and it's not implemented... you see because of politics in Nigeria, sometimes the professionals are not in a position of authority so when something comes up and they [politicians] don't know much about it, they will just put it aside and start doing things their own way; that's the issue.

The topic they have interest in is what they will implement" (Senior Staff Ministry of Lands and Urban Development, September 10, 2019). According to local and state planning authorities, the CMS's layout act as the master plans for land in Enugu. The CMS process is the only method of land use planning in Enugu that encompasses both current and long-range planning. Once a community's land is plotted for subdivision in an approved layout, the use of the land has been determined and it will develop accordingly, regardless of whether it takes three years or 30 years to get built out.

Aggregation Rules

Aggregation rules determine how operational-choice decisions are made and which actors participate in this process (Polski & Ostrom, 1999 p.16-17). As mentioned earlier, the powers of attorney act as the land committee which are responsible for handling land transactions. They are carefully selected by the community so they are adequately represented. According to the palace secretary of Ibagwa-Nike:

We try to make it a point of duty that the chairman and the secretary of the powers of attorney must at least have a first degree so they will be literate people. There are many illiterate people there [part of the land committee] but the key officers must be literate. So if someone wants to purchase land they will approach the power of attorney then the attorney will show them the land for sell. Then the buyer will pay it into the account of the community. They will then bring the receipt to the chairman then the power of attorney will register it under the buyer. After which, they will assign a duty to the surveyor that is looking after [in charge of] the layout. (September 10, 2019)

It is important to the community that whomever is handling the community's land transactions is capable of accurately processing land sales, registering ownership under the palace secretary, and communicating with the surveyor in charge of the layout.

In theory, the planning rates paid by communities when registering a CMS for approval and the development fees paid by land purchasers and developers, when applying for their CofOs are meant to build roads before construction of buildings commence. The reality is that funds are initially used to open up the roads through disturbing the natural areas but after this, in most cases, no other efforts by the government are made to build infrastructure in the CMSs. This is an operational choice that must be made by the government. According to senior planning officials in both the state and local government, "this [installing infrastructure] only happens in theory as the government is hardly ever involved in such developments" (Senior Staff Ministry of Lands and Urban Development, September 10, 2019 and Senior planning staff at the local government, September 6, 2019). Planning officials also stated that even though planning rates are paid to the state government, the funds are either not enough to supply the CMSs complete infrastructure or are diverted to other ends. In this action situation, the state government decides to provide services more often to government owned urbanized layout in comparison to peri-urban community-owned layouts.

Many times, communities pre-emptively submit layout plans and planning schemes to the government. Formally approved layouts are recognized by the government and this oftentimes

prevents the government from engaging in undercompensated expropriation of community land. This is an operational-choice decision the community makes.

Information Rules

Information rules affect the information available to participants in the action arena and includes the assignment of obligations or prohibiting communication between actors (Polski & Ostrom, 1999 p.16-17). There is a book that is given to each applicant as part of the application process. It is titled, *Physical Development Guide (Enugu State, Nigeria)*. The book has step-by-step procedures for building and layout plans/schemes approval. It also contains information about the history of Enugu's urban development, building regulations, enforcement procedures, realities of current urban areas, and other relevant information for prospective communities and developers. The book is given so everyone who applies to develop land in Enugu is kept abreast of development policies and procedures.

The planning authorities are also involved in updating the public with changes concerning procedures or laws with regards to development by playing radio jingles and publishing notices in newspapers. According to senior planning staff at the local government, "there is synergy between the authority and the community. Each community has a representative that meets with the EETPA about three times a year about how to move the authority and community forward. The representatives then go back to the communities and educate them on how to properly develop land." (Senior planning staff at the local government, September 6, 2019).

Unfortunately, there are some CMSs that are corruptly approved by the government. These CMSs obtain favorable review because they have some members from the community which have some sort of connection to someone in power (state legislator, commissioner, or other influential official). Even though these CMSs may not adhere to planning regulations, they are granted approval (*Physical Development Guide: Enugu State Nigeria, 2016*). CMSs can also be granted speedy approval if officials are bribed to engage in this activity. According to the Palace

Secretary of Ibagwa-Nike, “You know in the Ministry, you can give out money to get what you need...the workers [planning staff from the local and state government] will just quickly sort out the filing with some tips. At times you can get approval within 2 weeks” (Ibagwa-Nike palace secretary, September 10, 2019).

The customary institutions are regulated by traditional rules and have retained legitimate strength through pre-colonial and post-colonial times. There are typically minimal issues in acquisition and transfer processes. Disputes over transactions in land or inheritance are minimal as transactions are rooted in rituals that bind the previous landowner and the purchaser to the agreement. The rituals include killing of goats, “ewuala”, the purchaser bringing a “hot drink” (liquor), and yams to finalize the land transaction process. Because of the lack of trust in the state government and its poor performance at many levels, some indigenes find it hard to abandon their traditional systems of land transactions and therefore avoid the formal process all together (likejiofor, 2004). During the sale of plots after layouts are created, land ownership is informally transferred through a survey, letter of agreement signed by the board of trustees or power of attorney and a receipt for payment issued by the landowner to the buyer. It is the community lawyer who prepares an agreement for the board of trustees to sign. In this scenario, an attorney is present to form an agreement for the two parties to sign. A receipt and the letter of agreement are informally used as proof of ownership. If it were formally executed, the land purchaser would pursue a deed of assignment and get them registered at the Ministry of Lands and Urban Development. When the senior level staff was asked about illegal multiple sales of property, she stated that the “Ministry has nothing to do with that.” Land purchasers are supposed to pursue CofOs but according to her, “we don’t have anything to force them.” (Senior staff of the Lands Department September 21, 2019). If legal issues concerning ownership arise, they would have to go to court. Palace secretaries from both communities stated that in order to avoid the multiple sales of one property, prospective buyers should come to the community

office to verify ownership as they keep a record book of all land transactions. An image of the community office's entrance is shown in Figure 9.



Figure 9. Iji-Nike Community Office Entrance

Traditional Fees

Another form of informal rules are traditional fees the community charges land purchasers/developers. According to the Palace Secretary of Iji-Nike, "Our youths, being conscious of the fact that we have lost a lot [of land] to the government and [they] make millions at the detriment of the community... the youth decided that if you now buy land, there will be a youth development fee. It's not official but it is being practiced. It's to appease the youth and they [the youth] will bless them [developers]." If such fees are not received, the youth might undermine the proposed development. One of the powers of attorney mentioned that development levies are collected on behalf of the community and such fees go to various community projects. The secretary of Ibagwa-Nike stated that the fees "go towards scholarship for people who want to study, they also assist people with trade school." They get paid into the community account.

Takeaways

From an analysis of the rules in use, it is clear the CMS process is a quasi-formal method of land delivery and development in peri-urban Enugu as it incorporates an amalgamation of customary, informal, and formal rules in order to create subdivided land. The position rules have established that those in power such as chieftain and the igwes understand the necessity to go through formal networks to obtain government approval of proposed CMSs. The aggregation rules identify that communities have also taken advantage of the formal process by pre-emptively subdividing communal land in order to avoid uncompensated expropriation of their land by the government. Under the authority rules, the Enugu State Town and Country Planning Law Cap 149 of 2004 is meant to act as the unbiased rule of thumb which planners in the state and local government use to evaluate CMSs. In reality, the information rules have revealed that with bribes, communities can get quicker reviews from the government and if community members have connections with dignitaries in the government, even erroneous CMSs may get approved. As the rules used by actors in the CMS process have been identified, it is important to expound on the patterns of interaction that occur between actors in the action situation so weaknesses and benefits of the process may be ascertained.

Chapter 6

Patterns of Interaction

The analysis now examines how actors in the action situation interact with themselves and engage with one another in the action arena (Ostrom,1999). An analysis of the design, institution, and implementation of CMSs allows for deeper understanding of the outcomes and hence understanding of patterns of interaction. Institutions create patterns of interactions by affecting the changing costs and benefits related to alternative actions and by making available opportunities that would not be plausible for an individual acting by themselves (McGinnis, 2016). The action situation of this study concerns the process through which CMSs are created and which opportunities exist for enhancing its benefits while mitigating their weaknesses. The process for its creation has been discussed in detail under the rules-in-use section and outcomes from patterns of interaction that arise from the action situation are assessed in the following sections.

Relationship between Government and Communities

The senior EETPA staff official stated that there is a synergy between the authority and the community. Each community has a representative and they meet with the EETPA about three times a year to discuss how to move the authority and community forward. The representatives then go back to the communities and educate them on the current planning situations. From the government official's perspective, there would appear to be a solid relationship between the communities and planning authorities in the local government in relation to development of CMSs but locals describe a different interaction.

According to the secretary of Iji-Nike, the state government often fails to properly compensate communities for land after it is expropriated. The 1978 Land Use Act which vests land in the government is, at times, used as a pretext to acquire land for personal and individual motives.

In fact, he mentioned that “in most cases it’s the so-called government departments they have interests. In the end they can share the land and not even use it for the public....The government may just desire property because they see something outstanding and just take it. That’s Nigeria for you. My community has lost vast areas of land without compensation” (Iji-Nike palace official, September 17, 2019). Consequently, communities rush to create formal layouts (CMSs) because they know that the state government has no choice but to formally recognize a planned layout. This is a method used by locals to safeguard properties from government takings with unfair compensation. Other reasons communities are creating formal layouts are to subdivide and sell off lots to potential buyers. The driving force behind this is to gain financial benefits and fulfil needful obligations of community members such as marriage, school fees, capital for business startups and other responsibilities. In the midst of locals finding ways to improve their lives and rushing to manage what is traditionally their own land, it is crucial for locals, planning authorities and planning consultants to have a vision in mind with a solid foundation for the creation of the CMSs.

The literature review documented the purpose for government acquired land in Nigeria; which is to serve the overriding public interest. This public interest is supposed to include people who have low-incomes and need assistance from the government. The senior staff member at the EETPA made it clear that land acquired by the government for housing, is in reality used to develop housing for dignitaries. The low-income population does not have access to this service; thereby leading to elitism. Locals from lower-income classes are thereby left to find informal housing (any development that did not receive a building permit or that is not located in a government approved layout) or seek land located in CMSs.

Interaction between Locals and other Professionals

When locals from land committees are tasked with the responsibility of facilitating the creation of CMSs, they gain an array of land development and delivery skills from the professionals they

interact with. As members of the land committee have a five-year term, this presents an opportunity for different members of the community to learn these skills as well. While working with planning consultants and the government, they learn about consultant fees, formal submittal requirements for CMSs, the government's fees for processing the submittal and how formal laws such as the Enugu Town and Country Planning Law and the 1978 Land Use Act are applied. When working with informal middlemen and estate agents, they learn price negotiation skills as they attempt to get the highest value for the sale of plots. During the negotiation process, locals learn which attributes of land are most preferred and those which are deemed undesirable by land purchasers. This gives locals leverage for negotiating the price of land. With these skills, locals are becoming adept negotiators in current land development and delivery practices for CMSs.

Expectations for Infrastructure

Most, if not all planning schemes require that no building shall be built until the roads in the immediate vicinity of the lot have been constructed to satisfaction of the local government. In this interaction, most structures have been erected prior to the construction of any roads. Accessibility to the buildings are on unlevelled dirt roads wrought with potholes that collect rainwater. Again, the planning rates are not sufficient enough to provide concrete, asphalt, or other costly roads in CMSs. It appears scheme approval processes have set high expectations while inconsiderate of the exurban context of the city. Elements of this claim is evidenced in the process of CMS approval. Under the Aims and Objectives of the Scheme section of the Development Guide, most of the language refers to high expectations such as: to “ensure that a high standard of development is attained within the area” As this standard is hardly met, some CMS- actors criticize these land delivery systems as unrealistic Western standards.

Outcomes

Outcomes describe the consequences of the choices made by actors in the action situation (Polski & Ostrom, 1999). As a result of the 1946 Town and Country Planning Law from which the 2004 version of the law was revised, the foundation for planning residential subdivisions are based on laws instituted by Nigeria's former colonialists. Putnam's (1993) research in Italy proved a society's social structure has the power to impact the performance of its institutions. He found that "social context and history profoundly condition the effectiveness of institutions" (Putnam, p. 182, 1993). Essentially, the blueprint for an institution is not guaranteed to work simply because it has operated successfully under the environment of a different social context. The 1946 Town and Country Planning Law is a legal document based upon the "sensibilities and disposition" of colonialists. The current mechanisms used to regulate space in Nigeria are influenced by colonial methods used to create "spatial cultures". These spatial cultures were ordered through spatial planning, surveying, naming, city building, and implementation of land policies (Porter, 2010, p.76). A "hierarchy of space" and "scaling of bodies" were used to create the "order" of land uses and development processes (Porter, 2010, p. 146) in current Nigeria. Stoler (1995, 2004) argues that the work of the colonial government was not based upon rationality, but on sentiment and affect. "She criticizes a 'conceit of reason' in the analytical tendencies of scholarship, that tends to produce a myopia, especially in critical postcolonial studies" (Porter, 2010, p.44, as cited in Stoler, 2004, p.4). It is thus crucial for any analysis in contemporary planning to be aware of present colonial cultures operating in post-colonial states. Layout plans for individual subdivisions are used in Enugu to fulfill the purpose of land development. This sort of planning is recognized as small scale subdivision plats (layouts) which are, for the most part characterized as lacking adequate public infrastructure such as

sewer, storm drainage, access to running water, adequate roads, and haphazard electricity poles as displayed in Figures 10, 11, and 12.



Figure 10. Lack of drainage in a planned layout in Iji-Nike Community

Source: Author



Figure 11. Single electricity pole in Ibagwa-Nike Community

Source: Author



Figure 12. Lack of drainage and unpaved roads in Iji-Nike Community

Source: Author

Outcome of most CMS Developments

Due to the lack of availability of financial resources from the government, private developers (understandably only concerned with a single or a couple of lots in a planned layout finally) fragmentarily install the infrastructure (Iyi et al., 2016). If a certain government administration has interest in developing certain CMSs, they may provide infrastructure if some sort of special interest or favoritism towards a community exists. The outcome of this sort of patron-client system leaves the development of CMSs at the mercy of the government. With urbanization rapidly expanding into the peri-urban areas of Enugu, the issues of inadequate provision of

urban infrastructures and facilities and incomplete CMS development are increasingly apparent. With all these issues identified, it is apparent that private developers (or those who buy lots) lead development while the state and city government either simply observes (Iyi et al., 2016) or selectively equips layouts located within or outside CMSs with infrastructure and public facilities.

Benefits

Onyebueke and Ikejiofor (2017) endorse CMSs as “community city-building practices...which... signifies ‘the joint production of public services between citizen and state, with any one or more elements of the production process being shared)’” (p.322). This assertion correlates with my observations concerning the CMS development process, as communities initiate workable land subdivision schemes that provide most land available for development in Enugu City. CMS parcels and housing are also more affordable and accessible for the majority of the population, in comparison to private land and government-initiated schemes.

CMSs are not only the alternative to private land and government-initiated schemes, but to informal slum development as well. Whereas informal developments are characterized by having lack of access to basic infrastructure and public services, haphazard structures, and unplanned in nature; the layout plans and planning schemes that are a part of CMSs brings this initiative under the purview of government review and standard development regulations. In theory, developments that occur in CMSs are supposed to follow building standards, land use restrictions, infrastructural requirements, and certain provision of amenities. Annual taxes are also capable of being collected by the government as CMSs are required to be registered with the government. Informal developments have no records or tenure with the government and therefore taxes are incapable of being collected. Traditional fees and proceeds from the sale of individual plots are also capable of being collected after CMSs have been approved and registered with the government. Proceeds of the sells go into the community account for the natives to take care of social obligations and fund community projects such as the construction

and renovation of community buildings. Through CMSs locals are capable of finding ways to improve their lives and manage what is traditionally their own.

Besides land development and delivery skills locals are gaining as a result of handling land transactions, there is an opportunity for their input to be considered with regards to designated land uses of CMSs. As identified under the authority rules, prior to enlisting the professional services of a planning consultant, the traditional ruler and the land committee meet to discuss how best a future layout should be utilized. They consider possible land uses for the CMS based upon the parcel's location. During their general assembly meeting, they also discuss which individuals (or families) will be given plots from the CMS after it is approved for whatsoever reason they see fit. The allottees may then choose to sell the plots or develop it themselves. From the foregoing, it is clear that although CMSs are required to attain government approval, communities still partake in the planning and management of its land. It is also important to note that, even the colonial 1946 Town and Country Planning Law which governed physical development in Enugu facilitated the review of layouts for landowners, as it is written; "The Central Authority may by resolution decide to... adopt with or without variations, a scheme proposed by all or any of the owners of any such land..."(Town and Country Planning Law, 1946, p.3). Hence, the idea of CMSs has been around for some time and constitute as "bottom-up" rather than "top-down" as these layouts originate from landowners and not the government. According to a senior planning official at the Ministry of Lands and Urban Development, even though communities had the right to initiate layouts from Enugu's colonial period, communities did not embark on this activity as the process for obtaining approved layouts was bureaucratic, expensive, (Onyebueke and Ikejiofor, 2017) and not economically feasible (Senior planning staff at Ministry of Lands and Urban Development, September 14, 2019). It was after the 1978 Land Use Act and explosion in population growth from 1960 to 1990 (as shown in Table 1), that there was a rapid increase in the provision of CMSs.

Table 1. Population Growth in Enugu Source: worldpopulationreview, 2020

Year	Population	Growth
1990	363,000	67,847
1985	295,153	55,153
1980	240,000	44,660
1975	195,340	36,340
1970	159,000	37,163
1965	121,837	28,471
1960	93,366	21,828

Weaknesses

For residential properties, communities pay 20 naira per square meter or a minimum charge of 10,000 naira (whichever is more) for the registration and initial costs of infrastructure such as the development of roads. For commercial properties the cost is 40 naira per square meter or 15,000 naira (whichever is more). According to senior staff at the Ministry of Lands and Urban Development, these fees are purely calculated based on the nature of the development (location, use, capacity, etc.) and are subject to change every 3-5 years. From the research, it is apparent these funds are not sufficient to cover the cost of the provision of infrastructure and interviewees from Iji-Nike and Ibagwa-Nike believe the funds are diverted elsewhere, leaving the capital cost of infrastructure provision and development of CMSs in the hands of the community. "Most times, the money [planning rates] goes to people's pockets, the developer pays planning rates, but when they pay, nothing comes out of it" (Iji-Nike palace official, September 17, 2019). A planning consultant and Ibagwa-Nike palace official attested to this

being the circumstance at times. Even if the government was totally honest with planning rates being allocated to its appropriate purpose, the fact remains that as development gets further from the center and sprawl occurs, the cost of infrastructure will increase (Bhatta, 2010).

As indicated earlier, The Enugu Town and Country Planning Law is meant to be the guiding authority over every CMS that is reviewed by the local and state government. There is meant to be consistency in the manner rules are applied to CMSs as they are reviewed by planners. In actuality, if the CMS is submitted from an affluent or well-connected community, the government is able to approve submittals which have not met Enugu's formal planning laws and are substandard in quality. Yet, if a community is not influential but still desires speedy approval of a submitted CMS, they are able to bribe or tip government officials to quicken the review process. In this sense, it is evident that not all CMSs are reviewed equally.

At the community level, locals testified of the unscrupulous behavior of community landowners and leaders when it comes to land transactions. When asked about the infamous double or multiple sales of one land to multiple buyers, a palace official didn't deny the claims stating, "There's no patriotism. In every 12 there is a Judas. It doesn't mean that it is part and parcel of the community... There is a problem of touts and they try to mislead the public. The tout may tell the buyer not deal with anyone else... Under normal circumstances, you [the seller] come to the palace to verify [ownership]" (Iji-Nike palace official, September 17, 2019). According to many subjects interviewed, in Igbo land, after the importance of human life, the importance of land is next. Traditionally, mishandling of land is taboo and is considered morally inept. Amongst the locals, land is occasionally sold twice. Those who have duped a buyer will be required to face the law. Land purchasers have many different avenues for verifying land ownership both through communities and the government as indicated in the authority rules.

CMSs create an opportunity for communities to work with government officials and development professionals to create planned and relatively affordable land ready for residential development.

There still remain daunting tasks that need to be addressed in the CMS process. As discussed in the foregoing, the installation of infrastructure is usually drawn out, and when finally installed, is carried out precariously. One of the main reasons for this is its cost. Many CMSs occur in peri-urban parts of the city, and the greater the distance from the city's center, the higher the cost of infrastructure and the increase in transportation (Bhatta, 2010). This increase in urban sprawl also makes a harmful environmental impact on the environment. Another reason for the lack of adequate provision of infrastructure is, at times, the lack of political will of the government to provide them, or to selectively decide which community receives them based upon partialities.

Although there was the creation of the 1992 NURPL made for Nigerians, by Nigerians; it has yet to be adopted in Enugu and thus much of urban planning in Enugu has been unreformed from its colonial past. According to Ogbazi (2013):

The Nigeria Town and Country Planning Ordinance of 1946, based on the British planning laws from the 1930s, for the most part, still forms the legislative basis for urban and regional planning. A reform, albeit marginal, was expected with its revision in the 1992 Urban and Regional Planning Law but implementation and effectiveness are facing challenges (p.110).

A senior planning staff from the Ministry of Lands and Urban Development corroborated this,

"We have not started implementing the law [NURPL] because it has not been adopted." (September 10, 2019). A planning consultant also corroborated this, "There is a law that was promulgated in 1992....The Enugu State Planning Law is just the same as the Town and Country Planning Law of Eastern Nigeria (1946)....In 1992, a new law [NURPL] was promulgated... it is truly Nigerian in nature. We [Enugu state] have not adopted the law, that's why we are crying"(September 9, 2019).

The 1992 NURPL was drafted by indigenous Nigerian professionals with the historical, cultural, political, and social context of Nigeria in mind. This is unlike the 1946 Town and Country Planning Law which originated from European colonists and only had their own interests in mind. The 1992 NURPL is fundamentally different from the Enugu State's 2004 Town and Country Planning Law due to the following characteristics:

1. It assigns different planning functions to each tier of government in Nigeria. The 2004 Enugu State Planning Law places all planning powers in the state government.

2. Under the 1992 NURPL, the federal government formulates planning policies, establishes planning standards, and sponsors research and technical assistance in the creation of state and regional plans.
3. The federal government is supposed to create a National Physical Development Plan which is meant to serve as the framework for all state and local government plans.
4. The 1992 NURPL creates a Commission at the national level, Board at the state level and Local Planning Authorities at the local level to ensure implementation of the 1992 NURPL.
5. The 1992 NURPL allows for feedback from local and state governments regarding national plans in order to facilitate not only top-down planning methods but, bottom-up as well. It also requires that state governments provide annual reports indicating how they are conforming to higher level plans (Dung-Gwom, 2011).
6. The 1992 NURPL allows for the immediate demolition of illegally built structures. The 2004 Enugu State Planning Law requires for the government to take the offenders to court before demolishing the structures. According to a planning consultant, "In Nigeria we know that if you ask somebody, "Don't build here, it is dangerous, flood will catch you here", the person will go and build in the night. The new law [Nigerian Urban and Regional Planning Law] says if anybody builds any structure where it is not supposed to be, [for example] in the water ways, within a railway setback, high tension wires, when a Town Planner sees this, the law says you should demolish it. There's no more waiting for a court order" (September 10, 2019).

The 1992 NURPL was created with knowledge of the people's mentality, traditional, and political background and if properly implemented (in theory), is designed to facilitate sustainable and orderly development in Nigeria. Although Enugu state may benefit from the technical assistance and financial support from the federal government in the creation of regional and other physical development plans, CMSs have still managed to allow for a collaboration which is initiated by community leaders and is contrary to the methods used by colonists who used top-down approaches to plan without considering the traditional leaders. This method is beneficial to communities and is culturally sympathetic.

Takeaways

This chapter analyzed the patterns of interactions in the CMS process and its respective outcomes. The outcomes, benefits, and weaknesses were fleshed out. Benefits of the CMS process includes the provision of an alternative to government-initiated schemes and informally unplanned land. They act as a bottom-up joint venture between the government and the community and are a source of income for local communities. Traditional methods of record

keeping and land use planning are still able to get incorporated into the CMS process. Locals gain land development and delivery skills by directly working with actors in the action situation. Its weaknesses include corruption in the government when reviewing plans, the government misappropriating planning rates which are meant to be used for the installation of infrastructure, and multiple sales of one piece of property amongst locals. Its challenges include, communities pre-emptively engaging in CMSs in order to avoid uncompensated condemnation of community lands by the government, and the lack of financial capacity to install infrastructure in CMSs. It is important to identify ways of enhancing the identified benefits of CMSs while mitigating its weaknesses.

Chapter 7

Discussion

This study's research question asked: How does the CMS process, as a neo-customary land delivery/development system, function to provide developable land in peri-urban Enugu City and what opportunities exist for enhancing the benefits of the process, while mitigating its weaknesses? The patterns of interaction and action situation have demonstrated how CMSs operate to provide developable land for most of the population in Enugu while under the auspices of both the government and local communities. As much as CMSs are workable, autochthonous, land subdivision ventures achieved by communities, private actors, and government agencies, there still remain opportunities to mitigate its weaknesses and enhance its benefits.

Neo-Customary Land Development Activities

Local indigenous communities have seized the opportunity to supply land for the growing demand of subdivided land in Enugu State through community-mediated settlements (CMSs). CMSs capture the dynamics of the city and present an opportunity for communities to work bottom-up and challenge an assumption of land economic theory. The theory assumes that individual private landowners are at the center of land sale and subdivision (Vaskovich, 2004). Neo-customary land delivery/development systems are unique as development is initiated with customary rights holders. These land delivery/development systems have quasi-formal processes that are accustomed to locals and are similar to formal procedures (Rakodi and Leduka, 2004). They are not unique to Nigeria, as similar practices occur in Lesotho, Benin Republic, Egypt, and Mozambique (Durand-Lasserve, 2004; Rakodi and Leduka, 2004). A quasi-formal aspect of the first stage of development (decision to market land) includes engaging the local land committee, a group of power of attorneys which have been selected to

handle land transactions. Communities may decide to sell large tracts of land to major enterprises or decide to subdivide the land themselves. It is up to the appointed power of attorneys to determine which option will have the optimal financial gain. Formal processes include a private landowner or group of landowners to engage in outright selling land or engaging in subdivision and development.

Fraudulent Land Sales

The issue of double or multiple sales of the same lots during the third phase of CMS development (land sale and accumulation) remains an issue. If land purchasers do not seek certificates of occupancy (CofOs) for their property and decide instead to obtain letters of agreements (between themselves and the land seller) and use receipts of payments as proof of ownership, they risk the chance of purchasing land that has already been sold. Verifying land ownership with communities is another way of verifying ownership but, CofOs are the highest form of tenure security in Nigeria.

Inadequate and Insufficient Infrastructure

Another issue with CMSs is lack of or long delays in the provision of infrastructure for the subdivision layouts. In theory, after the CMS has been registered with the government, the latter entity is responsible for providing the required infrastructure necessary for development. In turn, when individual land buyers or land developers purchase land and apply for a CofO, the planning rates along with other fees are supposed to be paid to the government so it may recuperate its expenses. In reality, the government only engages in the grading of roads in order to allow access to the layouts; this is typically the extent of public provision of infrastructure for CMSs. In contrast, with government-initiated layouts, the government typically provides the necessary infrastructure for development. As discovered in this research, the government's lack of political will is not the only factor affecting public infrastructure provision in CMSs, as Bhatta (2010) indicated, the cost of infrastructure at the periphery of the city may

exceed local government's financial capacity to provide it, since the greater the distance from the city, the higher the cost for extending roads and infrastructure and transportation services.

An informal aspect of the third stage which includes land sale and accumulation (stage one is the decision to market land and stage two includes land subdivision and registration), comprises engaging the services of informal middlemen in order to bring together community members selling land and individual land purchasers or developers. As opposed to real estate agents, informal middlemen are familiar with the locals, customs of communities, and formal land development procedures. They are trusted and have long lasting relationships with communities. Besides revenue from land purchasers leasing land, communities generate revenue from other traditional fees. An informal characteristic of the fourth stage of development (development phase of a CMS) includes mechanisms for consolidation. Although most CMSs experience long delays in the installation of infrastructure or very basic infrastructure, some communities or land purchasers have made efforts to install infrastructure and services through self-help or community equity sweat as opposed to waiting for the government to fulfill these promised obligations.

Master Planning in Enugu

The colonial influences of planning still have an effect on Nigerian political agendas and modern planning theories. Model cities in Nigeria such as Lagos and Abuja are the standard for development (Olujimi and Enisan, 2015). These cities emulate a colonial system of planning that is top-down; master planned; and highly technical (requires heavy data collection on existing conditions, administration of surveys, data analysis, projections, and more). Enugu master planning follows the trend of the 1946 Town and Country Planning Law which was developed based on the concept of Le Corbuserian principles, urban modernism, private property rights, and the commodification of land. Drawing upon the qualitative research, it appears that local and state governments in Enugu may still be holding onto some of these principles. As indicated from the research, it is apparent that many of the planning staff from

local and state governments still embrace master planning as the way forward to rationally plan Enugu. Many judge CMSs as piecemeal and disjointed planning efforts which will never compare to the efficacy of master plans. Some however understand that master plans cannot work in this part of the world because of its incapability to incorporate informal developments and accommodate urban growth. The 1917 City of Enugu master plan has become obsolete, and the 1982 master plan was commenced but never adopted nor implemented. Some attest the reason for these failures is the lack of political or institutional capacity to carry out these plans, in reality, it may be because imposed colonial land use theories and laws which function(ed) in Western nations cannot be used to control and regulate the urban spatial processes in Nigeria (Berrisford, 2013 and Ogu, 1999).

Recently after I conducted my fieldwork, it was announced that the Governor of Enugu plans to restore the 1917 Enugu Masterplan. The governor stated, "So, returning Enugu to its original masterplan as the city's founders had intended is as much an aesthetically-driven project as it is an economic imperative." (This Day Live, 2020). He placed the Executive Chairman Dr. Josef Onoh of the ECTDA, to be the head of this task and lead a 14-person team to enforce the "Enugu Urban master-plan" (Premium Times NG, 2019). Dr. Onoh stated, "Enugu has the best Master plan designed by the colonials." (Vanguard, 2019). Such aspirations are illusory considering that the spatial cultures created by colonialists through master planning efforts was based on sentiment rather than reason (Porter, 2010). Colonialists created the master plan in order to ensure maximum exploitation of the country's resources for the benefit of the colonial administration and settlers. It was not designed to accommodate the massive urban growth or informal sector that comes with the development of cities such as Enugu. They are not responsive to the dynamic economic, social, or political forces that makes up Enugu and other Nigerian cities and planning strategies in any country do not need to conform to the conventional model of another's (Ogu, 1999). As Porter (2010) indicated, it is not possible to surpass existing politics and colonial histories, but it is possible to work within existing

parameters where contextual and inclusive approaches are utilized. If this master plan is restored in Enugu, the CMS review process by planners in the government might very well change. CMSs might be pushed to reach unrealistic development expectations (provision of conventional infrastructure and services, extensive thoroughfare plans, incompatible density requirements, and upscale land uses) in the context of Enugu; or be left out of the plan, unacknowledged as an important settlement process and development pattern. The master plan may not be capable of working with and capturing the autochthonous methods of neo-customary land delivery and development systems which Enugu has grown accustomed to, and eventually it may lose touch with the city's reality of development processes.

Other Motivations Behind CMSs

Due to an increase in urban population and the high demand for affordable buildable land, the peri-urbanization of land in Enugu is drastically increasing (Onyebueke and Ikejiofor, 2017). Besides the recognizable fact that CMSs are generating a considerable amount of revenue for communities through land sales; other objectives are motivating communities to quickly engage in CMSs. As the locals testified, the government is unfortunately notorious for expropriating land without due compensation; especially when it appears a promising development is present or is bound to happen. The government has regards for CMSs and is far less likely to expropriate such land, as opposed to land in the slums. As a method of discreet resistance, communities opt to engage in neo-customary activities on large pieces of land. This option is much more financially lucrative in comparison to undue compensation by the government due to land expropriation. While communities are rushing to register residential CMSs, the layouts typically only have residential, commercial, and institutional uses such as parks, open spaces, churches, and schools. As mentioned in the literature review, pre-colonial Enugu, was based upon an agrarian economy. Communities may need to revisit these times as they may be overlooking the potentials of farming related activities. From the interviews conducted with local and state planning officials, powers of attorney, and palace officials, there are many petty farmers

throughout the community who use farming as a means of subsistence. Enugu is rich in crops such as yam, cassava, peanuts, cashew, plantain, banana, rice, corn, melon, and palm oil.

These foods are produced abundantly at minimal cost. (Anikwe, 2020).

With some of the plots in the CMSs reserved for communal farming, locals may farm the land and sell its produce. This may potentially be another source of income for communities.

chieftain and power of attorneys can liaise with agricultural departments in the state government to get direction concerning environmental factors, cultivation skills, resource management and crop production. When the palace secretary of Iji-Nike was asked if the community had ever considered taking advantage of the production and sell of crops, he stated, "There's always ideas like that, but when you come, [referring to becoming a member of the board of trustees] you observe the trend. You work with what is available before you. But when there's no land, what will you do? Will you cultivate on the air? You have to have land. What we do now is to get land, erect one small structure and rent it." (September 17, 2019) He was referring to the trend of residential CMSs where land purchasers typically buy plot(s) from CMSs and build small structures such as apartments and rent them out for profit. This trend has dominated CMSs yielding quick profit for communities, the government, and the land purchaser. The locals need to have secure access and usufruct rights to land in order to embark on communal farming. Urban agriculture in peri-urban parts of Enugu could possibly become an up-and-coming use in CMSs.

Impractical Expectations of CMSs

As evidenced in the research, the provision of infrastructure in CMSs is installed at a very basic level or not at all. The approved schemes that accompany CMSs place a great deal of unrealistic expectations for the provision of infrastructure on local governments. Most schemes require that local governments raise the funds necessary for the construction of roads, the extension of Enugu Urban water supply mains, and for the EEDC to extend electricity to the

area of the CMS via planning rates, that would be levied on land purchasers. This was also the responsibility of the government during colonial times. It appears this colonial legacy has carried into modern planning methods. In reality, this hardly ever happens in CMSs and many of the locals blame the government for having a lack of political will and less than an honest approach to providing funds for the provision of infrastructure. The fact of the matter is that the capital-intensive cost of infrastructure is too high for many local governments. With pervasive incentives for indigenous communities to preempt state government condemnation of their land through CMS registration, urban sprawl has been exacerbated and so the cost of infrastructure and public services provision at the periphery of the city.

Urban Planning Recommendations

Findings from the analysis of the IAD framework has yielded recommendations, that are proposed for the CMS institutional context and obtained from seeking answers to the questions surrounding the action situation, examining the interactions, and gauging the outcomes.

Provision of Infrastructure

It is not feasible to expect local communities to develop according to conventional standards considering the lack of financial resources for urban infrastructure in most local communities. As schemes require roads to be developed prior to the development of plots, it is advisable that alternative, more affordable options be used and when funds become available, they be upgraded to concrete or asphalt roads. While the roads are earth-surfaced all-weather roads in the interim, it is important they get maintained to avoid damage to vehicles and prevent the build-up of storm water. For communities that do not have the financial capacity to install certain infrastructure such as roads, drainage, electricity, and pipe borne water, they can work in tandem with NGOs, donors, universities, or multilateral organizations such as the World Bank or United Nations to obtain assistance or technical advice with self-help efforts. These agencies could work with men and women to obtain baseline information concerning the needs and

expectations of communities. Local resources and knowledge should be utilized to plan the design of the infrastructure. The entire effort should be community-led and “based on local wisdom and traditional knowledge” (GFDRR, 2020, p. 14) with sustainability being the end-goal. This would optimize resource planning. It is also advisable to allow for increased density in residential CMSs in order for there to be an increased number of buildings serviced by infrastructure such as drainage channels, water pipes, electricity poles, and roads.

Corruption in the Government

Many local governments do not have the financial capability to cater to such capital-intensive projects considering that development is moving further away from the city’s core and its cost is increasing. As indicated several times throughout the findings, there appears to be some local governments which do have the ability to allocate funds for infrastructure but choose to diverge funds elsewhere or to a community where some sort of special interest or favoritism exists. This is a patron-client system whereby the client, or more humble party, gives support through political allegiance, military support, acclaim, group identity, etc., so the patron remains in power. Such a relationship is continually renewed and renegotiated (Patron-Client Systems, 2020). In general, many scholars partly blame the poor state of many African countries on this political patronage system (Nijzinket al, 2006 and Kopecky, 2011). In reality, many other nations are influenced by this logic as well. In Nigeria and other African countries, during the early post-colonial period, those in top ranks immediately took over political and economic powers and occupied patron positions. Unfortunately, in many cases when there is an insufficient amount of infrastructure provided for new layouts, public resources are diverted to political patronage causes (Rasak, et al., 2017). This is especially true for communities who don’t have political or social connections to those in power. Some state agents even appointed based upon the patron-client logic and are not qualified to successfully fulfill their duties. This in turn leads to mismanagement of funds and incapability for the government to engage in sufficient planning. It is recommended that there should cease political meddling in administrative matters of hiring

government staff. State and local government agents should be hired based upon their qualifications as there are many who are expertly trained. There should be accountability and transparency in the government

Considering Other Land Uses in CMSs

It is recommended that local communities, planning consultants, and government planning staff consider other land uses as part of CMSs besides residential uses such as duplexes, apartments, and homes; amenities such as parks, open spaces, schools, hospitals, and religious institutions; and commercial uses such as local markets and other retail uses. Land use planning in Nigeria needs to be able to adjust to current realities of peri-urban areas. Planning strategies need to approach urban challenges by addressing them according to particular circumstance; context is key. Urban agriculture is a land use that may very well need to be accepted into Enugu's urban fabric considering the number of locals that engage in subsistence farming and are searching for land to farm. Like many other Sub Saharan African countries, Nigeria has an abundance of arable land with long growing seasons and a tropical climate. According to Agra.org (2017) there is an eagerly available market that is ready for produce consumption hence, community farming may go beyond simply subsistence farming. The African Center for Economic Transformation advises African nations to focus on the entire chain of farming which includes land tenure, farming technology, distribution of goods to markets, and pricing. They advise that land tenure is especially important for long term land improvements (Challenges in Modernizing Agriculture, 2014). If CMSs designate agricultural uses on the layouts and obtain customary CofOs, from the local government, those areas may be used for agricultural purposes for up to 500 hectares. Community farming has the potential to meet the local demand for food supply.

Incorporating Women into Neo-Customary Practices

The research has identified how locals are gaining land development and delivery skills by working with professionals in both the private and public sectors while handling land

transactions for CMSs. These locals are part of a chosen all-male land committee serving a five-year tenure. Communities should consider allowing women to be a part of these committees so that they may gain practical skills with handling land transactions for CMSs. Considering that more than half of the state's population are women, (City Population, 2020) their involvement in land development processes can be very beneficial. It is also important to consider women's participation in urban agricultural land uses in CMSs as alluded to in the above section.

According to Sibanda (2012), there is a large gender gap in agriculture in the Global South and this leads to a loss in opportunity to improve the production of food supply on a national and international basis. "Only 11% of women in Nigeria, compared to 32% of men, manage agricultural land" (Slavchevska et al., 2016). Women also lack the same access and power over the same productive resources as men. If they did have the same access, the total agricultural production in developing nations could increase by 2.5 percent to four percent (Sibanda, 2012). In practice, women cultivate agriculture that relies on rain for its growth and do not have sufficient access to farming supplies such as water, seeds, and fertilizers, or access to credit. Many do not have land ownership rights as only one percent of land in Africa is owned by women, and less than two percent of women own land in Nigeria, compared to men which own 17% of land by themselves (Slavchevska et al., 2016). If urban agricultural uses are incorporated into CMSs, community leaders should consider allowing women to have access to the same resources and management control as men.

Advertising Land Sales

In order to curb the number properties that are dubiously sold multiple times, communities have created several customary avenues for prospective land purchasers to verify if properties have been sold. The Nike Kingdom has a website that is devoted to its cultural, historical, and current events. It might be beneficial for communities to advertise these methods of verification on the community's website and even publish land sales as well. This might be worth it considering the amount of revenue CMSs bring into communities.

Application of Study to other African Cities and Beyond

Enugu is a medium sized city which ranks number ten in terms of population size in Nigeria. Although much of its urban landscape is characterized by pop-up informal developments, it is however, bustling with industrial, commercial, and educational functions. Enugu typifies post-colonial policies and peri-urban land management practices in Anglophone countries in Africa. It also typifies many other cities in countries such as Kenya, Uganda, Lesotho, Zimbabwe, Zambia, Ghana, and other nations which inherited planning systems from previous British colonial governments. Enugu, like other post-colonial cities have attempted to revise their land development and planning laws, but the government's approaches and laws have generally remained the same (Watson, 2011). Enugu's take on post-colonial planning laws has the ability to impact other African and Global South cities which share relatively similar land development circumstances and practices.

This study carries implications for other planning systems in African cities and the Global South.

Similar to Enugu, other cities also deal with conditions such as:

- Limited access to government subdivided land
- Shortage of sufficient infrastructure
- Informal settlements due to sprawl
- Land laws which have struggled to be implemented and mimic colonial systems of land tenure and development
- Government's lack of financial and administrative capacity to provide infrastructure and services
- Lack of inclusion of women in land development and management practices
- Corruption in the government (expropriating land and using for private interest or interest of those who are socially well-connected)

These other cities may consider limiting impractical expectations on the government for the provision of infrastructure and explore alternative measures as indicated in this study. The use of alternative drainage, road, and sewerage systems which are more affordable might also be beneficial to these communities. As established in this study and others before it, many current planning laws take on a European blueprint that is difficult to implement in post-colonial nations. Incorporating customary measures of land development and delivery into formal procedures

should be embraced whenever it is possible and helpful to the process. It will also be advantageous for the government of these cities to leave corruption and partiality out of land development matters and allow for transparency and accountability during land expropriation processes. This will allow for trust building between locals and the government by eliminating unnecessary expropriation of land and if land is taken for essential purposes, it should be used accordingly. The presence of women in land development and management practices is lacking in many African cities and in the Global South. As this study indicated, there is ample opportunity for women to participate in urban agricultural uses and other land transactions. This has the potential to help strengthen the role of women as producers and sellers and increase income benefits.

This chapter has presented opportunities to mitigate the weaknesses and challenges of CMSs, while shedding light on opportunities to improve existing neo-customary land delivery and development practices. These recommendations may help improve the processes which Enugu state uses to deliver 80% of its urban developable lands.

Chapter 8

Conclusion

This research has sought to answer the questions: (1) how does the CMS process, as a neo-customary land delivery/development system, function to provide developable land in peri-urban Enugu City and (2) what opportunities exist for enhancing the benefits of the process, while mitigating its weaknesses? CMSs have emerged in Enugu in spite of its colonial influences throughout its current land development laws. The CMS process has managed to adapt traditional methods of land development planning which indigene's ancestors utilized before the advent of British colonizers. At the same time, locals are abiding by formal state laws which require government review of subdivided layouts. Land development has become a community effort—rather than an individual or government-led subdivider or developer effort—which equips communities with land development skills and enables them to work with professionals from the private and public sectors. The majority of the population which patronizes communities for developable land are aware of this process and reap the benefits of more affordable and accessible land.

Enhancing the benefits of the process entails creating more awareness among prospective land purchasers of actual land ownership and encouraging trust amongst the actors involved in the CMS process. Mitigating weaknesses of the CMS process would facilitate government approval of plans conformant with development standards and devoid of kickbacks or bribes or favorable treatment for the well-connected. Such procedural reform would facilitate uniformity in the quality of the plans. The field research of the CMS process in peri-urban Enugu permitted understanding of the difference between the written rules of development and what actually transpires. The timeline for the installation of infrastructure and construction of structures (consolidation phase) is much longer in reality than what is required by law. This is due to the

government's lack of financial capacity to make the necessary provision of infrastructure as mandated by law, along with the increasing costs of extending services as development gets further away from the core of the city. Taking advantage of benefits and addressing weaknesses CMSs have the potential to improve urban planning practices in Nigeria, and beyond in Africa.

Research Limitation

My time available to perform the field research in Enugu City was limited as I had 26 days to complete it. Granted I was fortunate enough to have the rapport necessary to have follow-up conversations with my interviewees after I physically left Nigeria. Participant observation research calls for researchers to be physically present for an extensive amount of time not only to perform interviews but to examine the actions of participants in a particular situation. It is necessary for the researcher to participate in the setting in order to observe patterns of interaction and understand why people take certain actions relative to their local contexts. With this limited amount of time spent in Enugu, I may have missed opportunities to observe important interactions between actors in the CMS action situation. I tried to mitigate these limitations by utilizing *WhatsApp* to follow-up with key informants in order to clarify any questions. This social media allowed me to further follow ups with interviewees and expand my network of key informants, which I was able to tap into to clarify questions that emerged during the analysis.

Implications of Study for Research

The findings of this research can inform future qualitative research on neo-customary land development practices in Nigeria. Further research could investigate other aspects of CMSs such as its inevitable consequence of urban sprawl. There is an undeniable connection between neo-customary development practices in peri-urban areas and sprawl. State and local governments need to be aware of the adverse and positive effects of sprawl on cities like Enugu

in as much as it may contribute to increased economic development by extending infrastructure to an increasing population and increasing job opportunities, it may on the other hand, lead to more slums, greater dependence on vehicles, loss of farmland, and greater cost in infrastructure provision.

Implications of Study for Practice

This study aimed to contribute to the understanding of how neo-customary land delivery and development systems function in the midst of active post-colonial urban development policies in Africa. The study situated public sector staff, private stakeholders, and prospective development agencies in the context of the environment in which they are operating. It was significant to understand the difference between the formal laws that guide development in theory and the cultural, political, and social forces which actually influence land development at the urban-rural edge of a Nigerian city. Such an approach might assist some scholars in appreciating multiple rationalities in urban development practices in different areas of the Global South.

Results from this study by and large lend support to prior research and recommendations. Nonetheless, this study has recognized important lessons that may assist the Enugu State government, local government authorities, and local communities in improving aspects of the CMS process. Lessons identified in the study includes the state government appropriately compensating communities for lands which are expropriated, amending CMS scheme language to create more realistic goals and objectives concerning the government's involvement in facilitating the development of CMSs, understanding other motivations of communities opting to initiate CMSs and its implications, questioning the fitness of master planning as it may not have a meaningful effect on the development of CMSs, and raising the importance of seeking relatively more affordable alternatives to certain infrastructure and other funding options. If the general requirements of land development schemes were to be thoughtfully amended considering these lessons, CMS development processes might be able to address some of the

identified issues such as low quality or lack of infrastructure, multiple sales of one plot, and lack of diversified uses in CMSs. Further studies may also address the planning and agroecological technicalities of operating community farms in CMSs. Important factors such as the use of technology in farming to leverage on productivity, improving market accessibility, and tenure security for communal farms need further research.

As most land available for housing development in Enugu and Nigeria for the most part, is provided through the CMS process, it is important to keep investigating how to enhance the methods through which they are created and their weaknesses mitigated. This initiative will take a joint effort from all relevant stakeholders involved in the planning process but, there has to be an effective and trustworthy communication between local communities and government staff. The government should be more straightforward and honest with regard to expropriation procedures and compensation. This may curb the number of CMSs that are pre-emptively created in order to avoid government intervention in communal land affairs. This may allow communities to work with planning consultants and take their time in considering other land uses such as community farming and inspire them to not remain steadfast in only designating common land uses such as residential, amenities, and commercial. Local land committees and indigenes selling land should be honest in land transactions and avoid the multiple sells of a piece of property. Land purchasers should avoid any risks and go for a CofO for optimal tenure security. The government should opt for more affordable land road materials such as all-weather earth surfaced roads and natural or earth drains channel stormwater. Powers of attorney or other local leaders can reach out to those in the philanthropic sector, universities, and international development agencies to join forces with them to work towards the provision of necessary infrastructure. With these measures taken, there may be significant improvement in the delivery and execution of CMSs.

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Appendix

Coding Chart

<i>Categories or Themes</i>	General Codes	Sub-Codes	Definition
	LAYOUT PLANS	PLANNING RATES	<p>In theory, the Town Planning Authority (local government) calculates the expected planning rates that are meant to provide the complete infrastructure used to develop the layout and use funds from the TPA's funds to install all the infrastructure. As plot holders apply for CofOs and submit building plans, they pay the planning rates and other fees; allowing the TPA to recuperate its initial costs one by one. The funds from the government comes from a general tax fund. In reality, the government</p>

			<p>often times only caters to government sponsored layout. The second option involves the community completely installing all the infrastructure after the CMS is approved by the government. As individual plot buyers or land developers apply for their CofOs and submit building plans, they pay the planning rates to the TPA. The TPA then pays the fees back to the communities. The minimum fee every community must pay for the application/registration of a CMS is 250,000 naira (about 650 dollars). Part of this fee</p>
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			<p>is usually what the government uses to provide initial infrastructure and this is typically only enough to bulldoze paths in order to create dirt roads for the CMSs.</p> <p>The current cost of the planning rates is 20 naira (US .05 cents) per square meter for residential land and 30 (US .07 cents)– 50 (.13) naira per square meter for commercial land.</p> <p>The fees are subject to review every 3-5 years by the state government. In reality, the planning rates are insufficient to provide infrastructure-</p>
	INFRASTRUCTURE	INSTALLATION	The planning rates are supposed to be used to

			<p>provide roads, culverts, sanitary provisions, electricity and so forth.</p> <p>The planning rates are typically only capable of providing for the clearing and bulldozing land for roads. It is required by law that the government provide these infrastructures unless the community opts to provide it themselves. The infrastructure ends up being installed incrementally or haphazardly as plot purchasers (developers) buy individual lots.</p>
	<p>MASTER PLANNING</p>	<p>IMPLEMENTATION</p>	<p>Jim Nwobodo the first civilian Governor of Old Anambra State, initiated a Master Plan in 1982 that was supposed to</p>

			<p>guide the physical development of Old Anambra State [which incorporated Enugu at the time and was its former capital]. What is currently being used for new subdivision and development oversight are the layout plans and planning schemes which are essentially the CMS plans/layouts. The 1982 master plan was never signed into law (ECTDA Director, September 10, 2019). The 1917 City of Enugu Master plan was instituted by Nigeria's colonists. It is not referenced by town planners when layout plans are reviewed.</p>
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	<p>LAYOUT PLANS:</p> <p>They are used to determine the design of the proposed subdivision, proposed uses, indicate roads, and other necessary utilities.</p>	<p>BASIS</p>	<p>The basis for the creation of layout plans is the Enugu State Town and Country Planning Law Cap 149 of 2004 (state law). The Law Cap 149 was reviewed in 2004 but the content is the same as the 1946 Town and Country Planning Law which was prepared by Nigeria's colonists. The 1992 NURPL and National Urban Development Policy (NUDP) (adopted in 1992 and reviewed in 2006 and 2012) have since been nationally instituted and was aimed at modernizing the former planning laws making a planning system that is relevant</p>
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			<p>to Nigeria but it has yet to be implemented in Enugu. According to a planning consultant and state planning staffs, the reason for not implementing these policies are “unfortunately political.”</p> <p>The planning consultants use this document and their expertise to create the layout plans. The Igwe/chiefs also provide input in regard to land uses. The 1917 master plan does not act as the foundation for layout plans. There was an attempt to draft one in 1982 but it was never drafted.</p>
<i>Causes/Explanations</i>	MASTER PLAN	IMPLEMENTATION	Some senior staff from planning authorities

			<p>recognized the lack of implementation for the master plan as simply a lack of political will.</p> <p>When the interviewees were asked about a master plan, none referenced a previously instituted 1917 city master plan. There was an attempt to create a new master plan in 1982, but it was not successful. They emphasized that “there is no state in Nigeria that is too poor to implement such”(meaning no state in Nigeria lacks the resources to implement a master plan). Other scholars and staff from planning authorities just do not see any</p>
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			<p>practicality of master plans in Nigeria or Africa for that matter. They have deemed it as not implementable in reality because of their inability to accommodate urban growth or incorporate informal development.</p>
	<p>NIGERIAN URBAN AND REGIONAL PLANNING LAW</p>	<p>IMPLEMENTATION</p>	<p>There are politicians in government who feel threatened by this law and therefore “sit on” its implementation. There are also government officials who are obstructing implementation of the law. According to a planning consultant, some of them feel that if the law comes into effect they will lose their</p>

			job because they are not qualified.
	<p>URBAN AND GOVERNMENT INITIATED LAYOUT BIAS:</p> <p>As indicated in the study, many state governments are trying to emulate model cities such as Lagos and Abuja and focus funds for infrastructure on urban areas which are heavily populated and much more developed than peri urban areas.</p>	<p>PROVISION OF INFRASTRUCUTRE</p>	<p>The government is supposed to provide infrastructure by means of the planning rates. In reality, the communities in the peri-urban areas are left on their own to install certain infrastructure at times; if the community is fortunate and the government has interest, the local government may consider installing it.</p> <p>The basis of interests is based on community influence or, affiliation with politicians local community; a patron-client system. With government-initiated layouts, the government</p>

		<p>is almost always successful in the installation of infrastructure.</p> <p>Government layouts differ from CMSs in that the land is owned, surveyed, and serviced by the state government. This constitutes 10% of all land in Enugu.</p>
<p><i>Relationships Among People</i></p>	<p>LOCAL COMMUNITIES</p>	<p>This group represents the leaders of the community which initiates the preparation of CMSs and hires planning consultants and surveyors. They are often left with the burden of installing infrastructure in the communities. Civic leaders such as community secretaries</p>

		<p>and power of attorneys express distrust for the government because of expropriated lands used for private interest rather than the public interest.</p>
	<p>ADVOCATES OF MASTER PLANNING</p>	<p>These are individuals in the professional world of urban planning who find importance in the use of a master plan to guide physical development of Enugu City. These individuals include faculty from local universities and planning consultants. The university faculty are outside the IAD framework and the planning consultants have a role in the action situation. They expressed the need for</p>

		<p>social, economic, and physical conditions to be used as a basis for urban planning in Enugu. With this sort of planning, there would be a provision of “space” for individuals based on their socio-economic status. The government would designate housing for areas of the city based on different socio-economic groups whether by means of CMSs or government layouts. No groups would be excluded.</p>
	<p>SKEPTICS OF MASTER PLANNING</p>	<p>These are individuals that view master plans as static, unrealistic in the context of Nigeria, and inconsiderate of existing informal</p>

			developments. They are faculty from the local university (not in the action situation) and senior staff from the ECTDA (part of the action situation).
<i>Theoretical Constructs</i>	PLANNING INFRASTRUCTURE	SURVIVAL	Communities and future developers are left to install substandard infrastructure with minimal resources as the government does not /cannot fulfill their obligations to install quality infrastructure. This is due to a lack of sufficient resources and/or lack of political will.
	FUTURE PLANNING	SURVIVAL	Planning government authorities allow current conditions and colonial influenced laws to guide their decisions when

			reviewing and approving CMSs.
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Semi-Structured Interview Questions

Interview Questions	
Action Situation 2: Principal Theme: Methods of documentation used to keep record of land sales and transactions in order to avoid multiple land sales in communities.	
Land Purchaser of residential CMS plots (3 from one CMS in Ibagwa) and (3 from one CMS in Abakpa Nike) (6 individuals). These individuals are land buyers of plots already subdivided in a layout.	1. What features of the property led you to purchase it?
	2. How did you become aware of this CMS?
	3. How long have you owned the property?
	4. Who did you buy the land from?
	5. What year was the land originally subdivided?
	6. When did you buy it?
	7. What do you know about this CMS?
	8. Is the plot in a registered layout or in a piece-meal subdivision?
	9. What is the size and how much did you spend to acquire the property?
	10. Did you obtain a formal title for the property? How long did it take to obtain it?

	11. Were there any customary institutions you had to deal with? If so, who were the customary actors?
	12. What procedures did you take with these customary actors in order to successfully purchase the property?
	13. What were other fees assessed by the community?
	14. How was evidence of these transactions documented?
	15. Did the property have any access to utilities or roads when it was purchased?
	16. Have there been any disputes for land ownership over the property? Did you encounter any problems?
	17. Has the property been formally registered? If so, how was this done?
	18. If this property is unregistered, who maintains records of the survey of this property and how is it maintained?
	19. Is this property formally registered in the Enugu's cadastre and/or ESPD?
	20. What guarantee do you have that shows you have ownership of this property?
	21. How are records of this transaction recorded and who maintains them?

	22. Was this land transaction made public and if so, how?
Action Situation 2: Principal Theme: Methods of documentation used to keep record of land sales and transactions in order to avoid multiple land sales in communities.	
Customary Land Owner/Chieftain/Senior Member of Family (This group is active in the first step of initiating CMSs: the Decision to Market Land) (6 individuals).	1. What is your role of ownership in regards to the property?
	2. What is your level of education?
	3. If someone from within the family or community wants to sell land, what are the steps for this procedure?
	4. If someone from outside the family or community wants to purchase land, how would this be handled?
	5. How was ownership of this particular piece of property acquired?
	6. Is the property in a planned formal layout?
	7. Who is involved when the property is sold?
	8. How did you determine a price for the land?
	9. Are legal documents given to individuals who purchase land from this community? What are they?

	10. How does your community know the boundaries of the land?
	11. How does the community keep track of which land has been sold?
	12. Who in the community has access to information regarding land transactions?
	13. If you are aware of formal land registration procedures in Enugu, may you please describe them the best you can? Including the
	14. What is your opinion of these formal processes?
	15. In your opinion, what are the issues with the process? Do you have any advice for improvement?
	16. Are there are any positive characteristics/benefits associated with the formal process?
Action Situation 1: Principal Theme: Are planners incorporating informal housing development methods in any future and current planning activities? If so, how are they incorporating this information?	
Government Planning Authorities (Members of LPA, Control Department, Town planners of ECTDA, pertinent staff from the Ministry of Lands and Urban Development) (6 individuals)	1. Describe the legal process for formal land registration or Certificate of Occupancy? (Actual documentation describing the process will be requested)
	2. How many days should it take for this process to be completed? (Actual times would have to be observed.)

	3. How are issues of illegal subdivision addressed?
	4. How does your agency interact with customary institutions such as CMS?
	5. What information from customary institutions can be used by your division/agency for city planning purposes?
	6. How can they be resolved?
	7. How often are layouts presented for approval by communities?(Enugu State Survey Department of the Ministry of Urban Lands and Development)
	8. How many planned layouts has the government created in the past 10 years? (Town Planning Division of the Ministry of Lands and Urban Development)
	9. How many applications were received for these layouts? (Town Planning Division of the Ministry of Lands and Urban Development)
	10. How is data concerning land records, acquisition, and delivery used for planning and development functions?
	11. How can data concerning trends in land delivery assist Town Planners to plan for adequate infrastructure, access to roads, schools, markets, etc.?

Action Situation 2: Principal Theme: How the Enugu State Department handles communal land subdivisions	
Pertinent staff from the Ministry of Lands and Urban Development (6 individuals)	1. What is your understanding about the community mediated settlement processes concerning land processing, registration and the subdivision of land?
	2. To the best of your knowledge, may you please describe the steps a community takes when they use alternative means to process, register and subdivide their property?
	3. What are the strengths and weaknesses of these alternative methods?
	4. How do these methods affect formal land registration and subdivision of land?
	5. What are methods to incorporate some of these methods into formal processes?
	6. How is your division handling registered Community Mediated Settlements (CMS)?
	7. How is your division handling unregistered (CMS)?
	8. How is your division using information from CMSs to plan for future developments such as roads, utilities, and connectivity between residential layouts?
	9. How do applicants adhere to the Enugu Urban Bye-Laws (development regulations) concerning building plans during the submittal process?

	10. How long does it take for building plans to get approved?
	11. How are services such as water and sewer planned for CMSs?
	12. On average, how long does it take for a CMS to get consolidated or fully developed?
	13. How can the current planning arrangement from CMS be enhanced?
Action Situation 1: Principal Theme: Identifying how the Enugu local government is planning for the city's future land use and infrastructure (schools, parks, drinking water, storm water drainage, sewer, utilities, etc.).	
Government Land Delivery Organization (Members of LPA, Control Department, Town planners of ECTDA, pertinent workers from the Ministry of Lands and Urban Development) (6 individuals)	1. How is your division implementing the Nigerian Urban and Regional Planning Law (NURPL)?
	2. To what extent is your division implementing the Improvement Areas Plans (IAP)?
	3. What land subdivision sources of information are being used for the development of the IAPs?
	4. How are transactions from informal land subdivisions being used to develop IAPs?
	5. Who is invited to the public meetings from IAPs, and which individuals actually attend?

	6. To what extent are Improvement Area plans been implemented? What obstacles are hindering this process?
	7. Which actors are impeding/or facilitating the implementation of the IAPs?
	8. If IAPs are not implemented, how are road, social facilities, infrastructure and future residential subdivisions planned for?
	9. What information is used to plan for Enugu's future developments?
	10. How is your division working with stakeholders such as middlemen, customary landowners, chieftain and developers to plan for Enugu's future developments?
	11. What is being done to guide housing developments in Enugu City?
	12. What opportunities are there for the planning authorities to work with relevant stakeholders to address current housing development issues?
	13. What opportunities are there for the planning authorities to work with relevant stakeholders to address current housing development issues?
<p>Action Situation 2: Principal Theme: Identifying how land transactions information such as title deeds, letters of agreements, receipts, is retained/recorded and transferred to formal departments.</p>	

Middlemen/Realtors (6 individuals)	1. Which institution do you work for?
	2. How many years of experience do you have in selling/buying land?
	4. Who are your typical clients? Do you work with customary land institutions?
	5. What are the fees for your services?
	6. By which means are land transactions made? (e.g. cash, card, check, or in kind (such as land))
	7. On the average, how long does it take to complete a land purchase transaction?
	8. Are there any individuals required to be present during these transactions, and if so, who?
	9. Are there any receipts or letter of agreements produced as a by-product of the land purchase for communal land?
	10. After the CMS has been surveyed, who is the survey shared with?
	11. Who amongst community members keeps track of such transactions for CMSs?
	12. If shared, how are community members relaying this information to Planning Authorities?
	13. In your opinion, what are the opportunities/challenges for communities as it relates

	to giving Planning Authorities information concerning land transactions?
	14. Do you assist your clients in registering title to land? If so, how?
	15. Are you involved with providing land transaction information to planning authorities, and if so how?