Placemaking in Kibera: Spatial Justice Amongst Dispossession and Displacement

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ABSTRACT

Human rights articles in the 2010 Constitution of Kenya institutionalize freedom from discrimination, security from violence, and compensation for property loss. Demolition projects violate these human rights. This article analyzes the land commission acts that legally permit such demolition projects to occur. Demolition projects destroy not only physical constructions, but also social cohesion within that space. Although there is destruction of space, there is also revival of space. Community Based Organizations (CBOs) are active participants in placemaking and in seeking spatial justice. This case study is focused on Kibera, an informal settlement in Nairobi County. The article begins with a historical analysis of Nairobi city in the context of urbanization and demolition projects and introduces the theme of seeking spatial justice (Soja 2010). Demolition projects pre-dating the 2010 Constitution of Kenya in Kibera are discussed. The article analyzes human rights articles and land commission acts in the 2010 Constitution of Kenya, in addition to how placemaking is involved in the process. Finally, it examines how CBOs are involved in placemaking efforts in Kibera through interviews with community leaders. Space and place stretch beyond mere physical geography and include the complexities of power and social cohesion, even in the face of land policies that contribute to dispossession and displacement for some Kenyan citizens.

Keywords: 2010 Constitution of Kenya, placemaking, spatial justice, land rights, informal settlements

Introduction

This article aims to illustrate the intricacies of a place that stretches beyond mere physical geography and demonstrate the complexities and power of social cohesion. Place and space can be destroyed through land tenure policies, but also revived through experiences of residents in informal settlements; both are significant contributions to placemaking, which will be explored in the following sections. The power of a place extends beyond its physical boundaries. This case study is focused on Kibera, an informal settlement in Nairobi County. The article will begin with a historical analysis of Nairobi in the context of urbanization and demolition projects and introduce the theme of seeking spatial justice. The second section will focus on demolition projects in Kibera that pre-date the 2010 Constitution of Kenya. The third section will analyze human rights articles and land commission acts in the 2010 Constitution of Kenya, in addition to the process of placemaking in Kibera. The final section will discuss how Community Based Organizations (CBOs) are involved in placemaking efforts in Kibera.

Placemaking and Historical Land Reforms

The national phase from the 1960s to the 1980s witnessed an explosion in the size of urban centers. Informal settlements accommodated the migration of people into urban Nairobi. These settlements offset the "shortages of accommodation, high rents, and overcrowding" (Olima 2001, 7). In the midst of rapid population growth, property rights were difficult to define as land and construction materials were costly (Ouna 2017). Because of a high economic barrier, "failure to formalize property rights leads to eroded security of tenure and hence land transactions are carried out in informal land markets which are difficult to regulate" (Ouna 2017, 6).

One example is Kibera, which grew at a rate of 220 percent in 1969 (Olima 2001, 8). As informal settlements grew in size, the national policy from 1963 to the early 1970s was to "eradicate informal settlements" (Olima 2001, 11). In this period, "politicians used slum demolitions as a way to reward wealthy supporters with land or punish opponents" (Kloop 2008, 297). Eviction and demolition policies were remnants of "futile colonial shanty management strategies" (Otiso and Owusu 2008, 150). In the 1950s, demolition projects were aimed at oppressing the Mau Mau anti-colonial movement. In 1953 and 1954, these projects rendered approximately 31,000 people, from informal settlements or "shanties" around Nairobi, Kikuyu, Embu, and Meru, homeless (Kloop 2008).

The demolition of urban space has contributed to the politicization of space and control. Demolition is a historically grounded process of placemaking in informal settlements. For the purposes of this article, space will be defined in accordance with Henri Lefebvre's three definitions: (a) perceived space, shaped by materialized and objectified spatial practices; (b) conceived space, understood through maps, laws, and normative practices and within subjective representations of space in ideas, images, ideologies; and (c) lived space, involving individual and collective temporal and social actors (Lefebvre 1992). Space is consistently being remade and reconstructed by actors within a multiplicity of layers. As Coleman (2011) mentions, places are sites of dynamic cultures, ecologies, and economies. Even amongst the friction of actors in placemaking, there is a "hegemonic understanding of the nature of space itself, and of the relation between space and society" (Massey 2005, 64). Rooted in the process of urbanization, space has been used as a mechanism for control, especially in regard to the status of "informal" public spaces. Land policy has manifested control over the production of place through forced peripheral displacement, such as demolition and dispossession. An inequality of power exists for residents in informal settlements who cannot practice formal and legal ownership over land, reinforcing differences between society and their spaces.

According to Edward Soja, seeking spatial justice is part of reclaiming space and agency to "promote participatory forms of democratic politics and social activism to mobilize and maintain cohesive coalitions of grassroots and justice-oriented social movements" (2010, 6). Spatial (in)justice "locates it in the specific condition of urban life...and in the collective struggles to achieve more equitable access of all residents" (Soja 2010, 32). Demolition projects are products of social injustice. Seeking spatial justice is complementary to the role of human rights and activism in contending with political issues. Spatial justice is more political in nature than placemaking and focuses on empowering socio-spatial relations (Soja 2010). When states are the primary agents of justice, they "may assign...and build with certain powers and capacities to act, [and] typically [have] some means of coercion, [and] partial control [over] the action of other agents" (O'Neill 2001, 181). Secondary agents of justice "meet the demands of primary agents, most evidently by conforming to any legal requirements they establish" (O'Neill 2001, 181). In the form of individuals or CBOs, secondary agents of justice may lack the capacity to fulfill the

same ordinances as a primary agent of justice but can seek spatial justice and claim agency. Within a place, the "geography of social relations forces us to recognize our interconnectedness and underscores the fact that both personal identity and the identity of those envelopes of spacetime are constructed" (Massey 2009, 122). When there is a violation of space and place through state-led demolition tactics, interconnectedness is degraded by infrastructure development, and injustice threatens the integrity of the primary agent. Spatial justice is not in opposition to social justice and cannot be separated from social issues (Soja 2010). The next section will focus on demolition projects as a form of placemaking in Kibera.

Demolition and Infrastructure Projects in Kibera

In Kibera, demolition projects in 2004 left roughly 9,600 people homeless and 190,000 additional residents at risk of homelessness (Mulama 2004). The calamity was triggered by the construction of a bypass through Kibera (*BBC News* 2004). In 2009, demolitions were framed as "slum clearance" and families were incentivized to move into homes constructed and managed by the Slum Upgrading Programme (SUP) (*BBC News* 2009). While making room for new housing units that would be rented for the equivalent of \$10 per month, residents in Kibera made claims to the land plotted for the new houses (*BBC News* 2009). SUPs completed in the early 1990s included public housing development and served as a method for the government to construct houses according to standards set by the Kenyan Slum Upgrading Programme (KENSUP), a joint initiative of the government of Kenya and United Nations Human Settlement Program (Syagga 2011, 2). In addition to infrastructure changes, tenure regularization through legal titles could be used by residents to obtain housing improvement loans (Syagga 2011, 6). However, there would be high legalization costs to obtain these housing improvement loans (Syagga 2011, 6).

The SUP in 2009 was initiated in the Soweto East Zone. From this region, 5,000 of the 6,288 people residing there were relocated to Lang'ata and required to pay a monthly rent six times higher than their typical amount (Fernandez and Calas 2011, 5). Evictions and demolitions supported the urban spatial segregation policy around informal settlements, ensuring that "land use standards [were set so high that] the poor could not meet them, and the government forced them to informal and peripheral areas" (Olima 2001, 13). The 2009 relocation efforts affected how individuals and small business owners were able to participate in an informal market economy, reach customers, and afford rent (Fernandez and Calas 2011). The destruction of these social networks ultimately caused psychological disorders to emerge in some individuals (Fernandez and Calas 2011, 10). The 2004 demolition project and 2009 infrastructure development project in Kibera occurred before the 2010 Constitution of Kenya. As a key point of intervention for human rights, the 2010 Constitution provides a legal framework against disenfranchisement.

Human Rights and Land Acts in the 2010 Constitution of Kenya

The Kenyan national and Nairobi County governments act as primary agents of justice (O'Neill 2001), and are active participants in placemaking efforts in informal settlements. The 2010 Constitution of Kenya "heralded the deep desire of Kenyans, as individuals and communities, to live in a society that respects and protects their liberties and livelihoods without discrimination" (Akech 2010, 7). The National Land Commission Act (NLCA) of 2012 and Physical Planning Act (PPA) of 2012 outline the power dynamics of public and private space. This section will first

describe four articles of human rights that emphasize state protection: Article 21, *Implementation of Rights and Fundamental Freedoms*; Article 27, *Equality and Freedom from Discrimination*; Article 29, *Freedom and Security of the Person*; and Article 40, *Protection of Right to Property*. The second part will focus on the NLCA and PPA of 2012, and demolition projects in Kibera in 2018. Overall, this section outlines the methods through which the Kenyan national and county governments are involved in placemaking.

Article 21 of the 2010 Constitution of Kenya, *Implementation of Rights and Fundamental Freedoms*, outlines the "duty to address the needs of vulnerable groups within a society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalized communities, and members of particular ethnic, religious, or cultural communities." Article 21 secures protection for individuals, specifically in vulnerable situations, in the context of space and access to government representation. Article 27, *Equality and Freedom from Discrimination*, states that "every person is equal before the law and has the right to equal protection and equal benefit [and] women and men have the right to equal treatment including the right to equal opportunities in political, cultural, and social spheres." Article 29, *Freedom and Security of the Person*, provides "security of the person, which includes the right not to be subjected to any form of violence from either public or private sources." Article 29 states that security against all forms of violence in both public and private sectors is pertinent in the provision of land ownership.

Article 40, *Protection of Right to Property*, provides housing rights for citizens. Its clause (2) states that "Parliament should not enact a law that permits the State or any person (a) to arbitrarily deprive a person of property" (Constitution of Kenya, Article 40, 2(a), 2010). In addition, clause (3) of Article 40 states that the

state shall not deprive a person of property of any description, or of any interest in, or right over, property of any description—unless the deprivation (a) results from an acquisition of land or an interest in land or (b) is for a public purpose or in the public interest and (i) requires prompt payment in full, of just compensation to the person; and (ii) allows any person who has an interest in, or right over, that property a right of access to a court of law (Constitution of Kenya, Article 40 (3a, 3b, i-ii), 2010).

The 2010 Constitution provides equal protection and security against forms of violence in public and private sectors, specifically security against vulnerable situations, freedom from discrimination, security from violence, and compensation for property loss. Demolition projects contradict the rights of citizens as provided in the 2010 Constitution's Articles 21, 27, 29, and 40. Because Kibera is considered public land, the state has power to exercise authority in the construction of space. If the state acquires public land where people live, it is required that they be compensated for their loss or provided access to a court of law. As previously mentioned, the NLCA and PPA are the legal structures that root demolition projects.

The legal framework governing the land sector contains a range of land policies. However, the National Land Commission Act (NLCA) of 2012 and Physical Planning Act (PPA) of 2012 will be the focus of this article because of their relevance to demolition projects. Created as a "constitutional body" under Article 67 of the 2010 Constitution of Kenya, the NLCA is to "manage public lands on behalf of the national and county governments" (NLCA, Article 5, revised 2016). The NLCA is concerned with four aspects of land rights: ownership, value, use, and development (Ouna 2017). The NLCA is able to adjudicate historical land injustices, which are defined in its Section 15 as "violation[s] of a right in land, result[ing] in displacement from

habitual residence, occur[ing] between 1895 when Kenya became a protectorate under the British East Africa Protectorate and 2010 when the Constitution of Kenya was promulgated." Moreover, according to Section 15 of the NLCA, claims to unjust acquisitions of land are permissible under the following reasons: "colonial occupation; independence struggle; pre-independence treaty or agreement between a community and a government; development-induced displacement for which no adequate compensation or other form of remedy was provided, including conversion of non-public land into public land; inequitable land adjudication process or resettlement scheme." The NLCA thus addresses historically unjust acquisitions of public land.

The PPA of 2012 gives power to "local authorities" in the management of physical planning under the following selected conditions: to "(a) prohibit or control the use and development of land and buildings in the interests of power and orderly development of its area, (b) control or prohibit the subdivision of land, (c) consider and approve all development applications and grant all development permissions, and (d) formulate by-laws to regulate zoning in respect of use and density of development" (PPA, Section 29, 2012). The PPA also outlines conditions for demolition practices. The act establishes a "basis of local authority to remove, alter or demolish and to prohibit, regulate and control the maintenance, alteration and reconstruction of any building which obstructs the observance" (PPA, Section 24(2), Article 13, 2012). While the NLCA manages public lands and unjust land acquisitions, the PPA decides how public lands are changed.

In the context of devolution from the 2010 Constitution of Kenya, "local authorities" have the jurisdiction to decide where construction and demolition will take place (PPA, Section 24(2), Article 13, 2012). Local authorities decide which land will become roads or reserves through the Kenya Urban Roads Authority (KURA), which is a state corporation under the Ministry of Transport and Infrastructure. There is an intricate balance of jurisdictional power between national and county provisions for road construction. For example, the Kenya Roads Bill passed in 2015 described three classes of roads, rather than the two classifications constitutionally recognized to distribute power between the national government and county government (Githae 2015).

The NLCA and PPA determine the legal parameters of ongoing demolition projects for the perceived and lived spaces within informal settlements. However, in the 2010 Constitution, equal protection for residents in Kibera is provided in Articles 21, 27, 29, and 40. Divisive policies based on economic class reiterate a historical paradigm of land grabs and related policies. Public spaces occupied by residents in informal settlements are usually the first to be grabbed (Ouna 2017). Article 21, the protection of vulnerable citizens, is threatened by public land grabs. The NLCA supports the formal construction of perceived space, which is physical, abstract, material, and visual, through the process of legalizing formal spaces (Lefebvre 1992), as it supports the property rights of people who are able to afford private land. Conceived space, as a set of normalized rules within a community, is demonstrated through the NLCA because it considers unjust acquisitions of land. The NLCA degrades lived space and social spheres for communities that live in informal settlements because they are considered to be on public land. The 2010 Constitution of Kenya outlines Article 21 as the duty to address the needs of groups placed in vulnerable situations within a society, yet its protection is contradicted by the PPA for people in informal settlements, who are blocked from access to living as permanent residents and affording private housing. Residents in informal settlements without the financial means to access formal land tenure endure violations to rights promised within the Constitution, specifically access to

either a court of law or compensation for their loss (Constitution of Kenya, Article 40 (2a, 3a, 3b i-ii)).

Demolition projects affecting urban informal settlements have contributed to the politicization of space and control. The demolition and displacement policies in 2004 and 2009, as previously mentioned, occurred in Kibera before the 2010 Constitution was ratified. However, the June 2018 demolition projects in Kibera were the largest in recent history. Demolitions in 2018 were resisted by the Kenyan National Commission on Human Rights (KNCHR). Houses, schools, mosques, churches, and small businesses were demolished by KURA in preparation for a highway segmenting two areas of Kibera, resulting in the eviction of 30,000 people from their homes (OHCHR 2018). For people in Kibera whose homes, businesses, and places of worship were demolished or forcibly abandoned, access to informal markets, customers, and communities was eradicated. Residents were not compensated for their loss (Tilve 2018). Demolition projects in Kibera led to the degradation of perceived space as physically constructed place, conceived space as the projection of norms and values, and lived space as social cohesion. Demolition projects displace economies, communities, and families, which threatens human rights and placemaking for residents in informal settlements. However, national and county governments have an opportunity to secure land tenure rights for residents in informal settlements as a "public purpose" (Community Land Act, Article 27, revised 2016).

There is a structural connection between the human rights articles and land commission acts of the 2010 Constitution that legally permit demolition projects. Human rights articles in the 2010 Constitution provide a legal protection for *rights to the city*, which is defined as "shaping power over the processes of urbanization, over the ways in which our cities are made and remade and [doing] so in a fundamental and radical way" (Harvey 2003, 2). Demolition projects are thus a form of spatial injustice. Spatial justice alludes to the ways in which Community Based Organizations (CBOs) are actively involved in the process of placemaking, which is the focus of the next section.

Community Based Organizations (CBOs) in Kibera

This section describes how Community Based Organizations (CBOs) are seeking spatial justice as secondary agents of justice in Kibera (O'Neill 2001; Soja 2010). In the process of placemaking, residents are seeking spatial justice by organizing and acting as agents of justice. As illustrated through the author's interviews with leaders of CBOs in Kibera, placemaking serves as a key component to seeking spatial justice in the community, especially for organizations centered on human rights for women. Interviews focused on female community leaders from Power Women, Carolina for Kibera, and Habari Kibra who were actively involved in the production of space and place. For purposes of anonymity, interviewees' names are not provided.

Space is the product of interrelations from global to local scales and a process under construction through interrelations (Massey 2005, 10). When interviewees were asked about the meaning of community, common themes emerged, such as "just a group of people who do together—for something like salt, an African tradition, when you lack something, you go and ask your neighbor. A community carries different people with different characters" (Interview I). In this definition, a community within the same geographical area experiences an exchange of resources despite the differences in identity, and is a process of placemaking through reciprocal relations. However, other interviewees mentioned a certain level of "sameness," which contributes to the production of community as a lived space in a geographical region. A

community, for some, is a "set of people who live together in the same geographical region, and they share common amenities, such as schools, hospitals, the same road, the same inception spot, and they share the same values" (Interview II).

Furthermore, one interviewee said a community is a "group of people coming together with the same objective. What I think community development is, is what people in the community are implementing in terms of activities. The activities that community members implement to improve and transform their lives" (Interview III). The shared values and objectives within the social fabric unite and transform the realities of placemaking, even in the midst of projects of displacement. For community leaders in Kibera, community is defined as a reciprocal exchange within the same place to fulfill shared objectives (Interviews I–III). The operational definition of community, from the perspective of the interviewed community leaders, situates it in a place where community, and the production of placemaking for all residents, has the potential to unite and empower residents. Throughout all three definitions of community given in the interviews, the description of a shared experience aligns with the theoretical conceptions of place as perceived and conceived, and as lived spaces that are also interrelations of real and valued practices of everyday life (Lefebvre 1992; Massey 2005).

One group working as an agent of justice responsible for community development, according to Interviewee I, is the non-governmental organizations (NGOs) that support the health and wellbeing of HIV positive girls and women. Power Women, for example, contributes to the production of place focusing on economic opportunities and health-care awareness campaigns for young women in Kibera. Power Women is an agent of justice, although it is limited to formally certifying trainees and participating in the formal sectors of the economy (Interview I). The organization aims to support the production of economic revenue and health care for residents, and is an example of how an informal settlement is contributing to building the capacity to organize (O'Neill 2001). Mentors at Power Women address daily issues in the community, and are proactively changing the ways in which people are able to build individual capacity despite barriers to entering formal markets in Kibera.

Carolina for Kibera (CFK) is a non-profit organization that began in 2001 through a partnership between Tabitha Festo, Salim Mohamed, and Rye Barcott to create an organization focused on health development, youth empowerment, and gender equity. The headquarters of CFK are located near Power Women in the Olympic Estate of Kibera in the Binti Pamoja ("Daughter's United") building. The organization focuses on education equity, primary health care within clinics, girls' empowerment, and youth development. In the area of education equity, the organization supports secondary schools in promoting the mentorship and holistic development of children within formal and informal schools. Primary health care at CFK is focused on nutrition and health and wellness through community outreach. Programs aimed at empowering girls seek to provide mentoring for teenage mothers who are inside and outside of school systems, and youth development concentrates on future economic development though entrepreneurship and sports programs. The CFK strategy is to first identify the community's needs and then develop a holistic approach with monitoring and evaluation techniques. CFK's outreach stretches throughout districts of Kibera and members work alongside local leaders across forty-three ethnic groups represented in the community. The organization's mission is to develop local leaders, catalyze positive change, and alleviate poverty (Carolina for Kibera 2019).

Binti Pamoja Girls Empowerment aims to empower young women in the community through mentorship and education programs. As one of the leaders at CFK is a mentor and programmer for Binti Pamoja, layers of interrelations between government and non-governmental actors contribute to the process of placemaking. However, the "organizations are providing support to the community members. Every organization implements a specific activity and the activities which they want to conduct in the community. So, most people benefit from the organizations. Because there are some which offer entrepreneurship skills and they also give soft loans to improve the lives of those living in the community" (Interview III).

The organization Habari Kibra enables the lived space shared between residents of Kibera to tell stories, a key element to how the placemaking has actively responded to election violence in Kibera. The representations of shared values within lived space are documented by Habari Kibra as a form of articulating stories of placemaking, identity, and development through the voices of residents. Collective action is talked about by residents in Saturday meetings at the Kibera Town Center (KTC), "through something known as Kibera Open Discussion and people come and discuss different issues" (Interview V). The agency and voice of the community are fostered through the open dialogue and self-expression of the youth and community. Open dialogues allow explorations of identities and politics, as well as the opportunity to provide value and resources to residents in Kibera, specifically through the physical structure of the KTC. For young people in Kibera, "in terms of leadership and also talent, you find that there are a lot of concerts that are coming in Kibera, people are showing their talents, and in that way, we find that they get to show their leadership skills in a different way, not necessarily in politics, but in a different way" (Interview V). Shared stories and the production of lived space as documented by Habari Kibra are centered on open dialogue and contingent on activities of expression, advocacy, and leadership skills. The themes that emerge from Habari Kibra entail placemaking through the production of lived space. Habari Kibra is involved in placemaking to amplify the voices of residents in Kibera and to promote shared experiences of life in the community.

Conclusion

The varying degree to which the three organizations are involved in the construction of placemaking has led to empowerment projects and agency within the geographical space of Kibera. As part of placemaking, residents organize through CBOs in actions that are political in nature, through individual and collective responses. More research will need to be conducted on whether the placemaking examined here is occurring in direct response to geographical dispossession and displacement through demolition projects. However, residents are seeking spatial justice using the conditions prescribed by Lefebvre (1992) in layering the production of perceived, conceived, and lived space. Organizations discussed in this article are not specifically organizing against the demolition projects but are responding to the barriers of gendered space and economic challenges. These organizations are secondary agents of justice and contribute to forms of placemaking.

The 2010 Constitution of Kenya outlines articles of human rights that protect citizens against demolition projects in Kibera. Demolition projects distance and separate perceived, conceived, and lived spaces of residents and their collective movements. This article has shown that place within a community can be destroyed and demolished for political purposes. Grounded within a historical context, demolition projects in Kibera have displaced communities in a form of spatial injustice. However, the seeking of spatial justice serves to mobilize residents, who are actively involved in the role of placemaking. This article has analyzed methods of placemaking in Kibera using the 2010 Constitution of Kenya and the work of CBOs as a foundation. This research has found that although place is embedded with its own contradictions and complications, it also serves as an epicenter for growth, agency, and power.

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