REPUBLIC OF KENYA

MINISTRY OF HOUSING

BACKGROUND DOCUMENT: THE NATIONAL SLUM UPGRADING AND PREVENTION POLICY

May 2013

Table of Contents 1

Acronyms

CBOS   -Community Based Organizations

FBO   -Faith Based Organizations

ICESCR   - International Covenant on Economic and Social Rights

KENSUP   -Kenya Slum Upgrading Program

MSSG   -Multi-Stakeholder Support Group

NGO   -Non Governmental Organization

NSUPP   -National Slum Upgrading and Prevention Policy.

NUDP   -National Urban Development Policy

SACCO   -Savings and Credit Cooperative Society

UDHR   -Universal Declaration of Human Rights.

UN-HABITAT   -United Nations Human Settlement Program

1 Outline Background

1.1 Definition and overall overview

A Slum is defined as a heavily populated urban area characterized by substandard housing and squalor. The term is now commonly interchangeably with the term informal settlements to include the vast informal settlements that are quickly becoming the most visible manifestation of urban poverty in developing world cities. Such settlements are known by many different names and are characterized by a variety of tenure arrangements. In all cases, however, the buildings found there vary from the simplest shack to permanent and sometimes surprisingly well-maintained structures, but what most slums share in common is a lack of clean water, electricity, sanitation and other basic services.

- Major characteristics of slums include: Inadequate access to safe water;
- Inadequate access to sanitation and other infrastructure;
- Poor structural quality of housing;
- Overcrowding; and
- Insecure residential status.

In UN HABITAT estimated that the worldwide number of slum dwellers stood at 830 million and is on course to reach 900 million by 2020. In earlier Report in 2009 the figures were 817 and 889 respectively. The same Report also noted that two thirds of the world slum –dwellers lives in Africa.

In Kenya it is estimated that roughly over 60% of people in urban areas live in slums.

2. Fundamental Slum Issues in Kenya

The situation in Kenya is a reflection of the global trend. It is estimated that more than 34% of Kenya's total population lives in urban areas and by 2030 this number is projected to reach 63%. As estimated 71% of the urban population lives in slums. - Typically slum dwellers face the following   challenges:

a) **Social, political and economic exclusion:** This is a major cause of inequality. Slum dwellers are largely excluded from exercising any control over material, financial, intellectual and other resources that are necessary in exercising any form of power and have minimal access to and control over very minimal resources. The exclusion of slum dwellers is a direct manifestation of the current unequal power relations. These have been institutionalized by the existence of rules, structures, institutions, authorities and procedures and processes that do not confer any formal recognition of the poor as key actors in governance.

b) **Marginalization: S**lum dwellers have little power and this in turn results into severe material deprivation. Along with material deprivation, they are also excluded from national and county services, programs, and policies. Adding to the economic marginalization is the political neglect and manipulation by politicians who invariably encourage private   slum lords to occupy large tracts of public land for political support.

c) **Deprivation:** Most slum dwellers live below the poverty line. The majority survive on approximately less 1.25 dollars per day.. Access to basic services such as water, sanitation, garbage collection, education, health centers, electricity and transportation is deplorable; few households have access to electricity connection and of piped water. The cost of water is often three or more times higher than the ordinary cost. Raw sewage is routinely deposited into open trenches adjacent to the narrow foot paths and many houses are located right on top of these sewers.

d) **Housing**: About 92 per of the residents are tenants with the majority of structure owners being "absentee landlords'. Most of the housing consists of one room shacks built with very poor materials exposing the residents to the elements. The houses lack basic services like water and sanitation, fire and safety protection. The cost for renting is normally not commensurate to the housing conditions. Most of slum dwellers have no access to affordable credit to improve their structures. To add on all these are the illegal levies imposed by organized cartels who normally work together with the local administration.

e) **Employment/underemployment:** Approximately 49 percent of adults in slums have regular or casual jobs; 19 percent work in a household micro-enterprise; at least 26 percent are unemployed. Unemployment rates are highest among youth (age 15-24) at 46 %and women at 49%.

f) **Education:** Education is considered to fare better in terms of enrolment as it is estimated

that about 92% of school-age children are actually enrolled in school. It is nevertheless important to note that even though there is free primary education, there are still costs like uniform that are levied. Many slums do not have adequate public primary schools and are mostly served by informal schools.) **Health:** A study done by African Population & Health Research Center found out that "slum residents in Nairobi have a high mortality burden from preventable and treatable conditions." Public health facilities are few in the slums and medical care is mostly sought only as a last resort at times from private clinics a number of which are run by quacks. Connected to the above is the increased.

h) **Insecurity**: Security and safety issues are major problems in slums. People living and working in the slums and informal settlements are exposed to various adverse security and safety issues that range from violence, rape, floods and fires among others. There is little or complete absence of formal security arrangements within the slums and informal settlement which leave the residents to make their own informal arrangements or be at the mercy of vigilante and other criminal gangs. The emergence of such organized militias like the Mungiki, Taliban, Bagdad or China gangs continue to play prominent roles. The gangs are easy targets for political manipulation as they prove quite handy for hire by politicians especially during electioneering period, but are then quickly abandoned thereafter.

i) **Planning**: Planning in slums suffer from the inequalities among Municipalities, Cities and counties. Classical approach to planning has further worsened the situation since slum dwellers are hardly consulted by the planners. Ineffective development control mechanisms, lack of capacity to prepare and implement plans, lack of and inadequate plans have all contributed to the mushrooming of many unplanned settlements.

j) **Resource allocation**: The budget allocation continues to be skewed towards the development of middle class housing. Allocation for social housing remains largely negligible hence contributing to the proliferation of slum settlements that help address the demand of the low income earners.

k) **Land Tenure and Administration**: Land tenure and administration in slums and are quite complex. Lack of security of tenure is perhaps the greatest challenge. This is further complicated by the fact that informal settlements are found on public land, community land and private land. Due to tenure insecurity most slum residents live under constant fear of evictions which in turn makes development difficult. The bureaucratic land administration procedures make the system prone to corruption as well as expensive. Coupled with the lack of clear land administration systems for slum settlements, land allocation in slums is done in a haphazard manner by various actors ranging from local administration to politicians with no regard to existing laws. There are also competing land rights in slums. There are the tenants, the structure owners (both resident and absentee) and the title holders. Finally the land tenure system in the country is predominantly based on individual titling which makes it very difficult to undertake meaningful tenure regularization.

l) Legal, Governance and Institutional issues: There are no specific laws that address the slum issue. Existing laws are mainly designed to address issues of planning and development control. The Constitution and the new land laws do not provide a comprehensive legal framework for addressing the specific slum issues. It is therefore difficult to effectively deal with such issues like tenure systems, regulatory procedures, institutional management, coordination and , protection against forced evictions among others

g) Socio-Economic Factors: A number of socio-economic factors have been identified as being prevalent in most slums. These include lack of employment opportunities and underemployment, poverty, HIV/AIDs among the poor, prevalence of communicable diseases, food insecurity, lack of social security system for the poor and generally lack of adequate opportunities for the poor to exploit their potential. With regard to the increasing rural –urban migration, the continued neglect of agriculture is a major contributing factor to the proliferation of slums in urban areas as young productive men and women troop to urban areas in search of job opportunities.

n) Coordination: There are a number of actors involved in the slum upgrading programs in the country. These include the Government, NGOs and development partners. Due to the absence of a single coordinating institutional structure this has often created duplication and lack of coherence in interventions hence making it difficult to achieve the desired goals and consolidate, experience, resources and knowledge.

3. Previous and Current Government Initiatives

The government of Kenya has attempted to initiate various interventions aimed at addressing the above issues. There has however been limited attention to low income housing. Initially local authorities put affordable housing for the low income in several towns and cities but with time due to corruption and lack of effective monitoring, most of these units effectively became "privatized" with the local authorities getting only nominal rents while the private "landlords" got the market value rates.

In the 1970s the Government, with support from the World Bank initiated the site and services scheme that succeeded in putting up a number of housing units for the low income in such areas like Dandora and Umoja. Once again due to inadequate policy and legal mechanisms, the scheme soon became a victim of the market forces.

Current initiatives include efforts by the government, local authorities, NGOs, CBOS, FBOs and development partners, all working independently of each other or in limited partnerships and hence resulting in limited levels of success and impact to the beneficiaries. Since 2004, through KENSUP (Kenyan Slum Upgrading Programme) and more recently KISIP (Kenya Informal Settlements Improvement Project), for example, the Government has been undertaking slum upgrading projects in several urban areas. These interventions are however hampered by the absence of a comprehensive policy and legal framework.

It is in the light of this scenario that the Government decided to develop a comprehensive Slum

Upgrading and Prevention Policy (NSUPP) aimed at addressing the issue of slum in a systematic manner.

4. The National Slum Upgrading and Prevention Policy (NSUPP)

In 2012 the Government through the Ministry of Housing, initiated the process of developing the NSUPP. This was as result of a multi stakeholder process held under the auspices of the Multi-Stakeholder Support Group Forum (MSSG). The need for NSUPP had initially been agreed upon during the MSSG held in November 2011. In July 2012 a draft concept was developed and the same was formally inaugurated in December 2012. Work commenced under a coordinating secretariat, steering committee, and various thematic groups.

The NSUPP is being undertaken within a number of policy and legal frameworks. These include the National Housing Policy 2004, the National Land Policy 2009, the Constitution of Kenya 2010, the Draft National Urban Development Policy (NUDP) and Kenyan Vision 2030. The documents explicitly provide for the need to have a slum upgrading policy.

The Constitution of Kenya 2010 under Article 43 guarantees the right to accessible and adequate housing. Article 21 requires the Government to take appropriate policy and legislative measures including the setting of standards to ensure that the right is achieved. By developing the NSUPP the Government is discharging its mandated constitutional obligation.

The National Land Policy Sessional No.3 of 2009 is also quite explicit on the need for a slum upgrading Policy. It recommends the development of a Slum and Resettlement Programme and the need to put in place measures to prevent further slum development.

From the International and regional perspective Kenya is signatory to a number of declarations and treaties that recognize the right to adequate housing whose realization cannot be attained without addressing the issue of slums. Some of these treaties include Universal Declaration on Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Rights of the Child (CRC) and the African Charter on Human and Peoples Rights (ACHPR), the Vancouver Declaration on Human Settlement, the Global Strategy for Shelter to the Year 2000, Agenda 21 chapter 7 and Millennium Development Goals

The Policy is therefore properly anchored on clear factual, policy and legal basis.

5. Work Done To Date

To date the following has-been achieved by team:

· Detailing of a comprehensive concept note to serve as framework for the National Slum Upgrading and Prevention Policy formulation (Feb/Mar 2012);

· Popular endorsement of the concept note by the Multi-stakeholder Support Group Forum (April 2012);

Establishment of coordination unit (secretariat) and activation of a technical Reference Group (April 2012);

· Activation of a multi-ministerial Steering Committee (July 2012);

· Appointment and commissioning of seven Thematic Groups constituted by 100 professionals and practitioners from government, civil society and private sectors respectively (Oct 2012);

· Development of preliminary policy thematic content (Oct-Nov 2012); and

· Formal inauguration of the NSUPP formulation process (Dec 2012).

- Formation of seven thematic groups who have conducted analyzed secondary data and undertaken field visits

· Development of emerging issues and recommendations papers by the thematic groups (April 2013)

The fundamental slum issues and following emerging recommendations are a result of the work done to date by the thematic groups. The thematic groups are:

- Planning, Development Control & Environment.
- Shelter and Housing
- Security and Safety
- Infrastructure and Services
- Legal, Governance and Institutional
- Socio- Economic Factors
- Land Tenure and Land Administration

6. Emerging Recommendations:

The first part summarizes recommendations that are common to all the groups. While the second part picks out key recommendations from each thematic group.

6.1 Common Recommendations

· Allocate adequate budgetary allocation for all programs relating to slum upgrading and prevention.

· Develop clear frameworks for the participation of all stakeholders including the vulnerable groups in all stages of slum upgrading and prevention processes.

· Strengthen the capacity of urban community groups to enable them meaningfully participate in upgrading processes

· Enact a comprehensive slum upgrading and prevention legislation to deal with all the key areas of slum upgrading and prevention issues including security of tenure, tenure regularization ,institutional arrangement, regulations, environmental protection, planning and development control, participation of all stakeholders especially the vulnerable groups, infrastructure development and maintenance, security and safety among others.

· Create and implement an effective enforcement mechanism of all the laws and regulations including an inbuilt monitoring and evaluation system.

· Establish an accountable and transparent body/institution to coordinate all slum upgrading and prevention programs.

· Facilitate the establishment of sustainable income generating sources for slum dwellers including saving schemes SACCOs to enhance provision of financial services.

· Develop and implement an effective slum upgrading and prevention information and communication strategy.

· Develop and implement an effective incentive program/strategy to attract other stakeholders including the private sector in slum upgrading and prevention programs.

6.2 Specific Thematic Group Recommendations

a)   Planning, development control & environment

Recommendations

i. Provide education to community members on their role in planning and development.

ii. Update or undertake integrated planning.

iii. Prepare strategic urban development plans.

iv. Train & deploy professionals to the county and urban areas

v. Develop and implement urban development policy

vi. Revise by-laws and standards.

vii. Mobilize Community Support & Awareness to enhance public participation

viii. Implement the National Land Policy & new Land legislation.

ix. Develop and implement resettlement action plans.

x. Rehabilitate unsuitable settlement areas for development.

xi. Train & deploy environmental officers

b) Shelter and Housing
Recommendations:

a) Develop a user friendly information system for the poor.
b) Promote energy and water efficiency.

b) Encourage political and professional will in constructive engagement to solve problems existing in the slums and informal settlements.

c) Develop framework to create good relationship between slum dwellers and neighborhood communities.

d) Provide basic services and infrastructure as part of

e) Encourage the use of natural resources, water and materials that in designing and constructing houses.

f) Recognize the 'tenants at will' tenancy/leasehold such that tenants should have recourse when aggrieved to avoid interference of land owners.

g) Provide incentives to professionals to assist with incremental individual home improvements on relocated sites or plots.

h) Ensure that men and women are equally involved slum upgrading operations of design, construction, maintenance and financing.

i) Provide low cost housing micro- finance model for mortgages.

j) Allocate adequate budgetary allocation for social housing.

k) Weed out power brokers or cartels in slums.

l) Maintenance of buildings to comply with standards stipulated in the maintenance policy.

m) Develop clear policy on equal right of access to housing by structure owners and tenants.

n) Advocate for integrated development plans including well integrated commercial and social activities in design and planning of housing project. This means integrated planning and development strategies should be given priority.

n) Promote use of construction materials that attract low maintenance.

o) Promote use of traditional construction materials and techniques such as sun-dried brick.

c)   Security and Safety

Recommendations:

a) Create employment opportunities and develop support systems for creation income generation

b) Increase police patrols

c) Provide adequate garbage collection centers and involve community members especially the youth in environmental protection.

d) Enforce legislation to protect the youth from harmful media content.

e) Provide support to rehabilitation programs targeting victims and perpetrators of alcohol, drugs and substance abuse, crimes, rapes, assault and domestic violence

f) Provide for the security of tenure to the residents.

g) Establish a community policing

h) Securing of way leaves, road and railway reserves, river riparian etc. Sensitize residents not to build houses near riparian land, swampy/flood prone areas. Improve the quality of the houses

i) Secure and vacate road and railway reserves, river riparian and sensitize residents not to build houses near riparian land, swampy/flood prone areas. Improve the quality of the houses

j) Provide public and social housing, affordable basic services (health, water/sanitation, electricity, schools, police stations etc.

k) Develop and implement a meaningful community policing and peace committees where community members are effectively involved.

l) Sets aside land for the development of community social centers

d) Infrastructure and Services

a.   Develop and re-plan, with other stakeholders, the current informal settlements for the provision of required infrastructure and services.

b. Provide basic services government and privately owned land occupied by informal settlements.

c. Develop an appropriate transport policy that includes non-motorised transport (footpaths) for pedestrians   to enhance efficient response to emergencies.

d. Revoke titles of grabbed land that was earlier set aside for social amenities.

e. Create satellite markets to ease pressure on existing ones and proper management of the same.

f. Expand public schools and construct new ones in the slum areas.

g. Discourage illegal connections through provision of more water points e.g. water kiosks

h. Develop affordable modern sanitation blocks

i. Create a national database for slums and informal settlements with key information such as population, gender parity, schools, hospitals, land tenure system etc.

e)   Legal, Governance and Institutional

Recommendation

a) Enact a Slum Upgrading Act to address the specific issues relating to slum upgrading and prevention to address issues including:
- Affordability.
- Accessibility.
- Security of tenure.
- Suitability allocation.
- Standards
- Institutional coordination including defining the specific roles of the national and county governments.
- Access to credit

f)   Land Tenure and Administration

Recommendations:

a) Develop and implement a flexible tenure system with emphasis on ensuring security of tenure and land rights of slum dwellers.

b) Adopt innovative and sustainable tenure regularization approaches to achieve affordability and improved livelihood.

c) Adopt and implement accessible/affordable tenure administration systems to allow slum dwellers get appropriate land rights.

g) Socio- Economic Factors

Recommendations:

a) Allocate adequate resources for rural development.
b) Provide appropriate education curriculum incorporating leadership and entrepreneurial and agricultural studies
c) Develop programs to identify and nurture talents.
d) Develop positive social media programmes
e) Establish vocational training centers.
f) Incorporate the faith based organizations in inculcating positive values
g) Establish programs to train the youth on entrepreneurship
h) Ensure that development – based projects do not create more slums.
i) Establish temporary homes to house lost children, battered wives and children
j) Establish affordable credit facilities for slum dwellers.
k) Create programs to provide investment opportunities
l) Provide more bursary opportunities that are accessible to children from the slums.
m) Provide effective social protection for people living with HIV/AIDS
n) Ensure that women and other vulnerable groups are involved in income generating activities.