

TOWARDS **THE JUST CITY** IN KENYA



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Africa's urban population will double over the next 25 years. By 2040, a majority of Africans will be living in cities. Urbanisation is thus one of the major trends shaping the African continent.

Thus far, however, populations have been mostly coming into "unjust" cities, which were often founded in colonial times and in which historical inequalities have been further compounded by neoliberal urban policies. Public goods are scarce commodities in African cities. The majority of African city dwellers live in informal settlements, work under precarious conditions, mostly in the informal sector, and do not have access to social protection schemes.

Against this background, the Friedrich-Ebert-Stiftung (FES) Kenya Office, in partnership with the Civil Society Urban Development Platform (CSUDP), has been facilitating the Just City Working Group (JCWG). The JCWG seeks to generate new insights, socio-political perspectives, and concrete starting points for a "people-centred urban transformation" in Kenya together with the partners of the participating FES projects. The objective is to jointly think about and work towards cities that are for all their inhabitants.

We are grateful to the CSUDP for the partnership and their ability to convene and drive the Just City dialogue amongst state and non-state actors through the JCWG. Through monthly convenings and broad discussions among different stakeholders, concrete steps have been taken by the members of the group, aimed at developing new ideas and approaches to shape urbanisation anchored on the just city pillars of dignity, rights and responsibilities, equity and diversity, and democracy.

Since its inception in 2018, the JCWG, a multi-disciplinary team of urban professionals and practitioners, has been visible in different spaces, championing the cause of just cities in Kenya. This publication now brings together different contributions from its members. Some of the contributions directly relate to discussions held among the group members; others present analyses and ideas on just urbanisation pathways that go beyond the discussions within the group. All the contri-

butions are geared towards jointly, fairly, and democratically shaping urban transformation in Kenya for the common good of the citizens.

In this publication, you will find contributions from the following authors: Prof. Alfred Omenya, George Wasonga, Constant Cap, Dr. Lawrence Esho, Churchill Otieno, Grace Maingi, Florence Nyole, Naomi Mwaura, Anne Mwangi, Erick Manga and Jared Ontita. Without their professional insights, cooperation, dedication, and commitment, we would not have this publication. I want to thank all the authors for their individual and collective writings, which have given the just city concrete meaning in Kenya.

Moreover, we want to thank George Wasonga of CSUDP for personally convening the JCWG with great enthusiasm and for overseeing the collection of expertise for this publication. Furthermore, we want to thank the other members of the JCWG for their contributions to the discussions held so far, namely, Rose Omamo (COTU Board member), Prof. Winnie Mitullah (IDS, UoN), Grace Maingi (Uraia), Mildred Omino (Disability Network Kenya), Florence Nyole (AAK chapter), Georgina Wanjiru (Local Urban Forum), Hon. Mwaura Chege (Member of Nairobi County Assembly), Prof. Alfred Omenya (Eco-Build Africa), Dr. Lawrence Esho (Kenya Institute of Planners), Churchill Otieno (Editors Guild), and Jared Ontita (Just City Coalition). Let me re-emphasise that their contributions to the just city concept are highly valued. It is through their commitment that we now have a first contextualisation of the just city concept for Kenya.

Special appreciation goes to Prof. Alfred Omenya, who greatly contributed to the just city concept paper for the JCWG and edited the initial drafts of the various chapters. We appreciate his efforts in giving perspective and context to the just city concept in Kenya.

We are also grateful to Rasna Warah, who edited the final draft of this publication, identified and selected relevant data, graphs, case studies and best practices, and consolidated the various chapters into a harmonised readable document.

Many thanks to the Urban Boards Non-State Agencies secretariat (convened by CSUDP), Urban Boards' Caucus (Dr. Musyimi Mbathi), the Nakuru Municipal Board members and Citizen Forum representatives supported by the Local Urban Forum (CSUDP) and the State Department of Housing and Urban Development of the Republic of Kenya, led by Director Charles K' Onyango, for providing enriching platforms for the JCWG to dialogue with urban institutions and citizenry on the just city concept in Kenya.

We remain grateful to the JCWG Secretariat comprising Titus Kaloki (FES), Cynthia Muthoni (FES), Naliaka Robai (CSUDP),

Judith Oluoch (CSUDP) and James Mwanjau (CSUDP) who seamlessly assured the coordination, administration, research, conceptualisation, actualisation and documentation of the JCWG convenings and the realisation of the JCWG objectives of promoting just urbanisation.

To all the readers, we value and appreciate your interest in just urbanisation. It is our sincere hope that you will not only enjoy reading this publication but will also find it useful to apply the just city principles, practices, and lessons as you work towards just urbanisation in Kenya and beyond

FES Kenya Office team

FOREWORD

AFRICA'S FUTURE WILL BE DECIDED IN ITS CITIES

HENRIK MAIHACK

In the next 25 years, Africa's urban population is set to double. By 2040, the majority of Africans will be living in cities. There are numerous reasons for this: climate change, violent conflicts and the hope of finding work or education, although this list could easily be extended. Urbanisation thus constitutes one of the greatest transformations facing Africa in the 21st century.

Despite the diversity of the African continent, however, they are so far mostly "unjust" cities that people are moving to. The majority live in informal settlements and work under precarious conditions, mostly in the informal sector, without employment contracts and social security. In Kenya's capital Nairobi, for example, over 60 per cent of the population lives in informal settlements that account for less than 10 per cent of the city's total area. In contrast, the national and international elite often lives in closed-off compounds protected by private security services.

Crucially, urbanisation in Africa is taking place in the absence of a structural transformation of the economy. The typical city dweller in Lagos or Nairobi is not a textile worker, but rather a hawker selling imported second-hand shirts; or a domestic worker with an average salary of less than three US dollars a day; or an Uber driver who has to hand over 25 per cent of his income to a Silicon Valley company. To have trade union representation in these sectors is particularly difficult. Incomes vary from day to day and are usually far below the minimum wage. When a worker falls ill, often he will go into debt.

Urbanisation without jobs for the increasing number of city dwellers presents the continent with ever greater challenges. The sequence of industrialisation and urbanisation experienced in Europe and parts of Asia is nowhere to be seen in Africa, and in an age of automation and increasing trade conflicts, probably is not possible. The manufacturing sector remains stuck at around 10 per cent of GDP.

In Europe and parts of Asia, an increase in agricultural productivity and expansion of state education and health services

have often been accompanied by a strategic industrial and trade policy protecting those nations' markets. This has led to the industrialisation of cities and the creation of jobs in export-oriented, urban factories. The availability of these jobs has accelerated urbanisation, increased the demand for urban services and sometimes led to socio-political and economic pluralism. This has been the case particularly when workers' parties and unions were able to gain new freedoms and better wages.

It is, however, often forgotten that in Europe this sequence was politically prepared by authoritarian land reforms that forced rural populations into urban wage employment. In Africa, you not only have the unequal distribution of land originating from the colonial era, but the increasing negative impact of climate change on agricultural productivity, which is driving greater numbers of Africans into urban areas. However, there are hardly any prospects for a decent income there.

While economic productivity and the demand for jobs are decoupling all over the world, many African governments and the international community seem to continue to hope for an outdated "developmental sequence" bringing industrial jobs to the African continent that will soon become too expensive in China or Vietnam because of wage increases or automation.

In many African countries, special economic zones and tax exemptions are expected to attract international investment for the growth of new industries. These hopes will probably prove futile in the future when simple activities in manufacturing industries will be taken over by digital systems. However, there are few alternatives in sight. For example, a growing but still small IT and start-up sector in Kenya employs only a small, educated elite and has limited growth potential, given that these jobs require highly skilled workers.

There is a threatening scenario in which the African labour markets of the future will, even more so than today, become urban, precarious and informal. Shaping urbanisation,

therefore, also involves the basic question of which economic path the continent can take, especially if the old industrialisation pattern is no longer available in an era of Industry 4.0 and the climate crisis.

For example, the discussions on the economic effects of climate change in many African countries do not focus on how existing jobs in carbon-intensive industries can be converted into climate-neutral jobs – because these jobs often simply do not exist. The issue is rather how climate-neutral jobs can be created in the first place.

Moreover, cities around the world are already responsible for more than 70 per cent of all CO₂ emissions – and, in the future, over a billion people are expected to live in African cities. Much of the necessary urban infrastructure in Africa has not yet been built. It is unclear how, by whom, under what conditions, for whom, and with what kind of energy supply, this infrastructure should be built. There is great potential here for African countries to actively shape this future, but also an immediate need for international and national policy to focus more on African cities.

So far, urbanisation in Africa has been the catalyst of various inequalities. The political fight against inequality in Africa is,



therefore, automatically becoming an urban one. That is why the multiparty systems introduced on the continent in the early 1990s are already changing. Multiparty elections were introduced at the same time as the reduction in public services, largely because of the structural adjustment programmes (SAPs) mandated by the International Monetary Fund (IMF) and the World Bank. Hence, an increase in political freedom was accompanied by decreasing access to public goods.

Thus far, the economic patterns set during the colonial exploitation of the continent have been perpetuated by international financial trade and unfair taxation regimes. Raw materials and minimally taxed profits continue to be exported out of the continent, while manufactured products are being imported into it.

Without industrialisation in cities, there have hardly been any parties or politicians representing the interests of urban workers on the continent. So far, the populations working in rural agriculture have been the majority. This made it much easier for political elites in many African countries to mobilise alleged regional, linguistic or ethnic differences during electoral campaigns in line with their interests. This mobilisation model has now come under pressure. Opposition parties on the continent are already more successful in cities than in the countryside, while governing parties can still rely on support in rural areas. This will soon change when the majority of voters are living in cities.

Across the continent, it, therefore, seems likely that living in the city will gain importance in the formation of political identity. It might not be the strike in the factory, but the threat of forced eviction in a slum to make way for a road, or a hike in fees for privatised drinking water, that will drive political mobilisation in the future. According to the researcher Lisa Mueller, social movements in different countries across the continent are already increasingly organising against social inequality and new alliances among middle classes and poorer urban dwellers are being formed. Additionally, the analyst Nanjala Nyabola describes how urban online activism has led to new forms of – sometimes cross-border – political engagements and solidarity. Overall, social movements and citizens' protests show a heavier focus on urban areas than in the past.

Now, even politicians are changing their tactics. From Ghana to Kenya, some politicians are using new methods to target the majority of those who are informally living and working in cities. These campaigns often run on a discourse that distinguishes between the urban poor and the elites in the affluent areas. As the researcher Danielle Resnick shows, candidates campaigning in different African cities, mostly from opposition parties, have been successful with different brands of urban populism in national and local elections. However, it remains doubtful whether the ad hoc nature and often controversial modalities of decision-making among such urban populists offer long-term solutions to the immense structural problems in Africa's cities.

What seems to be missing is a feasible long-term social urban development policy combined with new ideas for socially

just and ecologically sustainable economic paths creating prospects for the increasing number of precarious urban dwellers. Such a discussion must go beyond ambitions to build African imitations of Dubai or Singapore – so-called smart cities – that are unable to provide enough housing, transport and jobs for the majority of the city's population. That's why, in order for the "unjust" city to become a "just" one, economic and urban planning decision-making processes need to involve citizens more than ever to deliberate on issues that affect them, from the municipal level up to the national level.

Growing cities are already the sites of new socio-political struggles for public goods. More and more city dwellers

across the African continent are voting for new politicians out of mistrust for the old ones. New social movements are overcoming old divisions, using urban and digital spaces. In the future, civic engagement in Africa will be defined ever more by urban life. Alongside struggles for the right to the city, new forms of political engagement among urban residents demanding to be involved to ensure urban equity and diversity are becoming possible

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PART I



THE JUST CITY PRINCIPLES FOR KENYA



DIGNITY

The right of an individual or group to be valued, respected and treated ethically. To recognize the worthiness of a human individual or a group. It implies respect of the individual or a group regardless of their perceived socio-economic or political status.

EQUITY AND DIVERSITY

A city with equity has its benefits shared fairly amongst all the citizens; A city with diversity has an understanding that democratic processes may result in exclusion of some and measures are put in place to protect rights of minorities



RIGHTS AND RESPONSIBILITIES

A city where the rights of all citizens and visitors are observed. Citizens take their space to exercise their rightful responsibilities to develop their own city

DEMOCRACY

A city where citizens make collective decisions in a manner that respects dignity of all, protects rights of minorities and considers equity and diversity.



CHAPTER 1

INTRODUCTION

ALFRED OMENYA

Towards the Just City in Kenya is the first publication of its kind that explores the conceptualisation and application of the “just city” concept in Kenya. The authors explore the concept from various dimensions, namely:

- Conceptualisation of the just city in Kenya.
- Locating the just city in the constitutional, policy, legislative and institutional context.
- Discussion of spatial justice in the context of planning and housing; and
- Interrogating practical ways in which cities express injustice and how these can be practically addressed, with examples from the public transport sector.

Chapters One and Two are the introductory chapters. Chapter Two specifically details and domesticates the concept of the just city concept in Kenya. The chapter discusses the idea of “good” and “bad” cities, arguing that these categories are based on abstract values that become difficult to interpret and implement uniformly. It explores values that guided African communal life and the struggle of those values to coexist with a neoliberal and largely individualistic Western conceptualisation of the city. The chapter argues that these African values resonate with most proponents of the just city who emphasise the use rather than the exchange value of the city.

The chapter considers mainstream ideas around the “right to the city”, based primarily on Henri Lefebvre’s writings and the World Charter for the Right to the City, which is further explicated by David Harvey and more recently enshrined in the New Urban Agenda’s social function of the city (UN-Habitat, Quito Declaration). It explores Susan Fainstein’s conceptualisation of the “The Just City”, highlighting that “rights” and “justice” are missing in that conceptualisation. It then proposes a situated re-conceptualisation of the just city, drawing from global values of the just city alongside African communal values aptly captured by J.S. Mbiti: “I am because we are and since we are therefore I am” and the Zulu saying, “*Umuntu ngumuntu ngabantu*”, which literally means “a person is a person through other people”.

The chapter then proposes a concept of the “Just City” in Kenya built on four conceptual pillars, namely: (i) dignity; (ii) diversity and equity; (iii) rights and responsibilities; and (iv) democracy. All the other chapters in this publication are based on this common understanding of the just city. The chapter concludes by reflecting on how these four pillars of the just city can be realised in Kenya, with specific recommendations for policy makers and other stakeholders.

Part Two of the publication (Chapters Three, Four and Five) discusses the just city concept from a legal and institutional perspective and illustrates challenges of its application through the case of “urban invisibles”.

Chapter Three discusses frameworks, institutions and programmes supporting democratic governance towards just and fair outcomes for urban citizens in Kenya. It highlights where the deficits are and what needs to be done about them to achieve just and fair outcomes for city residents.

Chapter Four explores urban institutions and how they can be used to advance the just city. As a starting point, the chapter identifies with the re-conceptualised view that the just city in Kenya is an attempt to deal with approaches to urban development that produce unjust outcomes. This chapter identifies new urban institutions as spaces where just and sustainable urban transformation, as enshrined in the shared vision of the New Urban Agenda, can be realised. The chapter specifically singles out the New Urban Agenda’s recognition of the social function of the city, equitable provision of public goods in urban spaces, and participatory urban development, including promotion of civic engagement as opportunities for pursuing just city principles. While recognising the nascent state of new urban institutions in Kenya, their character is interrogated to illuminate the potential and emergent institutional barriers and enablers to achieving the four pillars of the just city in Kenya. The chapter concludes by highlighting perspectives along four parameters – the demographic dividend, urban prosperity, urban challenges, and democratic governance – as enablers of urban institutions in pursuit of the just city within the Kenyan context.

Chapter Five is an application of the interaction between the legal and institutional frameworks and justice as lived and experienced by some of the most marginalised groups in Kenya's urban areas. The chapter takes the reader through the daily lives of extremely marginalised groups in Nairobi and Nakuru, highlighting that these groups are invisible in policy and practice. It starts by highlighting that although voices exist, there is no "hearing". These "urban invisibles" are key recipients of injustice with no means of escaping from it. The chapter identifies different "invisibles" in Nairobi and Nakuru, namely:

- **Demographic invisibles:** These include residents of slums or informal settlements and children and youth who are ignored by service providers.
- **Digital invisibles:** These include the netizens who comprise some three-quarters of Nairobi but are only visible amongst themselves as they exchange banter that hardly excites any reaction from the people, they have elected into leadership positions. In Nakuru, some of these netizens resort to social influencers to solve some relatively complex problems, such as joblessness.
- **Mobility invisibles:** These are categories that find it difficult or impossible to use urban modes of transport. They include children, women, and people living with disabilities that policy makers have forgotten despite the difficulties they go through to use urban transport, from the chaotic *matatu* to the lawless *boda boda*s.
- **Media invisibles:** This is considered to be conceptual, where the media "visibilises" some news, often sensational, at the expense of invisible news, namely community and socio-economic development news.
- **Justice invisibles:** These are made up of the majority who are absent from and cannot access the justice system, which is currently being used as a playground of the elite and some middle classes. The rights of the urban poor are trampled upon and are absent in the corridors of justice given the very limited number of civil society groups working in these areas.

Part Three of the publication is dedicated to exploring spatial justice, with a focus on planning and housing, situating the discourse on the just city on the evolving urban development landscape in Kenya. While exploring urban planning and development in Kenya from the colonial to the post-independence period, the chapters attempt to answer the following questions: Are legal and institutional frameworks and urban

development programmes in Kenya promoting just and fair outcomes in urbanisation? Where are the deficits and what needs to be done about them to achieve a just city? This part uses housing as a tool to realise spatial justice.

Chapter Six locates spatial injustices in Kenya in the planning regime the country has pursued from colonial times to the present. It notes that despite the provision in law, planning in Kenya remains bureaucratic and top-down. Therefore, it is not responsive to the urban majority, who continue to live in squalor in unplanned urban settlements, where many aspects of social injustices are committed against them, with no opportunities for redress. It locates the concept in the context of the planning of Nairobi City, including re-planning of the Eastlands area. It also locates planning in some large government projects and some of the current government policy and pragmatic frameworks, especially the Big Four Agenda, noting that these perpetuate the approach that has marginalised most of the urban demographics, especially the poor – both in their settlements and in their businesses – from the benefits of a society that they build directly and through their taxes.

Chapter Seven engages with the concept of "social planning". The author situates the discussions of the just city in the context of social planning as a major space for the protection of intrinsic human dignity. Social planning is promoted as a means by which communities can deal with their issues without the imposition of ideas by some superior technocrat or authority. This enables individuals to express their worthiness as humans, hence protecting their human dignity. The chapter considers constitutional provisions for the protection of people's rights and dignity, especially through basic and socio-economic rights and service provision. It explores how these can be achieved through planning and urban development legislation. The author singles out the absence or weakness of citizens' forums as a major obstacle in citizens' self-actualisation, participation and access to services. The author notes that the lack of these forums is the weakest link in social planning.

Chapter Eight locates spatial justice in social housing. It provides an overview of the current social housing models, and their challenges and opportunities within urban areas. It further appraises the models within the four pillars of the Kenyan just city concept (dignity, equity and diversity, rights and responsibilities, and democracy). The chapter faults the government's approach on affordable housing for not focusing on people, but rather on costs, arguing that social housing should focus on rentals rather than home ownership. It notes that the government's failure to adhere to eviction

guidelines assaults the dignity of project affected persons. Single rooms for families are also questioned. It notes that currently there are no spaces for the poor to exercise their voice in matters of social housing, save for limited spaces in slum upgrading programmes. Finally, it proposes approaches to solving the social housing conundrum facing Kenya's urban poor. The chapter ends with recommendations for enabling stronger citizen participation in social housing.

Continuing the theme of spatial justice through housing, Chapter Nine examines the mechanisms of social planning in the provision of social services, specifically affordable housing, with an aim to improve the quality of life of communities. It introduces public participation as a tool for social planning, as provided for in the Constitution of Kenya 2010 and in the Urban Areas and Cities Act of 2011. Thereafter, public participation is examined through the lens of a just city under the four concepts and what benefits exist to achieve a just city where public participation is a key element in developing and evolving government initiatives for urban dwellers. The chapter introduces affordable housing and domiciles it in the New Urban Agenda, which focuses on the global declaration by parties to provide, among other urban goods, decent housing for all, with emphasis on participatory approaches to urban matters as a key process in "leaving no one behind".

It further highlights the focus of various global and local blueprints, such as Agenda 2063, Kenya's Vision 2030 and the Big Four Agenda and their focus on affordable housing. The chapter outlines public participation as employed in affordable housing in Kenya, highlighting the activities carried out by both state and non-state actors, with an emphasis on the successes. The chapter concludes with recommendations for proper public participation to achieve affordable housing in a just city in Kenya.

In Part Four, there are two chapters that discuss just urban transport. Chapter Ten lays the foundation for the discussion with a focus on the principles, while Chapter Eleven takes the discussion on just urban transport further through the lens of "justice and gender".

Chapter Ten tackles the just city from a public transport perspective, focusing on the progress that Kenya has made in the development of a socially just public transport system, and the challenges and dynamics involved. It defines the pillars of a

socially just public transport model as: availability, accessibility, inclusivity, fairness, affordability, reliability, sustainability, and safety. Challenges in the Kenyan public transport system is attributed to increase in population, urbanisation, and discrimination against disadvantaged groups. Previously established colonial practices are reviewed to determine how they have influenced the dynamics of the present transport system in terms of concentration in urban areas, operation, and ownership. The chapter discusses the current main transport system in Kenya composed of privately-owned and operated transport options, referred to as "paratransit system" and the challenges posed by such a system as a result of competing interests, complex relationships and unequal power relations among the actors in the public transport sector.

The chapter recommends that public transport needs to evolve to cater for the growing urban population. Alternative non-motorised means of transport has been discussed. The author notes that despite the challenges, the Kenyan government has developed infrastructure that intends to promote inclusion, mobility, accessibility, and participation of all citizens, examples of which are highlighted in the chapter.

Chapter Eleven locates just public transport discussions in the context of gender-based violence. The chapter notes that women generally still face and are constantly under the threat of violence, harassment, and intimidation. One in three women experience some form of physical and sexual violence in their lifetime. Several factors have contributed to women feeling unsafe in urban public spaces, including gender-insensitive transport-related infrastructure. Safe, inclusive, and well-planned public spaces, infrastructure, urban services and transport can reduce violence and harassment that women and girls face and, therefore, increase their mobility and access to economic opportunities. This chapter recommends priority actions to improve urban safety for all.

The final Chapter Twelve offers recommendations on how the just city concept can be realised in Kenya, looking specifically at urban institutions, citizens' rights, housing policies and urban public transport systems.



CHAPTER 2

CONCEPTUALISING THE 'JUST CITY' IN KENYA

ALFRED OMENYA

Summary

This chapter explicates the principle of the “just city” and situates the same in the Kenyan urban context. It starts by discussing the idea of “good” and “bad” cities, arguing that these categories are based on abstract values that become difficult to interpret and implement uniformly. It considers values that guided African communal life and the struggle of these values to coexist with a neoliberal and largely individualistic Western conceptualisation of the city. The chapter argues that these African values resonate with most proponents of the just city who emphasise the use rather than the exchange value of the city.

The author considers mainstream ideas around the “right to the city”, based primarily on Henri Lefebvre’s writings and on the World Charter for the Right to the City, which is further explicated by David Harvey, and more recently enshrined in the New Urban Agenda’s social function of the city (UN-Habitat, Quito Declaration). The chapter explores Susan Fainstein’s conceptualisation of the “The Just City”, highlighting that rights and justice are missing in that conceptualisation. It then proposes a situated re-conceptualisation of the just city, drawing from global values of the just city alongside African communal values, as captured in J.S. Mbiti’s words, “I am because we are and since we are therefore I am”, and in the Zulu saying, “Umntu ngumuntu ngabantu”, which literally means that “a person is a person through other people”.

The chapter then proposes a concept of the “just city” in Kenya built on four conceptual pillars, namely: (i) dignity; (ii) diversity and equity; (iii) rights and responsibilities; and (iv) democracy. It considers these four concepts in the Kenyan context, highlighting key issues that policy makers and stakeholders need to engage with.

What kind of city do we aspire for? The Good City!

The city, as noted by urban sociologist Robert Park and quoted by David Harvey (2003), is: “Man’s most consistent and on the whole, his most successful attempt to remake the world he lives more after his heart’s desire. But, if the city is the world which man created, it is the world in which he is henceforth condemned to live. Thus, indirectly, and without any clear sense of the nature of his task, in making the city man has remade himself.”

Questions about the nature of the city are, therefore, key to urban thinkers and practitioners:

- What kind of city do we want?
- What kind of people do we want to be?
- What kinds of social relations do we seek in the city?
- What relations with nature do we cherish in the city?

- What style of daily life do we desire in the city?
- What kinds of technologies do we deem appropriate in the city?
- What aesthetic values do we hold and want to express in the city?

Beyond the legal and policy debates, scholars agree that there exist “good” and “bad” cities. In this vein, several contemporary theorists have crafted descriptions of the “good city” to sketch an understanding of the relationship between justice, responsibility and the urban.

Some development theorists and practitioners define cities purely through the lenses of basic services and infrastructure. Others focus on a city’s tangible and intangible assets, including its architectural heritage. The United Nations Human

Settlements Programme (UN-Habitat)'s *State of the World's Cities 2008/9* report defines good cities as those with "soul":

Cities are not just brick and mortar; they represent the dreams, aspirations and hopes of societies. Each city has its "personality" – its strengths, weaknesses, failures and successes. The city's "soul" is exhibited through its cultural heritage, its social

fabric, its intellectual and creative assets, its vibrancy and its distinct identity. Cities that lack soul are characterised by a conscious or unconscious desire to obliterate memories and to destroy the "spirit" of a place.

Various alternative visions of the "good city" emerge; some are highlighted below:

Inclusive and participatory city: The British academic Ash Amin highlights the centrality of "an urban ethic imagined as an ever-widening habit of solidarity based around the concepts of "repair", "relatedness", "rights" and "re-enchantment" that are part of everyday experience. Amin imagines a well-functioning, inclusive and participatory city that "celebrates the aspects of urban life from which springs the hopes and rewards of association and sociality".

Services and welfare: The late influential urban planner, educator and writer John Friedmann focused on the very concrete issues of housing, health care, wages and social welfare as the four pillars of the "good city". Friedmann emphasised the central role of civil society organisations in the struggle to reinforce these pillars in the context of democratic institutions.

Solidarity and participation: The political theorist and urban planning scholar Susan Fainstein, in conceptualising what she refers to as "The Just City", emphasises broadening a sense of solidarity among urban dwellers and imagining the contexts in which urban conditions can be changed for the better. She imagines an urban world where citizens participate in every aspect of their urban development.

Just city: A "good city" is necessarily Fainstein's "just city", where the rights of citizens are held high and each citizen is given space to not only participate in and shape the city, but also to actualise him or herself. The concept of the just city presupposes that there is an entitlement to the city in the first instance. This "right to the city" was first conceptualised by the French philosopher Henri Lefebvre.



@ SHUTTERSTOCK

African Values in the Just City

Life in traditional African settlements, including cities, was governed by a set of values that were based on tradition, culture, religion, and lived life. These residual values from pre-colonial times persist and struggle to coexist with the Western neoliberal city that dominates the global South. We see these values – particularly those of solidarity, cooperation and reciprocity – emerge in difficult times when people get sick and during happy events, such as during weddings or celebrations of different sorts to mark individual achievements.

Values are the standards that members of a community adhere to in their personal and communal interactions towards the achievement of their goals. These values and standards determine who should be praised and who should be reprimanded for their actions. Values also refer to what is “good” or “desired”. Values can be institutional, communal or individual. Values imply that there are options available from which choices are made.

Africans, both in rural and urban areas, place high value on communal life, although this has been eroded considerably over the last 100 years following the advent of colonialism. Communal values express the worth and appreciation of the community. They guide the social interactions of the people towards a common goal. They are built on interpersonal bonds that go beyond biological affinity. Africans’ communal values demand solidarity and interdependence; people share mutually and care for one another. Whatever happens to one individual happens to the community as a whole. The joy and sorrow of one extends to other members of the community. The willingness to help others for the development of the community is reciprocal. As J.S. Mbiti (1969) put it: *“I am because we are. And since we are, therefore, I am.”*

In Africa, the value of the family cannot be over-emphasised. It is the primary unit of the social life of the community. Its cohesion is a *sine qua non* of the unity of the community. As fundamental as the family is, it has social and moral values. The nuclear family functions within the extended family. This is the core realm where values of responsibility, kindness, honesty, hospitality, accommodation, generosity, compassion, faithfulness, fruitfulness, love, dignity, and diligence, among others, are practised before being extended to the larger community and the ethnic nation state.

The above does not imply that Africans had no individual values. However, individual values were linked closely with

communal ones. Africans have and appreciate personal will and identity. But individual values are appreciated in the context of communal ones. As the Edo of Nigeria put it: *“You first see the forest before calling the trees by name.”* This is also reflected in the Zulu maxim: *“Umntu ngumuntu ngabantu”*, meaning “a person is a person through other people”. A good example of an individual value is that of hard work. Even the indolent acknowledge that hard work is a value that engenders a positive influence in family and communal circles and that wealth results from hard work.

Therefore, when we engage life in the city, it is important to consider the struggle of the African to practise his values in the city and to negotiate the difficulties and contradictions that pertain in a settlement designed, governed and managed largely along Western neoliberal principles. The emphasis on communalistic solidarity among Africans stand in contradiction with the emphasis on individualism common in the Western neoliberal political economy, which most cities in the global South have embraced.

Interestingly, African values converge with most of the values expressed by proponents of the just city and the right to the city. The African social means of humanity trumps the needs of the market in a similar manner, as Henri Lefebvre emphasised when he stated that the use value of the city (which is mainly communal) is more important than its market value. The African fully belonged to his community; this is what we advocate for in the right to the city – the urban resident has a right to fully enjoy and belong to the city.

From Good to Just City

Urban professionals in the 21st century have to manage dealing with many environmental, social, political, economic and governance issues. Of these, the issue of justice can be considered as one of the oldest concerns that urban scholars have had to deal with through the modern history of civilized societies. The just city is, therefore, an attempt to deal with approaches to urban development that produce unjust outcomes. Further, “goodness” as a value might be difficult to enforce while “justice” as a concept and “rights” are generally more practical and enforceable. There is also widespread consensus on what justice entails and, therefore, ideas on how to implement these in the city.

Rural vs. urban loyalties

One of the obstacles to engendering the “right to the city” in Kenya is that most the country’s urban residents do not view cities as places that they can call home. “Home” for a vast majority of urbanites in Kenya is the ancestral land or village where they came from, not the four walls they occupy in the city – even when they have lived in the city for many generations.

As one Kenyan economist noted in 1997: “The city is inhabited largely by transplanted villagers who have yet to be truly transformed into an urban people and who continue to display a villager mindset. Those charged with managing the city are themselves transplanted villagers who have only a fleeting allegiance to the city’s well-being.”

This attitude is not particular to cities such as Nairobi but is also prevalent in other African cities where urban populations with rural ties are conflicted about adapting to and participating in a cosmopolitan and individualistic urban setting. For instance, in a much-publicised precedent-setting case in 1987, a widow lost the right to bury her husband in their farm on the outskirts of Nairobi, even though her lawyer husband had lived in Nairobi most of his adult life. A judge ruled that the husband’s clan would determine his burial site, so he was buried in his clan’s rural village, a place he had hardly visited when he was alive.

Clinging to rural or ancestral roots is a phenomenon that was reinforced by colonial policies where African males could come to the city to work but without their families. Africans, therefore, viewed Nairobi and other urban areas merely as places to earn wages that could be repatriated “back home” to their families. Many Nairobians view themselves as transient residents who will eventually return to their rural villages. As a result, civic action against deteriorating or absent services has been rare because there is little ownership of the city.

This, however, is changing as second and third generation “migrants” lay down roots in the city. A few civil society-led groups are demanding better services and have even gone to court to have their demands met. This kind of civic engagement suggests that an increasing number of Kenyans are finally beginning to view the city as their home and are willing to fight for their right to the city.

Sources: Warah, 1999; Mwale, 1997

The conceptualisation of a just city used in this chapter is based on a core belief of human dignity based on African values as the starting point for living in the city. Fairness and entitlement to equitable treatment that is present in African values and among the proponents of the just city is the next cornerstone of our proposal of the just city. We borrow some aspects of Fainstein’s conceptualisation of the just city, namely, *democracy, diversity and equity*. However, we argue that growth and sustainability are the outcomes – not the building blocks – of the just city.

While agreeing with Fainstein’s conceptualisation, we observe that “rights” is conspicuously missing in this conceptualisation. We further note that growth and sustainability are simply results, where growth may be possible in all sorts of cities, including autocratic ones. However, sustainability is more likely to be achieved in a just city.

From this tripartite background of African values, Lefebvre’s and David Harvey’s right to the city and Fainstein’s just city, we develop a contextualised definition of the just city in Kenya based on the following four pillars: dignity; equity and diversity; rights and responsibilities; and democracy. The pillars are defined below:

- a) **Dignity:** This is the right of an individual or a group to be valued, respected, and treated ethically. It is to recognise the worthiness of a human individual or a group. It implies respect of the individual or a group regardless of their perceived socio-economic or political status.
- b) **Equity and Diversity:** An equitable city is one where the city and its benefits are shared equitably among the citizens.

A city of diversity is a city where there is an understanding that democratic processes may result in the exclusion of others (especially minorities) so measures are put in place to ensure justice for all, including minorities and visitors.

- c) **Rights and Responsibilities:** A city where the rights of all citizens and visitors are observed. These rights are counter-balanced by citizens taking responsibility in the affairs of the city and in developing their city.

- d) **Democracy:** A city where citizens make collective decisions based on informed majoritarianism, but in a manner that respects the dignity of all and that considers equity and diversity.

The rest of this chapter explores each of the four pillars and situates the same in the Kenyan urban development context, suggesting some practical entry points to each of the four pillars.

Invisible urbanites

Does the Kenyan city embrace diversity? No, because the Kenyan city has not been planned or designed to be inclusive. Kenyan urban areas are generally unfriendly to children, to the sick, to people with disabilities, to women, to senior citizens, and to the poor, among others. On city streets, various road users, such as pedestrians and cyclists, are invariably excluded.

This has led the Just City Coalition, a coalition that promotes social and economic justice for marginalised urban populations in Kenya, to start engaging with the concept of **invisible urbanites**, referring to those demographics that are in the city but are hardly seen because the city has been designed to exclude them. This exclusion is not only physical, but also in the spaces where decisions on urban planning are made.

Four Pillars of the Just City in the Kenyan Context

01

City of Dignity

Dignity is considered the right of an individual to be valued, respected, and treated ethically for his or her own sake. It is to recognise the worthiness of a human individual. It implies respect of the individual in all instances despite the person's perceived status. We conceptualise dignity as a right. This is because indignity tends to be imposed on an individual by others through power relations. Thus, as a right, it obligates others to respect it. Therefore, human dignity is a basic right, which can be violated in variety of ways:

- **Humiliation** – undertaking a set of activities that diminish the worthiness of a person.
- **Instrumentalisation and objectification** – using a human being as an instrument or object to achieve one's personal selfish goal, stripping the used person of his or her dignity.
- **Degradation** – activities that diminish the value of the human individual.
- **Dehumanisation** – depriving an individual or a group of the basic values and characteristics that define them as human.

“Dignity” is so fundamental that it stands on an equal platform with “rights” in the United Nations Declaration on Human Rights:

“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”

The Declaration further states that:

“Everyone is entitled to all the rights and freedoms set forth in this declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.

Practical examples of abuses of human dignity in the city include slavery, bonded labour, exploitation, rape, torture, and social exclusion. In the Kenyan city, this is often expressed in inhuman living conditions, with no basics of life, such as a clean environment, shelter, access to solid and liquid waste management, sanitation, etc. Open defecation, lack of access to water and sanitation, forced evictions, and homelessness are other expressions of violations of human dignity. The human dignity of children, people living with disabilities, women, and the elderly are also regularly violated. The just city must therefore protect the dignity of all its residents and visitors in “its legal, ethical and performative aspects”.

02

City of Equity and Diversity

(a) City of Equity

The just city must be based on equity. Equity is the distribution of material and non-material goods in a manner that is just and that brings the greatest benefit to all. Fainstein identifies several tensions between these different criteria. For instance, urban renewal policies that force poor minority households to relocate from neighbourhoods where they are concentrated may increase diversity at the cost of equity. Practical ways of ensuring equity is through social and participatory planning that ensures that the voices of the different segments of the population shape the plan and that they experience tangible impacts and benefits from the urban project.

In Kenya, the concept of equity tends to be applied at the national level in the context of previously disadvantaged populations (from a historical perspective) and gender; but it is not very well developed at the urban level.

(b) City of Diversity

The just city *allows diversity* of various kinds. However, like democracy, ambitions to create diversity often result in nominally unjust outcomes, as when poor residents are forced to relocate to remote and more expensive estates as part of efforts to promote social mixing. Diversity also implies acceptance of different programmes, people and cultural norms in the built environment and decision-making processes. Further, it implies acceptance of difference, the intention to involve diverse opinions, attitudes and behaviours, and the

ability of spaces to engender integration, fellowship, and safety. Some of the principles that apply include:

- **Universal access** – convenient proximity to, presence of, and/or connectivity to basic needs, quality amenities, choices, opportunities, and decisions for all urban residents regardless of race, colour, gender, or disability; and
- **Connectivity** – a social or spatial network tying people and places together and providing access and opportunity for all.

03

City of Rights and Responsibilities

The World Charter for the Right to the City (2005) defines the city both from a physical and organisational perspective, laying emphasis mainly on the usufruct of the city, the dignity of the urban citizen and the quality of life in both urban and rural spaces. The right to the city encompasses “negations”, such as freedom from discrimination, and positive rights, such as the equitable use of urban resources, the right to self-determination by urban residents, respect for socio-cultural diversity and minorities, access to work and social services, and environmental rights.

The Charter defines the right to the city as “the equitable usufruct of cities within the principles of sustainability, democracy, equity and social justice”. This right is “the collective right of the inhabitants of cities, in particular of the vulnerable and marginalised groups, that confers upon them legitimacy of action and organisation, based on their uses and customs, with the objective to achieve full exercise of the right to self-determination and an adequate standard of living”.

The concept of the “right to the city” is based on the French philosopher Henri Lefebvre’s writings, which challenged the exchange value and commodification of the city. Lefebvre considered the city as an “*oeuvre*” – a complete body of work, with meaning and wealth beyond use and exchange values. This *oeuvre* is made up of political life and histories, culture and the arts, wealth and knowledge, and places and spaces that give the city a distinct identity. The urban citizen should have complete and unfettered access to this *oeuvre*.

Excessive commodification of urban spaces leads to privatisation of public goods. Lefebvre argued that the traditional city was based on use value, with emphasis on cultural, social and political life, and wealth, knowledge and the arts, among others. The emphasis was on the use value of the city for its citizens. He further argued that cities as markets and as centers of commerce, with their emphasis on private property rights at the expense of the public good, and with a focus on exchange value rather than use value, threaten the integrity of this *oeuvre*.

Citizens, who are part of this *oeuvre*, necessarily have two distinct rights of participation and appropriation, distinct from the right to property. The right to *oeuvre* can be looked at from the perspective of the city being the arena for collective support of every aspect of a citizen's life, expressed in enactment of communal rituals of birth, marriage, and death. The "right to the city", is, therefore, the collective right to "habit and to inhabit". Participation is the right that enables the citizen to influence production and reproduction in the urban space.

Therefore, the right to the city from this classical perspective is the collective right to the city as a whole beyond the individualist commercial relations the city enables through the markets. It means participation in production and appropriation of urban spaces and places, which in turn enable control of socio-spatial relations beyond urban areas as economic systems or spaces. The right to the city implies that private rights to property should not emasculate the public use value of cities.

04

Democratic City

Based on Fainstein's definition, a just city is *democratic* in the sense that people have control over their living environments. Fainstein values democracy but immediately qualifies her support as she argues that local democracy can easily result in negative global outcomes (for instance, when an affluent community democratically decides to close itself off from its surroundings). In this regard, Toni. L. Griffin not only concurs with Fainstein, but further provides at least three principles that relate to democracy in the city:

- **Choice** – the ability for any and all communities to make selections among a variety of options, including places, programmes, amenities and decisions.
- **Ownership** – the ability to have a stake in a process, outcome, or material good, such as property.
- **Participation** – the requirement and acceptance of different voices and the active engagement of both individuals and communities in matters affecting social and spatial well-being.

Unjust cities are unhappy cities

In 1972, Bhutan's King Jigme Wangchuk introduced a Gross National Happiness Index in his country and declared that "if the government cannot create happiness for its people, there is no purpose for the government to exist". The four key pillars of this index are equitable and sustainable socio-economic development, preservation of cultural values and heritage, conservation of the natural environment and good governance. Economic growth does not feature high in Bhutan's happiness index because the kingdom's policy makers consider spiritual and emotional well-being far more important than GDP, which is considered an inadequate tool to measure other intangible – but invaluable – types of wealth, such as culture and nature. The kingdom has long acknowledged that economic growth without social justice increases levels of unhappiness in society. This reality has been supported by growing research that shows that highly unequal and unjust societies also tend to be unhappy societies, with high levels of dysfunction.

According to Oxfam, in 2019, only 2,153 of the world's people had more wealth than 4.6 billion people. In addition, "the richest 22 men in the world own more wealth than all the women in Africa". *The World Inequality Report 2018* showed that 50 per cent of the world's population owns less than 2 per cent of the world's wealth, while 40 per cent of the world's population (the global middle class) owns less than 30 per cent. Rising inequality levels around the world are a cause for alarm because they have severe physical, social and psychological consequences. In a ground-breaking study published in 2009, the epidemiologists Richard Wilkinson and Kate Pickett found that levels of mental and physical illness within a society were related to its level of inequality. For example, in the United States, one of the most unequal societies in the world, a quarter of the population suffers from some form of mental illness, while in the more egalitarian Japan, less than 10 per cent do. Germany, Belgium and the Netherlands also have less income inequality and less prevalence of mental illnesses, perhaps because these countries invest more in social welfare programmes and have adopted policies that promote social justice and equity.

Obesity, depression and drug addiction are also more common in unjust and unequal societies. In such societies, homicide and other criminal behaviour are more prevalent. Because unequal societies tend to produce people prone to violence and crime, they are also fearful. Some of this fear is generated by urbanisation, which often leads to declining community relationships and social isolation. People living in highly unequal cities become more distrustful of each other and lose their sense of community, which increases anxiety levels. In response, some cities, like Nairobi, have built gated communities that further erode urban residents' sense of community and increase their feelings of isolation. Overcrowding, and noise and air pollution also take a toll on the mental health of urban residents. Lack of green spaces and leisure or sports facilities impacts the physical well-being of city residents, especially women and children. Instead of curing societal ills through increased use of drugs and psychiatric services, countries should look at making their societies more just and equitable through policies that reduce the income gap and build people's resilience.

Sources: Wilkinson and Pickett, 2009; Oxfam, 2019; World Inequality Report 2018; Royal Government of Bhutan; UN-Habitat, *State of the World's Cities 2008/9*.



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Democracy in the Kenyan City

In the Kenyan context, we interpret democracy through the constitutional provision of self-governance, best expressed through public participation at the national, county, and urban levels. This is reflected in the Constitution of Kenya 2010, specifically in:

- Chapter Six on representation of the people;
- Chapter Eight on operations of the legislature;
- Chapter Eleven on the devolved system of government, especially Article 176 on county governments, and Article 184 on the governance and management of urban areas; and
- Chapter Twelve on public finance, specifically Part Five on budgeting, which mandates public participation in county budgets without which the process is considered unconstitutional.

These constitutional principles are further elaborated in various Acts of Parliament, including:

- The Public Finance Act, which requires public participation in the preparation of county budgets, including urban budgets; this Act also creates an equalisation fund, which is meant to address the needs of vulnerable and marginalised groups; and
- The Urban Areas and Cities Act of 2011, which requires participation in urban governance and management, establishes citizens' forums, requires that urban boards receive petitions from citizens, and requires public participation in the development of integrated urban development plans, land use plans and urban budgets, among others.

Cities without citizens

Chapter One of the Constitution of Kenya 2010 entrenches fundamental socio-economic rights and freedoms... Central to these rights is the assertion that sovereignty is vested in the people. The people may choose to practise their right to self-governance directly or through an elected government. However, the constitution creates only two levels of government – national and county – making the exercise of self-governance at other levels, especially at the urban level, quite vague.

Citizenship in the Kenyan constitution is national, with limited emphasis on the right to basic services but not to a local place. Therefore, there is no basis for citizenship of a county, nor of an urban area. This implies that although there are bundles of socio-economic rights, these are realised nationally, and counties and urban areas are merely vehicles for providing services to the national citizen. There is no claim, apart from through ownership of property, to citizenship of any place, save the national. Therefore, the right to a local place, such as a city, does not arise; all cities exist only as conduits for services to all Kenyans, including those who have never set foot in such urban places. Therefore, urban citizenship and the right to the city *per se* do not exist in Kenya. Local citizenship is intrinsically connected to land ownership, thus alienating non-land-owning residents. Urban areas in Kenya have been reduced from arenas of citizenship to mere sites of service provision and markets for commodities. The usufruct of the city is not recognised, save for the landowners.

The Kenyan context presents an urban resident who is not adequately emancipated to be a powerful citizen capable of self-determination; rather, he/she is viewed as an emasculated recipient of "charity" in the form of urban services. Both in law and practice, governance at the urban level has been reduced to provision of a bundle of services, rather than the holistic space for self and collective actualisation.

Further, the principles upon which the Right to the City are based are considered too progressive and ambitious in a neoliberal political economy like Kenya. The principles of the World Charter for the Right to the City, such as the social function of cities, including the social function of private property, solidarity economy, equity in distribution of urban resources, burdens and benefits, and protection of vulnerable groups, are still not part of mainstream law or urban discourse in Kenya.

Lastly, the citizen has various responsibilities as pertains the right to the city. The core responsibility of participation is in the governing, management and development of a city. Citizens must exercise their democratic right to vote and elect leaders, taking up their positions in planning, budgeting, and executing plans. The citizen has a responsibility to oversee duty bearers, including elected and non-elected officials.

A democratic city entails an all-encompassing participation in the planning, production, and management of the city. Participation in this regard means a *partnership between citizens and their government*, rather than superficial public consultations to meet the lowest threshold possible in law, which is common in Kenya. This is an area where progress needs to be made, given that already there are adequate provisions for participation in the constitution and in legislation.

Further, as urban boards are established, citizens' forums – envisaged in the Urban Areas and Cities Act as the central arenas for public participation in the urban realm – need to be urgently and effectively operationalised.

Pragmatic Spaces for Exercising the Right to the City in Kenya

Rights are quite well developed in the Kenyan constitution and various pieces of legislation. However, these need to be situated in the urban context for them to be meaningful to the urban citizen. Kenyan cities are still not cities of “rights” where the right to the city can be enjoyed, or even claimed.

However, democracy in the Kenyan city is taking shape, thanks to the requirement of public participation at the national and urban levels in law. However, the structures for strengthening the implementation of these, namely citizens' forums, are still absent. This is an area where the newly formed urban boards can focus on to achieve true democracy in Kenya's urban areas.

Diversity and equity are key though thinly supported in law. This is a realm where stakeholders and urban experts and planners need to focus. Practices like social planning can provide a good entry point.

Eventually, the Kenyan city will be a just city if it achieves good progress in rights, democracy through effective public participation, diversity, and equity, not just in governance management and planning, but also in access to space and benefits of urban development. Pragmatic entry points in the Kenyan context include the following:

(a) Legal formulation processes: Citizens have a role to play in influencing laws that are being developed at the national and county levels that affect the lives of urban residents. At the national level, there is the political issue of a referendum on the constitution with debates on how we will be governed at the national, county, and urban levels. Urban residents should express their views on how they want to be governed.

(b) Urban governance: Currently urban boards are being put in place pursuant to the Urban Areas and Cities Act 2011 (Amended 2018). Citizens are expected to engage with these boards through citizens' forums and directly by proposing members to sit in these boards. It is important that citizens organise to effectively use these spaces for effective governance and provision of services in an efficient, democratic, just, and equitable manner.

(c) Urban planning: Citizens have a responsibility to take part in county planning, including the development of County Integrated Development Plans, County Spatial Plans, County and Urban Level Sector Plans, Integrated and Sustainable Urban Development Plans, Annual Development Plans, County Finance Bills, etc. These are the spaces where development is shaped, and resources are allocated and spent. Citizens have been empowered by the Constitution of Kenya 2010 and various pieces of legislation, including the County Government Act, the Public Finance Management Act, the Urban Areas and Cities Act, and various legislation and guidelines at the county level to influence these processes. These are spaces that can either produce justice or injustice; therefore, the citizen must occupy these spaces and use them effectively towards the realisation of a just city.

(d) Urban projects: There are opportunities to push forward the values of the just city as urban projects require public participation. Examples include the Big Four Agenda programme of the national government, the Kenya Urban Support Programme (putting institutional and infrastructure development in 59 urban areas in Kenya) and the Sustainable Urban Economic Development Programme (working in 12 urban areas in Kenya). These are opportunities to entrench the values of the just Kenyan city.

Part Two of this publication examines in more depth the legal frameworks, urban institutions and programmes that can help urban residents to realise the just city concept in Kenya.



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PART II



CHAPTER 3

DEMOCRATIC GOVERNANCE FOR JUST CITIES

GRACE WAKESHO MAINGI

Summary

This chapter seeks to examine whether there are legal frameworks, institutions and programmes supporting democratic governance towards just and fair outcomes for urban citizens in Kenya. It further seeks to explore where the deficits are and what needs to be done about them to achieve a just city.

Although there are legal frameworks, institutions and programmes supporting democratic governance in Kenya, the question is whether they result in just and fair outcomes for people living in cities and towns. The chapter explores the question of “just and fair outcomes” in Kenya’s urbanisation process through a review of various legal documents with provisions for democratic governance, including the Constitution of Kenya 2010, the Urban Areas and Cities Act, the Public Finance Management Act and Kenya’s Vision 2030.

The chapter further reviews and critiques the implementation of various programmes, such as the Kibera Integrated Water, Sanitation and Waste Management Project and the Slum Upgrading Programme in Manyatta, Kisumu County. It notes that the application of laws is not effectively applied, with the government and citizens violating the national principles of governance. Reviews of programmes further indicate gaps and insufficiencies that are evident in the current situation in Kenya’s urban areas.

The chapter recommends the adoption of the just city concept principles in attaining a democratic governance system and in demonstrating the benefits of the concept to decision-makers as well as to the electorate, especially vulnerable and marginalised groups, the business community, and young people. The author highlights the need to enhance democratic governance by adopting strategies that enable the active participation of community members in decision making.

Defining democratic governance

There is no one agreed definition of democracy. However, legal equality, political freedom and rule of law have been identified as key characteristics of democracy.

Legal equality, simply defined, means that all are equal before the law, as captured in Article 27 (1) of the Constitution of Kenya 2010, which states that “every person is equal before the law and has the right to equal protection and equal benefit of the law”.

Article 38 of the Kenyan constitution captures political rights. Every citizen is free to make political choices and is entitled to various rights, including the right to form or join a political

party, the right to free, fair and regular elections based on universal suffrage and the free expression of the will of the electors, the right, without unreasonable restriction, to be registered as a voter, and the right to vote and to be a candidate for political office.

Article 10(1)(2)(a) of the Kenyan constitution identifies the rule of law as a national value and as one of the principles of governance, signifying that Kenya is a democracy.

The constitution identifies democracy as a national value and one of the principles of governance. However, it does not define what democracy means. Democracy could involve the

participation of members of a society in deciding on the laws and policies governing the society or it could involve the participation of those members in selecting representatives to make the decisions.

The United Nations Development Programme (UNDP) defines democratic governance as a “set of values and principles that underpin state-society relations, allowing people — in particular, the poor and marginalized — to have a say in how they are governed, in how decisions are made and implemented. It also means that people’s human rights and fundamental freedoms are respected and that they can hold their leaders to account, thus aiming to make governing institutions more responsive and accountable, and respectful of international norms and principles”.

UNDP goes on to explain that countries that respect democratic governance values and principles also ensure that mechanisms are in place for people to be protected from arbitrary action by state actors, as well as by powerful corporations. Hence, democratic governance is not synonymous with a particular system of government; it is a way of governing that can be practised in a variety of political systems.

The just city concept

The just city concept was hypothesised by Dr. Susan Fainstein, a professor of urban planning at Harvard University. Dr. Fainstein is regarded as a leading scholar in urban theory. In her book, *The Just City*, she advances the idea of an urban theory of justice as a tool for urban policy evaluation. She conceptualises a city that incorporates democracy, diversity and equity in its planning and development that will result in justice.

Urban planning researchers have opined that “justice in the context of urban planning tends to address issues related to distributive justice rather than to individual freedoms and liberties and thus it is very much based on social sciences, as well as dependent on historical and local context of any specific urban area”. Distributive justice has been described as involving people’s evaluations of the fairness in the allocation of desirable outcomes across populations.

The concept of the just city in Kenya is based on four conceptual pillars as espoused in Chapter Two of this publication, namely: (i) dignity; (ii) diversity and equity; (iii) rights and responsibilities; and (iv) democracy.

Democratic governance and just cities

The “Boston Hypothesis” is an idea that arose out of statistical research undertaken in the 1960s that showed that countries that were more urbanised experienced more democracy the following year, suggesting that cities promote democracy. Despite this hypothesis, analyses of urbanisation over the last twenty years reveal that urbanisation is unsustainable and can be damaging for the quality of life of future urban dwellers and the planet in general. Although urbanisation is generally associated with a better quality of life and higher incomes, negative effects, like environmental degradation and rising inequalities, within cities are cause for alarm.

The United Nations Human Settlements Programme (UN-Habitat) reports that our “cities are increasingly less planned and denser, consuming 78 per cent of the world’s energy, producing more than half of all greenhouse gas emissions and taking up much more land than needed, with unaffordable housing. The consequences of these trends are dramatic”.

At the same time the UN agency notes that if urban development is well planned and managed, cities would be job-creating centres that promote social inclusion and protect local ecosystems by ensuring national economic growth, social prosperity and environmental sustainability. UN-Habitat, in its *State of the World Cities 2006/7* report, also acknowledges that “urbanization levels are closely related to levels of income and better performance on social indicators, including health and literacy”. In other words, urban populations tend to perform better in many human development indicators than their rural counterparts.

The question then is why we simply do not undertake proper planning and management using principles espoused in the just city concept if the benefits are so evident.

What would democratic governance for just cities look like? In my view, it would be a merger between people’s power, contributing to the effective delivery of goods and services within the city that results in dignity and equity. This would result in inclusive economic growth that is environmentally sustainable and that results in adequate affordable housing and provision of adequate safe and clean drinking water.

Enhancing democratic governance in cities

An example of a city where steps have been taken to enhance democratic governance is Gary city in Indiana, USA. This is a city that had enjoyed exponential growth in the 1920s but in the recent past has suffered high unemployment and poverty. It has now engaged the city inhabitants in its rejuvenation project by using technology to hold public discussions with the city's mayor, thus enabling the residents to share their challenges associated with poverty and disinvestment in the city. The city's focus on addressing marginalisation has led to human development that focuses on teaching marketable skills.

Superkilen Park in Copenhagen, Denmark, is another example of how space in a city can be transformed through public participation. Superkilen was a public space in a deprived immigrant area in Copenhagen that suffered high crime levels. It was transformed into a high standard urban development space reflecting the diversity of the over sixty local and immigrant communities in the area. In designing Superkilen Park, the architects undertook extensive public participation through the media to collect residents' views. The park is now a great public space for the residents and is an acclaimed tourism site.

Sources: Associated Press, 2016; Wilson, 2015; Browning, 2016

Legal frameworks, institutions and programmes supporting democratic governance in Kenya

Kenya's laws support democratic governance. The Kenyan constitution, the supreme law in the country, acknowledges democratic governance as a fundamental cornerstone. The Preamble of the constitution recognises the aspirations of all Kenyans for a government based on the essential values of human rights, equality, freedom, democracy, social justice and the rule of law. National values and principles of governance bind all State organs, State officers, public officers and all persons.

Despite the constitution having a firm grounding in democratic governance, including a devolved system of governance, Kenyans struggle with the internalisation and practice of constitutional principles and norms. Citizens and the government itself have been known to violate the national values and principles of governance for private gain and expediency. Unfortunately, this also relates to the application of various laws in Kenya, which are either ignored or not applied.

Urban Areas and Cities Act

Various laws relating to cities support democratic governance. The Urban Areas and Cities Act 2011 outlines in Section 11 that the governance and management of urban areas and cities shall be based on the following principles:

- Promotion of accountability to the county government and residents of the urban area or city.
- Institutionalised active participation by its residents in the management of the urban area and city affairs.

The municipal and city boards established by the Urban Areas and Cities Act to manage a city or municipality have to be constituted in a manner to ensure gender equity, representation of persons with disability, youth and marginalised groups. They are also expected to promote constitutional values and principles and to ensure participation of residents in decisions regarding activities and programmes that affect them.

The Second Schedule of the Act spells out the rights of and participation by urban residents in the affairs of their city or urban areas. This includes the right to "contribute to the decision-making processes of the city or urban area by submitting written or oral presentations or complaints to a board or town committee through the city or municipal manager or town administrator" and the right to "regular disclosure of the state of affairs of the city or urban area, including its finances".

On its part, a city or urban area "shall develop a system of governance that encourages participation by residents in its affairs".

Public Finance Management Act

The Public Finance Management Act, which provides for the effective management of public finances by the national and county governments, states in section 10(2) that the Parliamentary Budget Office shall observe the principle of public participation in budgetary matters. Section 137 provides for the establishment of a County Budget and Economic Forum (CBEF) for county budget consultation processes.

Despite the legislation of these structures and explicit reference to the public's role in the budget-making process, there has been minimal public participation in this area. An assessment undertaken by the International Budget Partnership (IBP) in 2015 on various County Budget and Economic Fora revealed that despite this being one of the legally required mechanisms for the public's participation in the budget-making process,

the CBEFs were barely functional and there was little interest on the side of the county executive to ensure their effectiveness. More recent assessments indicate that this position still holds.

Women's participation in county government affairs, including budgetary matters, has also been largely cosmetic. Even when women enter county assemblies, they fail to make an impact. As Prof. Jill Cottrell Ghai of the Katiba Institute noted: "The constitution does provide that women must comprise one third of every county assembly. In county assemblies, women face several challenges. Most of them are not elected to represent wards but come into the assembly through party lists. Only 82 women were elected to wards in 2013, while nearly 700 were taken from party lists. There is thus a tendency to not view them as 'real' members; many have even been insulted and referred to as 'Bonga points'. Their role is often unclear – perhaps even to them."

Devolution: The game changer

The Constitution of Kenya 2010 calls for a devolved system of government where there is a county government for each of the 47 counties in the country. The aims of devolution, as envisaged in the constitution, are to recognise the right of communities to manage their own affairs and to ensure equitable sharing of national and local resources throughout Kenya. Article 174(c) of the constitution states that the objects of devolution are, among others, to "give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them".

Since the implementation of devolution in 2013, there have been tangible benefits felt in the counties, but also some setbacks. For some counties, such as Mandera, devolution has brought basic services and infrastructure, such as tarmacked roads, for the first time. Power has reached Ijara in Garissa where the residents had never needed electric bulbs, water pumps or fridges. When power was first switched on, residents were able to buy milk from a store fridge for the first time. Small businesses immediately began to think bigger, eyeing the massive food demands of towns in the vicinity, like Garissa, Malindi and Mombasa. A 10-kilometre tarmac road changed the face of Maralal, and the activities conducted there when it was launched in 2016. There are almost 35 kilometres of streetlights in the town centre. Wajir County also got its first tarmac road – properly finished with drainage, foot paths and streetlights – in 2018.

Devolved health services have also brought some benefits. Despite the lack of equipment, doctors performed the first Caesarean section at Modogashe Sub-county Hospital in Garissa County in 2016, safely delivering a baby boy and saving the life of his 18-year-old mother who had been in labour for two days. That was just days after doctors at Balambala, another ward level hospital in Garissa, conducted a similar procedure. These stories of first-time medical operations in what were once abandoned marginalised areas have become almost ordinary as counties take control of health services by upgrading and building facilities, recruiting staff, and ensuring that equipment and medicines are available. The ongoing construction of the 750-bed Kakamega County Teaching and Referral Hospital will change the face of healthcare beyond the county and tick many boxes for health sector needs in the region.

However, despite health services having been devolved, the central government has not relinquished control of the structures that should support the counties. For instance, the Kenya Medical Supplies Authority (KEMSA) and the Ministry of Health currently run like a monopoly medical store that the counties are forced to buy from. This means counties have less say in where to procure medical supplies.

While this bigger devolution picture is emerging, the development strides in Makueni County have inspired many news headlines. But more than the bold economic investments, the expansion of healthcare and social safety nets, Makueni represents a refreshing take on what leadership can be. Sitting at an official public meeting in the capital Wote often feels more like a social gathering as the governor ends meetings by reciting the poetry, he writes in Kikamba or by provoking shrieks of raucous laughter from the audience. In 2018, Makueni hosted governors from the other 46 counties for a benchmarking conference on the county's successful public participation approach.

Sources: Lukalo-Owino, 2020; Constitution of Kenya 2010

Vision 2030

Kenya's Vision 2030 aims to transform Kenya into "a newly-industrialising, middle-income country providing a high quality of life to all its citizens in a clean and secure environment". The country's long-term development blueprint is aligned to the Kenya just city concept as its social pillar aims to improve the quality of life for all Kenyans by targeting a cross-section of human and social welfare projects and programmes, including water and sanitation, environment, housing and urbanisation, while making special provisions for persons with disabilities and marginalised groups.

Some of the population, urbanisation, and housing flagship programmes and projects to be undertaken under Vision 2030 include:

- 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.
- 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.

- Formulation and implementation of planning standards and guidelines.
- Review and formulation of a National Urban Development Policy.
- Implementation of the Cities and Urban Areas Act of 2011.
- Facilitation of the production of 200,000 housing units annually through various initiatives.
- Development of affordable and quality houses for lower-income Kenyans.
- Development of appropriate building materials and technologies.
- Installation of physical and social infrastructure in slums and informal settlements in selected urban areas.
- Implementation of the Kenya Informal Settlement Improvement Programme.

Vision 2030's political pillar envisions a country with a democratic system reflecting the aspirations and expectations of its people and a state in which equality is entrenched, irrespective of one's race, ethnicity, religion, gender or socioeconomic status; a nation that not only respects but also harnesses the diversity of its people's values, traditions and aspirations for the benefit of all.

Participatory approaches to urban governance

Traditional top-down, highly centralised approaches to planning do not usually enhance democracy, nor do they respond to the majority of citizens' needs. There are various approaches that national, county or local governments can adopt to ensure that citizens' priorities and concerns are taken into consideration when planning and implementing programmes or projects. These include:

City-wide decision making: This involves convening some form of city-wide gathering that creates a platform for different stakeholders to express their interests and vision for the city. Many cities rely on this form of action to engineer urban renewal, reverse declining economic fortunes or improve the quality of urban life.

Mobilising around priority flagship programmes: This involves building strategic coalitions around priorities that emerge from a city visioning process. Urban stakeholders agree on a few critical high priority issues, such as building more green spaces or reducing air pollution. On this shared understanding, a flagship programme can be designed with key actors taking collaborative action towards achieving specific goals.

Institutional reform: This involves radical adaptation and learning of new skills and competencies within city governments. Such restructuring would necessarily involve making elected representatives more accountable to citizens and making city administrations more demand-driven to ensure that policies are linked to performance and actual outcomes.

Monitoring and continuous learning: To maintain the momentum of participatory governance, it is important to monitor performance and promote a learning culture that can foster more collaboration among stakeholders. Monitoring tools make learning and innovation possible, as they point to areas that need improvement or those that need to be radically changed to increase efficiency and effectiveness.

Source: Pieterse and Juslen, 1999

Kenya Urban Support Programme

Other programmes supporting democratic governance in Kenyan cities include 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. Various other programmes 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. In 2018, the World Bank announced that it would not release funds to counties unless they established municipal and city boards. However, this could have an unintended negative "carrot and stick" effect because participating counties might be motivated to follow the law and establish the boards, not due to legal or constitutional obligations, but due to financial incentives,

therefore potentially crippling future projects that do not have a "reward" incentive.

Slum upgrading programmes

Despite the various legal frameworks, institutions and programmes in place in Kenya to support democratic governance, reviews of programmes indicate insufficiencies that are evident in the current situation in urban areas. The Kibera Integrated Water, Sanitation and Waste Management Project (K-WATS), which is part of the Kenya Slum Upgrading Programme, 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.

A review of the programme highlighted significant gaps and made various recommendations to enhance democratic governance, including the need to target participatory approaches that enhance ownership, poverty alleviation and good governance for sustainability, ensuring community involvement in projects, putting transparent governance and pro-poor financial mechanisms in place, and identifying strategies and policies that would enable community members to take an active role in ensuring that they receive environmental education to safeguard their physical environment.

Another review of the Slum Upgrading Programme undertaken in Manyatta, Kisumu County, revealed that there was a lack of awareness on the existing slum policy, which hindered the implementation of the programme. This was attributed to the lack of adequate consultations with the local community. The investigation into the challenges facing the implementation of the programme noted that community participation is critical for successful implementation of any project as it brings a sense of ownership, unity and acceptance, and therefore, reduces conflicts.



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Digitising accountability in Sekondi-Takoradi

A good example of public participation in municipal affairs is the Sekondi-Takoradi Metropolitan Assembly (STMA) comprising the twin cities of Sekondi and Takoradi in the western region of Ghana. The government there has pursued a more inclusive, participatory style of government by setting up citizen scorecards for assessing public services and programmes that help poor communities to engage in budget decisions.

Now, civil society organisations and the city government have partnered to form a digital platform, the STMA360, which has digitised the development permit application process, thus allowing citizens to monitor the process. The platform also provides access to information and reporting on irregular land use. The project aims to build local community “champions” who understand public infrastructure and how to demand greater accountability.

Source: Citizengage, 2019

Moving forward

For there to be democratic governance for just cities in Kenya, the focus needs to be on developing the principles espoused in the Kenya just city concept. This would call for a deliberate effort to ensure that Kenyans understand these concepts and appreciate the value of ensuring that they are implemented in urban planning. This can be undertaken by demonstrating the benefits of a just city not only to decision-makers but also to the electorate, especially vulnerable and marginalised groups, the business community and young people. Viable solutions, premised on the just city concept, that address the current challenges to urbanization and devolution can also be offered to build confidence in the principles.

Different interest groups would also need to be aware of their levels of influence and power to change certain things whilst being conscious of the unintended effects of their actions on the “unseen” vulnerable members of society. This would include conscientisation on what dignity entails and the benefits of distributive justice to society, followed by deliberate practice and policy to ensure equity. This can be undertaken by sensitising multiple stakeholders engaged in urban planning and citizen engagement programmes across the country. Much of this sensitisation and engagement can be nurtured and strengthened by the country’s newly established urban institutions, which are described in some detail in the following chapter.

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CHAPTER 4

URBAN INSTITUTIONS: ENABLERS OF JUST URBAN TRANSFORMATION

GEORGE WASONGA

Summary

This chapter identifies new urban institutions as a pragmatic approach to a just and sustainable urban transformation, as enshrined in the shared vision of the New Urban Agenda, specifically fulfilling the social function of an equitable provision of public goods in urban spaces through public participation and civic engagement.

While recognising the nascent state of new urban institutions in Kenya, their character is interrogated to illuminate the potential and emergent institutional barriers and enablers to achieving the four pillars of the just city. The chapter concludes by highlighting perspectives along four parameters – demographic dividend, urban prosperity, urban challenges, and democratic governance – as enablers of urban institutions in pursuit of the just city within the Kenyan context.

The rationale for new urban institutions

In 2010, a new constitutional order came into force, effectively repealing CAP 265 of the Laws of Kenya that governed local authorities in Kenya. The 1963 Local Government Act had created 175 local authorities in Kenya, which were abolished under the Constitution of Kenya 2010, paving the way for a devolved system of governance and the establishment of 47 county governments in 2013.

While many argued that the removal of local authority institutions was a positive step for urbanisation, devolution has so far proved to not be favourable to urban areas and to urban-focused development for the following reasons:

First, the entire first five-year cycle of devolution (2013–2017) witnessed a clawback on urbanisation gains, with a recentralised institutional arrangement that saw urban areas suffocate under the reign of county governments. In this period, the focus of development was mainly constructed along a sectoral approach, ignoring the integrated multi-sectoral configurations that drive urban development.

Secondly, the policy environment for renewed urbanisation in the devolution era suffered a setback with the delayed formalisation of an urban policy. Despite its early formulation in 2013, the National Urban Development Policy (NUDP) only

received formal consent in 2018, five years into devolution, leaving a policy void for progressive urban development.

Thirdly, the Urban Areas and Cities Act of 2011, while enacted in good time to anchor the establishment of urban institutions in the devolution era, was not accompanied by regulations to guide its effective implementation. The continued absence of these regulations has impaired the performance of new urban institutions.

Fourth, the facilitative role envisaged in Section 91 of the County Government Act of 2012 and Section 22 of the Urban Areas and Cities Act of 2011 for citizens' engagement forums has been significantly downplayed. Therefore, accountability of public institutions has been regularly questioned and exposed through the Auditor General's reports, while citizens' "self-organising" capacity has also been put under scrutiny.

However, new motivation for strengthening urban institutions has come in the form of the reformulated Kenya Urban Support Programme (KUSP). This reformulation banks on four underpinnings (legal, policy, Vision 2030 and the New Urban Agenda) that are used in this chapter to define the character of the new urban institutions in Kenya.

The legal underpinning of urban management

Article 184 of the Constitution of Kenya 2010 states that national legislation shall provide for the governance and management of urban areas and cities, and shall, in particular:

1. Establish criteria for classifying areas as urban areas and cities;
2. Establish the principles of governance and management of urban areas and cities; and
3. Provide for participation by residents in the governance of urban areas and cities.

The Urban Areas and Cities Act (UACA) 2011 operationalises Article 184 of the constitution. It provides for a system of city or municipal boards and town committees that are tasked with adopting urban policies and strategies, including on service delivery and land use. Section 12 grants the board of an area of authority to operate as a body corporate. Sections 13 and 14 provide for the establishment and composition of the city and municipal boards, respectively, while Section 22 provides for citizens' forums.

The powers of the city/municipality board are provided for in Section 21 (2) of the UACA. The board of a city or municipality, within its area of jurisdiction, should:

- Exercise executive authority as delegated by the county executive;
- Ensure provision of services to residents;
- Impose such fees, levies and charges as may be authorised by the county government for delivery of services by the municipality or the city; and
- Promote constitutional values and principles.

The board is also expected to:

- Ensure the implementation of and compliance with policies formulated by both the national and county government;
- Make by-laws or make recommendations for issues to be included in by-laws; and
- Ensure participation of residents in decision making and, in its activities, and programmes.

While Section 12 (a) of the UACA underlines the board's delegated authority, Section 12 (b) stipulates autonomy of the board as a body corporate with perpetual succession and a common seal capable of suing and being sued, as well as undertaking contractual obligations, including borrowing money and making investments. The award of the charter that grants the board the autonomy to discharge its functions should symbolise the practical delegation of authority and exercise of powers, as provided for in Sections 20 and 21 of the UACA. Due to contestations between the executive and the boards, this situation remains largely unattained.

Similarly, Section 22 of the UACA grants citizens the powers to deliberate and make proposals to the relevant bodies or institutions on, *inter alia*:

- Provision of services;
- Issues for inclusion in county policies and county legislation;
- Proposed national policies and national legislation;
- Proposed annual budget estimates of the county and national government;
- Proposed development plans of the county and national government; and
- Any other matters of concern to the citizens.

In addition, the citizens have the power to plan strategies for engaging the various levels and units of government on:

- Matters of concern to citizens;
- Monitoring the activities of elected and appointed officials of urban areas and cities; and
- Receiving representations from elected and appointed officials, including feedback, on issues raised by the county's citizens.

Despite having a strong legal underpinning, the motivation of urban institutions has largely been incentivised by the World Bank's Kenya Urban Support Programme (KUSP) that identifies 59 urban areas for establishing and/or strengthening the capacity of urban institutions to enhance the quality and efficiency of urban service delivery. However, according to the World Bank's Annual Performance Assessment (APA) report of June 2019, none of the 59 urban areas have made any significant progress towards the establishment of citizens' forums.

The question then is whether the validity and strength of urban institutions can be assured outside the realm of the KUSP. Another question to ponder is whether externally led urban development is sustainable in the long term, and whether support to Kenya's urban areas will dwindle after KUSP ends.

The policy underpinning of urban management

Kenya is among the few African countries to have developed a national urban development policy. Kenya's National Urban Development Policy (NUDP) provides a framework for sustainable urban development in Kenya and seeks to promote effective governance and management of urban areas. This policy sets the principles and recommends strategies that guide decisions to achieve rationale outcomes. It is, therefore, a critical factor in the production of just outcomes, as defined in the just Kenyan city context. The continued production of unjust outcomes in the current urban development arena may be attributed to the delayed formalisation of this policy.

Of significance is that the NUDP is a central element in the design of the Kenya Urban Support Program (KUSP), and hence a catalyst for the establishment of new urban institutions. As such, there is an inherent potential for the NUDP to influence the performance of urban institutions and to guide their decisions towards the delivery of just outcomes of urban development. The policy's vision can be considered to be responsive to the just city to the extent that it recognises the articulations in the Constitution of Kenya 2010 and Vision 2030, both of which underpin the four pillars of the just city. Furthermore, the guiding principles, which include equity, inclusivity, liveability, and participation, advance the just city agenda. However, the specific objectives and aligned strategies lay minimal emphasis on two key pillars of the just city – dignity and equity and diversity.

Vision 2030 and the Third Medium Term Plan

Vision 2030, Kenya's long-term development blueprint, aims to transform Kenya into an industrialised middle-income country offering a high quality of life to all its citizens. The Vision is being implemented through successive five-year medium-term plans, with the third Medium Term Plan (MTP III) 2018-2022 currently in force.

Under the social pillar of Vision 2030, MTP III targets to deliver 500,000 low-cost affordable housing units through budgetary allocations and partnerships with financial institutions, private developers, cooperatives, and manufacturers of building materials. Other programmes and projects planned for implementation are the development of urban mass transport infrastructure and solid waste management infrastructure in cities and urban centres. These plans envisage a strengthened urban institutional framework to support service delivery.

Urban institutions ought to draw benefit from the MTP III national capacity building framework, anchored under induction and training, technical assistance to counties, inter-governmental sectoral forums, civic education and public awareness, and institutional support and strengthening pillars.

New Urban Agenda underpinning

The New Urban Agenda (NUA), adopted in 2016 at the Third United Nations Conference on Human Settlements (Habitat III), sets the premise for a shared vision for a better and more sustainable future in which people have equal rights and access to the benefits that cities can offer. It highlights the connection between the New Urban Agenda and the 2030 Agenda for Sustainable Development (Goal 11).

NUA embraces a vision of "Cities for All", offering an opportunity for equal use and enjoyment of cities and human settlements. It explicitly identifies with the production of "just" cities and human settlements as a core tenet of cities for all. Importantly, it propagates for cities that fulfil their social function, and which are participatory and promote civic engagement while engendering a sense of belonging and ownership among all inhabitants.

NUA's Article 13 states that Cities for All are "*participatory, promote civic engagement, engender a sense of belonging and ownership among all their inhabitants...are friendly for families, enhance social and intergenerational interactions, cultural expressions and political participation, as appropriate, and foster social cohesion, inclusion and safety in peaceful and pluralistic societies, where the needs of all inhabitants are met, recognizing the specific needs of those in vulnerable situations*".

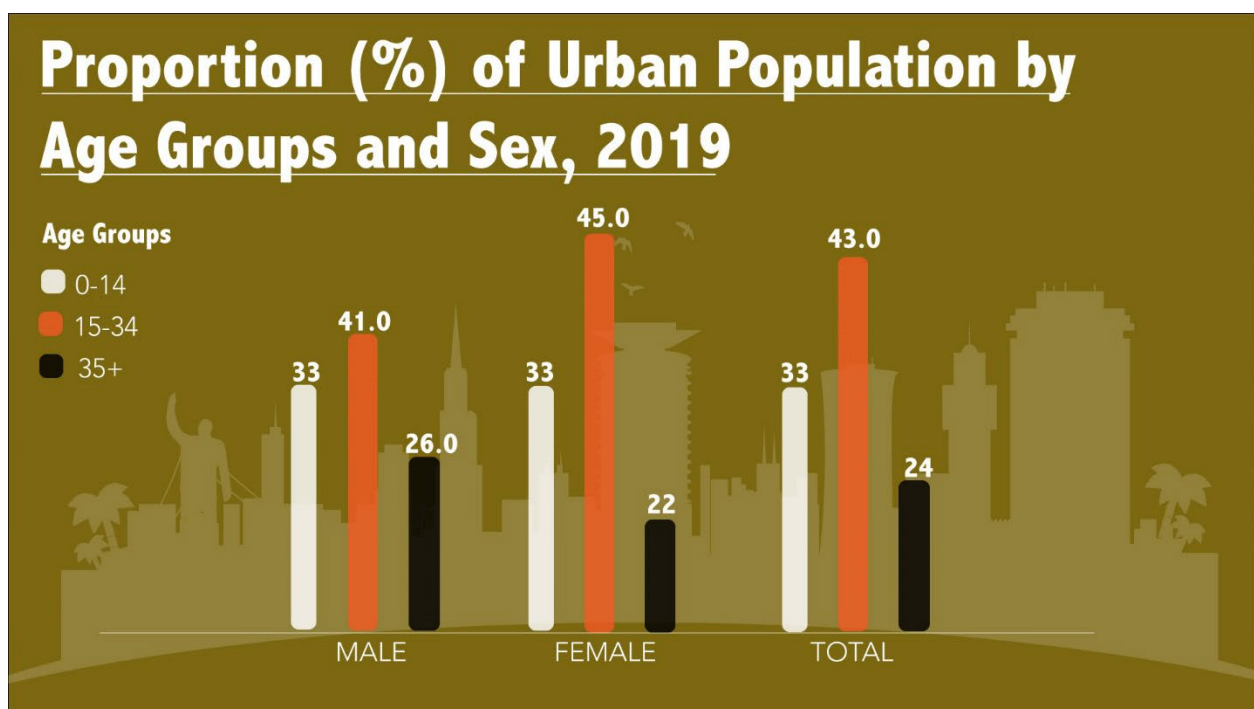
In the just city conceptualisation, these principles are actively embraced; domestication of these principles within urban institutions would catalyse their realisation.

Institutional enablers and barriers to the just city

Urban institutions are responsible for the establishment and propagation of a suitable governance and management environment for the realisation of a just city. It is important to highlight that no city in the world can be considered fully just when scrutinised within the classical definition of the four pillars of dignity, equity and diversity, rights and responsibilities, and democracy. However, effort may be gauged against some key parameters that shape development outcomes and that could improve access to public goods in urban areas.

This chapter identifies four parameters in an attempt to determine barriers and suggest enablers for institutional response to the just city. The parameters are set around:

- Demographic dividend vs. dignity
- Prosperity of urban centres vs. equity and diversity
- Complexities of urban challenges vs. rights and responsibilities
- Open governance vs. democracy



Source: Kenya National Bureau of Statistics, Economic Survey 2020

Demographic dividend versus dignity

The 21st century has been referred to as the first urban century. Today, half of the world's population lives in urban areas, and by the middle of this century, all regions of the world will be predominantly urban. Currently, 31.2 per cent of Kenya's population lives in urban areas. United Nations projections indicate that Eastern Africa, currently among the least urbanised regions in the world, will become predominantly urban after 2050. It is estimated that virtually the whole of the world's population growth over the next 30 years will be concentrated in urban areas.

High urbanisation levels could yield a demographic dividend as urban populations tend to be the most youthful and productive. The United Nations Population Fund (UNFPA) defines a demographic dividend as "the economic growth potential that can result from shifts in a population's age structure, mainly when the share of the working-age population (15-64 years) is larger than the non-working-age share (14 years and younger and 65 years and older). A demographic dividend is "a boost in economic productivity that occurs when there are growing numbers of people in the workforce relative to the number of dependents".

In Kenya, the demographic dividend is evident in urban areas; 43 per cent of Kenya's urban population is aged between 15 and 34 years. Interestingly, females (45 per cent) outnumber males (41 per cent) in this age group. This points to a very young urban population, where less than a quarter (24 per cent) of urban residents are over the age of 35, according to data provided by the Kenya National Bureau of Statistics.

However, urban growth comes with an array of economic, environmental, social, and political challenges. These challenges are more pronounced in urban areas where economic development is contributing to the rapid spatial and demographic expansion of urban areas, and local government structures are struggling to keep pace, resulting in abuse of societal dignity. The Kenya just city concept expresses such abuse as living in inhuman conditions, with no basic services, such as shelter, solid and liquid waste management, sanitation, etc. Open defecation, lack of access to sanitation, forced evictions, and homelessness, are other expressions of violations of human dignity in the Kenyan context. The human dignity of children, people living with disabilities, the homeless and the elderly is also regularly violated.

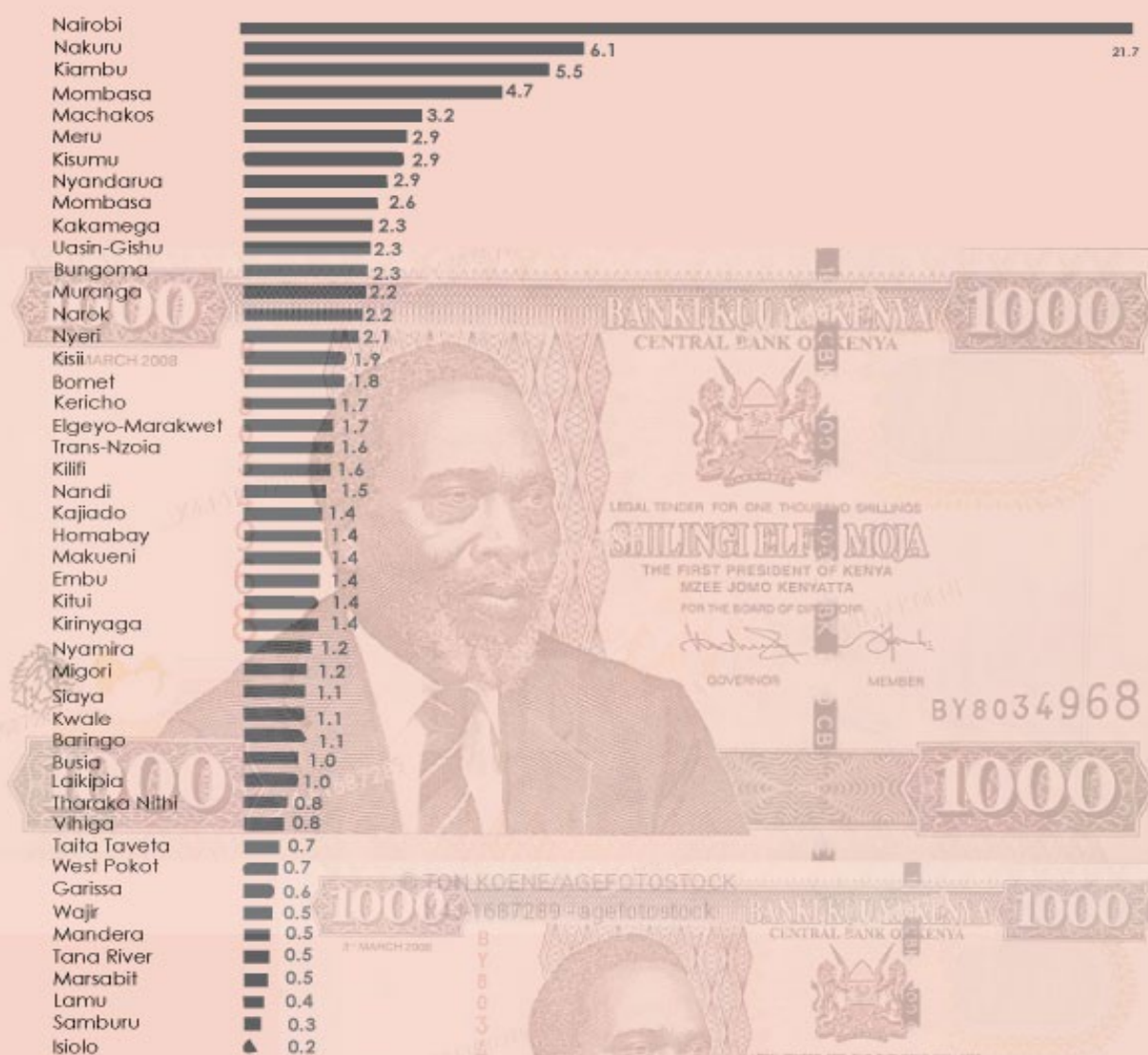
Turning the cultural and ethnic diversities of urban populations into an asset for building cohesion and harmonious co-existence among urban communities is an important obligation of urban institutions. Political and social tensions in urban areas are often a manifestation of poor recognition and deployment of the demographic dividend.

While recognising the present fragility of new urban institutions in Kenya, the protection of the dignity of all citizens and visitors is a fundamental obligation enshrined in the constitution. A starting point would be in the shaping of the ethical and performative aspects of institutions. As a suggestion, municipal charters, in their current form, should be expanded to incorporate a citizens' charter that binds the institutions and the citizenry to agreed ethical edicts and performance measures. On the strength of the trust and confidence built through the charter, urban institutions could benefit from the innovative potential of the citizenry in pursuing and promoting their dignity.



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COUNTIES' AVERAGE CONTRIBUTION (%) TO GDP (2013-2017)



Source: Kenya National Bureau of Statistics / World Bank's Kenya Accountable Devolution Program

Prosperity of urban centres versus equity and diversity

As centres of innovation, industrialisation, education, science and technology and culture, Kenya's urban areas play a crucial role in the economic and social development of the Kenyan people. In 2019, the Kenya National Bureau of Statistics, with technical and funding support from the World Bank's Kenya Accountable Devolution Program, estimated that Kenya's capital Nairobi alone accounted for more than one-fifth (21.7%) of Kenya's GDP. The counties of Nakuru, Kiambu and Mombasa combined contributed a further 16.3% to GDP. With devolution, it is envisaged that county headquarters and other urban areas in the 47 counties will become economically more productive, and therefore contribute more to the country's economic growth.

However, economic development is hampered by various factors. In Kenya's urban areas, more than half the population resides in informal areas even though it contributes substantially to building the urban and national economy. Unhealthy living environments and lack of an enabling environment further erode the capacity of the urban poor, especially those working in the informal sector, to contribute to national development.

These populations do not enjoy equitable benefits of urbanisation. Urban institutions need to be aware of social planning approaches that place the people at the centre of the planning and execution process. While this is a constitutional order, its practical realisation can be facilitated through the formal adoption of democratic social planning approaches that enable communities to actualise the spirit of the constitution. Such planning approaches will ensure that development plans for city prosperity embrace the diverse interests of the citizenry, including those characterised as "invisible".

Complexities of urban challenges versus rights and responsibilities

Urban development takes place in complex environments in which different stakeholders from different organisations and domains, such as government, the private sector, non-governmental organisations (NGOs), and citizens, are engaged. A persistent characteristic of urban development in Kenya is the spontaneous growth and haphazard development of urban centres coupled with a myriad of challenges: inadequate infrastructure and services; poor and inadequate housing; environmental degradation; high rates of unemployment; and increasing prevalence of urban poverty and inequality. Maximising the potential of these urban areas requires institutional mechanisms of coordination, planning and accountabil-

ity that pay attention to the rights of citizens while optimising the responsibilities of the citizenry.

In meeting the shared vision of Cities for All, the New Urban Agenda (NUA) identifies a fundamental principle of "leaving no one behind" by ensuring, among others, equal rights and opportunities and integration into the urban space. This principle is supported by the classical perspective of the collective right to the city beyond the individualistic commercial relations the city enables through markets.

For urban institutions, regular forums for dialogue that lead to actual deliberation with citizens is key to unlocking citizens' potential and innovation in addressing urban challenges. Accessible information and channels of communication are important ingredients of institutional mechanisms for coordination.

Open governance versus democracy

The Constitution of Kenya 2010 has brought about several changes that have dramatically altered Kenya's governance and political landscape. Devolution is accelerating the rate of urbanisation as counties establish administrative capitals, triggering rural-to-urban migration. County governments have a unique opportunity to look to the future, take on the challenge and strive for greater heights in the implementation of state-of-the-art urban governance practices. To provide context, this chapter situates urban governance as referring to the enabling environment that requires adequate legal frameworks, and efficient political, managerial, and administrative processes to enable local government response to the needs of citizens.

The conduct of urban boards is subject to the legal provisions of the constitution, the Urban Areas and Cities Act 2011 and the general principles of administrative law that they must act fairly and reasonably. This presupposes credible and democratic governance where urban institutions have a critical role to play in establishing the economic and political fundamentals that underpin economic growth and in facilitating the practice of good governance. Fundamentally, the establishment of good governance is a function of leadership, and leadership is a democratic choice of the people.

Citizens' responsibility to engage in the governance regimes is well grounded in the legal frameworks. However, the exercise of such a mandate is obscured by the encumbrances to their self-organising capacities. Tested models for citizens self-organising, such as local urban forums, can serve to inspire formations of effective citizens' forums as provided in law.

Tackling corruption in public institutions

Corruption is often described as “a way of life” in Kenya. Corruption scandals are regularly reported in the media even though various anti-corruption institutions have been set up. The Auditor General consistently reports that up to a third of Kenya’s budget is unaccounted for each year.

There are growing fears that corruption at the national level is now being replicated at the county level. However, devolution has raised expectations among citizens that public funds must be used to benefit them, not to enrich their elected leaders, which has led to more demands for accountability.

There is no doubt that corruption makes public spending less efficient. It also has a direct impact on the quality of public services; when resources are stolen or diverted, or when contracts are given to undeserving companies, public services deteriorate. Corruption also endangers lives; the use of poor-quality construction materials or the illegal diversion of medical supplies or funds, for example, can literally kill people.

The process of dealing with corruption in Kenya could take years of concerted work and targeted interventions. In the 19th century, for example, Sweden was considered one of the most corrupt countries in the world. Today, it is one of the least corrupt countries and a role model for social and income inequality. One of the reasons for this is that the country took deliberate steps to tackle corruption, reduce inequalities and promote social justice.

Conclusion

The four pillars of the just city concept are relevant to the new urban institutional dispensation in Kenya as they are obligated under section 21 (d) of the Urban Areas and Cities Act to promote constitutional values and principles to which these pillars are aligned. This chapter identifies two significant encumbrances to effective realisation of this institutional mandate, largely premised on the contest between the autonomous corporate identity and the executive delegation of authority. It further draws some recommendations on how urban institutions may position themselves during these foundational stages for better realisation of the pillars of the just city. In making the recommendations, it is recognised that they primarily serve as catalysts and not as a prescription for the realisation of the just city.

In the contest between the autonomous corporate identity and the executive delegation of authority, this chapter argues that while the Urban Areas and Cities Act (UACA), Section 12 (a) underlines the board’s delegated authority, the same section’s part (b) stipulates autonomy of the board as a body corporate with perpetual succession and a common seal capable of suing and being sued, as well as undertaking contractual obligations, including borrowing money and making investments. It recommends that the charter that grants the board the autonomy to discharge these functions should explicitly incorporate the practical delegation of authority

and exercise of powers, as provided for in Sections 20 and 21 of the UACA, to eliminate different layers of interpretation.

Regarding the National Urban Development Policy (NUDP), it is recognised that the vision is responsive to the just city concept to the extent that it recognises the articulations in the Constitution of Kenya 2010 and Vision 2030, both of which underpin the four pillars of the just city. Furthermore, the guiding principles, which include equity, inclusivity, liveability, and participation, advance the just city agenda. However, limitations exist to the extent that the specific objectives and aligned strategies lay minimal emphasis on the two key pillars of dignity and equity and diversity, as conceptualised in the just city. Urban institutions ought to uphold the constitutional values and principles in exercise of their powers as envisaged under Section 21 (d) of the UACA.

In line with the four pillars of the just city, we offer the following recommendations:

- The municipal charters, in their current form, should be expanded to incorporate a citizens’ charter that binds the institutions and citizenry to agreed ethical edicts and performance measures. On the strength of the trust and confidence built through the charter, urban institutions can benefit from the innovative potential of the citizenry in pursuing and promoting their dignity

- Urban institutions need to be aware of social planning approaches that place people at the centre of the planning and execution process. While this is a constitutional order, its practical realisation can be facilitated through formal adoption of democratic social planning approaches that enable communities to actualise the spirit of the constitution. Such planning approaches will ensure that the development plans for city prosperity embrace the diverse interests of the citizenry, including those characterised as “invisible” – those who are excluded from the city not just physically, but in spaces of participation and planning.
- Regular forums for dialogue in urban institutions that lead to actual deliberation with citizens is key to unlocking citizens’ potential and innovation in addressing urban challenges. Accessible information and channels of communication are important ingredients in the institutional mechanisms for coordination.
- Citizens’ responsibility to engage in the governance regimes is well grounded in legal frameworks. However, the exercise of such a mandate is obscured by the encumbrances to their self-organising capacities. Tested models for citizens self-organising, such as local urban forums, can serve to inspire formations of effective citizens’ forums, as provided for in law.

However, despite various provisions in urban institutions for people’s participation, there remain many “urban invisibles” whose views are never heard, and who are shut out of decision-making spaces. The next chapter discusses the challenges facing these groups and how they might be overcome by highlighting them in the mainstream media.

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CHAPTER 5

THE URBAN INVISIBLES

CHURCHILL OTIENO

Summary

This chapter expounds on the effectiveness of the media in improving service provision in two urban areas: Nairobi city and Nakuru town. It then discusses the challenges faced by residents of these two urban areas, the previous activism efforts for the changes desired, and the gaps identified in the quest of residents to have their voices heard. It identifies the “urban invisibles” in Nairobi and Nakuru and discusses the role of the media in highlighting the plight of those who remain unseen and unheard.

The Kenyan version of the just city concept helps us in understanding a city beyond brick and mortar and allows us to view the city through the prism of happiness and quality of life. City dwellers have rights protected in the 2010 Constitution of Kenya that are sometimes not enjoyed, and rarely claimed.

The just cities effort seeks to encourage progressive urbanism by providing avenues for urban residents to find a voice to negotiate. As a concept, it offers a vital opportunity for the realisation of urban boards, a vision defined in the Urban Areas and Cities Act of 2011. Urban boards are critical architecture intended to ensure that city managers listen to and act on the voices of the people. However, only a few have been established and even those that have been are yet to realise their full potential.

In Nairobi and Nakuru, these voices abound, but rarely in a structured format that would give them strength and influence. Several residents have taken to platforms such as social media to project their grievances on security, infrastructure, inclusivity, planning and other issues. The concept of the just city requires that the residents have ownership at all these levels, be it directly, through residents' associations, or other civil society groups.

Is Nairobi a just city?

Nairobi, East Africa's most cosmopolitan city, is in many ways the heart of the region. It is the engine of Kenya's economy, accounting for 21.7 per cent of the country's GDP. The bustling city, with a population of 4.4 million, creates thousands of mostly informal jobs every year and remains a magnet for the young and restless.

Nairobi is characterised by informality. A study by Prof. Washington Olima of the University of Nairobi shows that of the total residential land in Nairobi, 5 per cent comprises informal settlements accommodating about 70 per cent of the city's population. The rest of the land, representing 95 per cent of the total, is home to about 30 per cent of the urban population, and is developed with housing of different design and categories. Living conditions in informal settlements are extremely poor. A survey of more than 800 households in Mukuru slum in Nairobi found that just 3.6 per cent had access to adequate bathrooms, only 7 per cent had access to adequate toilets, and 29 per cent had access to adequate water provision.

Nearly half of Nairobi's population is aged 35 or below and can be rightly termed as the “digital generation” – those who are educated, innovative, self-assured, visually inspired, socially conscious and definitely driving the mobile-first revolution in Kenya. They connect and share online, are up to date with current affairs, and have a voice on issues that matter to them and the community they live in.

Social media is widely used by Kenyan youth. According to a survey conducted by the Google Consumer Barometer, about 90 per cent of Kenyans go online to visit social networks platforms. In addition, 80 per cent of Kenyans use the internet to check emails and access instant messaging services.

In Nairobi, a scratch on the apparent glitter of the city's skin reveals troubling concerns. Salon and Gulyani, 2010 found that some of Nairobi's residents actively limit travel outside their settlement even though they need to leave these settlements to gain access to goods and services, such as schools,

hospitals and entertainment, which would require some commuting. When they do seek these goods and services, they choose to walk regardless of the distance involved.

Their study of 4,375 slum dwellers showed that compared to the non-poor, poor households are systematically worse off, and that the burden of reduced mobility is borne disproportionately by women and children. Their findings compare with those of the Muungano Alliance (2015) that found that women and girls are disproportionately affected by poor service delivery and are at a high risk of being targets of different forms of violence, including sexual violence, particularly when visiting poorly lit latrines at night.

Pit latrines are used by slightly more than half of the urban population in Kenya. They exemplify the great socio-economic divide in urban Kenya.

The city of Kenyan dreams has all the elements of a great urban space. However, it lacks a definite image and ownership. Like many other cities in the developing world, it faces several challenges, including poor infrastructure, high unemployment,

insecurity, inadequate housing, and a lack of a sense of urban community.

Residents largely lack a definitive voice and “authority” to address these challenges. This has inspired activism. Nairobians are not just passionate about their city but are keen to bring about change. They want to be the change they want to see in the city. And, while social media platforms have afforded them a voice for their opinions, many such voices die down in the banter and remain conversations that cannot always bring about positive transformation.

It is this gap that the mainstream media should fill by playing a proactive role in supporting the building of a just city. However, given the granular nature of some of the issues that would concern residents, it would be preferable to identify an anchor media entity that is already focused on giving a specific urban area a voice. These can then be amplified through the independent media's hierarchy of purpose to society – providing reliable information in a timely way, providing a platform for residents to debate their urban concerns, and holding urban board meetings to make city managers accountable for their mandate.

The indignities of slum life

Kibera, a highly dense informal settlement in Nairobi, with a population of around 200,000, is characterised by severe poverty, poor access to clean water, overflowing open sewers, and overcrowded mud and tin shacks. Loss of privacy due to overcrowding and poor sanitation are common features of the informal settlement. It is estimated that the average household in Kibera comprises seven people.

A social mapping survey of Kibera by Research International found that inadequate and often overflowing pit latrines are the main mode of sanitation and that one pit latrine is typically shared by up to 75 people. As a coping mechanism, people tend to defecate in polythene bags at night and dispose the excreta in open drains, rivers or garbage heaps. This practice – dubbed “flying toilets” – exposes residents to health and environmental hazards.

As in other slums in Nairobi, women and girls in Kibera have safety concerns when it comes to accessing sanitation. Going to the toilet at night is a security risk as women and girls have to venture down narrow, unlit alleyways to make their way to the nearest latrine. The threat of sexual violence severely impedes women's and girl's mobility and access to sanitation.

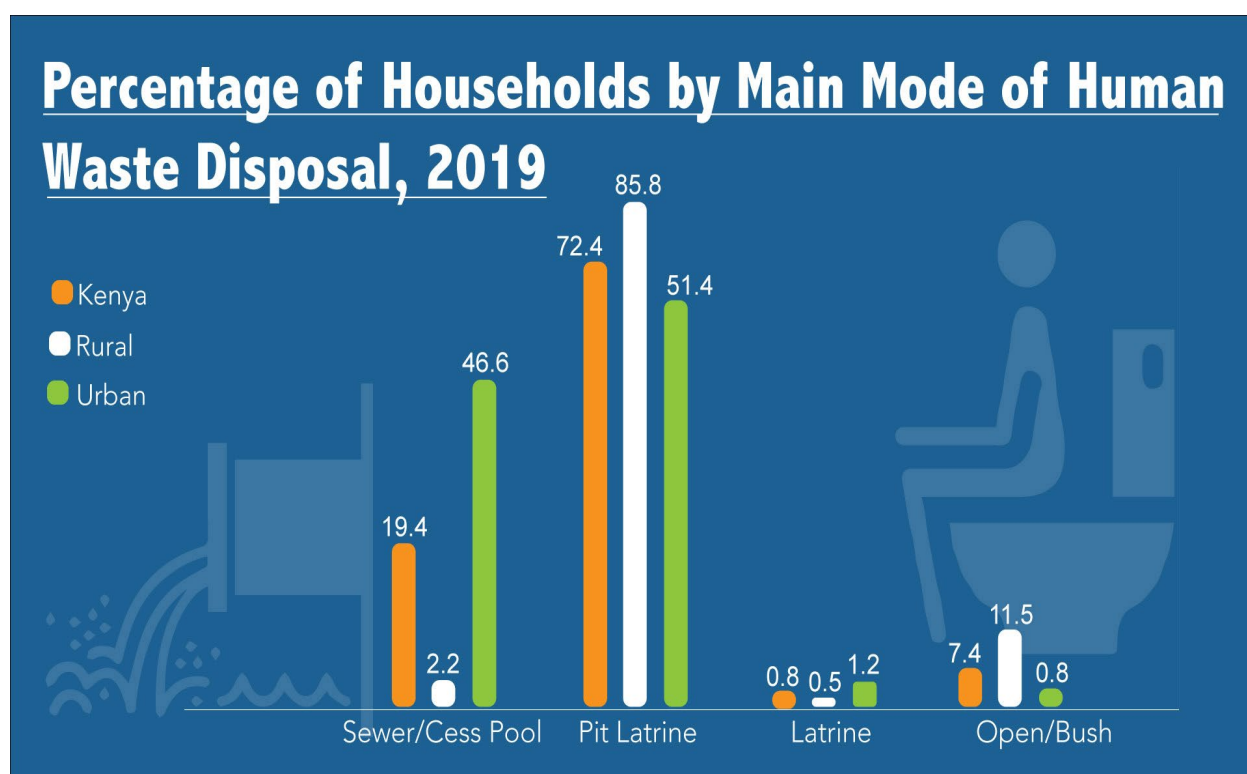
Women's domestic roles also place them at a disadvantage. Women are burdened with providing water to their families. In informal settlements, long queues of women waiting to draw water from private or community-owned water kiosks are common. The majority of Kibera residents buy water from these vendors,

Government-initiated slum upgrading initiatives in Kibera have had mixed results and have remained limited in scope. This calls for a different and more radical approach to addressing the appalling and undignified living conditions of people living in Kibera and other informal settlements in Nairobi.

Source: Research International, 2004; 2009 Kenya census



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Source: Kenya National Bureau of Statistics, Economic Survey 2020

The leaders at City Hall and in the national government are quick to point at kilometres of roads paved and the number of high-rise apartments as a manifestation of a vibrant city, but fail to recognise that in the same metropolis millions of people can hardly find a respectable commute or decent housing. Many eke out a living in informal spaces amidst running battles with county security agents (askaris).

Urban journalist April Zhu notes that most high-rise buildings in Nairobi are technically illegal because the zoning laws in force were developed by the colonialists' way back in 1948. Subsequent occupants of City Hall over seven decades have failed to provide the legal infrastructure needed to plan Nairobi's development, to protect its citizens, and to provide services.



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Is Nakuru a just city?

Nakuru is long regarded as Kenya's fourth most important city after Nairobi, Mombasa and Kisumu, and has been considered to be a good testing ground for the application of the just city concept for two main reasons: one, it is sufficiently cosmopolitan, with a mostly migrant population from many corners of the country and other parts of the world; two, it is seen as an emerging city, hence its structures are not fully formed or established. Nakuru thus provides a window of opportunity to shape its destiny by raising important questions for consideration by its citizens and their leaders.

Despite it being an important location in national politics, Nakuru County has always experienced internal political pressures, a reality that eventually influences its residents' ability to claim rights and negotiate for civic services. Nakuru experiences many of the challenges facing Kenyan towns, but rising violence has recently emerged as a widespread concern. Wairuri, Chemlali and Ruteree (2018) studied Bondeni and Kaptembwo in Nakuru town, Karagita and Kabati in Naivasha town and Molo town areas of the county and found that:

...violence is a major concern for residents of Nakuru County, most of whom felt that violence was becoming more prevalent. The data collected highlights that the most prevalent forms of violence in the County mirrored the patterns of violence in Kenya. Those highlighted in Nakuru include sexual and gender-based violence (SGBV), violence against children, violent crime, police violence and political and ethnic violence, which are distributed among the various neighbourhoods. Notably, SGBV and violence against children were highlighted as particularly significant challenges by more than 70% and 66% of respondents, respectively, who noted that these forms of violence mainly occur at the household level.

The researchers found that the violence was attributable to unemployment, informality, poverty; 60 per cent of it was attributed to drugs, especially alcohol abuse. Interestingly, residents have adopted coping mechanisms comparable to those adopted by “the invisibles” in the Mathare slum in Nairobi, but for much differentiated urban problems. In both places, residents avoid walking at night. In Nakuru, they do this to limit exposure. *Boda boda* (motorbike taxi) operators, similarly, adopt a comparable response and escort each other on rides. The youth, another “invisible”, are particularly critical, given that 43 per cent of Nakuru’s population is aged 14 or below, while 49 per cent of households have three people or less, suggesting the onset of fertility decline.

An interesting dimension is that recent power-sharing by the political class of the various competing interests is not seen to provide a lasting solution. We see that competition for power between communities greatly influences service delivery and that the issues that most concern the residents rarely attract the attention of city leaders.

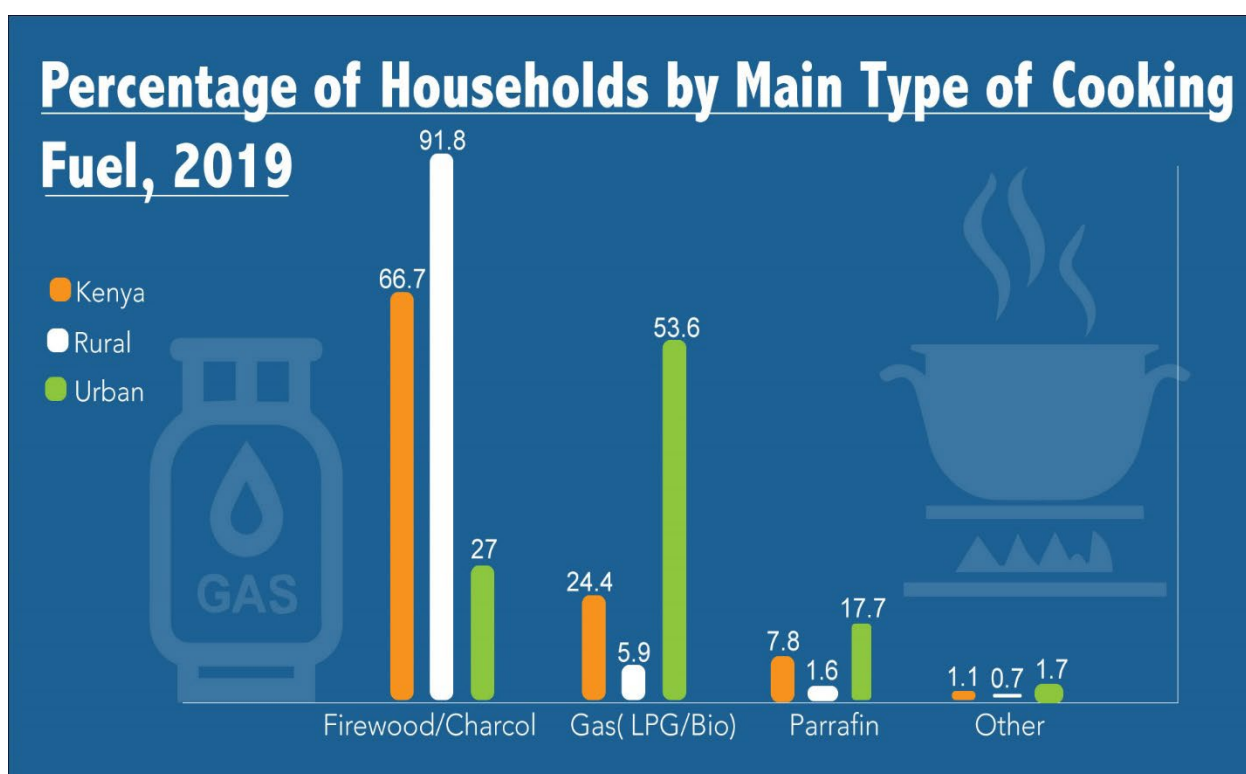
Disparities in Nakuru also emerge in other critical areas. There is an 89 per cent difference between the ward with the highest electricity coverage and that with the least. A Kenya National Bureau of Statistics (KNBS) and Society for International Development (SID) study in 2013 also revealed interesting invisibles from an energy perspective:

Only 5% of residents in Nakuru County use Liquefied Petroleum Gas (LPG), and 8% use paraffin. 46% use firewood and 40% use charcoal. Firewood is the most common cooking fuel by gender at 44% in male-headed households and 50% in female-headed households. Kuresoi South constituency has the highest level of firewood use in Nakuru County at 90%. This is almost 23 times the level in Nakuru Town East constituency, which has the lowest share. Kuresoi South constituency is about 44 percentage points above the county average. Nessuit ward has highest level of firewood use in Nakuru County at 98%. This is 97 percentage points above Flamingo ward, which has the lowest share. Nessuit ward is 52 percentage points above the county average. Nakuru Town West constituency has the highest level of charcoal use in Nakuru County at 65%. This is seven times Kuresoi South constituency, which has the lowest share. Nakuru Town West constituency is 25 percentage points above the county average. Kaptembwo ward has the highest level of charcoal use in Nakuru County at 77%. This is 75 percentage points more than Nessuit ward. Kaptembwo ward is 37 percentage points above the county average.

The study shows that in 2013, a significantly large proportion of Nakuru County’s residents used charcoal (40 per cent) or firewood (46 per cent) for cooking. This is much higher than the 2020 national average of 27 per cent of urban households relying on these unsustainable and environmentally unfriendly fuel sources. The high use of firewood and charcoal for

cooking means that most urban households in Kenya are exposed to toxic indoor air pollution and related respiratory illnesses.

The KNBS and SID report also shows that 60 per cent of Nakuru residents rely on improvised water sources while 76 per cent use improvised sanitation services.



Source: Kenya National Bureau of Statistics, Economic Survey 2020

The just city and the Kenyan media

The just cities discussion comes at a time when the media in Kenya is also reconsidering its role in public discourse and social development. The media rethink is being forced by disruption visited on it by digital technologies. These technologies have had the effect of widening the opportunity to spread ideas of all shades and quality, especially via social media. Journalists and media houses are therefore seeking innovative ways to enrich their repertoire, and the just cities issue may be one option to shift gears and connect with audiences in ways that speak to factors that affect urban dwellers' lives and livelihoods.

Kenya's media landscape is vibrant and varied. At the national level, there are 85 television stations, 4 Pay-Tv providers, 364 licensed FM radios with 179 operating, 23 community radio stations, 7 church-sponsored FM radio stations, 10 institutional radio stations, 5 national newspapers and several county-based print publications. Many of these media entities are headquartered in Nairobi, but some are clustered in a multi-platform converged format that make them good partners in the just cities cause.

How a photographer and a journalist helped to eradicate slums in New York

In the latter half of the 19th century, New York, the main gateway to the United States of America, grew to be the largest city on earth. Many immigrants arrived from the crowded slums of Europe and settled in conditions just as bad or worse than those that they had left behind. Five- to ten-storeyed "railroad flats" were a standard solution to the unprecedented demand for housing. Parked together like crates in a warehouse, these elongated walk-up flats had no side windows, water supply or sanitary facilities. A small rear yard contained a communal latrine, and sometimes a well, which created appalling health conditions.

The better-off residents of New York might never have known about the living conditions in these flats had the photographer Jacob Riis and the journalist Lincoln Steffens not documented them in a series of photographs and articles. Their stories and images of New York's urban poor awakened a society that had hitherto believed that it was living in the "Gilded Age" of prosperity.

Out of this flood of exposés came a series of reforms, including the founding of the National Municipal League in 1884 as a citizens' campaign for the reform of the state and the local government. Among many other local, state and national reforms were new housing codes and laws regulating disposal of sewage and garbage.

In Victorian England, the writings of novelists such as Charles Dickens had a similar impact. The glaring inequalities in cities such as London forced government institutions to look at issues concerning social justice, though it would take the Second World War and its aftermath for the United Kingdom to institute social welfare programmes, such as free medical care for all under the National Health Service, among other highly subsidised services, including social/council housing.

Source: United Nations Centre for Human Settlements, State of the World's Cities Report 2001

Despite this expansive media infrastructure, questions have been raised as to their effectiveness in servicing urban areas. The reporting has been critiqued as being more episodic and sensational, with youth-focused media tending to be more entertaining than substance-led despite this audience comprising a large majority of the population.

An opportunity exists in the media's traditional role as an agenda-setter. This can prove key in helping to enhance the effectiveness of urban boards. The functions of an urban board are spelled out in the Urban Areas and Cities Act (2011) in great detail, but a cursory assessment so far suggests that for the most part, residents of urban areas have shown little interest in engaging on questions to do with the boards, be it

delays in their establishment and commissioning, and/or on their effectiveness in enhancing service provision.

In the case of Nairobi, the waters are muddied further by an apparent lacuna in that though the law recognises that the county is a city geographically, it still envisages a city board. This may create governance clashes, where the county government and the urban board share responsibilities, depending on how service delivery is managed by the two entities. For example, both institutions are supposed to collect revenue, with the urban board focusing on a city or town within the county, while the county government has the mandate to collect revenue throughout the county. This may cause clashes if the county government claims revenue from urban areas, which are also under its jurisdiction.

Reporting without eroding people's dignity

The phenomenon of media coverage resulting in a humanitarian response has been referred to as the "the CNN effect", which was felt most acutely during the famine in Ethiopia in 1984 when television footage of starving Ethiopians catapulted the relief effort for the Horn of Africa, and during the Syrian refugee crisis in 2015 when images of thousands of Syrians fleeing their country led some Western nations to open their doors to refugees.

Disseminating such images through the media can help raise awareness about the plight of vulnerable people, but it can also deprive the vulnerable people of their dignity. This raises ethical questions.

In Kenya, for instance, "slum tourism" has become a trend since the films *The Constant Gardener* (partially shot in Kibera) and *Slumdog Millionaire* won awards. Slum tourism has become a source income for creative tour operators and a form of entertainment for tourists who think they can understand urban poverty just by visiting a slum or by taking pictures of slum dwellers. One former resident of Kibera recalled his first experience of a slum tour: "I was outside my 100-square-foot house washing dishes, looking at utensils with longing because

I hadn't eaten in two days. Suddenly, a white woman was taking my picture. I felt like a tiger in a cage. Before I could say anything, she had moved on."

In another incident, a documentary film maker who was interviewing a resident of a Nairobi slum started to video a man who was defecating. "For a moment," he said, "I saw my home through her eyes: faeces, rats, starvation, houses so close that no one could breathe."

When reporting on poverty or disasters, it is important to ensure that the reporting does not result in the exploitation of the people who are suffering, and that their dignity is not eroded. Images of dying or dead bodies or people living in appalling conditions may lead to a humanitarian response and increased awareness, but they can also end up objectifying and dishonouring the affected people.

Source: Warah, 2011

Role of the media in promoting justice for the urban invisibles

The foregoing unveils several invisibles in Nairobi and Nakuru using the various highlighted parameters discussed earlier. The most prominent among them are tabulated below.

INVISIBLES	NAIROBI	NAKURU
Demographic Invisibles	70 per cent of Nairobi's population are cramped in 5 per cent of the land where residents remain "invisible" to the service regimes and live with glaring basic service deficits.	Children and the youth are the majority by far, but the political construct of the county has seen sectarian competition for power edge out youth issues at all levels.
Digital Invisibles	The netizens comprise some three-quarters of Nairobi, but they are only visible amongst themselves as they exchange banter that hardly excites any reaction from the people they have elected to leadership positions.	In search of jobs, some youth have resorted to social media influencers to help highlight their concerns, with a resultant short-term approach to fairly complex issues with deeply historical roots.
Mobility Invisibles	The burden of reduced mobility borne disproportionately by women and children raises questions about the city's design to include this invisible population in the socio-economic architecture.	The population avoids movement to cope with violence, and not even <i>boda bodas</i> are safe.
Media Invisibles	Media contributes to the "invisible" tag by putting premium on sensational news and social calamities as opposed to investing in "community building" discourses for positive social, economic and political development.	
Justice Invisibles	The legal infrastructure predominantly favours the elite and punishes the poor even where rights-based justice would protect the disadvantaged, especially regarding economic rights.	

The Nairobi and Nakuru dweller aspires for better housing, economic development, education, youth development, public safety, health, and public transport. Most of the residents remain uninspired and live a life of shattered dreams as the city design continues to favour the minority. This group, which includes children, youth, women, and persons with disability, remains invisible in the plans and programmes of the city, and is often only considered through tokenistic approaches. This invisibility is evident in various urban lenses, including mobility, resilience capacities, waste management, housing, and recreation, amongst others. Issues that affect these “invisibles” need to be highlighted in the media.

Some of the issues that the media could highlight include:

1. The commuting challenge – the disabled, children, and the elderly are missing from the streets of Nairobi City on most days; their issues can be exposed through tracing their walking and public transport obstacles.
2. What are the challenges women face while navigating through the city?
3. Traffic jams through the experience of school children who must leave their houses ahead of parents to get to school on time.
4. Home no more: Most children/youth in Nakuru are attacked in the “safety” of their homes.
5. Environmental violence through poor solid waste management in most urban estates.
6. Indignity in student hostels, universities and vocational training institutions.
7. Impact of disappearing social amenities.

In today’s connected world, where many can share their ideas and views, especially via social media, consequential journalism has demanded that practitioners rise higher in the value chain to remain relevant. This has led to independent journalists playing a triple-faceted purpose in society: providing reliable information in a timely format; providing a platform for society to exchange ideas and debate matters of concern to them; and being the ultimate watchdog on the privileged and powerful in society, especially those who occupy positions of authority.

Taking this into account, the following story template is proposed to help Nairobi residents tell their stories loudly to each other, to those in authority, and to any other interested stakeholder:

1. Multi-media platforms – to ensure reach to the unconnected and for messaging reinforcement.
2. Strength of sourcing – multiple and diverse residents’ voices. Must also include voices of duty bearers, instigators and watchdogs.
3. Timely provision of verifiable information – include clear attribution and apply latest available data, all fact-checked.
4. Platforms/opportunities for debate – must involve a socio-economic diversity of residents. Include post-publishing hooks for sharing/debate.
5. Verifiable accountability – manifestation that those with authority have been called to account.
6. Distributable visuals – provide visuals before and after publishing for public engagement; and
7. Creative packaging – use of modern techniques and styles in storytelling.

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PART III



CHAPTER 6

THE EVOLVING URBAN LANDSCAPE IN KENYA

CONSTANT CAP

Summary

This chapter provides an overview of the history of the development of urban areas in Kenya, from the old towns along the coast to the development of the railway line that led to the foundation of Nairobi as a settlement, as well as to the growth of several other towns that emerged along the railway line. The chapter uses Nairobi as a focal point to describe the various characteristics and challenges that urban areas in Kenya have faced in the past century, ranging from skewed land ownership, top-down planning with implementation challenges, and social and economic divisions within the city, as well as various conflicts that have emerged in the process, with some reference to the informal housing and business sectors.

The author also describes efforts by the national government to influence planning through various policies, such as Vision 2030 and the Big Four Agenda, and urban legislation, such as the Urban Areas and Cities Act.

Early urban settlements

Kenya's urban history dates back several centuries, as is evident in many towns and trading centres along the country's coastline that have existed for more than a thousand years. The coastal region has been a melting pot of sorts, with Arab, Persian, and Indian influences dating back to the 9th century. By the time the Portuguese arrived at the East African coast in the 16th century, Mombasa, Malindi, Lamu and Manda were already important urban centres. These towns have not only experienced Arab and Portuguese occupation and contact with travelling groups, but experienced British colonisation as well from the late 19th century. Some of them, like the port city of Mombasa, became important colonial administrative centres.

Places like the abandoned town of Gedi, whose ruins lie 94 kilometres from Mombasa town, are believed to date back to the 13th and 14th centuries. The history of the rise and fall of Gedi is like that of other Swahili states along the eastern coast of Africa, such as Kilwa. These settlements are believed

to have fallen either due to invasion by other groups or due to shortage of water supplies. While many of these Swahili towns were abandoned in the 17th century, others, like Mombasa, Lamu, Pate and Malindi, still exist today. Lamu, which dates back to the 12th century, has even retained its original "stone town" character, which has earned it a place on UNESCO's World Heritage Site list. Mombasa is today Kenya's second largest urban centre after the capital Nairobi.

These towns at the coast had, and still have, a distinctly Islamic cultural influence owing to the constant contact and influence with people from the Middle East over the centuries. The Arabs also traded with the interior, creating trade caravan routes that went all the way towards what is now Uganda. However, as R.A. Obudho (2000) points out, these settlements were not considered "Arab settlements" because they had become "Africanised". Writing on the history of urbanisation in Kenya's coast region, he notes:

Because of the oral nature of the history of urbanization of the area, the division between the pre-Muslim and Muslim period is not clearly marked. Arabs arrived at the coast in the middle of the eighth century and they were later joined by other newcomers from Arabia, Persia and India. Their ideas about trade and urban life were generally welcomed by the local people. The urban centres they established were Muslim in religion. But this does not mean that the centres were completely Arab and Indian in culture. They were African because Islamism was localized and nationalized just as it was done in pre-colonial centres in other parts of Africa.

However, urbanisation along Kenya's coastal strip was markedly different in character and origin from that of the interior, which began in earnest when the British began constructing the Kenya-Uganda Railway in 1896.

The railway and the opening up of the interior

The information available on urbanisation in the interior of Kenya is limited to slightly over a century and commences with the construction of the Uganda Railway line. This line, dubbed "The Lunatic Express", was built to link the British protectorate of Uganda with the Kenyan coast, thus opening Uganda (and Kenya) to the rest of the world. The Uganda Railway can be attributed for having had a large influence on the development of urban areas in Kenya's interior. Kenya's capital, Nairobi, owes its existence to the decision by the railway company to establish its headquarters where it now lies. The special edition "Nairobi 1900-1950 – Special Golden Jubilee Publication" describes how this decision was made following a survey of the proposed railway line:

On the 8th of August 1896 the first rail of the new Uganda Railways was laid at Mombasa and the railhead was pushed steadily in the interior. It had been intended that the railway headquarters should eventually be sited at Kikuyu, but a report from the surveyors of the route advised against this decision. A letter signed by one of the engineers suggested that the projected depot should be at a place called 'Nyrobi' on the plan 8 miles below Kikuyu. The new site was agreed and by 1898 it was known that Nairobi had been chosen as the new railway headquarters.

Many East African towns were established around the same time and continued to grow under similar socio-economic conditions and environments. As the railway head penetrated the interior, settlements and trading centres formed, thereby largely influencing Kenya's urban development. To date, Kenya's largest urban centres, such as Naivasha, Nakuru and Kisumu, today still lie along the railway line. The colonial government established some of them as administrative set-

tlements, which attracted traders and settlers, and eventually developed them into small towns for social and economic reasons.

The growth of Nairobi

When the construction of the railway line commenced, Nairobi was a swamp on the edge of the Kikuyu uplands. It has been described as the last camp "before the tiny outpost known as Fort Smith in Kikuyu, which offered the first civilized comfort after weeks on Safari. There were no inhabitants except the nomadic Maasai who, from time to time, built their manyattas on the higher ground. They knew it as Nairobi, 'the place of the cold water'."

Nairobi lies in what was then Ukamba Province, whose administrative headquarters were at Machakos. The arrival of the railhead and establishment of the railway headquarters in Nairobi attracted merchants and settlers, which led Colonel Ainsworth, the then colonial administrator, to consider it appropriate to move his headquarters from Machakos to Nairobi. This was not taken very well by the railway administration, who were now restricted from openly taking actions and decisions, especially on land matters.

Ainsworth first established offices north of the swamp, near today's Museum Hill, eventually moving closer to the Norfolk Hotel (the area near the Central Police Station) and changed the name of the adjacent road from Station Road to Government Road (what is now Moi Avenue). Nairobi's growth from a town to a municipality and then a city has surpassed any urban area in Kenya.

On the 16th of April 1900, Nairobi Municipal Regulations were published. They defined the township and authorised the sub-commissioner to nominate leading merchants and residents to sit in its committee. The regulations also set rules on how rates for lighting, policing, and cleaning could be levied. This would eventually develop into the Nairobi Municipal Council in 1919.

The development and growth of the city did not come without challenges. The city then had (and still has) a perennial drainage problem, water shortage and a housing shortfall. In accordance with the colonial policy of trusteeship, employers and municipalities were together responsible for housing all permanently employed Africans, a responsibility that they commonly failed to fulfil.

The first municipal housing scheme for Africans was in Kariakor, built in 1924 and named after the Carrier Corps. These were 8 dormitories intended to host 320 labourers, together with 8 cubicles that would house another 160. It cost £13,000 and more were planned the following year. These dormitories were very simple (thus unpopular) and

only began to be occupied when the internal subdivisions were completed. Pumwani Memorial Hall was also built with an adjacent library, lecture and dance and beer hall. Shauri Moyo was to follow soon after, in 1938. It was built on the demolished site of Pangani with a planned capacity of 3,024.

Municipal boundaries were reviewed in 1927 to include Muthaiga (which was until then a semi-autonomous unit), Westlands, Kilimani and Parklands as part of the township. The need for public transport emerged and this led to the first municipal bus service being inaugurated on the 5th of February 1934 as a monopoly to the United Overseas Transport Company. In 1935, the new town hall as well as law courts a few metres away were opened.

Nairobi: A primate city

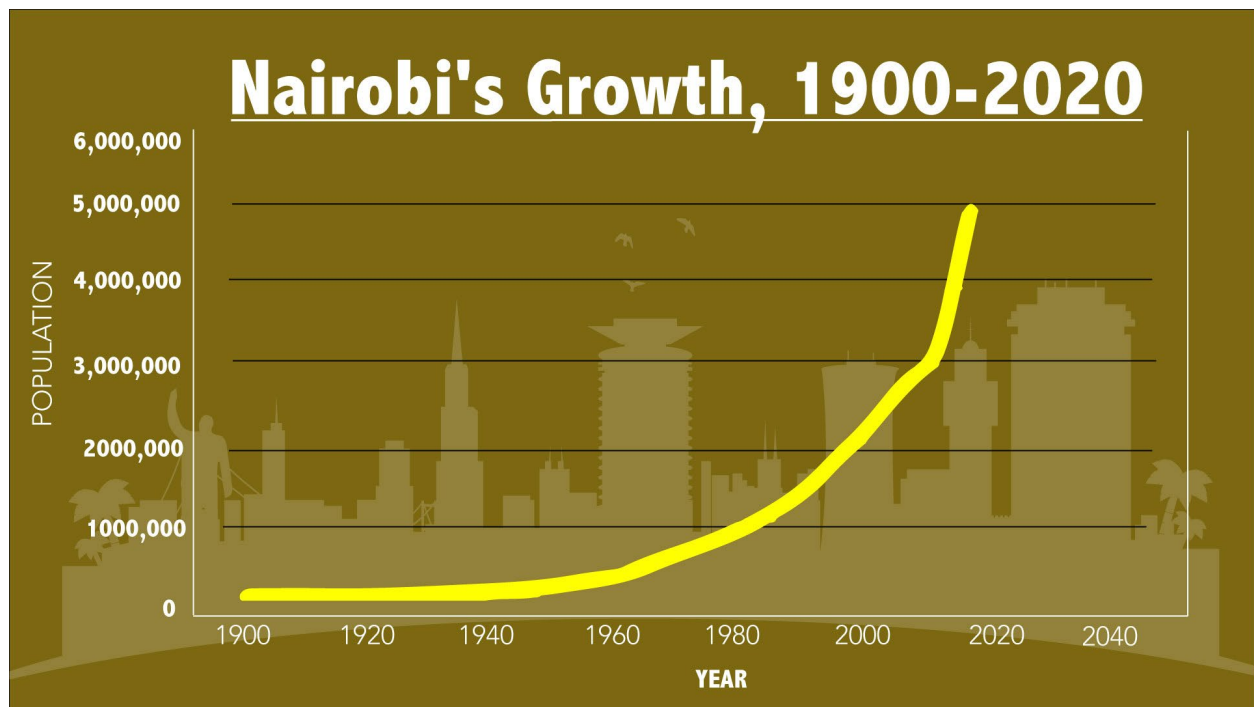
A common pattern observed in nearly all developing countries is the phenomenon of urban primacy – the concentration of a significant proportion of the national urban population in just one city. Primate cities are typically centres of capital flows, financial transactions, industrial production and national revenue, and usually form in the early stages of a country's development. They also tend to be capital cities, Nairobi being a good example. More than a third of Kenya's total urban population resides in Nairobi. The capital city is also almost four times larger in population than Mombasa, the country's second largest city.

In the long run, urban primacy can be bad for a country's overall development because it distorts the national economy and creates regional imbalances in the distribution of populations and resources. This can generate regional asymmetries in development and can weaken political integration.

Kenya's 2010 constitution sought to address some of these distortions and anomalies through the devolution of governance and resources to the 47 counties, which has the potential to create robust urban centres in the various counties. However, it is still too early to tell whether devolution will decrease the importance of Nairobi in the long term, and make it a less attractive destination for rural migrants from other counties who flock to the city every year. In terms of size and financial transactions, however, it is likely that Nairobi will remain Kenya's most important urban centre for many decades.



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Source: Population Division, UN Department of Economic and Social Affairs 2018

Nairobi's urban planning scene

One of the first master plans for Nairobi was prepared in 1926. This plan zoned residential areas and designed an Appian way, which stretched in a beeline from the Nairobi Railway Station to Government House. It was not adopted, and in 1938, a five-year plan was prepared, this being the first long-term programme for town development. The plan proposed capital expenditure of £250,000. The contents of the plan included major works on roads and sewerage, Asian housing, swimming baths for all races, a stadium, a drill hall, a gymnasium, a new town planning layout for Eastleigh, further African housing, and a crematorium. The plan was shelved due to its suggestion that the municipality should take a loan of £170,000.

Planning was taken more seriously after the Second World War. A team comprising a sociologist, an engineer, and an architect were brought together *"to synthesise the cities aesthetic engineering"*. Prof L.W. Thornton White from the University of Cape Town was brought in since he had experience in planning for multi-racial societies. He is understood to have had strong ideas on "neighbourhood units" that each had their own facilities. (A neighbourhood unit is a residential design model for a neighbourhood population of between 5,000 and 9,000 residents, with schools, places of worship, and recreational areas at its centre.) Commercial uses were

relegated to the perimeter of the neighbourhood along arterial streets, which defined the boundaries of the neighbourhood. Kaloleni estate for Africans was to be designed along these lines. Other housing programmes that came up over time were Ziwani, Starehe, Ngara Asian Flats and bachelor housing for Asian artisans. Neighbourhood units were also prepared within European and Asian neighbourhoods.

The first master plan for the city was published in 1948. The 1948 "Plan of a Settler Capital" highly defines how the city appears today. It assigned the land east of the railway station for industrial development, and clearly designated certain neighbourhoods to be inhabited by specific races: European Residential Restricted, Asian Residential Restricted, Natives and Reserve Areas. This method of zoning also defined how many of the other urban areas in the interior of the country would develop and grow. The land parcels were also distinctively different in size, with lower population densities in the European areas. Hence began Nairobi's evolution as a segregated city.

Ten years after Kenya's independence, the 1973 Nairobi Urban Study Group was put together to respond to the challenges of a growing African capital. At the time there was a need for planning in housing, transport, and business. Post-indepen-

dence policies geared towards desegregation and Africanisation underscored the necessity and desire to integrate urban residents into developing one city as opposed to the racially segregated colonial city.

The 1973 Nairobi Metropolitan Growth Strategy was to guide the growth and development of the city to the year 2000. Some of the recommendations of the strategy included the establishment of a transport authority, setting up the machinery for housing policy formulation, assigning specific planning tasks in the core and outlying parts of the city, and encouraging the growth of satellite towns surrounding the city. Despite initially aiming to solve some of the evident urban challenges, the 1973 Nairobi Metropolitan Growth Strategy was in essence geared towards the interests of the local bourgeoisie and multinational corporations.

The most notable plan since then has been the 2015 Japanese International Cooperation Agency (JICA)-funded Nairobi

Integrated Urban Development Master Plan (NIUPLAN), although before that there were several other strategies and policy documents, such as the 1984-1988 Nairobi City Commission Development Plan, the 1993 Nairobi Forum on “The Nairobi We Want” and the Local Authority Transfer Fund, which was a grant from the central government to improve services in municipalities. However, none of these can be said to have led to much change in the levels of service provision and planning in the city.

The NIUPLAN was launched in 2015 and recommends several priority areas. These include central business district (CBD) and sub-centre development; road network development and public transport development; environmental improvement through storm water and sewerage, solid waste and air pollution control; and improvement of urban management. It lists priority programmes like the Railway City Development, the Dandora sub-centre improvement and the Eastlands urban renewal programme.

City of gates

“Nairobi is not a planned city. It is a city built on reaction, on an incremental fervour, on the need to exclude and protect, to smother our neuroses – realistic to some extent – that the barbarians will get us. The taxpayer pays for urban planners, to be sure, but they produce virtually nothing. Rather it is the insecure classes, feeling themselves to be unsecure, whose fears shape the city. Take the minor example of show windows in the CBD. Almost all are protected by metal grills. Violence, real or perceived, is producing “anti-aesthetics” in places that would otherwise be havens for window shoppers.

The death of window shopping may not be the greatest tragedies. But it is symptomatic of a larger phenomenon that has given Nairobi a pronounced Dr. Jekyll and Mr. Hyde character. During the day, it retains a quirky charm... But by night, Nairobi turns into the most loathsome creature of the dark, a place few walk through, and fewer understand. It is as opaque as the politics that led to this state of affairs.

The most obvious reaction to the dangers of the night is the rise of the gated community. Its biggest consequence is the fact the way such communities interfere with the ability of ordinary citizens to access the city. City planners, here reduced to the role of observers, call this ‘urban fragmentation’.

--Excerpt from “The City of Gates” by Alfred Omenya in *Nairobi: An Exploration of a City by Photographers and Writers* published by Kwani Trust (2011).

Coincidentally, there is no mention in the plan of integration of existing urban transport systems. Additionally, none of the priority areas, aside from urban renewal, seek to improve the dignity of people who live in the more than 200 informal settlements scattered throughout the city. Bold recommendations covering key aspects, such as health and education, are also absent.

The plan has, quite evidently, placed a lot of emphasis on heavy infrastructure and on recommendations on further studies on features like a “CBD Loop Line” of matatu termini outside the city, which recognises a gap in urban markets. The need for detailed area planning is mentioned, with a focus on the sub-centres. Unfortunately, aside from the flagship areas, the rest of the city remains under the forces

of demand and supply. The Nairobi City County Government had allocated funds in the 2018-2019 budget for developing control guidelines but these are yet to materialise.

Despite this, Nairobi has experienced increased development within the areas closest to the CBD. In line with the Burgess model of urban development, the areas within the first concentric ring close to the CBD will develop and transform first. In Nairobi, these have now either become fully commercial or mixed-use dense areas. A lot of concern has emerged because the city has been slow to meet the demand for development with the necessary services, like sewage, public transport, and garbage collection.

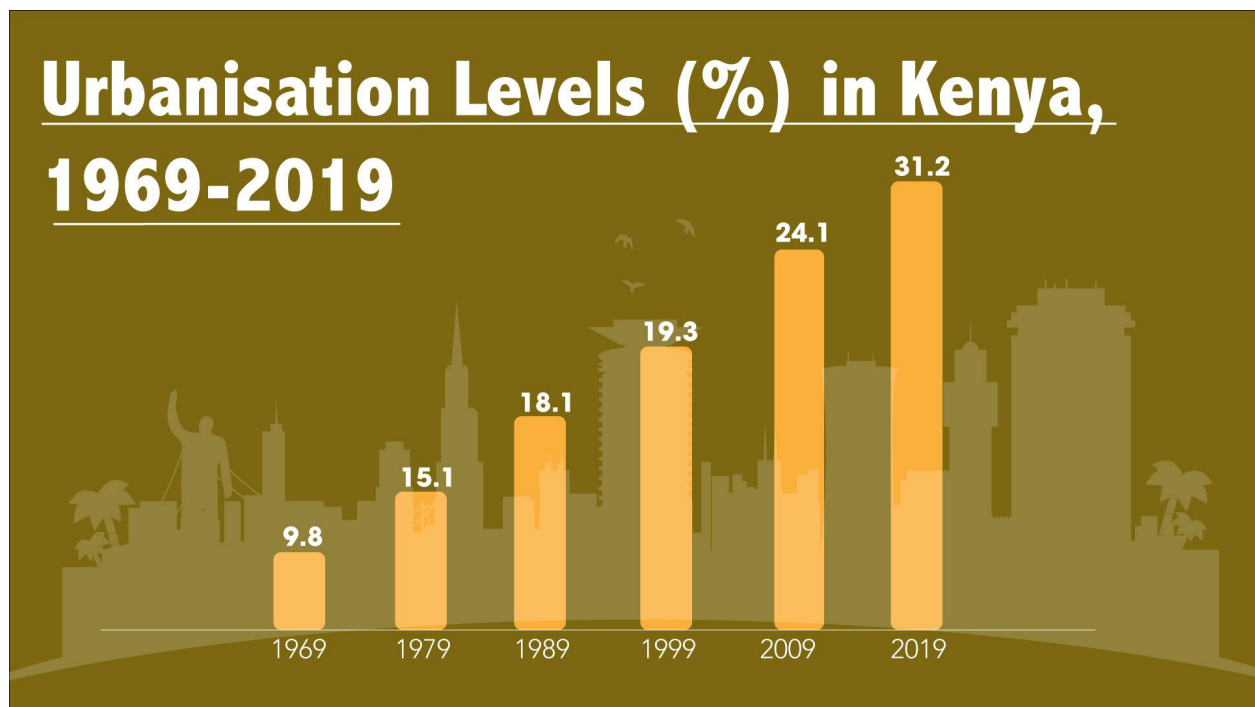
Urban development in independent Kenya

At Kenya's independence in 1963, racial divisions were invalidated, and the urban landscape witnessed a transformation from neighbourhood differentiations based on race to that of social class. The African and Asian elite moved to

the predominantly white neighbourhoods in urban areas as masses of Africans from upcountry moved to informal urban settlements.

Urban growth rates increased rapidly in the post-independence period due to rapid rural-to-urban migration. These rates accelerated over the decades, partly due to natural population growth. In 1969, less than 10 per cent of Kenya's population was urban. By 2019, almost a third of the country's population was living in urban areas.

The new municipal authorities in the post-independence period faced challenges of improving the housing and services demanded by poorer people. The housing shortage gave rise to the development of informal settlements within cities such as Nairobi. It is estimated that more than half of Nairobi's population currently lives in such unplanned informal settlements.



Source: Kenya National Bureau of Statistics, Economic Survey 2020

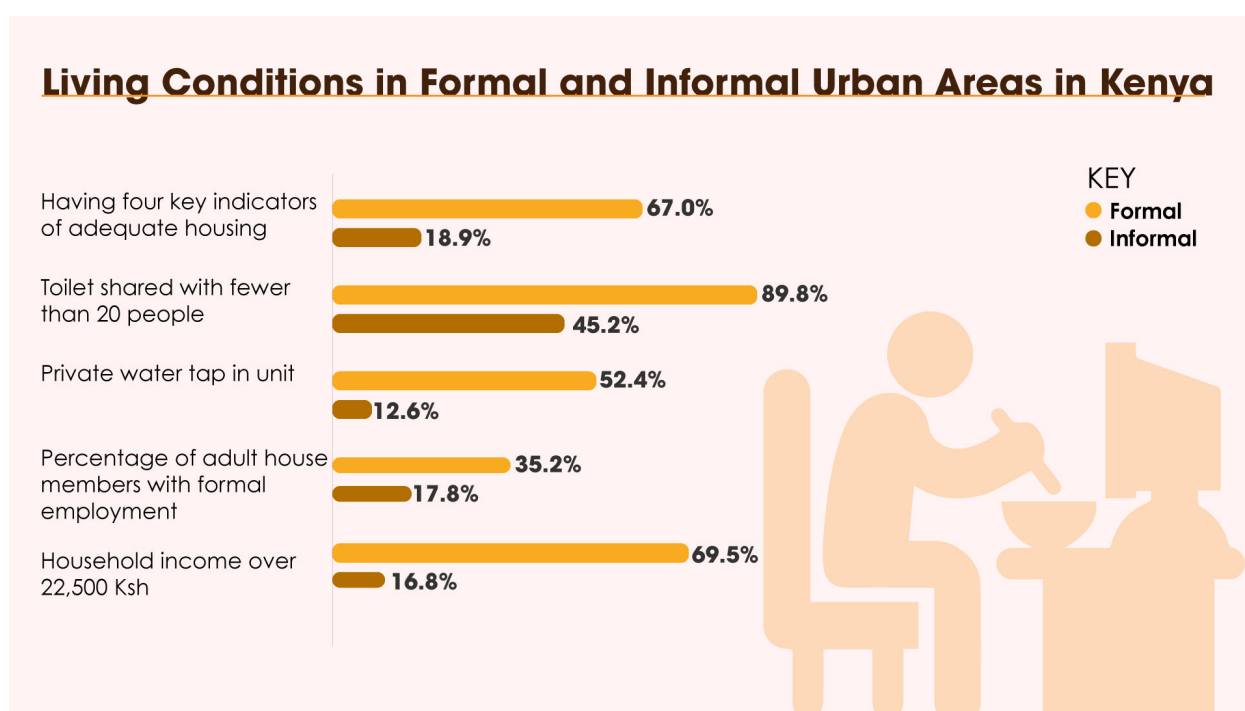
The informal sector: Part and parcel of urban Kenya

The informal sector is not new to Kenya's urban landscape. Housing shortages forced many Africans to form informal structures during the colonial times. Fringe settlements were a constant concern during the early days of Nairobi. Most notable was the clearing of Pangani in 1938 but those dispersed simply moved to the Mathare Valley, which grew and was demolished in 1952 only to grow again after 1960.

Informal businesses also grew tremendously after 1963 when the racial barriers in urban areas were lifted. As in the rest of Africa, economic informality abounds in Kenya. Many businesses in Kenya's urban centres are informal: they are mostly small scale, unlicensed and often situated within temporary structures. Their activities include hawking, market trade, craftsmanship, manufacturing, and repairs. While economic informality provides livelihood and employment to most of the urban population, it has been a major source of conflict with modernity and order in the city. For example, because street hawking is forbidden in the CBD, hawkers are often the targets of police brutality. Informal settlements have also been the target of forced evictions.

Within the informal settlements, ethnic differentiation has played a key role as people opt to settle within urban "villages" of those "from their [rural] home". This has been taken advantage of by the political class who habitually mobilise those of their tribe for votes, which at times leads to violence during election years. Nairobi slums constitute a smaller model – a microcosm – of Kenyan society, complete with the political tensions arising from the politicisation of Kenya's ethnic/cultural differences.

As urban policies and by-laws do not recognise such settlements or businesses, they occasionally find themselves on the receiving end of the city, county or roads authority demolition squads. There is a need for Kenya's urban areas to do some intentional land allocation for small-scale businesses, to recognise and legitimise mobile markets, and to adopt more humane approaches towards demolitions and evictions.



Source: World Bank, Kenya State of the Cities Baseline Survey, 2014

Government urban planning policy shortfalls

Planning in Kenya's urban areas has traditionally taken the top-down approach. The role of citizen participation is relatively new in the urban sphere. The 2010 constitution requires that people participate in the development process. Article 1 (2) states: "All sovereign power belongs to the people of Kenya" and "the people may exercise their sovereignty directly or through their democratically elected representatives."

The County Governments Act goes ahead to state in Section 113 that public participation in county planning processes is compulsory. In assessing the state of public participation in county governments, Mbithi, Ndambuki and Juma,(2018) identified the following obstacles: difficulty among the citizenry in influencing county decision-making; lack of responsive County Assembly members; difficulty in accessing information on county budgets, legislation and projects; and corruption in the county governor's office. This comes amidst decades of top-down driven policies and urban planning principles applied with a lot of external influence. (It is interesting to note that Nairobi's 1948, 1973 and 2015 major master plans were all produced by expatriate lead consultants.)

Special planning areas and economic zones

The central government has also taken up part of the redevelopment and planning process by declaring some places as Special Planning Areas within the city as part of the redevelopment process. Examples of these are the proposed Railway City and the Eastlands Regeneration Programme, both NIUPLAN flagships. The government proposed Konza Technocity in Machakos County and the privately-owned Tatu City in Kiambu County are also special planning areas. These, in particular the latter two, liaise with the Special Economic Zones Authority to establish a "one-stop shop" to facilitate processing and issuance of development construction permits and certificates of occupancy, as envisaged under the provisions of Section 11 of the Special Economic Zones Act, No. 16 of 2015.

Vision 2030

Kenya's Vision 2030 is the country's development programme from 2008 to 2030. It has three pillars: economic, social and political. The social pillar has a focus on investment in the people of Kenya. It foresees Kenya as a predominantly urban country by 2030 and recognises the necessity for high quality urban livelihoods.

Kenya also has a 2020 vision for housing and urbanisation that forecasts an adequately and decently housed nation in a suitable environment. Unfortunately, this is a far cry from the current situation. The Housing and Urbanisation Vision foresaw a country that by 2012 would be producing 200,000 housing units annually. Despite this, a World Bank report in 2017 indicated that "the production of housing units is currently at less than 50,000 units annually, well below the target number, culminating in a housing deficit of over 2 million units, with nearly 61% of urban households living in slums".

These slums include single-room temporary shacks and single-room multi-storey tenements. A 2019 research study by Slum Dwellers International observed that 34 per cent of Nairobi's residents live in one-room shacks, which are slowly being replaced by single-room "tenements" that 36 per cent of the city's population now occupies. Tenements are five- to ten-storeyed structures made of stone, steel and/or concrete. The tenements are not constructed with architectural and engineering expertise and standards. As a result, some of these buildings have collapsed in recent years, with tragic consequences.

Top-down approach to planning

Part of the challenge lies in the traditional top-down-approach to planning evident in the housing vision, which states that *"there is an acute need, therefore, for an effective capacity for regional and urban development planning starting with adequate housing for those now living in slums"*. The statement depicts the traditional misinterpretation of informal housing being primarily a housing and structure problem though history and experience have taught us that there are deeper socio-economic challenges that the sector faces. The perennial failures of slum upgrading programmes are a good indication of this. The Kenya Slum Upgrading programme (KENSUP) was one such example where informal settlement dwellers were supposed to be housed in apartment blocks. The programme was hit by various scandals, including misallocation of houses and dwellers moving back to the slums while renting out their houses for additional income.

The national government also recently set affordable housing as part of a five-year plan, known as the Big Four Agenda. This is a target set by the head of state that aims at putting up 500,000 housing units under an "affordable housing" scheme. Additionally, the State Department for Housing, Urban Development and Public Works will construct 7,394 housing units for the National Police Service Commission and 4,900 units for public officers. The targets set for 2018/19, according to a parliamentary document are: 83,000 units

(Nairobi and Naivasha); social housing (slum upgrading) 12,000 units; and 40,000 units by various counties. Though some of these have evidently started, time will tell as to whether these targets will be met and whether they will be able to serve the intended population.

Recent legislation has attempted to provide for better management of urban areas. The most significant is the Urban Areas and Cities Act (2011) that emanates from the 2010 constitution, which requires that Parliament establish the

principles of governance and management of urban areas and cities and provide for participation by residents in the governance of urban areas and cities. The Act provides for the formation of urban boards comprising both public and private sector members who are tasked with overseeing affairs of the municipality, including land use, service delivery in infrastructural development, performance management and public transport. Most urban boards are relatively new and, therefore, it would be unjust to assess them now or give them a performance score.

Lessons from other cities

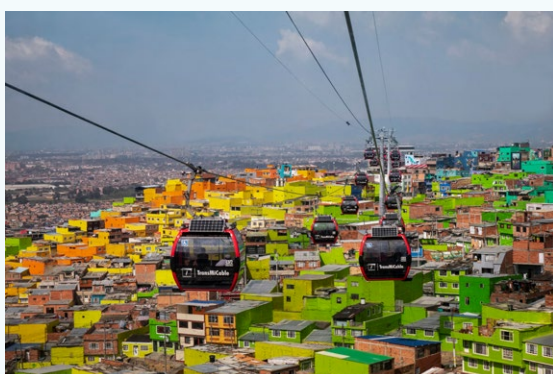
The challenges facing Kenya's urban areas are also prevalent in cities on the African continent. The city of Cape Town, known by some as the mother city, faces vast spatial-economic inequalities that stem from South Africa's apartheid regime. The city intends to use planning as a way of bridging some of the inequalities by creating a more enabling environment for the (mostly black and coloured) urban poor. It has attempted this by improving mobility and access, proposing a new transit-oriented development programme, as well as approving an informal sector trade policy.

Lagos is Africa's most populous city, with a population of about 17.5 million people. The city recently developed a bus rapid transit (BRT) system along one of its main corridors. The process and structures established to implement this project brought out many lessons for African cities, including integration with existing paratransit operators, design standards and public participation.

A lot of the lessons African cities are now learning have been learned from experiences in South American cities. Though Bogota is well known for its implementation of BRT, the former mayor, Enrique Penalosa, should be given credit for improving services in informal settlements and poor neighbourhoods. As mayor he took water to all of Bogota's slums and built new schools, libraries, and day-care facilities. His general rule was: *"Every detail in the city should show respect for human dignity and reflect that everything human is sacred."*

The Brazilian city of Curitiba also offers interesting lessons on public space development, urban transport, and basic services for all. Jaime Lerner, the former mayor, once stated: *"In Curitiba we have slums, the only difference is the respect by the people due to the quality of services that are provided."*

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Conclusion

For a large majority of Kenya's urban population, city life has been reduced to a dystopian nightmare manifested by limited opportunities for formal employment, a lack of decent and affordable housing, failing and neglected infrastructure, absence of social services, pauperisation, criminality, and increased inequalities. As shown, Kenya's urban policies have prioritised middle and upper class demands over poorer groups in society. The Nairobi City County by-laws were inherited from the defunct Nairobi City Council and still maintain a highly elitist and oppressive approach towards poor and low-income residents, such as informal traders and public transport and non-motorised transport users. The city thus has alarming spatial inequalities. Rich residential areas like Muthaiga, for example, have a population density of 5 persons per hectare while the Mathare slum across the road has a population density of 1,200 per hectare.

Unless these fundamental issues are resolved, the never-ending class and cultural conflicts will continue to be a challenge

in the city. It is key that Nairobi starts to reflect on its planning and utilise local expertise in the planning process so as to come up with practical and realistic plans that reflect the aspirations of local citizens rather than prioritising expatriate knowledge that comes with pre-defined notions and interests.

Nairobi residents are no longer migrants coming to work for a short time before going back upcountry; the city has several second and third generation residents who do not know any other home. Their interests must be considered in the urban planning and development process. Both the national government and the county governments ought to utilise participatory tools through community groups and organisations to reach out to the most vulnerable and voiceless in the city.

The next chapter discusses how urban communities can work with policy and decision makers to solve challenges at the grassroots level.

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CHAPTER 7

SOCIAL PLANNING AS A PATHWAY TO THE JUST CITY

LAWRENCE ESHO

Summary

This chapter engages with the concept of “social planning”. It roots discussions on the “just city” in the context of human dignity, with its two distinctions, namely: “intrinsic human dignity” and “attributed human dignity”.

The chapter argues that humans have “intrinsic human dignity” by simply being human and that they deserve recognition of worthiness regardless of their socio-economic or any other status, inherent or attributed. It discusses the potential of social planning in protecting intrinsic human dignity. It promotes social planning as a means by which communities can deal with their own issues without external imposition of ideas by some “superior” technocrat or authority. This enables individuals to express their worthiness as humans, hence protecting their human dignity.

The chapter considers constitutional provisions for the protection of people’s rights and dignity, especially through basic and socio-economic rights and service provision. It explores how these can be achieved through planning and urban development legislation in Kenya. The author singles out absence or weakness of citizens’ forums as a major flaw that hinders citizens’ self-actualisation, participation, and access to services, arguing that the absence of these forums is the weakest link in social planning in Kenya.

Social planning and the quest for a dignified urban existence

Jonathan Glennie, a writer and researcher on international development, once intimated that “the saddest thing in the world is not poverty; it’s loss of dignity”. He also wrote that “development without dignity is not worth having”. Consequently, he challenged the conventional application in the development and humanitarian sectors of the concept of dignity to designate a situation deficiency with regards to basic necessities of life.

On his part, Sulmasy (2007) advanced three varieties of human dignity. He identified *intrinsic dignity* as a value not conferred or created by human choices – individual or collective – but a value that is prior to human attribution. In essence, therefore, intrinsic dignity is the value that human beings have simply by virtue of the fact that they are human.

This contrasts with what he identifies as *attributed dignity*, or the value that human beings confer upon others by acts of attribution. He identifies the third category as *inflowing*

cent dignity to designate the ability of human beings to express and live lives that are consistent with and expressive of their intrinsic value and worthiness as human beings.

A holistic conception of dignity would, therefore, imply a condition or status that may be attained or accomplished individually or as part of a collective pursuit by a group of individuals or externally conferred by an agent outside of the group. Either way, all human beings, because of their inherent value and worthiness, are assumed to *possess* equal status, and are expected to *receive* equal consideration in matters that directly affect their lives. Most importantly, they should be able, as a minimum, to *experience* lives that are expressive of such value, in spite of their status in society or their life circumstances.

Social planning is a process by which policymakers (legislators, government agencies, planners, and community development organisations) work with communities to try and solve community problems and challenges at the grassroots level. It is referred to as neighbourhood planning if it takes place in urban settings, and community planning if it takes place in

rural settings. It is conceived as a technique that is primarily concerned with human values of equity, fairness, and justice. Consequently, it lends itself to the pursuit of human dignity through the delivery of socially just settlement forms. Here, it targets the advancement of social welfare and the improvement of the quality of life of all residents. In this regard, it is geared towards reducing socio-economic inequalities as a means of diminishing or even eliminating poverty or stimulating economic growth for all. In urban settings, it achieves this mainly through planning and delivery of social services programmes, infrastructural services, and facilities within a settlement setting.

Social planning's delivery mechanism entails inclusive processes in which individuals are actively engaged in self-instigated or externally induced processes in pursuit of a dignified urban existence. Social planning is also a technique and process by which citizens actively participate in discursive processes to identify strengths and weaknesses and in determining ways to improve their quality of life. Consequently, communities negotiate a collective vision for their community, and forge strategies and design measures to address pressing everyday challenges. It is, therefore planning by the people and for the people. This conception aligns with and is informed by Sulmasy's holistic view of dignity, whereby communities and individuals within such communities are considered to be both instigators and beneficiaries of such pursuits.

Ensuring dignity through citizen participation

In the early 1990s, the Brazilian city of Belo Horizonte began experimenting with a participatory budgeting process designed to involve as many citizens as possible in influencing the city's spending priorities. Public meetings with city officials evaluated the performance of the city the previous year, reviewed investment options and discussed future priorities.

The budgeting process used an "Urban Quality of Life Index" to allocate funds between different parts of the city. The combination of greater equity in these procedures, combined with more transparency and accountability on the part of municipal authorities, directly linked investments with local needs and priorities. As a result of this process, access to safe drinking water and solid waste management improved dramatically in the city's informal settlements.

Source: United Nations Centre for Human Settlements, Shelter for All: The Potential of Housing Policy in the Implementation of the Habitat Agenda, 1998.

Challenges and opportunities of urban social planning approaches

Approaches to social planning in Kenya closely mirror the first two varieties of Sulmasy's conception of human dignity. The humanitarian approach to social planning and community development, which is advanced mainly by non-governmental and community-based agencies, aligns itself to the view of human dignity as a value intrinsic to human beings. Consequently, they emphasise individuals' inherent capacity for self-actualisation.

Consequently, much effort is dedicated to building the capacity of individuals and groups to promote their own welfare, with external input limited to minimal facilitation of group actions. In contrast, the interventionist approach, advanced by governmental agencies, views human dignity as a conferrable value. The strategy favours intervention in existing

processes and circumstances through strategic social planning and through programming direct investments in community facilities and social infrastructure.

For the most part, religious groups may be viewed as being proponents of the third variety – *inflorescent dignity*. The approach emphasises the need for individuals to doubtlessly express their inherent worthiness as human beings. The characteristic approach therefore seldom goes beyond creating awareness on the dignified nature of human life.

There are, however, no clear or distinct boundaries between the three approaches. Rather, existing social and community development initiatives are increasingly gravitating towards a holistic conception of human dignity, with each proponent, in practice, conflating the three perspectives to design a targeted programme of intervention. Essentially, the departure point for social planners is the study of community needs,

the examination of social impacts of development, and the design of strategies to enhance and benefit the community. Recognised elements of sustained social well-being include relative equity in access to housing, public transport, health, education, employment, recreation and cultural infrastructure and resources.

The hallmark of social planning practice is consultation and engagement with target groups and communities, both in appraising the existing situation, designing remedial courses of action and implementing and monitoring outcomes and impacts.

However, such insistence on intensive consultation is often the Achilles' heel in the social planning process. This is due to the high cost implications of participatory processes and proclivity for stalling due to difficulties in arriving at a consensus amongst diverse interests. All of these have the overall impact of slowing down the entire process and delaying the delivery of desperately needed outcomes. Such difficulties may, however, be mitigated through proper process design and adoption of iterative processes that integrate quick-win programmes as part of galvanising popular support for the process.

Legal and institutional frameworks in support of just and fair urban outcomes

In Kenya, there is no specific statute dealing exclusively with social planning or community development. Social concerns are not an explicit focus of planning legislation. Existing planning laws are spatially oriented, emphasising the regulation of the physical dimension of development.

The imperativeness of social planning as a technique for delivering socially just settlement forms is, however, implied in a variety of legal frameworks, including the Constitution of Kenya, the County Government's Act (CGA), the Urban Areas and Cities Act (UACA), and the Physical and Land Use Planning Act (PLUPA). Despite its spatial focus, the Physical and Land Use Planning Act makes reference to social and community development as occasioned through the provision

of community facilities, and environmental and other social amenities (Section 6(2)h, 14(2)g, 61 (1)b).

The Constitution of Kenya underscores the recognition and protection of human rights and fundamental freedoms as necessary for the preservation of the dignity of individuals and communities, the promotion of social justice and the realisation of the potential of all human beings. The constitution seeks to guarantee these rights and freedoms through governance frameworks and institutional modalities that espouse democratic principles of inclusiveness, participation and accountable leadership. The constitution also recognises the right of communities to manage their own affairs and to further their own development (Article 174(d).) These constitutional imperatives are further reinforced in legislative provisions that require governance and delivery mechanisms to be responsive to the needs of the local community (CGA, Section 46 (2)a).

In this framework, citizens are deemed to possess the necessary ability for self-determination. Such capacities are subsequently given expression through the creation of appropriate conditions that encourage their participation in governance and decision-making frameworks (UACA Second Schedule 2(1)a(i), CGA Part VIII). The County Governments Act, the Urban Areas and Cities Act, and the Physical and Land Use Planning Act envision the formation of forums for the purposes of enabling citizen-to-citizen and citizen-to-government engagements and enlisting their contributions in the formulation and co-production of planned measures.

All the legal frameworks are in concurrence as to the outcomes sought. UACA, for instance, provides a catalogue of services that each urban resident is entitled to, and tasks urban management boards or committees, in collaboration with residents, to guarantee their delivery (UACA, First Schedule). On its part, PLUPA considers securing the physical, economic, and social efficiency, health, and well-being of urban and rural communities through the provision of social facilities and amenities to be the key substantive outcome of every planning endeavour (PLUPA, Section 2, 61).

Women making a difference at the local government level

Turkey is ranked among those countries with the lowest representation of women in local government, which reflects low participation of women in public affairs. Women are under-represented in the Turkish workforce and a very high proportion of women are homemakers who are neither employed nor in education.

The city of Lüleburgaz in Turkey implemented a soft-footed yet radical initiative for women's inclusion and participation in all areas of urban life. The Municipal Committee, which includes both elected representatives

and city officials, created a Gender Mainstreaming Sub-Committee that was tasked with promoting women to head key departments. This bold positioning of competent women at the helm of management was specifically intended to place the capability of women in the public eye and to demonstrate that, given equal opportunity, women can lead and make a significant difference.

This initiative paved the way for the election of more women in the Lüleburgaz Municipal Council. Women currently make up 29 per cent of elected representatives in the Council, way above Turkey's 4.2 per cent average, and slightly higher than the global median of 26 per cent.

Studies have shown that women's representation in local government has tangible benefits. Research on panchayats (local councils) in India found that the number of drinking water projects in areas with women-led councils was 62 per cent higher than in those with men-led councils. In Norway, there was a direct causal relationship between the presence of women in municipal councils and childcare coverage.

During the Covid-19 pandemic, countries headed by women appeared to be doing better at containing infection rates than those headed by men. New Zealand's Prime Minister Jacinda Adern is credited for successfully controlling the outbreak of the disease in her country. Germany, headed by Angela Merkel, had far fewer death rates than Britain, France, Italy or Spain. Tsai Ing-wen, the President of Taiwan, managed to successfully contain the spread of the coronavirus without resorting to a national lockdown by using widespread testing and contact tracing and isolation measures.

Observers say that women tend to do better during a crisis because they are naturally averse to risk, and also because they are more likely than men to adopt non-partisan collaborative approaches based on different information sources, rather than relying solely on their political advisors and inner circles.

Sources: Lukalo-Owino, 2018; UN Women; Taub 2020.

Bottlenecks in the quest to achieve a just city

The constitution and existing legal frameworks envisage the active participation and engagement of citizens in processes geared to uplifting their socio-economic and living standards. However, *citizen forums* – the adopted delivery vehicles for mobilising such engagements – are yet to find residence in many urban contexts, while existing ones remain weak. These problems are further exacerbated by an acute lack of social planning and community development professionals at the grassroots level – expertise that could be instrumental in mobilising community support for effective social planning and community development processes and initiatives.

The realisation of the potential benefits of social planning in Kenya is hindered by several contextual factors. In the first

instance, there remains a general lack of awareness among citizens about their rights, despite these being enshrined in the country's new constitution – undoubtedly one of the most progressive constitutions in this regard. This, together with competing interests in the urban sphere, be they commercial, socio-political, or cultural, has tended to hinder the well-intentioned pursuit for change.

Moreover, even where the social and community planning exercise has led to desired improvements, factors such as the subsequent rise in property values and gentrification deny targeted groups and communities the enjoyment of the accruing benefits, with the result that a large majority of urban residents continue to live in inadequate housing conditions. The following chapter examines how social planning principles can be applied to increase people's access to social and affordable housing.

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CHAPTER 8

SOCIAL HOUSING IN THE JUST CITY

JARED ONTITA

Summary

This chapter appraises affordable housing models within the four pillars of the just city concept (dignity, equity and diversity, rights and responsibilities, and democracy) and how they relate to social housing. While appreciating the mainstreaming of social housing within the Government of Kenya's Big Four Agenda, it nonetheless critiques the approach taken by the government, which focuses more on costs rather than on people.

This chapter finds that there is limited participation of affected people in the formulation of policies that govern implementation and provision of adequate housing. It further notes the overlapping roles of the national and county governments in the provision of social housing within urban areas and cities.

The author proposes rent control and affordable rent as approaches that might be more beneficial in the provision of adequate housing, especially social housing, to most of the urban poor. The affordable rent/rent control approach questions the sole approach of the government that focuses on home ownership. This is proposed since most urban residents are not in a position to buy a house in an urban area due to a variety of factors, including lack of steady formal employment.

Introduction

In the quest to better understand social housing within the Kenyan context, one has to look at colonial legacies that defined the establishment of Kenyan urban areas and cities. Almost all present-day Kenyan towns and cities started as transit towns or trading centres along the Kenya-Uganda railway line. While Kenya's coastal strip has had cities and towns that date back to at least the 12th century, the hinterland of the country began urbanising with the arrival of white settlers who set up farming communities and settlements in arable parts of the country in the early part of the 20th century. Most of these settlements, including Nairobi, were highly segregated along racial lines, with separate residential areas for Europeans, Asians and Africans. This policy has over time been reinforced through policies of successive governments that further promote segregation and enclaves along socio-economic lines, with the urban poor living in informal settlements separated spatially, socially and economically from rich, better-serviced neighbourhoods.

These colonial legacies in urban areas and cities have worsened with rapid urbanisation following independence in 1963 when rapid rural-to-urban migration swelled the populations of large urban centres in the country. According to the Institute of Economic Affairs (IEA) Nairobi, Eldoret and Mombasa recorded a steady rise in their populations, with a 46 per cent, 51 per cent and 38 per cent increase between 1999 and 2009, respectively. This trend is increasing steadily despite the deteriorating physical and institutional infrastructure. With this increase, housing becomes a challenge in urban areas as a majority of urban residents are forced to look for cheaper options for housing in informal settlements, where the quality of housing is generally poor and where there is little access to basic amenities. UN-Habitat estimates indicate that in 2007, more than half (54.8 per cent) of Kenya's urban population lived in slum conditions or informal settlements.

Kenya's housing production is estimated to be at 50,000 units a year, which is well below the annual demand of 200,000 units. Housing affordability continues to be a key challenge in Kenya given the current high cost of funding and unavailability of financing amid rising property prices. With the production catering for only one quarter of housing demand, the question is where do the other three quarters get their housing demands met?

The debate around housing in Kenya is biased towards affordable housing. The government and the private sector are focused on affordable housing but little attention is given to the provision of social housing (also known as public housing), which should be the case given the living conditions of the urban poor in Kenyan cities and urban areas.

Housing for the urban poor has not been given sufficient attention by successive Kenyan governments, although there have been efforts to upgrade or improve informal settlements. Examples of this are the Kenya Slum Upgrading Programme (KENSUP), the Kenya Informal Settlement Improvement Programme (KISIP) and the National Slum Upgrading and Prevention Policy (NSUPP).

However, the current government has identified affordable housing as a key pillar in its Big Four Agenda. (The other pillars are manufacturing, universal healthcare and food security). Until now, no genuine conversation has been generated regarding social housing. This chapter will explain why this has been the case and why there is a need to focus on tackling the challenge of adequate housing provision from a policy approach and in-depth analysis of the current policies and their effectiveness in operating within the dynamic context of rapid urbanisation, as well as the quest for provision of adequate housing to city residents in line with the "just city" concept.

The context of social housing models in Kenya

The delivery of adequate housing is at the centre of the United Nations' New Urban Agenda and the Sustainable Development Goals (SDGs). SDG Goal 11 seeks to make cities and human settlements inclusive, safe, resilient and sustainable.

Article 43(b) of Kenya's constitution clearly states that every person has a right to "accessible and adequate housing, and to reasonable standards of sanitation". Despite this, Kenya

has struggled to provide adequate housing to its growing urban population.

Kenya has a housing deficit of 2 million that continues to grow at a rate of about 200,000 units a year. There is a proliferation of informal settlements in urban areas, with more than half of the urban population living in slums in overcrowded homes, typically with only one room and no adequate ventilation. This can be attributed to social exclusion, which continues to force the majority of urban residents to seek housing in slums as they are the only affordable option available to low-income households.

The government's Big Four Agenda separates "affordable housing" from "social housing". This approach defines housing purely from a cost perspective. It also refers to housing in informal settlements as social housing. This interpretation has led to differing responsibilities between national and county governments, with the national government focusing on social housing as low-cost housing development in informal settlements and counties focusing on the redevelopment of old council estates.

This forms the basis of analysis of the delivery model for social housing in Kenya. It also allows for separate analysis on models used by the national and county governments in the delivery of adequate housing. The national government is focusing on slum upgrading while the county government is putting an emphasis on urban regeneration programmes.

A closer look at the current social housing models in Kenya highlights challenges that have hindered their implementation by both the national and county governments. These are associated with inadequate policies; market demands and community responsiveness to the programmes. It is clear that the intersection among the three has largely impacted the model of social housing delivery in Kenya's urban areas and cities.

The success of the social housing model should focus on intended beneficiaries and not on the government's cost perspective approach, which further reinforces social exclusion. Most low-income households in urban areas are not able to obtain loans or to find other sources to buy houses, though there are a variety of microfinance institutions that cater for their needs. But lack of formal employment and high interest rates have made access to loans and mortgages difficult not just for low-income groups, but also for the middle classes.

The evolution of housing policies for the urban poor

Over the last 50 years, various approaches have been adopted by governments in developing countries to improve the housing conditions of the urban poor. These range from social housing to slum upgrading programmes. Kenya has experimented with many of these approaches, some with success, others with mixed or negative results.

The 1970s saw growing experimentation in the developing world with what is known as the “sites and services” approach. This approach allowed for greater flexibility by encouraging self-help among affected communities to keep building costs affordable. It allowed the communities to pace the construction of their houses according to their household earnings. However, the approach had many shortcomings: it presupposed that there was an abundant availability of serviced public land and that technical advice was available to project beneficiaries. Many households could also not complete building or improving their houses because they had exhausted their savings or ran into debts that they could not repay during the construction phase.

The 1970s also saw increasing investment in slum and squatter upgrading programmes, largely funded by the World Bank. In Kenya, a similar programme – a joint effort of the Government of Kenya and UN-Habitat – was started in 2004 in Kibera, a large informal settlement in Nairobi. However, slum upgrading projects often fail to scale up to 100 per cent redevelopment of informal settlements. In addition, the project-oriented approach does not assure necessary follow-up and maintenance, which means many of the upgraded houses start to deteriorate due to lack of upkeep. Beneficiary communities are also often left out of the project planning and implementation stages, and there have been cases where they end up renting or selling their upgraded dwellings to non-beneficiaries.

After the Structural Adjustment Programmes (SAPs) were implemented in various African countries in the 1980s and 1990s, there was greater emphasis on home ownership through the “enabling approach”. Governments were discouraged from directly providing social or affordable housing and were encouraged to play the role of facilitator by putting in place laws and policies that would “enable” the urban poor to build or own their houses. This also led to policies that encouraged the private sector to play a bigger part in providing housing to low-income groups. The emphasis was on ownership in the belief that owning property was essential to helping poor households to improve their lives and livelihoods.

The withdrawal of governments from housing provision because of SAPs set the stage for more public-private partnerships (PPPs) in the housing sector. However, this often resulted in the production of housing for the middle and lower middle classes as the private sector was not inclined to produce housing for the poorest groups. This meant that the intended beneficiaries were often left out of affordable housing schemes intended for low-income groups.

Source: Tebbal and Ray, 2001

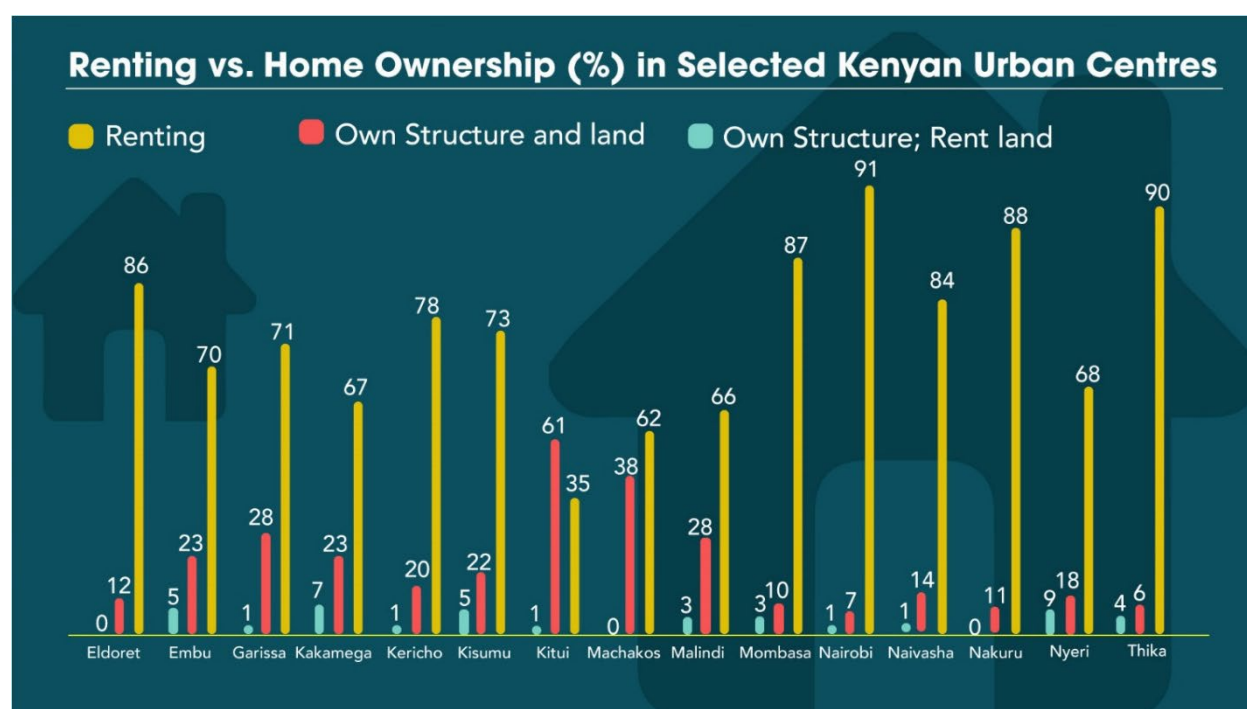


The Kenyan government has tried to approach social housing through public-private partnerships (PPPs) and mortgage re-financing companies (MRCs) by providing incentives to contractors in the housing sector to build social housing. Despite these moves by the government, the majority of contractors are more attracted to affordable housing as compared to social housing due to the complexity of providing adequate housing within a weak policy environment, especially in the area of planning and land.

Under the Big Four Agenda, there was a proposal to create a land bank to facilitate transfer of land from Portland, Prisons, Railway (Ministry of Lands, National Treasury) for affordable housing. The other proposal was land swaps and joint zoning and urban planning between the county and national government, which has had its fair of controversy around land ownership, especially in the three areas marked for social housing, namely, Kibera, Mariguini and Kiambu, where a total

of 19,000 units were to be constructed under social housing. Efforts to implement the above suggestions have been met by court cases, which have deterred PPPs.

In the models proposed by the government, none have approached affordable rent as a path to provision of adequate social housing. Despite available information that the majority of the urban population does not own land or have the purchasing power to buy a house or an apartment, affordable rent has not featured in the current social housing model. Yet, for most urban dwellers in Kenya, renting remains the most affordable and accessible housing option, as the graph below illustrates. It should also be noted that the vast majority of poor people living in urban informal settlements are tenants. Yet, the government's model is more focused on home ownership than in the provision of affordable rental facilities for a rapidly growing urban population.



Source: World Bank, Kenya State of the Cities Baseline Survey, 2014

How affordable is affordable housing?

As part of its Big Four Agenda, the Government of Kenya has allocated a large budget to building 500,000 housing units for low-income households across the country: 100,000 of these units are categorised as “social housing” for households earning less than Sh14,499 (about \$140) a month; another 400,000 units are categorised as “affordable housing” for those earning between Sh15,000 (about \$150) and Sh49,999 (about \$500) a month. Housing units for households in the Sh50,000 (\$500) to Sh99,999 (\$1,000) income bracket will fall under some kind of mortgage scheme.

However, the government’s goal of making home ownership affordable is not based on a realistic assessment of whether Kenyans can actually afford – or desire – to own a home in an urban area. Most low-income people living in cities see themselves as temporary labour/migrants to the city who will eventually return to their rural villages. So, they might not be inclined to invest in an urban area. They will also most likely not want to get into a mortgage scheme that ties up their income for long periods.

In addition, the housing units proposed by the government remain unaffordable for the vast majority of urban residents. According to the World Bank’s *Kenya State of the Cities Baseline Survey 2014*, the average monthly income in Kenya’s 15 largest urban areas is Sh21,748 (about \$200). Three-quarters of urban households earn less than Sh22,500 a month, or roughly \$2,700 a year. A family earning this amount will only be able to afford a mortgage of Sh.485,968 (less than \$5,000), which does not cover the cost of a low-cost house under the government’s plan. In any case, the majority of low-income households cannot afford mortgages because they tend to work in the informal sector. Salaried formal employment ranges from 14 per cent in Kakamega to 23 per cent in Nairobi.

Low-income earners in the informal economy mostly live in overcrowded shantytowns or slums, where rents range from Sh500 (\$5) to Sh5,000 (\$50) a month. Housing in these informal settlements is of extremely low quality; most houses are mud-and-tin shacks with few amenities, such as proper sanitation. However, due to lack of affordable alternatives, slum dwellings remain the most accessible housing option among urban poor households.

Rental housing subsidised by the government would be a preferable option for low-income households in urban areas, but the cost of subsidising and managing such housing could prove unsustainable and costly in the long term. Another option is cooperatives. A study in the UK found that cooperatives provide more effective housing management services with usually better value for money and deliver wider non-quantifiable social and community benefits. Cooperatives also foster community consultation and public participation, core values of Kenya’s constitution.

Source: Warah, 2018; World Bank, Kenya State of the Cities Baseline Survey, 2014.

Appraisal of housing within the just city concept

While looking at social housing in Kenya through the four pillars of the just city concept, it is clear that the country still has long way to go when it comes to guaranteeing adequate housing to all. Housing provision is neither participatory nor does it respond to the needs of the majority.

Housing using the just city approach should take into consideration the following:

Dignity

In relation to dignity, any project of service provision should ensure that the dignity of the people who will be affected by the project is maintained. Forced evictions and demolitions of informal settlements in Kenya have eroded the dignity of low-income households. There has been total disregard of international standards and procedures regarding evictions, such as international legal instruments and the national policies and laws like the National Land Act 2016.

In addition, the government fails to consider the following seven basic minimum conditions for adequate housing, as defined by the Committee on Economic, Social and Cultural Rights (CESCR): *accessibility; affordability; availability of the needed mix of service facilities; cultural adequacy; habitability, legal security of tenure; and location*. Any process that fails to adhere to these basic minimums ends up being deemed undignified.

As indicated above, there is manifest failure by the government, both at the national and at the county levels, to fully understand the meaning of adequate housing. For instance, they rarely consider cultural norms or size of dwelling when considering housing for the urban poor. Single room high-rise dwellings are preferred by the government, yet these dwellings do not take into consideration the average size of the family or traditional gender roles. In addition, failure to provide sewage infrastructure in urban areas means that many urban families, particularly those living in informal settlements, rely on pit latrines as the main mode of sanitation. This is unsustainable in the long run, and creates conditions for an undignified existence in an urban setting.

Equity and diversity

One of the greatest socio-economic challenges that cities face is rapid urbanisation. These challenges have already started affecting service provision for the urban poor who are the majority.

The existence of informal settlements is directly linked to inadequate policies on urban planning, poor governance, and lack of genuine political goodwill to tackle urban problems. Over time, this has led to exclusion of the majority of the urban population and furthered a deliberate attempt to neglect the urban poor who live in slums. In the provision of adequate housing for Kenyans, we have seen evidence of neglect in terms of the products designed for the urban poor in the name of social housing compared to affordable housing for the urban middle class. This is also evident in the policies and frameworks for the provision of financial support for the construction of affordable housing in relation to social housing, which has no clear model of financing. This further alienates, excludes, and demonises the urban poor.

An example is the creation of the National Housing Corporation (NHC), which has been building affordable houses for the urban middle class. The latest introduction, Boma Yangu, is an online payment platform for persons who wish to benefit from affordable housing under the government's Big Four Agenda housing pillar. The Housing Act further supports the

provision of affordable housing through the introduction of amendments to the Housing Fund under Section 6.

In the Finance Act 2019, the government has introduced rivets and tax exceptions for the facilitation of provision of affordable housing but not for the provision of social housing. This level of social exclusion and a legacy of urban poor neglect continues to create a city of invisibles across the country, which the just city wishes to address through shaping policies around social housing.

Rights and responsibilities

The basis of the discussion on housing is anchored on rights, which the citizens are entitled to. Kenya's discourse on the fight for rights and freedom is well documented and the manifestation of the protection of rights is well spelt out under Chapter 4 of the constitution.

The right to adequate housing is a human right recognised by international and regional instruments and national laws. This right is derived from "the right to an adequate standard of living", as defined in article 25 of the Universal Declaration on Human Rights. The right to adequate housing is also reflected in Article 43 (b) of Kenya's constitution, which guarantees every person the right "to accessible and adequate housing, and to reasonable standards of sanitation".

The model of social housing in the country does not seem to have captured the letter and spirit of the constitution. The process has been devoid of legal and policy instruments, especially in terms of forced evictions and resettlement of persons in informal settlements and old city estates to pave way for provision of social housing.

When seeking justice on matters of forced eviction under the economic and social rights, the courts have in several cases given orders to stop forced evictions until it is done in a humane way and by following international standards in the absence of domestic law. Despite the court's orders being clear, government agencies have often failed to respect and implement them.

The just city concept upholds the rights of the citizens to cities and the urban areas. Nonetheless, we are also aware that citizens are obligated to perform certain tasks to enable them to enjoy their rights. Within the current social housing model, there seems to be a blatant disregard for the rights of the urban population. Since the inception of the Big Four Agenda on the Housing Pillar, there has been no progress with respect to provision of social housing.

Democracy

Democratic governance is anchored in the Preamble and in Chapter 1 of Kenya's constitution, which recognises the sovereignty of the people. Citizens choose to exercise their sovereign power either directly or through democratic representation.

Subsequent instruments, like the Urban Areas and Cities Act of 2011 and the County Government Act 2011 outline the rights and responsibilities of urban citizens in terms of governance and services. The Urban Areas and Cities Act states: "A city or urban area shall develop a system of governance that encourages participation by residents in its affairs."

Urban populations have also been given opportunities to exercise their sovereign power through urban institutions and urban citizens' forums. These channels form the basis for interaction and cooperation among the urban population and its institutions. However, when it comes to social housing models, the urban population has not been fully engaged in a democratic or participatory manner. Most of the propositions in the framework and models of social housing have had a

top-bottom approach where the urban population has not been engaged meaningfully.

It is through the democratic process that resources are also being distributed to the different projects of both the national and county governments. A closer analysis of the social housing model in Kenya reveals no clear plan of funding. This is attributed to the fact that the citizens were not engaged to give their views and to contribute to the model of social housing as proposed by the current regime.

The only action with regard to respecting the role of citizens to democratically participate is through the formation of Settlement Executive Committees (SECs), which are supposed to bridge the gap between the national government and the communities living in informal settlements. Nonetheless, this body has not been effective in engaging the urban population when it comes to the provision of social housing.

The social housing model is devoid of democracy and transparency, especially on the issue of funding via public-private partnerships (PPPs), with no clear framework to allow citizens to hold the government to account.



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Recommendations

The above illustrates the current landscape in social housing models in Kenya within the four pillars of the Kenyan concept of a socially just city. In summary, what is ailing the social housing model is the failure to create a healthy policy environment and the exclusion of the vast majority of urban residents in contributing to the process of delivering adequate housing in urban areas and cities.

For Kenya to achieve socially just cities and urban areas, there is a need to address the inadequacies in the policy arena that will facilitate the delivery of social housing to the rapidly growing urban population.

First, there is need to create an enabling policy environment on:

- Land administration, registration, acquisition, and valuation
- Security of tenure

- Financing of social housing by introducing incentives, exemptions, and subsidies
- Eviction and resettlement of persons

Second, there is a need to develop the capacities of personnel to implement policies and institutions for the delivery of social housing in Kenya.

Third, there is a need to include affected persons in the provision of social housing delivery by integrating their contributions.

Fourth, there is a need to give room to other stakeholders, such as civil society organisations and other interest groups, who can make alternative contributions towards the provision of social housing. This may include factoring in affordable rent or rent control into well-known housing models, such as assisted self-help housing and enabling approaches. As the following chapter illustrates, public participation can also be used as a tool to increase people's access to social and affordable housing.

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CHAPTER 9

PUBLIC PARTICIPATION: A TOOL FOR AFFORDABLE HOUSING

FLORENCE NYOLE

Summary

This chapter examines the mechanisms for social planning in the provision of social services, specifically affordable housing, with an aim to improve the quality of life in communities in achieving a just city. It focuses on public participation as a tool for social planning and the legal framework in Kenya that underpins this process, including the Constitution of Kenya 2010, and the Urban Areas and Cities Act of 2011. Public participation is also examined through the lens of the just city defined in Chapter 2.

It further highlights the focus of various global and local blueprints, such as Agenda 2063, Kenya's Vision 2030 and the Government of Kenya's Big Four Agenda and their focus on affordable housing. The paper then outlines public participation as employed in the affordable housing sector in Kenya, highlighting the activities carried out by both state and non-state actors, with an emphasis on the successes.

The author concludes by proposing salient takeaways on how to ensure proper public participation to improve access to affordable housing in a just city in Kenya.

Social planning in a just city

Early urban planning was geared towards social engineering that put forth technical responses before social inclusion as the solution to urban challenges. This clearly diminished the value of a city to its dwellers and resulted in inadequate provision of urban goods and services.

Today, social planning is analysed as the increasing acknowledgement of the importance of the social dimensions of cities within urban planning strategies. It is argued that the word "social" in the context of planning signifies that which is of *public interest* and which involves some level of intentional *public participation*. The social dimension closely relates to the fundamental principles of rights, dignity, equity, and security of the public.

According to the World Bank, social inclusion is the process of improving terms for individuals and groups to take part in their society, making paramount the importance of the involvement of the public in decision-making during city planning. In an urban context, this can be done through recognising and securing collective and individual rights of citizens to the city's urban goods, such as housing, transport, open spaces, and sanitation, among others. By ensuring the participation of all in urban development and decision-making, social inclusion

in turn results in improving the dignity of citizens and ensuring that there is equity and diversity among a citizenry that can access its rights and knows its responsibilities in a democratic city, thus forming the basis of a just city.

Participation in this chapter is defined as a process where citizens can make their proposals via citizens' interest groups to duty bearers and can engage in deliberative debate where the best ideas win, and a consensus is built. This is different from the current practice where citizens are expected to participate individually and respond to already laid down government plans. Social planning in a just city relies on the intentional inclusion of the city dweller to be actively engaged in *self-instigated* or *externally induced* processes in pursuit of a dignified urban existence.

Since the early 1900s, there has been substantial engagement on the theories of public participation and community engagement. Arnstein (1969) influential theoretical work about community participation recognised that there are different levels of participation, from manipulation or therapy of citizens to generic deliberation to what is now considered as genuine participation. In general, public participation is viewed as an open, accountable, and structured process

where citizens or a segment of a community can interact and exchange views to influence decision-making/. Public participation is now a fundamental part of the democratic process in many countries.

Partnership and citizen engagement can occur in three ways:

- **Participation of people in the government's programmes and projects.** In this particular model, the government recognises the importance of engagement of non-governmental stakeholders in public decision-making, including in the processes of intentional public consultation in which the views of citizens and civil society organisations are sought, though with no guarantee as to the extent that they will be heeded. This engagement came to the fore at the first United Nations Conference on Human Settlements (Habitat I) in Vancouver in 1976, and was reinforced at the Habitat II Conference in Istanbul twenty years later, where local authorities, civil society organisations, non-governmental organisations and the private sector were actively encouraged to make their contributions to the drafting and implementation of the Habitat Agenda.
- **Participation of the government in peoples' programmes and projects.** This approach is the reverse of the first model. It first emerged during the United Nations International Year of Shelter for the Homeless in 1987 and was fully endorsed during the Earth Summit in Rio de Janeiro in 1992. This model places emphasis on participatory governance and the role of the state as an "enabler" for the implementation of locally-made decisions regarding urban renewal and regeneration and the upgrading of deprived environments, communities and economies under the terms determined by those most involved – in this case, the affected communities and households.
- **A tripartite partnership arrangement by the funding arm (usually the government or an international agency) with the national or county/local governments and the communities for which the plans are being developed.** A collective buy-in in the programmes and projects is characterised by shared ownership of development initiatives, and their risks and benefits.

Not all situations lend themselves to one approach. Some programmes are better suited for partnership while others require active public participation. The conditions under which each programme is presented is critical to ensuring the most effective form of stakeholder collaboration. Considering this, it is important to distinguish whether it is a process of decision-making and setting standards, or management of urban

development through new initiatives and capital investments or a routine administration of service delivery and maintenance of infrastructure,

The legal framework for public participation in Kenya

Public participation is a relatively new concept in Kenya, and therefore, it is not well understood by citizens. Government efforts to include public participation in decision-making processes are largely unstructured and are often viewed as tokenism to get buy-in of the public on initiatives proposed. Public participation is still at the level of "manipulation or therapy of citizens". In addition, there has been minimal capacity building offered to citizens to enable them to engage in the process in an informed, structured, and meaningful way.

Fortunately, public participation is now a guaranteed process in Kenya as the Constitution of Kenya 2010, in various chapters and clauses, requires that public participation be undertaken at both the national and county levels of government before government officials or state bodies and agencies make and implement official decisions. Anchored in the constitution is the placing of citizens at the core of decision making on matters that affect them.

Article 10 of the constitution recognises "participation of the people" as a core national value and principle, along with patriotism, national unity, sharing and devolution of power, the rule of law and democracy. In addition Articles 174(c) and 174(d) on devolution emphasise the role of the public in governance. Article 174(c) gives "powers of self-government to the people and enhances "the participation of the people in the exercise of the powers of the State and in making decisions affecting them". Article 174(d) recognises "the right of communities to manage their own affairs and to further their development".

Further to the constitutional declaration, the government has taken significant steps towards the institutionalisation of public participation through the development of public participation guidelines and policies, as well as by strengthening institutions that act as vessels through which inclusion of citizens in urban governance takes place. These have been formulated into law specifically under Sections 13, 21 and 22 and the Second Schedule of the Urban Areas and Cities Act of 2011. The formation of "urban boards" and "citizen forums" constitute a significant effort to ground the participation of the public in urban matters. These efforts should hopefully result in a citizenry that is engaged in the development of urban areas at both national and county levels, thus improving the outcome of government initiatives.

Participatory budgeting in Brazil

The city of Porto Alegre in Brazil has been hailed as the birthplace of an innovative process known as “participatory budgeting”, which makes decision-making about a city’s finances more transparent, accountable and responsive to citizens’ needs. Over the last three decades, citizens have been encouraged to participate in multiple rounds of debates and discussions on issues that affect them, and to vote on how a certain percentage of the municipal budget will be spent.

Participatory budgeting in Porto Alegre was a response to the city’s rapid growth and inability to provide services to its residents. In 1989, the newly elected Workers’ Party inverted the decision-making process so that citizens could decide on how a portion (between 15 and 25 per cent) of the city’s budget is spent. The process gave a voice to the urban poor, who were usually excluded.

As a result, there was a more equitable distribution of services. By 1997, sewer and water connections had gone up from 75 per cent to 98 per cent; health and education budgets had increased from 13 per cent to about 40 per cent; the number of schools had quadrupled; and road building in poor neighbourhoods increased five-fold. Importantly, participation in budgeting meetings grew from fewer than 1,000 people per year to about 40,000 in 1999. By then, over 70 cities across Brazil were implementing their own participatory budgeting processes based on the Porto Alegre example.

However, political shifts in the federal government have threatened to derail the process. In the 2000s, new sources of funding from the federal government came without any requirement for citizen participation. Over time, more conservative groups took control and prioritised other policy areas, including large infrastructure projects, which were not subject to participatory budgeting. While the official promise is that this process will continue to be supported by the Brazilian government, there are fears that it may be eventually dismantled.

Despite the political shifts, participatory budgeting continues to remain a powerful tool in Brazilian cities to incorporate the priorities of underserved citizens into a city’s agenda.

Source: World Resources Institute www.wri.org

Public participation and the just city in Kenya

Under the just city concept, public participation can translate as follows.

Dignity

The Bill of Rights in Kenya’s constitution sets out the various rights and freedoms Kenyans enjoy, including the right to “accessible and adequate housing, and to reasonable standards of sanitation” [Article 43 (1) (b)]. These rights ensure the preservation of the well-being and dignity of every citizen, marginalised persons, in particular.

Through public participation, the dignity of citizens is restored by giving a voice to the would-be voiceless, by creating a conducive environment that facilitates meaningful dialogue

and consensus-building and by fostering confidence and trust between citizens and all levels of government. Dignity can also be restored by ensuring that housing is adequate, allowing occupants to live in privacy and dignity.

Equity and diversity

Article 27 of the Kenyan constitution states that “every person is equal before the law and has the right to equal protection and equal benefit of the law”. It promotes equity and diversity by stating that “the State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth”.

Public participation is a means to ensuring equity and diversity in urban areas. However, there is inadequate stakeholder mapping and targeting. Moreover, there is limited understanding among large sections of the populace on the purpose of the public participation process. Huge sections of the citizenry are not aware of their rights, and therefore, are unable to effectively participate in citizen forums.

However, capacity building through civic education can be a fundamental precursor to successful public participation processes. There remains a critical mass of important groups within the society who feel marginalised and left out even on matters that affect them directly, and as such, much more needs to be done to promote inclusivity in this process.

Vulnerable groups, such as the physically challenged, should be catered for in housing. The planning and design of neighbourhoods should be universally accessible for comfort and mobility around living spaces. Young children should have access to open spaces for playing and interaction within the view of their caregivers. Pricing of affordable housing should cater for most of the population bearing in mind the average median income.

Rights and responsibilities

Article 35 of the Kenyan constitution guarantees every citizen the right to information held by the State. This right is realised through the Access to Information Act of 2016. Public participation addresses the fundamental need to share information with the public through civic education, awareness creation and consultation. In turn, the citizens are then able to make decisions that affect their fundamental rights.

Opportunities, platforms and channels for consensus, dialogue and public participation have been created in the second schedule of the Urban Areas and Cities Act of 2011, which provides for the participation of residents in affairs of their city or urban areas. Further, written or oral presentations can be submitted as a way of information sharing for decision-making. In addition, cities or urban areas are obligated to develop a system of governance that encourages participation by residents in their affairs. These avenues should enable citizens to give their views based on divergent interests and representation on the implementation of government initiatives within urban areas. In turn, citizens are bestowed with responsibilities that come with the information in how urban areas are managed.

Knowledge is power that can enhance decision-making among citizens. The government's current affordable housing programme is fully accessible online with all the information available through the website bomayangu.go.ke. However, much more needs to be done to disseminate this information to those who cannot access this resource. For instance, the use of mobile USSD services guarantees access to those without smart devices and internet connectivity. Further, the citizens' forums established in the Urban Areas and Cities Act of 2011 provide avenues for citizens to access information and discuss pertinent issues that need resolution through affordable housing.

Democracy

Public participation is considered a crucial pillar of the Kenyan constitution as it promotes democracy by providing the public with the opportunity to take part in decision-making processes with the two levels of government. In a democratic city, citizens participate in collective decisions based on informed majoritarianism. Dialogue among citizens sets a good premise for citizens to appreciate and leverage their worth to enable successful delivery of government initiatives to meet their needs in accessing urban goods favourably.

The context of affordable housing in Kenya

The majority of the people in the world today live in cities and urban areas, with nearly one billion people found in slums and informal settlements. By 2050, roughly two-thirds of the world's population will be living in urban areas. The global urban population is projected to grow by 2.5 billion urban dwellers between 2018 and 2050, with nearly 90 per cent of the increase concentrated in Asia and Africa.

In Kenya, rapid growth of urban populations is happening faster than can be supported by the existing urban goods and services in many upcoming urban areas, forcing most urban dwellers to live in informal settlements. At the heart of this pressure is the issue of inadequate affordable housing accessible to most of the population. This significantly reduces access to proper sanitation, water, clean energy, healthcare, and financial services, among others, making cities unjust for the urban majority. UN-Habitat estimates indicate that more than half (55 per cent) of the urban population in Kenya lives in slums.

The world over, there is a concerted effort to increase the stock for affordable housing through social and participatory approaches that align with social planning, as outlined below.

The New Urban Agenda

Agreed upon at the Habitat III conference held in Quito, Ecuador, in October 2016, the New Urban Agenda guides the efforts around urbanisation and provides the implementation framework for Sustainable Development Goal 11 to make cities inclusive, safe, resilient and sustainable under the 2030 Agenda for Sustainable Development. Following the general principle of “*Leave No One Behind*”, it exemplifies the just city concepts of dignity, equity and diversity with a shared vision of “*Cities for All*” and further promotes the “*Right to Adequate Housing*” that calls for participatory engagement as a tool for progressively achieving adequate standards of living for different income groups of society.

The New Urban Agenda clearly identifies social planning tools, such as participatory design, inclusivity and civic engagement, as avenues for achieving affordable housing, a view echoed by the State Department of Housing and Urban Development in Kenya in its commitment to provide housing and basic services.

Agenda 2063

Agenda 2063 was a solemn declaration made in 2013 by African heads of state and government during the 50th anniversary of the formation of the Organisation of African Unity (now known as the African Union). Agenda 2063 is a shared framework for inclusive growth and sustainable development in Africa to be realised in the next fifty years. The guiding vision emphasises building an integrated, prosperous, and peaceful Africa, driven and managed by its own citizens and representing a dynamic force in the international arena.

Its first flagship project aims to accelerate the implementation of an African integrated high-speed network to connect all African capitals and commercial centres, ensuring inclusivity and connectivity of all urban areas through the Africa High Speed Train, a major contribution towards connectivity of the continent. At its core, Agenda 2063 is a people-driven initiative and a continuation of the drive for unity, self-determination, freedom, progress and collective prosperity pursued under Pan-Africanism and the African Renaissance.

Kenya's Vision 2030

The Kenyan government's guiding blueprint for development aims at transforming Kenya into an industrialised middle-income country by the year 2030. Vision 2030, which is being implemented in phases through successive five-year medium-term plans, is currently implementing the third Medium Term Plan (MTP III) 2018-2022.

The Vision is based on a trio of economic, social, and political pillars and aims to achieve a high quality of life for all the citizens of Kenya. One of the targets of MTP III under the social pillar is to deliver 500,000 low-cost affordable housing units. This is hoped to be developed and achieved through an all-inclusive and participatory stakeholder consultative process. This process is further carried through into the government's Big Four Agenda.

Big Four Agenda

On 12th December 2017, President Uhuru Kenyatta launched “The Big Four Agenda” as a plan for economic development in Kenya. The Big Four Agenda focuses on basic needs critical to improving the living standards of all Kenyans on the nation's path to becoming a middle-income country by 2030. The agenda prioritises four areas expected to bolster strong inclusive economic growth, namely, universal healthcare, affordable and decent housing, food and nutritional security and employment creation through manufacturing. Urban areas form the largest platform on which these four areas will play out to enable the delivery of the Big Four. One of the four pillars focuses on the provision of 500,000 units of affordable and decent housing by 2022.

Public participation in Kenya's Affordable Housing Programme

The Big Four Agenda came at an opportune time when there was a fundamental shift in the engagement between the government and its citizens, paving the way for inclusive delivery of the Big Four Agenda, and specifically, affordable housing.

State actors

In this regard, the government must make deliberate efforts in facilitating the engagement of citizens that is both effective and fruitful. Increased public participation in the provision of affordable housing bestows upon citizens the right to information and knowledge that is available and accessible as well as the right to decent housing.

The prescribed guidelines for dialogue and public participation, as espoused in the Urban Areas and Cities Act of 2011, enable citizens to give their views based on their divergent interests and allow representation on the implementation of affordable housing. This demands that the citizenry undertake the responsibility to become accountable at all levels of engagement, which triggers a proactive and constructive engagement with state actors.

In turn, this ensures ownership of the Affordable Housing Programme for the overall benefit of citizens and the fulfillment by the state of its mandate to provide decent and affordable housing to its citizens.

The state actors include both national and county levels of government and their agencies that are participants in the provision of affordable housing. In 2018, following the announcement of the Big Four Agenda, the State Department of Housing and Urban Development embarked on a robust plan in a quest to fulfil its mandate on affordable housing. It set out on a campaign to communicate and engage with the public to explain the aims of the programme through the dissemination of information on all the key aspects of registration, allocation of homes, and other salient features. This was conducted across the country using a variety of media and dissemination methods to ensure that the information was accessible to all persons.

The programme also incorporated social safeguards in its principles that consider the needs of vulnerable groups, such as ensuring universal access for persons with disability and the elderly, design considerations for different household types, taking into consideration family size, single parent homes, child-headed families, as well as cultural and socio-economic activities. As a result, the programme offered varied options to ensure inclusivity of all groups. For instance, bedsitters would only be available to students while large families would be given priority for the two- or three-bedroom units. The programme continues to include revisions to the original development framework based on the experiences from the implementation of its flagship project along Park Road in Nairobi, as well as feedback from various stakeholders.

The Affordable Housing Programme, which is open to participation by all Kenyans above the age of 18, enables citizens to register via the *bomayangu.co.ke* portal. This registration is facilitated through various options, including Huduma Centres that are spread across the country. Further, the portal, which allocates one individual to one home, will enable all who are registered to have an equal chance to access affordable housing. However, despite this being an equal for all opportunity that enables the programme to achieve equity and diversity towards a just city, the random balloting has been seen as a game of luck. A lot more citizen engagement needs to be done to ensure equity in the programme.

The announcement by the government in 2018 to levy a 1.5 per cent housing tax on all salaried employees to fund affordable housing as part of its Big Four Agenda was met with great resistance from the public. The process of arriving at the decision lacked the critical component of public consultation, which left out the opinions of the majority of citizens. Through further consultation and as a result of public outcry, the levy was eventually abolished to the great relief of employees.

However, the subject of affordable housing remains a big hurdle for the government at both national and county levels. There is an increase in demolitions to pave way for new housing construction, new roads and other critical infrastructure. This is being carried out with minimum consultation with the affected persons. Issuing of notices to vacate by state actors is not enough; there should be provision of alternative land for temporary relocation as more permanent settlement areas are being developed. This will promote just and affordable housing in the long run.

Fighting infrastructure-related evictions in Manila

When the local government did not respond to protests over large-scale forced evictions in Manila, an association of poor people known as DAMPA called on the Government of Japan to investigate the violations of the rights of people displaced by a Japanese-funded infrastructure project. The project included a highway flyover, an aqueduct, a railway extension, and an airport expansion.

In 1996, a Japanese-funded fact-finding team, including representatives of academia and NGOs, made a much-publicised visit to the Philippines' capital. They found that people had been evicted without prior consultation or notice. In relocation sites, people were left without basic services, such as water and electricity. The affected people were also not consulted on where these relocation sites should be located. The implementing agencies had also reneged on promises of compensation and support services.

The mission's findings were publicised in all the local newspapers, and the recommendations were communicated to the Japanese government. Japan subsequently investigated the complaints of the affected communities in Manila and decided to cancel funding for projects that involved involuntary resettlement.

Source: Asian Coalition for Housing Rights, 1997

Non-state actors

Apart from the national and county governments and their agencies, most of the citizen engagement forums are organised by non-state actors who have an interest in state matters. These forums are well-defined in Section 8(3) of the Urban Areas and Cities Act (2011) as members of the ad hoc committee. To this end, several citizens' forums have been conducted since 2018. In particular, the Kenya Alliance of Resident Associations (KARA) and the Civil Society Urban Development Platform (CSUDP) partnered to initiate and facilitate urban dialogues anchored on the town hall format in the counties. This was informed by a dire need to strengthen collaboration amongst stakeholders in the approaches and instrumentation for effective public participation.

The first series of these town hall dialogues sought to inspire debate on the practical role urban citizens can play towards the realisation of the Big Four Agenda, and specifically that of affordable housing within urban localities. Dubbed "*Opportunities and roles of citizens in the realisation of the Big 4 Agenda*", the initiative aimed to provide citizens with a forum to positively identify opportunities and to prioritise their roles in the realisation of the Big Four Agenda at the county level under which affordable housing is a major goal. Through these forums, citizens will engage with the county governments to generate consensus on the Big Four Agenda and discuss the roles and responsibilities of both state and non-state actors.

Conclusion

In conclusion, while the efforts by the above actors are commendable, the nature and mode of engagement has made very little headway in fostering true engagement amongst stakeholders. It is only through structured citizens' engagement that the outcome of the Big Four Agenda will reflect the hopes, aspirations, roles, and opportunities of citizens.

The Development Framework Guidelines for the Kenya Affordable Housing Programme offers some practical takeaways that form key steps required to develop a successful public participation programme:

- Organise meticulous participation for the citizenry that commits the necessary skills and resources to facilitate successful engagement.
- Conduct a situational analysis that identifies and builds relationships with key stakeholders.
- Choose appropriate levels of public participation for each phase of the project as guided by (Arnstein, 1969) the "ladder of citizen participation" that moves from non-participation towards a degree of ceding power to the citizens.
- Integrate public participation in every step during the decision-making process.
- Develop public participation tools that match the objectives of the participation process and that help to inform, engage, and build consensus, and which incorporate public inputs into decisions. Surveys, workshops, focus group discussions, social media, public forums, and mass media are avenues that can be used to improve the process of public participation.

Social planning should enhance the just city concept as a discipline influencing the effectiveness of delivering affordable housing in cities and urban areas. This makes access to affordable housing a central urban planning goal. Public participation should ideally constitute the first stage.



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PART IV



PILLARS OF Socially Just Public Transport

AVAILABLE

- Does not delay people's travel
- Connects the city to majority of its citizens



PILLAR 01



PILLAR 02

ACCESSIBLE AND AFFORDABLE

- Safe for all (lighting, crossing)
- Secure for all
- Affordable for low income earners

INCLUSIVE

- Does not leave anyone behind
- Makes arrangements for PWDs, children, pregnant women, the elderly
- Involves all in planning, design and meets their needs

PILLAR 03



PILLAR 04

HUMAN RIGHTS AND EQUITY

- Non-discriminatory
- Safe alternatives to all
- Routes cover all areas including informal areas
- Promote decent work to the public transport workers



SUSTAINABLE

- Meets the needs of future population as the city grows
- Does not pollute the environment
- Does give space for pedestrian and bicycle users

PILLAR 05



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CHAPTER 10

IS KENYA'S PUBLIC TRANSPORT SOCIALLY JUST?

ANNE KAMAU AND ERICK MANGA

This chapter examines the progress that Kenya has made in the development of a socially just public transport system, and the challenges and dynamics involved. It defines the pillars of a socially just public transport model as: availability; accessibility; inclusivity; fairness; affordability; reliability; sustainability; and safety in the provision of the service.

Challenges in the Kenyan public transport system are attributed to increase in population, urbanisation, and discrimination against disadvantaged groups. Previously established colonial practices are reviewed to determine how they have influenced the dynamics of the present transport system in terms of concentration in urban areas, operation, and ownership.

Currently the transport system in Kenya is mainly composed of privately-owned and operated transport options, referred to as "paratransit system". This poses a challenge in the development of a just system, as there are competing interests, complex relationships, and unequal power relations among the actors in the public transport sector. How public transport needs to evolve to cater for the growing population, and for alternative non-motorised means of transport, has to be discussed.

The authors note that the Kenyan government has developed infrastructure that intends to promote inclusion, mobility, accessibility, and participation of all citizens. Even though there have been challenges, notable achievements have been made across major urban centres in Kenya, such as opening up of urban and rural areas through construction of new roads and improving existing ones, construction of pedestrian walkways and crossings, including for persons with disabilities, and installing and maintaining street lighting to enhance visibility at night. Ongoing provision of infrastructure for non-motorised traffic is evident in the cities of Nairobi, Kisumu, and Mombasa. However, there are still shortcomings that suggest that there is still more work to be done to achieve socially just public transport systems in all of the country's urban areas.

Introduction

Despite conflicting views on Kenya's rate of urbanisation, the country has experienced tremendous growth in national and urban populations since the attainment of independence in 1963. Kenya's urban population increased from 8.8 per cent between 1960 and 1970, to 20.9 per cent between 2000 and 2010, and is projected to exceed 36 per cent between 2030 and 2040. United Nations data on urbanisation trends show that the country's urban population grew at an annual average rate exceeding 7.9 per cent between 1970 and 1980 and was further projected to an average of about 4 per cent beyond 2010 through to 2040.

Nairobi is among the African cities listed as having a high urban growth rate. National census data show that Nairobi's population more than doubled between 1979 and 1999, from 800,000 to 2 million. By 2019, Nairobi's population had grown to 4.4 million. There are many drivers of urbanisation which vary with context. The main one in Kenya is due to natural

population growth and rural-to-urban migration because of economic development and the changing patterns of demand for and supply of employment in favour of urban areas.

This phenomenon is evident in East Africa and is attributed to the colonial heritage. The spatial structures of most African economies like Kenya became concentrated in a small number of economically productive geographical areas or cities. The British colonial regime in Kenya established centres of administrative, cultural, economic, and recreational activities in certain areas, which gave the regime easy access to railways, ports, and roads for the movement of goods.

The emergence and growth of major urban centres in Kenya like Nairobi, Kisumu, and Nakuru trace their origin and growth to the construction of the Kenya-Uganda Railway, which in Kenya started from Mombasa in 1896 and ended in Port Florence (now Kisumu) in 1902.

Although Mombasa was a maritime trading port and urban centre since the eleventh century, the railway line increased its commercial value as a port to the colonial economy.

Most of these centres were racially segregated in terms of spatial planning, settlement, and service provision, which would later have an influence on public transport provision. By 1900, Nairobi, for instance, had already become a fairly large settlement consisting mainly of railway buildings and separate residential areas for Europeans and Indians, the latter mainly being the labourers employed on the railway's construction. There were European and Indian residential areas, but no areas were designated for the predominantly male African labour that lived and worked in the city, with the result that Africans lived in dense, unplanned settlements with few amenities.

The Europeans lived in segregated residences away from Indians and Africans. European residential areas were the least dense and had the best infrastructure and amenities. Meanwhile, part of the Indian population, which had been discharged from railway employment, established shops not far from the railway station, an area that later came to be known as the Indian Bazaar. The Indians used their buildings both for business and as living quarters. The few Africans who provided labour for the railway lived in sub-standard housing while others lived in shanty villages in the eastern part of Nairobi. It was in these areas that the newly established transport systems concentrated and to which the populations drifted. This element of racial segregation in human settlement, to a large extent, shaped future spatial planning and public transport provision in Nairobi and other cities, and entrenched persistent inherent inequalities.

Forms of public transport in Kenya and their history

Kenya's public transport services are largely informal and privately owned. The two main state-owned and financed public transport services in Kenya include the (now defunct) Nyayo Buses and the standard gauge railway (SGR) that links Mombasa to Nairobi. Most public transport in the country is run commercially and is in private hands (commonly known as paratransit). The paratransit are privately-owned public service vehicles (known as matatus) and are the main mode of public transport in Kenya.

Kenya's public transport services emerged in response to growing urbanisation and industrialisation of Nairobi. In the late 1960s and early 1970s, public service vehicles provided by the London-based Overseas Trading Company (OTC) through

the local franchise, Kenya Bus Services (KBS), were introduced to provide the link between industries and the living quarters of Indian workers. Hence, from their very inception, public transport services in Nairobi began from a point of racial segregation.

Africans, mainly men, who worked in the industries, were restricted from accessing European residential areas, and they had few transport options. At the same time, women were restricted from walking around in the city centre. With time, old vehicles emerged that provided slow, unsafe, unreliable, and "illegal" public transport services to the Africans. They were, nonetheless, the only means of transport for these workers who also had close ties with the rural populations in the so-called Native Reserve Areas. Many of them worked during the week and travelled back to their rural villages over the weekend.

At the time, rural-urban connections were poor, with minimal public transport, poor roads, almost non-existent public transport infrastructure and few vehicles. Stories are narrated of how one vehicle would serve an entire route and those travelling, even from regions close to the city, like parts of Central Kenya, would begin their pre-planned journeys from as early as 3.00 am and arrive at their destination more than 12 hours later, with several vehicle breakdowns along the way. With increased road infrastructure and public transport services, such journeys now take about two hours and pre-arranged travel is no longer necessary. In colonial times these vehicles often terminated their routes at the edge of the city.

The differential provision and access to public transport services in Kenya has continued even with urbanisation within a class-structured system that perpetuates preference for private car ownership over public transport use by individuals of higher social-economic status. The public transport system mainly serves low-income urban populations who lack alternative convenient means of travel. Walking is also the norm for many urban low-income earners, either due to lack of public transport services in areas where they live or because they cannot afford to pay for public transport services. Whereas, historically, public transport provision favoured certain areas of the city, these differences persist, thus raising the question of fairness and justice in the provision of public transport in Kenya's urban areas. The paratransit's are often excluded from city and town planning, including in the latest Bus Rapid Transit (BRT) plans for Nairobi. Discussions on BRT are often directed towards removal of matatus from major city routes and replacing them with high capacity vehicles.

A short history of the matatu

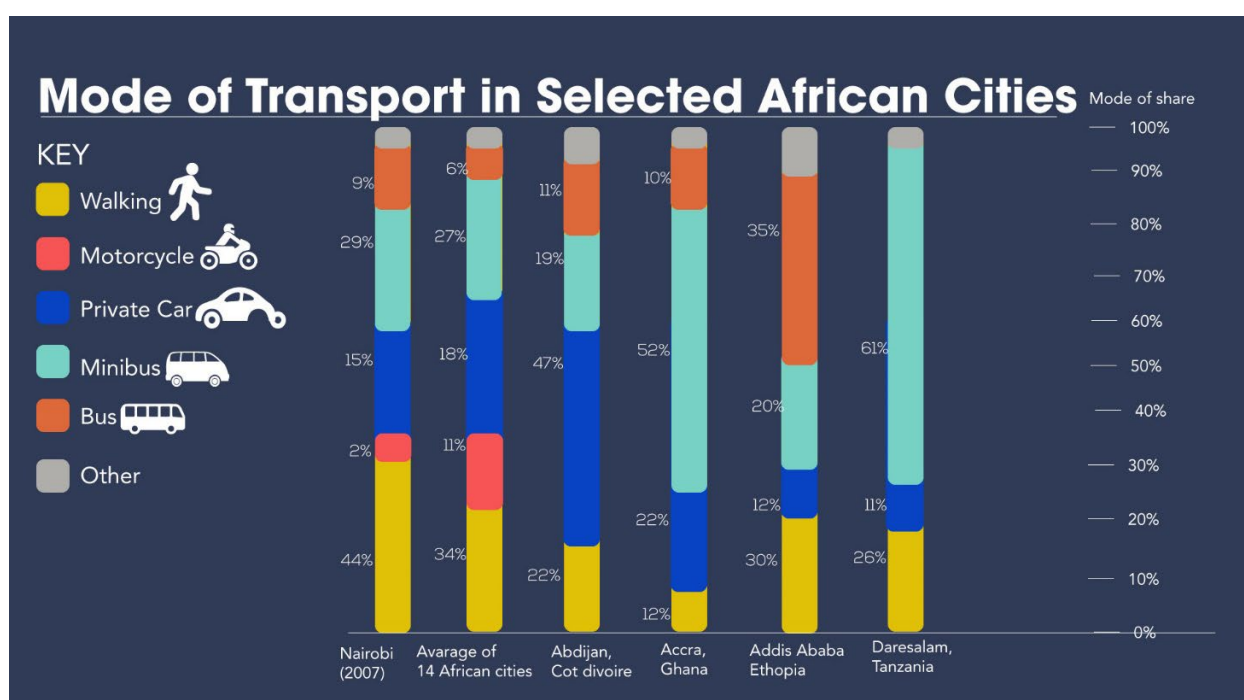
Matatus (privately-owned minibuses) have been operating in Nairobi since 1953, first coming onto the scene as “pirate taxis” when the Kenya Bus Company had sole franchise for public transport within the city’s borders. However, in 1973, President Jomo Kenyatta allowed matatus to operate within the city after intense lobbying by matatu owners. The owners subsequently formed an association known as the Matatu Vehicle Owners Association, which was banned in 1988 following a series of strikes. The association was allowed to resume operations in the early 1990s.

Currently, matatus account for nearly a third of trips made in Nairobi. However, regulation of this sector has been difficult due to the enormous clout that matatu owners wield and because corruption has pervaded the sector, resulting in rising cases of accidents involving matatus. There is also deep resistance to enforce regulations among the owners, who are concerned mainly with profits and not with passenger safety. Nonetheless, there have been attempts to bring about some sanity in the sector, with vehicles carrying capacity, route services and public transport workers’ behaviour and conduct being regulated.

With the planned introduction of safer and more efficient modes of public transport, the matatu may become a thing of the past in the future, but for now it remains a popular form of public transport in Kenya’s urban areas. Some would argue that matatus have given rise to a unique urban subculture. The late Wahome Mutahi, a satirist and playwright, described matatus as “a microcosm of larger Kenyan realities” where people of different backgrounds share a common space and where Kenyans’ ideas about masculinity, gender relations and class are played out.

Source: Mungai, 2013





Sources: JICA, 2006; JICA 2014

Socially just public transport as a concept

Social justice is a sub-category of the wider term “justice”. It is anchored within a broader framework of human rights, particularly as concretised by documents, such as the Universal Bill of Rights, which state parties have operationalised through country-specific laws. Social justice practices are conceptualised within the precepts of distributive and procedural justice. As such, social justice proactively aims at creating equity and fairness in society for all, but particularly for disadvantaged groups, for example children, persons with disabilities, women, the elderly, youth and even those who are within the lower income bracket - that is “the economically poor”. These groups should have unfettered access to public goods, taking into consideration their conditions. The state, as the prime

guarantor of social justice, should shoulder the “necessary burdens”, for example, cost of access, service provision, communication, and time costs, which may be a hindrance. The term “necessary burdens” assumes that the costs incurred in advancing social justice are necessary.

Social justice can be achieved through equality in access to opportunities and high-quality services. Emphasis is on the need for inclusive policies that ensure that all people have the same set of rights or entitlements even if this means providing extra support to vulnerable populations and persons with special needs. (Hatherly, 2011)

Nairobi: The walking city

A Personal Travel Survey by the Japan International Cooperation Agency (JICA) in 2013 found that more than 40% of trips in Nairobi are made on foot. Compared with other African cities, Nairobi has the largest share of people for whom walking is the main form of transport. In Dar es Salaam, for instance, 26 per cent of trips are made on foot, while in Accra, just 12 per cent of trips are made using this mode of transport.

As incomes rise, and as more affordable modes of public transport are made available, it is expected that the proportion of people in Nairobi walking to and from work and other destinations will likely decline in the future. However, promoting walkability is essential for sustainability in rapidly growing cities like Nairobi, but what is lacking is the right infrastructure to support non-motorised transport systems. In a city where a large proportion of the residents walk largely because they cannot afford to use public transport, it is surprising to find a significant lack of pavements. Most streets do not cater for pedestrians and many of the existing pavements are in a dilapidated state.

Nairobi's social and income divide is reflected in its streets. Urban planners and policy makers plan for wealthy car-owning residents and motorised transport, not for pedestrians, who tend to be the poor working classes. Hence the emphasis is on highways and other road infrastructure. This is in sharp contrast to trends in Europe where citizens are reclaiming their streets as public spaces by re-designing streets so that they are accessible only to pedestrians and cyclists. For example, London made parts of the famous Trafalgar Square inaccessible to cars while cities such as Copenhagen and Amsterdam encourage the use of bicycles.

The reclamation of streets as public spaces has immense social benefits. Streets become the great levellers where people from all walks of life can meet and interact. This promotes social inclusion.

Building more pavements with adequate street lighting would not only making walking safe for Nairobi's low-income earners but would also encourage those who are likely to use motorised transport to walk. This will ultimately deliver health and environmental benefits to all residents of the city.

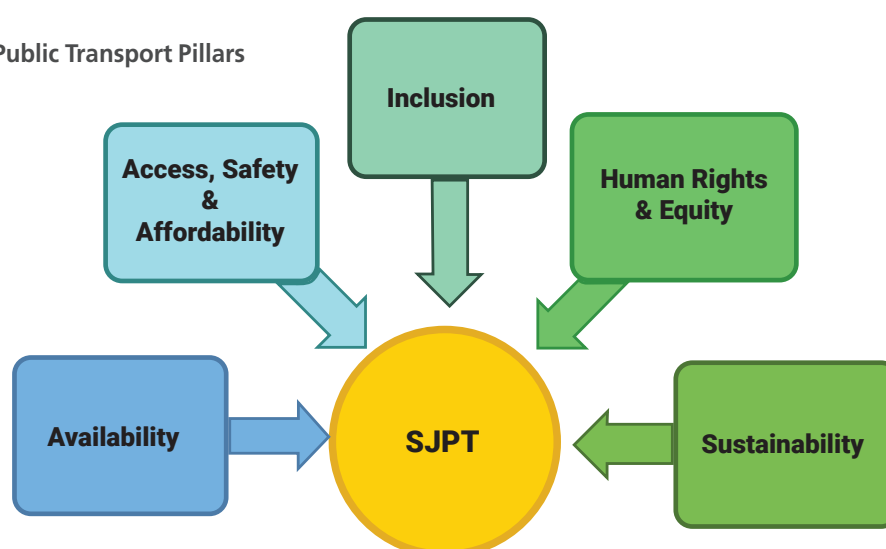
Sources: Warah, 2018; JICA Personal Travel Survey, 2013.

In the context of public transport, a social justice model should enhance equal access to equitable public transport processes and outcomes. A case in point is whether the public transport system as a sector provides employment opportunities, for example to vehicles owners, crew and service providers, and even regulators; and whether this includes such groups as women, youth and persons who are physically challenged. Also, whether resource allocation and infrastructure development consider the needs of users and owners of public transport services, and distribution of benefits to all, including women and "invisibles", such as children, elderly persons, the sick, pregnant women and those travelling with children. Regarding distributive justice, all citizens should have access to public transport means that are available, inclusive, fair,

affordable, reliable, timely, safe, user-friendly, and environmentally just. These elements form the core pillars of a socially just public transport system.

From the literature available, there are no defined or prescribed minimum standards of "socially just public transport". An attempt to assess whether a public transport system is socially just requires identification of key pillars that can be used as a bare minimum, depending on the context. The discussion in this chapter relies on the five pillars developed by the Socially Just Public Transport Working Group (SJPT-WG) based in Nairobi, as captured in the figure below. The group explores catalytic projects and activities that can create positive change in the public transport sector in Kenya from a social justice perspective.

Socially Just Public Transport Pillars



Source: Kamau and Mungai, 2020

01

Pillar 1: Availability

This pillar asserts that a socially just public transport should be available, adequate in proportion to the needs of users, and convenient for all users. It should also include adequate provision of different forms of transport infrastructure and enhance intermodal connectivity within major urban areas and their environs. Available transport should be responsive to the needs of all users, both the rich and the poor, as well as vulnerable groups like children, the elderly, pregnant women, persons with disability, and the sick. For instance, public transport should provide last-mile connectivity for users and provide alternative safe transport modes in areas with poor connectivity while promoting human dignity. Further, it should provide adequate modal integration and reliable fleet schedules that result in less travel time.

02

Pillar 2: Safe and Affordable Access

The United Nations Sustainable Development Goal 11 calls for the establishment of inclusive, safe, resilient, and sustainable cities and communities that enable citizens to advance socially and economically without compromising the future. Providing safe and affordable public transport should be a prime concern for any public transport system and should be considered one of the pathways towards realising this goal.

A socially just public transport system should thus ensure safe access for all users. This can be enhanced by: providing clearly marked crossings and intersection points and safe alternative modes of transport (i.e. non-motorised transport (NMT)); discouraging overloading and careless driving through effective enforcement mechanisms; observing hygiene and proper sanitation within vehicles and bus stations and dropping points; having well-lit bus stations, streets, and roads, including crossing and intersections points; providing safe boarding provisions for passengers with special needs; and ensuring safety of last-mile passengers.

A safe public transport system should also have provisions that protect female users from sexual violence and further provide reporting mechanisms for such cases whenever they occur, such as a hotline number.

Similarly, a public transport system that seeks to provide affordable access should provide regulated and standardised fare charges that cushion the poor and vulnerable. It should also have fare provisions for passengers with special needs, as well as for those living in low-income areas and informal settlements. To enhance fairness and accountability, it is important to display information on routes and fares in strategic places that are accessible to all users and integrate this across various modes of public transport.

Further, it may be necessary to adopt mixed land use methods within urban areas to reduce the distance travelled to work by those who fall within the low-income bracket. This should consider the fact that housing and residential areas that are located close to commercial districts lessen the need for public transport.

03

Pillar 3: Inclusion

In line with the United Nations Sustainable Development Goal 10 principle that no one should be left behind, a socially just public transport system should seek to reduce inequality and push for universal access while paying attention to the needs of all persons. An inclusive public transport system should: ensure that the transport infrastructure meets the needs and demands of different category of users; strategically avail user-friendly information on different aspects of public transport, such as fare charges, schedules, and safety measures; provide adequate space for different categories of users and providers (i.e. reserved seats for passengers with special needs); ensure active inclusion of different stakeholders including users in planning and implementation of public transport policies and projects; and involve marginalised members of society (women, youth and the physically challenged) in public transport investment, operations, regulation, and enforcement. This should ensure that crucial socially just elements are included in the design and implementation of road projects, such as safe crossings for children and pedestrians, and for persons who may have mobility limitations and challenges.

04

Pillar 4: Human Rights and Equity

Freedom of movement is a human right issue that is partly enabled through the provision of public transport systems. Whereas a public transport system may be available, it might not guarantee access to all, nor might it cater for the special needs of users. It might also not promote human dignity, and in some cases, it could be discriminatory or fail to observe basic aspects that allow all users (women, children, the elderly, and persons with disability) to move freely at any time and to any place using the existing systems.

These are core values that a socially just public transport system should strive to achieve to ensure that all persons have equal right of access and use of public transport systems, and that their mobility needs are not curtailed by feelings of insecurity, lack of privacy or failure to uphold human dignity. Freedom in the context of public transport could simply mean the ability to choose from different travel options and modes, having the opportunity to choose from these options and settling on the best preferred mode, as well as being able to move freely without interference.

It is the responsibility of both the government and service providers to ensure that citizens enjoy the right to access, and that they use and interact with dignified public transport services. The government should, for instance, provide equitable and sufficient budgetary allocation to support public transport provision in all areas, and create an enabling environment for public transport service provision, including enabling the creation and equal access to employment opportunities in the sector. Basic services, like sanitary facilities should be provided whereas measures to deter discrimination and all forms of abuse, violence and harassment towards users and providers should be in place.

05 Pillar 5: Sustainability

Sustainable Development Goals 11 and 13 call for the need to take action to combat climate change and its impacts. The public transport sector is linked to climate change effects, with the current greenhouse gas emissions from public transport in Kenya estimated at 15 per cent, most of this from major cities like Nairobi.

As Kenyan towns and cities are faced with increased urbanisation, public transport planning must be prepared to respond to the rising public transport needs, while taking cognisance of challenges associated with climate change. Moreover, a sustainable public transport system should address current needs without compromising the ability of future generations to meet their own.

There are critical factors in the realisation of a sustainable public transport system. Planning for sustainable urban transport requires provision of adequate space for expansion of both the current and future public transport infrastructure. This entails, one, setting aside and protecting road reserves alongside regulated use of public spaces within urban centres, and two, elimination or significant reduction of both air and noise pollution. This can be achieved by adopting specific measures that promote clean energy within the sector, including vehicle maintenance and fuel usage, encouraging citizens to rely on non-motorised transport; increasing the green areas by planting trees, reducing travel hours and distance through adoption of mixed land use approaches in planning major urban centres, introducing electric buses, and discouraging the use of private cars by providing safe, reliable and comfortable alternatives modes.

Inclusive city streets

In recent years, city streets have been recognised as an integral factor in the achievement of sustainable urban development. Various notions of streets have been proposed, including “liveable streets”, “complete streets”, “streets for all”, “quality streets”, “friendly streets” and “healthy streets”.

The “liveable streets” movement emphasises streets as the fabric of social and urban life. Safety, security, and social interaction are among the key components of liveable streets. The movement advocates for the use of non-motorised transport, such as bicycles and pedestrians-only streets. The “complete streets” movement focuses on traffic, safety, health, and inclusiveness.

All these initiatives call for better street connectivity that puts people first. They recognise that liveable, inclusive, or complete streets lay the groundwork for healthy communities. They advocate for the provision of amenities like seating, play areas, pavements and trees to ensure that both rich and poor urban residents, including women, children, the elderly, and the disabled, feel safe and included on streets and in public spaces.

Source: UN-Habitat, 2013.

Transport's contribution to greenhouse gas emissions

Globally, transport accounts for about 23 per cent of total energy-related greenhouse gas (GHG) emissions. While rich industrialised countries tend to be responsible for the bulk of these emissions, not all rich cities have similar emission rates. For instance, in London, New York and Washington DC, transport accounts for 22, 23 and 18 per cent of emissions, respectively, while in Sao Paulo and Rio de Janeiro, transport accounts for 60 and 30 per cent of emissions, respectively.

The high figures in Sao Paulo and Rio de Janeiro are partially attributed to the fact that these cities rely heavily on private motor vehicles for transport. London's emissions are lower than those of most cities in the developed world because the city has high levels of public transport usage, including an extensive underground rail system that carries a large number of commuters daily. In New York, few people use private vehicles due to the extensive public transport system and the high density grid design of the city, which makes walking a preferable option for many residents.

Source: UN-Habitat 2011

The Kenya's National Climate Change Action Plan (NCCAP) 2018-2022 identifies the transport sector as a key priority area. The NCCAP outlines options for the development of an affordable, safe and efficient public transport system aimed at reducing emissions in the transport sector as: introduction of BRT systems in Nairobi, use of electric hybrid vehicles (buses) to reduce fuel consumption; extension of the standard gauge railway (SGR) from Nairobi to other towns like Naivasha; and the construction of non-motorised transport facilities that include pedestrian and bicycle access within the towns centres and transit stations. These measures, if adopted, can promote clean energy use, and minimise emissions within the public transport sector.

The third aspect is about reconfiguring urban spaces based on emerging user needs and growing infrastructure development in cities and urban areas. In Kenya, there has been tremendous investment in road and infrastructure projects. These invest-

ments provide an opportunity for designing infrastructure that ensures social justice from the onset, instead of this emerging as an afterthought.

Urban public transport in Kenya: Progress and challenges

Whereas significant progress has been made in the public transport sector, there are still many challenges that undermine the realisation of a socially just public transport system in Kenya. Notable achievements across major urban centres in Kenya include opening up of urban and rural areas through construction of new roads and improving existing ones, installing and maintaining street lighting to enhance visibility at night, ongoing provision of infrastructure for non-motorised transport (NMT), particularly foot paths as is evident in Nairobi, Kisumu and Mombasa cities, in addition to developing an NMT policy framework.

Luthuli Avenue urban regeneration project

There are success stories in Nairobi that demonstrate that it is possible to achieve socially just public transport and public spaces that can drive urban transformation.

A case in point is the Luthuli Avenue regeneration project undertaken in Nairobi City by UN-Habitat in 2019 under the New Urban Agenda that redesigned the avenue and converted it into a one-way street. The Luthuli regeneration project sought to make the street a safe, inclusive, and vibrant retail corridor that provides a unique and quality urban environment for Nairobi's residents.

The project's creative features sought to promote mobility, accessibility, and safety along the street. The redesigned street features include: construction of a pedestrian walkway and crossings, including for persons with disabilities; painting of road markings; lights installation; traffic calming, intersection treatment and signalling to reduce vehicular carriageway; and enlarged non-motorised space – all of which ensure easy and safe human and vehicular traffic flow.

Other features are aimed at making the street healthier and inclusive by having multifunctional street spaces that include exhibition spaces, small parks and commercial spaces, street furniture, functional landscaping and planting of trees to improve the general aesthetics and promote air quality. There are also Pop Up public space installations to foster interaction with experts through dialogue and capacity building sessions like hackathons.

Documented ripple effects catalysing the urban corridor regeneration project include improved image of the city centre, opening up of new businesses and re-establishment of old ones, increased revenue for the city, improved urban safety and security, road safety, improved air quality and community ownership of the project.

Sources: Youth Café 2019; Mwangi 2019. 1st UN-Habitat Assembly Council of Governors.

There are other notable initiatives, such as the expansion of pedestrian walkways within Nairobi City aimed at decongesting traffic. These Nairobi Metropolitan Services initiatives are aimed at promoting non-motorised transport and putting pedestrians at the core of city planning by replacing the on-street parking spots with pedestrian walkways and cycling lanes. These initiatives are part of the wider Kenya government and development partners municipal development initiatives aimed at addressing the urban transport challenges within Nairobi and its environs. An example is the Nairobi Metropolitan Services Improvement Project (NaMSIP) which emphasises promoting growth, equity, environment, and governance in improving services in the metropolitan area, including transport systems, which are critical for economic development.

With enhanced regeneration of public spaces and re-organisation of the transport sector, there is increased entry and participation of women in the public transport sector even though the numbers are low. Women's participation in the sector is likely to increase with the introduction of the planned Nairobi Bus Rapid Transit (BRT), which also has potential to advance socially just principles in Kenya's public transport through reducing traffic congestion and air pollution, improving road safety, enhancing fare affordability, and possible formalisation of jobs. (EMBARQ,2013)

The potential benefits of BRT notwithstanding, studies equally show that this system of transport can perpetuate inequalities within the sector, depending on the design, model of financing and ownership, and the underlying political economy.

(Matteo,2017) . This notwithstanding, efforts towards the realisation of socially just public transport in major urban centres across the county is commendable but still far from complete. There are limitations of public transport systems in some major urban centres. For instance, the limited modal integration and poor connectivity within major urban centres and their environs, unreliable fleet schedules, and poorly planned and designed road transport infrastructure characterised by limited alternative modes.

There are also major shortcomings in realising safe access due to, for instance, lack of level-boarding facilities and seats for passengers with special needs, inadequate security provision at bus stations and dropping points, lack of or invisible demarcations at pedestrian crossings and intersection points within busy roads, and indiscipline among crew (conductors and drivers).

Air and noise pollution are other key concerns that are linked to poorly maintained vehicles, use of adulterated fuel and loud music. Other shortcomings include poor waste management at bus stations and along streets and main roads, poor hygiene, and sanitation due to inadequate facilities, and inadequate provision of basic social amenities like benches and shades at bus stations.

Overall, a political economy analysis of how the public transport sector is organised in Kenya is necessary to understand the challenges that undermine the realisation of a socially just public transport system. For instance, it is important to raise the following key questions: Who are the main actors in the

public transport sector? What are their interests and how do they affect provision of public transport from a socially just perspective? What should be done to address such impediments and by who? What are the necessary incentives?

Such an analysis should be done with the understanding that the main actors in the public transport sector are the government, which plays a regulatory role besides infrastructural development; the private sector, which predominately owns the transport modes; the operators who are key in driving the sector; civil society organisations that should act as watchdogs or a countervailing force within the sector; donor agencies (both multilateral and bilateral) which fund infrastructure projects; and lastly, users who access these services.

In the midst of all this, it is necessary to ensure inter-generational equity and social justice in public transport provision to enhance sustainability. Hence, the sector needs to avail, reserve and protect transport spaces in urban areas for both current and future use, regulate use of urban spaces considering the different category of users, and address both air and noise pollution from public service vehicles.

Under normal circumstances, a balance of interests and power relations among all actors would guarantee a just outcome. Consequently, it is right to posit that several challenges currently facing the sector in Kenya are mainly due to complex relationships, competing interests and unequal power relations among these actors, often to the detriment of users. These power struggles play out along the value chain all the way from conceptualisation and policy formulation, to actual implementation of public transport projects and programmes, with some being traceable to the colonial period. For instance, historically, the planning for transport infrastructure for public transport did not take into consideration matatus and other modes of public transport like *boda bodas* and three-wheelers that emerged later to fill the public transport service gap.

Conclusion

This chapter has explored how the concept of socially just public transport is engrained in the evolving urban development landscape in Kenya. The central argument in the chapter is that even though Kenya continues to experience rapid ur-

banisation and urban growth, public transport provision is still wanting in terms of availability, safety and affordable access, inclusivity, equity and rights, and sustainability, thus undermining the attainment of a socially just public transport system. Whereas significant progress has been made, for example in the gradual introduction of non-motorised transport across Kenya, the gains are minimal and mainly concentrated in major urban areas. The competing interests and prevailing power relations among key actors within the sector mainly favour public service vehicle owners, who are mostly private entities, at the expense of users and workers. Realising a socially just public transport systems in such a context becomes a mirage.

Despite this, any serious society has to confront these challenges since public transport is a public good. A just public transport requires a supportive political system sympathetic to the philosophy of social justice in service provision, including public transport. Hence, the following measures are necessary in ensuring this:

One, a multifaceted approach to policy formulation, planning and implementation that takes into consideration the input of various stakeholders and devoid of manipulation and domination by elites.

Two, more direct involvement of government in public transport ownership to alter the power relations, which currently favour private owners.

Three, innovative approaches that take into consideration local context during conceptualisation, planning and implementation of public transport infrastructure and systems.

Four, having well-organised and empowered user associations and civil society organisations that can act as a countervailing force that use their voice to offer alternative narratives.

Lastly, having clear regulations and proper enforcement mechanisms to ensure compliance by providers, operators, and users in line with the socially just pillars. Such a task cannot be realised instantaneously; it has to be progressive and, in most cases, involve a continuous struggle between progressive forces and those who prefer the status quo.



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CHAPTER 11

MAKING URBAN TRANSPORT AND PUBLIC SPACES SAFER FOR WOMEN

NAOMI NJERI MWAURA

Summary

This chapter provides a framework for how to address gender-based violence through transport infrastructure in Kenya. It seeks to study gender-based violence as one of the aspects that should be considered within urban studies and within the concept of “just cities”.

Women in both urban and rural areas face and are constantly under the threat of violence, harassment, and intimidation. One in three women experience some form of physical and sexual violence in their lifetime. Much has been written about the high rates of sexual and domestic violence that women experience in private spaces, particularly in the home. Less understood, however, is the unique form of sexual violence that women are vulnerable to in the public urban sphere.

In urban areas, women are more likely to experience sexual violence or harassment in spaces that are not designed for women’s safety. Several factors have contributed to women feeling unsafe in urban public spaces, including lack of female-friendly public spaces and gender-insensitive transport infrastructure. Safe, inclusive, and well-planned public spaces, infrastructure, urban services and transport can reduce violence and harassment that women and girls face and, therefore, increase their mobility and access to economic opportunities.

This chapter also aims to help governments identify and prioritise actions to improve urban safety through the right instruments, including national legislation and policy or institutional frameworks.

Introduction

Women and men experience cities differently. Sexual violence – or the threat of it – severely hinders women’s mobility in urban areas and negatively impacts their contribution to urban economies. World Health Organisation (WHO) figures show that in 2013, 35 per cent of women worldwide had experienced some form of sexual violence,

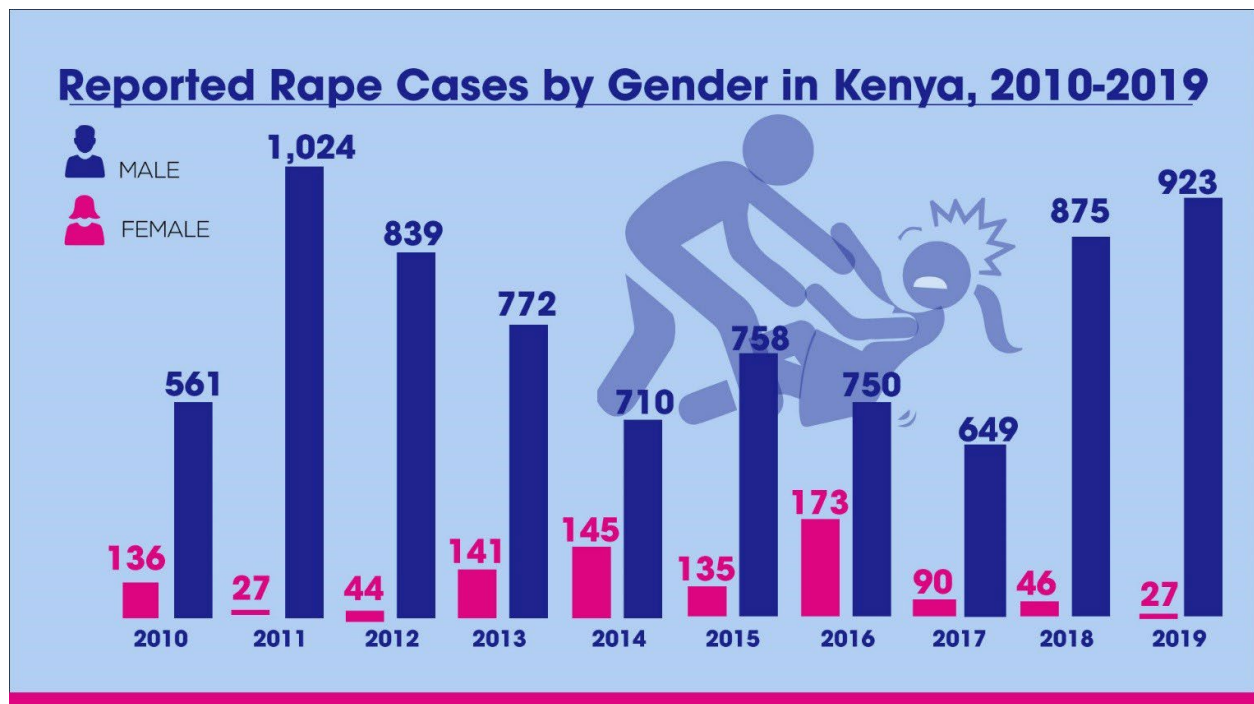
In urban areas, the increasing quest for justice, the right to public spaces and the “right to cities” approach have compelled urban residents and urban authorities to examine the relationship between urban spaces and gender, and to question how and why the “invisibility” of women is seen as a normal aspect of city life.

Studies point to four main reasons why women experience urban areas as hostile, unsafe environments:

- **Poor infrastructure**, particularly insufficient lighting on streets and in public spaces like bus stops and train stations, makes walking at night a risky prospect for women. Lack of clean and safe public toilets also impedes women’s mobility.
- **Public transport itineraries** are not sensitive to women’s needs. Not having enough stops on a route, for instance, means women have to walk longer distances to get to their destination. This exposes them to potential violence.

- **Zoning laws** are woman-unfriendly. They do not recognise that women need to balance their income-earning and domestic activities. If zoning allowed women to work from or near their homes, women would not spend so much time commuting and would also be able to take care of their families while earning an income.
- **Lack of childcare at work** further limits women's mobility and employment opportunities.

Several studies have revealed that women's and men's transport usage and experiences differ and are influenced by their gender roles and responsibilities, which are often invisible to transport planners and providers. While many cities in developing countries like Kenya make their claim towards building "world class cities", in reality, these cities remain unfriendly to women at multiple levels, which may contribute not only to physical violence against women but to symbolic and psychological violence too.



Sources: Kenya National Bureau of Statistics; Kenya National Police Service

A 2019 survey of safety in public and private spaces in Canada revealed that women were more likely than men to have been sexually assaulted or to have experienced unwanted sexual behaviour in public spaces. They were also more likely to experience cyberbullying online and sexual harassment in the workplace.

Not only are women more likely to experience these behaviours, the impact is greater on them. Women are more likely than men to have changed their routines or behaviours in response to being physically or sexually assaulted and to have experienced negative emotional consequences. Such experiences can exacerbate feelings of physical vulnerability among women.

Feeling unsafe in public spaces

It is worth noting that many studies on the geographical distribution of populations have not adequately stressed the question of gender inequality in urban spaces or gender-based division of labour. There is not enough gender disaggregated data on how men and women use public spaces and transport. These studies often also fail to discuss how such arrangements affect women's lives opportunities in the city.

Women's "right to the city" was first mooted by Henry Lefebvre in his book, *Le Droit à Ville*. In his essay on "The Right to the City", he highlighted the rights of the excluded and the marginalised, including women, who are part of the process of production in the city.

Because women's right to the city are not recognised, city planners fail to consider their needs, including their safety. However, several studies that focus on the profiles of women as users in transit environments and their safety point out that women are far from a homogenous group. For instance, based on women's individual characteristics and mobility

habits, they may react differently when facing the same situation. Thus, to consider women's needs in urban transit, it is essential to consider differentiated levels of vulnerabilities, for example women with disabilities, who are often an easy target for sex offenders.

Claiming the night in Montreal

In the early 1990s, the Comité d'Action Femmes at Sécurité Urbain (CAFSU), or the Women's Urban Safety Action Committee, began a project in Montreal, Canada, to make cities safer for women. Half of the members came from grassroots women's groups while the other half comprised representatives of municipal authorities and community organisations, city planners, university research groups, public transit officials, health and social services and the police.

CAFSU's primary goals were to reduce acts of assault against women and to get local authorities to deal with the issue of women's safety in public spaces. A poll in 1993 showed that 66 per cent of women were afraid to use public transport at night. The project resulted in significant changes in the public transport system: buses were allowed to drop off women in between stops at night and the new metro stations were surrounded by glass so that women could easily "see and be seen". In addition, emergency telephone booths were placed in strategic locations.

The CAFSU experience in Montreal is an example of how changes in public transport infrastructure can make cities safer for women.

Source: Drusine 2002

A 2017 study conducted by the International Development Research Centre (IDRC) in South Asia revealed that mobility varies widely according to gender. Masculinity affords freedom of movement in public spaces, while femininity is bound up in the domestic sphere. Mobile phones and the internet may be slowly breaking down barriers, but gender norms still shape the choices that most men, women, and sexual minorities make about work, education, and recreation.

Poverty and social exclusion compound the dilemma. A case study on women and transport in Guwahati in India catalogued the extent to which the lack of safe transport undermines the opportunities women and girls have for education and employment. Along with the daily onslaught of harassment, women detailed poor street lighting, poor road conditions, and overcrowded and infrequent buses as the biggest barriers to their public mobility.

Public spaces and infrastructure are usually designed for an abstract generic user. In most cases, even persons with

different physical abilities are considered neutral when planning cities and urban infrastructure. Infrastructural provisions that discriminate against some groups not only create everyday problems of accessibility for them but also reflect their marginalised position in society, rendering them invisible and reducing their opportunities to publicly lobby for change. Questions of infrastructure need to be examined within the framework of rights and citizenship and not through a perspective that frames women as victims or clients.

Needs and perspectives in public transport and related spaces

Various aspects influence how public transport is organised. If policies are well defined, then there are clear guidelines for taking decisions. Without policies, actions can be haphazard, inconsistent, and biased. Regulations define the rights, obligations, and freedoms of the operators, commuters, and the general public.

Public transport has been viewed from three different perspectives: passengers; operators; and the community. Each aspect has specific requirements used to measure performance. From the passenger's perspective, public transport is viewed as adequate when the service is available at or near destinations and at times when a passenger wants to travel and when sufficient capacity is available at the desired time. Affordability is also an important consideration, as evidenced by a Flone Initiative 2017 baseline survey report where the majority of the respondents (48%) stated that cost influenced their means of travel, compared to 20% who considered safety more important.

From the operator's perspective, the system must be designed and operated so that it meets passengers' requirements. The transport system's operations must be economical and technically efficient, with an ultimate goal of providing service along a route that minimises the operating costs.

From a community perspective, residents are concerned with costs and the negative aspects of public transport services. For example, communities living near major transport infrastructure, such as highways, may have concerns about air pollution and noise emanating from motorised transport. Public transport benefits the community as a whole when it contributes to social cohesion and sustainable environmental outcomes. All these factors have to be considered when designing a transport system.

Women-specific mobility needs and challenges

Several studies have focused on individual mobility constraints related to various characteristics of the individual, especially gender, but also age and disability. Most of these studies focus on gender-related mobility constraints and highlight that women generally tend to travel less and rely on more slow and inconvenient modes of transport. Furthermore, women often undertake short and dispersed trips related to childcare and household management, which often take place at off-peak hours and off the main routes.

The lack of safe and accessible transport for women workers, especially those with low income, limits their labour force participation, which confines them to a smaller pool of potential employers and jobs and reduces their ability to bargain over and improve the terms and conditions of employment. Where caring responsibilities are not adequately met, the lack of available transport only exacerbates women's dependency on a smaller set of job opportunities. If women are to participate fully in the urban economy, their mobility needs should be addressed.

In developing countries, differences in gender also exist in the choice of transport means and their access and, in turn, their influence on employment decisions. Women tend to have access to slower transport modes, as they walk and use public transport more than men.

After walking, public transit is the most important transport mode for women who can afford it. However, little attention is paid to the role of public transport in shaping women's labour and employment activities.

Women's safety concerns in public transport and related spaces

The right to mobility is intrinsic to women's access to public spaces. Yet, this right cannot be taken for granted. Much has been written about the high rates of sexual and domestic violence that women experience in private spaces, particularly in the home. Less understood, however, is the unique form of sexual violence that women are vulnerable to in the public urban sphere. This threat is especially prevalent on public transit systems, spaces that are governed by the power relations of a patriarchal society.

Crowded buses or trains during rush hours provide an opportunity for groping and all sorts of inappropriate sexual behaviours that are highly underreported. Several available pieces of literature have mentioned that the perception of lack of support, both during and after the crime occurs, highly contributes to victims deciding to not report to the police.



Making Indian cities more female-friendly

The brutal gang rape and torture of Jyoti Singh, a paramedic student, in a moving bus in New Delhi in December 2012 shocked and galvanised India, leading to many vigils and protests in the capital city. The protestors, who named Jyoti “Nirbhaya” (The Fearless), demanded that the perpetrators be brought to justice and that the increasing rape cases in Indian cities be addressed by the authorities. About 100 women and girls are raped in India everyday, but few of the perpetrators face justice.

Jyoti Singh eventually succumbed to her injuries and died. However, massive public outcry resulted in a fast-tracked trial of her rapists and led to stricter laws against rape and sexual violence.

Since Jyoti Singh’s death, women’s movements to claim public spaces have sprung up in Indian cities. In Mumbai, a group of women have started the Why Loiter movement that encourages women to “just loiter” in public spaces in the evenings and at night – in effect to claim spaces that have been denied to them by a culture that says a woman’s place is in the home. The movement’s advocates argue that, in fact, the home is the most dangerous place, for women who experience domestic violence at the hands of their own male relatives. They also argue that by claiming public spaces, they are asserting their right to the city and defying those who want to see women’s mobility curtailed.

In response to the epidemic of sexual violence in urban areas, a group of Indian women have also developed an online app that allows users to rate their streets for safety using criteria such as lighting, people density, security and transport.

Public transport authorities in India, especially commuter train services, have for a long time recognised that women feel safer when travelling with other women. Urban and suburban commuter trains in cities such as Mumbai have Ladies Compartments that only allow women and girls. Women prefer to use these “women-only” compartments because, they significantly reduce the chances of sexual harassment and molestation – a phenomenon locally known as “eve teasing”, which is rampant across urban India. In this case, segregation along gender lines actually works to the advantage of women.

Source: Warah, 2019



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In many cities, women, despite the threat of violence, have no option besides the public transport system. The threat of sexual violence is a barrier that prevents women from accessing, experiencing, and benefiting from these systems equally. A threat of violence curtails a woman's mobility, impacting how she negotiates her public space and the choices she makes about how, when, and with whom to travel.

A woman feels the pervasive threat of violence much further than modifications she makes to her travel patterns. A woman's fear for her safety is a violation of her right to the city, her access to the benefits of city life and her power over the processes of urbanisation. The violation of the right to the city limits a woman's potential agency in her city, her capacity to influence institutions, and her ability to obtain a livelihood, the implications of which go far beyond the choices specifically involved in travel.

The building of a more inclusive and equitable city involves working in historically masculinised spaces, including the transport and policy sectors. There is a clear connection between infrastructure and women's safety; certain spatial factors have been proven to create or reduce opportunities for crime and violence.

Managers of public transport systems need to be aware of the security needs of passengers, especially women and girls. The "whole journey" approach to safety (door-to-door) can be helpful to highlight aspects of the transit journey for women passengers that require special attention among transport providers, local governmental authorities, policy makers and researchers.

Using new technologies to fight gender-based violence

New technologies, such as digital platforms for reporting and analysing cases of violence, can be an alternative to using crowd sourced data to respond to gender-based violence. Although the use of these new technologies is still in its infancy in Kenya, it has shown promising results in addressing sexual harassment and assault on public transport. A case in point is the *Report It Stop It* crowd mapping platform by Flone Initiative that provides an opportunity to report cases of harassment on public transport in Kenya.

Social media has also played a part in exposing cases of sexual harassment and gender-based violence on public transport and in public spaces. Images of women being stripped in matatus (minibuses) for wearing "indecent" clothing have sometimes led to social media campaigns and resulted in the arrest of the perpetrators. In November 2014, for instance, women gathered in Nairobi to rally in support of a woman who had been assaulted by a group of men outside a bus stop. The attackers accused the woman of "tempting" them by wearing a miniskirt. The protests were the result of public outcry after a video of the incident was posted on YouTube. Under the hashtag *#mydressmychoice*, Kenyans on social media began a campaign to bring the culprits to justice. The woman who was assaulted did not report the case, but the campaign helped to highlight the issue of violence against women in public spaces.

However, social media alone cannot be relied on to deter such cases; there need to be gender-sensitive policies, laws and regulations for the transport sector in place as well, and a commitment to implement constitutional requirements on gender equity and equality.

Sources: *DW.com; Flone Initiative*

Post-election violence in Kenya in 2007-8 included gender-based violence, especially rape. In response to this violence, a 2010 study by the National Commission on Gender and Development developed approaches to institutionalise and strengthen gender-based violence response and prevention through coordination and policy advice. The study recommended the need to have national mapping of services to strengthen and upscale referrals since there was a higher rate of gender-based violence than service providers could handle.

It is also important to consider victimisation of other gender groups (such as the LGBTQ community) who are potentially a target of sexual violence on public transport.

Supportive policy and legislative frameworks

The transport sector in Kenya today is characterised by a supportive gender mainstreaming policy, and legal, strategic, and institutional frameworks. The 2010 Constitution of Kenya has institutionalised a number of international United Nations conventions on gender mainstreaming and equality, including gender equality conventions, such as the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), which the country ratified in 1984.

According to the Constitution of Kenya, gender mainstreaming is both a constitutional promise and a national policy requirement in all public (and private) sector institutions. The Constitution has made gender mainstreaming a national agenda across all government departments, and institutions. For example, a key principle in the Bill of Rights (Chapter 4) concerns gender equality and makes the following provisions, which are relevant to transport sector institutions:

- Article 27 (3) states: *Women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural, and social spheres.*
- Article 27 (8) states: *The state shall take legislative and other measures to implement the principle that not more than two thirds of members of elective or appointive bodies shall be of the same gender.*
- Article 227 (b) states: *An act of Parliament shall prescribe a framework within which policies relating to procurement and disposal of assets shall be implemented and may provide for the protection or advancement of persons, categories of persons or groups previously disadvantaged by unfair competition or discrimination.*

Kenya has an Integrated National Transport Sector Policy (Kenya Roads Board, 2009). The mission of the policy is to develop, operate and maintain an efficient, cost-effective, safe, secure and integrated transport system that links the transport policy with other sectoral policies in order to achieve national and international development objectives in a socially, economically and environmentally sustainable manner. The policy acknowledges that gender inequality exists in access and mobility levels and states that it is necessary to enhance gender balance, especially in the performance of individual and household-based economic activities.

In Kenya's Vision 2030 Medium Term Plan (2013-2017), gender mainstreaming has been incorporated into the vision under the Social Pillar. The Plan identifies two challenges around gender mainstreaming: (i) low levels of implementation of gender-related policies and laws; and (ii) low levels of awareness on gender equality and women's empowerment. One of the interventions proposed in the Plan is co-ordination and monitoring of gender mainstreaming across ministries, departments and agencies, and enhancing the capacities of the institutions in the gender mainstreaming agenda.

Policy Statements and Guidelines on Mainstreaming Cross-Cuttingting (2013) were developed in compliance with the Constitution of Kenya by the Ministry of Roads. It provides guidance on mainstreaming cross-cutting issues, such as gender equality and equity, people with disabilities, observance of the rights of the child, and taking into consideration HIV/AIDS in the roads sub-sector. It is designed for application at both the national and county levels of government and recommends a review every five years to conform to changes.

On sexual harassment issues, the Sexual Offences Act of 2006, Section 23, says that anyone in a position of authority "who persistently makes any sexual advances or requests which he or she knows, or has reasonable grounds to know, are unwelcome, is guilty of the offence of sexual harassment and shall be liable to imprisonment for a term of not less than three years or to a fine of not less than one hundred thousand shillings or to both." However, the Act fails to specifically outline the forms of sexual harassment.

Supportive institutional frameworks

In response to the constitutional and policy requirements for gender mainstreaming, the Government of Kenya has established two key institutions for the purposes of gender policy development and policy implementation oversight, respectively: The Department of Gender Affairs and the National Gender and Equality Commission.

The Department of Gender Affairs is under the Ministry of Public Service, Youth and Gender Affairs, whose fundamental goal is "...advancing gender equality and the empowerment of women" The mandate of the National Gender and Equality Commission (NGEC), established via the NGEC Act in 2011, is

to ensure gender mainstreaming in public and private sectors in Kenya. On their part, all public sector agencies and institutions are expected and required to have their institutional level gender mainstreaming policies and strategies, and to implement the same in accordance with the constitution.

Urban planning with women in mind

A Council of European Municipalities and Regions (CEMR) survey in 1999 revealed that in 15 countries of the European Union, only one out of five local elected representatives was a woman. Since then, several European countries have introduced laws and quotas aimed at making local government institutions and structures more gender-sensitive and inclusive.

In 2000, France passed a law that requires that municipalities with populations of more than 3,500 present an equal number of male and female candidates for election. In Vienna, the Municipal Department for the Promotion and Coordination of Women's Issues developed and tested approaches and standards for city-wide implementation of gender mainstreaming in all areas, including the design of public spaces, housing and street lighting. Italy experimented with gender-based budgeting in Modena, Siena and Genoa. The Greater London Authority organised the Capital Woman Conference, specifically designed to provide the city's mayor an opportunity to consult with the women of the city. In Helsinki, people travelling with babies on public transport could do so for free. This encouraged both mothers and fathers travelling with their children to use public transport.

In Kenya, despite constitutional requirements to increase women's participation in governance institutions, the national government and counties have yet to fully implement what is known as the "two-thirds gender rule". Article 27(8) of the constitution states that "the State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender". Yet, this benchmark has not yet been achieved; women remain under-represented in the National Assembly and in county governments. The majority of elective and appointive bodies have less than one-third of members who are women.

More should be done to ensure that the constitutional requirement on gender is adhered to, including in urban boards. Another way of ensuring that women's concerns are reflected in urban planning is to encourage greater participation of women in local government and planning institutions.

Source: Council of European Municipalities and Regions, 2005; Constitution of Kenya 2010.

Recommendations

This chapter has shed light on how violence in the city is gendered. Continued research on gender and violence in cities can provide further evidence on how urbanisation processes can lead the way in transforming constricting social structures that are perpetuating systematic, daily violence against women and girls.

Cities are places in a constant state of change; daily social interactions construct, reinforce, modify and tear down rules and norms that dictate how we see and interact with others.

There is a need to go beyond gender equality and women's empowerment programming that focuses on the female individual, and to target gender relations and the structures or social systems in which men and women live. By building global networks, feeding into relevant policy and practice, and examining urban dynamism, research can provide a more comprehensive understanding of how cities themselves can be gender transformative.

According to the Kenya Transport Research Network (KTRN), the design of a socially just transport system should incorporate user friendliness, it should be conveniently located around human settlements and it should be networked and linked to social spaces like houses, schools, health facilities, farming areas, and entertainment places. It should be usable

by mothers, children, the elderly and persons living with disabilities. There should also be concerted efforts to enforce and evaluate the existing policies to ensure they work instead of developing new ones.

Conclusion

“... transport and its relationship to the environment comes down to two things: technological advancements and modal shifts. Technological advancements like electrical vehicles, solar powered planes and BRT busses running on Liquefied Natural Gas instead of petrol and diesel... these things are all taking us a step closer to the transport utopia we spoke of. But that, by itself, is simply not enough. We also need people to start shifting towards more sustainable modes of transport. So how do we create an environment that enables both of these things to occur simultaneously? Do we truly understand why people would leave their cars and choose to cycle, walk, or use public transport? Is it rising environmental consciousness? Convenience? A guarantee of safety?” – Nahungu Lionjanga, Transport Truths

Some of the proposed approaches to gender-secure public transport in Kenya include having universal access defined holistically to address the needs of all transport users. Universal access includes gender equity in transport, young people's mobility, older people's mobility, and mobility of people with disabilities. Universal access requires a focus on integrated solutions for all to access services and opportunities, not transport-related solutions aimed at just one group.

As there is not enough research currently available to fully understand the scope of needs that is required to design universally accessible transport solutions in developing countries in Africa, more needs to be done. Women are under-represented in decision-making positions, including within local and national administrative authorities and transport companies. Deliberate action should be taken towards their inclusion. Transport investors are insufficiently involved in policy formu-

lation, so legal policies do not match reality on the ground and there is need to reverse this.

It appears that gender blindness (the lack of knowledge about the special needs and priorities of women) has been a historical fact in urban areas. Even though women are increasingly venturing out of the home, recognition of women and their rights in urban spaces are still a matter of intense scrutiny. Quite necessarily, promotion of gender-balanced participation and leadership in the design, implementation and evaluation of public spaces are championed as a new model of urban development to make the process inclusive. While available literature reveals an elaborate policy framework on gender mainstreaming in Kenya, there is little to show on how effective those policies are in advancing women's rights in urban spaces.

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PART V



CHAPTER 12

RECOMMENDATIONS

Urban institutions should place people at the center of planning processes

Nearly a third of Kenya's population lives in urban areas. By 2050, it is projected that more than half of the country's population will be urban. However, for a large majority of Kenya's urban residents, city life has been reduced to a dystopian nightmare manifested by limited opportunities for formal employment, a lack of decent and affordable housing, failing and neglected infrastructure, the absence of social services, pauperisation, criminality, and increasing inequalities.

Kenya's urban policies have prioritised middle and upper class demands over poorer groups in society. For example, the Nairobi City County by-laws were inherited from the defunct Nairobi City Council and still maintain a highly elitist and oppressive approach towards poor and lower-income residents, such as informal traders and public transport and non-motorised transport users. The city thus has alarming spatial inequalities. Unless these fundamental issues are resolved, the never-ending class and cultural conflicts will continue to be a challenge in Kenya's cities and towns.

Dignity, equity and diversity, rights and responsibilities, and democracy – the four pillars of the just city concept – are relevant to the new urban institutional dispensation in Kenya as they are obligated under section 21 (d) of the Urban Areas and Cities Act and are reflected in the Constitution of Kenya 2010. Urban institutions must uphold the constitutional values and principles in the exercise of their powers as envisaged in this Act and in the Kenyan constitution.

The Urban Areas and Cities Act 2011 operationalises Article 184 under Chapter Eleven on devolved government in the Kenyan constitution. It provides for a system of city or municipal boards and town committees that are tasked with adopting urban policies and strategies, including on service delivery and land use. Opportunities, platforms and channels for consensus, dialogue and public participation have thus been created in the second schedule of the Act, which provides for the participation of residents in the affairs of their city or town.

It is recommended that:

- Urban areas in Kenya start to reflect on social planning and utilise local expertise in the planning process so as to come up with realistic plans that reflect the aspirations of ordinary citizens rather than prioritising the needs of the wealthy, who constitute a minority in urban areas. Social planning necessarily involves community participation in the planning of programmes and projects that are in the public interest and that benefit the majority. Both the national government and the county governments ought to utilise participatory tools through community groups and organisations to reach out to the most vulnerable and voiceless in urban areas.
- Public participation tools that match the objectives of the participation process should be developed. These tools would help to inform, engage, and build consensus among the public and would assist in ensuring public input into decision-making. Surveys, workshops, focus group discussions, social media, public forums, and mass media are avenues that can be used to improve the process of public participation.
- Municipal charters, in their current form, should be expanded to incorporate a citizens' charter that binds the institutions and citizenry to agreed ethical edicts and performance measures. On the strength of the trust and confidence built through the charter, urban institutions can benefit from the innovative potential of the citizenry in pursuing and promoting their dignity
- Urban institutions need to be aware of social planning approaches that place people at the centre of the planning and execution process. While this is a constitutional order, its practical realisation can be facilitated through the formal adoption of democratic social planning approaches that enable communities to actualise the spirit of the constitution. Such planning approaches will ensure that the development plans for city prosperity embrace the diverse interests of the citizenry, including those characterised as "invisible" i.e. those excluded from the city not just physically, but in spaces of participation and planning.

- Regular forums for dialogue in urban institutions that lead to actual deliberation with citizens is key to unlocking citizens' potential and innovation in addressing urban challenges. Accessible information and channels of communication are important ingredients in the institutional mechanisms for coordination. Citizens must be made aware of their rights and responsibilities through the media and other communication channels so that they can effectively participate in urban affairs.
- Citizens' responsibility to engage in the governance regimes is well grounded in legal frameworks. However, the exercise of such a mandate is obscured by the encumbrances to their self-organising capacities. Tested models for citizens' self-organising, such as local urban forums, can serve to inspire formations of effective citizens' forums, as provided for in law.
- Women are under-represented not only in the national and county governments, but even in the newly established urban boards. Most elective and appointive bodies have less than one-third of members who are women. More should be done to increase women's participation in these decision-making bodies, not just because this is a constitutional requirement, but also because women's representation has shown to have tangible benefits on the ground.

Citizens should be allowed to exercise their "right to the city"

Rights are quite well developed in the Kenyan constitution and in various laws. However, these need to be situated in the urban context for them to be meaningful to the urban citizen. Kenyan cities are still not cities of "rights" where the right to the city can be enjoyed, or even claimed.

Public spaces and urban infrastructure are usually designed for an abstract generic user. In most cases, even persons with different physical abilities are considered neutral when planning cities. Infrastructural provisions that discriminate against some groups, including those living in informal settlements, not only create everyday problems of accessibility for them but also amplify their marginalised position in society, rendering them invisible and reducing their opportunities to participate in the urban economy. Questions of infrastructure need to be examined within the framework of rights and citizenship.

However, democracy in the Kenyan city is taking shape, thanks to the requirement of public participation at the national and urban levels in law. However, the structures for strengthening the implementation of these laws, namely citizens' forums, are still weak or absent. This is an area where the newly formed urban boards can focus on to achieve true democracy in Kenya's urban areas.

Diversity and equity are key though thinly supported in law. This is a realm where stakeholders and urban experts and planners need to focus. Practices like social planning can provide a good entry point. Eventually, the average Kenyan city will be a just city if it achieves good progress in rights, democracy through effective public participation, diversity, and equity, not just in governance management and planning, but also in access to space and benefits of urban development.

Pragmatic entry points in the Kenyan context include the following:

- **Legal formulation processes:** Citizens have a role to play in influencing laws that are being developed at the national and county levels that affect the lives of urban residents. Moreover, urban residents should express their views on how they would like to be governed.
- **Urban governance:** Currently urban boards are being put in place pursuant to the Urban Areas and Cities Act 2011 (Amended 2018). Citizens are expected to engage with these boards through citizens' forums and directly by proposing members to sit in these boards. It is important that citizens organise to effectively use these spaces for effective governance and provision of services in an efficient, democratic, just, and equitable manner.
- **Urban planning:** Citizens have a responsibility to take part in county planning, including in the development of County Integrated Development Plans, County Spatial Plans, County and Urban Level Sector Plans, Integrated and Sustainable Urban Development Plans, Annual Development Plans, County Finance Bills, etc. These are the spaces where development is shaped, and resources are allocated and spent. Citizens have been empowered by the Constitution of Kenya 2010 and various pieces of legislation, including the County Government Act, the Public Finance Management Act, the Urban Areas and Cities Act, and various legislation and guidelines at the county level to influence these processes. These are spaces that can either produce justice or injustice; therefore, the citizen must occupy these spaces and use them effectively towards the realisation of a just city.

- **Urban projects:** There are opportunities to push forward the values of the just city as urban projects require public participation. Examples include the Big Four Agenda programme of the national government, the Kenya Urban Support Programme (for the institutional and infrastructural development of 59 urban areas in Kenya) and the Sustainable Urban Economic Development Programme (working in 12 urban areas in Kenya).
- **Media:** The majority of Kenya's urban residents remain uninspired and live a life of shattered dreams as city designs continue to favour the minority. These "urban invisibles", including children, youth, women, and persons with disability, remain unrepresented in urban plans and programmes, and are often only considered through tokenistic approaches. This invisibility is also evident in the mainstream media. Issues that affect these urban invisibles need to be highlighted in the media. Journalists and media houses should give a voice to these invisibles by highlighting their plight to influence urban policies that are more responsive to their needs and aspirations.

Address inadequacies in housing policies

Colonial legacies have defined housing policies in Kenya's urban areas and cities. Most colonial-era settlements, including Nairobi, were highly segregated along racial lines, with separate residential areas for Europeans, Asians and Africans. This policy has over time been strengthened through policies of successive governments that further reinforce segregation and enclaves along socio-economic lines, with the urban poor living in poorly serviced informal settlements separated spatially, socially and economically from rich, better-served neighbourhoods. This segregation is also reflected in roads and other transport infrastructure, which is geared towards wealthy car owners, and not towards those who walk or use public transport.

Kenya has a housing deficit of 2 million that continues to grow at a rate of about 200,000 units a year. There is a proliferation of informal settlements in urban areas, with more than half of the country's urban population living in slums in overcrowded hovels, typically in only one room with no adequate ventilation or sanitation. This can be attributed to social exclusion, which continues to force most urban residents to seek housing in slums as they are the only affordable housing option available to low-income households.

The Government of Kenya is addressing this housing deficit through its Big Four Agenda, which separates "affordable

housing" from "social housing". However, this approach defines housing purely from a cost perspective. A closer look at the current social housing models in Kenya highlights challenges that have hindered their implementation by both the national and county governments. These are associated with inadequate policies; market demands and community responsiveness to the programmes. It is clear that the intersection among the three has largely impacted the model of affordable housing delivery in Kenya's urban areas and cities.

For Kenya to achieve socially just cities and towns, there is a need to address the inadequacies in the policy arena that will facilitate the delivery of affordable housing to the rapidly growing urban population. The social housing model should focus on intended beneficiaries and not on the government's cost perspective approach, which further reinforces social exclusion. Most low-income households in urban areas are not able to obtain loans or to find other sources to buy houses, though there are a variety of microfinance institutions that cater for their needs. But lack of formal employment and high interest rates have made access to loans and mortgages difficult not just for low-income groups, but also for the middle classes.

In the models proposed by the government, none have approached **affordable rent** as a path to provision of adequate social housing to low-income groups. Despite documented information that most of the urban population does not own land or have the purchasing power to own a house, affordable rent has not featured in the current social housing model. Rather, the model is focused on home ownership than in the provision of rental facilities for a rapidly growing urban population.

Therefore, the government should consider the following:

- To factor in affordable rental housing for low-income groups in its affordable housing programme. There is also a need to give room to other stakeholders, such as civil society organisations and other interest groups, who can make alternative contributions towards the provision of social housing. This may include factoring in affordable rent or rent control into well-known housing models, such as assisted self-help housing and enabling approaches.
- There is a need to create an enabling policy environment on land administration, registration, acquisition, valuation, security of tenure, and financing of social housing by introducing incentives, exemptions, and subsidies.

- There is a need to develop the capacities of personnel to implement policies and institutions for the delivery of social housing in Kenya.
- There is a need to include affected persons in the provision of social housing delivery by integrating their contributions.
- Vulnerable groups, such as the physically challenged and the elderly, should be catered for in housing. The planning and design of neighbourhoods should be universally accessible for comfort and mobility around living spaces. Young children should also have access to open spaces for playing and interaction.
- The government should adopt more humane approaches to demolitions and evictions that observe international standards and procedures, such as international legal instruments and national policies and laws like the National Land Act 2016.

Work towards creating a socially just public transport system

The pillars of a socially just public transport system are availability; accessibility; inclusivity; fairness; affordability; reliability; sustainability; and safety. Kenya continues to experience rapid urban growth, yet public transport provision is still wanting in terms of availability, safety, affordable access, inclusivity, equity and rights, and sustainability. Whereas significant progress has been made, for example, in the gradual introduction of non-motorised transport across Kenya and the building of new roads, the gains are minimal and mainly concentrated in major urban areas.

Moreover, the competing interests and prevailing power relations among key actors within the transport sector mainly favour public service vehicle owners (who are mostly private entities) at the expense of users and workers. Realising a socially just public transport systems in such a context becomes a mirage.

In addition, while there is an elaborate policy framework for gender mainstreaming in Kenya, there is little to show on how effective those policies are in advancing women's rights in urban spaces, including on public transport. Women and men experience urban spaces differently. Kenyan cities remain unfriendly to women at multiple levels, which increases their vulnerability to sexual and physical violence. Women's mobility

is severely curtailed due to lack of gender-sensitive public transport. Women face the constant threat of intimidation, sexual harassment or rape in public spaces and on public transport.

The lack of safe and accessible transport for women workers, especially those with low incomes, limits their mobility and labour force participation, which confines them to a smaller pool of potential employers and jobs and reduces their ability to bargain over and improve the terms and conditions of their employment. Where caring responsibilities are not adequately met, the lack of public transport only exacerbates women's dependency on a smaller set of job opportunities. If women are to participate fully in the urban economy, their mobility needs, including their safety, should be considered.

Just public transport requires a supportive political system sympathetic to the philosophy of social justice in service provision. Public transport benefits the community as a whole when it contributes to social cohesion and sustainable environmental outcomes.

The following measures are necessary to achieve a socially just public transport system:

- A multifaceted approach to public transport policy formulation, planning and implementation that takes into consideration the input of various stakeholders and which is devoid of manipulation and domination by both foreign and local elites.
- More direct involvement of the government in public transport ownership to alter the power relations, which currently favour private owners.
- Innovative approaches that take into consideration local contexts during conceptualisation, planning and implementation of public transport infrastructure and systems.
- Well-organised and empowered user associations and civil society organisations that can act as a countervailing force that use their voices to offer alternative narratives.
- Clear regulations and proper enforcement mechanisms to ensure compliance by providers, operators, and users in line with the socially just pillars. Such a task cannot be realised instantaneously; it has to be progressive and, in most cases, involve a continuous struggle between progressive forces and those who prefer the status quo.

- Public spaces, including transport infrastructure, should take women's and girls' safety and other concerns into consideration. This includes installing streetlights at bus and train stops, setting up emergency hotlines, carrying out sustained campaigns on women's safety in public spaces, and enforcing laws to protect women and girls from gender-based violence.
- Public transport should cater for the needs of vulnerable populations, particularly the disabled and the elderly, who find it physically challenging to access public transport.
- City streets should be planned for cyclists and pedestrians to encourage the use of non-motorised transport and to cater for those who do not have the means to use private vehicles or public transport.
- Public transport should be made more environmentally sustainable. Specific measures should be adopted to reduce air and noise pollution caused by motorised transport. These include promoting clean energy within the sector, encouraging citizens to rely on non-motorised transport, increasing green areas by planting trees, reducing travel hours and distance through adoption of mixed land use approaches in urban planning, introducing electric buses, and discouraging the use of private cars by providing safe, reliable and comfortable alternative transport modes.

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TOWARDS **THE JUST CITY** IN KENYA

