

Land-based commons for housing and the inclusive city. A comparative approach

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Abstract

Urban land for housing issues in the Global South are more severe than ever. The rapid urban transition in emerging and developing countries results in a considerable and growing weight of precarious housing, in term of hazardous/inappropriate sites, legal status and construction qualities. Indeed, freehold land ownership, as defined by the Civil Code, and the land market to which it is linked, reinforce inequalities and is inaccessible to many urban dwellers. Then, vulnerable urban dwellers have no other option than accessing land through informal channel, being then under the threat of eviction by both public authorities and the market. No market-based approach (land sharing nor affordable housing or public housing) has proved able to significantly reduce the spread of slum condition. In parallel, time is at a massive dismantling of commons under the pressure of land commodification and environmental enclosures. The global urban sprawl is a major factor explaining the disappearance of commons. Within cities, a more commercial management of municipal public goods increase the trend.

Our research program questions where and under which socio-political conditions alternative forms to private individualisation of property (titling and subdivision of land) are implemented to popular demand for housing and/or upgrading of existing precarious neighbourhoods. We use a commons perspective on land issues, giving priority to land use above land ownership, and to general interested prior to private interest of land owner, and preventing speculation.

This paper presents preliminary results of our research programme on land-based urban commons for housing in the Global South, supported by the French Development Agency (2017-2019). In this research, urban land-based commons designate a range of situations where possession of a piece of land has a collective dimension and where land-use rights are organized, at least partially, by the community. They represent alternatives to individual private property and are considered as a mean of realizing the “social function of land”, namely a distribution of, and access to, land for purposes of housing for all.

This research is based on several case studies in the Global South, conducted by local researchers: housing cooperatives in Burkina Faso, Community Land Trust-CLT in Kenya, collective land regularization processes in India, collective positive acquisition processes in Brazil, evolution of *ejidos* in Mexico, traditional land-based commons in New Caledonia, and housing cooperatives in Uruguay.

In this paper, we present preliminary results. First, we highlight the diversity of land-based urban commons for housing, showing what is put in common – or not – within the housing development process. Second, we examine to what extent the land-based commons for housing contribute to fulfill the social function of land on an individual level (need for affordability, security of tenure, and participation). Third, we analyze issues of scale and reproduction in time and space.

Keywords

land-based commons, urban commons, land, housing, inclusive city, right to the city, cooperative

Land-based commons for housing and the inclusive city. A comparative approach

Urban land for housing issues in the Global South are more severe than ever. The rapid urban transition in emerging and developing countries results in a considerable and growing weight of precarious housing, in term of hazardous/inappropriate sites, legal status and construction qualities. A large proportion of urban dwellers in the Global South live in low-income neighborhoods. They are vulnerable due to socioeconomic reasons, but also because of land tenure issues. Indeed, freehold land ownership, as defined by the Civil Code, and the land market to which it is linked, reinforce inequalities and is inaccessible to many urban dwellers. Then, vulnerable urban dwellers have no other option than accessing land through informal channel, being then under the threat of eviction by both public authorities and the market. No market-based approach (land sharing nor affordable housing or public housing) has proved able to significantly reduce the spread of slum condition.

In parallel, time is at a massive dismantling of commons under the pressure of land commodification and environmental enclosures. The global urban sprawl is a major factor explaining the disappearance of commons. Within cities, a more commercial management of municipal public goods increase the trend.

Our research program¹ aims at contributing to the debate on land and housing in the Global South, with a focus on the commons. Here we question more precisely where and under which socio-political conditions alternative forms to private individualisation of property (titling and subdivision of land) are implemented to popular demand for housing and/or upgrading of existing precarious neighbourhoods? How far are they able to neutralise the burden of land cost and rent pressure that push for further commodification of urban soil and hence to segregation?

The concept of commons is gaining a considerable attention, so that it is defined in many ways. As preliminary definitions we would like to clarify that commons are not equal to “common goods”:

- Commons as being made up of three imbricated realms: a resource, a user community, and rules for managing the resource (Helfrich et al., 2009);
- Commons are practices rather than goods: commoning processes and institutions are key.

This paper aims at presenting our ongoing research programme. In a first part, we clarify the conceptual framework that supports our work, and that allows to situate it within the abundant literature on commons and urban commons. The second part is dedicated to the methodological framework and to a brief presentation of case studies. Lastly, we provide a preliminary analysis and discussion of the case studies.

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1. Conceptual framework – land-based commons for housing

The current “commons movement”

The concept of “commons” is drawing increasing attention, both among urban activists and in the academic field. For Laval (2016), this current commons movement synthesizes three recent trends². To begin with, the work of the Nobel Prize Elinor Ostrom has drawn a considerable academic attention in the field of economics on governance of common pool resources³. Elinor Ostrom has demonstrated that, unlike the “tragedy of the commons” theory disseminated by Garrett Hardin, local arrangements were viable enough to ensure the preservation of common pool resources in the long-run⁴. This seminal work has fostered academic research on local governance arrangements. Following this work, further research was then conducted at a larger scale on governance of global goods (air, climate, etc.).

A second channel locates itself in the field of knowledge economy. Information and communication technologies have fostered both the possibilities of enclosure of knowledge, and efforts to prevent it (Hess, 2011). New informational commons, as for instance open-source software or Wikipedia, have thus arisen since the end of the 20th century, with new issues at stake (Hess and Ostrom, 2007)

The third channel is tightly linked to a criticism of capitalism and its effect, both by scholars and activists. They strive to elaborate an alternative political experience and life, not strictly shaped by the market and the state (for example Linebaugh, 2008, Dardot and Laval, 2014, Coriat, 2015). In this category one can put anti-globalisation social movements and ecological activism, and “urban commoning” movement illustrated by occupation of public spaces in many countries (Occupy movement in the USA and Europe, Arab Springs, etc.). Laval (2016) argues that occupation, as opposed to demonstration, represents a new way of contesting established order and offers the possibility to experiment direct democracy at the local level.

These three trends, concerning very different sectors and emanating from various stakeholders, converge on the opposition to current enclosures, which are imposed by capitalistic globalization and expand on all aspects of modern life (knowledge, seeds, public space, etc.). They suggest alternative (bottom-up) ways to organize social life and collective action, different – however not completely disconnected – from the State or the Market. Two basic principles prevail in these multiple initiatives (and form a preliminary definition of the commons as an institution): co-participation to decisions and shared use of goods. Cooperation, coproduction of goods and the primacy of use rights and use value over private ownership and commercial value are also key claims (Laval et al., 2019, p. 8).

² Huron (2017: 1063) identifies two categories of research on the commons: scholars who study common pool resource, examining how social groups/communities collectively manage those resources outside imperatives of both the market and the state – for example Ostrom; and *those who study capitalism and its effects, and are interested in the commons as a larger collective political experience, and as a way out of a life defined strictly by the market and the state (see for example Linebaugh, 2008).*

³ Common pool resources examined by Ostrom are natural resources that are rivalrous (that the use of these resources by one person diminishes what is left for others to use) and characterized by a difficulty to exclude potential beneficiaries, such as fisheries, groundwater basins, irrigation systems, etc.

⁴ She has then identified eight design principles of sustainable local common pool resources management: i) clearly defined limits, ii) The appropriation and provision of common pool resources are adapted to local conditions; iii) Collective-choice arrangements allow most resource appropriators to participate in the decision-making process; iv) Effective monitoring by monitors who are part of or accountable to the appropriators; v) A scale of graduated sanctions for resource appropriators who violate community rules; vi) Mechanisms of conflict resolution are cheap and of easy access; vii) Self-determination of the community recognized by higher-level authorities; and viii) in the case of larger common-pool resources, organization in the form of multiple layers of nested enterprises, with small local CPRs at the base level.

At this point, one should note that this commons movement is not oriented towards the defense of ancient institutions, such as medieval commons, which were part of an extremely inegalitarian system that kept peasants in a dominated position. What emerges today through the commons movement is rather new, directly connected to contemporary features of our global society such as: capitalistic globalization, digital technologies, and the burdens of the current economic growth model that becomes apparent with, among other phenomena, climate change, the ecological crisis and growing inequalities. The “commons movement”, as defined by Dardot and Laval (2014), is a political paradigm encompassing a revolutionary potential.

Simultaneously what could be named “commons studies” seems to emerge—and the present IASC conference participates to this emergence. They offer a reflexive dimension to the movement and assemble the efforts to understand the changes produced and foresee ways forward (Laval et al., 2019).

Urban land-based commons for housing: a theoretical approach

Urban commons and the issue of housing

Authors highlight that the urban setting offers particular conditions that distinguish “urban commons” from “classical” commons such as common pool resources (Kornberger and Borch, 2015, Dellenbaugh et al., 2015, Huron, 2017): diversity, density, and relationality: *“the value of the land and buildings is a function of the activity of people: only through their interactions the city becomes a city* (Kornberger and Borch, 2015, p. 7). Referring to Ebenezer Howard, Kornberger and Borch (2015, p. 7) highlight that:

Howard’s theory of value is a theory of the urban commons: value is the corollary of proximity and density which are both relational concepts (...). In the city, the commons are an inherently relational phenomenon.

As a consequence, a key feature of urban commons is that they are not rival goods that diminish with their usage. *“Rather, the use or consumption of a city adds to the commons itself”* (Kornberger and Borch, 2015, p. 1)⁵. The free-riding problem, central to Ostrom and Hardin work, is not that consistent in cities. What is central is that urban value is to whom belong urban value: whereas urban value legitimately belongs to their producers (urbanites / city dwellers), it flows to land owners, according to our current system based on private land ownership and land market (Huron, 2017, Harvey, 2012).

Besides, another key difference lies in the features of urban “communities” compared to traditional communities. Urban “communities” are fluent, not strictly defined as traditional or ethnic communities but relies on contractual basis (Ostrom, 1990), and can incorporate any volunteer users⁶ (Huron, 2017, p. 1065) :

Maybe this is what is urban about the urban commons: this attention to the needs of as-yet-unknown members, and a willingness to keep boundaries somewhat porous. There may also be a social fluidity to membership that sets the urban commons apart from commons as traditionally understood.

Thus, the “urban commoning” movement is oriented toward the preservation and enhancement of this urban value, and ways to let urban dwellers benefit from it. Diverse initiatives are labeled as

⁵ Cf. work on informational commons

⁶ However, it is noteworthy that indigenous communities in the USA, Canada, and Australia, have obtained rights to reside in cities based on ancient community land rights (see: BLOMLEY, N. 2004. *Unsettling the city. Urban land and the politics of property* New York, Routledge.

urban commons or commoning: local direct democracy experiments, local currency, occupation of public spaces, squares and vacant buildings, etc. Following the notion of Right to the City⁷ (Lefebvre, 1968), this movement offers a new political contract, a proactive culture of citizenship, a reciprocity-based exchange value system (Ramos, 2016). Finally, it invites to reconsider both the notion of common goods and public space, whereas one can widely observe privatization of public space and public services in a perspective of better financial management (Ramos, 2016, Helfrich et al., 2009).

It is nevertheless important to consider this so-labeled “urban commons”/commoning movement with caution: conventional stakeholders such as public authorities and real estate developers might use these enthusiastic initiatives and their tools for conventional metropolitan development, with gentrification as the final result, as Desgoutte (2019) shows in his research on urban wasteland and third places in France. Beside this wide question of articulation between commons and public spaces that interrogates the scale of management of commons goods and the direct participation of inhabitants, the commons question a basic feature of cities: housing.

Housing is instrumental in urban commons. Housing is a necessity: it is recognized as a human right by the United Nations⁸. It is also a key asset in a context of vulnerability: it provides a shelter, but is also the base for economic activities, social networks, neighborhood solidarity (Moser, 1998). Besides, since housing is based on land, it is highly subject to speculation and market mechanisms in general. As Bernard and Thys (2014) put it, to fulfill the right to decent housing, one should thing rethink property rights through the lens of usage value.

Defining a commons approach to urban land property

The issue of land property is indeed central to this debate. Freehold land ownership, as defined by the Civil Code, and the land market to which it is linked, reinforce inequalities and allow land owners to benefit from a land rent that seems unfair to many authors (Attard, 2013). From a commons perspective, a rights-based approach to land should be fostered: it gives priority to land use above land ownership, and to general interested prior to private interest of land owner; it highlights the rights at stake (Right to the city, right to adequate housing, right to land security) and promotes the primacy of the social function of land and property (Mathivet, 2014). This last concept defines property rights as “a tool aimed at specific goals rather than as a strictly selfish prerogative” (Bernard and Thys, 2014).

Thus, property in itself, anchored in many national institutions of the modern global world and so largely widespread in urban settings, is not to be deleted or abandoned (anyway an impossible task). The commons approach rather claims property to be subordinated to general social and political principles (Laval et al., 2019) - in that case here, subordinated to the principle of housing for all (social function of land and property).

⁷ Quoting Foster et Iain, RAMOS, J. M. (ed.) 2016. *The City as Commons: A Policy Reader*, Melbourne: The Commons Transition Coalition. writes: « *the commons claim is importantly aligned with the idea behind the “right to the city”—the right to be part of the creation of the city, the right to be part of the decision-making processes shaping the lives of city inhabitants, and the power of inhabitants to shape decisions about the collective resource in which we all have a stake* ».

⁸ Adequate housing is considered a component of the right to an adequate standard of living, and on the right to non-discrimination in this context. See ROLNIK, R. 2013. Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context. United Nations General Assembly..

A contribution to urban land issues in the Global South

On one side, urban studies on the Global South have demonstrated that the hard living conditions of many urban dwellers are related to urban land issues. To put it simply, informal settlements develop because the land ownership system and the financial valorization of it create exclusion. On the other side, commons studies provide new avenues for thinking land property, through the notion of the social function of land and property. Astonishingly, as Huron puts it, the Global South has a very little place in urban commons studies, whereas it is this is where the majority of urban growth actually happens.

Our research aims at tackling the urban land problem in the Global South through the “commons lens”. In that perspective, we study urban land-based commons for housing in the Global South that we define as situations in which land is held in common and rights to access, use and transfer land are granted to a community. We also include practices of “commoning” concerning land rights, such as collective struggles for securing land occupation, even if they result in access to individual rights, leases or titles. We explore their contribution to an inclusive city, on a socioeconomic, a spatial, and a political level, and to the fulfillment of the social function of land and property.

2. Methodological framework and case studies

Three steps structure this research. A desk-based literature review about urban land issues and the commons supports the framing of the research question (Simonneau, 2018a). Then, we coordinate a series of case studies conducted by local researchers in each country⁹. Currently in the final phase of the process, we are developing a transversal analysis of the case studies’ results.

The case studies have been selected according to two principles: innovation and feasibility. First, whereas many traditional land-based commons are disappearing nowadays (see previous section), we took a “positive” perspective on this issue, looking at innovation oriented toward fulfilling the social function of urban land. By this we do not assume that all the case we are studying are successful in fulfilling the social function of urban land, but we intend to explore to what extent they are effectively an alternative. Second, as the research had to be conducted on a short duration and in the whole Global South, we needed to organize efficient collaboration with national researchers, where minimum information was available and access to the field for an independent inquiry was possible in the short-term. Therefore, the pool of case studies is not a representative one, and we are aware that further case studies should be developed to encompass other contexts and experiments.

In total, our preliminary analysis is based on eight case studies (five in the framework of the AFD research program, two as part of a collaboration with Science Po Paris, and one as part of a master’s thesis at the University Paris 1). They are presented in the following table:

⁹ We thank the following colleagues, with which we had the pleasure to collaborate on that occasion: Issa Sory in Burkina Faso (University of Koudougou), Emmanuel Midheme in Kenya (University of Kisumu), Benjamin Solomon and Bhuvanawari Raman in India (Indian Institute for Human Settlements), Rafael Soares Gonçalves in Brazil (PUC Rio). Besides, we supervise works of students from University Paris 1 and Sciences Po Paris; these works add up to the pool of case studies.

| Case study | City, Country | Main characteristics (definition) | Dynamic under process |
|---------------------------------|---------------------------------------|--|---|
| Community Land Trust | Voi, Kenya | A Community Land Trust (CLT) can be defined as “a not-for-profit community-controlled organization that owns, develops and manages local assets for the benefit of the local community. Its objective is to acquire land and property and hold it in trust for the benefit of a defined locality or community in perpetuity” (Diacon, Clarke and al., quoted in Cabannes, 2013). While statutory definitions of CLT differ depending on the country, the defining characteristic of a CLT is the fact that the property is divided into two parts: land on the one side, and improvements on the other side. The first belongs to the Trust, the second belong to the inhabitants (Davis (Davis, 2010), 2010). | The CLT in Voi was created as part of a slum upgrading project financed by the German cooperation. It does still exist now, however with a fragile communities (no regular meetings, rules are not enforced, distrust within residents and their elected committee) |
| Housing cooperatives | Ouagadougou, Burkina Faso | The national law makes provision for developing housing cooperatives in the country since 2008 within the law on real estate development, but does not provide details on cooperatives creation and development. | Only one housing cooperative exists in Ouagadougou (another one exists in the Gulmu region), with 600 members, approximately 100 houses built or under construction. 42 households from the cooperative have already got access to a house in the periphery of Ouagadougou, through to a lease-purchase system. |
| Mutual aid housing cooperatives | Montevideo (and other cities) Uruguay | The national law makes provision for developing housing cooperatives in the country since 1968. They are defined by three pillars (Folléas, 2012): <ul style="list-style-type: none"> - collective and indivisible ownership: land and improvements (buildings) are collectively owned by the members of the cooperative, and the shareholders have use rights; - mutual aid for building through the joint effort of every beneficiary family (21 hours of work per week per family) | There are today 390 mutual aid housing cooperatives in the country, benefiting 20,000 households and 70,000 people. The system is still vivid, and the national federation of mutual aid housing cooperatives (FUCVAM) is contributing to disseminate the model. |

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|--|------------------------|--|--|
| | | <ul style="list-style-type: none"> - self-management: the cooperative allocates resources (including a public subsidy) and manages all aspects of the project, without intermediaries | |
| Commoning practices for reclaiming land | Bangalore, India | <p>Three categories of sites are included:</p> <ul style="list-style-type: none"> - ‘Akraka-Sakrama’ (AS) used in mostly central city locations of low and middle mixed-use residential neighborhood - Occupancy Certificate (OC) procedures for relatively upscale apartment complexes in what was a decade back Bangalore’s outer regions now incorporated into its urban administrative boundary - conversion of wetlands into settlement built-up through the Akrama-Sakrama provision in outside the metropolitan Bangalore limits | These collective struggles for land create political space defined by property relations. The cases generally lead to individual land rights. |
| Collective acquisitive prescription (usucapio) | Rio de Janeiro, Brazil | Positive or acquisitive prescription (also known as usucapion) refers to the possibility of becoming the owner of a property following a long period of (often illegal) occupancy on a continuous and non-conflictual basis. In Brazil, the City Statute of 2001 enables the lowest-income households to obtain the right to collective ownership in occupied areas where it is difficult to identify individual land parcels. In that case, all members of the group are considered to be co-owners of a single, indivisible property. | This provision is very rarely applied on the ground, due to practical reasons (access to information) and a lack of legitimacy. |
| Environmental urban commons under rehabilitation | Nagpur, India | Public authorities from Nagpur aim at reinforcing the city’s resilience to environmental and climate challenges, through the rehabilitation of the local ecosystem of the river banks and the development of benefits for city dwellers. A legislative provision that defines a buffer zone of 15 meters on each side of the river – called a non-development zone in | The rehabilitation of Nag River banks is under process. It has to deal with two contradictory issues: environmental commons preservation and unauthorized occupation of the river banks. |

| | | | |
|---|-------------------------------|---|--|
| | | urban planning documents. The land issue is one of the main challenges of this rehabilitation project: it affects 50 hectares, some are public, institutional, or private land. Some pieces of land are occupied (around 1200 buildings, including 1000 dwellings). | |
| Urban development on traditional land-based commons | Diverse cities, New Caledonia | According to traditional (kanak) land-based commons, land is inalienable and non-transferable ¹⁰ . | Kanak communities start to valorize and development their land through three ways: - housing construction for the community - partnership with social housing institutions in a perspective of rental income - economic development projects |
| <i>Ejidos</i> | Mexico City, Mexico | <i>Ejidos</i> are areas of communal land for agriculture. Farmers have individual use rights on their parcel, and maintain together | <i>ejidos</i> system dates from the Zapata revolution. Since 1992, <i>ejidos</i> can be privatized and sold. <i>Ejidal</i> land are particularly valued by developers for social housing construction at the outskirts of Mexico city since they are quite affordable compared to the rest of the agglomeration. |

Table 1 – Case studies

Author: C. Simonneau

¹⁰ “4i” rules in French: inaliénables, insaisissables, incommutables, incessibles.

3. Preliminary results and discussion

In the following section, we deliver preliminary transversal analysis of the case studies. Since some of the fieldworks are still under process, this should be considered a tentative analysis. Firstly, we examine the pool of case studies to highlight its diversity and the polysemy of the notion of “commons”. Secondly, we show to what extent, within the situations that are examined, the social function of land and property is fulfilled, according to the threefold grid suggested by Nicolas Bernard. Thirdly, we add another scale to this grid, wondering whether and how land-based commons could tackle the territorial dimension of the housing issue.

What is “in common” in land-based commons for housing? Comments on the diversity of case studies

The pool of case studies briefly presented above represent very diverse situations. They represent dynamic processes so that none of them accurately correspond to the ideal definition of land-based commons for housing we have adopted. Some cases show traditional or old commons that evolve remarkably: in New Caledonia, communities broaden the panel of land uses and adapt customary rules to the needs of urban development. In Mexico, the *ejidos* system is gradually dismantling under the pressure of land market forces reinforced by ambitious social housing (*vivienda de interés social*) policies. Other commons for housing are currently emerging or are at the stage of innovation or trial. The Kenyan CLT, dating from the 1990 decade, is nevertheless still unique in the country. Housing cooperatives in Burkina Faso seem to be at their beginnings: a national law does exist, but the government has not formulated decrees on how to enforce it, nor enforcement guides for stakeholders. Other cases are purely “commoning” processes (so dynamic rather than static), which can end to the dismantling of the land-based commons: this is the case in Bangalore, where urban dwellers collectively mobilized for the recognition of their land occupation on an individual base.

Besides, one can draw a continuum among the cases regarding what is put “in common”. In that perspective, we distinguish in the following figure the different steps of housing development (more or less linear process in reality) that can be collectively managed or decided.

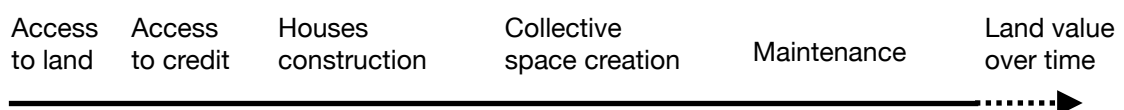


Figure 1 – Steps of housing development that might be put in common

Author: C. Simonneau

For the sole case of cooperatives, Miralles Buil (2017) theoretically distinguishes three categories: (i) housing cooperatives, (ii) houses cooperatives, and (iii) cooperative neighborhood. In the first case, the whole process is in common (from access to land to collective space and infrastructure creation and maintenance): the housing cooperative represents a choice to share a life choice. In the second case, the collective dimension concerns only land and housing access. Once each household has obtained its good, the group is dissolved, and houses are generally owned on a private basis (individual full ownership): the collective is considered more an opportunity gain access to key assets than a

deliberate lifestyle. In the last case, land and houses are privately owned, but neighbors decide to create and maintain common spaces or activities together.

Our case studies illustrate that point: Uruguayan cooperatives and CLTs put all these steps in common., Even the land value increase over time is locked in the community (or the greater share of it). In Burkina Faso, what we observe correspond to “houses cooperatives”: what is collective here concerns only access (to land and houses) issues.

Fulfilling social needs: right of decent housing for the urban poor

We structure this subsection around three social needs identified by Bernard (2016)¹¹ in his reflection on social function of urban land: affordability, security of tenure, and participation.

Affordability

This is a crucial need in a context of high urban land pressure: land and housing should be at a reasonable price to allow even low-income households to settle in a decent home. In the case studies, one can highlight different tools to control prices at least upon construction/access. In the Uruguayan cooperatives system, 15% of the total price of the house is paid in nature through mutual aid (amount of work to build houses and create collective space and infrastructure). Nevertheless, both the Uruguayan and the Burkinabé systems of cooperatives relies on mortgage loan. As a consequence, only households with a steady income can apply. One should notice that in Uruguay, the cooperative as a group borrow the money to the national housing bank. Thus, households with a low income that could not pretend to an individual loan can benefit from it once involved in a cooperative.

In the CLT system, land is provided by the Trust (in the Kenyan case, given by the parastatal agencies that possessed the land on which an informal settlement was located), so that the overall price of housing is considerably lowered: it represents only the price of improvements (buildings). Moreover, the CLT encompasses rules to keep affordability over time (see below: reproduction in time).

Security of tenure

Over the long run, security of tenure, i.e. the guarantee not to be evicted or removed by public authorities or private stakeholders, should be ensured. This is a key component of decent housing, as defined by the United Nations (Rolnik, 2013). In general, security of tenure is provided by a combination of collective and individual rights (Simonneau and Salenson, 2017). A block of land is owned by a group or a collective institution (a cooperative, a Trust, a community- based organization), but individuals or households possess use rights. Then, some variations exist regarding house tenure.

The following table compares the most significant cases regarding tenure:

| | Holder of the block of land | Tenure of the block of land | Individual land tenure | Housing tenure status |
|---|------------------------------------|------------------------------------|---|------------------------------|
| CLT (Kenya) | Trust | Lease or land title | Sublease | Full ownership |
| Houses cooperatives (Burkina Faso) | Cooperative | “mother” land title | Contract for a lease-purchase, provision for reclaiming individual land title | ownership |

¹¹ He calls these criteria the « 3 P » in French: Prix, Pérennité, Participation.

| | | | | |
|---|--------------------------|-----------------------|--------------------------------------|---------------------------|
| Mutual aid housing cooperative (Uruguay) | Cooperative | Land title | Cooperative share | Use right |
| Collective acquisitive prescription (Brazil) | The community as a group | Collective land title | Co-owners of an indivisible property | <i>de facto</i> ownership |

Table 2 - Land and housing tenure

Author: C. Simonneau

Participation

Then, Nicolas Bernard identifies the need to master one’s domain as a critical human need. This is also a key theme of current urban commoning movement claiming direct participation to decisions and direct democratic regulation of housing. The case studies offer contrasted results regarding participation.

On the one hand, one can find situations where dwellers are fully committed to the design of their house and neighborhood through collective processes, as for instance in Uruguayan cooperatives and in the CLT (at its beginning), or in the Kanak land development process. However, as suggested by Miralles Buil (2017) and Devaux (2015), the level of participation can vary depending on which aspects of housing (as a verb) is put in common. Hence, on the other hand, one can find situations where dwellers participation is limited to one step of the process: in Ouagadougou, construction site supervision seems to be the only task realized by the residents themselves (most of them are working in the building sector). Lastly, in some cases (Indian cases, Brazil) the collective participation concerns the process of reclaiming land rights with no collective control on the built environment.

These three important needs relate to the individual/household level. We also deem important to add the territorial level.

Tackling territorial issues: reproduction in time and space

Together, the case studies highlight that urban land-based commons for housing are mainly (micro) local initiatives: for example, in Ouagadougou (2,2 millions of inhabitants), the only housing cooperative that exists have produced less than 100 dwellings for now. In Rio de Janeiro (6,5 millions of inhabitants), we focus on a case concerning less than 30 households. This micro scale applies also to housing cooperatives in Europe (Debuigne and Thys, 2008, Devaux, 2015), but this is particularly problematic considering the huge needs for decent housing in the Global South. However, whereas we do not observe wide land-based commons, we found out reproduction processes in time and space.

First, a key issue is the preservation and transmission of the commons after the first generation of inhabitants who formed a “community”. The Community Land Trust model makes provision for the land value to be “locked” within the community through a resale formula enclosing an anti-speculative clause, so that land and housing remain affordable along time. However, it is unclear if the Kenyan CLT has succeeded in this, since informal commercial sales have been reported. In the case of the cooperatives in Burkina Faso, since households hold the ownership of land and building after the end of the construction process and the debt repayment, there is no provision for preserving the land-based commons (in that case: access to land for free) over the long-run, for future generation. In the Uruguayan cooperatives, land and improvements belong to the cooperatives but each family has the legal right to use its home and to pass it down through to their children. When a household leaves the cooperative, this use right gets back to the community, which then chooses the next household to

benefit from it. However, gentrification process is also a risk that is pointed out by Cabannes (2013): since the cost of a house encompasses the social capital value (i.e. the value of the number of hours worked during the construction, the social charges that would have been paid if the work had been done by a contracted worker, and the repaid amount of the loan, if any), the new comer needs to pay upfront what the one who leaves has paid over a long period of time. IN New Caledonia, customary land is simply inalienable – it is not allowed to sell it- so that it is literally kept out of the market and speculative forces. Lastly, among the case studies we can identify a few cases where the commons are in a process of dismantling in favor of individual property: this is the case of the *ejidos* system in Mexico.

The issue of reproduction of the model in time is represented in the following figure:

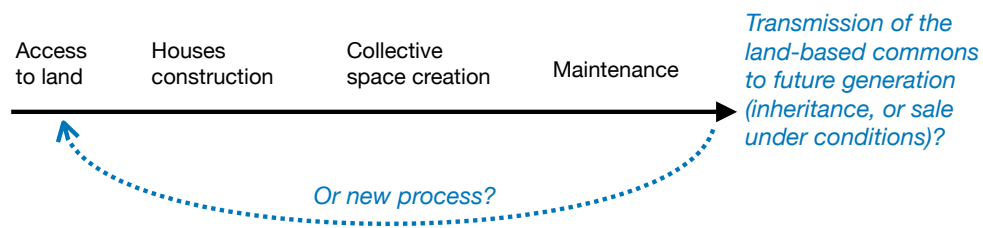


Figure 2 – Reproduction in time of land-based commons

Author: C. Simonneau

After the whole process of building housing and neighborhood, to what extent speculative mechanisms are controlled?

A second issue concerns upscaling and the spatial diffusion of such practices. Examining these case studies led us to analysis intermediate stakeholders such as NGO federations and key experts. They are instrumental in practices exchanges, and, through this, they contribute to the international diffusion of such initiatives (Simonneau, 2018b). Many examples illustrate this: the diffusion of CLT in Kenya has been facilitated by the Ford Foundation, who funded a feasibility study in 1991 conducted by two US experts. Then, the development of CLTs in Europe is also the fact of networks, notably through the World Habitat Award or the Lincoln Institute for Land Policy.

Last but not least, local initiatives contribute to change overarching paradigms of land and housing policies at national and international levels. For instance, collective forms of tenure are now clearly stated as means for the realization of the right to decent housing in United Nations reports (Rolnik, 2013). The Article 107 of the New Urban Agenda adopted in Quito in October 2016 states (we underline):

We will encourage developing policies, tools, mechanisms, and financing models that promote access to a wide range of affordable, sustainable housing options including rental and other tenure options, as well as cooperative solutions such as co-housing, community land trust, and other forms of collective tenure, that would address the evolving needs of persons and communities, in order to improve the supply of housing, especially for low-income groups and to prevent segregation and arbitrary forced evictions and displacements, to provide dignified and adequate re-allocation. This will include support to incremental housing and self-build schemes, with special attention to slums and informal settlements upgrading programmes.

In Uruguay, the first pilot housing cooperatives experiments led to a national law. Reversely, favorable national law like in Burkina did not lead to a booming of projects on the ground. In Kenya

the link is less evident: much after Voi experience the land law (2012 revised 2018) takes into account common and joint tenancy, but did not boost the replication of the CLT model in slum upgrading.

4. Conclusion

This paper intended to present a research (in progress) on urban land-based commons for housing in the Global South. In a first part, we have developed a theoretical framework, through a literature review on the notions of commons, urban commons and housing. Our theoretical framework defines as situations in which land is held in common and rights to access, use and transfer land are granted to a community. We also include practices of “commoning” concerning land rights. We ask whether and how land-based commons for housing fulfill the social function of land and housing.

The second part is dedicated to present our methodology, based on a desk-based review, and case studies conducted by local researchers in cities of the Global South. Our work relies in eight case studies that are briefly exposed.

The third part provides a preliminary analysis of our data. First, we show how diverse the cases are, reflecting the polysemy of the notion of “commons”. Therefore, the case studies can be organized along a continuum, according to which step(s) of housing development is(are) put in common. Then, we evaluate to what extent the cases fulfill social needs regarding urban land at an individual level (affordability, security of tenure, and participation), and at a territorial level

Finally, this preliminary analysis highlights that interesting legal and/or legitimate provisions do exist to promote access to decent housing for the urban poor and prevent speculation and exclusion over time. These initiatives gain a growing international attention, from the United Nations organization notably. However, on the ground they are rarely fully implemented, still offering interesting avenues for the fulfillment of the social function of land and housing.

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