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Director of Hakijamii Ms. Pauline Vata with allocation and resettlement committee members under the Slum Upgrading Department - Ministry of Land, Housing and Urban Development during a field visit to the newly upgraded housing units in Kibera.
1.0 Executive Summary

A slum household is defined as a group of individuals living under the same roof in an urban area who lack one or more of the following five basic needs: access to water, access to sanitation, secure tenure, durability of housing and sufficient living area (UN-HABITAT 2006). It is estimated that over 60 to 80 percent of residents in Kenya’s largest urban centers, Kisumu, Mombasa and Nairobi, live in informal settlements. Development of informal settlements in Kenya has been linked to rural-urban migration, increasing poverty rates and lack of access to affordable land and housing for the poor.

Kenya’s urban population has been projected to grow from 34 percent to 63 percent by 2030.

The country’s population estimated at 40.9 million inhabitants in 2010 is forecast to reach 85 million by 2050. Urban centers continue to attract financial, intellectual and technological capital. It is estimated that about 70 percent of the GDP is generated in urban areas and that Nairobi alone accounts for more than 50 percent of the GDP. According to Government estimates, demand for new housing units in urban areas currently stands at 200,000 units annually. The result of the shortfall has been the proliferation of squatter and informal settlements and the unmitigated rise in the cost of housing. Based on current estimates, at least 3 million people in urban areas lack access to adequate housing. It is estimated that KShs 310 billion yearly must be generated to begin tackling the housing crisis in Kenya.
2.0 Introduction

The main goal of this book is to disseminate the useful lessons learned from urban development and slum upgrading projects undertaken by the Kenyan government. These lessons underpin the recommendations for the design of public policies on the subject. It is hoped that they will also contribute to improving the efficiency of specific slum upgrading programmes. Urban neighborhoods in Kenya are plagued by inadequate housing and land titling irregularities: tenements, irregular land divisions, or even residential blocks that, although built by the government, are often in a deteriorated state. Whilst slum upgrading is often seen as one of the more effective ways of tackling urban poverty, the approaches taken by slum upgrading policies vary considerably, as do their degrees of success.

This massive presence of slums in Kenya is the result of a dynamic that historically constrained access to urbanized land in Kenya, and reflects, in spatial terms, its extremely unequal economic and social structure. These settlements are diverse, varying in location, size, density, building quality, illegality, risk situation, and level of consolidation and integration. However, some characteristics that they all share are illegality in land titling or property, the precariousness of dwelling conditions, the lack of urban infrastructure, and segregation from the formal town. This variety makes the design of public policies and actions more difficult.

The manual provides an analysis of previous efforts by the government in slum upgrading projects and offers recommendations to aid the government and other financiers of such projects to upscale their role in improving informal settlements. It cannot be refuted that the existing regulatory framework has failed to attain the main objective of having an organized urban growth. This publication does not aspire to present either a set of fixed rules or a model, or to review the programs. Its focus is to identify the critical factors that have facilitated or hindered the design, implementation, operation and maintenance of the projects, and that have enabled or impeded the achievement of results. It does not intend to evaluate the performance or results of slum upgrading programs in Kenya. It does, however, aim to examine the empirical data critically and selectively and to capture operational knowledge, within its context and design specificities, in order to allow for a deeper understanding of key factors that ought to be considered in the design and execution of operations of this kind. The book offers a practical analysis of the evolution of the project cycle, making it possible to reveal and to better understand the key stages of the design and execution process, its main players, and the impact of observed institutional and political conditions.
3.0 Historical Background on Government Interventions in Informal Settlements

Kenya has over the years adopted several strategies in dealing with the challenge of informal settlements. During the post-independence period, the stance “do nothing” or formal non-recognition of informal settlements was adopted. The result was exponential growth of urban informal settlements, and a mismatch between the level of growth of informal settlements and provision of basic services and infrastructure.

During the late 1960s to 1970s, provision of low-cost housing programs in Dandora and Umoja was witnessed. However, due to rampant corruption in the management of the projects, the cost of the eventual units were beyond the reach of the intended beneficiaries.

In the mid-1980s, forced evictions and demolitions were witnessed. The negative view of informal settlements during this period resulted in the era of massive human rights abuses, leading to the emergence of civil society groups.

During the late 1990s, options involving resettlement and relocation through assisted self-help models were tested. Broader involvement of stakeholders and affected populations took place during this period.

In the 2000s, the implementation of a human rights framework was sought, but this was not formally recognized. Evictions during this period continued as communities were agitating for protection against forced evictions while slum upgrading initiatives were implemented country-wide. However, the government played the role of facilitator rather than implementer.
4.0 Right to Adequate Housing

The right to adequate housing encompasses seven key aspects which include:

1. Legal security of tenure
2. Availability of services, materials, facilities and infrastructure such as water supply and sanitation
3. Waste management facilities
4. Affordability
5. Habitability
6. Accessibility for disadvantaged groups
7. Location and cultural adequacy.

The right to adequate housing can and should be demanded by virtue of our humanity. As articulated in Article 19, “the overall purpose of recognizing and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and to promote social justice and the realization of the potential of all human beings.”

Article 42 of the Bill of Rights guarantees the right of every person to a clean and healthy environment. Article 43 under the Bill of Rights states that every person has the right to accessible and adequate housing, and to a reasonable standard of sanitation.

The Constitution in Article 70 provides judicial enforcement mechanisms and enshrines the right to petition the court for violation of the right to a healthy and clean environment. The court may then make any orders it considers appropriate to compel any public officer to take measures to prevent or discontinue any act or omission that is harmful to the environment; or to provide compensation for any victim of a violation of the right to a clean and healthy environment.

Article 2 (5) and (6) of the Constitution provides that the general rules of international law and any treaty or convention ratified by Kenya shall form part of the law of Kenya. The right to water and sanitation is significantly expounded to conform to applicable international standards including the:

1. International Covenant on Economic, Social and Cultural Rights (ICESCR)
2. Convention on the Elimination of All Forms of Racial Discrimination (CERD)
3. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
4. The Convention on the Rights of the Child (CRC)
5. International Covenant on Civil and Political Rights (hereafter “the ICCPR”)
5.0 Policies, Strategies and Legislation

The Government, through the Ministry of Housing, initiated the process of developing a National Slum Upgrading and Prevention Policy in the year 2012 held under the auspices of the Multi-Stakeholder Support Group Forum (MSSG) in November 2011. A draft concept was formally inaugurated in December 2012. The policy was supposed to deal with issues such as secure tenure, installation of basic urban infrastructure services and housing at an affordable cost, and minimal displacement of the population.

As of December 2012, it was anticipated by the Ministry of Housing that what remained was the drafting of the policy, validation of the draft policy leading to a Cabinet Paper being ready for legislation and dissemination. To date the Ministry has been unable to complete the draft. As a result of the lack of public information on the status of the final draft, fears are that the process has stalled.

Government efforts to tackle the housing crisis have put emphasis on two main concepts aimed at improving access to shelter through the provision of housing units and implementation of slum upgrading initiatives.
5.1 The Kenya Informal Settlement Improvement Programme (2011 – 2016)

The Kenya Informal Settlement Improvement Programme (KISIP) was introduced through a partnership between the Kenyan Government and the World Bank. It has been mandated to improve living conditions and undertake tenure regularization and installation of social and physical infrastructure in selected informal settlements and planning for urban growth in 15 municipalities. This project has four components:

**Component 1:**
Focuses on strengthening institutions and programme management by supporting institutional strengthening and capacity building of the Ministry of Housing, Ministry of Lands, and selected municipalities.

**Component 2:**
Enhancing tenure security by supporting systematization and scale-up of ongoing efforts to strengthen settlement planning and tenure security in urban informal settlements.

**Component 3:**
Investing in infrastructure and service delivery.

**Component 4:**
Planning for urban growth, will support planning and development of options that facilitate the delivery of infrastructure services, land and housing for future population growth.

5.2 Kenyan Government Second Fifth Report to the Committee on Economic, Social and Cultural Rights

The Kenyan Government summed up its achievements in slum upgrading as follows:

- 600 housing units were constructed in Kibera decanting site under the National Slum Upgrading and Prevention initiative.
- 1,800 households from Soweto East Zone A, part of Kibera informal settlement were relocated.
- A 0.5-km access road was completed within Kibera.
- 200 acres of land was opened for housing development through provision of housing infrastructure facilities.
- Construction of 915 housing units in Soweto East Zone A with associated physical and social infrastructure was launched on 6 March 2012 by the President.
- Construction of 2,592 housing units using appropriate building technology in Turkana County for internally displaced persons. The units were scheduled for completion in 2013.
• Construction of 450 housing units in Mavoko, Athi River, under the Sustainable Neighborhood Programme is ongoing. This project involves mixed development of units of upper middle-income housing, lower middle-income housing and low-income housing and associated physical and social infrastructure.

• 25 housing cooperatives were formed in various informal settlements in Kisumu, Mombasa, Nairobi, Nyeri, Eldoret, Embu, Kakamega, Limuru and Mavoko and Kshs 9 million worth of savings mobilized.

5.3 Principles of Devolution

Article 174 (e) specifies that the purpose of devolution is to “protect and promote the interests and rights of minorities and marginalized communities.” County governments consist of a County Assembly and a County Executive.

The counties are represented by Senators who, together with the National Assembly, form the Parliament. The County Assemblies have legislative authority and may receive and approve plans and policies for the management and exploitation of the county’s resources; and the development and management of its infrastructure and institutions.

On the question of financing, Article 175 (b) provides that county governments shall have reliable sources of revenue to enable them to govern and deliver services effectively. The Senate, which determines the allocation of national revenue among counties, exercises oversight over national revenue allocated to the county governments, and is therefore a key organ in advocating for increased budgetary allocations for housing.

5.4 Equalisation Fund

The Equalisation Fund comprises one half per cent (0.5%) of all the revenue collected by the National Government and is paid every year. The National Government is expected to use the fund to provide basic services including water, roads, health facilities and electricity to marginalized areas to the extent necessary.

For the housing sector, the distribution of functions between the National Government and the County Government becomes an important question, especially in considering which institutions within the housing sector are currently involved in functions that are now within the domain of County Governments. Schedule 4 of the Constitution provides the list of distribution of functions.

Article 189 of the Constitution provides that governments at both levels must assist, support, consult, as appropriate, implement the legislation of the other level of government; and liaise with government at the other level for the purpose of exchanging information, coordinating policies and enhancing capacity.
The Intergovernmental Relations Act, 2012 establishes several intergovernmental structures. These structures serve to facilitate greater intergovernmental cooperation and consultation. With respect to the right to housing, this offers opportunities for National and County Governments to agree on crosscutting policies and legislation. For instance, members of County Governments should be represented on national taskforces in relation to slum upgrading or evictions and resettlement.

5.5 National Housing Policy

The Government of Kenya adopted its National Housing Policy in July 2004. It was enacted to facilitate progressive realization of the right to adequate housing. Its targets include urban housing, slum upgrading and vulnerable groups.

The policy adopts the following strategies:

- Development and facilitation of urban middle-income and low-income housing
- Upgrading of slums and informal settlements
- Encouraging construction of rental housing.

The National Housing Policy provides as its policy target that, “The Government will facilitate an annual output of 150,000 housing units in urban areas and 300,000 housing units in rural areas over a period of five years”. Currently the Ministry of Housing is reviewing the National Housing Policy to include social housing.
5.6 National Land Policy

The National Land Policy was formulated to address, among other critical issues:

- The unplanned proliferation of informal urban settlements. The policy calls for special intervention in addressing land rights in informal settlements and for informal activities.
- It sets out slum upgrading modalities that the Government is expected to undertake. These include developing an inventory of genuine squatters and people who live in informal settlements to ensure that any slum upgrading intervention is targeted.
- It further provides for the assessment of the suitability of land currently occupied by squatters that may be of critical importance to in situ upgrading. The policy also requires the Government to facilitate the regularization of existing squatter settlements found on public and community land for purposes of upgrading or development.
- To mitigate tensions between structure owners and tenants, the policy calls for the establishment of an appropriate legal framework and procedures for the transfer of unutilized land and land belonging to absentee land owners to squatters and people living in informal settlements.
- The policy also requires the development of strategies to ensure that affected communities are consulted and involved in the development of a slum upgrading and resettlement programme that incorporates flexible tenure systems.
5.7 The Urban Areas and Cities Act, 2011

The Urban Areas and Cities Act, 2011 was enacted to give effect to Article 184 of the Constitution. It calls for the development of national legislation to provide for classification, governance and management of urban areas and cities.

The Act requires every city to operate within the framework of integrated urban areas and city development planning that contributes to the protection and promotion of fundamental rights and freedoms contained in the Bill of Rights.

5.8 County Government Act, 2012

The County Government Act, 2012 was enacted to provide the County Governments with powers, functions and responsibilities to enable them deliver services. Each county is expected to develop a county integrated plan that shall form the basis for all budgeting and spending of public funds.

The Act further requires the County Governor to promote and facilitate citizen participation in the development of policies and plans, and delivery of services in the county.

Other legislative measures under progress include the:

- Housing Bill
- Built Environment Bill
- Evictions and Resettlement Procedures Bill
- Landlord and Tenant Bill
- Metropolitan Areas Bill
- Spatial Planning Bill to repeal the Physical Planning Act
- Community Land Bill
- Public Private Partnerships Bill 2012.

5.9 Public Finance Management Act, 2012

The Act provides that the budget process for County Governments in any financial year shall begin with an integrated development planning process. The plan is expected to inform the development of county budget estimates and establish financial and economic priorities for the county over the short-, medium- and long-term.

These legislations however point to an important need to address this gap and indeed recommend the need for a framework to guide upgrading and the prevention of slums by contributing to improved poverty reduction strategies and urban and regional planning.
5.10 Housing Expenditure

The Constitution provides that for every financial year, not less than 15 percent of the revenue collected nationally shall be allocated to County Governments. National funds will be allocated to County Governments based on the county’s population, poverty levels and land area, among other issues. Based on the needs of the country’s county cities that are home to its largest slums, these funds can be targeted to support slum upgrading.

In the National Budget for 2014-2015, the Ministry of Land, Housing and Urban Development was allocated over Kshs 21.7 billion in funding, representing approximately 1.4 percent of total executive expenditure in 2014-2015. Within the Ministry of Land, Housing and Urban Development, Kshs 4.99 billion in 2014-2015 has been allocated to Housing Development and the Human Settlement Programme. The lack of prioritization of slum upgrading at the national level is mirrored at the county level since no amount was earmarked for slum upgrading or construction of social housing.

The 2014-2015 National Budget recognizes just two sub-programmes:

- The Housing Development Sub-Program, which will support the construction of 1,012 housing units in Kibera and Mavoko; the construction of 6,520 housing units in Kisumu, Nyeri Mombasa and Nairobi; the design and construction of an Appropriate Building Materials and Technologies Centre in Mavoko; and the provision of Kshs 400 million in loans for home ownership by civil servants.

- The Estates Management Sub-Programme mainly supports projects related to the registration and refurbishment of government housing units.

6.0 Conclusion and Recommendations

6.1 Finalization of the National Slum Upgrading and Prevention Policy

The development of the National Slum Upgrading and Prevention Policy is the only logical step for Kenya, given its advances in the implementation of several country-wide slum upgrading efforts. Support for the finalization of the Slum Upgrading and Prevention Policy by County Governments will prove beneficial, not only to the ongoing national discourse in support of the policy formulation, but will also reflect the need for County Governments to themselves develop housing planning and instruments to manage their local territory.

6.3 Align Legislation to the Constitution of Kenya

The Government has undertaken to expedite the review of the National Housing Policy in order to align it with the Constitution, particularly with respect to social housing. Updated, relevant policies on social housing, land, planning and regulation, governance and financing can be a natural catalyst to the realisation of the right to housing. It is therefore recommended that concentrated efforts are made to fast track the review of the pending legislation and implementation of existing enabling legislation and policies.

6.2 Development of an Information Management System

Without an appropriate information management system, it is impossible to fully comprehend the housing stress in Kenya and therefore determine with clarity what efforts would be most appropriate and targeted. It is therefore recommended that efforts should be made to identify the performance indicators and benchmarks against which the achievements are measured.
6.4 Accept and Acknowledge Informal Settlements and their Importance
The formal recognition of informal settlements demands that the Government and all other stakeholders take cognisance, not only of the challenges that face these settlements, but also the immense economic, social and cultural contribution of informal settlements. Slum upgrading cannot be sustained without a shared understanding that informal settlements are part and parcel of the cities and that all residents have a right to the city and to its services.

6.5 Political Good Will
Both National and County Governments must provide the vision, commitment and leadership required to sustain nationwide slum upgrading and achieve impacts of scale.

6.6 Provide Security of Tenure
As long as security of tenure is not adequately addressed, slum upgrading initiatives will continue to lack the full support and investment of communities. Without security of tenure no meaningful investment can ever be made, and no development can be sustained. In addition, the culture of corruption and extortion exists only because of the lack of legality and informality.

6.7 Civic Participation
The Ministry of Housing has been at the forefront in efforts to ensure that the formulation of the Slum Upgrading and Prevention Policy involves all stakeholders. Efforts should now be made to involve communities in agitating for the finalization of the formulation stage and implementation of the policy.

6.8 Prevent Formation of New Informal Settlements
Land and housing policies must be overhauled to ensure that all economic, social and cultural barriers that prevent the poor from accessing adequate housing are implemented. Of particular concern is that the land and housing market responds to the needs of low- and middle-income housing especially for the rental market to avoid downward raiding by more well-off individuals.

6.9 Participatory Frameworks in the Slum Upgrading Process
Participation involves joint consultation in the decision-making processes between the governments, international financiers of the project and the beneficiary communities. Participatory frameworks for slum upgrading processes are highly recommended, and particularly the use of information technology platforms. Through the use of internet-based technologies, in particular web-based geographic information systems (GIS), slum dwellers can engage meaningfully. In India, it is evidenced that having a map through the GIS, slum dwellers can more confidently and convincingly talk to the municipality about the problems affecting their community. They get an opportunity to influence and interact with the urban planning process. Technology-based citizens’ participation platforms increases interaction between different institutions, organizations and community partners on issues around slum upgrading processes. Public health workers in Kenya have set up a platform that allows people to utilize text messages to ask questions anonymously about subjects such as AIDS, breast cancer and sexually transmitted diseases, assist in awareness raising and outreach through feedback, and also share knowledge on best practices. Same to slum upgrading, it informs work on slum upgrading and also identifies areas that should be improved on. Feedback received on these platforms can be used to inform reports to better the work in slum upgrading processes and also review policies.

7.0 Conclusion
In conclusion, the finalization of the National Slum Upgrading and Prevention Policy is the only way to ensure scaling up of slum upgrading initiatives and production of social housing. The National Slum Upgrading and Prevention Policy will also provide a basis for the ongoing national efforts aimed at protecting and promoting the right to housing for all.
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