Securing Land Tenure in Egypt: Who Needs Registered Titles?

David Sims

David Sims challenges popular wisdom on property-rights regimes in non-Western nations by questioning the relevance of formal property titling for poor urban households in Egypt, where informal and semi-formal solutions provide the majority of households with surprisingly secure forms of possession. In light of this—and in the absence of a strong national state—can something as complex and culturally idiosyncratic as property relations be objectified as a development problem in need of a technocratic fix?

Today in Egypt, well over 50% of urban inhabitants (70% in Greater Cairo) live in informal and slum areas,[1] where almost all poor and low-income families can be found, and where practically no one has a registered title to either their housing unit or the land on which they live. To what extent does this lack of property titles compromise low-income Egyptians' basic security, legitimacy as citizens, access to services, or ability to sell properties at market values? In other words, is a lack of titling shutting the poor out of the "inclusive city"?
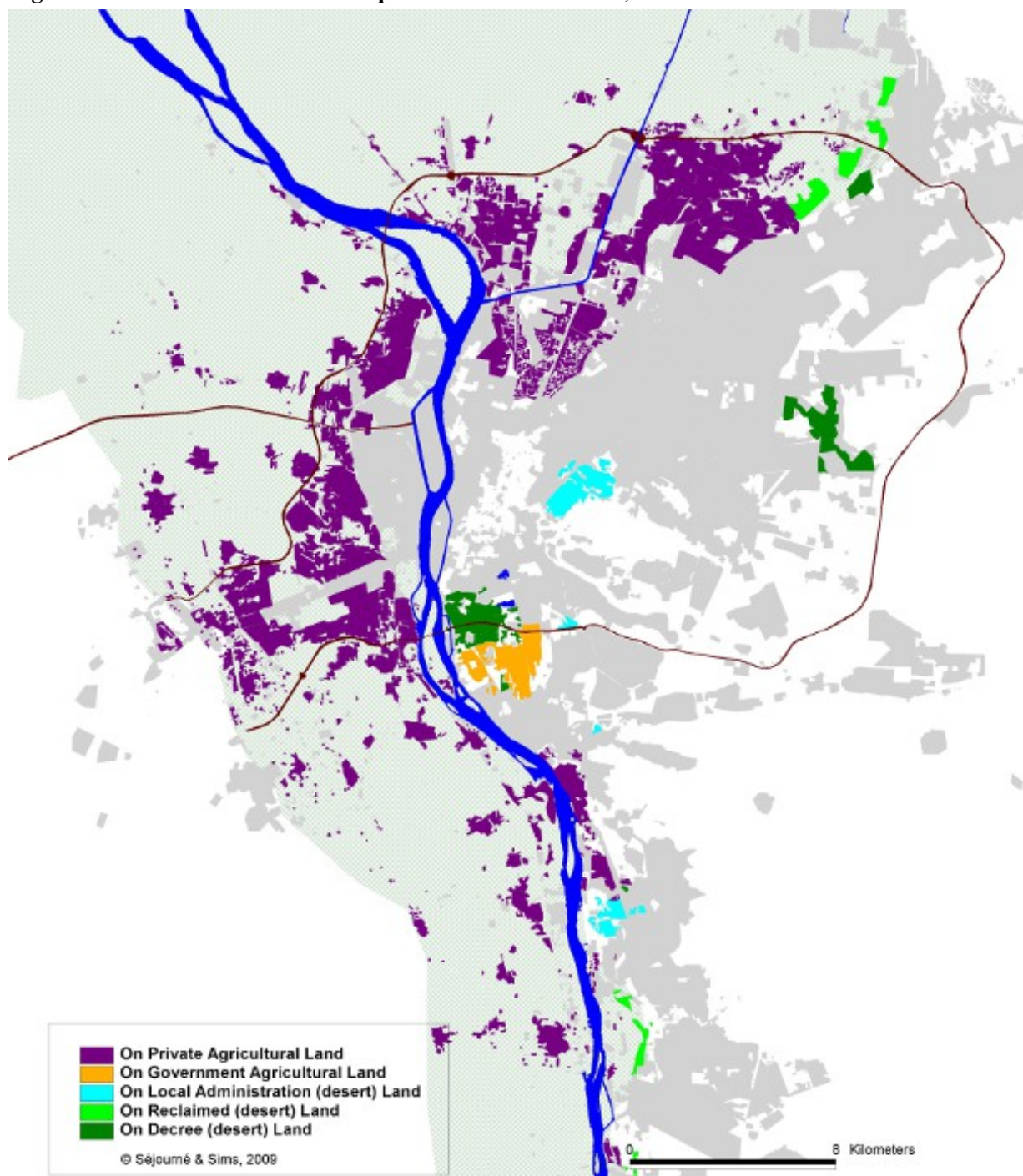
The short answer is: Not at all. In informal areas, arbitrary evictions by the state are almost unknown, aside from isolated cases of infrastructure development (Deboulet 2010) and government posturing.

Forced property possession by criminal cartels or conniving lawyers is, likewise, extremely rare. Basic citizen rights (to education, to health services, to vote, and to consumption subsidies) are unrelated to residential status; almost all informal housing units have utility connections (at least, as long as networks exist in the neighborhood); and individual units or whole buildings can easily be bought, sold, rented, inherited or otherwise traded on the open market. On the other side of the coin, property owners are assessed for annual taxes under the recently imposed real-estate tax regime, whether they have registered titles or not.

How did this situation of reasonably good tenure for the urban poor come to be? As the following paragraphs show, it was not due to enlightened government policies, nor to the application of intermediate forms of tenure conferred through the importation of international policy models. Rather, Egyptians themselves, from all walks of life, have found alternative semi-formal and informal means to have property tenure recognized and traded.

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[1] By informal areas, we mean neighborhoods and settlements in Egyptian cities and periurban areas where housing is constructed without building permits on land where (a) construction is prohibited, or (b) subdivision plans have not been approved. Slum areas, where people live in degraded and precarious housing, are very rare in urban Egypt. See also Sims 2012 [2010], in particular Chapters 3 and 4.

Figure 1. Tenure of informal development in Greater Cairo, 2000

On Private Agricultural Land
On Government Agricultural Land
On Local Administration (desert) Land
On Reclaimed (desert) Land
On Decree (desert) Land

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0   8 Kilometers

A complex property registration system

From 1897 through the 1920s, most rural lands in Egypt were surveyed and mapped by the British colonial regime, and a cadastral registration system was set up. From 1923 through 1940, cadastral mapping of most of Cairo's urban properties was carried out. Upon independence from Britain, two laws were issued (1946 and 1964) that set out the legislative framework for the current property registration system in Egypt. The first, Deed Law 114 (*al-sigil al-shukhsi*) set up the notary deed system (based on individual ownership), which covers most of Egypt. The second, Title Law 142 (*al-sigil al-'aini*), enabled property registrations based on the property itself, rather than on the land occupied, although this system has never seen its coverage extend beyond a few rural districts. The Ministry of Justice manages property registration through its Shahr al-'Aqari offices

located throughout Egypt, and the Egyptian Survey Authority carries out property surveying and inspection. The latter is also supposed to maintain the cadastral mapping system.

The registration of all private immovable property in Egypt is required under this legislative and institutional framework in order to be considered legally owned. Indeed, there are penalties on the books for non-registration, but these are never applied. The bureaucratic and clerical requirements of the property registration system are cumbersome and complicated, labyrinthine even, and bribes at the Shahr al-'Aqari offices as well as at the Survey Authority are quite routine.[2] In order for a property transaction to be registered, a clear chain of titles from the last time the property was entered into the registry—usually when it had been part of a larger agricultural parcel—is required.[3] For most properties in informal urban areas, and even for most formal properties, establishing this chain, which usually goes back decades, is simply impossible. In 2005, a large USAID technical assistance project began, aimed in part at improving property registration for mortgage purposes, and an early finding was that the registry system was hopelessly flawed. One report summarized the situation as follows: "The current condition of Egypt's real-property registration system can best be described as onerous and complex for applicants, vastly underutilized, excessively bureaucratic and complex, misunderstood and unpopular with the public, and incapable in [its] current form of promoting a real-estate mortgage finance market" (Menelaws 2005).

Figure 2. Agricultural land under informal conversion, North Giza, 2011

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The result has been that very few owners bother adhering to the property registration regime and, over the decades, the system has become less and less relevant. For example, a study by the Institute for Liberty and Democracy (ILD, an organization founded by property-rights dogmatist Hernando de Soto) estimated that, of a total of some 4.5 million dwelling units in Cairo existing in 1996, a full 70% were informal and unregistered. Only 27% could be considered formal, and of these only a

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2   Until recently, those wishing to register a property transfer also had to pay a hefty official fee of 6% of the declared value, but this amount was reduced to a small flat fee in 2006.

3   In Egypt, over 90% of informal settlements are built on what had been private agricultural land, and only about 10% are the result of squatting on state land, most of which was desert.

fraction had had their registration kept up to date (ILD and ECES 2000). Even the Minister of Justice admitted, in 2005, that only 7% to 10% of properties in Egypt were registered.

An informal way to access land

How, then, are properties in Greater Cairo transferred and how is ownership documented? The answer is that a number of quasi-legal or informal procedures have evolved that conveniently sidestep the official registration system and allow for relatively straightforward, quick, and inexpensive means of concluding a property transfer. These mainly use *'urfi* contracts, which are simple two-party sales contracts that must be witnessed by two persons. For many, these simple paper contracts are sufficient, but for more security it is possible to have these contracts endorsed in the courts under the *saha towqia* procedure or the more stringent *da'wa saha wa-nafaz* procedure, either of which can be arranged by any lawyer for a small fee. Alternatively, the seller of a property can issue a power of attorney (*tawkil*) to the buyer, transferring all ownership rights over the property, and then this *tawkil* can be endorsed—just as in the case of the sale of a car—at any Shahr al-'Aqari office, under the aegis of the Ministry of Justice. Such systems of transfer are used not only by the individual buyers and sellers who dominate Cairo's housing markets but also by government agencies and private companies selling new units.

Despite tremendous efforts in recent years to improve official property registration in order to facilitate the expansion of new mortgage-based housing finance, especially for housing developments in new towns, informal property-transfer workarounds remain very much the norm in Egypt, both in formal and informal urban areas. They are not perfect, and fraud is a possibility: there are few safeguards to prevent an owner from selling the same property more than once, for example. But for most transactions they are sufficient, since such systems minimize dealings with the government, depend on personal relations and guarantees, and are both less expensive and more convenient.

This does not mean that in the huge and rapidly expanding informal urban areas of Egypt life is sweet. Roads and infrastructure are mostly in very poor shape, if indeed they exist at all. Public services are lacking, and overcrowding is severe. But this deplorable situation is mainly due to a negligent government that almost never invests in informal areas, preferring instead to finance new desert towns, new suburbs, and prestige mega-projects—endeavors much more in tune with modernist middle-class and neoliberal values (Sims 2015).

A property title program for informal areas?

This raises a question: have any property-titling programs been aimed at informal areas? In 2003, Hernando de Soto's ILD presented a plan to the government for a radical mass registration of properties, using a block-by-block system of adjudication based on the principle of adverse possession. The plan was worked out in detail and included new legislation to replace the dysfunctional property registration laws, as well as the creation of a parallel digital registration system to bypass the horribly incompetent and corrupt Shahr al-'Aqari and Survey Authority offices. Although the plan benefited from good exposure and was promoted at the highest levels of government, nothing ultimately came of it.

Figure 3. State land under informal conversion, Wadi Pharaon, Cairo, 2010 (mostly demolished in 2014)

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At the micro-level, around the same time, the GTZ urban upgrading project in Manshiet Nasser began promoting the mapping and titling of the Ezbet Bekhit neighborhood as a pilot project for registering properties to long-time squatters on state land. In these situations, there has only ever been one landowner—the government—making the creation of titles and their transfer to individuals straightforward in legal terms.[4] Property maps and ownership rolls were prepared, the Property Department of Cairo Governorate was brought on board, and local inhabitants were supportive; however, 10 years later, not a single title had been issued. The blockage was due simply to an attitude in government that such public land was valuable and should not be alienated to the lower classes. The price per square meter that squatters would be obliged to pay was raised again and again, and these astronomical and unaffordable prices were never sanctioned.

Towards semi-formal alternatives by default

In 2015, the government came up with the idea of contracting out the streamlining and digitization of the existing property registration system at Shahr al-'Aqari offices nationwide to a specialized firm, under a public–private partnership (PPP) arrangement. It is not known whether this initiative will ever see the light of day, but any improvements it might make will be purely cosmetic and will not address the system's underlying dysfunction and near-complete irrelevance.

What can be learned from Egypt that might have value in other developing countries? Unfortunately, not a great deal: the Egyptian case is quite unique in the extent to which actors in the informal property market have evolved semi-formal alternatives that well serve both the poor and those who are better off. However, the Egyptian experience does serve to interject a note of caution

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4   There had been precedents in the past—for example, in Ismailia and in Aswan—where squatted state land had been regularized and titles delivered.

into the consideration of pro-poor approaches to the problems of secure tenure globally. Specifically, there may be some value in applying alternative models such as the "continuum of tenure rights" (Barry 2015), and in thinking about how to develop such models for the benefit of the poor. But as the case of Egypt shows, something as complicated, historically determined, culturally embedded and politically sensitive as urban land tenure cannot be objectified into yet another development problem in need of technocratic models and tool kits—especially when technocratic solutions demand a non-existent level of government competence.

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