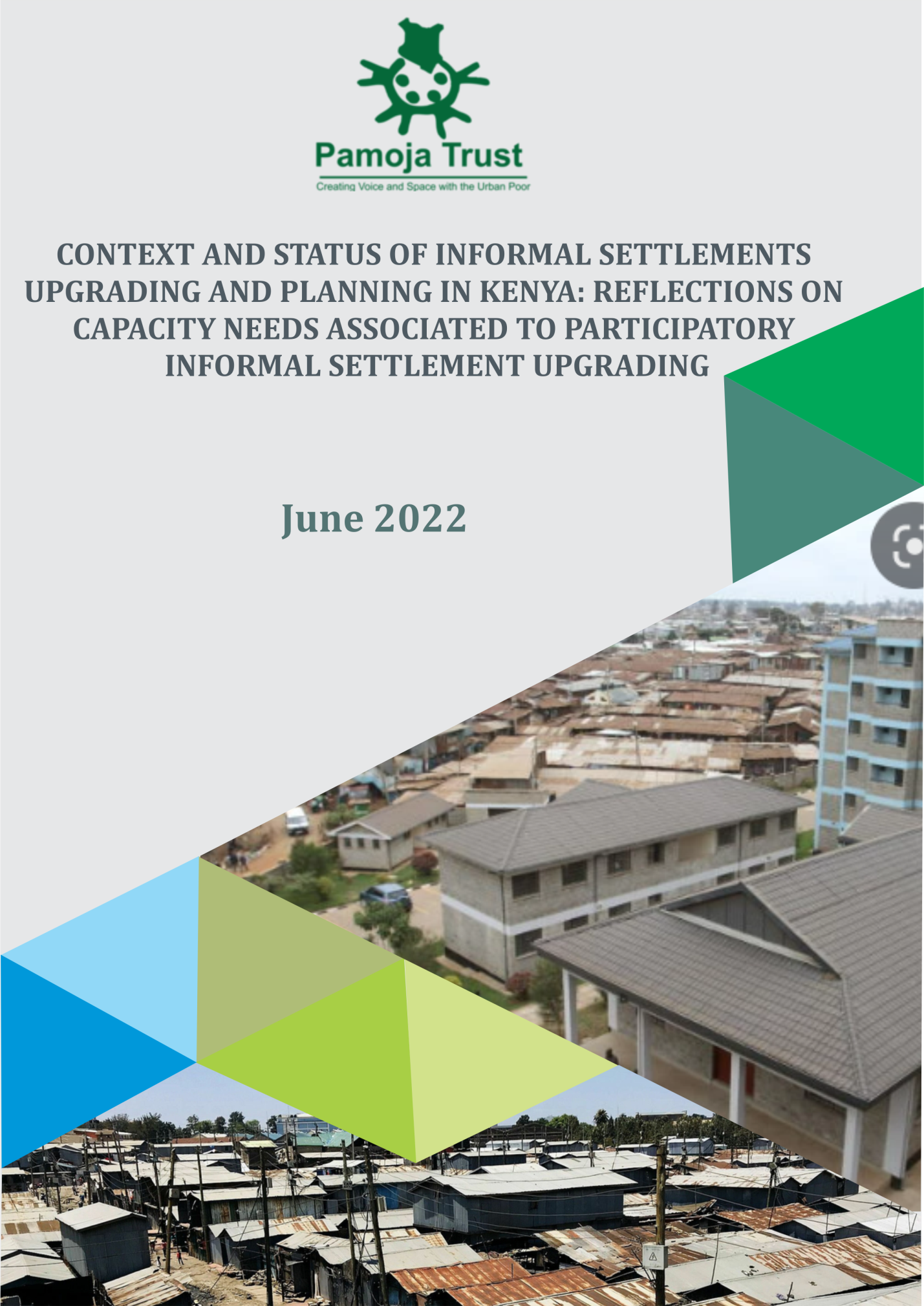
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## Executive Summary

Pamoja Trust is a non-profit making organization founded in 1999. PT is dedicated to promoting access to land, shelter and basic services for the Urban Poor. The organization takes principled and pragmatic approaches to protection and promotion of the right to the city through advocacy and precedence setting models for problem solving. PT provides social, technical and legal expertise at local community, national and international levels to ensure that urban growth and urbanism adhere to social justice principles and that national and international human rights

standards are implemented in favor of the most vulnerable of urban citizens.

The Kenyan government has had slum upgrading initiatives i.e., the Kenya Slum Upgrading Program (KENSUP) and the Kenya Informal Settlement Improvement Project (KISIP). These programs have been aimed at improving the livelihoods of people living and working in slums and informal settlements which entails promoting, facilitating, and where necessary, providing security of tenure, housing improvement, income generation and physical and social infrastructure. Pamoja Trust therefore seeks to review the context and document the status thus far.

The findings of this report has found that previous efforts of KENSUP and KISIP achieved the following results: (i) institutional structures were established within Soweto East, including a settlement executive committee, a programme implementation unit, and an inter-agency coordination committee; (ii) physical mapping and socio-economic analysis of Soweto East were completed in collaboration with the Government of Kenya; (iii) a draft master plan for Kibera was completed; and (iv) construction of 600 relocation houses at the Lang’ata decanting site was initiated.

Despite these results, there remain many challenges to slum upgrading efforts within the informal settlements in Kenya. This report suggests that to address some of these challenges, emphasis should be placed on careful design and management of slum upgrading initiatives with particular focus on affordability, community involvement, and protection of slum dwellers from evictions and violence. This report also holds that slum upgrading requires huge resources, plus long-term political will and stamina to see the process through in spite of the setbacks, dissatisfaction and conflicts that will, inevitably, occur along the way. In this daunting context, it is to the immense credit of the Government and its development partners that slum upgrading features prominently in Kenya's recent housing policy.

In this regard therefore, this report makes the following recommendations to different stakeholders involved in slum upgrading initiatives in Kenya:

***Recommendations to government***

1. Government should give effect to the provisions of the NLP that canvasses security of tenure for land rights in informal settlements and the informal activities thereto.
2. The Slum Upgrading and Prevention policy should be implemented to activate the inventory of informal settlements for purposes of planning and implementation of holistic upgrading and other improvement programs
3. The Government should deepen legislative, policy and other measures to guarantee the right of access to adequate housing particularly for the vulnerable and the marginalized.
4. The Government should implement the evictions and resettlements procedures contained in the IDP Act to guide processes and avert the rampant human rights violations accompanying evictions.
5. The Government should prioritize social housing in the big four agenda to ensure inclusivity in addressing the housing challenge in the country.
6. The Government should expedite the registration of community land.

***Recommendations to development partners***

1. Broaden co-creation efforts in community programming for slum upgrading initiatives to be as accurate as possible in addressing the needs of communities in such initiatives
2. Given the multi-pronged challenges that face initiatives of slum upgrading, development partners should consider initiatives that have greater grassroots communities involvement other than implementations through intermediaries
3. Entrench and encourage full public participation in critical development decisions targeting slum dwellers upgrading

***Recommendations to the community***

1. Support efforts and initiatives that encourage self-organizing and mobilization of communities into thematic groups as agencies for advocacy and agitating for their interests
2. Communities should take ownership and personal initiative to protect public installations and development projects set up to benefit the community against vandalism and related wastages that may derail such projects.
3. Encourage communities to be proactive and willing to participate in public participation forums from which they can adequately agitate for the results they want to see in their respective communities.

## Acknowledgement

Pamoja Trust expresses its sincere gratitude to the staff, community members and partners who contributed to the development of this report. Special gratitude goes to Misereor for the financial support given towards generation of this report. We further acknowledge the technical support by Patrick Ochieng as the lead researcher assisted by Jacob Opara.

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## List of Acronyms

AAGR Average Annual Growth Rate;

AARCPU Average Annual Rate of Change of Proportion Urban

AMT Akiba Mashinani Trust

CBOs Community Based Organizations

COHRE Centre for Housing Rights and Eviction

CSOs Civil Society Organizations

FY Fiscal year

GIS Geographic Information System

HIV/AIDS Human Immunodeficiency Virus and Acquired Immunodeficiency

Syndrome

IDP Internally Displaced Persons

IIED International Institute for Environment and Development,

KENSUP Kenya Slum Upgrading Programme

KISIP Kenya Informal Settlements Improvement Project

K-WATS Kibera Integrated Water, Sanitation, and Waste Management Project

LAPSSET Lamu Port, South Sudan and Ethiopia Transport

MDGs Mellenium Development Goals

MOTIHUD Ministry of Transport Infrastructure and Urban Development

MTPIII Third Medium Term Plan (2018-2022)

NCC Nairobi City County

NCIDP Nairobi County Integrated Development Plan

NGO Non-Governmental Organization

NISCC Nairobi Informal Settlements Coordination Committee

NLP National Land Policy

NYS National Youth Service

PU Proportion urban (PU

RAP Relocation Action Plan

SEC Settlement Executive Committee

SIDA Swedish International Development Agency

SNP Sustainable Neighbourhood Programme

SPA Special Planning Area

UN United Nations

UNDESA United Nations Department of Economic and Social Affairs

UN-HABITAT United Nations Human Settlements Programme

USD United States Dollar

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# **CHAPTER ONE**

# **CONTEXT OF INFORMAL SETTLEMENT UPGRADING & PLANNING IN KENYA**

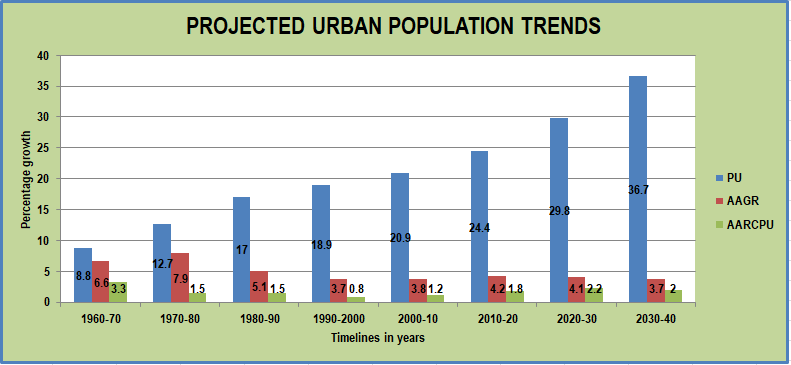
## 1.1 Kenya Urbanization Context: Rural-Urban migration and urbanization trends

Rapid growth of urban populations remains one of the most critical attributes of African changes in modern times, eliciting both worry and opportunity almost in equal measure. Kenya, as many African states, has its population characterized by rapid urbanization and urban growth. By definition, urbanization is the process of growth in the urban proportion of a country’s entire population, rather than merely in the urban population per se[[1]](#footnote-1). In a word, the appropriate measure of the rate of urbanization is the difference between the growth rates of the urban population and the national population.

According to Ouma (2011), at high levels of urbanization the task of socio-economic development can become complicated and appropriate national urbanization policies need to be implemented. Urban growth is the rate of growth of an urban population. In fact, more specifically, it is growth of urban areas or urban agglomerations. It is therefore different from urbanization but, as an economic phenomenon, it is inextricably linked with the process of urbanization[[2]](#footnote-2). Further, Ouma (2011) holds that the pattern of concentration of economic activity and its evolution have been found to be an important determinant, and in some cases the result, of urbanization, the structure of cities, the organisation of economic activity, and national economic growth[[3]](#footnote-3). The size distribution of cities, for example, is the result of the patterns of urbanization, which result in city and urban growth and city/urban area creation (Kempe, 2019).

Data suggests that over the past 40 years, East Africa alone has had an urban population increase from about 11.2 million to 77.2 million which is an urban proposition increase from 10% to 24% in the same period (Kempe, 2019). For Kenya, according to Kenya National Bureau of Statistics (KNBS) 2019, its total population increased from 10.9 million in 1969 to 47.6 million in 2019 which is an annual average inter-censal growth rate ranging from 2.9%–3.4%. Figure 1 below shows that the urban population as a proportion of the total population increased from 8.8% in 1960-70 to 20.9% in 2000–2010 and this is projected to exceed to 36% by 2030–2040; the annual average urban population growth rate from 1970-1980 was 7.9% and was estimated to stand at 4% from 2010 to 2040. The average annual rate of change of the urban proportion (which is the average exponential rate of change of the percentage urban in a given period) was 3.3% in 1960–1970 and is estimated to stand at 2% by 2040. These data indicate that one out of every five Kenyans currently live in urban areas compared to one out of twelve in the 1960s.

Figure 1: Urban population trends and projection and average annual rate of change of the percentage urban, 1960–2030



Source: (Kempe, 2019)

Notes: PU – Proportion urban (PU); AAGR – Average Annual Growth Rate; AARCPU - Average Annual Rate of Change of Proportion Urban

The data in the above graph shows apparent discrepancy in the volume of the data based on national government census figures which reflects slightly higher figures in comparison to the UN’s World Urban Population database data used in the graph. An example of this discrepancy can be illustrated by the fact that the Kenyan census report for 2009 indicates that the urban population for the country at the time was 32.3% whereas the UN data placed that population at 21.9% (Kenya National Bureau of Statistics, 2019; UNDESA, 2010). According to Kempe (2019), this discrepancy may have something to do with how the UN defines urban classification as they relate to cities and towns where it only considers the population for the ‘urban core’ to ensure consistency with previous censuses in its calculations[[4]](#footnote-4).

What is important to note here however is that, regardless of the source of this data, urbanization and urban growth in Kenya has been on the rise over the past few decades at a steadily increasing pace calling for the need to formulate policies and strategies that appropriately respond to supporting urban communities.

## 1.2 The quest for an inclusive City/Town

Slums are a permanent feature of Kenya’s urban development. Lines & Makau (2018), suggest that 2% of Nairobi, is occupied by slums, and is home to half of the city’s population. While slum populations have doubled, the paper continues, the spaces they occupy remain constant just as the living conditions, services, infrastructure and tenure security[[5]](#footnote-5). These remain spectacularly below par in comparison to the densification and consolidation. The authors track these averments over five critical timelines:

### *1.2.1 Time period of 1963 - 1996*

During this period Kenya’s urban spatial development was inequitable - itself a heritage of colonial and racially segregated legacy - visible through a residential pattern that shifted only in form of race during the period before independence to wealth and class post-independence. The persistence of this legacy led to emergence of slums, scarcity of affordable housing supply for low-income urban migrants, poor service provision; spontaneous, proliferation of unplanned settlements on both unoccupied private and public land and widespread private landlordism. These marked the post-independence city growth due to a combination of factors. The factors included: 1) Autocratic leadership 2) Urban planning policies that entrenched a dual city whose European side was well planned and controlled while its African side was restricted, fragmented and neglected 3) The lifting of restrictions on Africans working and living in towns 4) The emergence of slumlords who “extracted profits out of trade in inadequate basic necessities to the [majority] poor” tenants on land they do not own.

### *1.2.2 Time period of 1996 - 2002*

Official policy of the Government of Kenya, the 2018 study affirms, at least “until the late 1970s, was to demolish informal settlements despite the lack of alternatives for many.” Invisibility or lack of official recognition which was the official response by the state to informal settlements saw Kibera seated on 600 acres with a population of 270,000 in 1990 presented on city maps as a forest and further saw the 1990 brutal demolition of two large slums Muoroto and Kibagare that displaced 30,000 people when well-connected individuals acquired the parcels of land on which the settlements stood the ground truth notwithstanding. The introduction of multiparty politics in 1992 saw a strong parliamentary opposition stand up to the ruling party that was using land as a weapon of transactional politics to reward political friends or punish political foes by depriving them of the same. It is during these watershed years that communities in these settlements would rise to resist demolitions, prosecute cases in Court, hold demonstrations against evictions and rebuild demolished settlements. These efforts coming hot on the heels of Habitat II Conference in Istanbul were the results of the coming together of occupants of informal settlements and markets in Nairobi that would later be responsible for a state moratorium on forced evictions at the end of 1997 that somewhat stymied forced evictions, though largely still ineffective.

The birth of Muungano Wa Wanavijiji in 1996 would completely change the state attitude towards informal settlements when occupants organized themselves to resist forced evictions, secure their homes and businesses and protest state’s refusal to recognize slums and people living in them. Civil Society Organizations, human rights activists and some Catholic Priests through the support of the UN task force on Habitat were instrumental in the coordination of the work that birthed the *Muungano Wa Wana Vijiji* movement to resist forced demolitions, evictions and land grabbing in the country’s. The first significant state response to slums was the establishment of the Nairobi Informal Settlements Coordination Committee (NISCC), in 1996; in whose organs Pamoja Trust was a member., the NISCC issued a moratorium on forced evictions of settlements (on public land). This led to the lighting of the candle in a UN Habitat Forum opened by His Excellency the Late Daniel Toroitich Arap Moi held at the Kasarani Sports view.

### *1.2.3 Time period of 2000 - 2006*

From a past that was very frosty, it was refreshing that; “Around 2000, the focus of both the movement and the state began to shift markedly, from slum clearance, towards seeking solutions to transform slums into decent settlements of low-cost housing by developing models and methodologies for financing and upgrading.” (Pamoja Trust Strategic Plan and Annual Report 2002). Muungano Wa Wanavijii together with CSO Partners like Pamoja Trust signed a memorandum of Understanding with the then Nairobi City Council in 2001 to launch its first upgrading project in Huruma that was targeting 2500 households[[6]](#footnote-6). The second project was commenced in 2004 in partnership with the Ministry of Transport Infrastructure and Urban Development (MOTIHUD) and Pamoja Trust through Kenya Railways to develop and implement a World Bank-funded Relocation Action Plan (RAP) to respond to the need to clear the railway corridor. This project targeted 500 households living and operating businesses along the railway corridor of Kibera and Mukuru slums in Nairobi. The participatory implementation of the project began in 2013 with 7360 PAPS relocated to the new housing and business Units.

Consequently, the Government would soon launch its first significant state-led initiative to provide solutions to informal settlements, the Kenya Slum Upgrading Programme (KENSUP), in 2002 at the first World Urban Forum, in Nairobi. KENSUP was a joint government–UN-Habitat initiative, the latter’s headquarters having just moved to Nairobi, was to be piloted in Kibera. Later in 2003 Government made its first national budgetary allocation for slum upgrading two years after the establishment of Pamoja Trust an entity formed to consolidate support for the Muungano Wa Wanavijiji movement and explore partnership with the state both at national, and local levels, and with Universities and professional bodies such as Architectural Association of Kenya as well as global slum dwellers movements to retool and position residents at the heart of planning and enumerations, savings, house modelling, co-production and financing of upgrading programs from a past that was predominantly protest-based.

In a bid to tilt the power balance in favor of the communities, the decision to form savings schemes in each settlement and search for upgrading solutions while undertaking “self-enumeration” not only drew a broader membership of the informal settlement in to the process but also tilted the power balance in favor of the residents in the face of impending state regularization of informal land tenure. The first enumeration in Huruma convinced the city government that regularization was possible while the second enumeration in Korogocho exposed the polarities of informal settlement dynamics pitting tenants with structure owners. With the first Huruma houses built in 2003 Muungano begun its trek to other towns and cities to build on the work of settlement transformation. To date, the project is ongoing as the methodology adopted in the construction is that of incremental development.

### *1.2.4 Time period of 2005 – 2006*

The power of self-help, possible in part because of the savings culture produced other strands of advocacy for better sanitation, water, drains, health, livelihoods etc. “In 2005, with the Akiba Mashinani Trust (AMT), a financial loaning mediation facility set up by Pamoja Trust to facilitate community access to housing, livelihood and services, Toi market savings scheme purchased land on Nairobi’s outskirts to build homes for over 2,000 families.” With growing confidence in savings systems, mobilization, city-wide data collection, community-led planning and upgrading of infrastructure and housing, the Alliance took increasingly technical approaches to designing and financing housing solutions in the slums. Between 2005 and 2006 Muungano enumerated all 44,000 slum households living in Kisumu, Kenya’s third largest city. Muungano was now present in Nairobi, Mombasa, Nakuru and Kisumu with nine regional networks and was actively curating its evolving upgrading methodology.

### *1.2.5 Time period of 2009 - 2022*

Kenya’s constitution adopted in 2010, promised to strengthen local accountability and public service delivery at local levels by mandating new public participation channels for communities to engage county governments on development and civic issues. The Constitution aptly embraced social and economic rights of all citizens of Kenya, guaranteeing a just and fair nation where all enjoy equal rights to a reasonable quality of life, Specifically, the right to accessible and adequate housing explicitly guaranteed by the Constitution (Article 43(1) (B). In article 21 (2) the Constitution required the Government to take policy and other measures to achieve the realization of the rights to housing.

During this phase the state launched two major informal settlements based initiatives, one was and currently still is the Kenya Informal Settlements Improvement Project (KISIP), launched in 2011, this was a US$ 165 million project funded by the World Bank and bilateral donors, which aimed – with mixed success – to address informal settlements issues of infrastructure and tenure insecurity and the second was a programme of slum improvements launched in 2014 by Kenya’s National Youth Service (NYS) which employed thousands of youths, mainly from the informal settlements to clear garbage and undertake small infrastructure projects. The latter programme was however quickly bogged down by allegations of corruption.

In 2011 the Muungano Wa Wanavijiji Alliance begun its shelter and land community mobilization and advocacy in Mukuru, a dense Nairobi people’s settlement belt of over 300,000 people living on mostly privately owned land zoned for industrial use. The aim was to support residents to successfully contest, with protest and through litigation, eviction notices threatening households across the slum as part of an international research consortium investigating and proposing solutions for regularizing of the informal settlements. Their portrait of Mukuru revealed the “poverty penalty” faced by residents, who pay three–four times more for low-quality available services than the nearby wealthier areas that pay less for their far better service provision; and the complex, highly commercialized web of informal power and governance. The Nairobi City County government – which had already worked closely with Muungano in other places – responded positively to the research, and in 2017 declared Mukuru a “special planning area” (SPA). This effectively froze development there for two years, until an integrated development plan was produced by a coalition of actors (including the Muungano Alliance) working together to identify challenges and solutions

In 2017, the government of Kenya launched the Big 4 agenda that identified four priority initiatives to be implemented during 2018-2022 plan period. One of the four initiatives was affordable housing mainstreamed in the Third Medium Term Plan (2018-2022) (MTPIII). The idea was to provide affordable housing to the low-income segment of the population. By the first year of its launch, the National Treasury and Planning through the State Department for Planning also responsible for Monitoring and Evaluation reported that 462 units out of the targeted 7587 social housing unit were constructed during the FY2018/19, explaining the deficit was experienced due to inadequacy in budget allocation and lack of private sector investment[[7]](#footnote-7). Out of the 18 slums targeted for upgrading, 10 were upgraded with no accessible information in regards to details of the 10 slums.

In 2016 the Ministry of Land, Housing and Urban Development developed a national slum Upgrading and prevention Policy, (Sessional Paper number 2 of March, 2016, to promote, secure and protect dignified lives and livelihoods for the poor and people living and working in slums by strategically integrating them into the social, political and economic framework in line with the Constitution. This was a step into a legislative framework to govern slum upgrading and prevention in Kenya.

In 2019, the Director of the Slum Upgrading Department constituted a Technical Committee comprising of members from the state department of housing, slum upgrading department, the Kenya Law Reform Commission, the Office of the Attorney General, civil society organizations (Haki Jamii and Pamoja Trust) and of the public (Muungano wa Wana Vijiji). Among the Terms of Reference of the Technical Committee was to develop the Slum Upgrading Bill, conduct public participation and submit the reports and draft Bill to the Cabinet Secretary for onward transmission to the Office of the Attorney General. The Technical Committee successfully developed the Bill, based on the National Slum Upgrading and Prevention Policy, Sessional Paper No. 2 of March, 2016, conducted public participation across all the 47 counties. The Bill envisaged a shared vision for better and more sustainable urban areas and provided a regulatory and institutional framework to enforce the implementation of the National Slum Upgrading and Prevention Policy, 2016. This was on the understanding that slum upgrading and prevention is not only about housing but focuses on improving socio-economic livelihoods of the persons living and working in mostly marginalized and unstable urban environments.

## 1.3 Overview of Upgrading Interventions (why, where and what are they)

Slum upgrading initiatives are processes that require deliberate efforts and planning to realize. According to Gikonyo (2012), from an operational point of view, slum upgrading requires the establishment of an institutional and organizational setting through which the following key purposes can be achieved:

1. The participation of the target groups can be facilitated;
2. The partnerships between public, private and community stakeholders can be realized;
3. Financial resources can be mobilized and allocated on a sustained basis;
4. Local implementation capacities can be strengthened and the coordination, planning and management of programs and projects can be organized.

Basic infrastructure including water and sanitation are critical attributes of slum upgrading which should then be followed by reduction of the cost of infrastructure which can be achieved by integrated housing infrastructure development to make urban housing affordable for the urban poor. Further, basic infrastructure interventions may be considered to constitute three phases as follows[[8]](#footnote-8):

* ***Phase 1*** – physical infrastructure improvements in the targeted areas linked to income generation for the dwellers. This can then be reinforced by pro-poor governance strategies to give confidence for participating communities.
* ***Phase 2*** – refining governance structures within the areas targeted in a way that stimulates investment from different sources in the slum upgrading intervention
* ***Phase 3*** – full scale replication and scaling up of the selected communities for greater cross-learning and sharing of experiences across different areas leading towards sustainable growth and development of slum areas.

The other important perspective of slum upgrading interventions is the issue of land ownership. According to Gikonyo (2012), land ownership is a critical challenge that the urban poor face across different jurisdictions beyond Kenya. Gikonyo (2012) further indicates that security of tenure is critical in the integration of the urban poor as it provides them with recognition by public authorities as owners of property under their care[[9]](#footnote-9). This further encourages urban families to invest in upgrading the plots where they live and diversifying how they use them for self-sustenance. The corollary of these benefits of security of tenure is that the urban poor then feel protected against the threats of possible evictions providing them with assets with which they can use as leverage in capital markets including working as securities to bank loans for personal and corporate development[[10]](#footnote-10).

Another important attribute of slum upgrading is that of skill acquisition training and support where communities should be supported and trained in practices such as construction and accreditation of the already existing or acquired skills on artisanry water supply, sanitation and solid waste management which lies at the core of slum upgrading (Gikonyo, 2012). This is important since this kind of training enables them reduce the cost of construction as well as supports them to become self-reliant in certain things such as production of affordable building materials, and water resources within their localities. This also helps them to be empowered in a way that they are able to participate in the construction of services and infrastructure within their communities. Community members can also be supported to generate designs for their houses and spaces and develop their business plans towards setting up small-scale enterprises. The ultimate aim of the training is to empower community members to start up income generation activities hence improve their livelihoods or invest in improved housing, which is an essential part of the holistic approach to slum upgrading[[11]](#footnote-11).

## 1.4 Some Examples (Status, practices, obstacles)

Any assessment or review of slum upgrading programme should be able to ascertain whether, the slum upgrading [actually leads to] improved access of slum communities to basic physical and social infrastructure, economic opportunities, tenure rights, information and institutions focusing on the poor. [The resulting] slum improvement [should ideally be] achieved with the active involvement of slum communities during the conception, planning, implementation, monitoring and management process, and through contribution of part of their own resources required for development, operation and maintenance as Ndukui writes[[12]](#footnote-12). The upgrading should cause minimal displacement and involve securing of land tenure, rehabilitation of existing housing structures, development of housing where necessary, planning and provision of social and physical infrastructure, and improving livelihoods through income generating activities (Plessis, 2015).

Based on *United Nations Economics and Social Commission for Asia and the Pacific*, Shelter for All, slum upgrading can play an important role in improving existing housing stock and ensuring that complete reliance is not placed upon new investment in low-income housing. In this regard, upgrading can be critical in improving tenure security and providing alternatives to evictions. However, this is not easy. Plessis (2015) premises that emphasis should be placed on careful design and management of slum upgrading initiatives with particular focus on affordability, community involvement, and protection of slum dwellers from evictions and violence[[13]](#footnote-13). According to the *Centre for Housing Rights and Eviction* (COHRE), slum upgrading also requires huge resources, plus long-term political will and stamina to see the process through in spite of the setbacks, dissatisfaction and conflicts that will, inevitably, occur along the way. In this daunting context, it is to the immense credit of the Government and its development partners that slum upgrading features prominently in Kenya's recent housing policy[[14]](#footnote-14).

From as early as 2001 when Pamoja Trust supported the residents of six Huruma Villages through the federation of slum Dwellers Muungano Wa Wanavijiji to launch the upgrading of 2500 households in Huruma in partnership with the Nairobi City Council to the commencement of the state programme KENSUP piloted in Kibera with support from UN Habitat in 2002, to the Railway Relocation Programme that targeted 11,000 households in partnership with the Kenya Railways and the Government through, The ministry Of Transport Infrastructure and Urban Development from the support of the World Bank in 2004 to 2018, to the tune of $165 million KISIP programme in 2011, Kenya has consistently moved from a history of ambivalence to informal settlements to one in which the President has declared affordable shelter as one of its four priorities for social and economic transformation in 2017. On the heels of the President’s announcement the Nairobi City County government announced the establishment of the Mukuru Special Development Area (SPA) in partnership with Muungano Alliance and other academic actors cited elsewhere in this report.

## 1.5 Evolving Policy and Regulatory frameworks for informal settlement upgrading and prevention

The consistent evolution of slum upgrading highlighted in the preceding paragraph from what was essentially ambivalence on the part of the government to a complete state programme has generated a very concrete jurisprudence whose letter is also constantly evolving to also replace what was largely happening in the context of a policy vacuum. What this study finds compelling is the fact that informal settlement upgrading and prevention is now articulated in the Country’s legal, regulatory and institutional frameworks not as a footnote but as an integral part of the Country’s legal development. Let us examine a few:

* ***National Land Policy, 2009*** – The NLP passed one year before the promulgation of the Constitution explains informal settlements as *occupation of land without formal recognition that do not comply with the physical and land use planning due to absence of security of tenure*. The NLP addresses some of the challenges faced by slum dwellers and suggests interventions that include taking inventory of genuine squatters and people who inhabit informal settlement, determining whether the land is suitable for human settlements, establishment of appropriate mechanism for removal and resettlement, enhancing sustainability in handling subjects of land in informal settlements, establishment of measures to prevent slum development and development of appropriate legal frameworks for eviction based on internationally acceptable guideline.
* ***The National Vision 2030*** – aims to provide an adequate and decent housed nation in a suitable environment by 2020, with a target for high quality urban planning noting that most cities and towns are unplanned. The policy also foresees the big need for an effective capacity for regional and urban development planning for those living in slums and informal settlements[[15]](#footnote-15). Further, in addition to advocating for affordable housing, the policy addresses the issue of equality and poverty elimination as well as increasing school enrolment for girls and children from nomadic communities and poor slum communities. Some of these plans are currently being implemented in many informal settlements for example Kibera.
* ***The National Housing Policy, 2004*** – provides the government’s road map to carry out land use planning and management and as well as establishing banking facilities for low income housing. The policy also advocates for provision of incentives for squatters who purchase land they occupy at lower rate for shelter development, waiving fees on survey, sub-division, and even change over.
* ***The National Urban Development Policy, 2011*** – formulated out of a recognition that Urban development this far is composed of inadequate supply of quality goods and services with various land uses and management beset with corruption, controversy and conflict[[16]](#footnote-16). It therefore sought to create a framework for sustainable development of urban areas focusing on thematic areas especially governance and management of urban areas, urban finance, urban economy, national and county planning. The policy also addresses other related issues such as social infrastructure and services, urban housing, security and disaster risk management and marginalization of vulnerable groups which are integral challenges that informal settlements face.
* ***The National Slum Upgrading and Prevention Policy*** – initiated by the Ministry of Housing in 2012, aims to transform slums and informal settlements into better dwellings for habitation by peoples from every background. This was to be implemented through multi-stakeholder collaboration since upgrading is a comprehensive, multidisciplinary and inter-disciplinary process (Mutero & Chege, 2019).
* ***Some Case Law Examples*** - Over the years residents of informal settlements and CSOs who support their work have litigated a number of public interest issues in Courts of law. These cases have given rise to precedent-setting decisions whose impact is the progressive institutionalization of informal sector improvement or strengthening of security of tenure, improved service and infrastructure delivery, a sustainable future urban growth but in some instances also great departure from the conceptual imperatives of this important sector. It is important that these developments are examined to support the evolution of progressive jurisprudence that should inform practice in the coming future. For instance, on 11 January 2021, the Kenyan Supreme Court delivered the judgment in *Mitu-Bell Welfare Society* *v The Kenya Airports Authority and 2 others[[17]](#footnote-17)* thatremains one of the best progressive judgments we have on informal settlements. The case concerned the unlawful eviction and demolition of the homes of over 3,000 families residing in an informal settlement on public land for over 19 years. The forced eviction took place without due notice and despite a High Court order prohibiting government authorities from conducting the evictions, pending hearing of an application on the matter. The Supreme Court recognised that *evictions without relocation or compensation negatively affect the equal enjoyment of the right to housing by vulnerable groups*. Another case, *Satros Ayuma and Others v Kenya Railways Corporation and Others*, *Nairobi High Court Petition No 65 of 2010* provides another landmark ruling worth noting. The case is about a retirement scheme by Kenya Railways Corporation (KRC) which forcefully evicted tenants from Muthurwa Estates to pave way for development project for the Kenya Railways Retirement Benefits Scheme. The high court ruled that KRC violated the rights of the tenants that were evicted to accessible and adequate housing contrary to Article 43 of the Constitution but limited to the manner in which the forced evictions were conducted[[18]](#footnote-18).

# **CHAPTER TWO**

# **UPGRADING PROGRAMMES AND INITIATIVES**

# **(KENSUP & KISIP, KUSP)**

## 2.1 Brief overview of KISIP and KENSUP

*Kenya Informal Settlement Improvement Project* (KISIP) is a government initiative started in 2011 by the Kenyan government in partnership with the World Bank and Swedish International Development Agency (SIDA). This initiative was aimed at improving living conditions on the current informal settlement by improving infrastructure and strengthening of security of tenure[[19]](#footnote-19). The initiative also sought to help the government to plan for future urban growth in a way that prevents the emergence of new slums and was implemented in 15 municipalities within five years from June 2011 at a cost of USD 165 million. The project comprised four components namely:

1. ***Institutional strengthening*** – and programme management of the Ministry of Housing, Ministry of Lands and the participating Local Authorities;
2. ***Enhancing tenure security:*** This involved planning, surveying and issuance of titles. This activity under the initiative provided some guidelines for informal settlements, establishing databases on land tenure, community organization and mobilization, preparation of development plans including determination of settlement boundaries, detailed mapping and provision of secure tenure, identification and verification of beneficiaries based on agreed eligibility criteria, preparation of local physical development plans, issuance of letters of allotment to households/groups, surveying of individual plots and preparation of registry index maps, registration and issuance of titles to households or groups[[20]](#footnote-20).
3. ***Investing in infrastructure and service delivery:*** The Government invested in roads, bicycle paths, pedestrian walkways, street and security lights, waste management, water drainage, sanitation, green spaces, platforms etc. in the informal settlement spaces;
4. ***Planning for urban growth***. Lack of adequate planning is a challenge. Through this component, the Government provided technical assistance to the municipalities the goal of which was to take measures that will reduce or prevent slums (Muraguri, 2017).

On the other hand, *The Kenya Slum Upgrading Programme* (KENSUP) was initially the sole body charged with improvement of livelihoods in urban slums since its formation. Under this initiative, started in 2002 the government tried to realize its intentions by implementing a number of policy papers among which are: *The Communication Strategy of 2005*, which had the objective to empower stakeholders and ensure their meaningful participation in the implementation of slum upgrading projects. The strategy was divided into three levels namely: national, city/town and at the settlement level in attempt to strengthen the nexus between the Central and Local Government institutions, development partners as well as the beneficiary community (Muraguri, 2017). Secondly, the *Communication Plan of 2006* was developed to ease the misunderstanding of KENSUP, by many stakeholders. These were informed by factors from historical accounts that documented efforts and attempts to improve the living conditions in slums. Lack of adequate information was considered as the major drawback to the activities of KENSUP, since there was mistrust and suspicion that set in among stakeholders[[21]](#footnote-21).

The collaboration with SIDA and other stakeholders helped develop a comprehensive Communication Plan linked to *Integrated Land and Urban Sector Programme* (ILUSP) in order to address issues such as; gender, HIV/AIDS, human rights, and people with disability. The purpose of this was to ensure that the KENSUP concept was in line with Millennium Development Goal (MDG) Seven,Target 11 which aims to improve the lives of 100 million slum dwellers by the year 2020, 5.3 million of whom were living in Kenya[[22]](#footnote-22). In addition to this, the *KENSUP Strategic Plan (2005-2020), Volume II* sought to address different issues including the policy and legal framework on slum upgrading, institutional framework, economic strategies for slum dwellers and infrastructural elements and facilities that need to be developed or improved in slums. The plan identified security of tenure as a major factor that hindered the slum upgrading initiatives. Unfortunately, close to two decades since this plan came into force, land tenure issue still remains largely unresolved for slum dwellers.

## 2.2 Key KENSUP/KISIP Projects in Select Towns and Cities

There are a number of projects that were undertaken under the KENSUP/KISIP programmes. Let us mention the following:

### *2.2.1 Kibera Integrated Water, Sanitation And Waste Management Project, Nairobi*

Statistics indicate that Kibera is the second largest informal settlement in Africa, with a total area of approximately 256 hectares and an estimated total population in the settlement ranging from 600,000 to 1,000,000 inhabitants. This represents a quarter of Nairobi’s population and comprises of *12 villages*, each characterised by lack of basic urban services and infrastructure, including water supply, sanitation, solid waste management, adequate housing, power, and roads[[23]](#footnote-23). Unemployment levels are high and majority of the residents there rely on the informal sector for survival. The absence of an effective land policy, proper urban governance, and an organised community framework for accessing credit to improve living conditions worsen the situation[[24]](#footnote-24).

*Kibera Integrated Water, Sanitation, and Waste Management Project* (K-WATS) was a pilot demonstration project implemented in Soweto East (one of Kibera’s 12 “villages”), which has an estimated population of 70,000. The project was executed as a collaboration between the Government of Kenya, the Kenyan NGO *Maji na Ufanisi* (Water and Development), local residents, and the private sector. The project was a follow-up of the *Kibera Slum Upgrading Initiative*, which was concluded in June 2004 and achieved the following: 1) institutional structures were established within Soweto East, including a settlement executive committee, a programme implementation unit, and an inter-agency coordination committee; 2) physical mapping and socio-economic analysis of Soweto East were completed in collaboration with the Government of Kenya; 3) a draft master plan for Kibera was completed; and 4) construction of 600 relocation houses at the Lang’ata decanting site was initiated. The project was a community-based water and sanitation intervention in Soweto East that had partnerships, sustainability, inclusion, and participation as its guiding principles. It initiated accountable governance frameworks to support small-scale community-based initiatives in water, sanitation and waste management.

The project aimed to improve the livelihoods of people living in Soweto East by supporting small-scale, community-based initiatives in water, sanitation, and waste management, and by providing basic services, infrastructure, and capacity building. In summary, the project had the following main achievements:

1. Water, sanitation, and waste management conditions improved through the provision of storm water drains, communal water and sanitation facilities, and small-scale, door-to-door waste collection and recycling services.
2. The overall mobility of residents improved after the construction of a low-volume road, which took into account the needs of non-motorised transportation users.
3. Non-motorised transport was established as an alternative and efficient tool for creating new income-generation and business opportunities and achieving comprehensive, sustainable, and cost-effective urban mobility.
4. Providing household power connections in conjunction with the Kenya Power and Lighting Company enhanced access to modern energy.
5. Information and technology skills were enhanced among the population through the establishment of a Community Information and Communication Technology Centre.
6. The institutional and technical capacities of selected key target groups – community-based organizations, informal traders, local authorities – were strengthened by conducting training courses in project management, entrepreneurship, micro enterprise skills development, and information technology.

### *2.2.2 Sustainable Neighbourhood Programme, Mavoko*

Mavoko has grown into an industrial town and has benefited from the establishment of the Export Processing Zone and a growing number of other industrial entities: mines, distilleries, quarries, and flower farms and other horticultural ventures. The town has an estimated population of 65,000 and despite its close proximity to Nairobi, the communities in the area are quite rural. There are some 25 rapidly expanding informal settlements that have emerged around the town. These are characterised by lack of access to formal housing and land markets, inadequate access to water and sanitation, self-built structures made of poor building materials, and acute security and health problems[[25]](#footnote-25).

*The Sustainable Neighbourhood Programme* (SNP) was a pilot slum resettlement programme relocating slum dwellers to a piece of land in Athi River, which was made available by the Government of Kenya, exchanged in a debt swap with the Government of Finland. The SNP promoted broad-based participation of all the stakeholders and was implemented together with the Government of Kenya, the Sub County of Mavoko, local NGOs, private companies, and local communities. It was a self-help housing project linked to capacity building and income generation, through which slum dwellers were to build their own homes. The main goals of the SNP were to improve local governance and strengthen the capacity and role of the informal and the community sectors in developing sustainable neighbourhoods[[26]](#footnote-26). UN-HABITAT’s aim with this pilot project was to test new, innovative approaches to slum upgrading in Kenya and develop a comprehensive housing package, including a finance component that will enable slum dwellers to improve their housing and other living conditions (Candiracci & Syrjanen, 2007).

Some of the main achievements for this initiative include the following:

1. A socio-economic profile and situation analysis of Mavoko’s slums were completed.
2. The implementation of community action plans reinforced community organization.
3. The formation of housing cooperatives was completed.
4. A broad-based partnership of the main stakeholders was formed with an effective project structure.
5. A master plan and house designs for the SNP site were finalized.
6. A Mavoko SNP sub-office was set up within the sub-county of Mavoko, with three local community coordinators working on community Mobilisation.
7. A training programme in self-help housing for community members was initiated.

### *2.2.3 Provision Of Basic Services In Selected Slum Settlements In Kahawa Soweto, Nairobi*

Kahawa Soweto is located in the north-eastern part of Nairobi, with a population of about 7,000 people who live in 700 structures on approximately 15 acres of land. Lack of basic services and infrastructure, high unemployment levels, and lack of security of tenure typify the living conditions in Kahawa Soweto.

UN-HABITAT implemented the Kahawa Soweto Project in collaboration with the Government of Kenya, Nairobi County, Roman Catholic parishes in the area, and local residents. The overall objective of the project was to support the improvement of living conditions of people residing and working in Kahawa Soweto through targeted demonstration activities, such as the improvement of basic services and infrastructure, the promotion of secure tenure, and micro enterprise development[[27]](#footnote-27). The key achievements of this initiative were:

1. Consensus was built on the scope of the programme and the respective activities within the slum.
2. An action plan and an implementation strategy for the sustainable delivery of the agreed basic services were developed.
3. Public facilities – toilets, an access road, garbage collection points, and a resource centre – were constructed using community labour.
4. Community participation in settlement planning was secured.
5. A community land trust option for secure tenure was adopted

### *2.2.4 Mombasa Slum Upgrading Programme*

Mombasa is situated in the south-eastern part of the Kenyan coast and has a population of about 1 million people. In spite of its strategic economic location, about 44 percent of residents live below the poverty line[[28]](#footnote-28). Poor urban planning is closely associated with the unchecked sprawl of densely populated informal settlements, which generally lack basic services.

The broad aim of the *Mombasa Slum Upgrading Programme* was to initiate and support the upgrading of selected informal settlements in Mombasa and significantly improve living conditions and livelihoods as a means of alleviating poverty. More specifically, the goals were to conduct a situation analysis of Mombasa’s slums, to prepare an action plan – for upgrading the settlements and identify potential sources of funding – and to undertake the construction of demonstration projects for basic services, focusing on water and sanitation[[29]](#footnote-29).

The programme started in May 2007 with a pilot demonstration project in Ziwa la Ng’ombe slum, which has a population of about 20,000. The programme was a joint collaboration with the Government of Kenya, the County Government of Mombasa, the Mombasa Water and Sewerage Company, and the World Bank.

### *2.2.5 Cities without slums, Kisumu*

Kisumu is the third largest city in Kenya. It is a regional capital and an administrative, commercial, and industrial centre for the Lake Victoria basin. Its rich endowments, such as the lake itself and fertile agricultural land, gave rise to a thriving economy that provided employment opportunities in the fishery industry and through the large-scale production of molasses, cotton, rice, and sugar. Despite its rich resource base, Kisumu is still one of the poorest cities in Kenya and food insecurity, growing urban poverty, and the high prevalence of HIV/AIDS are key concerns (Candiracci & Syrjanen, 2007). The city has approximately 500,000 inhabitants, of which about 60 percent live in slums. The slums lack planning and basic services, and have high densities and poor infrastructure. Half of the slum residents obtain their water from unsafe sources, resulting in high rates of water-and-sanitation-related diseases and morbidity. Refuse collection efficiency is a mere 20 percent, and only 10 percent of residents have sewerage connections.

*The Cities Without Slums programme* was implemented by UN-HABITAT in collaboration with the Government of Kenya, the Kisumu County, Maseno University, Sustainable Aid in Africa International, Kisumu Water and Sewerage Company, and the private sector. The programme aimed to use participatory interventions to improve the livelihoods of people living and working in Kisumu’s slums by promoting and facilitating income generation and the provision of secure tenure, improving housing, physical and social infrastructure. To realise these objectives, the programme had an inception phase, a preparatory phase, an implementation phase, and a replication phase. UN-HABITAT’s inputs focused on the two first phases: building the capacity of the County government of Kisumu in GIS and urban planning, and undertaking a situation analysis and socio-economic mapping of Kisumu’s informal settlements. The main achievements of this project can be summarized as follows:

1. ***Inception phase***: A situation analysis of Kisumu’s informal settlements was completed, published, and distributed. It proposed an integrated approach to slum upgrading, focusing on security of tenure, improvement of basic infrastructure, housing, health, social services, and the environment. An action plan was developed for the improvement of the informal settlements, with each informal settlement identifying their own priorities.
2. ***Preparatory phase:*** A GIS lab was established at the county, the social mapping was completed, and the capacity of the GIS secretariat was built. A slum upgrading secretariat was established within the council, along with a steering committee comprised of the main urban stakeholders.
3. ***Kenya Urban Support programme***

The World Bank’s Kenya Urban Support Programme, which funds counties for the establishment of municipal and city boards as envisioned in the Urban Areas and Cities Act is complimented by various other programmes that are in place with support from various bilateral donors and international development partners. The objective of the Kenya Urban Support Programme is to establish and strengthen urban institutions and improve accountability to deliver improved infrastructure and services in participating counties in Kenya.

### *2.2.6 Vision 2030 Flagship Programmes With A Bearing On Slum Upgrading*

Wakesho in FES 2020 notes that, “Some of the population, urbanization, and housing flagship programmes and projects to be undertaken under Vision 2030 include:

1. Preparation and implementation of strategic development and investment plans in six metropolitan regions (Nairobi, Mombasa, Kisumu-Kakamega; Nakuru-Eldoret, Wajir-Garissa-Mandera, Kitui-Mwingi-Meru) and their respective spatial plans. Similar plans will be developed for special border towns and all other municipalities.
2. The flagship projects will include preparation of strategic integrated physical development plans for five urban centres along the Lamu Port, South Sudan and Ethiopia Transport (LAPSSET) corridor and operationalisation of outstanding metropolitan regions of Mombasa, Kisumu-Kakamega, Kitui-Mwingi-Meru, Wajir-Garissa-Mandera and Nakuru Eldoret.
3. Formulation and implementation of planning standards and guidelines.
4. Review and formulation of a National Urban Development policy.
5. Implementation of the Cities and Urban Areas Act of 2011.
6. Facilitation of the production of 200,000 housing units annually through various initiatives.
7. Development of affordable and quality houses for lower income earning Kenyans.
8. Development of appropriate building materials and technologies.
9. Installation of physical and social infrastructure in slums and informal settlements in selected urban areas.
10. Implementation of the Kenya Informal Settlement Improvement Programme.”

# **CHAPTER THREE**

# **CAPACITY BUILDING: CONFRONTING PRACTICAL UPGRADING CHALLENGES, POLICY BOTTLENECKS & MODELS OF DELIVERY**

## 3.1 Overview of the slum upgrading scenario in Kenya

There is little doubt from the analysis above that Kenya’s slums, are growing at an unprecedented rate as more and more people move to cities in search of employment and other opportunities. Areas hitherto considered as rural are also now growing into urban areas. This is loading on to the National and County Government, Cities and Urban Authorities serious challenge of guiding the physical growth of urban areas and providing adequate services for the growing urban population often through Slum Upgrading initiatives.

The two key slum upgrading initiatives namely the Kenya Slum Upgrading Programme (KENSUP) and the Kenya Informal Settlement Improvement Project (KISIP) both seek to improve the livelihoods of people living and working in slums and informal settlements. This the programmes wish to achieve through promoting, facilitating, and where necessary, providing security of tenure, housing improvement, income generation and physical and social infrastructure. All the slum upgrading initiatives underscore the necessity to adopt a holistic and integrated, approach if they are to achieve the multiple aims of slum upgrading. The UN – HABITAT for example uses the development of an integrated infrastructure system as an entry point to slum upgrading, in order to reduce the cost of housing. This is combined with the construction or upgrading of the existing housing stock.

To improve livelihoods for the residents of the informal settlements, income generation activities are linked to these improvements. All these multiple strands require capacity building to go hand in hand with each activity. For example the clear need to improve the capacity of local authorities to plan and cater for sprawling developments in their cities goes without saying. The task of making slums better living and working environments for the urban poor, along with the inseparable task of reducing poverty, can only be achieved through a common vision, achievable only through participatory slum upgrading - again another area in which capacity must be built for all the stakeholders involved.

How participation has been infused in the delivery of KISIP and KENSUP has not been sufficiently documented, but an examination of the capacity needs associated with participatory informal settlement upgrading will be a sufficient pointer of the extent to which participation or lack of it has informed these programs. The capacity needs may be specific to communities in each informal settlement but due to the dynamic nature of slum upgrading the capacity needs of officials and professionals who deliver these programs in a country whose public officers have deeply entrenched habits in delivering public services must be segregated and addressed.

KENSUP identifies capacities for (a) the local communities to take control of their development; (b) the local authorities to deliver basic urban services and in general respond to the needs of their constituents in a participatory manner; and (c) the central government to coordinate slum upgrading processes.[[30]](#footnote-30) Upgrading interventions face many challenges that hinder their effective implementation. These call for not only clear policy, but also political will to go beyond the mere provision of a ‘decent house’ to empowering the urban poor to realize the right to housing through a community-led process.

Building capacity to ensure social cohesion and collective responsibility presents the real opportunity for integrating informal settlement communities in urban development. Seeing adequate housing as inclusive of reasonable standards of sanitation and appreciating that a house is much more than a space and dwelling unit with utility for commerce and survival justifies the need for capacity building. On the policy front capacity building should support a management framework that looks at the housing component as empty without consideration of land, infrastructure, building materials, building technology and financing that completes the equation.

Capacity building has the impact of making slum upgrading processes to be community-led. This in turn will ensure the nagging issues of community ownership and involvement are sorted, to ultimately address, the never-ending cycle of proliferation of slums whose effect makes slum upgrading similarly a never-ending process.

## 3.2 Understanding the Challenges of Upgrading

Effective implementation of slum upgrading faces a number of challenges some of which are described below:

1. ***Social segregation*** – according to Muraguri (2017), marginalization of slum dwellers in governance circles worsens their leverage which requires social inclusion to promote their bargaining power. Further, studies show[[31]](#footnote-31) that crime can be a function of social-economic marginalization which then explains the trends that see high crime rates among informal settlements. These attributes cumulatively point to the fact that social segregation remains a considerable challenge for slum upgrading activities through participatory processes[[32]](#footnote-32).
2. ***Security of tenure*** – many slum upgrading programmes mainly focus on housing improvements at the expense of other slum livelihoods. This is a challenge that requires urgent redress to institute comprehensive slum upgrading interventions. Further, apart from house improvement, slum upgrading should also prioritize the socio-economic improvement of the poor. This then calls for slum upgrading to integrate behavioral aspects of slum dwellers to enhance sustainability.
3. ***Lack of political goodwill*** – this is another challenge that slum upgrading faces as some of the slum improvement programs are at times pegged on political survival strategies meant to manipulate the slum poor for selfish ends. Other challenges associated with lack of political good will include challenges of flooding in slums which is a function of resources and slum fires which are at times started to evict slum dwellers for political reasons (Kempe, 2019).
4. ***Environmental factors*** – these form part of one of the most difficult challenges to address for slum upgrading with increasing dumping of waste in slum areas creating an immense risk for slum dwellers. Further, slums are also endangered due to the flammable building materials, illegal electricity connections and use of paraffin and charcoal for cooking in overcrowded houses[[33]](#footnote-33). Further, Amnesty International in their report[[34]](#footnote-34) on Nairobi slum-dwellers, indicates that there exists some of the informal settlements in environmental sensitive areas which is an inhibiting factor for their upgrading.
5. ***Community participation*** – despite the provision in law for public participation in any development engagement by government, studies show that there is a low level of involvement and participation among slum dwellers in upgrading initiatives. There are repeated efforts to try and ensure greater involvement of local communities in slum upgrading initiatives through such interventions as KENSUP but there remains a considerable gap in full realization of complete public participation in slum upgrading initiatives. According to Dierkx (2019), the ultimate aim of participation is empowerment, capacity building and sustainability and therefore capacity building should prioritize women who form the bulk of the informal economy.

## 3.3 Lack of appropriately implemented Policy and Institutional frameworks (National/County; MTEF and Budget)

According to various experts charged with the upgrading of the conditions in slums and informal settlements, much has not been achieved due to existence of gaps and weaknesses that exist within the legal framework. KENSUP implementation strategy Volume II, notes that slum and informal settlements operate outside the legal and policy framework (Candiracci & Syrjanen, 2007). Therefore, there is need for recognition of KENSUP activities as well as mainstreaming the proposed activities within the Government of Kenya and local authorities and prioritization of activities. Generally, the country has been lacking a comprehensive and appropriate legal framework and guideline for informal settlements activities and slum upgrading. This is according to reports from the Department of Slum Upgrading. The long bureaucratic processes in the National Assembly followed for the bill to become a law has also contributed despite the urgency to address the slum pandemic requires. Harmonization of programmes and activities of various stakeholders have been difficult especially coordination (Candiracci & Syrjanen, 2007).

Most upgrading initiatives have been operating through the guidance of various disjointed policies and laws on wide-ranging issues affecting slums such land, health, housing, security, water, among others which include:

1. ***The Constitution of Kenya*** – Article 21 states that; *The Government or State has fundamental duty to observe, respect, protect, promote, and fulfill the fundamental rights and freedom of the citizen by taking appropriate legal action*. This aims at protecting individuals regardless of the social and economic status in the society. This is actually what affects slum residents since they suffer deprivation and marginalization. Further, article 43 calls for attainable standards in healthcare services, accessible and adequate housing, and reasonable standard of sanitation, clean and safe water in adequate quantities, social security, and education. All these are in insufficient in slum hence calls for slum upgrading.
2. ***Urban Areas and Cities Act, 2011*** – The Third schedule of this Act provides for factors to be considered in the preparation of County Integrated Development Plans while Part V, article 36, provides the frameworks within which the integrated plan shall consider matters that include: protection and enhancement of human rights especially right to housing and other basic services, provision of infrastructure, preparation of environmental plans and other strategic plans and evaluation of the socio-economic status of the residents. Kibera being in Nairobi is being upgraded under the guidance of the Nairobi County Integrated Development Plan (NCIDP). It is worth noting that this Act has considered numerous issues affecting the city, majorly the increased number of informal settlements/slums hence developing proper interventions. This act also requires that the county integrated plan to be made available to the members of the public at given points[[35]](#footnote-35). This is what Nairobi County Government has not implemented hence most residents from various informal settlements are aware of or hear of it but do not understand what it contains.
3. ***County Government Act, 2012*** - this Act provides that each County shall prepare a County Integrated Development Plan, which shall be a basis for all budgeting and spending of public funds. The integrated plan shall address matters related to physical, economic, social, environmental, and spatial planning. The Nairobi CIDP (2014) classifies Nairobi urban areas as unplanned, driven by the rapid population growth and poverty. The sprawling informal settlements hamper the spreading of the City’s baseline for social services hence the deteriorating quality of life. Informal settlements are categorized as an environmental issue accelerated by the rapid growth of population, increased demand for land and inappropriate land allocation hence pushing the poor to fragile areas where they face various challenges such as inadequate housing and public services hence not vulnerable to environmental changes.
4. ***The Public Finance Act of 2012*** – this Act provides that the budgetary process for the County Governments for every financial year must begin with an integrated development planning process. This consists of both medium and long term plan which will in turn form the county budget estimates and establish financial and economic priorities for the county. This empowers the counties to borrow from other sources for the development programmes with the approval of the national government. Such funds can be used for upgrading of informal settlements within their jurisdictions. The Acts has also not achieved much due to unfavorable models of implementation and in some cases elements of ambiguity, hostile or contradictory provisions. The Ministry of Land, Housing and Urban Development therefore established the Department of Slum Upgrading since the lifetime of KENSUP had elapsed, to continue spearheading the programmes and activities that have been in operation.

## 3.4 Community-Government Efforts in Co-ownership and Co-production in Slum Upgrading Initiatives

### *3.4.1 Communities And Resource Mobilization*

In a bid to realise a co-production model in which the state and communities achieved a win-win the Muungano Alliance adopted a financing model that set up an urban poor fund AMT, in 2003. “The ideology and practical rationale behind SDI’s tools differed from the movement’s initial, predominantly protest-based approach, and this divided Muungano’s original grassroots base.” Leaders in the settlements were mobilised to help communities form savings groups for the building of savings that would be used to pursue upgrading solutions. Over time this approach has in part influenced the changing perception of government towards the informal settlements.

### *3.4.2 Informal Settlements Mapping And Databases*

The relationship between data collected about slums by their residents and the formulation of urban policy in Kenya is not a direct one. Data is intended to generate targeted response to very specific issues often a very political process depending on whether the data was gathered collaboratively or without government agencies on board. The experience however in community mapping and enumeration has been to catalyse change and improve perceptions and practice for both the community and state actors. The promulgation of a progressive Constitution in 2010, has obligated County governments to confront the challenges faced by residents of informal settlements which has given immense value to the skills for community-based data collection. The power dynamics that play out during the enumeration exercise is a whole experience that helps actors to navigate the complexities of informal settlements[[36]](#footnote-36).

### *3.4.3 Settlement Committees*

Amnesty International (2009) in its review of KENSUP confirms that the Soweto East community was represented by an elected 16-member Settlement Executive Committee (SEC) whose main role was to act as a link between the Programme Implementation Unit and the community. The local Chief and District Officer sat on the SEC as unelected members representing the Provincial Government Administration. SEC members were to be regularly involved in the project’s meetings and were expected to communicate agreed decisions to the community, particularly through the Provincial Government Administration. The community had misgivings about the process of electing SEC members and thus attendance was not regular. This hampered communication between the community and decision makers in charge of the project. It is such gaps that lead to lack of concurrence on design, location of temporary site, size of unit and cost that in reality led to units that were not affordable. “The lack of information and consultation, coupled with the general failure of a number of past slum upgrading projects in Kenya to benefit the majority of the targeted urban poor, has led to a general distrust towards the project.” (Amnesty 2009)

# **CHAPTER FOUR**

# **SLUM UPGRADING PROGRAM PROGRESS (LEGAL, POLICY AND/OR BUDGETARY INTERVENTION)**

Table 1: Slum Upgrading Program Progress – legal, policy and budgetary intervention Matrix

|  |  |  |  |
| --- | --- | --- | --- |
| **PROGRAM/INTERVENTION** | **STATUS/PROGRESS** | **OBSERVATIONS** | **RECOMMENDATIONS** |
| Kenya Informal Settlement Improvement Project (KISIP) | * The project was commenced and took place in 15 towns in Kenya. * According to Government reports, so far 30 meter high mast security lighting have been installed; * A total of 43.26 kms of access roads have been constructed to bitumen standards; * A total of 35.429 kms of foot paths have been constructed; * A total of 46.98 kms of drainage system constructed. * In addition to access roads that were constructed in this project, some pedestrian walk ways were also constructed. | * The challenge is that the commencement of the project was extremely delayed. * The project was complicated with little or no access to information that would have enabled stakeholders to engage meaningfully. * Due to competing interests, communities found it difficult to choose between housing as a serious rights issue and short term needs given the limited resources. | * The government needs a robust strategy for meaningful engagement in setting community priorities. |
| Kenya Slum Upgrading programme (KENSUP) | * Implemented for the benefit the intended beneficiaries. * The design of the units also does not consider infusing human rights principles, for example cultural rights. * Most units are single bedroom, with children and parents sharing rooms. | * Effective monitoring mechanisms must be put in place to ensure project implementation is on course. | * The State must have an engagement strategy to ensure inclusivity in project implementation of local community and Civil Society stakeholders. |
| National Slum Upgrading and Prevention Policy. | * Policy was approved and adopted to guide the process of slum upgrading and prevention initiatives. * However, the slow implementation of the Kenya Slum Upgrading Programme and the lack of advanced strategies have slowed down the process of building the second phase of the project. | * The lack of proper consultation and involvement of local community and Civil Society stakeholders have also contributed to the failure. | * The State must have an engagement strategy to ensure inclusivity in project implementation. |
| Urban Regeneration Projects within urban areas to activate  Article 43(1)(b), which provides that ‘every person has the right to accessible and adequate housing and reasonable standards of sanitation’ | * The inception of Urban Regeneration Projects within urban areas is crucial in improving access to affordable housing. * However, the process of land acquisition, demolition and identification of beneficiaries together with proper involvement of the masses are the challenges that must be addressed. * In 2010, the demand for urban housing was estimated at 80,000 units a year, with demand projected to increase to nearly 300,000 units a year by 2050. | * By comparison, in 2013 only 15,000 housing construction permits were issued in Nairobi County Government where housing demand is high. * With this level of deficit, achieving the Kenya Vision 2030 will not be possible. * Most units are single bedroom, with children and parents sharing rooms. | * Prioritization of social housing in the big four agenda especially for the most marginalized. * Designs should * consider infusing human rights principles, for example cultural rights |
| Implementation of the Resettlement and Forced Eviction Bill/Framework; Community Land Act | * The Land Laws Amendment Act of 2016 has provisions at Section 98 that stipulates how humane evictions should be conducted. * However, there is failure by State agencies to respect the guidelines particularly in the informal sector settlements. * The Eviction and Resettlement Bill was shot down in Parliament and instead they passed the Land Laws (Amendment) Act 2016 which is silent on the UN basic principles and guidelines on evictions and displacement of communities and groups. | * The government adopted the Community Land Act 2016. This law was intended to improve land governance, management and administration. However, the implementation of this and other laws remains a challenge due to lack of commitment from government. * Conflicts over land use, ownership and management especially community land on the increase. * The State has violated the international standards with regard to forced evictions as was witnessed in July, 2018 during the evictions of residents in Kibera slums to create room for the construction of the Kibera Link Road | * Resettlement and Forced Eviction Bill compliant with international standards should be enacted. |

# **CHAPTER FIVE**

# **CONCLUSION & RECOMMENDATIONS**

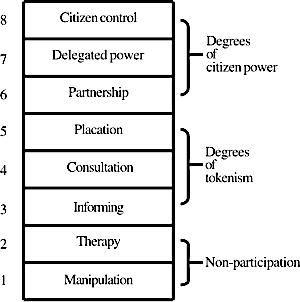
## 4.1 Making the Case for Public Participation in Slum Upgrading

In its basic form, citizen participation is defined as enabling citizens with the opportunity to exercise influence in planning and design, and decision-making, i.e. it permits people who have previously been excluded from any planning processes to take part in discussions about future developments related urban development/renewal (Moser, 2010). The term citizen participation arose when top-down urban renewal schemes post World War Two proved to be unsuccessful in creating social improvement. The process of participation started off with western democracies providing citizens with a seat at the table during planning processes (Watson, 2009). Swapan (2016) attests that civic engagement within planning began to increase after policies were implemented in the United States in the 60’s and 70’s, which were intended to foster community participation in neighbourhood planning. Citizen participation therefore sprung up in a climate of rising participatory democracy and bureaucratic transparency (Swapan, 2016).

The level in which participation can take place varies in different degrees. Watson (2009) states that; citizen participation is an issue about power and empowerment. Moser (2010) wrote that participation is both an end, and a means. It’s an end in the sense that it gives people a voice, which is a necessary and empowering step since it will affect their lives in a profound way, and should have the right to participate in the various stages of the project (Moser, 2010). Participation becomes a means when it is used to improve projects. When citizens, especially those who benefit from projects, participate and share their knowledge and skills, projects outcomes will be enhanced (Watson, 2014).

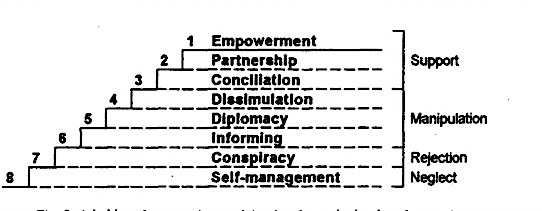
Arnstein (1969) proposed the ‘ladder of participation’ which is probably the best-known attempt to categorize different levels of citizen involvement in urban development projects. The ladder consists of 8 levels, classified in 3 ranks, Non- participation, degrees of tokenism, and degrees of citizen power. The ladder of citizens’ participation in planning has often been seen as a useful guide for determining to what degree citizens are engaged in the planning process however it lacked universality and Arnstein herself admitted that meaningful participation is influenced by social, political, and psychological factors (Swapan, 2016, p.71).

Figure 2: Arnstein's Participation Ladder

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Source: Arnstein (1969, p. 217)

Choguill (1996) criticized Arnstein’s participatory model, and stated that using the model in developing countries leads to debatable results. Choguill attests that many developing countries experience rapid growth, leading to a situation whereby public and private sectors are unable to provide basic services/ infrastructure and housing to the entire population. Whereas Aronstein’s ladder took on participation from a citizen’s activist perspective (Bishop & Davis, 2002), Choqguill made a modified version of the ladder stipulating a government’s willingness in including participation within community development projects (Swapan, 2016).

Figure 3: Choquill's Participation Ladder~~~~

Source: Choguill, 1996, p. 442

From this theoretical pedestal, studies conducted on public participation in urban planning hold that the use of participatory methods (if done correctly) produce better project results and enhance a sense of ownership. In our context, there is a general lack of coordination between tenants and the Nairobi City County (NCC) about the project and its intentions. This hampers the search for amicable solutions. The community itself is also disjointed. For instance, Swapan (2016) in his article entitled, *Who participates and who doesn't? Adapting community participation model for developing countries* indicates that in this regard, some tenants are accepting of the project, or at least the idea of a renewal plan for the estate, whilst others have voiced the estates should remain the way that they are[[37]](#footnote-37). There was also a conflict in the prioritization of development.

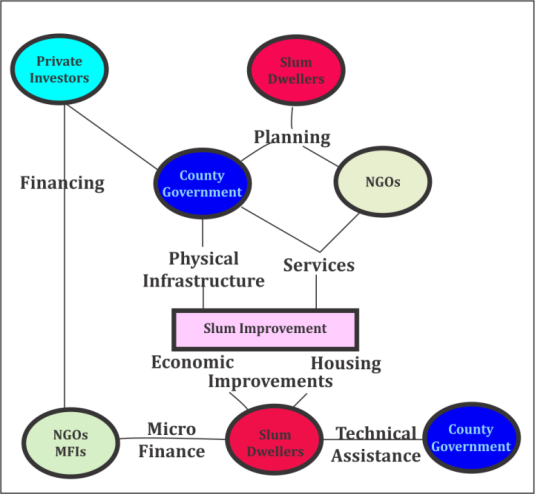
In summary, there have been conflicting statements made by the NCC and citizens involved in participation on how the process is going. With the NCC firmly asserting they have involved the public through all stages of the project, whilst most residents have expressed concern on their level of involvement as seen in the media articles and the interviews. The reasons of concern expressed by citizens indicate a high level of distrust amongst themselves but also towards the NCC, which can be attributed to past injustices to citizens during various housing schemes.

## 4.2 Appreciating the Enduring Role of Non-State and other Actors

Scaling up slum improvement requires participatory approaches and involvement of different actors cutting across different fields including technical and financial sectors in the environment. The key non-state actors in such activities include: international organizations, local residents, private investors, NGO’s, the media, civil societies and international developers. The inclusive role of these actors is to enhance an enabling environment for slum upgrading process through provision of secure tenure, utilization of community or local labour to develop small infrastructure works, revising building codes and enabling access to financing resources (Candiracci & Syrjanen, 2007).

Slum dwellers are the main focus in the improvement of slums as they understand the problems of their neighborhoods and relative priority for improvement depending on the challenges they face most. In ensuring effective articulation of their call in the top-down process, the residents organize themselves into CBOs to champion their interests. It is these community based organizations that support non-state actors who intervene to midwife the planning and co-production of infrastructure projects and improvements to social, educational, health and livelihood service delivery (UN-Habitat, 2012).

Figure 4: Schematic overview of the role of different actors in slum upgrading initiatives



Source: (Obare, 2020)

Further, in the bottom-up improvement process, the slum residents take the front line duty as individuals and families to improve the quality of their housing and better their economic situation, as illustrated in the diagram above. The NGO’s and local government also provide them with technical guidance to improve their housing (World Bank, 2015).

According to Obare (2020), the local government is commonly referred to as city government, any independently governed and other substantial entities that exercise authority over given area. It ensures that slum dwellers have access to essential infrastructure and services. This includes: portable water, sewerage, street lighting, solid waste collection, public transportation, education, health care and fire services (UN-Habitat, 2012). In the top-down slum improvement process, they principally provide infrastructure and basic services. On the other hand, in the bottom-up process, they play a very useful role in the provision of housing construction, inspection and advices as part of their building permit enforcement responsibility.

The local governments are also responsible for project implementation, coordination of civil organization, legal monitoring and evaluation, provision and maintenance of social infrastructure and planning of municipalities, (UN-Habitat, 2012). However, NGO’s play varied roles. Some focus on advocacy for specific policies or interest of particular groups. Others specialize on charitable works and the provision of services that are unavailable or short in supply. In the top- down level of the slum upgrading, they play the advocacy and service delivery role, advocate for the interest of slum dwellers during the upgrading, project planning and promote policies and investment that support slum improvement. In the bottom-up level, specialized NGO’s and micro-finance institution enhance slum improvement by offering micro-credit to slum dwellers for both housing improvement and enterprise development (World Bank, 2015).

In addition, private investors provide capital necessary to fuel slum improvement process. This is necessary for scaling up the improvement. In the top-down process, capital is required by the local governments to finance the construction of infrastructure services in the slums. On the other hand, at the bottom level of slum improvement, NGO’s and micro-finance institutions require capital to expand their micro-lending to slum dwellers, though the private sector will weigh risks and returns before investment, (World Bank, 2015). The civil society organization ensures community involvement, the development partners ensures international exposure, resource mobilization mechanisms and capacity building. The media is vital for advocacy and dissemination of information, (UN-Habitat, 2012).

## 4.3 Recommendations

Implementation of the Kenya Slum Upgrading Programme and the Kenya Informal Settlement Improvement Programme are a direct response to first the perennial land question that hinders many from the enjoyment of other rights such as the right to adequate housing, water and sanitation. These two programmes were also an effort to prevent forced evictions that was the government’s preferred mode of dealing with informal settlements. Curtailing forced evictions, land related conflicts and promoting the realization of the right to adequate housing will require stronger commitment on the part of the government to guarantee security of tenure and permit a land ownership system that allows investment in housing by communities, the state and private sector players. In this study we have shown how far the slum upgrading projects have reached. Going forward this study makes the following recommendations:

### *4.3.1 Recommendations to government*

1. Government should give effect to the provisions of the NLP that canvasses security of tenure for land rights in informal settlements and the informal activities thereto.
2. The Slum Upgrading and Prevention policy should be implemented to activate the inventory of informal settlements for purposes of planning and implementation of holistic upgrading and other improvement programs
3. The Government should deepen legislative, policy and other measures to guarantee the right of access to adequate housing particularly for the vulnerable and the marginalized.
4. The Government should implement the evictions and resettlements procedures contained in the IDP Act to guide processes and avert the rampant human rights violations accompanying evictions.
5. The Government should prioritize social housing in the big four agenda to ensure inclusivity in addressing the housing challenge in the country.
6. The Government should expedite the registration of community land.

### *4.3.2 Recommendations to development partners*

1. Broaden co-creation efforts in community programming for slum upgrading initiatives to be as accurate as possible in addressing the needs of communities in such initiatives
2. Given the multi-pronged challenges that face initiatives of slum upgrading, development partners should consider initiatives that have greater grassroots communities involvement other than implementations through intermediaries
3. Entrench and encourage full public participation in critical development decisions targeting slum dwellers upgrading

### *4.3.1 Recommendations to the community*

1. Support efforts and initiatives that encourage self-organizing and mobilization of communities into thematic groups as agencies for advocacy and agitating for their interests
2. Communities should take ownership and personal initiative to protect public installations and development projects set up to benefit the community against vandalism and related wastages that may derail such projects.
3. Encourage communities to be proactive and willing to participate in public participation forums from which they can adequately agitate for the results they want to see in their respective communities.

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