

# Land Development Processes and Property Rights: Top-Down and Bottom-Up Approaches in Windhoek Namibia

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## Abstract

Land and housing ownership are a popular bone of contention in cities. It has unearthed many injustices and sparked numerous protests pertaining to rights and access to the city. As the two have embodied different meanings in different societies over the centuries. The apartheid regime and its strict control over property and ownership created severe inequalities and injustices for the post-apartheid city. At present, cities in the Global South are challenged by the coloniality of these injustices. Where the heterogeneity of said challenges alone hinder the citizenship, socio-economic and spatial inclusion of the urban poor in the city. This study investigates dual land development processes and their associated property rights in Windhoek to understand their implications and propose an alternative to the spatial planning and development praxis in the city. As a mixed methods approach, the study gleans insights on land and housing development processes, delivery, and the characteristics of tenure security and rights in Windhoek. Together the findings illustrate the features influencing the land and housing ownership and development nexus in Windhoek over the past three decades. The mixed methods approach was ideal for this study as it facilitated a detailed investigation of a complex phenomenon.

## Keywords

Property Rights, Land Development, Ownership, Windhoek

## 1. Introduction

Land development was the sole responsibility of whoever owned it (i.e., private individuals, communities or the state). Colonial policies and legislation such as the Odendaal plan disallowed black ownership and land development in urban centres. Land use management practices (Simon; Friedman) were preferably conducted in the white-occupied suburbs to ensure the value of the property would remain higher than that of township-based property (Kohima and Mphambukeli; Simon). This also meant that development in townships was limited to the lowest possible financial investment for various reasons (Demissie; Friedman). After independence, however, the Namibian government enacted the devolution of spatial planning functions to address the problems inherited from the colonial regime (Republic of Namibia; Republic of Namibia; The Namibian). This facilitated the expedient development of land and housing in towns across the country (Republic of Namibia).

Land and housing development in Windhoek were primarily driven by state-led, private developers and grassroots movement initiatives. These activities were enabled by the National Housing Enterprise (NHE) Act, the Local Authorities Act and now recently the Flexible Land Tenure Act (FLT) (Republic of Namibia; Republic of Namibia; The Namibian). The Acts have thus influenced the channels through which property was acquired and developed over the past 30 years. The Acts have also enabled alternatives to state and market-led land development processes in the city. This paper was an investigation of state-led and people-led land and housing development processes and their associated rights in the city. The objective of this paper was to assess the land development processes practised, identify the types of property rights exercised and acquired as a result thereof. The results will provide holistic guidelines which may improve the housing agenda and its execution in the city.

## 2. The Right to the City

The paper uses Lefebvre's "Right to the City" concept as its paradigmatic lens. Wherein he proposes the perception of the city as an organism, as opposed to an accidental derivative or evolutionary phenomena (Lefebvre). As it is critical of urban injustices, ideologies, practices, and experiences based on the rationale that tensions bely various urban spaces, forms, and knowledges due to unequal historical power relations (Brenner). Moreover, it rejects reasonings of city formation and growth being a product of the transcendent laws of social organisation, economic production, and bureaucratic rationality (Brenner; Lefebvre). Due to this, Lefebvre perceived the city as an intentional body, where its planning, management, production, and growth were rooted in purpose, regardless of the perspective (Brenner; Lefebvre). This is from the stance that urbanisation is not merely a spatial expression of other social forces, that people drive it as an expression of their needs (United Nations; Yigitcanlar and Teriman). Cities are whole entities developed, precast, shaped, and imagined by the people. Where development signifies growth and sophistication in the character and execution of the activities they carry out. This is aligned with Hernando de Soto's stance on property rights and the crucial role the inclusivity of the urban poor could play in the sustainable growth of developing countries. Here, De Soto argues that the urban poor own vast amounts of capital excluded from the formal economy because the state has failed to assimilate the informal trade into the formal economy (De Soto; Goldfinch). Governments of developing countries thus lose out in this regard. Because assimilation into the formal economy could help the state capitalise on the extra-legal means of survival and asset ownership of the urban poor (De Soto; Goldfinch). This is because the inclusion of the urban poor can expedite true development in the Global South (De Soto). De Soto's writings highlight the importance of institutional willingness and the role institutions play in creating enabling environments for sustainable development (De Soto). His writings emphasise responsive legislation and good governance as key to the actualisation of inclusive land development and property rights (De Soto; Goldfinch). This is because De Soto strongly supports co-production and community-based network approaches, as they establish buy-in from within the communities instead of an imposed (top-down) system that requires persuasion for acceptance (Ricketts). De Soto firmly believes that co-productivity is not only limited to property ownership. He believes it includes the development of a robust economy as well, as the two are connected in praxis (De Soto). Henceforth, he acknowledges that inflexible legislation, corruption and fascism as factors that fuel social and economic exclusion (Otto; Santos). His focus is on understanding the holistic impact disjointed and unresponsive legislation has on the economy, the people, and the environment.

### 2.1. Land and Housing Rights in Windhoek

Due to land development, home and landowners have a bundle of property rights they can exercise over their property (Boshoff). These include property insurance, privacy, habitation, property development, access to municipal services and the right to collateralisation (Schirmer; Satterthwaite; Munshifwa and Mooya). In Windhoek, land and housing rights are largely shaped and guided by affordability, institutional will and social action (Munshifwa and Mooya; Boshoff). As access is predetermined by the financial means of individuals or groups on the one hand (Munshifwa and Mooya). On the other hand, social action is where individuals can form groups and collectively negotiate their access to urban property with the local authority as the alternative (Delgado, Muller and Mabakeng; Barnes and Cowser). Property rights thus vary within and between tenure systems (Hudson). Where it is possible to have security of tenure with restricted property rights or have insecurity of tenure with a broad spectrum of rights (Hudson; Munshifwa and Mooya). Thus, Hudson argues that the recognition of rights greatly impacts land use because this acknowledgment secures tenure (Tenure Security, Land & Property Rights in an Urban Context; Munshifwa and Mooya). Additionally, tenure is popularly perceived as a binary (i.e., legal/ extra-legal; de facto/de jure; formal/informal) when the reality exhibits the coexistence of both within a continuum of the extremes (Hudson; Munshifwa and Mooya). Moreover, the fixation of binary approach on the administration and registration of land fails to address the contextual issues facing cities of the Global South (Munshifwa and Mooya; Hudson; Lai). The coexistent extremes are legitimate and contextually appropriate as they reflect the contemporary context of cities of the Global South (Hudson; Munshifwa and Mooya). At present, the FLT is the only piece of legislation that bears cognisance of the tenure arrangement continuum and accommodates the flexibility of tenure outside of the financial preconditions (Hudson).

### **3. Research Methods**

This study employed a mixed methods approach, with the state-led and people-led land development processes as case studies. The evidence gathered from the qualitative phase was used to inform and build onto the quantitative method, which determined how property is developed in Windhoek and their associated property rights (Creswell and Creswell). This study collected and analysed primary and secondary data to expand on the understandings around the land-and-homeownership, rights and plot development. This was to enrich the existing evidence with qualitative insights and answer the research questions as far as possible. The qualitative data was collected with the aid of semi-structured interviews (SSI). Where interviews were conducted with participants at their preferred time via WhatsApp, Zoom or Google Meet (Adams; DeJonckheere and Vaughn). This was due to the travel and health restrictions imposed by the Covid-19 pandemic. The researcher conducted interviews with key informants who could expand on the nature of state-driven and people-driven plot development in the city (Adams; McIntosh and Morse; DeJonckheere and Vaughn). The researcher informed the participants about the study and sought their consent to record the SSIs. The recordings were transcribed for analysis and reporting purposes.

The quantitative phase involved a survey that was administered to a sample of 200 respondents. The sample had a 50/50 ratio split between home and landowners under the property developed by the state and grassroots movement in Windhoek. Due to the mixed approach of the study, purposive, snowball and stratified random sampling techniques were used. Purposive sampling was used because specific institutions and individuals with critical insights and experiences about the phenomenon of interest were identified to participate in the study (Etikan, Musa and Alkassim; Wilson). Stratified random sampling was administered in the survey portion of the study (Mohsin; Berndt). Snowball sampling was used when the study population was not readily available or formed part of a very small minority in the general population (Mohsin; Anieting and Mosugu). The survey was conducted via computer-assisted personal interviewing (CAPI). The researcher tested the pilot questionnaire to check for errors and glitches. The questionnaire was uploaded to Survey-To-Go (STG), a survey software that enabled data collection online and offline. The researcher coded a portion of the questions in the questionnaire to be backchecked by another field worker to establish the study validity and reliability. At least 20% of the completed interviews conducted were telephonically backchecked.

### **4. Results and Discussion**

Semi-structured interviews were conducted with key individuals from the National Housing Enterprise, First National Bank, the Shack Dweller Federation of Namibia/National Housing Action Group, and a consultant town planner. The experience of the interview participants spans between 5 and 25 years in their respective fields. The interviews were recorded and transcribed for reporting purposes. Once transcribed, the transcriptions were analysed in Excel to flesh out the themes on the topics covered. The quantitative study focused on property owners under people-led and state-led housing schemes to understand the nuances and gain insights into their experiences as homeowners in Windhoek. The questionnaire contained open and closed-ended questions, where the open-ended questions were verbatim responses of the respondents. These responses were captured on the app and rewritten on a cover sheet by the interviewer for quality-control purposes. Some of the questions were scripted as single-mention responses (only one answer was allowed), while others were multiple-mentioned options. The survey data was downloaded from the STG cloud and checked for errors, where 20% of the respondents were contacted telephonically to confirm their responses for data validation. The cleaned data was analysed on Excel, where pivot tables were used to create the graphs and pie charts.

#### 4.1.Types of Property Rights in Windhoek

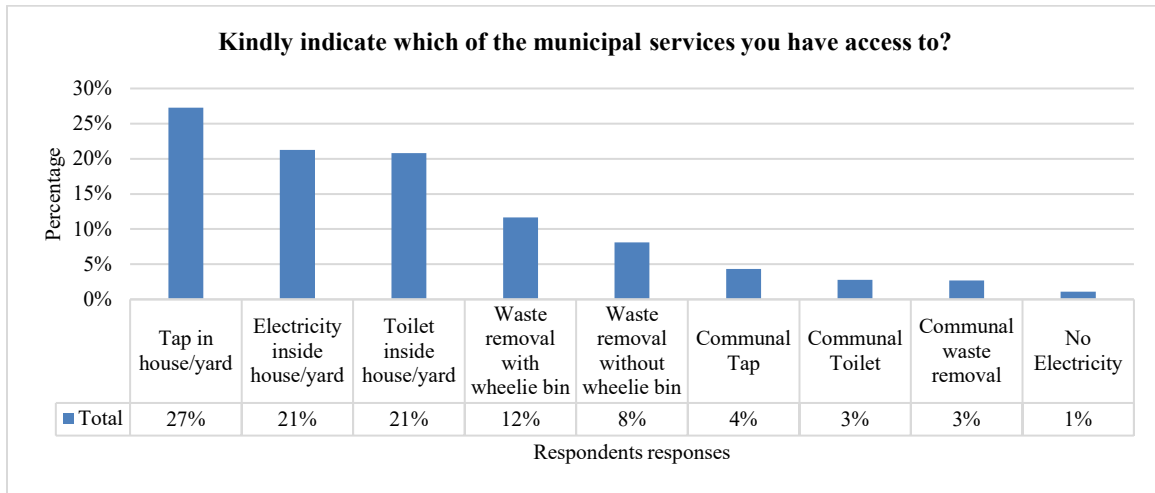


Figure 1: Services respondents have access to services

The answer to Figure 1 was a multiple mention option (more than one answer), where the respondents listed the municipal services they had access to. The top 5 responses given were: access to running water on the property (27%); electricity on the property (21%); a toilet on the property (21%); a wheelie bin with weekly waste removal (12%); waste removal without a wheelie bin (8%). Figure 1 presents the unequal service delivery levels the respondents receive from CoW, despite paying the same tariff rates for the same services.

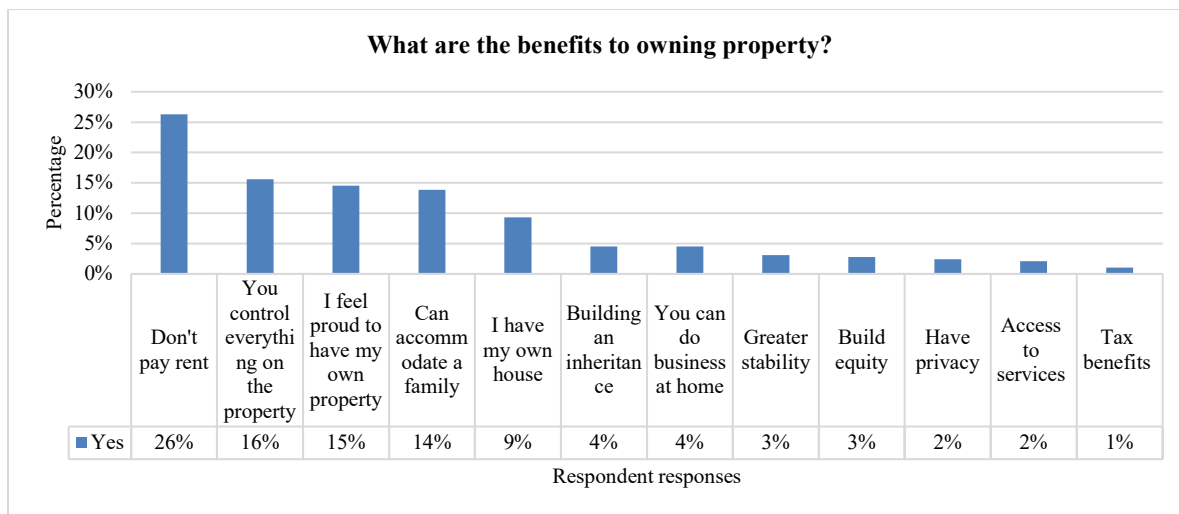


Figure 2: Respondent perceived benefits to homeownership

Figure 2 was an open-ended question, where the researcher used open coding to tabulate the responses. As indicated in Figure 2, the top 5 themes are ownership (20%), not paying rent (26%), living with the (nuclear) family (14%), and controlling the living environment (16%).

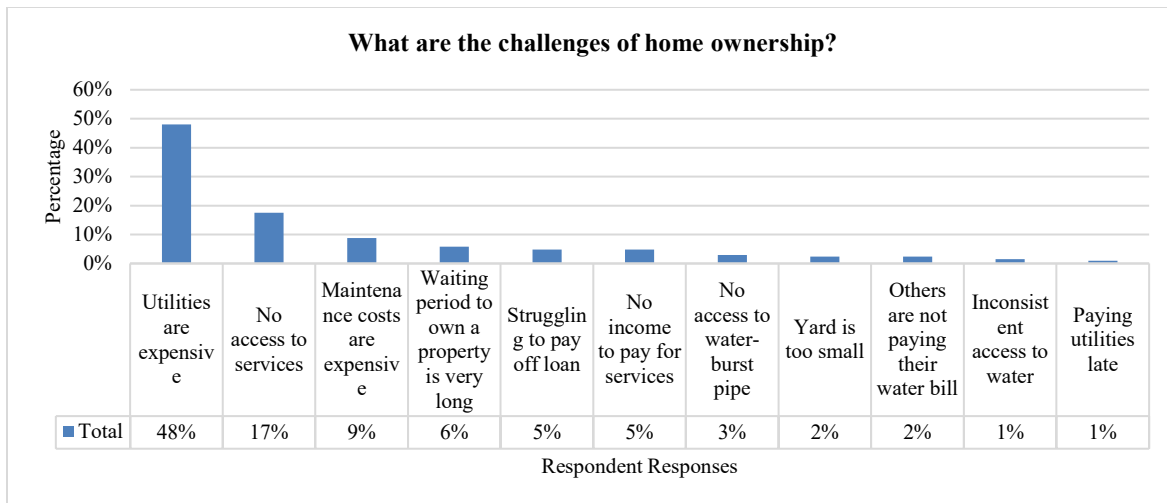


Figure 3: Respondent challenges to homeownership

Figure 3 presents collated verbatim responses from the respondents about the challenges experienced as homeowners in Windhoek. Here, the biggest issues stem from the high cost of municipal services (48%); others do not have access to services (17%) altogether; the third theme addresses the high cost of living and renovating a house (9%). The remaining two themes speak to the long waiting period to own property (6%) and the challenge of paying off the housing loan (5%).

#### 4.2. The Top-Down Land and Housing Development Process in Namibia

Local Authorities are responsible for the financing, servicing, and allocation of land for residential use (Weber and Mendelsohn; Chiripanhura). Historically, urban land planning and development applications were approved by two bodies (i.e., the Namibia Planning Advisory Board (NAMPAB) and the Townships Board) in Namibia (Weber and Mendelsohn). Where local authorities sought approval to establish suburbs and subdivide urban land via the process described below (Weber and Mendelsohn):

1. A town planner develops the subdivision and submits it to the local municipality.
2. The municipality provides a council resolution for the development of the subdivided land.
3. An Environmental Impact Assessment (EIA) is completed in tandem with steps 1 and 2.
4. A subdivision application is submitted to NAMPAB, and once approved, two (2) certificates (for township establishment & subdivision) are issued by the Ministry of Urban and Rural Development (MURD).
5. The urban layout is finalised by the town planner and is submitted to the municipality for approval.
6. The application supported by the two certificates is submitted to the Townships Board for approval.
7. A land surveyor then surveys the layout, delineates the erven to produce a General Plan.
8. The plan is submitted to the Surveyor-General for approval.
9. Once approval is granted, the township is then proclaimed in the Government Gazette.
10. A conveyancer prepares the Township Register, which is opened at the Deeds Registry Office.
11. The erven are sold to new owners and registered by a conveyancer under the new owners' name (Weber and Mendelsohn).

This procedure alone can take up to 2 years or longer and has fuelled high land development costs, especially because administrative procedures take precedence over planning objectives (Genis; Weber and Mendelsohn). Additionally, some local authorities subcontract land development to private sector partners in the form of Private-Public Partnerships through barter agreements in exchange for land (Weber and Mendelsohn; Chiripanhura). These arrangements were found to fuel the astronomical cost of housing and inhibit the adequate supply of affordable housing, as local authorities have a prerogative in the allocation of urban land as well (Immanuel; Chiripanhura).

### **4.3. The Bottom-Up Land and Housing Development Process in Windhoek**

Informal settlements and informality are an inherited consequence of the country's imperial history. Weber and Mendelsohn (Weber and Mendelsohn) define upgrading as the regularisation of an existing settlement. This offers tenure security and municipal services, depending on the community's needs, affordability levels and priorities (Weber and Mendelsohn). This approach challenges local authorities, but they are learning from the strides achieved in the partnerships with civil society and academia (Delgado, Muller and Mabakeng). Co-producing the post-apartheid city is important as it includes various actors and benefits from the contemporary discourse on intersectionality and transdisciplinarity (Delgado, Muller and Mabakeng). Though driven by necessity, co-production also aims to change attitudes toward bottom-up land development and raise awareness on the living conditions of the urban poor (Delgado, Muller and Mabakeng). As such informal settlement upgrading occurs in the following manner:

#### **1. Establishing partnerships and designing the upgrade**

The local authority, the grassroots movement and Namibia University of Science and Technology (academic/technical partner) establish a partnership (Delgado, Muller and Mabakeng; DHS). Here, the grassroots movement takes the lead by providing the overall guidance, finance, and technical expertise to support the project.

#### **2. Community Land Information Programme (CLIP)**

A detailed socio-economic survey of the settlement residents is conducted (Delgado, Muller and Mabakeng; Weber and Mendelsohn). This is to raise awareness of the upgrading exercise objectives; to determine the demographic profile and the perceived priorities regarding the forthcoming development in the settlement (Delgado, Muller and Mabakeng; DHS).

#### **3. Planning studios**

This stage entails the participatory planning activities with all stakeholder representatives with the aim of an agreed layout and features for the new suburb (Delgado, Muller and Mabakeng; Weber and Mendelsohn). The discussions address issues such as a) major routes, erf sizes, refuse dumpsites, water drainage, stormwater management and hazardous sites; b) available sanitation options; c) the needs of the elderly d) identifying existing services and protected trees in the area and; e) identifying suitable areas for urban agriculture and zones for economic activity (Delgado, Muller and Mabakeng; Weber and Mendelsohn).

#### **4. Re-blocking and preparation for Flexible Land Tenure**

Here, based on the layout provided, plot boundaries are readjusted, and properties located in roads are moved to newly reserved plots allocated for them in the new settlement layout (Delgado, Muller and Mabakeng; DHS). The surveying and measurements are conducted to provide adequate space for the construction of the top structure (Delgado, Muller and Mabakeng; DHS). And to provide for service installation, informal settlement structures are often erected in a haphazard yet dense manner (Delgado, Muller and Mabakeng; DHS).

#### **5. Service Installation**

The installation of the settlement bulk infrastructure occurs in this stage (Delgado, Muller and Mabakeng). Bulk infrastructure, in this case, includes but is not limited to the provision of roads, streetlights, stormwater drainage, sewerage, and electricity (Delgado, Muller and Mabakeng; DHS). Access to municipal services in Namibia is only granted once a suburb is surveyed, subdivided, established, and approved as per the local town planning procedures (Republic of Namibia).

#### **6. Provision of Tenure Security**

This is the final stage of the upgrading exercise, where the residents are able to receive their (landhold or starter) titles (Delgado, Muller and Mabakeng). The residents can now build their permanent top structures and enjoy access to services (Delgado, Muller and Mabakeng).

## **5. Conclusion**

The city is host to a dual land and housing development process that has the potential to work very well if all rights are availed to citizens in an affordable manner. This study was important as it highlighted the critical role institutions play in actualising both property rights and property development. It also emphasised the limitations that unresponsive

institutions impose on the exercising of property rights in the city. It brought to light the misplaced focus that legislation and policies have and how this is prohibitive to the socio-economic development of the city. What sets this paper apart from other literature addressing land and housing was its acknowledgement of the people-led approach in the co-production of the city. As the top-down approach has fallen short of meeting the city's housing needs. The bottom-up approach responds to the contemporary situation by embracing co-productivity and thus proposed an integrated participatory alternative to the status quo. Though it has not exhausted all possible avenues, it brought forth a holistic understanding of the housing environment. Conducting this study had its limitations, the main one being time. Travel restrictions and lockdown also made it exceptionally difficult to contact the identified interview participants. However, the researcher received lots of support in the form of fieldwork management from the Vision Africa Research team. It would have been ideal to have had more key informant interviews to get a more holistic context around the housing situation in Windhoek, but many of the participants had not responded to the requests. Future studies can thus investigate the typologies offered by the NHE to determine whether the preferences are governed by financial means or not. Another study can run a spatial analysis of the city's growth from 1990 to 2021. This would add a geographically scientific element to the spatial transformation of the post-apartheid city. Another study can look at determining which part of the city developed the fastest by dividing the city into four geographical blocks (i.e., north, south, east, and west) and conducting a spatial longitudinal study, spanning from 1970 to 2030.

## 9. Recommendations

This part of the study is a call to action, where the researcher proposes suggestions that would improve future research, policy, and practice. Given the contemporary nature of the housing challenge, it is perhaps the obvious course to take. The suggestions to follow are not exhaustive but are suggestions to aid the holistic approach to understand the nexus between land and housing ownership and its development in the Windhoek context. The first and most important course of action to be taken is arranging a housing environment indaba. It should be led by the state and must include all the housing environment stakeholders. Secondly, the top-down approach needs to incorporate the socio-economic survey in order for urban planners to initiate the mixed-income living environment. This will set the tone and standard for the other stakeholders in terms of innovations and public-private partnerships. There needs to be a clear understanding of the interlinkages within the industry, the greater economy, the environment, and the stakeholders. The state and housing stakeholders need to invest in conducting research to better understand the landscape according to the consumer's preferences. The above points illustrate a simplified framework that would inform the trajectory of affordable housing within the Windhoek context. The engagements cannot be once-off but may decrease in frequency once the interpretations and regulations are clarified for all the stakeholders. Each step influences the prior and subsequent steps as they are all interrelated in one way or another.

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