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**‘THE BASTARD CHILD OF NOBODY’?:  
ANTI-PLANNING AND THE INSTITUTIONAL CRISIS  
IN CONTEMPORARY KAMPALA**

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**‘The bastard child of nobody’?  
Anti-planning and the institutional crisis in contemporary Kampala<sup>1</sup>**

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**Abstract**

*The Ugandan capital, Kampala, increasingly appears to be a city in a crisis. Constant political interventions from the central government have repeatedly frustrated efforts towards improved planning for the city, while the city government itself – starved of resources and hounded by corruption scandals – is failing to provide basic services to the burgeoning urban population. The situation has deteriorated to the extent that the central government has tabled a bill that would enable it to take over the management of the city, in a dramatic reversal of Uganda’s celebrated decentralisation programme. Meanwhile urban unemployment, poverty and seemingly intractable struggles over the land tenure system have compounded with deteriorating relations between the government and the leaders of the Buganda Kingdom in which the city is located, resulting in deep-seated unrest that culminated in violent riots that left 30 people dead in and around the city in September 2009. This paper argues that formal institutions for managing the city – particularly those relating to land, planning and decentralisation – have been consistently undermined by informal bargaining between elites and urban interest groups. Far from just being a case of ‘getting the institutions right’, the paper suggests that the city’s problems cannot be resolved unless this disjuncture between formal and informal institutional processes is fully recognised.*

**Introduction**

This paper analyses the causes and manifestations of what I will argue is a profound institutional crisis hampering the governance of Uganda’s capital city. While Kampala enjoys a relatively good image in comparison with other African cities – due in large part to low levels of violent crime compared to, for example, neighbouring capital Nairobi – in fact the city exhibits a deep institutional dysfunctionality that has for some decades rendered the implementation of effective urban planning virtually impossible. This has huge consequences for a city that is among the fastest growing in the region and the world, with its current annual growth rates of almost 5 percent projected to continue, the population more than doubling by 2025 (UN-HABITAT 2008). The riots that broke out in September 2009 resulting in up to 30 deaths in and around Kampala, whilst ostensibly about an issue not related to the governance of the city itself, are widely considered to be rooted partly in anger at the government’s failure to address the enduring problems of urban unemployment and squalid living conditions, compounded by conflicts over land in and around the city; problems that are only likely to grow as the city population spirals.

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<sup>1</sup> This paper is based on fieldwork conducted in Kampala in January-February 2009, supplemented by some additional interviews in September-October 2009, shortly after Uganda’s worst urban riots in over two decades had just taken place in the city.

Many cities in developing countries are fought over by factional, regional or ethnic groups and constitute a 'prize' to be won in political conflict.<sup>2</sup> On the surface Kampala, a capital city located in the ethnic homeland (Buganda) of the largest ethnic group in a multi-ethnic country with a history of civil war, appears to be just such a city. Moreover, a range of actors were locked in a political struggle throughout 2009 over central government proposals to take over the management of the capital from the democratically elected city council. I will argue, however, that in Uganda's 'post-crisis' period since 1986, Kampala has in fact suffered from a lack of 'ownership' by any particular ethnic group or elite class. While it has been, and continues to be, the site of political contestation, contemporary conflicts relating to the city are ultimately struggles not over Kampala itself but either over broader issues beyond it or specific narrow interests within it, the pursuit of which serves to fragment and damage its infrastructure and social fabric. Consequently the city, its future and the wellbeing of the majority of those who live in it have been severely jeopardised by its role as a site of conflict and exploitation by local and national elites. Framing the problem in relation to institutional theory, I will argue that in the context of Kampala's mal-coordinated governance sphere political elites have been able to mobilise various urban groups to block the actions of their rivals, undermining formal institutional frameworks and creating an increasing political gridlock. This in turn has resulted in developmental stagnation, a vacuum of effective authority and an environment hostile to transformative urban policy and planning.

The paper begins by outlining the urban planning and governance landscape in Kampala, illustrating why the contemporary situation can legitimately be thought of as a crisis. It highlights the major fault lines in the city's political elite and the struggles between the national government, led by the National Resistance Movement (NRM), the City Council, dominated by the Democratic Party (DP), and the ethnic 'shadow government' of the Buganda Kingdom. These struggles have exacerbated institutional dysfunction in the city, impacting negatively on attempts to plan for its inevitable rapid growth. In attempting to understand how the current dysfunctional situation has emerged and proved to be so resilient, the paper then turns to institutional theory, highlighting the importance of taking into account informal institutions and their often complex relationship with official institutions and regulations in the politics of postcolonial African states. It then gives brief historical accounts of decentralisation and land reform in Uganda, both key aspects of institutional reform under the NRM government, and analyses their shortcomings in relation to the state's failure to bring about much-needed transformative change in Kampala.

Drawing on both secondary sources and primary interview data, the final section of the paper outlines a new framework for thinking about the crisis in Kampala by examining informal institutions that violate the formal laws and rules through numerous 'bargains' struck between sections of the elite and various non-elite interest groups living and working in the city, and the way in which these bargains have perpetuated an environment inimical to effective planning. While there is a considerable literature on Ugandan postcolonial history and politics, there has until recently been very little written on its capital beyond micro-level studies of particular service delivery, land and gender issues that happen to be located in some of the city's neighbourhoods.<sup>3</sup> In the last few years greater attention has started to be directed towards the city as a territorial and political entity worth studying in and of itself (e.g. Amis 2006; Nuwugaba 2006; Yahya 2007); but, in general, academic analysis has yet to catch up

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<sup>2</sup> Control of the capital city of a country is frequently equated with holding sovereign power of that country, and is thus often the most hotly contested space (Walter 2002; Landau-Wells 2008; Esser 2009).

<sup>3</sup> A number of papers published by Makerere University and particularly the Makerere Institute of Social Research are available based on such studies.

with the increasing attention being given to this by the Ugandan media and political establishment (and to a lesser extent by certain donors).<sup>4</sup> This paper is an attempt to explore the institutional and political challenges involved in governing and managing the city in its entirety, providing insights that may be of relevance to a wide range of cities facing similar problems.

### **Elite conflict in the ‘executive slum’**

‘Mr. President, do we have anybody in charge of this city? If there is one, he is either dead, asleep or totally ignorant of his responsibilities. Mr. President, I would like to suggest that a sizable team of professional town planners be sought and assigned the duty of saving our city.’ (The New Vision, May 17, 2009)

‘You can fight all you want for what’s left of Kampala, all you bloody politicians. Just don’t claim to be doing it in the name of its residents.’ (The Monitor, July 2, 2009)

The social, environmental and economic problems facing most large cities in low-income countries have now been extensively documented (e.g. Drakakis Smith 2000; Hardoy et al. 2001; Davis 2006; Beall and Fox 2009). Most of the world’s sprawling ‘mega cities’ are now in the emerging economies of Asia and South America, with the vast majority of African countries remaining predominantly rural. Nevertheless, in a context of much deeper poverty and vulnerability, the proportion of the population adversely affected by urban deprivation is higher in African cities than any other region; and in many cases the situation is worsening as areas with weak or non-existent infrastructure struggle to cope with some of the world’s highest levels of urban growth.

Kampala is by no means unique in terms of the nature and scale of its planning and service-delivery deficiencies. Yet while its problems may not match those of sub-Saharan Africa’s two sprawling mega cities – Lagos (Gandy 2006) and Kinshasa – they are nevertheless severe. Estimates of the city’s slum population range from 85 to 93 percent, higher proportions than any other country in the East African region apart from Ethiopia. Rubbish is rarely collected outside of the commercial city centre, the roads are riddled with potholes, there are very few functional traffic lights or street lights, and the supposedly protected wetland areas – vital for allowing drainage in the city and its environmental sustainability more generally – are being encroached upon not only by informal settlements but increasingly by industrial and commercial properties (Interview, October 7, 2009). Meanwhile traffic accident and fatality rates are the highest in the region and soaring.<sup>5</sup> While Uganda is widely considered a relative developmental ‘success’ story and some macro-level statistics indicate impressive gains in terms of poverty reduction in Kampala (as in Uganda as a whole), participatory poverty assessments reveal that the range of vulnerabilities faced by Kampala’s poor is on the increase, from flooding to disease, poor sanitation and lack of jobs (Amis 2006). Unlike in cities such as Nairobi – where slums like Kibera are concentrated in particular areas, almost forming cities within cities – Kampala’s slums are dispersed throughout the whole capital. None of the five divisions of the city are exempt, to the extent that residents and journalists alike now frequently refer to the city as one huge slum: Kampala, the ‘executive’ slum (The Monitor, May 10, 2009).

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<sup>4</sup> For example the Kampala Integrated Infrastructure Development Programme, funded by the World Bank

<sup>5</sup> Uganda has more accidents than Rwanda, Burundi, Congo, Tanzania or Kenya. Accidents have risen from 5,674 in 1990 to 19,528 in 2006, and deaths from 778 to 2,034 annually over the same period (*The New Vision*, August 29, 2008). In Kampala alone, between 2000 and 2006 there were 66,498 accidents reported with 2,059 fatalities. (*The Monitor*, May 27, 2009).

The city, which remained a relatively small administrative centre until after independence, began to grow apace in the 1960s only to have its growth and development severely thwarted under Amin and during the subsequent devastating years of civil war, during which people retreated into subsistence agriculture in the hinterlands (Bryceson 2006; Amis 2006). After the NRM victory in 1986 Kampala's population began swiftly to expand again, reaching a million by the mid 1990s and more than doubling that figure by the present day within a metropolitan area spanning 849 square kilometres (UN-HABITAT 2008; KCC 2008). The city's primacy in economic as well as population terms is extreme: over 80 percent of the country's industrial and service sectors are based in Kampala and it generates more than half of the entire country's GDP (Giddings 2008).

This history of rapid population growth interrupted by warfare and economic meltdown has of course created huge urban planning challenges. Yet while officials in Kampala's authorities lament a lack of knowledge or interest in urban planning in Uganda, there have actually been a surprising number of master plans for the capital: in 1912, 1919, 1930, 1951, 1972 and finally 1994 (Interview February 11, 2009). The 1972 plan, the first since population growth moved into the hundreds of thousands around the time of independence, was largely ignored under Amin and the urgently needed 1994 plan has not fared much better. It was supposed to plan for a ten-year period but is still theoretically 'active', despite the doubling in the city's population since it was drafted and the fact that there is only one tattered hard copy in the City Council and no evidence of an electronic version. Even the Council's claims that 15 to 20 percent of the 1994 plan has been achieved are thought to be exaggerated, and changes in the city that are pointed to as evidence of its implementation are often in fact just natural, unplanned evolution. As several interviewees pointed out, any 'planning' that does happen in the city simply follows the pattern of actual developments, and not vice versa (Interviews, February 6 and 11, 2009).<sup>6</sup>

Despite the fact that Ugandan students and professionals in urban planning are by no means hard to come by, the effective implementation of transformative planning in the city is therefore extremely rare. A preparatory study for the 1994 plan states that 'since 1971...virtually all growth in Kampala has been unplanned' (Kampala Urban Study 1994), and despite the size, scope and meticulous preparation by international consultants of the 1994 proposals, this has largely remained the case. Major urban plans have always been there, but increasingly nobody can – or will – implement them.

The awareness across all levels of government that it is virtually impossible to implement policies in Kampala that would bring about transformation – for example of such problematic issues as the public transport or drainage systems – has become self-fulfilling. The marginalised and disillusioned urban planners increasingly give up trying and turn to seeking private consultancy work both in Uganda and outside the country. Meanwhile political mud-slinging over the state of the city takes the place of constructive engagement. Both main national newspapers, one of which is state-owned and the other a very vocal voice of opposition, carry frequent articles about Kampala's predicament.<sup>7</sup> The shifting of blame and confusion about who is responsible can be summed up by Mayor Nasser Sebaggala's recent

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<sup>6</sup> This has been the fate of many city master plans throughout the developing world, hence the fact that master planning has been largely discredited since the 1980s after being the dominant mode of urban planning from the 1950s to the 1970s (Rakodi 2001; Taylor 2004; Biau 2004).

<sup>7</sup> 'What is KCC good for?' scream the headlines of opinion pieces; 'City in a crisis: who can redeem Kampala city?'; 'Confusion in KCC killing delivery of services'; 'KCC blames central government for delayed road repairs'; and the list goes on.

declaration that the culture of corruption in Kampala is the fault of ‘elites’, as if this were an undifferentiated category of actors and yet one in which he was not included himself. In fact, elites in the city – and for our purposes in this paper, political elites in particular – need to be disaggregated if we are to understand why managing Kampala seems to pose such intractable problems, especially given that most of the conflict over urban policy takes place among elites themselves.

One major manifestation of the struggle for control in Kampala is the standoff between the NRM-led central government and Kampala City Council (KCC), which is held by the opposition DP. As far as the NRM is concerned, all of Kampala’s problems are caused by the City Council’s mismanagement. Consequently in June 2009 the central government tabled the Kampala Capital City Bill, which proposes to abolish KCC and replace it with the Kampala Capital City Authority, led by a Chief Executive appointed by the President. Under the proposed arrangement the position of mayor would become largely ceremonial and would be elected by electoral college rather than adult suffrage, while the post of Town Clerk would be abolished (The Monitor, June 25, 2009). The aim would be to run the city on ‘business lines’ (Interview, February 12, 2009), and amounts basically to a wholesale shifting of the urban elite in to the NRM sphere of influence.<sup>8</sup> In January 2006, the seeds for the NRM ‘takeover’ were sown in a report from the Ministry of Local Government into the ‘Sale, Lease and Purchase of Land by Kampala City Council’. This document begins with a tirade against the senior staff at KCC, referring to a ‘scramble for the remaining open spaces’ in the city that is ‘similar to the gold rush and Wild West in the United States of America, and the unscrupulous methods used are no different.’ It points to widespread abuse of office by KCC, the capture of KCC by special interest groups with ‘their dirty hands in almost every questionable transaction in the Council’, and the ‘capture’ of the Council by a political group that ‘is constantly at loggerheads with the Central Government.’ (Ministry of Local Government 2006: x-xi). When one considers that between the mid-1990s and mid-2000s some property values in the city centre have increased more than tenfold – with a business that had paid rent of 200,000 Uganda shillings per month typically paying 3 million a decade later (KCC interview, September 28, 2009) – the scale of the stakes in this real estate ‘scramble’ becomes fully evident.

Yet those working for the City Council have their own story to tell. A majority of people interviewed who did not work for central government cited constant politically motivated interference from the centre in the city’s affairs, alongside a lack of funds from the centre, as the main reason for KCC’s apparent inability to deliver. One city official stated that such central intervention ‘has derailed most of the major projects in this city’ (Interview, February 11, 2009). Moreover, the idea that corruption only exists among local officials and politicians and that the shady deals undermining planning and regulation in the city are only conducted by urban and not national elites – who are also mostly based in the city – does not hold much water. The court cases concerning corruption that fill the pages of Uganda’s newspapers daily involve those in powerful positions both locally and nationally: both opposition and NRM. Many interviewees also pointed to national government politicians’ vested interests and corrupt dealings in the city. The mutual scapegoating of the ‘other’ elite for Kampala’s

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<sup>8</sup> While the proposed ‘takeover’ is highly undemocratic, it is not, it seems, without constitutional basis. Indeed it was provided for by a 2005 amendment to the constitution, which was voted for by a majority of MPs and which allows for the administration of the capital city by the central government. Nor is this kind of reversal of democracy at the city level unprecedented. In Pakistan during the 1990s, for example, cities were under the control of an appointed administrator; there are even echoes of Margaret Thatcher’s dismantling of the Greater London Council in the 1980s.

deterioration has become a central feature of public life – an exercise in obfuscation that leaves no-one actually taking responsibility for the city’s deterioration or for undertaking major public works to counteract it.

To complicate the political landscape further, there is a third major player in Kampala’s politics: the Kingdom of Buganda, reinstated by President Museveni along with the *Kabaka* (King) as its cultural figurehead. Despite having no official political role under Uganda’s constitution, the Kingdom is extremely influential and has generated a vocal federalist (*Federo*) movement complete with its own ‘shadow’ ministers, intent on achieving a federal system for Uganda (Kayunga 2000; interview, February 13, 2009).<sup>9</sup> The Kingdom also has a large amount of *de facto* power and owns vast amounts of land in and around Kampala, including some of the city’s main marketplaces, making it a key player in struggles over the capture of market revenues (Interview, February 6, 2009). Moreover, given Kampala’s central location in the Buganda region and the physical location of the Kabaka’s heartland (Mengo) in the city itself, disputes rage over the status of the capital, which, while it is geographically ‘in’ Buganda, is not ‘of’ it – a distinction emphasised by a 2005 amendment to the constitution and central to the Kingdom’s fierce resistance to the Kampala Capital City Bill. To make matters worse, the Bill proposes to extend the boundaries of the city into Mukono, Wakiso and part of Mpigi districts, considered by the Baganda to be ‘the heart, lungs and flesh’ of their Kingdom.<sup>10</sup> The new Kampala Capital City Authority would thus effectively mean the central government taking control of a substantial portion of Buganda.<sup>11</sup>

Yet while the conflicts between the central government, Buganda and KCC may appear to involve a struggle for ownership of Kampala, this paper argues that this is not necessarily the most helpful way of interpreting the situation. While each of the parties in Kampala’s uncomfortable *ménage à trois* is certainly fighting for its interests in the city, none is actually fighting to control or ‘own’ it as an integrated whole. For the Baganda, it is the idea of losing control over the largely rural and peri-urban land *around* the city that is so distressing. As the Attorney General of Buganda (and certain sources interviewed) have stated, the Kingdom – often simply referred to as ‘Mengo’ – has no special interest in Kampala *per se*; its central concern is not control of Kampala but the fact that if new land is incorporated into Kampala it will no longer be ‘of’ Buganda. The central government, for its part, is trying to create a metropolitan area to manage Kampala’s growth but at the same time has proposed to carve up sections of the city to be administered completely separately by Mengo, in order to placate the Buganda establishment. Meanwhile the many opposition politicians, who predominate in both the City Council and among the nine MPs representing different parts of the city, are joining forces with Mengo in effectively fighting against the creation of a metropolitan area for

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<sup>9</sup> A senior member of the *federo* movement summarised the federal argument thus: ‘The principle is that we make Uganda, Uganda doesn’t make us. The [pre-existing Kingdoms and communities] were there first; but out of this we can make Uganda, we can get together and make a bigger unit and cede certain powers to the centre’. In this respect the central state is ‘our servant, as it were’, to manage control of issues like defence. Despite overwhelming support for federalism in Buganda – over 90% – there is relatively little support for the idea in other regions (Interview, February 13, 2009).

<sup>10</sup> This quotation is from the maverick Baganda MP Beti Kamyá (cited in *The New Vision*, June 25, 2009). Note that while the Kampala Capital City Bill was tabled in June 2009, at the time of writing in October of the same year the bill’s progress has been thwarted by the extent of opposition specifically to these proposals about the extension of the city’s boundaries into neighbouring districts.

<sup>11</sup> Until recently Kampala was a district, but since a constitutional amendment a few years ago it is not even that. Neither the former Town Clerk nor an official from the Ministry of Local Government were able to say what Kampala currently is in administrative terms; it is in limbo (Interviews, February 11 & 12, 2009). This is one thing the new Bill seeks to address in allocating Kampala a ‘special status’ as a capital city.

Kampala that would more closely match the contemporary reality of the city and its rapid *de facto* expansion.

One prominent political figure interviewed summed up the current situation succinctly by stating that in his opinion Kampala is, ‘to put it crudely, the bastard child of nobody...it’s just an orphan that no-one quite wants to deal with properly’ (Interview, February 13, 2009). Others in the political opposition argue that the deterioration of services, roads, drainage and traffic in Kampala reflects a deliberate strategy by the central government to run the city down, thereby making the opposition DP who control KCC look incompetent and creating a justification for the NRM to sweep in and ‘take over’ – thus partially disenfranchising the city population who have largely turned against them (Interview, October 12, 2009). However one views the situation, it certainly seems that if Kampala is a ‘prize’ that the various parties to this struggle are seeking to win then it is one that they are willing to continue fragmenting and inflicting serious damage on in the process. Ultimately what the various key actors are pushing for may lead to a compromise that combines aggressive re-centralisation, further decentralisation and ethno-political fragmentation, with dubious implications for the city’s future development. Indeed the politics surrounding the bill ‘is in danger of squeezing out room for debate over the very real challenges Kampala faces’ (The Independent, July 28, 2009).

The crisis in Kampala that has come to a head with the tabling of the Kampala Capital City Bill is therefore a crisis of many things; beyond the crisis of infrastructure and planning lies a deeper failure of institutions for governing the city – a failure that raises questions about the viability of decentralised authority, the proper role of central versus local government, the legitimacy of ethnically based territorial control and even the effectiveness of democratic politics itself to meet the demands of the city’s population. An analysis of this crisis therefore requires a framework that can account for the failure of institutions to manage Uganda’s urban transition despite a background of relative developmental ‘success’, in terms of impressive levels of economic growth and poverty reduction in the country at large and a range of sweeping institutional reforms aimed at improving governance.

### **Analysing institutional dysfunctionality**

Contemporary development theory offers a wealth of insights highlighting the importance of institutions for growth, development and stability (e.g. North 1990 and 1995; Rodrik et al. 2004; Rodrik 2007; Olson and Kahkonen 2000). Institutions can be thought of as ‘a set of humanly devised behavioural rules that govern and shape the interactions of human beings’ (Lin and Nugent 1995: 2306-7), which are formed ‘to reduce uncertainty in human exchange’ (North 1995: 18). What the ‘right’ institutions are will vary substantially by context (Rodrik 2007), but there is a general consensus in institutional theory that such institutions as a clear system of property rights, regulations curbing fraud and corruption, the rule of law and systems for managing social conflict are desirable for growth and development. Indeed development itself can be understood as a process of moving from less to more advanced institutional arrangements (Brett 1999: 47). When thinking about institutions at the city level, the rules governing relations between different tiers of government and those governing land tenure and land use are central to how governments respond to the challenges of urbanisation.

The question that concerns us here is not – or not directly at least – whether certain institutions are or are not conducive to economic growth, but rather why institutions that impact on the governance of cities are in some cases inimical to effective urban planning and policy implementation. ‘Effective’ in this context refers to the translation of policy decisions



into accomplishment. Ineffectiveness, by contrast, is a lack of policy accomplishment. It can be thought of in relation to what Bardhan (2000: 255) calls the ‘soft’ state: one which ‘cannot commit to a particular policy and merely reacts to the independent actions of private actors’ and is constantly derailed by ‘undesirable interventions’ that only serve to generate rent for particular groups. Related to such ‘softness’ is the problem of ‘credible commitment’ (North 1993; Keefer and Vlaicu 2005; Keefer 2007). Where the policy pronouncements of both government and opposition are not credible to a broad cross-section of society, as is often the case in young democracies, politicians often deal with this lack of credibility by opting to ‘throw themselves into rent-seeking’ and developing patron-client networks to secure a core constituency instead of honouring their broader promises. Thus ‘[w]here political credibility is limited, overall social welfare falls and the benefits of public policy flow narrowly to the small group of citizens to whom rulers can make credible commitments’ (Keefer 2007: 2-4). This problem becomes self-perpetuating, given that clientelism and poor social welfare leads to lower politician credibility, which leads to further clientelist behaviour, and so on. Following North (1993) an important question is therefore why some economies have developed institutions that have provided the credible commitment that is central to development and others have not; a question that is of no small significance for thinking about failures of urban planning and policy implementation in Uganda.

Institutions are ‘not necessarily created to be socially efficient; rather they...are created to serve the interests of those with the bargaining power to make new rules’ (North 1995: 20). However, some scholars writing about Africa go further by arguing that in many African states the very idea of creating strong institutions is resisted by elites who have learnt to profit from systems lacking institutions. In *Africa Works*, Chabal and Daloz argue that the state is most useful to elites when it is least institutionalised, and there is thus in Africa an ‘inbuilt bias’ against the institutionalisation of the state (Chabal and Daloz 1999: 14).<sup>12</sup> They propose that the prevailing ‘disorder’ is ‘instrumentalised’ by elites; in the absence of class consciousness<sup>13</sup> or meaningful civil society, elites sustain vertical relationships with the rest of society by exploiting the lack of institutions to their advantage.

Given the subject of this paper, Chabal and Daloz’s approach initially seems appealing, but on further reflection their conclusion that it is resistance to institutions and the pervasiveness of ‘disorder’ that account for poor governance in Africa is unsatisfying. They do not make adequately clear what is meant by ‘disorder’; moreover they are in fact (by their own admission in the concluding chapter) talking of a type of order, which merely *appears* as disorder. Yet it is not evident to whom this system appears as disorder, and in reality it is likely that elites and non-elites alike are equipped to navigate the system; after all it is said to be rooted in ‘distinct’ African norms of reciprocity (Chabal and Daloz 1999: 152). By the same token one could argue that the ‘logic of reciprocity’ and the instrumental vertical linkages to which they refer are actually forms of institution. We therefore need to disaggregate the kinds of institutions prevalent in modern African political systems rather than thinking of them as somehow institution-resistant. Moreover the theory contains virtually no analysis of conflicting interests among elites, assuming a monolithic and collusive ‘elite’ who somehow orchestrate this (dis)order, thus creating a functional system that ‘works’. It therefore undercuts any attempt to look at genuine dysfunctionality, and at political relations

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<sup>12</sup> This book builds on a long tradition of scholarship on ‘neopatrimonialism’ in Africa, see for example Eisenstadt 1973; Jackson and Rosberg 1982; Hyden 1983; Joseph 1983; Callaghy 1986; Diamond 1987; Bayart 1993.

<sup>13</sup> The denial of the significance of class and other horizontal linkages in Chabal and Daloz’s work has been dealt with in a compelling critique by Sumich (2008).

based on conflict as well as collusion. By proposing a notion of African politics as a ‘disorder’ that ‘works’, it actually serves to impede our understanding of ways in which the ‘order’ – indeed the *institutions* – of some African political systems do not ‘work’ as an overall system, which in many respects is what we are seeking to understand in relation to Kampala.

Why dysfunctional institutions should be so difficult to change is something that contemporary neoinstitutionalist theory does not easily account for; indeed as Bardhan points out, in contrast to the ‘old’ and Marxist-influenced institutionalists the new institutional economists ‘often underestimate the tenacity of vested interests and the consequent persistence of dysfunctional institutions’ (Bardhan 2000: 262). This dysfunctionality raises not only the question of whether the formal institutions in place are the ‘right’ ones, but also whether these institutions bear any relation to actual practice, which may be governed by other – informal but no less important – institutional frameworks. North touches on this issue in some of his own reflections on institutions, noting that ‘[f]ormal rules are an important part of the institutional framework but only a part’ (North 1993: 18) and highlighting the importance of ‘informal constraints’ that must complement those formal rules if stability is to be achieved. Often, of course, this complementarity is sorely lacking, given that ‘[i]t takes much longer to evolve norms of behavior than it does to create formal rules’ (North 1993: 21).

The crux of the issue is thus the need to disaggregate the idea of institutions by highlighting the coexistence of both official norms on the one hand and ‘institutionalised’ practices that violate those norms on the other. Far from lacking formal institutions, in African politics these are certainly ‘part of the definition of the situation. They cannot be dispensed with under the pretext that the level of adherence to them is scant’; rather it is important to take into account what anthropologist Olivier de Sardan (2008: 7) calls the ‘double game’ being practiced by elites ‘in mastering both the law (official norms) and their obligation-based relationships (clientelism)’. He goes on to distinguish between ‘professional norms’ formalised through official documents and procedures, ‘social norms’, which are very close to values (and are also formal in that they are taught and embedded in rhetoric), and – attempting here to go beyond standard neoinstitutionalist analyses – an additional category of ‘practical norms’, the informal, pragmatic ‘subterranean regulations’ that often go against both professional and social norms alike (Olivier de Sardan 2008: 8-13). Hence ‘real governance’ in Africa is characterised by what Olivier de Sardan calls ‘normative pluralism’, a concept not dissimilar to the Crisis States Research Centre’s ‘institutional multiplicity’ (Putzel 2008).

This discussion is provided by way of situating the remainder of the paper in an analytical framework that takes into account the importance of formal institutional change alongside the conflictual elite relationships and multiple informal rule systems that prevent official institutions from fulfilling their promise and undermine credible commitment. The formal institutional landscape in Uganda has changed fairly dramatically in the past few decades, in large part due to the influence of the donor community, which adopted Museveni as a model for the ‘new breed’ of African leader early on. Yet even if on a formal level institutions are improving in relation to post-Washington consensus prescriptions, the reality is more complex and less encouraging. In the following section two aspects of institutional change – decentralisation and land tenure reform – are considered due to their particular relevance to questions about the origins and nature of institutional dysfunction in Kampala.

## **The fragmenting institutional landscape in Uganda: decentralisation and land**

Since the late 1990s Uganda has experienced something of a fall from grace. Despite the praise heaped on the NRM in the first decade after its victory in 1986 due to impressive performance in relation to security, economic management, HIV/AIDS, gender and education, subsequently the regime has come under fire – particularly academically and within Uganda – for increasing cronyism, ethnic clientelism, corruption and authoritarianism (Carbone 2008; Mwenda and Tangri 2005; Rubongoya 2007). With regard to Kampala, the evidence now suggests that institutional reforms designed to improve governance are failing to deliver. This section outlines two key areas of reform, and the flaws in the institutional framework and failures of implementation that have contributed to the ineffectiveness of urban policy and planning in general.

### ***Decentralisation and Kampala: institutional dysfunctionality entrenched***

Decentralisation in Uganda effectively began in the colonial period with a series of ordinances empowering local governments under indirect rule, as reflected in Mamdani's (1996) concept of 'decentralised despotism'. This process, however, was severely derailed by laws passed in the immediate post-independence period and came to a complete standstill with Idi Amin's 1971 coup (Katono 2007: 74). It was rekindled in the years after the NRM's 1986 victory, and subsequently enshrined in Uganda's new constitution in 1995 and the Local Government Act of 1997. The NRM's decentralisation programme is considered to be one of the most radical and ambitious in Africa (Asiimwe and Musisi 2007; Nsibambi 1998; Hansen and Twaddle 1998). In Kampala, for example, 80 percent of services have been devolved to KCC: everything except national roads, secondary and tertiary education falls within its remit (Interview, February 6, 2009). Although to some extent decentralisation has its origins in the resistance-council system invented during the NRM's bush war (Makara 1998; Golooba-Mutebi 1999), in reality it had a great deal to do with the policy choices of Uganda's major donors (Wadala 2007: 41).

Despite the ambitious scope and considerable achievements of the decentralisation programme it has proved highly problematic on a number of levels. The Local Government Act provides for a very substantial redistribution of power, but when it comes to finance local authorities are rendered relatively impotent. District and city councils do have the constitutional power to raise local revenue, but their ability to actually do so is minimal. This is not just because of weak state capacity and deep poverty; even taxes they could theoretically gain the most resources from – such as property tax, which in Kampala particularly should be a significant source of local government income – have been hampered by central government intervention. National politicians and their acquaintances reportedly own many of Kampala's most valuable properties, and the minister of local government is empowered to change the rates of tax set by the local authority if it deems fit. In addition, the valuation of all properties has to go through the chief government valuer (Balihuta and Ochieng 2007: 129-30). Thus properties can be undervalued for tax purposes and tax rates downscaled by the centre. A further impediment to this source of revenue was put in place when, in the run-up to the 2006 election, the central government passed a law exempting all owner-occupiers – who comprise a substantial proportion of the city population – from paying property rates altogether (Interview, February 11, 2009).<sup>14</sup> Combined with the unwillingness

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<sup>14</sup> This has posed huge challenges, exacerbating problems of non-compliance due to people manipulating tenancy arrangements and altogether resulting in an estimated 10 billion shillings (over 5 million dollars) less local revenue than would otherwise be the case (Interview, September 22, 2009); a significant sum given that the city's total local revenue in the year 2008/9 amounts to only 30 billion (KCC 2009).

of Kampala's residents to pay local taxes due to poor urban services, these interventions mean that even the most lucrative tax is far from fulfilling its potential.<sup>15</sup> Above all it has not been able to compensate for one of the most destructive central government interventions of all in recent years – the abolition of Graduated Tax in 2005.

Graduated Tax was a version of poll tax levied on all adults which, at the time of its abolition in 2005, comprised as much as 80 percent of the locally raised revenue of some districts (The New Vision, August 8, 2005), and at its 1997 peak generated 80bn Uganda Shillings (US\$43m) nationally. Considered by the central government to be an electoral liability, the NRM denounced the tax as regressive and abolished it in the run-up to the 2006 general election, with a devastating impact on the city council as well as Uganda's districts generally. The new Local Service Tax brought in to 'replace' it generated a mere 5bn shillings (US\$2.7m) in its first year of operation. This is due in part to the fact that a whole new system has had to be created to collect it and this process is incomplete, but also because in contrast to the Graduated Tax – which was levied on all males even if not in 'gainful employment' and all working women – the new Local Service Tax is effectively only paid by the formal sector. A knock-on effect of the abolition of Graduated Tax has therefore been an exacerbation the problem of unemployment, because the fact that men were required to pay it even if unemployed acted as an incentive for them to go out and seek work (Interview, September 24, 2009).

Whatever the benefits and drawbacks of these various taxes, the central interventions in the arena of local revenue collection since 2005 have rendered KCC more dependent than ever on central government transfers, over which it has little control; 92 percent of these in the year 2007-8 were 'conditional', meaning KCC has no say in how they are spent (KCC 2009). Thus the centre has 'positioned itself as "master"', while KCC is 'put in the position of "servant"....Money is being channeled by donors from the centre but not power' (Wadala 2007: 59). These are issues of concern for all of Uganda's districts, but in the case of Kampala there are some unique dimensions to the problem, as Yahya (2007) notes: the capital is not remotely like any other district in terms of its productive capacity or its service-delivery needs, and the decentralisation framework in Uganda has not taken account of the vastly different logic needed for decentralised governance in major cities vis-à-vis other districts.

The lack of adequate resources – and of local control over them – is not the only problem with decentralisation in Uganda. There are also problems of overlapping jurisdictions in each district between the District Chairperson (the Mayor in Kampala's case), the Chief Administrative Officer (i.e. the Town Clerk) and the Resident District Commissioner (RDC), whose duty is to 'represent the President and Government in the District' (Kabumba 2007: 30-31). Both the Mayor and the RDC have a mandate to 'coordinate' government functions in the district (Kabumba 2007: 34), but given that one is an elected politician answerable to the city population and the other an appointed representative of the president, this is a major cause of conflict (Green 2008). Meanwhile the new layers of democracy introduced by decentralisation, whilst admirable in principle and central to Uganda's erstwhile 'donor

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<sup>15</sup> Non-compliance remains a huge problem, which is hardly surprising given that there are no penalties in place for non-payment (save for the government's theoretical right to sell the property of non-compliers as a last resort. This eventuality very rarely comes to pass even in cases of prolonged non-payment) (Interview, September 22, 2009). Kampala's mayor recently implored residents to pay their taxes or they will have to live with piles of rotting garbage, and added that the absence of streetlights in the city is because KCC do not have the money to purchase light bulbs ('Pay taxes or live with garbage piles – Sebagala', *UgPulse.com*, <http://www.ugpulse.com/articles/daily/news.asp?about=Pay+taxes+or+live+with+garbage+piles+%96Sebagala&ID=10842>).

darling' status, have fuelled corruption; the high costs of campaigning, for which there are few public resources, lead local politicians to award tenders to themselves and to their financial sponsors – 'a logic that is increasingly being accepted by the voters themselves' (Wadala 2007: 53).

This overlapping of the roles of different government actors, alongside central interventions that prevent both effective local revenue collection and flexibility in the use of transfers, has severely hampered a major process of institutional reform. In all these respects decentralisation – as a set of formal institutions entrenched in government legislation – has increasingly revealed itself to be essentially dysfunctional, not least because of constant efforts by the centre to find ways of undermining the rules it has previously put in place. In Kampala at least, far from bringing about the improved governance that donors imagined it would, decentralisation has instead perpetuated a situation of central government dominance but at the same time rendered the centre's ability to push through changes less effective due to the contradictions now embedded in the framework. In addition it has encouraged 'institutionalized suspicion in the internal organisation of the state' (Bardhan 2000: 258) and provided scope for elites to bring to bear different institutional systems against one another to the detriment of Kampala's development.

### ***Politics versus institutions in the struggle over land***

The outcomes of the evolution of land rights can be thought of as the 'classic example of inefficient institutions persisting' in developing countries (Bardhan 2000: 263). If anything, the situation in Uganda is especially problematic due to the uniqueness of the agreement that the British colonists made with the *Kabaka* and his chiefs in 1900. In this year the colonial state decided to introduce individual land rights by giving about half of the Buganda Kingdom – around 8,958 square miles – to the *Kabaka*, his family and several thousand Baganda chiefs in the form of freehold, under a system that came to be known as *mailo*. This was a fundamental shift and a crucial aspect of the institutional legacy of British colonialism in Uganda (Okuku 2006: 7), consolidating the power of the chiefs and creating a new landed aristocracy with hereditary land ownership while rendering local plot holders who actually occupied the land into rent-paying tenants (Giddings 2008). A further law in 1928 altered the situation in favour of the tenants, giving them rights of occupancy subject to the payment of a nominal fixed annual rent rather than leaving rent to landlords' discretion.<sup>16</sup> Nevertheless anger grew among the peasants whose rights still fell short of full ownership (Green 2006).

Over time, the *mailo* plots were further subdivided, resulting in smaller and smaller plots and around 200,000 *mailo* landlords by 1974 (Troutt 1994).<sup>17</sup> This was to prove a major problem in the evolution of Kampala, 60 percent of which is now land held under *mailo* tenure. While public land in the city has been developed in a relatively orderly manner, *mailo* land has remained largely unregulated; both owners and occupiers hold a range of rights over the land, constituting a system of virtual 'dual ownership' that has posed 'a major impediment to urban

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<sup>16</sup> The annual nominal rent was set at the fixed sum of 1,000 Shillings. This has still not been raised, and currently amounts to around US\$ 0.46. The low level of this nominal rent is intended to be a recognition of the fact that the occupiers have a right to live there even though they do not own the title. It thus recognises the fact that through *mailo* 'titles were created and given to individuals over land that certain people customarily had the right to occupy...I live here, so I'll give you the nominal rent just to acknowledge that you have the title, but it's not commercial rent because I have got the *right* to live here' (Interview, February 13, 2009).

<sup>17</sup> Idi Amin's 1975 Land Reform Decree abolished all existing forms of tenure, declaring all land in Uganda to be public. In practice, however, this remained largely unimplemented and in any case was reversed by the 1998 Land Act (Green 2006; Okuku 2006).

development for Kampala City' (Nuwugaba 2006: 151). The resulting situation is one in which:

'the *mailo* land owner cannot sell his land or utilize it because he has to adequately compensate the tenants while the tenants are not comfortable enough to be able to develop...or sell land for which they do not have clear title.'  
(Nuwugaba, quoted in Businge 2007)

Meanwhile the fact that purchasers of *mailo* have to pay twice – compensating both owners and occupiers – has combined with the decreasing size of plots in Kampala (now usually under an acre) to make it very hard to assemble parcels large enough to develop into desperately needed residential housing (Giddings 2008: 9).

Compounding the problem has been the ethno-political element of the struggle over land in the city. In Uganda's first constitution 'Kampala' was an entity of about one square mile that happened to be in Buganda but was administered by central government and was distinct from neighbouring Mengo municipality, the seat of the Buganda Kingdom (Interview, February 13, 2009). In 1968, however, after the abolition of the Kingdom the previous year, Kampala's municipal boundaries were expanded to include Mengo itself (Yahya 2007). This resulted in a situation where Kampala City Council's jurisdiction had grown to cover a much larger part of Buganda yet it did not have effective control over most of the land itself, which was held by Baganda under *mailo*. Indeed today only around 5 percent of the land is actually owned by the City Council, and most of this has been leased out (Interview, February 12, 2009). In the peri-urban areas where most land is *mailo*, ethnic tensions run high; there is widespread discontent among the Baganda over absentee landlords leasing land to other ethnic groups – notably the Banyarwanda (Green 2006; Interview, January 28, 2009). In many respects in Kampala we can see Uganda's land problems writ large: high ethnic diversity and population density compounded with a multiplicity of land tenure systems ranging from *mailo* to freehold, 'Kabakaship' land and public (former Crown) land (Batungi 2008).

In an attempt to address the land issue, in 1998 the government passed the Land Act, a key moment of formal institutional change in Uganda's recent history. This attempted to bolster the tenure security of what the Act terms *bona fide* occupants – those who have lived on a plot of land for at least twelve years without paying rent – vis-à-vis the Baganda landlords, but without stripping the latter of their basic rights of ownership. However, in trying to please both sides the 1998 Act has failed to please either. Uganda's most vocal political columnist, Andrew Mwenda, has denounced the 1998 Act as entrenching a 'feudal' and economically retrogressive system by perpetuating the dualism in land control and failing to fuse user rights over land with ownership rights (The Independent, February 22-March 6, 2008). Even *bona fide* occupants ultimately remain insecure and still do not possess sufficient rights to encourage them to invest in the land (Okuku 2006). Yet at the same time they cannot be evicted, and the Baganda establishment see the Act as strengthening the hand of non-Baganda occupants; more specifically as another example of Museveni favouring 'Westerners'.<sup>18</sup> Consequently it has soured relations between the NRM and Mengo, bolstered Baganda demands for *federo* (Green 2006) and further undermined government legitimacy in the process. The Kampala Capital City Bill, perceived as yet another attempt to 'grab' land in Buganda, has seen the NRM/Mengo relationship deteriorate even further. The increasingly tense relationship finally came to a head with the violent riots of September 2009, during

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<sup>18</sup> Much has been said in recent years about ethnic nepotism in the Museveni regime, but new evidence makes it clear that it is now undeniable (Lindemann 2009).

which supporters of the *Kabaka* took to the streets to protest against the government's restriction of the *Kabaka's* movements within Buganda, and the government responded with a brutal crackdown resulting in up to 30 fatalities.

Despite the controversy over the Land Act, it is difficult to say whether the 1998 reforms actually constitute a shift to better institutions for land management, because the Act has largely not been implemented (Okuku 2006). This point is crucial to the analysis presented here; it is arguably the fact that the official institutions governing land are constantly violated by elites competing with each other through established informal norms of behaviour that is the most significant dimension of the land problem. Land has continued to be managed by processes outside the law. As the Buganda Kingdom (2007: 12) notes in a letter to the government:

'The Act has largely not been implemented and may be described as a failure – no land tribunals; no recorders; no certificates of occupancy and customary ownership; land Boards non functional; land Mediators non existent; the land fund not effective and [a] mess at the land registries across the country.'

These comments were included in a formal rejoinder to the NRM government's 2007 Land Amendment Bill that ostensibly aims to further strengthen the rights of *mailo* occupants by proposing more stringent conditions for eviction and heavier penalties for illegal evictions, and which was eventually passed by parliament in December 2009 despite fierce opposition in Buganda. In fact, the 1998 Act already contained numerous laws addressing the problem of eviction; they were simply very rarely enforced. The view is widely voiced that Museveni was well aware that the Land Amendment Bill would be opposed (Interviews, February 5 and 12, 2009), especially in Buganda,<sup>19</sup> and that it represented nothing but procrastination and politicking – an attempt to draw opposition from Baganda and thereby make them look 'arrogant' and 'intolerant' (The New Vision, February 14, 2008). According to one land expert (Interview, February 5, 2009) it is:

'a legal nonsense...As far as I can see it does not make anything illegal that was not already illegal, and the changes it makes are minor...the political storm on both sides are not legal arguments about whether the bill is good or bad, but political arguments about whether you're pro-Museveni or pro-*Kabaka*.'

According to this view what the government is actually doing is buying time by drawing up further laws that do not ultimately change the status of landlord or tenant, rather than concentrating on actually implementing the 1998 Act. While the formal institutions are there for all to see in the form of acts of parliament and statute law, the machinations of politics in Uganda and the competition between elites for resources and support render them largely impotent. For Kampala the same is true to a degree of the decentralisation programme discussed previously; only in that case the elite conflict centres on the KCC/central government axis while the land issue revolves around the NRM/Mengo relationship.

These problems surrounding decentralisation and land reform illustrate at a general level how the non-implementation of policy and the violation of official institutions by 'informal' political practices impede effective planning for Kampala's growth, despite the NRM introducing a range of new (and donor-supported) institutional frameworks with important and potentially positive implications for the city. Yet why these constant violations persist is another question. Conventional institutional theory cannot really explain why it is so difficult

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<sup>19</sup> The Bill has in fact been opposed not only in Buganda but by MPs from Acholi, Teso, Busoga, Lango and Karamoja (The Independent, February 8-21, 2008).

to change institutions *de facto* even when *de jure* reforms have taken place. We therefore need to examine in more detail the nature of informal rules and regulations underpinning political behaviour. These are:

‘often the outcome of strategic distributive conflicts between different social groups, and inequality in the distribution of power and resources can sometimes block the rearrangement of...institutions in ways that are conducive to overall development.’ (Bardhan 2000: 267)

Put differently, formal systems of rules such as those discussed in relation to decentralisation and land are constrained by their interaction with what North (1993) refers to as path-dependent ‘mental models’. It is such ‘mental models’ that shape the character of informal institutions, and successful restructuring of societies requires not only the rearrangement of formal rules but the – much more difficult – restructuring of the ‘mental models of the players to induce choices that are complementary’ to the official rules (North 1993: 21). Indeed:

‘development cannot involve the simple replacement of worse by better institution, but far more complex, dialectical processes where variety is constantly sustained by the resistance of those committed to existing systems.’ (Brett 2009: 58-9)

The general backdrop of institutional dysfunctionality having now been outlined, the following section examines through a few specific empirical cases the manner in which existing laws and attempts at formal institutional change are resisted through the activation of informal norms and relationships.

### **Informality, bargaining and the politics of anti-planning**

One way of interpreting informal institutions or norms is through exploring processes of bargaining, either among elites or between elites and non-elite groups with whom they find common cause. Khan (2001) and Bardhan (2000) have highlighted the extent to which institutional arrangements reflect the changing relative bargaining power of different groups. Bargaining arrangements, however, apply not only to official/formal institutions but also to the ‘practical’/informal variety. Thus while the latter are not embedded in formal laws they can be observed through an analysis of the informal bargains struck and settlements reached between social and political actors.

On the one hand, we can observe in Kampala how mutually beneficial pacts between the powerful serve to undermine urban planning and the formal governance institutions embodied in the decentralisation architecture and land-use legislation. There is ample evidence of rules and regulations being flouted through what might be termed an ‘elite bargain’ (Lindemann 2008; Putzel 2008) or an ‘urban regime’ (Stone 1989; Orr and Johnson 2008), whereby certain dominant economic and political elites strike bargains to further their material interests in the city, undermining both official institutions and the city’s spatial form. One interviewee (February 5, 2009) described such an alliance between economic and political elites, and its impact on state employees:

‘[My relative] was working for an engineering company that was asked to add three stories onto a building; a bank. The engineering company looked at the plans and said it’s not safe, it can’t be done. And a year later there it is. Why? Is it because the city engineer is so incompetent that he didn’t bother to look at the foundations? No, of course not. He probably said ‘no you can’t do this’, and then the man who owns the bank – who is influential and well-connected – gets on the phone to the president and says ‘what’s this about me not being able to build up’



and it goes down the chain until the engineers are told to approve it at once....when you get that every day, and you're understaffed, why are you going to bother? It is completely demoralising. You either go corrupt or you go mad.'

Through these kinds of relationships, formal planning and land-use institutions are ignored and the non-implementation of regulations is perpetuated. As a by-product, corruption seeps down the system; next time, the engineer is likely to accept a bribe in order keep quiet rather than query the building plans. A former Chief Town Planner described a similar bargain between property developers and politicians, noting that if city officials try to stop certain kinds of illegal construction, 'men with guns appear' (Interview, February 11, 2009). The news is rife with stories that smack of arrangements of this kind. At the end of 2008, the then Minister for Local Government demanded that the city council demolish buildings constructed by private developers who had broken planning regulations; but just as KCC attempted to take this action, Otafire performed a sudden U-turn and demanded the demolitions be halted. While the circumstances behind this change of heart are not clear, many respondents highlighted it as an example of foul play that reflected an arrangement made behind closed doors, causing the minister to quickly disregard his apparent concern for the planning rules.

Yet these elite settlements are not the only form of bargain to hinder formal planning and governance processes. Elites in a new democracy such as Uganda also need to mobilise the support of the masses, and where their commitments lack widespread credibility they consequently forge a range of 'popular bargains' (Beall 2008) with particular urban groups. These too can be a hindrance on the implementation of urban policy. Hence to understand why urban policies and planning fail we need to look beyond elites, following Lindell (2008: 1888) in trying to understand the broader 'balance of forces in the city'. The state remains an important actor in the mismanagement of, for example, urban marketplaces; but 'authority is dispersed' and relations between associations of market vendors and the state 'are complex and ambivalent, including elements of both opposition and clientelism' (Lindell 2008: 1892). Similarly, in Kampala urban associations are not only 'captured' and exploited by powerful political actors, in a manner similar to that explored by Meagher (2006; 2007) in her work on urban Nigeria, but they also use these alliances to their advantage when they seek to oppose or block the actions of *other* key political actors.

To fully appreciate this it helps to think of the state not as a monolithic entity but follow Migdal's (1994; 1997) lead in disaggregating it into constituent parts, while also rejecting zero-sum state-versus-society perspectives. Migdal (1994: 17) notes the 'cacophony of sounds from the wildly different arena in which components of the state interact', and also points out that in the process of incorporating (or co-opting) social forces the state itself may have to make accommodations that affect its overall coherence. He identifies four of the 'levels' of the state: the 'trenches' at the bottom, the 'dispersed field offices', the 'agency's central offices' and the 'commanding heights'. In capital cities that are the seat of government, all four of these are present simultaneously (as the coexistence of president and ministers, mayor and town clerk, RDC, division chairpersons and huge numbers of councillors and civil servants all within central Kampala illustrates). In such contexts an urban interest group might have a clientelistic relationship with one part of the urban political elite that acts as a way of blocking the attempted actions of another. Thus '[t]he ambivalent and contradictory relations' between urban associations and the state 'resonate with 'domination' and 'resistance' as entangled rather than separate and opposed notions' (Lindell 2008). It is the formation of informal institutions embodied in bargains that play one arm of the state off against another

that makes policy implementation in Kampala so difficult. A few examples will illustrate this point.

Much of Kampala's politics can be reduced to issues of traffic: vehicular (public transport and roads), human (chaotic, unplanned market vending and street hawking) and international (the proliferation of inappropriately sited up-market hotels in the city, often accompanied by accusations of misuse of state funds). The latter largely involves bargains between wealthy elites that often violate planning and other regulations, similar to the example of the bank highlighted above. Yet minibus-taxi drivers, *boda boda* (motorcycle taxi) drivers and market vendors in Kampala also appear to wield huge influence despite being among the city's poorest groups. For example, KCC has been engaged in a protracted battle with the Uganda Taxi Operators and Drivers Association (UTODA) over billions of shillings of unpaid fees and the association's mismanagement of the city's chaotic central taxi parks – the hubs of Kampala's transport system as minibus-taxis are the dominant mode of public transport. The council was neither able to get UTODA to pay its dues or to cancel its contract to manage the park; its repeated attempts to do so were blocked by central government through a high court order.<sup>20</sup> As one government official noted (Interview, February 12, 2009):

‘The fact that [the unpaid debt] was allowed to accumulate to that level...shouldn't be allowed... That tells you the problem of governance that we have in the city. They [KCC] should have terminated [the contract] long ago.’

UTODA has thus repeatedly breached its contract with KCC, and the taxi parks remain in a desperate state with the concrete floor having long since disintegrated into mud and vast potholes. Meanwhile taxi drivers help themselves to the parking spaces of businesses in the suburbs, knocking down sign posts provided by the police to prohibit them and leading one newspaper to decry a ‘taxi parking crisis’ (The Monitor, December 14, 2009). The situation begs the question of how a taxi association has managed to effectively overpower the city government and starve it of resources in this way. The key, it seems, lies in the fact that UTODA is an association not only of drivers but of operators – which in reality means owners. According to many interviewees, both in local government and the planning and transport professions, large numbers of taxis are owned by powerful individuals, including politicians. When asked why the city council was not able to stand up to UTODA, one interviewee (February 5, 2009) responded:

‘Why? Because the big fellows in the government own the actual taxis...the owners are somewhere ‘up there’. They take a big cut and they are the ones who decide. The company of the taxi operators...it's big money, big big big fellows; so the City Council feels very timid in relating with the taxi company association...Within UTODA you will find the drivers and the association and so on, but you'll never see the big guys. They are somewhere ‘up there’. So even managing a taxi park is way beyond the city authorities.’

Others similarly indicated that a large proportion of the taxis are owned by MPs (Interviews, September 18 and 25, 2009) and that the ownership of the taxis has acted as an obstacle to transport planning and the professionalisation of urban transport more generally (Interviews, September 25 and 30, 2009). Under such conditions, relatively simple, inexpensive and urgently needed urban works often simply do not happen. This is essentially because a formal institution for urban governance – in the form of a contract between the city council and an

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<sup>20</sup> Relations between KCC and UTODA have now somewhat improved and they are paying fees again, although the unpaid debt remains an issue and they are also resisting fee increases (Interview, September 21, 2009).

organisation contracted to perform a service – has been completely emasculated. The arrangement between the taxi-owning politicians and the drivers themselves is mutually beneficial: the ‘big fellows’ keep their cut, the drivers keep their livelihoods, and together their influence is such that neither has to pay the overdue fees. The only loser is Kampala itself.

Compounding these kinds of relationships is the decidedly populist bent of politics in Kampala, and the fact that the NRM-led central government and DP-controlled city council compete for the affections of the ‘popular classes’. The case of the *boda-boda* drivers, of which there are now an estimated 30,000 in Kampala (Interview, September 21, 2009), illustrates well how populism and deals between elites and informal workers interlink. In Uganda, people often refer to urban informal workers as ‘the *boda-boda* class’. They are a class that has generally turned against any mayoral candidate who proposed to modernise the city, for fear that new regulations would be introduced to constrain them (Interview, February 5, 2009). The *boda-bodas* themselves have always been strong candidates for regulation: over 3,000 ‘serious injuries’ and hundreds of deaths occur on the city’s roads every year, largely due to *boda-bodas* (The Monitor, May 27, 2009). Yet attempts to regulate or control them have been frustrated at every turn. Most notably, a system of basic taxation for the *boda-bodas* involving the payment of a monthly fee to the city council, in exchange for a sticker that the driver could display to indicate that they had paid and were conforming to basic regulations, was in place for nine months in 2007 (Interview, September 22, 2009) before the president personally intervened to abolish it.<sup>21</sup> An earlier attempt to introduce some order in this sector was even more abortive. Thus, in the words of one interviewee (February 13, 2009):

‘We find ourselves in a situation where neither the police nor local government enforcement agencies can oust *boda-boda* riders...and they don’t pay any tax because when they are about to pay taxes the President comes in and says “don’t tax my *boda boda* riders!”’

By contrast, almost all of the city’s other workers, including market vendors, pay some local tax. On the one hand this is simple populism: *boda-bodas* represent a considerable constituency. However, as an interviewee (February 13, 2009) pointed out: ‘there is a racket going on there as well’ and as with UTODA, the *boda-bodas*’ cause is bolstered by the nature of the ownership of many of the motorcycles. Through a combination of influential owners and the desire of the government to hold on to the votes of the drivers, the latter have become what the interviewee referred to as ‘untouchables’, in the sense of being ‘protected’ by the national government. Thus they remain a surprisingly powerful – if still relatively disorganised<sup>22</sup> – interest group, despite being widely considered (particularly in the city authorities) to be a menace to Kampala’s society and an obstacle to the city’s development and regeneration. For a long time they were considered to be a sort of informal NRM ‘youth league’ or a ‘central government project’ in terms of building an urban support base.<sup>23</sup> In all this is a classic example of how the urban poor ‘often collude with those in power when they

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<sup>21</sup> Note the contrast with neighbouring Rwanda, where the motorcycle taxi drivers association ASSETAMORWA ‘is currently in talks with Rwanda Development Board (RDB) to help members learn English, Swahili and customer care to make their work run smoothly.’ (*The New Times*, June 22, 2009).

<sup>22</sup> In recent years there are a number of different and often competing organisations claiming to represent the *boda-boda* drivers, though as yet there does not seem to be an institutionalised hierarchy among them or a broad understanding of the relationships between these associations.

<sup>23</sup> Although there is evidence that this is now starting to change, particularly in relation to the participation of many *boda-boda* drivers in the September 2009 riots and the subsequent crackdown on drivers without helmets and licences by the police.

feel that such a strategy is most likely to ensure their short-term interests, thereby reinforcing inertia' (Beall and Fox 2009: 224).

The furore around the organisation of marketplaces is another case in point and one that touches directly on the failure of formal institutions for urban planning and land-use management to translate into effective policy implementation. There are many cases of plots in the city centre that had been earmarked by planners for modern shopping facilities, new housing or parking areas but where these plans have not come to fruition because of the actions of market traders already using the space who manage to capitalise on their informal linkages with people in positions of power. Traders have often risen up in protest just as developers are about to start work on a site, lobbying the government and fighting efforts at reorganisation. Their frequent successes on this front hinge on bargains struck with patrons: for example, many market vendors are ex-soldiers and as such there are mutually beneficial informal institutions shaping their relationship with former military leaders now in key government posts (Interview, February 11, 2009). Indeed senior military figures have been observed personally intervening to stop KCC removing vendors who have set up stalls illegally in certain areas (Interview, September 22, 2009).

More generally, the Mayor of Kampala came to power largely on the basis of his appeal as a 'man of the people' from a family of market vendors. In exchange for their support, in a number of the city's largest markets he has now given the vendors' associations themselves the right to manage and develop the sites into 'modern' marketplaces – contrary to the advice of technical staff within the council who feel that that should be KCC's role, and despite the fact that there is little evidence that the vendors possess the capital to see this through (Interviews, September 22 and October 5, 2009). The 'bargains' various politicians have struck with market vendors have thus resulted in a situation in which marketplace tenants have considerable influence, enabling them to 'behave as if they are owners' (Interview, February 12, 2009). Moreover, in the marketplaces situated on land owned by the *Kabaka*, the city council is even more impotent to control how space is used. The web of informal institutions governing market activities has become a source of despair for many policymakers. 'It beggars belief that we can't organise a market', said one interviewee (February 13, 2009):

'[Kampala] has mafia-like groups that have set up turfs... Look at the markets...you've got, effectively, racketeers who run those areas...and there will be politicians as godfathers. So you can't get planning rules or regulations accepted by anybody...competing vested interests make it impossible for any kind of planning to be put into effect.'

The above examples demonstrate that not only elites but associations of the urban poor are active parties in processes of political bargaining that, for better or worse, have acted as forces of anti-planning. While the particular groups involved may benefit from these bargains, ultimately they operate through informal institutions or 'practical norms' that violate attempts to manage the city as whole and undermine efforts to actually manage it through its formal institutions. The result is a vacuum of effective legitimate authority; most urban interest groups can find someone to turn to in order to try and protect their patch, but there is no overarching authority that can actually push through transformative changes or enforce compliance to many of the official institutions that exist in Uganda after decades of reform.

## Conclusion

This paper has argued that the governance of Kampala is characterised by a serious institutional crisis in which political actors at various levels exploit a range of competing institutional frameworks, striking informal ‘bargains’ that build on their relationships with particular social groups but that frequently undermine formal state rules, laws and regulations with severely damaging effects on the city. Kampala is a clear example of a situation in which the governance realm has been ‘captured by special-interest groups and lobbies that do not have, to use Olson’s phrase, an “encompassing interest” in the productivity of the society’ and thus may prolong ‘socially inefficient’ institutions (Bardhan 2000: 246). Moreover, plans, laws and regulations that exist on paper are so frequently undermined by people within government itself for both economic and political reasons that there is now a huge problem of the absence of ‘credible commitment’, which in turn generates incentives for politicians to further undermine formal governance frameworks in favour of bargaining to win the support among key groups.

A central question for many of those concerned with Kampala’s future is whether the Kampala Capital City Bill would change things for the better. If this Bill passes through parliament to become law, it will introduce a radically new formal institutional framework that would see a greatly expanded Kampala metropolitan area governed by a new Kampala Capital City Authority, whose key personnel will be appointed by central government. Were this to become a reality, it would go some way to addressing the flaws in the decentralisation programme that has treated Kampala as though it were an ordinary district despite being exclusively urban. In addition the streamlining of the urban elite through the harmonisation of central and city-level government interests would, in theory, increase the capacity for policy implementation in the city. On several levels it would therefore be an institutional transformation that could enhance the effectiveness of urban planning. However, as this paper has aimed to demonstrate, official institutions do not necessarily rule; even if the Bill does overcome the vehement opposition in Mengo and the opposition parties to become law, the various informal bargaining relationships currently in place would not necessarily disappear. They would come more comprehensively under the NRM’s influence; but then even if the government’s *capacity* to govern Kampala through its formal rules and regulations was enhanced, it could still lack the fundamental *motivation* to do so if dismantling the existing informal ‘rules of the game’ is not in the interests of the politicians themselves. One opposition MP described the takeover as ‘a good idea but the intentions are suspect’; and this indeed could be its undoing. In seeking to substantially expand the amount of land that would be owned and controlled by the council, the Bill has only reinforced the idea that the NRM aims to gain control of more of Buganda’s land by whatever means. Moreover if, as has arguably been the case with decentralisation and land reform, the formal institutional change that would occur if the Bill were implemented simply provides a smokescreen behind which informal institutions continue to operate unchecked – often in direct contradiction to laws and regulations put in place to improve city governance – then the prospects for positive transformation in Kampala in the near future look limited indeed.

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