



Understanding the nature of land delivery institutions and channels from a tripartite perspective: A conceptual framework



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ABSTRACT

The importance of land delivery institutions (LDIs) in facilitating access to land by providing different land delivery channel (LDCs) has long been established in literature. However, understanding of the nature of LDIs has been in piecemeal with focus on either the organisational structure of the LDIs, institutional mechanism or the characteristics of land being supplied by the formal or informal LDIs. There has also been the dichotomous classification of land delivery channels as being formal or informal. Such previous analyses which focused on one particular segment of the land delivery system do not reflect the multi-dimensional issues associated with LDIs and LDCs and might encourage formation of policies that are not encompassing and difficult to implement. It is in this regard that this paper provides a holistic view of land delivery institutions and channels. This is with a view to improving understanding of the land delivery systems. By using desktop analysis of past authors' submissions, a conceptual framework derived from the theory of new institutional economic, and case study analysis of land delivery institutions and channels in Lagos Nigeria. this paper provides a framework for analysis of LDIs and LDCs from a tripartite perspective. The paper presents an in-depth examination of formal, semi-formal and informal land delivery channels and their respective LDIs through the prism of organisational structure of LDIs, their institutional mechanisms and the characteristics of land being supplied by the LDIs.

1. Introduction

As a result of the unique nature and crucial role land plays in human settlement, many societies have evolved institutions in form of policies, processes, enforcement mechanisms and organisations through which land are made available for development. Such institutions are referred to as land delivery institution (LDIs) (George, 2010). They could also be referred as land management institution (Aluko et al., 2004; Wu et al., 2016, 2018), land allocation institution (Trachtenberg et al., 2017), land institution (Zhu and Lu, 2018), land tenure institution (Gyapong, 2009; Arko-Adjei, 2011) or land delivery and tenure security institutions (Agheyisi, 2019). The LDIs provide access to land through the land delivery channels (LDCs). The LDIs are therefore important in the supply (delivery) of land. This is because ineffective LDIs could hamper the smooth delivery of land with resultant decrease in accessibility to land for development purposes (Akinbola et al., 2017). Apart from this, it has also established a nexus between the quality of the LDIs and achievement of the sustainable development goals (Adeniyi, 2018); social and political stability; and, land productivity (Bellamare, 2013; Deininger et al., 2014; Holden and Gberu, 2016). Again, ineffectiveness of LDIs could result into tenure insecurity, environmental degradation

(Akrofi & Whittal, 2011), multiple sales of land, landlessness, unsustainable development and, general lack of accessibility to land among others (Akrofi & Whittal, 2011; Agboola et al., 2017; Ogbu & Oruebe, 2018). All these problems threaten social and political stability and do not provide the enabling environment for productive investments (Durand-Lasserre et al., 2015).

Considering the importance of LDIs, the United Nation Conference on Human Settlement (Habitat) declared in 1976 that land cannot be treated like other assets that are subjected to the inefficiency of the market and thereby advocated for proper implementation of the land delivery institutions to enhance economic development and promote social cohesion for the benefit of members of the society (Espinoza, 2012).

In relation to the crucial roles LDIs play in the supply of land, efforts have been channelled by researchers to understand the nature of LDIs. However, earlier studies in this regard have been in piecemeal with focus on either the organisational structure of the LDIs (Leduka, 2006a; Nkurunziza, 2007; 2008; Mahiteme, 2009; Justin, 2012; Agheyisi, 2019), institutional mechanism (Egbu et al., 2008; Agboola et al., 2017) or on the characteristics of land being supplied by LDIs (Ikejiofor, 2007, 2009; Rakodi, 2005; Rakodi and Leduka, 2004). Similarly, earlier

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studies on land delivery channels (LDCs) have followed the formal (Babade, 2003; Agbato, 2006; Egbu et al., 2008; Butler, 2012) and informal (Kironde, 2000; Rakodi and Leduka, 2004; Oloyede, Ajibola and Oni, 2007; Ikejiofor, 2009; Danladi and Adamu, 2019) binary classification of LDCs without examining the channel in-between this binary classification. Such parochial analyses do not reflect the multi-dimensional issues associated with LDIs and LDCs and might encourage formation of policies that are not encompassing and difficult to implement.

It is in this regard that this paper provides a holistic view of land delivery institutions and land delivery channels by examining the nature of LDIs and LDCs through a conceptual framework derived from theory of new institutional economics. The remainder of this paper is structured as follows. The next section after the introduction provides explanation of some concept and the theoretical framework while the third section is a review of past relevant studies on the subject. The case study is analysed in section four while the conceptual framework is presented in section five. Section six concludes.

2. Explanation of concepts and theoretical framework

The term land delivery refers to prior processes through which land becomes available in parcel suitably sized, priced and located for urban use (Leduka, 2006a,b). It includes all activities and stages involved in bringing land to the market and making it available to those who may be in need of it. Durand-Lasserre and Selod (2012) view land delivery from the demand angle and describe land delivery as ways economic agents have access to land. This definition is also in line with that of Agunbiade (2012) which defines land delivery as the policies, processes and institutional arrangement for making developable land (horizontal development) and strata space (vertical development) available and accessible for property development. These definitions are however silent on the prior process that take place before land is made available to consumers and lay emphasis on the market delivery while also ignoring the non-market delivery. Considering the foregoing, land delivery is described as prior processes through which land are made available for development either through the market or administratively.

The concept of land delivery channel as described by Durand-Lasserre et al. (2015) relates to tenure status of land when it is first sold or allocated and the different routes that the tenure status can be improved until an ownership title is obtained. It refers to the routes through which land is made available for development. The routes are differentiated by the tenure status when the parcel of land is allocated or sold and the land delivery institution that sanction or control such land delivery.

In explaining the concept of land delivery institution, there is a need to describe the term “institution”. The term “institution” can be referred as persona, a characteristic group, a practice, a process, a building that has a special well-established place in society, a characteristic grouping of organisations, a sociological phenomenon, an enduring body of settled doctrine employed to regulate different legal relations, and finally as rule regime which relates to social institution (Seabrooke and How, 2004). Many scholars define institutions as “the rules of the game”. This is probably influenced by North’s definition of an institution as the “the humanly devised constraints that shape interaction” (North, 1990). This definition of institutions comprises implicit constraints, formal rules, and enforcement mechanisms. Scholars who view institution in this regard differentiate institution from organisation. For instance, North (1990) makes a distinction between institutions and organisations. He referred to institutions as the rules of the game of a society or, the humanly devised constraints that structure human interaction while organisations are the players: groups of individuals bound by a common purpose to achieve objectives” (North, 1992). Some scholars (such as Greif, 1998; IIED, 2000) however do not regard this distinction as necessary. For instance, Grief (1998) defines an institution as “the rules

including behavioural norms by which agent interacts and the organisation that implements rules and code of conduct to achieve the desired outcome”. Grief’s definition combines the “the rules of the game” with the organisation that implements such rules. This paper will adopt Grief’s definition in conceptualising institution. In this regard, the term land delivery institution will be viewed from both the dimensions of the rules of the game that governs land delivery and the organisation that implements such rules. Consequently, land delivery institutions (LDIs) is conceived as the rule system and organisation that implement rules relating to policies and processes through which land is made available for development.

Land delivery in sub-Saharan Africa countries occurs within formal and informal institutions (Omirin and Antwi, 2004; Agboola et al., 2017; Ogbu and Orube, 2018). In this regard a theoretical framework that incorporates both the formal and informal institutions is required for effective investigation of the nature of the institutions (North, 1991; Ostrom, 2005; Gbadegesin, 2018). Considering the foregoing, the appropriate theoretical framework suitable for understanding of the concept of land delivery institution is the New Institutional Economics.

New institutional economics (NIE) is a broad set of economic and social theories that attempts to interpret economic phenomena, behaviour, and outcomes (Richter, 2005). It is neither a unified nor monolithic body of knowledge but a group of theories that provides a theoretical treatment of institutions as an endogenous variable in its analysis (Agboola, 2015a,b). Its approach differs from that of the traditional neo-classical economic paradigm which does not take into account the subjective nature and social character of object in their investigation and thereby treats institutions as exogenous variable in its analysis (Agboola, 2015a,b). As observed by Arvanitidis (2004), the NIE school attempts to graft institutional content onto mainstream economics thought. The underlying unifying theme in the NIE School is that institutions matter and the relationship between institutional structure and economic behaviour requires attention. The NIE school therefore emphasises the problem that economic actors face as a result of imperfect information in dealings and the role of institutions in addressing them (Agboola, 2015a,b; Agboola et al., 2017).

NIE works to form a connection of theories that incorporate property rights, collective action, transaction cost economics, public choice among others (Agboola, 2015a,b; Gbadegesin, 2018). The specific NIE theory that is related to explaining land delivery institutions is transaction cost economics. The theory is explained hereunder.

2.1. Transaction cost economics

The foundation for NIE theory was provided by Coase’s theory of transaction cost economics (Coase, 1960). In the theory, he argues that when it is costless to transact, the efficient neoclassical competitive solution obtains; which is however not possible in market transaction, as a result of inevitability of transaction cost (TC) which increase cost of production (Agboola, 2015a,b). The theory of transaction cost economics was extended by Williamson (1985) by using insights from Coase to analyse governance structure of the firm. Williamson (2002) argues that the governance structures of firms is necessitated by the cognitive limitation and opportunism of human agents which leads to incomplete contracting and contractual hazards. These thereby require the need for firms to devise governance structures which he categorised into three namely; market, network, and hierarchical orders (Williamson, 2002). The market order represents involuntary exchange arm’s length exchanges between independent actors while the hierarchical governance order exemplify resources allocation based on ‘command’ or purpose overt guidance (Mooya & Cloote, 2012). The network governance order on the other hand is associated with resources allocation structured by relationship of solidarity, trust, trust, reciprocity and altruism between agents (Mooya & Cloote, 2012). Williamson (2002) indicates the primarily determinative of the governance form and the corresponding costs of transactions are the

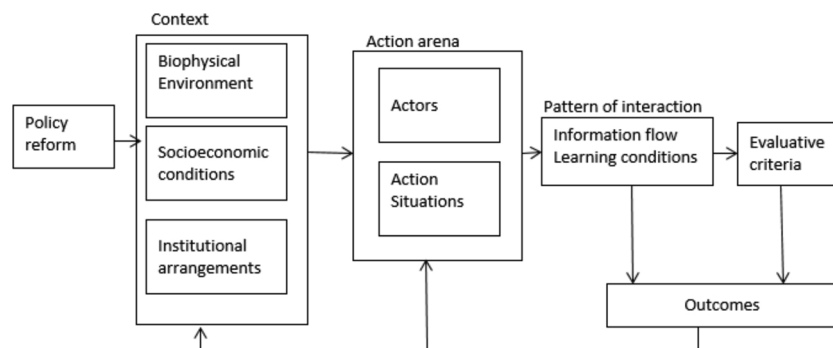


Fig. 1. The IAD framework.
Source: Ostrom et al. (1994).

dimensions of transactions – asset specificity, uncertainty and frequency (Agboola, 2015a,b).

North (1990) extended the theory of transaction cost further by focusing on the wider institutional environment to offer a separate approach to transaction cost theory. North submits that the costs of transaction arise because information is costly and asymmetrically held by the parties to an exchange. This is because costs are usually incurred to increase the information available to the individual, to reduce uncertainty and to police and enforce agreements. Transaction cost is therefore as a result of the cost of obtaining information on the entire valuable attributes of a good or service, or information on the performance of agents, and, policing and enforcement of the contract in an exchange (Agboola, 2015a,b). These underlie the existence of institutions which are both formal rules and informal constraints. He argues that these formal rules and informal constraints have a direct influence on the institutional environment by their effects on the costs of exchange and production.

Transaction costs are hidden costs outside the budget and dead weight losses that have to be minimised (Buitelaar, 2007). It can also be described as institutional hurdles, processes or procedures, extra burdens, effort and commitment, which are not budgeted for in the production, or the actual costs in relation to information (Gbadegesin, 2018). As Buitelaar (2004) observes, TC does not relate to monetary expenses alone but includes unobserved or implied expenses incurred in the form of time, opportunity and effort. North (1990) submits that that the inevitability of transaction cost in human interactions gives rise to institutions. Therefore, institutions, exist to reduce the uncertainties involved in human interactions and the risk of ex post opportunistic behaviour that plagues market transactions thereby reducing transaction costs.

The relevance of transaction cost economics in explaining the land delivery institutions is because the land delivery institutions comprise formal and informal institutions which are not devoid of transaction costs. For instance, costs are incurred for defining, allocating, and exchanging property rights through the LDCs (Quaye, 2013). Transaction costs in this regard are costs associated with the transfer, defining, allocating and enforcing property rights (Barzel, 1989). The second aspect of transaction costs with respect to property rights relates to costs associated with establishing, maintaining and enforcing property rights (Allen, 1999). The theory of transaction cost economics (TCE) provides a framework for understanding the nature of land delivery institutions through the lens of “the rules of the game” by depicting different transaction costs associated with land delivery such as cost associated with establishing, maintaining and enforcing property rights and using the market structure. Again, Agboola (2015a,b) argued that the TCE is useful in the analysis of the property market and in context the LDIs and LDCs because it underscores the behavioural tendencies of actors in delivery process and the rules or custom that governs such process and outcomes, thereby placing real estate within its socio-economic context. Similarly, the governance structure of Williamson provides insight into

the organisation structure of the LDIs. For instance, Mooya and Cloote (2012) shows that organisational structure of the LDI determines the governance structure that will be suitable for resources allocation.

In order for an elaborate analysis of the LDIs, there is need to apply the Institutional Analysis and Development Framework to the theoretical framework. The IAD Framework is a broad framework for assessing institutions to determine how they affect the incentives confronting individuals, and their resultant behaviour (Smajgl et al., 2003). The succeeding section examines the IAD framework and its relevance to analysis of the LDIs.

2.1.1. Institutional Analysis and Development (IAD) framework

The IAD Framework was designed by Elinor Ostrom and other scholars associated with the Workshop in Political Theory and Policy Analysis at Indiana University around 1994 (Koontz, 2003). The IAD framework examines the nature and performance of institutional arrangement using multi-level analysis within multiple contexts of variables external to the individual. The IAD framework was designed on the premises that the functionality of any institution depends on the ability of the institution to evaluate actions and outcomes which may lead to change in the institutional arrangement (Blekking, Tuholske and Evans, 2017).

As provided in Ostrom et al. (1994), the IAD Framework comprises the context of analysis consisting of biophysical environment, socioeconomic condition / attributes of the community within which actors are embedded, and the institutional arrangement (rules that create incentives and constraints for certain actions). The IAD Framework also comprises the action arena, the pattern of interaction, the evaluative criteria and the outcome which signify the performance of the institution. Fig. 1 present the schematic diagram of the IAD Framework.

The context of analysis also refers as the contextual factors is the most relevant part of the IAD framework for analysis of the LDIs. The contextual factors are constituted in the user groups' social, cultural, economic, political, and institutional environment and can have an important influence over people's behavior regarding management of the land resources (Edwards and Steins, 1998; Smajgl et al., 2003; Ratingera et al., 2020). One of the contextual factors, the biophysical environment defines the nature of the good that is involved in the action situation. It involves the general characterisation of the landed resources and such a characterisation helps to define the physical conditions of the action arena's context (Andersson, 2006). On the other hand, the socioeconomic condition/attributes of the community examine how actors relate within and between clusters of other actors. Issues such as the historical background, culture, religion, values, beliefs, knowledge, skills, health conditions, poverty level, and other socioeconomic characteristics of the actors is considered. Finally, the institutional arrangement refers to the rules in use. It includes both the formal rules and informal constraints such as the norm, custom, taboo that are actually respected by the actors participating in an action situation (Andersson, 2006). The IAD framework distinguishes between

three levels of rules that cumulatively affect the action and outcomes obtained in any setting: operational rules, collective-choice rules, and constitutional-choice rules (Imperial, 1999)

The IAD framework can be adapted to the analysis of the LDIs. For instance, the socioeconomic condition/attributes of the community and institutional environment relates to the organisational structure of the LDIs and rule system/institutional mechanism earlier established in the theoretical framework. The biophysical environment in the IAD framework represent the characteristics of the land. The inclusion of characterisation of land determines the physical condition that can affect land delivery. The IAD framework provides insights into variables that can be employed in analysing the LDIs.

3. Review of past studies on land delivery institutions and channels

Durand-Lasserve and Selod (2012) provides insights into the holistic examination of LDIs by advocating a systematic analysis of the interaction between the land tenure system, the land governance and the land market (all forms of land delivery). The author suggested that the interaction should comprise the legal framework determining the use, allocation and transfer of land; institutional framework governing land administration ownership regime, functioning of the land delivery channel; and, actors / stakeholders involved in the land delivery process. Meanwhile earlier studies have either focused on the organisational structure, mechanism guiding the institution or the characteristics of land being supplied by the LDIs. For instance, studies such as Kironde (2000); Leduka (2006a,b), Nkuruziza (2008) and Mahiteme (2009) conducted in Tanzania, Lesotho, Uganda and Ethiopia respectively established the importance of the organisational structure in the LDIs and its effects on the land delivery system.

Again, the study of Rakodi and Leduka (2004) provides a comparative evidence of the nature of LDIs in selected African cities in term of scale/volume of land delivered, cost, security of tenure, access to disadvantage group, and availability of dispute resolution mechanism for each of the study areas. The study reveals that the characteristics of land delivered by LDIs in different countries differs as a result of differences in their institutional mechanism and organisational structure that deals with issue of land partitioning, security of tenure, cost of land, access to disadvantage group, and availability of dispute resolution mechanism. Similarly, Omirin (2003) posits that the uneconomical size of land in government schemes in Nigeria contributes to ineffectiveness of the formal LDIs in the country. In Nigeria, Ikejiofor (2009) also focusing on the characteristics of land supplied by the LDIs in Enugu, established that the characteristic of land supply by the LDIs such as infrastructure provided and size of plot of land depends on the organisational structure of the LDIs.

While it appears that there are many studies on the institutional mechanism of the LDIs, most efforts in this regard have focused on isolating a singular legal instrument for examination. In Nigeria, the Land Use Act of 1978 has been the theme of many researches (Omotola, 1988; Oretuyi, 1991; Fabiyi, 1990; Olayiwola and Adeleye, 2006; Butler, 2012). Other focus has been on land use regulations and other formal interventions (Aluko, 2013; Egbu et al., 2008). Other efforts regarding analysis of institutional mechanism includes Odote and Stiftung (2013) which analysed the legal and policy status of land in Kenya and compare it with similar laws in other countries. In Nigeria, Butler (2012) examined the institutional mechanism of the formal land delivery institution by examining the main provision of the Land Use Act of 1978. The study employed desktop analysis of the law to highlight major provisions of the law as it affects land delivery. Again, Aluko (2013) examined legal interventions in Lagos real estate market using desktop analysis of formal legislations and some selected legal interventions relating to the land delivery system. While most of the studies on examination of institutional mechanism of LDIs have focused on formal rules, nonetheless the studies established that the

institutional mechanism majorly determines the effectiveness of the LDIs.

Fewer studies have however combined the analysis of either the organisational structure, characteristics of land or institutional mechanism. For example, in Nigeria, Babade (2003) combined the analysis of the institutional mechanism and organisational structure of LDIs in Lagos, Nigeria by analysing the activities of Lagos State Land Use and Allocation Committee (LUAC) and laws relating to their activities using survey of titleholders, secondary data, and participant observation. The study revealed the presence of favouritism in the allocation of state land and also observed that there was general inefficiency in the activities of the LUAC as a result of defects in the extant law guiding the activities the LUAC. Again, Durand-Lasserve and Selod (2012) examined the nature of LDIs in Bomako, Mali with emphasis on the institutional mechanism of laws and regulations governing land delivery and characteristics of land supplied by the LDIs. The study revealed that the institutional mechanism determine the characteristics of the land supplied by the LDIs. Again, Agboola et al. (2017) examined the effects of both the formal and informal institutions on property transaction in Lagos, Nigeria. The result of the analysis revealed how informal institutions may be used to circumvent formal institutions of a market when formal rights are poorly defined and the implication of this on the land delivered. In a more recent study in Nigeria, Agheyisi (2019) examine how the organisational structure and institutional framework of informal LDIs in Benin City, Nigeria affect the land delivery system of the town. The findings of the study show that where institutional mechanisms for holding community leaders accountable collapsed or do not exist, it impinged land delivery system. It also reveals that the characteristic of the LDIs such as socio-economic characteristics of leaders will determine their adherence to the institutional mechanism.

From the forgoing analyses, extant literature view land delivery institutions based on the organisational structure, institutional mechanism and characteristics of land delivered by the LDIs without a holistic examination of the varying dimensions. The land delivery channels which are employed by LDIs to make land available for property development have also been the focus of many researches.

The study of Rakodi and Leduka (2004) carried out in six medium sized cities in Anglophone Africa which include Eldoret (Kenya), Enugu (Nigeria), Gaborone (Botswana), Kamapala (Uganda), Lusaka (Zambia) and Mesuro (Lesotho) identifies seven modes of access to land (land delivery channels). The land delivery channels identified in the city include allocation of public land, purchase of land through the market and delivery of customary land through state-sanctioned channels. Others include delivery of land through customary channels to members of the group, purchase of customary land, allocation by officials, and self-allocation. Aluko et al. (2004) categorised the land delivery channels into formal and informal land delivery channels. The formal channels refer to allocation by the state while the informal is through purchase of privately owned lands from customary authority. Some authors (Mabogunje, 1992; Zimmermann, 2007 among others) have argued that customary channel should not be regarded as informal but represent an alternative formality. By focusing on informal land delivery channels, Wehrmann (2008) argued that the informal land delivery channel can be categorised into non-conformity and illegality. The former is non-conformist to state law but conform to customary rights while the later are criminal activities which do not only go against modern state law and/or regulations but also against recognized moral values or even human rights.

In Nigeria, Babade (2003) discovered that the channels of formal land delivery in Lagos State can be through normal allocation of state land or allocation through ratification process. The normal allocation relates to allocation of land in government purposely designed site and service scheme while allocation through ratification deals with regularisation of illegal occupant of government land. Agheyisi (2012) identifies five channels of land delivery in Benin City namely sales of privately-held land, sales of subdivided plots by land – buying co-

operatives, informal land subdivision, and sales of customary land and sharing of customary land to members of the community. [Agboola \(2015b\)](#) categorised the land delivery channels in Lagos State to formal and informal land delivery channels. The formal channel referred to allocation by the state while the informal is land within the custody of customary authority.

[Durand-Lasserve et al. \(2015\)](#) departs from the binary classification of land delivery channel into formal and informal channels by recognising that the degree of the formality the channels varies according to three criteria. The criteria include the type of document acknowledging the transaction, title relating to tenure and whether the rules established by the state have been observed. On the basis of the criteria, the authors identify another land delivery channel that is in-between the formal and informal system in Mali. The study noted that while in the formal system, all the rules established by the state are observed and it involves transactions on land with ownership titles; the informal system involve transactions in customary land with no title. Meanwhile, the system in-between the two extremes of formal and informal has precarious title which does not represent ownership title but right of use which can be converted to ownership title.

This current study builds on the findings of [Durand-Lasserve et al. \(2015\)](#) by exploring the channel of land delivery in-between the formal and informal land delivery channels and situating the channels with land delivery institutions. The next section examines the case study land delivery institutions and channels in the case study, Lagos State, Nigeria.

4. Learning from reality: land delivery institutions and channels in Lagos, Nigeria

In this section we present the realities of LDI and channels using Lagos State, Nigeria as the case study. Lagos state was the former capital of Nigeria and still functions as the economic capital of the country. It lies between Latitudes 6° 22' and 6° 42' North of the Equator and between Longitudes 2° 42' and 3° 22' East of the Greenwich Meridian. The state is situated in the south-western portion of Nigeria. The state occupies an area of 3,577 square kilometres, out of which lagoon and waterways constitute 17 per cent ([Babade, 2003](#)). The state has an estimated population of twenty Million. Although the state has the smallest land area among the thirty-six states in Nigeria it has the highest population in the country. It is also the most urbanized State in the country and functions as her commercial centre ([Adeniyi, 2011](#)).

Thus, the choice of Lagos is premised on the strategic role and importance of the state in the Nigeria nation. Apart from this, the high population of the state and the high urbanisation rate results into high competition for land resources in the state. The foregoing provides the state the necessary institutional environment to study for land delivery system.

Information employed for this section were obtained through desktop analysis of publication of Lagos State Government and information supplied by key informants that are high ranking officials from the relevant state and federal institutions of government involved in the land delivery system of the state. Information on the land tenure system, land institutions and channels of the case study is presented hereunder.

4.1. Land tenure system of the case study

Land tenure in the southern part of Nigeria like Lagos State prior to the enactment of the Land Use Act of 1978 comprised the juxtaposition of the customary and statutory system of land tenure. The customary system in operation was similar to that in operation in most part of sub-Saharan Africa countries. In the system, the individuals have only right of use (usufructuary rights) on such family or communal land while the allodial title resides with the family or community as the case may be ([Kalamu, 2019](#); [Lekgori et al., 2020](#)). Land under the statutory system

which were held by the Governor are those which had been expressly acquired for public purposes as Crown land or for other overriding public interest ([Aluko & Amidu, 2006](#)).

The Land Use Act (LUA) was promulgated and came into effect on the 29th of March, 1978 by the then Federal Military Government of Nigeria as the Land Use Decree 6 of 1978. The Act purports to take over the ownership and control of land in the country thereby providing a uniform legal basis for a comprehensive national land tenure system. The LUA 1978 approaches the land tenure problem through three strategies: the investment of proprietary right in land in the state; the granting of user rights in land to individuals; and, the use of an administrative system rather than the market system in the allocation of right land ([Aluko et al., 2004](#)).

Section 1 of the Act vests ownership of all land within the territory of each state in the federation in the state governor and provided that such land shall be held in trust and administered for the use and common benefit of all Nigerians. The Act provides for the grant of "express" and "deemed" statutory right of occupancy in urban lands by the state government under section 5 and 34 respectively ([Aluko & Amidu, 2006](#)). This new authority is exercised by the special land use boards known as Land Use and Allocation Committee (LUAC) at the state level and Land Advisory Committees (LAAC) at the local government level ([Aluko & Amidu, 2006](#)).

Although the Land Use Act abolished the pre-existing indigenous land tenure system in operation before its enactment, the informal (customary) land delivery system is still operational in the country. Land transaction continues to take place by the customary landholding families outside government regulatory mechanism, in accordance with native law and customs of the people ([Aluko & Amidu, 2006](#)). For instance, [Idowu \(2015\)](#) reported that in Southwest Nigeria simultaneous operation of various tenure arrangement prevails and land still exchanges hand through direct sales, pledging, leasing without regard for the provision of LUA in respect of the land transaction. Again, [Owoeye and Adedeji \(2015\)](#) provides evidence from Ondo state that most transactions in land proceed outside the prescribed channels of authority recognised under the LUA. A similar trend has also been observed in Enugu (see [Ikejiofor, 2009](#)) where indigenous landowners engage in sales of their land without any form of permission from the government. Similarly, in Lagos, [Aluko et al. \(2004\)](#) accounts that the informal land market which transacts pre-existing indigenous land title thrive in Lagos State.

Arising from the foregoing, there exist two separate land tenure systems in operation in Lagos State. The formal land delivery system enabled by the enactment of the Land Use Act and the Informal land delivery system represented by the indigenous customary tenure type.

4.2. Land delivery institutions in the case study

Arising from the land tenure system in operation in Nigeria, there are two forms of land delivery institutions in the case study. The formal and informal LDIs. The formal LDIs are government institutions that allocate developable land that complies with the official formal regulatory system in the sense that the land is registered and the holders own formal titles. The informal LDI on the other hand are indigenous authority that is in charge of managing customary land. It represents each homogeneous landholding family or community that allocates developable plots which have not fully complied with the formal regulatory system in the sense that the land is yet to be registered and the holders do not own formal titles.

The creation of the formal LDIs is provided in the Land Use Act (LUA). Section 2 (2),(3) of the LUA provides that each Governor shall be advised in the management of land in urban area by the Land Use and Allocation Committee (LUAC) set up at the state level and Land Allocation Advisory Committees (LAAC) at the local government level ([Aluko & Amidu, 2006](#)). The section also provides that the members of the LUAC and LAAC shall be appointed by the governor but that of the

LAAC shall be in consultation with the Local Government. From the foregoing, the LUAC and LAAC are therefore the land delivery institutions recognised by the Land Use Act (LUA).

Meanwhile, the implementation of the provision of the LUA relating to appointment of members of the LUAC and LAAC differs across the states in Nigeria. For instance, Babade (2003) reported that in Lagos State, there was no LAAC established in any local government areas of the state because all the land in the state has been declared as urban by the state governor since 1979. The study further stated that the LUAC established in the state is one of the Directorates in the Land Bureau under the Governor's office, and it is headed by the executive secretary whose employment is on a full-time basis while other members of the committee are not on a full-time basis.

For the formal LDI in the case study, apart from LUAC which is the formal LDIs recognised by the Land Use Act; there are other government bureau, agencies, ministries and parastatals that are involved in the land delivery system in Lagos State. These include the Lands Bureau, the Ministry of Physical Planning and Urban Development, Ministry of Justice, Ministry of Agriculture and Cooperative, Ministry of Waterfront Infrastructure, New Towns Development Authority (NTDA), Lagos State Property Development Corporation, and, the Office of the Surveyor General. Again, apart from the state government, the Federal government also operate as a land delivery institution in Lagos State. This is because Lagos State being the former capital of Nigeria, has sizable land belonging to the Federal government which are under the control of the Lands Division of the Federal Ministry of Works and Housing and the Federal Housing Authority (FHA).

The informal land delivery follows the dictates of the custom of the society where the land is situated. In Southwest Nigeria where the study area, Lagos is located; the land either belongs to the community or the family. The management of communal land share similarity with that of family land. In family land, the family head is charged with the management of the family land in consultation with the family council which comprises the principal members of the family. The principal members of the family are usually selected from the branches existing in the family. In a polygamous family, the eldest of the children begotten by each wife is a principal member, while in the case of a monogamous family; every child could constitute a principal member. The principal members are generally representatives of the different branches of a family and they represent the interest of members in decision making and transactions between the family head and third parties, usually on issues bothering on management and alienation of family land.

The control of all the affairs of the family is vested exclusively in the head of the family. It is the duty of the family head to allot lands either to the members of the family members or to strangers and to prescribe the conditions under which the various allotments are made. He conducts, in the normal case, all the private and external business of the family, and he is the person to be consulted either directly or indirectly in all important transactions involving the property of the family (Onakoya, 2015). Customarily, it is only the family head that has the right to enforce a forfeiture of the interests of errant members and to institute an action to protect family property from trespassers and adverse claimants. The head of the family also has the right to alienate family property or partition same. This power is exercised in consultation with the principal members of the family. Any dealing in a family land without the consent of the family head is void *ab initio* while those without the consent of principal members is voidable.

For the informal LDIs, the indigenous land owners which are made up of different head of communities and families and their respective chiefs or principal members. Pilot survey by the researcher reveals that there are no comprehensive list of indigenous land owning families in the state as a result of lack of proper cadastral in the state.

4.3. Land delivery channels in the case study

Since the land Use Act has outlawed grant of land from the customary land delivery institutions such as the family or the community on the argument that the land has been vested in the hand of the governor. In order to obtain a formal title from customary land, the usual practise adopted by the customary landholders is to issue a receipt backdating the transaction to a date before the promulgation of the law. This practise was in place until year 2012 when the Lagos State government enacted the Land Use Act (Title Documentation) Regulation 2012 made pursuant to the provisions of the Land Use Act. The regulation provides opportunity for pre Land Use Act land owners with no formal land title documents to be able to alienate their holdings and obtain governor's consent under the new regulation. Apart from this regulation, the state government made some other regulation to enable conversion of customary land into formal. As a result of some of these regulations, the land delivery channels in Lagos State is not only formal and informal delivery channels but also an in-between system referred as semi-formal system. The different land delivery channels available within the three system is described hereunder.

4.3.1. Formal land delivery channel

The formal land delivery channels are statutory routes through which allocation of developable parcel of land are assigned. The land assigned through this route are registered and the holders own formal titles. Also, it is controlled by the formal land delivery institutions (LDIs). In Lagos state the different formal channel of land delivery includes direct allocation of plot in government site and serviced scheme, private developer scheme, secondary allocation from government agencies, and formal private land. Each of these are described below:

4.3.1.1. Direct allocation of plot in government site and serviced scheme. The site and service scheme are purposely designed estates by either the State of Federal Government. Such estates are provided with infrastructure such as road, water and electricity and layout in plots of different sizes based on density. Such plots are allocated to members of the public who are issued formal titles in form of Certificate of Occupancy.

4.3.1.2. Private developer scheme. That is a corporate initiative where the government give land to intending developers that will provide the necessary infrastructure, parcel it into plots and sell the parcelled land to members of the public. The least size of land allocated by the government under this scheme is one hectare. A global Certificate of Occupancy is usually issued by government for the allocated land from which other allottee from the developer derive their title.

4.3.1.3. Secondary allocation from government agencies. There are some other government agencies apart from the Lagos State Lands Bureau that allocate lands to the public. For instance, the Lagos State Agricultural Land Holdings Company (LSALHC) and Lagos State Property Development Company (LSPDC) are allocated land similar to the Private Developer Scheme which they provide with infrastructure and layout into plot for the members of the public. While LSALHC allocates only agriculture land, the LSPDC allocates residential, commercial and industrial plots. The government agencies are usually issued a C of O and allottee from the government agencies will derived their title therein.

4.3.1.4. Formal private land. These are land transferred from the semi-formal or informal channels which formalisation processes have been completed and now possess a registered formal legal title. Such land could be a customary land with a registered deed of deemed grant, or land within the category of semi-formal LDC (as discussed later in this section) which a registered title in form of Certificate of Occupancy has been obtained.

4.3.2. Informal land delivery channel

This channel is the route through which allocation in customary land are effected. The land allocated through this route are with no formal title and are controlled by the informal/customary LDIs. The informal land delivery channel can be transaction-based or non-transaction based allocation type.

4.3.2.1. Transaction based customary land allocation. This usually arises when portion of the communal or family land is transferred to an interested party in exchange for payment. Such customary land is either sold as plot(s) within a layout or it could be sold en bloc in acreage or hectares to a developer who will layout the land in plot and sell in secondary market. The sale of family land is usually effected by the family head and principal members of the family usually referred as the family executives. A family receipt and or a deed of assignment executed by the family executives accompany such sale. In order for the assignee to be able obtain a formal title, the erstwhile practise is to obtain a backdated receipt from the family to show that the transaction was done prior to the promulgation of the Land Use Act in 1978. This practice has however changed now by enactment of the Land Use Act (Title Documentation) Regulation 2012 by Lagos State Government. The law now provides opportunity for pre Land Use Act land owners with no formal land title documents to be able to alienate their holdings and obtain governor's consent under the new regulation and obtain a registered title referred as Deed of Deemed Grant.

4.3.2.2. Non-transaction based customary land allocation. This is the allotment of portion of family land to a member of the family. The allotment can be as a result of partition of the family land among family members. It could also be mere allotment for occupational use. In the latter, the portion so allotted continues to be corporately owned by the family while in the former, each individual recipient has absolute ownership to his own share of allotted land. Allottee of partitioned family land also obtain registered title of Deed of Deemed Grant as described above under Transaction Based Customary Land Allocation.

4.3.3. Semi-formal land delivery channel

This are routes of accessing land which is in-between the formal and informal land delivery channel. The channel is controlled by both the formal and informal LDIs. The land assigned this route has precarious title which does not represent ownership title but can easily be converted to ownership title. The types include excision and regularization (formally ratification).

4.3.3.1. Excision. Sometimes the State Government embarks on massive land acquisition of semi-urban / rural undeveloped lands. This is with a view to making land available to the State for future use. In the process of the acquisition, some smaller settlements or villages are acquired. In order not to extinct the existence of the communities in their locality; government sometimes excises certain portions of land within the immediate vicinity of the existing settlements. This will enable such land to be made available for development by the villagers and sustain their existence. The excision policy was commenced by the Lagos State Government in October 1991. The affected community usually make the application to the State Government which if successful will grant them excision notice which will published in Lagos State Official Gazette. The record of the Gazette can be used to apply for a global Certificate of Occupancy (C of O) for the entire land or individual C of O for any of the grantee the land is assigned to.

Again, the grant for excision can also be initiated by government for a community whose land was acquired for a government project. Such project based excision is done in-lieu of monetary compensation to the land holder whose land were acquired. Deriving title from such excision also follow the same approach as those initiated by the community. This approach in a way is similar to land readjustment described in Adam (2019), except that land excised in the excision regime are

without infrastructure.

4.3.3.2. Regularisation. About 70 per cent of the entire land mass of Lagos State falls under various government acquisition (Babade, 2003). Meanwhile, most of the acquired land (referred as government acquisition) have not been put to use by government and are being encroached upon. Most times the landholding families that government acquired the land from still assign the land to members of the public. When an inventory of illegal development on government acquired land was undertaken in 1980, about five thousand buildings were identified. The need to accommodate some of the illegal structures inform the Lagos State in 1985, to design and commence the regularisation (formally ratification) policy. Regularisation is a policy of grace that avail squatters on uncommitted government land to acquire legal title. Regularisation of title to land is the process of granting title to those who have erroneously purchased uncommitted Government land to obtain formal legal title (LASG, 2009). Regularisation is subject to two basic conditions; firstly, the property must not be situated in a government committed area (area committed for a specific project) and, the property must be situated within an area that conforms with Urban and Regional Planning regulations and standards of the state. Land allocation in locations subjected to the regularisation policy are usually assign by landholding families that government acquired the land from. The family will issue a deed of assignment which is part of the requirement needed to obtain the formal registered title of a Certificate of Occupancy. While land regularisation in Lagos presently covers tenure upgrade; in other climes it includes provision of infrastructure facilities and general upgrade of the community. For instance, Magina et al. (2020) described how a state-led and community-led regularisation processes in Tanzania is use to improve land tenure of residents and neighbourhood infrastructure.

From the forgoing analyses of literature on nature of land delivery institutions and channels; and the analysis of the case study. There is obvious gap in the understanding of LDIs and LDCs. There is therefore need for a conceptual framework to document and analyse the nature of LDIs and LDCs holistically using insights from the literature review and learning from reality. The next section examine the conceptual framework designed to capture and examine such relationship.

5. Conceptual framework for land delivery institutions and channels

From the foregoing, the term institution is conceptualised in this study as the rule system and behaviour norms by which economic agents interact and the organisation that implements such rules and behavioural code which could be formal or informal. In this regard, land delivery institutions (LDIs) are conceived as the rule system and organisation that implement laws relating to policies and processes through which land is made available for development. The rule system of the LDIs relates to various formal rules, laws, enactment and the informal constraint such as taboo, customs, traditions, code of conduct, convention among others. The organisational aspect on the other hand connotes the homogeneous landholding institutions that supply developable plots. The formal LDIs are government institutions that allocate developable land that complies with the official formal regulatory system in the sense that the land is registered and the holders own formal titles. The informal LDIs on the other hand are indigenous authority that is in charge of managing customary land. It represents each homogeneous landholding family or community that allocates developable plots which have not fully complied with the formal regulatory system in the sense that the land is yet to be registered and the holders do not own formal titles. It captures the customary, neo-customary, quasi-customary and other informal LDIs in countries like Nigeria where only the formal statutory land tenure is recognised. In Nigeria and some other Africa countries such institutions are made up of chiefs, councils of elders, customary courts, family heads, principal family

members, and other individuals who are responsible for regulating access to land, managing conflicts, and protecting family or community land from encroachment.

The LDIs make land available for development through land delivery channels (LDCs). Three types of land delivery channels are conceived in this study; namely the formal, semi-formal and informal LDCs. The formal LDCs are created by the formal LDIs while the informal LDCs are the creation of the informal LDIs. The semi-formal LDCs which is in-between the formal and informal LDCs are controlled by both the formal and informal LDIs. Land obtained in the informal LDCs either through the transaction-based customary allocation or non-transaction based customary allocation are without any formal legal title. In order to obtain a formal title a registered deemed grant will be obtained from the government and such land will be transferred to formal LDC as formal private land. can be transacted to the formal land delivery channels as a secondary. Similarly, land in the semi-formal LDC can move to the formal LDC as a formal private land by obtaining a formal registered title in form a Certificate of Occupancy. Again, land in the informal land delivery channel can be transferred to the semi-formal channel by either obtaining excision from government whereby land initially acquired by the formal LDI is transferred back to the informal LDIs as excised land with excision notice published in Government Official Gazette.

The conceptual framework developed for this study is depicted in Fig. 2. From Fig. 2, there is a two-way relationship between the formal and informal LDIs. For instance, the formal LDIs will acquire land from the informal LDIs through acquisition and transformed such land into land in the formal LDC. Land also in the informal land delivery institution could be transformed to formal land through formalisation. On the other hand, the formal LDIs can excise land to the informal LDIs thereby transferring land in the formal LDI to the informal LDI. Again from Fig. 2, the relationship between the LDIs and LDCs is depicted. The formal and informal LDIs control the formal and informal LDCs respectively through the institutional mechanism and organisational structure of the LDI. The semi-formal LDC is controlled by both the formal and informal LDIs. Learning from the case study, the semi-formal channel includes excision and regularisation channels.

Again, as earlier established in the theoretical framework of this

study and the IAD framework, a tripartite analysis of the institutional mechanism (rule system), organisational structure and the characteristic of land are necessary in analysing the nature land delivery institutions. In this regard, the conceptual framework has revealed in Fig. 2 examines the LDIs in the three dimensions.

The organisational structure represents socio-economic characteristics/profile of the actors and stakeholders of the LDIs, and the internal administration of the LDIs. As suggested by the IAD framework, this involve examination of issues such as the historical background, culture, religion, values, beliefs, knowledge, poverty level, and other socio-economic characteristics of the stakeholders. It will also involve the internal administration of the LDIs such as the leadership structure and how actors relate within and between clusters of other actors. The institutional mechanism on the other hand, connotes examination of rules, custom, conventions and practices that guide pattern of behaviour of land delivery institutions. The analysis of the institutional mechanism will involve in-depth examination of the rules governing organizational structure of LDIs especially as it relates to the leadership structure. It will also involve analysis of rules governing land delivery process and dispute resolution mechanism. Finally, the analysis of the institutional mechanism will involve the examination of the land tenure system especially the codified law or custom that determines ownership and other rights on land. The characteristics of the supplied land involve the general characterisation of the landed resources. This will involve examination of the proprietary land unit in term of size of plot, cost, security of tenure, infrastructural service provision and accessibility to disadvantage group.

Each of the three dimensions of the LDIs interact with each other in one way or the other. From Fig. 2, There is a two-way relationship between the institutional mechanism and the organisational structure of the LDIs. The institutional mechanism set the rules for the administration of the organisation structure of the LDIs. In similar manner, the organisational structure determines the rules that are set to guide the LDIs. The organisational structure and institutional mechanism on the other hand affect the characteristics of land being delivered.

This is because the institutional framework determines the characteristics of land being supplied in term of size of plots, availability of infrastructural facilities on land among others. For instance, the effect

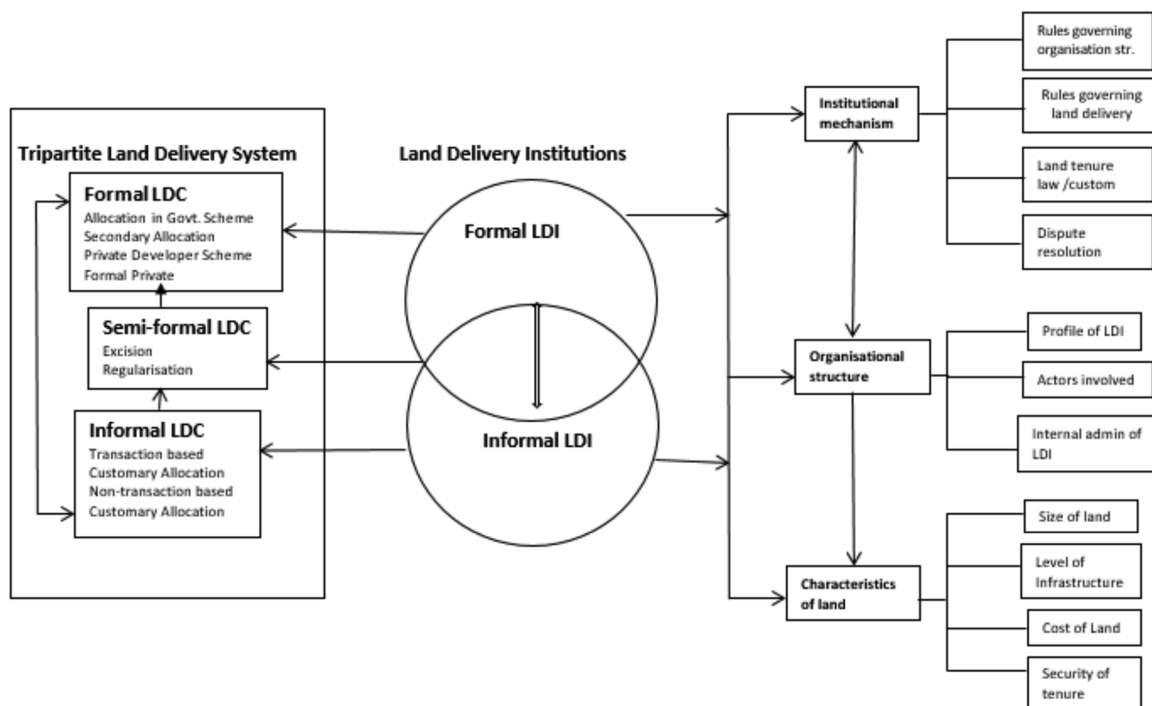


Fig. 2. The Author's Concept of Nature of Land Delivery Institutions (LDIs) and Land Delivery Channels (LDCs).

of formal institutional mechanism of Town Planning Codes on the size of plot is a quick reminder of how institutional mechanism affects characteristics of land. Again, the organisational structure could determine tenure security and other characteristics of the land. The interaction of the three dimensions of the LDIs and the interplay of LDCs will determine the effectiveness of the land delivery system.

From the foregoing, it could be deduced that the nature of the LDIs matters in the supply of land. A tripartite analysis of the institutional mechanism, organisational structure and characteristics of land delivered is therefore necessary to uncover the nature of the LDIs. The nature of the LDIs also affect the LDC by establishing the rules and structure through which each LDC will operate.

6. Conclusion

Effective land delivery institutions (LDIs) are not only important in facilitating access to land but also contribute to the achievement of the Sustainable Development Goals, and the social and political stability of the society. The paper presents a conceptual framework for a tripartite examination of LDIs and LDCs which combines the organisational structure and institutional mechanism of the LDIs and the characteristics of land being supplied by LDIs together. It also examines the semi-formal land delivery channel that were hardly addressed by earlier studies. The conceptual framework was developed from the theory of transaction cost economics (TCE) and the IAD framework and a case study analysis of the LDIs and LDCs of Lagos State, Nigeria. This is because a methodological approach that puts institutional context at the core of its analysis is crucial for analysis of LDIs. The conceptual framework designed emphasises on the innate behavioural tendencies of actors/stakeholders in the delivery process and the institutions that govern such interactions thereby placing real estate within its socio-economic context. The essence of such a framework is to allow a holistic examination of LDIs and LDCs without isolating an attribute of the LDIs and also incorporating all the land delivery channels. Hitherto, emphasis has majorly been on the institutional mechanism without recourse to the organisational structure and characteristic of land being supplied by the LDIs. This has resulted into designing of legislation that does not take cognisance of the organisational structure of the LDIs particularly as it relates to the profile/socio-economic condition and internal administration of the LDIs thereby making such policies difficult to implement.

The conceptual framework can readily be applied to the analysis of land delivery system. In such analysis, the various channels of land delivery should be identified and categorised into three: formal, semi-formal and informal channels based on the title of land delivered and actors involved in the process. Again, a further analysis of each of land delivery institution that governs the delivery channels needs to be examined closely. This is through an understanding of the land tenure system, the rule or custom underpinning the land delivery system and also rules governing those managing the system. This should also be extended to the organisational structure of the institution managing the land delivery in terms of actors involved and the entire administration of land delivery institution. Finally, the land supply by each of the channels need to be assessed by both the physical and abstract attributes of the land. Such as size of land in term of scale and size of plot; cost of the supplied land; security of tenure of the land; infrastructure services provided on the land. Such a holistic analysis will require both primary and secondary data collection and a mixed approach of data collection to unearth such information. The framework provides a means of organising and describing the main variables necessary for a holistic examination of the land delivery system.

A conceptual framework developed from institutional analysis directs attention to the importance of institutional environment and institutional structure in addressing land related issues (Mooya and Cloete, 2007). In this regard, the conceptual framework presented in this article, which was developed from theory institutional analysis,

brings analytical rigour to the study of land delivery institutions by holistically examining all facets of the LDIs. It raises the possibility of engaging in holistic research on the LDIs and LDCs which translates to the land delivery system. This is capable of reducing the incidence of idiosyncrasy that have hitherto characterised most research in this area. Also, knowledge of the multiple natures of LDIs is capable of guiding policy formation that will address all aspects of the LDIs. This is necessary as the modern trend in the world has moved away from “planning for the people” to “planning with the people” in order to allow an inclusive and collaborative governance of the land resources. It is therefore recommended that policy formation regarding land delivery institutions should focus on addressing issues relating to the organisation structure and institutional mechanism of the LDIs and the characteristics of land being supplied by LDIs.

While this study has focused on the supply side of the land delivery system, future research could add to our findings by including the demand side of the delivery system.

CRedit authorship contribution statement

Daramola Thompson Olapade: Conceptualisation, Writing - original draft, Data curation, Investigation, Writing - review & editing.
Bioye Tajudeen Aluko: Supervision, Validation, Visualization, Writing - review & editing.

Appendix A. Supplementary data

Supplementary material related to this article can be found, in the online version, at doi:<https://doi.org/10.1016/j.landusepol.2020.104927>.

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