

URBAN PLANNING IN KENYA

**A SURVEY OF URBAN PLANNING
PRACTICES IN THE COUNTIES**



Republic of Kenya



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PRACTICES IN THE COUNTIES

ACKNOWLEDGEMENTS

URBAN PLANNING IN KENYA:

A Survey of Urban Planning Practices in the counties

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United Nations Human Settlements Programme (UN-Habitat)

P. O. Box 30030, 00100 Nairobi GPO Kenya

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Principal Author: C. Baraka Mwau

Contributors [UN-Habitat]: Dennis Mwaniki, Klas Groth

Contributors [Government of Kenya: Urban Development Department]:

Daniel Sakwa, Kenneth Nyaseda, Mwaura Kibe, Peter Chacha, Solomon Ambwere, Titus Musungu

Project Manager: Yuka Terada

Project Coordinator: Laura Petrella

Administrative Assistance: Maryann Kithome

Editing Support: Tom Osanjo

Design and Layout: Andrew Ondoo

TABLE OF CONTENT

| | |
|-----------------------------------------------------------------------------|-------------|
| ACKNOWLEDGEMENTS | II |
| SUMMARY | VIII |
| Background..... | viii |
| Key Findings of the Survey..... | ix |
| Key Recommendations..... | xii |
| PART 1: BACKGROUND | XVI |
| CHAPTER 1.0. INTRODUCTION | 01 |
| Overview | 01 |
| Assessing Urban Planning in the Counties | 02 |
| Purpose and Objectives of the Survey | 07 |
| Planning and the New Urban Agenda | 08 |
| Planning and the Sustainable Development Goals | 09 |
| CHAPTER 2.0. URBANIZATION TRENDS AND IMPLICATIONS FOR PLANNING | 11 |
| Overview | 11 |
| Urbanization Trends | 11 |
| Focus on Medium-Sized and Small Towns | 13 |
| Emerging Issues in Management of Medium-Sized and Small Towns..... | 15 |
| Urban Form Characteristics..... | 17 |
| PART 2: FINDINGS | 23 |
| CHAPTER 3.0. PREVAILING URBAN PLANNING IN THE COUNTIES..... | 25 |
| Overview | 25 |
| Making a Case for Efficient and Effective Planning System | 25 |
| Planning in Post- 2010 Kenya Constitution | 27 |
| Levels of Decision Making and Their Implications..... | 30 |
| Perceptions About the Value of Planning | 32 |
| Types of Plans Prepared in the Counties | 32 |
| How Urban Development Plans are Approved in the Counties..... | 36 |
| Development Control Practice | 38 |
| Planning Tools | 43 |

| | |
|--------------------------------------------------------------------------------|-----------|
| CHAPTER 4.0. INSTITUTIONAL CAPACITY | 47 |
| Overview | 47 |
| Planning Human Resource | 48 |
| Organizational Structure of Planning Departments | 49 |
| Role of Urban Planning as a Tool for Integrated Development Planning | 51 |
| Special Focus Areas for Strengthening Planning Capacity | 53 |
| Urban Administration and Management | 61 |
| Land Administration and Management | 63 |
| The Politics of Planning and its Implications for Institutional Capacity | 64 |
| CHAPTER 5.0. IMPLEMENTATION OF URBAN DEVELOPMENT PLANS | 67 |
| Overview | 67 |
| Outsourced Planning Services and Implications for Plan Implementation | 68 |
| 'Silo-oriented' Management and Its Implications for Plan Implementation | 69 |
| Plan Approval and Its Implications for Implementation | 69 |
| Lack of Local Planning and Detailed Plans | 70 |
| Lack of Plan-Finance Linkage | 72 |
| Lack of Plan- Policy-Legislation Linkage | 72 |
| Institutional and Political Governance Issues | 72 |
| PART 3: RECOMMENDATIONS | 75 |
| CHAPTER 6.0. STRENGTHENING PLANNING IN THE COUNTIES | 77 |
| Overview | 77 |
| Role of Planning in the Counties | 78 |
| Revisiting Planning: Making Planning Work for the Counties | 79 |
| Towards Enhanced Planning Capacity | 85 |
| CHAPTER 7.0. CONCLUSION | 91 |
| BIBLIOGRAPHY | 92 |

LIST OF FIGURES AND TABLES

LIST OF FIGURES

| | |
|------------------------------------------------------------------------------------------------------------------------|----|
| Figure 1: Map showing counties featured in the project | 04 |
| Figure 2: Survey Implementation Schedule | 05 |
| Figure 2.1: Urbanization Trends-projections, Town scales, Rural-Urban growth projection | 12 |
| Figure 2.2: Spontaneous Rural-Urban Transformation | 17 |
| Figure 2.3: Linear spontaneous urban expansion | 18 |
| Figure 2.4: Planned town centre with unplanned peri-urban areas | 18 |
| Figure 2.5: Uncoordinated waterfront planning and development | 19 |
| Figure 2.6: Planned urban extension engulfed by unplanned expansion | 19 |
| Figure 2.7: Land use mix challenges | 20 |
| Figure 2.8: Planned urban layout, but with varied forms of residential developments | 20 |
| Figure 2.9: Complex peri-urbanization without appropriate planning interventions | 21 |
| Figure 2.10: Underutilized land within urban core | 21 |
| Figure 2.11: Urban-rural spatial interface | 22 |
| Figure 2.12: Natural features as major spatial growth structuring elements | 22 |
| Figure 3.1: Example of planning and variations in urban form - Kericho Town | 26 |
| Figure 3.2: Planning for urban centres with shared administrative boundaries | 28 |
| Figure 3.3: Planning Policies and Legislation | 29 |
| Figure 3.4: Key government institutions involved in planning decision making | 31 |
| Figure 3.5: The link between spatial development framework and integrated urban development planning in Counties | 34 |
| Figure 3.6: A Residential Development in Kiambu County | 36 |
| Figure 3.7: Typical planning and building permit approval process | 41 |
| Figure 3.8: Typical land sub-division approval process | 41 |
| Figure 4.1: A planned section of Nakuru town | 50 |
| Figure 4.2: A section of Mtongwe in Mombasa | 55 |
| Figure 4.3: Kilifi, waterfront town | 56 |
| Figure 4.4: Juja Town Development - Jomo Kenyatta University of Agriculture and Technology | 57 |
| Figure 4.5: Participatory Planning Session | 58 |

Figure 4.6: Informal settlement in Malindi 59

Figure 4.7: Impact of informal and traditional land administration on urban form in Kakamega 62

Figure 4.8: Actors in urban governance and the politics of planning..... 64

Figure 4.9: Urban planning and governance processes..... 65

Figure 5.1: Factors undermining successful implementation of plans in the counties 68

Figure 5.2: Barriers to plan approval 70

Figure 5.3: Illustration the different levels of spatial planning 71

Figure 6.1: A typical Approach to Integrated Urban Development Planning 80

Figure 6.2: One-Time Value Capture: Betterment Tax and Developer Exactions 88

Figure 7.1: Conceptual Framework for a Planning Reform in Kenya 91

LIST OF TABLES

Table 1: SDG 11 targets and indicators 10

Table 2.1: County Population and Major Towns 13

Table 3.1: Matters subjected to development control 39

Table 3.2: Planning-Related Revenue 40

Table 3.3: Number of Planners with Applied CAD and GIS Skills 44

Table 4.1: No. of Planners in Each County..... 48

Table 4.2: Budget Requests and Allocations for Select County Planning Departments 52

Table 4.3: Aspects of skills development identified across the counties..... 54

Table 6.1: Permitting Functions and Software..... 82



SUMMARY



Mombasa. © DigitalGlobe/Google Earth

BACKGROUND

In 2018, an estimated 27 percent (13 million) of Kenya's population lived in cities and towns, of varied sizes, across the country. Towards the year 2050, this share will approach 50 percent of the total country population, which will be an equivalent of 44 million people. Kenya is thus undergoing an urban transition, which will induce structural transformations in social, economic and spatial development aspects. To effectively and efficiently manage this transition, the country must develop the requisite urban planning and management

capacities, both at the national and county levels. At the county level, there are various interventions required to attain a fit-for-purpose planning system, which is responsive to local needs and aligns such needs to the national vision for a desirable urban future. However, to formulate the appropriate interventions required [to achieve the desired planning system], it is important to understand the issues confronting the current planning system, as a critical point of departure.

Against that backdrop, this report provides insights into various key issues on urban planning that warrants the attention of policy and decision makers, as the country undergoes the urban transition. The report has useful information for reference in formulating a reform agenda of the Kenya's planning system. The report is based on desktop research, and a survey undertaken in 13 counties between June and October 2017. The counties featured are: Embu, Kakamega, Kericho, Kiambu, Kilifi, Kisumu, Kitui, Machakos, Mombasa, Nakuru, Nyeri, Turkana, and Uasin Gishu. The survey is part of activities undertaken by a collaboration between UN-Habitat and Urban Development Department (UDD) of the Kenya government, to support capacity development within the implementation of Integrated Strategic Urban Development (ISUD) planning, under the now concluded Kenya Municipal Program (KMP). UN-Habitat and UDD initiated this survey to provide deeper understanding of the prevailing urban planning practice in the counties to inform better ways through which capacity development for urban planning and urban development can be delivered in the counties.

KEY FINDINGS OF THE SURVEY

Urbanization trends and urban development

- Urbanization levels and size of urban centres vary across the counties. Analysis of the 2009 Kenya population and housing census indicates that most of the counties have relatively small towns and low levels of urbanization.
- Most of the medium-sized and small towns lack development plans, with urban development unfolding spontaneously without planning and or informed by poorly executed planning.
- The rural-urban interface is characterised by a combination of traditional(informal) and formal municipal land administration systems, and incipient urbanization that is shaping unplanned urban growth and rural settlements transformation (land-use changes from agricultural to urban real estate).
- Most of the urban centres, if not all, lack a structured municipal finance system, and have very limited investments in critical urban infrastructure and services (i.e. transportation, water supply and waste management).
- The towns have accumulated huge deficit in provision of basic services, which is escalated by their unplanned growth and informal developments.
- Following dissolution of local governments, there is inadequate institutional knowledge (gap) in municipal administration and management.

Prevailing Urban Planning in the Counties

- The outcomes of the prevailing planning system have been largely ineffective; characterised by dominance of unplanned developments, infrastructure and housing constraints, environmental degradation, policies and plans that are rarely implemented, among other challenges.
- There exist fragments of well-designed and functional sections of the main towns. These fragments are especially observed within the central business districts.
- Devolution offers planning a greater role in facilitating development. The Constitution, County Governments Act and the Urban Areas and Cities Act, prescribes planning as an integrative function in development planning.
- During the first cycle of devolution, the planning function did not attain its role as a facilitator and integrator of development planning; sectoral plans, programs and investments.
- The counties have three main approaches to urban planning, namely: (1) Integrated Strategic Urban Development Plans (IUDP), (2) Local Physical Development Plans (LPDP), and (3) Zoning Plans (ZP).
- Despite the considerable resources utilized towards formulating urban plans in the counties, most of the plans remain draft plans; some many years after their finalisation.
- There is no clarity on the procedure to get urban development plans approved.
- Development control is the main function undertaken by county planning departments.
- Except for Mombasa and Kiambu counties that use electronic (online) permit systems, the rest of the counties surveyed use manual (paper-based) systems to process

planning applications. The level of integration of the electronic systems vary, with the Kiambu one having a relatively advanced integration than the Mombasa one.

- Corruption, inefficiency, ‘quack practitioners’, negative political interference [undermining effective decision-making] and reliance on discretionary decisions are prevalent challenges facing development control in the counties.
- A critical element missing from the development control process is the lack of structured appeal mechanisms and institutions that can decide on special planning applications and appeals from applicants.
- Approvals from National Environment and Management Authority (NEMA) and National Construction Authority (NCA) have created a ‘parallel approval’ process. This means more paperwork, extended time to commence developments, and has cost implications.
- Planning-related revenue is one of the key generators of revenue to county governments; but planning departments remain under-funded.
- There are various tools available to planners; however, their use and application is largely dictated by several factors including: technical know-how, availability/accessibility of such tools, institutional context, and urban context.

Institutional Capacity for Planning

- Institutional capacity varies across the counties, but there are similar challenges that face counties in relation to development of institutional capacity, which touch on fiscal, technical, political and governance issues.
- There two major aspects of capacity gap in the counties: (1). Inadequate number of planners employed; (2) Inadequate expert skills. These two aspects must be addressed to make planning fit-for-purpose; effective and efficient for facilitating sustainable urban development.

- County departments tend to operate in ‘silos’, and often with little coordination especially at planning and budget implementation aspects. This reinforces the operationalization of planning as an autonomous unit, rather than the coordinating unit for aligning departmental plans and budget investments with a defined spatial development framework.
- Whereas each county is supposed to establish an integrated County Planning Unit, none of the counties had set up such unit.
- There is lack of clarity and guidelines and limited technical know-how on how to setup Integrated County Planning Units and County Geographic Information System Units.
- Counties had not established functional urban boards or committees. While Kakamega County had identified persons to comprise the board for Kakamega Municipality, it was noted that the board was dysfunctional; lacking clarity on mandate and without the necessary institutional infrastructure required for it to fully assume municipal management functions.
- The link between urban planning and land administration was found to be weak and not well institutionalised. Development control relied on land data to identify ownership and status of land rates payments, yet most of the counties lack updated urban land records.
- In several counties, planning officers noted that other disciplines [departments] and political leaders have little regard for planning. This was largely attributed to the fact that previous planning practice have had little impact in influencing a desired [built environment] outcome; hence, priority is somehow given to work activities considered immediate and urgent and whose outcomes are considered as ‘tangible’ (“that has a spatial-fix”) such as infrastructure developments.

Implementation of Urban Development Plans

- Traditionally, there has been little success in implementation of urban development plans in Kenya. Yet, urban areas, if well planned and managed, offer the counties immense opportunities for advancing socio-economic transformation.
- Increasing [over]reliance on private consultants has been undertaken at the expense of investments that ought to strengthen internal capacities. Inadequate internal capacity has severely undermined successful implementation of [outsourced] plans. It was noted that counties lack policies on what planning services can or cannot be outsourced. This is related to the overall lack of institutional development roadmap for making planning effective and efficient.
- There remains a challenge on how urban planning can play the role of the ‘facilitator function’ that can inform integration of sector plans, strategies and budgets. The failure of urban planning to ascend to this critical role in county development continue to undermine success in implementation of plans.
- Failure to approve plans or delays in approving plans and the lapse of time between finalization of plan formulation and commencement of its implementation has resulted in dismal performance of plans.
- A critical gap in implementation of urban development plans in Kenya is the absence local planning and or detailed [local] plans. An analysis of recent ISUDPs, mainly the KMP ones, reveals that whereas there is acknowledgement of the importance of detailed planning, the interpretation of what it entails [contents and scope] is varied.
- Inadequate capacity (specialty) in detailed planning-it was noted that county planning departments have limited technical and financial capacity to effectively undertake local planning. Such expertise entail assembling planning and design teams with skills in urban design, architecture and construction, urban engineering, land survey, environmental planning, community development, urban renewal, finance and economic development, urban legislation etc.
- The previous plans have largely been formulated without a financing and operating strategy.
- Lack of structured plan-policy-legislation linkages.

KEY RECOMMENDATIONS

Strengthen Role of Planning in County Development

- The Kenya constitution and legislation on devolved governments envision planning as an integrative function. This ushered in a critical paradigm shift in the country's planning system.
- Create and nurture a strong integration of spatial planning, social and economic development, and environmental protection. Integrated development planning provided for by the County Governments Act provides an opportunity to institutionalise this kind of integration.
- Create an independent planning panel, or extension of the mandate of physical planning liaison committees, to facilitate better decision making with regards to complex planning approvals and large-scale projects.
- Accelerate institutional, policy and legislative reforms: (1) Establishment of fully functional planning units and the required levels; (2) Creation of functional urban administration and management institutions (Urban boards/Committees); and, (3) The revision of the planning legislation, the Physical Planning Act and formulation of adequate planning policies and legislation at national and county levels.
- Formulate an institutional development strategy and institutionalise a plan-led system of development in the counties. This means that, all public investments (e.g. infrastructure projects) and approvals of land development by non-government actors (e.g. private sector), must be aligned to urban development plans and policies. In doing so, counties must have a clear strategy on how to attain sufficient planning capacity; hence, the need for an institutional development strategy.
- Plan at Scale. For planning to attain its coordinating and integrative role in development sector, it must be undertaken at scale and within an appropriate scope. Scale relates to various levels of planning and geographical coverage-at the counties scale implies from county spatial plan to the lowest unit of planning e.g. a neighborhood or street, and higher up, this implies coordinating county planning with inter-county regional plans as well as national plans.
- Address urban informality and implement context-dependent interventions for informal settlements.



“A county government shall plan for the county and no public funds shall be appropriated outside a planning framework developed by the county executive committee and approved by the county assembly.”

Source: County Governments Act of 2012

- Promote People-Centered Planning. The public must own planning for it to be a successful tool in delivering public goods and attaining equitable development. This requires meaningful stakeholder participation in planning decisions.

Enhance Capacity of Planning Departments

- Ensure planning departments have adequate human and financial resources.
- Formulate knowledge tools for planners such as guidelines and manuals on general planning issues and substantive specializations.
- Offer continuous professional development trainings aimed at developing internal capacity within county planning departments and accelerate interventions to institutionalise planning in the counties.
- Enhance collaboration and nurture a multidisciplinary approach to planning.
- Strengthen planning education in Kenya, with focus on improving capacity of planning schools, designing specialised trainings for practitioners, linking planning schools and the industry, and advancing knowledge on local contexts.
- Invest in IT-oriented systems that improve work efficiency in planning departments, including processes of development control, plan formulation and data management.
- Create and institutionalise an appeal system. This may entail reintroduction of physical planning liaison committees or creation of similar institutions.
- Recruit trained planning enforcement officers and building inspectors.
- Coordinate work of planning department with the other departments.

Urban Administration and Management

- Establishment of departments of urban planning (headed by a qualified planner) to provide a clear and strong focus on urban planning.
- Empowerment of urban board/committee members to develop a good understanding of integrated urban planning; the importance of plans, and how to align municipal budgets with urban development plans.

- Decentralise planning and certain aspects of fiscal authority to urban level to provide clear mechanisms for financing urban development at the local level.
- Establish participatory structures and an appropriate approach to participatory planning.
- Enhance relationship between spatial and economic strategies; spatial and service delivery strategies.

Enhance Implementation of Urban Development Plans

- Well-planned and managed urban centres will play a critical role towards accelerating development in the counties. Successful implementation of urban development plans is one of determining factors of achieving such desired urban centres, which will require effective and efficient planning institutions.
- A good plan can be measured by the quality of its content (in relation to the issues at hand and context) and the level to which it has been implemented. It is therefore important to undertake a pre-planning evaluation to identify possible barriers to successful implementation, and subsequently to formulate an appropriate strategy for reforms.
- Streamline plan-making. Make the process simple, open and highly participatory, with shortened and effective timeframe, and communicate planning in simplified manner. A good plan formulation process is a critical investment for successful implementation of the plan.
- Plan at scale, with focus on appropriate scope and time frames.
- Formulate local plans and detailed designs for effective and efficient implementation of city-wide plans. Further, make local plans as the main reference for determining planning applications.
- Link urban development plans with municipal budgeting and investment programming, and infrastructure delivery. The Integrated Urban Development Planning process is designed to institutionalise such integration.

Development Management

- A fundamental paradigm shift is required: from development control (rule& force) to development management, which is a holistic merit-based system for guiding planned land development. Development management ensures that planning authorities, developers and the public are working together as partners, with emphasis on conformity to standards and realization of well-planned built environment. This approach is anchored on good urban governance.
- Streamline the processes of planning and building permit applications. This requires planning authorities to invest in a system that reduces paperwork, eliminates delays, straightforward, transparent and accountable, and with good communication and reliable data management. Well-designed Information Technology-based systems have been proofed as efficient and effective in municipalities where good governance prevails.
- In creating an efficient and effective planning approvals system, consider merging related approval processes. For environmental approvals, it is important to identify the type of developments that require separate environmental approvals and those whose environmental concerns can be approved as part of the planning application.
- For ordinary developments, a good planning brief must contain adequate information on environmental impact and the respective interventions proposed. Such information should provide an informed-basis for approving such developments without a separate environmental approval. Subsequently, planning authorities should hire the necessary substantive specialists to improve the quality of decision making.
- Develop a digital communication system between public planning authorities and private planning practitioners to promote transparency and accountability in planning applications.
- Update land records and implement an IT-oriented Land Information System (LIS). To effectively achieve this, county planning and land administration functions must, among others, develop an appropriate mechanism to identify and resolve all informal and unregistered subdivisions. Further, it will be critical to engage the relevant agencies in addressing likely conflicts and illegalities in land administration. Without updated land records, it will be hard to realize land-based financing of infrastructure, revenue enhancement and succeed in development management.
- Create a joint planning board or revisit the mandate of physical planning liaison committees to incorporate advisory on issuing planning approvals to complex project proposals. This board or a similar institution is required at national and county levels.

Urban Planning and Infrastructure Development

- Adopt integrated land use and infrastructure development. This will require urban planning departments to collaborate with infrastructure agencies in joint planning and programming-informed by spatial development frameworks.
- Shift towards a stable and long-term pipeline of infrastructure projects-to provide better financial forecasting and planning.
- Make spatial development frameworks as the basis for prioritisation and programming of infrastructure investments.
- Public engagement in infrastructure planning and development-with emphasis on what social, economic and environmental values accrue.
- Formulate and implement urban development policies and regulations that link development management and land-based financing of infrastructure investments.

- A greater focus on existing urban footprint to allow for more efficient land utilization and optimizing value for infrastructure investments. This entails densification and redevelopment of areas targeted for infrastructure investments.
- New neighborhoods, districts and towns created by real estate developments in and around urban centres, should be well-planned to reduce commuter demand, and well-connected by affordable and accessible public transport to reduce personalized transport options such as the car.
- Create an efficient land acquisition system to increase share of urban public land. This entails streamlining the land subdivision process, to ensure that a certain proportion of subdivided land is transferred to county governments for public good (e.g. land reserved for education facilities)
- Invest in an efficient development management system, with emphasis on integration of information technology (e.g. Geographic Information Systems, electronic permit processing systems, land information systems etc.).

PART 1: **BACKGROUND**



Malindi, Kenya. © GIS Data Republic of Kenya
Illustration © BarakaMwau/UN-Habitat.

CHAPTER 1.0. INTRODUCTION



Sunday market in Chaka, Kenya © ninara/Flickr

OVERVIEW

Currently, 27 percent (13 million of Kenya's current population lived in urban centres of varied sizes.

Towards the year 2050, this share will approach 50 percent of the total country population, which will be an equivalent of 44 million people¹. This urban transition will induce structural transformations in social, economic and spatial development aspects. To effectively steer a sustainable urban transition, the country will require adequate preparedness on the part of policymakers, planners and urban management authorities, among other actors.

Whereas urban centres in Kenya have had significant contribution to socio-economic development, they still face multifaceted challenges that have hindered their attainment of full potential. Such challenges include, and not limited to: inadequate and underdeveloped infrastructure, cumulative shortfalls in provision of decent and affordable housing-especially for the low-income earners, dysfunctional land and housing markets, informal settlements, mobility challenges, socio-economic challenges, and environmental degradation. To address these challenges, the country must develop the requisite urban planning and management capacities, both at the national and county levels.

¹ United Nations Population Division - World Urbanization Prospects 2018 Revision

PART 1: STRUCTURE OF THE REPORT BACKGROUND

- **Chapter 1: Introduction-** this covers the background informing the project;
- **Chapter 2: Urbanization Trends and Implications for Planning-** This highlights the Kenya's urbanization context with focus on the counties featured in this project;

PART 2: SURVEY FINDINGS AND DISCUSSION

- **Chapter 3: Prevailing Urban Planning in the Counties-** This chapter provides findings on how planning is currently practiced in the counties;
- **Chapter 4: Institutional Capacity-** In this chapter, the findings focus on the institutional capacity of the various planning departments featured in this survey. Collectively, the key issues have been outlined and various recommendations made;
- **Chapter 5: Implementation of Urban Development Plans-** Premised on the fact that plan implementation has largely been unsuccessful in Kenya's urban context, this chapter delves into the issues and offers recommendations towards better implementation of plans;

PART 3: RECOMMENDATIONS

- **Chapter 6: Strengthening Planning in the Counties-** Drawing from the key findings of the survey, this chapter outlines various strategic interventions towards strengthening urban planning; and,
- **Chapter 7: Conclusion-** This draws an overall conclusion for the report.

This report provides insights into various key issues on urban planning that warrant the attention policy and decision makers. It has useful information for formulating a more-informed reform agenda of Kenya's planning system. Indeed, the findings in this report frame a justification as to why the planning system, especially at the county level require reforms to make it fit-for-purpose.

The report is based on a survey undertaken across 13 counties and desktop research. The presentation of the report is structured into 3 parts and 7 chapters as follows:

ASSESSING URBAN PLANNING IN THE COUNTIES

In recent years, Kenya has stepped up interventions in the urban sector including implementation of the Kenya Municipal Programme (KMP). Completed in May 2017, KMP was financed through a World Bank loan facility to the Government of Kenya. Additional funding came from Swedish International Development Agency (Sida). To aid in the implementation of KMP, Sida financed UN-Habitat to provide technical support towards implementation of component 2 of KMP, which focused on Participatory Strategic Urban Planning. Under this framework, UN-Habitat collaborated with the National Urban Development Department (UDD) to support capacity development to county governments and offered technical advisory to Integrated Strategic Urban Development (ISUD) planning processes for 13 urban areas: Embu, Kakamega, Kericho, Kilifi, Kitui, Machakos, Malindi, Mombasa, Naivasha, Nakuru, Nyeri, Thika and Turbo-Jua kali-Soy.

UN-Habitat and UDD initiated a research activity to provide deeper understanding of the planning practice in the counties. The findings inform a more-informed design of future programs for capacity development in urban planning and urban development, and for reference in planning reform. Notably, with an intention to ensure that capacity development interventions are strategic, context-dependent and fit-for-purpose.



Old Town Mombasa. © Digital Globe/Google Earth

The approach

The partners designed a survey of planning functions that was undertaken in the counties where KMP component 2 (ISUDP) was implemented. These counties are **Embu, Kakamega, Kericho, Kiambu, Kilifi, Kitui, Machakos, Mombasa, Nakuru, Nyeri and Uasin Gishu**. (See Figure 1) Additionally, **Kisumu and Turkana** counties were incorporated. In these two counties, UN-Habitat was involved in providing planning support, where in Kisumu support focused on Lakefront Redevelopment and in Turkana, the work involved planning for the Kalobeyei New Settlement for integrated refugee and host communities.

This survey was executed in the form of structured interviews with county officers. These interviews were conducted by a joint team comprising of officers from UDD and UN-Habitat. A comprehensive data capture tool was designed to guide the interview sessions and gathering of additional data. The interviews targeted senior managers² at the county (Chief Officers and Directors) as well as key technical officers in the relevant departments, mainly the physical planning department. Prior to the interview sessions, the assessment team circulated the data capture tool to the respective counties, to facilitate adequate preparations for the sessions. The sessions were conducted in the months of June-October 2017 (See Figure 2).

² Senior Managers who took part in the assessment include: Members of County Executive Committee (MCEC), Chief Officers, and Directors.

Figure 1: Map showing counties featured in the project

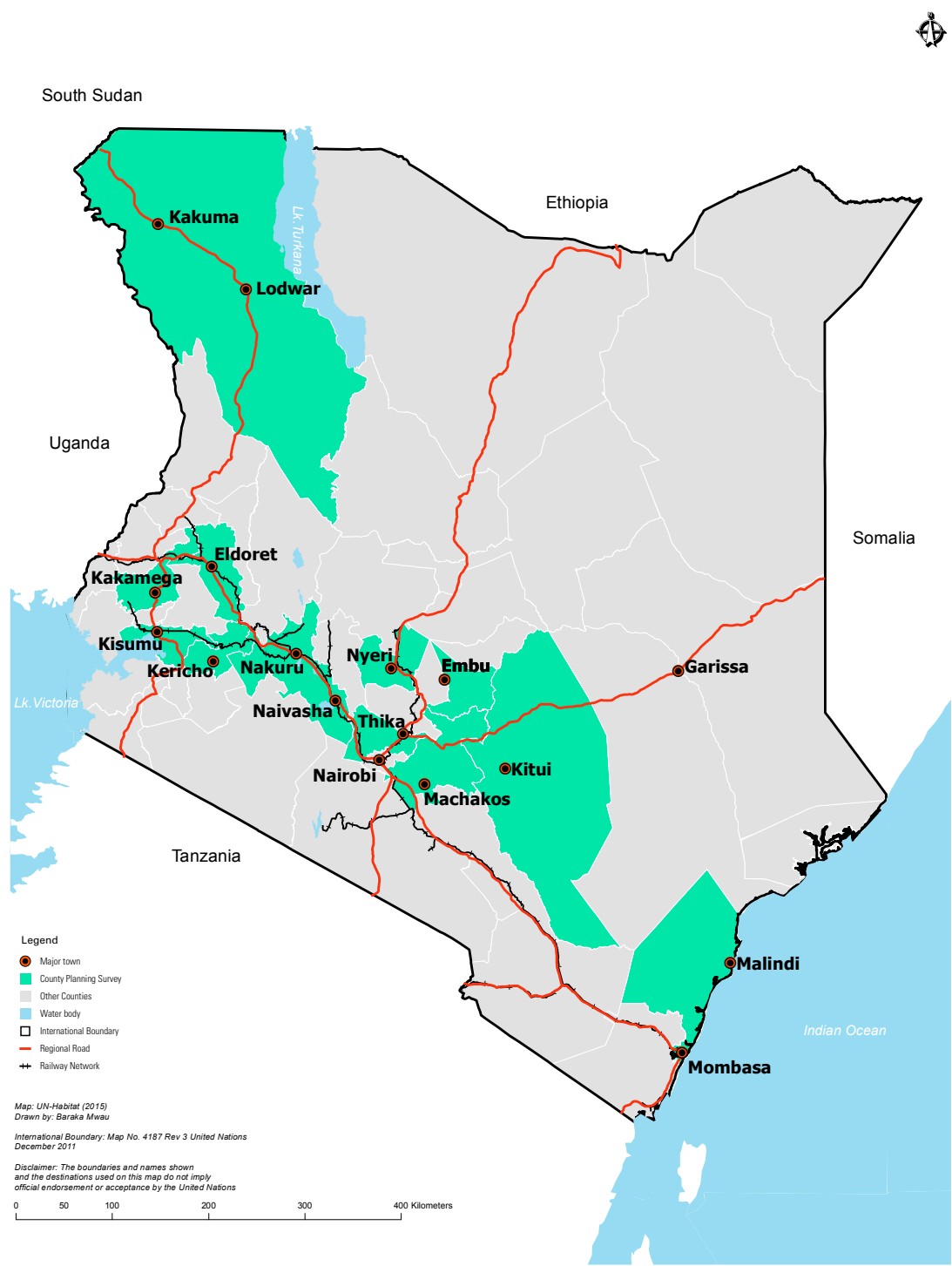
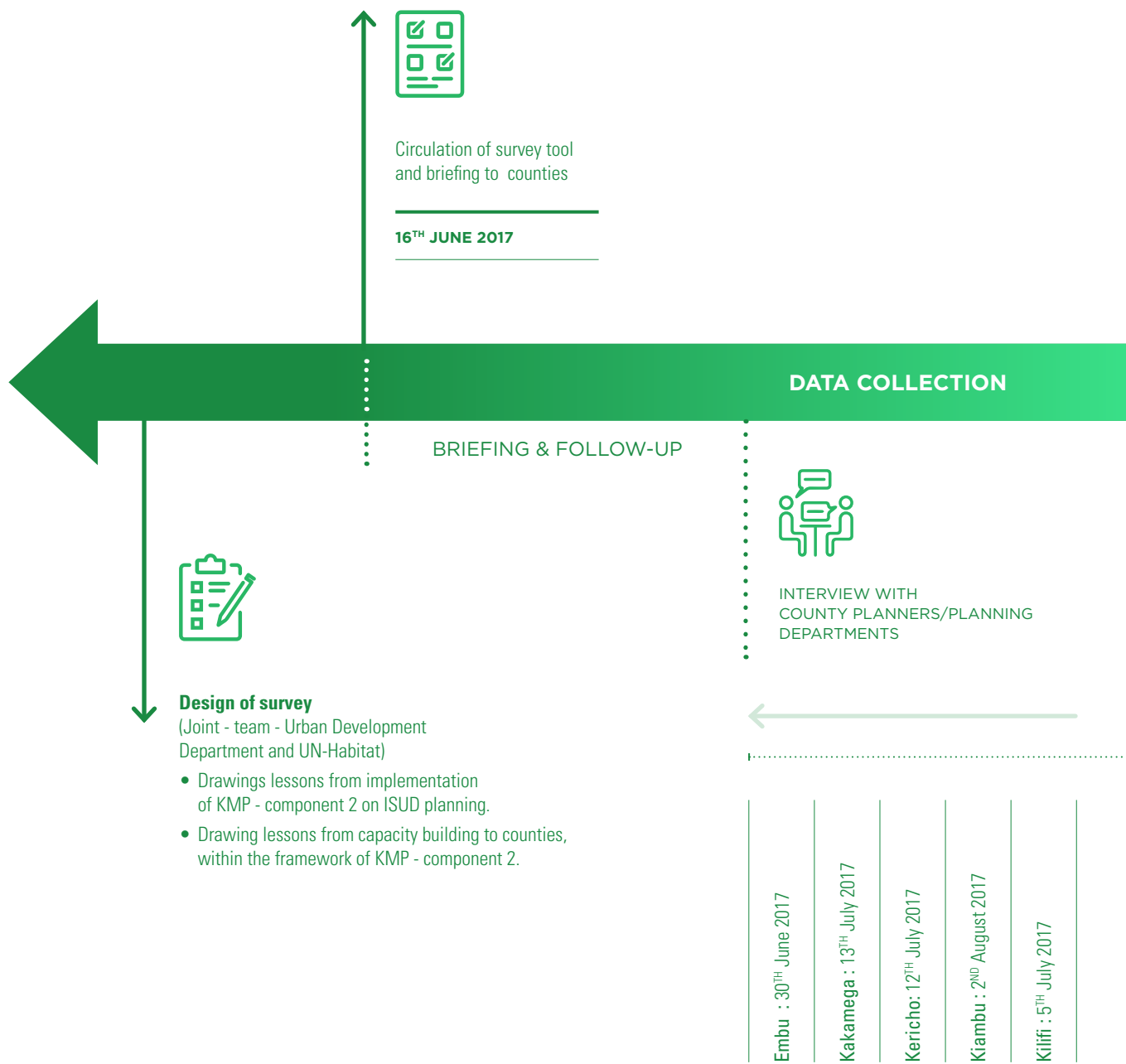


Figure 2: Survey Implementation Schedule





30TH JUNE - 10TH OCTOBER 2017

| |
|-----------------------------------------|
| Kisumu : 14 TH July 2017 |
| Kitui : 26 TH July 2017 |
| Machakos : 27 TH June 2017 |
| Mombasa: 4 TH July 2017 |
| Nakuru : 30 TH June 2017 |
| Nyeri : 28 TH June 2017 |
| Turkana: 28 TH October 2017 |
| Uasin Gishu: 11 TH July 2017 |



Kwa-Vonza Town, Kitui County. © Baraka Mwau

PURPOSE AND OBJECTIVES OF THE SURVEY

The survey sought to establish the status of urban planning and management in select counties and consequently to jointly (together with the counties) identify specific interventions required. The project is premised on the firm belief that sustainable urban development in Kenya will largely depend on how effective and efficient institutions; processes and structures, are at the various levels of government, including urban planning institutions. The specific objectives of the project were to:

- Establish the existing institutional capacity for urban planning and management in the selected counties-the status; opportunities and challenges, gaps and interventions, and prospects.
- Examine the issues, opportunities and challenges that specific counties are facing in relation to urbanization and urban development.
- Generate information that can be used for designing appropriate capacity development and institutional development interventions going into the second cycle of devolution.

PLANNING AND THE NEW URBAN AGENDA

In October 2018 United Nations member states meeting in Quito, Ecuador ratified a global call for a renewed approach to sustainable urban development, the New Urban Agenda (NUA). Whereas the call was global, the implementation is local. The NUA envisions sustainable urban development for social inclusion and ending poverty, urban prosperity and opportunities for all, environmental sustainability and resilience, good urban governance, well planned and managed urban development, and integrated systems of cities and human settlements (urban and rural). Against that backdrop, it is no doubt that urban planners will play a critical role towards successful implementation of the NUA¹. Indeed, the NUA categorically calls for an urban paradigm shift that will *“readdress the way we plan, finance, develop, govern, and manage cities and human settlements, recognizing sustainable urban and territorial development as essential to the achievement of sustainable development and prosperity for all”*.

With Kenya advancing towards a 50 percent urban population (of the country’s total), there is a critical need to evaluate the level of preparedness, including how responsive is the country’s planning capacity to steer a well-planned and managed urbanization. Currently, the country’s urban centres face a myriad of planning challenges, which are analysed and discussed in this report.

Addressing the issues and challenges identified by the NUA will at the same time enable countries and local governments attain the 2030 Sustainable Development Goals (SDGs). For instance, NUA has identified urban poverty, inequalities, deficits in affordable housing and access to basic services, etc. as some of the key challenges facing urban centres. Similarly, the SDGs, having acknowledged existence of such challenges, has set-out specific Goals, Targets and Indicators related to such issues.



Rental Housing Development, Nairobi County. © Baraka Mwau

PLANNING AND THE SUSTAINABLE DEVELOPMENT GOALS

Following the expiry of the Millennium Development Goals, UN Member states approved the Sustainable Development Goals towards the year 2030. For the first time, a Goal was dedicated to cities. This is Goal 11, which aims for “Sustainable Cities and Communities”. This implies that policy makers and planners will have to approach urban development as an integrated system, to address interrelated challenges and fundamental concerns of housing, slums, environment and climate change, well-being and livelihoods, transportation, land use etc. The other goals also apply to cities as they address pressing [and interrelated] development issues that cities today must aim to achieve.

Planning is a critical tool, with the potential to facilitate successful realisation of the SDGs, especially Goal 11. Among the targets for Goal 11 entails: *“By 2030, enhance inclusive and sustainable urbanization and capacity for participatory, integrated and sustainable human settlement planning and management in all countries”*. This makes it critical for countries to invest in developing appropriate planning capacity.

Well-planned and managed cities will enable national and county governments in Kenya to address numerous development challenges including that related to: housing, infrastructure and basic services, environmental protection, social and economic development.



Table 1: **SDG 11 targets and indicators**

| Targets | Current Indicators |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SDG Target 11.1 By 2030, ensure access for all to adequate, safe and affordable housing and basic services and upgrade slums | 11.1.1 Proportion of urban population living in slums, informal settlements or inadequate housing. [Tier I] |
| SDG Target 11.2 By 2030, provide access to safe, affordable, accessible and sustainable transport systems for all, improving road safety, notably by expanding public transport, with special attention to the needs of those in vulnerable situations, women, children, persons with disabilities and older persons. | 11.2.1 Proportion of population that has convenient access to public transport, by sex, age and persons with disabilities. [Tier II] |
| SDG Target 11.3 By 2030, enhance inclusive and sustainable urbanization and capacity for participatory, integrated and sustainable human settlement planning and management in all countries. | 11.3.1 Ratio of land consumption rate to population growth rate [Tier II] 11.3.2 Proportion of cities with a direct participation structure of civil society in urban planning and management that operate regularly and democratically [Tier III] |
| SDG Target 11.4 Strengthen efforts to protect and safeguard the world's cultural and natural heritage | 11.4.1 Total expenditure (public and private) per capita spent on the preservation, protection and conservation of all cultural and natural heritage, by type of heritage (cultural, natural, mixed and World Heritage Centre designation), level of government (national, regional and local/municipal), type of expenditure (operating expenditure/investment) and type of private funding (donations in kind, private non-profit sector and sponsorship). [Tier III] |
| SDG Target 11.5 By 2030, significantly reduce the number of deaths and the number of people affected and substantially decrease the direct economic losses relative to global gross domestic product caused by disasters, including water-related disasters, with a focus on protecting the poor and people in vulnerable situations | 11.5.1 Number of deaths, missing persons and directly affected persons attributed to disasters per 100,000 population [Tier II] 11.5.2 Direct disaster economic loss in relation to global GDP, damage to critical infrastructure and number of disruptions to basic services, attributed to disasters [Tier I] |
| SDG Target 11.6 By 2030, reduce the adverse per capita environmental impact of cities, including by paying special attention to air quality and municipal and other waste management | 11.6.1 Proportion of urban solid waste regularly collected and with adequate final discharge out of total urban solid waste generated, by cities. [Tier II] 11.6.2 Annual mean levels of fine particulate matter (e.g. PM2.5 and PM10) in cities (population weighted). [Tier I] |
| SDG Target 11.7 By 2030, provide universal access to safe, inclusive and accessible, green and public spaces, in particular for women and children, older persons and persons with disabilities | 11.7.1 Average share of the built-up area of cities that is open space for public use for all, by sex, age and persons with disabilities. [Tier III] 11.7.2 Proportion of persons victim of physical or sexual harassment, by sex, age, disability status and place of occurrence, in the previous 12 months. [Tier III] |
| SDG Target 11.a Support positive economic, social and environmental links between urban, peri-urban and rural areas by strengthening national and regional development planning. | 11.a.1 Proportion of population living in cities that implement urban and regional development plans integrating population projections and resource needs, by size of city [Tier III] |
| SDG Target 11.b By 2020, substantially increase the number of cities and human settlements adopting and implementing integrated policies and plans towards inclusion, resource efficiency, mitigation and adaptation to climate change, resilience to disasters, and develop and implement, in line with the Sendai Framework for Disaster Risk Reduction 2015-2030, holistic disaster risk management at all levels. | 11.b.1 Number of countries that adopt and implement national disaster in line with the Sendai Framework for Disaster Risk Reduction 2015-2030a. [Tier I] 11.b.2 Proportion of local governments that adopt and implement local disaster risk reduction strategies in line with national disaster risk reduction strategies [Tier II] |
| SDG Target 11.c Support least developed countries, including through financial and technical assistance, in building sustainable and resilient buildings utilizing local materials. | 11. c.1 Proportion of financial support to the least developed countries that is allocated to the construction and retrofitting of sustainable, resilient and resource-efficient buildings utilizing local materials. [Tier III] |

Tier 1: Indicator is conceptually clear, has an internationally established methodology and standards are available, and data are regularly produced by countries for at least 50 per cent of countries and of the population in every region where the indicator is relevant.

Tier 2: Indicator is conceptually clear, has an internationally established methodology and standards are available, but data are not regularly produced by countries.

CHAPTER 2.0. URBANIZATION TRENDS AND IMPLICATIONS FOR PLANNING



Land market and developments, Konza City Area. © Baraka Mwau

OVERVIEW

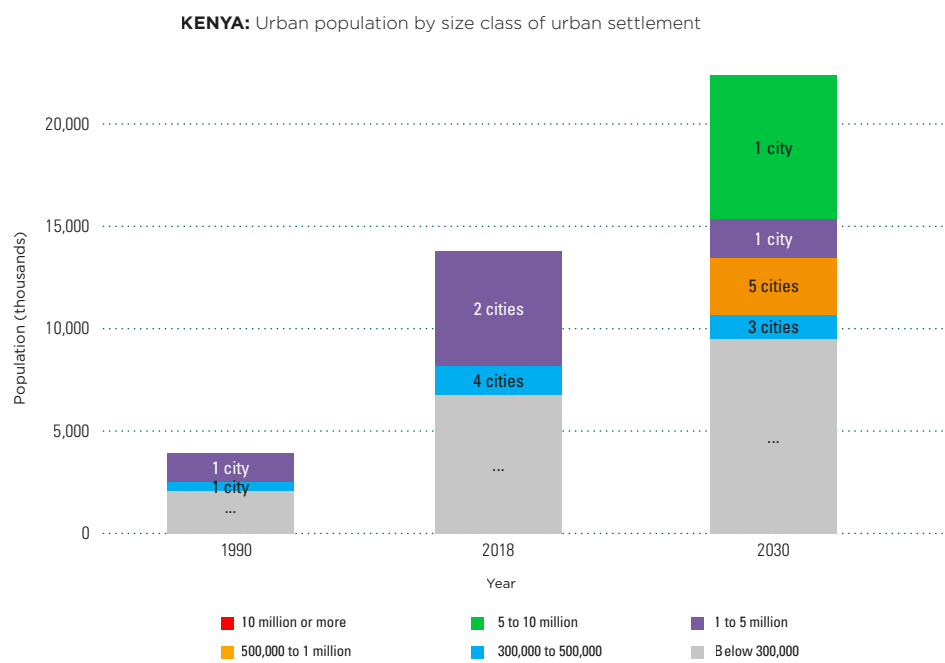
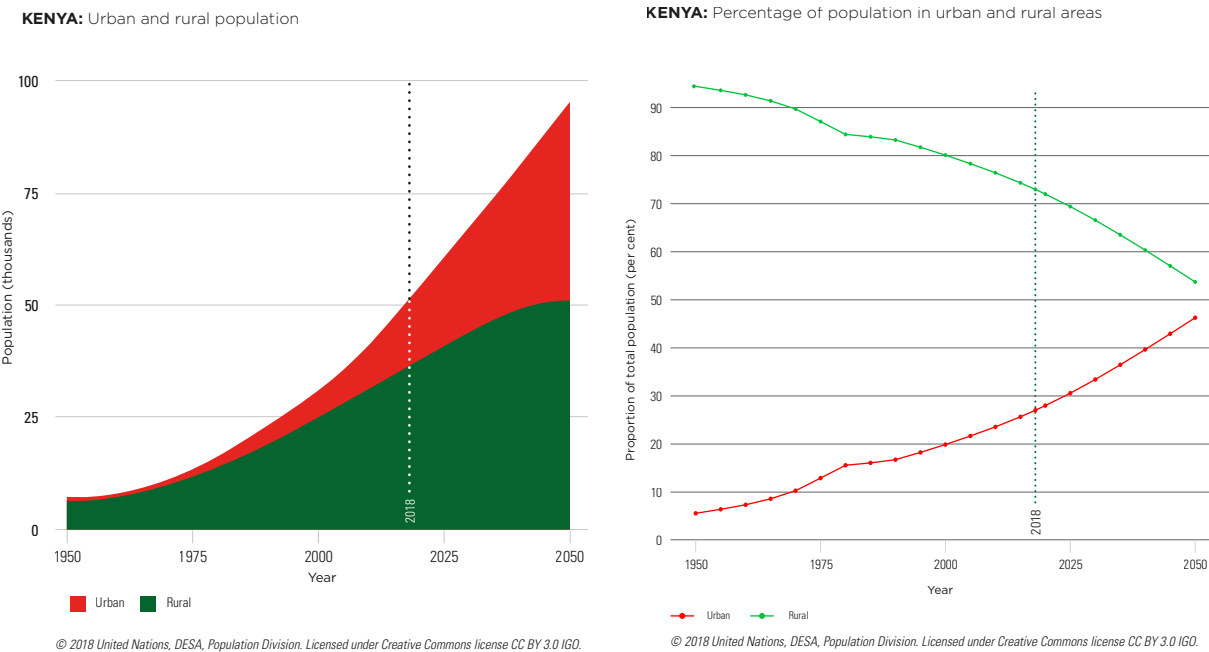
This chapter provides a background on Kenya's urbanization and its implications for urban planning. The chapter emphasizes on the need to focus on planning for sustainable development of secondary cities, medium-sized and small towns in Kenya.

URBANIZATION TRENDS

Kenya's urban population is projected to increase significantly in the coming years. In 2018, the urban population was estimated at 27 percent (13.8 million) of the country's total population.

This is projected to reach 33.4 percent (22.4 million) by the year 2030 and by 2050, the projected urban population will be 46 percent (44 million), which will be almost half of the total country population. The current average annual rate of change of the urban population (urban growth rate) is 4.23 percent, with an average annual rate of change of the percentage of urban (urbanization rate) of 1.74 percent. This is according to the World Urbanization Prospects: The 2018 Revision, by Population Division of the United Nations.

Figure 2.1: Urbanization Trends-projections, Town scales, Rural-Urban growth projection



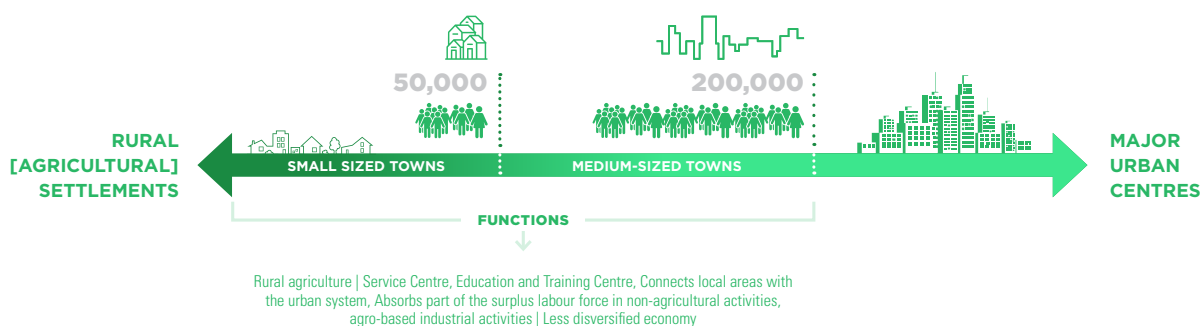
Sources: Graphics Adapted from UNDESA

FOCUS ON MEDIUM-SIZED AND SMALL TOWNS

Urbanization levels vary across the counties. Likewise, the size of towns also varies, with most of the counties having medium-sized and small towns. Analysis of the 2009 Kenya population and housing census indicates that most of the counties have relatively small towns and low levels of urbanization. These are towns with a population not exceeding 200,000 (medium-sized) and 50,000 (small-towns) people, respectively. Most of the county planning, therefore, has to

do with managing growth of medium-sized and small towns. Secondary cities (with a population exceeding 300,000 and below 1 million people) are currently few. They include: Kisumu, Eldoret, Nakuru and Ruiru.

Fundamentally, secondary cities in these counties have a certain level of primacy, perhaps except for Kiambu county which has several major towns [in terms of population size] and Mombasa which can be considered as a city county. Table 1 indicates the major towns in each of the county participating in this assessment.



Baraka Mwau © UN-Habitat

Table 2.1: County Population and Major Towns

| County | County Population [2009 Census] | County Population Density 2009 [People per km ²] | County Level of Urbanization [Percent] | Major Towns | Population of Towns [2009 census] |
|----------|---------------------------------|--------------------------------------------------------------|----------------------------------------|-------------|-----------------------------------|
| Embu | 516,212 | 183 | 16 | Embu | 60,673 |
| | | | | Runyenjes | 19,548 |
| | | | | Siakago | 2,694 |
| Kakamega | 1,660,651 | 550 | 15 | Mumias | 99,987 |
| | | | | Kakamega | 91,768 |
| | | | | Butere | 12,780 |
| | | | | Lumakanda | 10,580 |
| | | | | Malava | 4,070 |
| Kericho | 758,339 | 274 | 28 | Kericho | 101,808 |
| | | | | Kipkelion | 46,760 |
| | | | | Londiani | 43,152 |
| | | | | Litein | 9,103 |
| | | | | Kabuti | 4,237 |

| County | County Population [2009 Census] | County Population Density 2009 [People per km ²] | County Level of Urbanization [Percent] | Major Towns | Population of Towns [2009 census] |
|----------|------------------------------------|--------------------------------------------------------------------|----------------------------------------------|---------------|--------------------------------------|
| Kiambu | 1,623,282 | 638 | 62.2 | Ruiru | 238,858 |
| | | | | Kikuyu | 233,231 |
| | | | | Thika | 136,917 |
| | | | | Karuri | 107,716 |
| | | | | Kiambu | 84,155 |
| | | | | Limuru | 79,531 |
| | | | | Juja | 40,446 |
| | | | | Githunguri | 10,007 |
| | | | | Gatundu | 5,550 |
| Kilifi | 1,109,735 | 88 | 26 | Malindi | 118,265 |
| | | | | Kilifi | 48,826 |
| | | | | Mtwapa | 48,625 |
| | | | | Mariakani | 24,055 |
| | | | | Watamu | 10,030 |
| | | | | Majengo | 7,788 |
| Kitui | 1,012,709 | 33 | 14 | Kitui | 109,568 |
| | | | | Mwingi | 15,970 |
| Kisumu | 968,909 | 464 | 52 | Kisumu | 388,311 |
| | | | | Awasi | 93,369 |
| | | | | Ahero | 50,730 |
| | | | | Oyugis | 35,451 |
| | | | | Muhoroni | 34,457 |
| Machakos | 1,098,584 | 177 | 52 | Kangundo-Tala | 218,722 |
| | | | | Machakos | 150,041 |
| | | | | Mavoko | 137,211 |
| | | | | Kathiani | 3,365 |
| Mombasa | 939,370 | 4,289 | 100 | Mombasa | 939,370 |

| County | County Population [2009 Census] | County Population Density 2009 [People per km ²] | County Level of Urbanization [Percent] | Major Towns | Population of Towns [2009 census] |
|-------------|------------------------------------|--------------------------------------------------------------------|----------------------------------------------|--------------|--------------------------------------|
| Nakuru | 1,603,325 | 214 | 46 | Nakuru | 307,990 |
| | | | | Naivasha | 169,142 |
| | | | | Molo | 40,651 |
| | | | | Gilgil | 35,293 |
| | | | | Njoro | 23,551 |
| | | | | Mai Mahiu | 11,230 |
| | | | | Subukia | 7,309 |
| Nyeri | 693,558 | 208 | 24 | Nyeri | 119,353 |
| | | | | Karatina | 8,499 |
| | | | | Naro Moru | 5,805 |
| | | | | Othaya | 5,137 |
| Turkana | 855,399 | 12 | 14 | Lodwar | 48,316 |
| | | | | Kakuma | 36,875 |
| | | | | Lokichogio | 17,695 |
| Uasin Gishu | 894,179 | 267 | 39 | Eldoret | 289,380 |
| | | | | Moi's Bridge | 14,596 |
| | | | | Matunda | 10,031 |
| | | | | Burnt Forest | 4,925 |

Source: *Commission on Revenue Allocation (2013). Kenya: County Fact Sheets. Second Edition*

EMERGING ISSUES IN MANAGEMENT OF MEDIUM-SIZED AND SMALL TOWNS



1. Planning- Most of the medium-sized and small towns lacked development plans, with spontaneous land development and or with inadequate planning. Whereas the counties have attempted to enforce certain development regulations in these towns, it has been largely ineffective and inefficient due to lack of approved development plans; hence, reliance on weak zoning regulations and flawed discretionary decision-making.

Further, the rural-urban interface has resulted in incipient urbanization processes that are shaping unplanned urban growth and rural transformation (land-use, housing and densities). This necessitates urban planning in the counties to develop the requisite capacities to address these spatial-shaping forces that are rapidly transforming both urban and rural settlements.



2. Municipal Finance and Investments- Most of these towns, if not all, lack a structured municipal finance system, with very limited investments directed into critical urban infrastructure such as reticulated water supply and sewerage systems, organized solid waste management system, constructed market facilities, and important community amenities (e.g. schools, health facilities, parks etc.). Overall, medium-sized and small towns were found to have weak economies, dominated by the small-scale 'informal' enterprises.



3. Service Provision- The towns have accumulated huge deficits in provision of basic services, which is escalated by their unplanned growth and informal developments. This is suppressing their potential to offer quality life to the residents and has slowed local economic development. Development plans for these towns will thus be successful, among other factors, if they inform an effective infrastructure and service delivery model. Technological considerations to how services are configured and delivered for these towns need to feature more prominently in county policy and public investment programs. Another element that is critical to consider is the capacity to sustain own utilities. In that case counties will have to explore the best options for service delivery across multiple towns of this size.



4. Town Administration and Management- There is inadequate institutional knowledge on how to govern and manage medium-sized and small towns in the counties. This survey established that the dissolution of the local government system and delays³ in re-establishing urban authorities resulted in a knowledge gap and translated into a missed opportunity to institutionalize urban management during the initial transitional period towards the county government system.

Institutionalising urban administration in these towns will require significant resources designated to developing the requisite human resource capacity. This study noted that many of the town administrators appointed to manage some of these towns lack specialized training on issues of municipal management. And their efforts to gain competence in the field continue to be undermined by the inadequate budgets allocated to their offices, which limits their chances of undertaking tailored training relevant for urban managers. It was noted that the Kenya School of Government, a national government facility, offers an opportunity for the counties to access professional management training for urban managers.

³ In the first cycle of devolution (5 years) none of the urban centres in Kenya, except for urban counties (i.e. Nairobi and Mombasa) had a functional urban authority.

Among the key issues to be considered while establishing administration and management of these towns include:

- Establishing clear and appropriate institutional arrangements between county government [executive] and the urban administrations [decentralized units].
- County budgeting and financing to be structured with considerations to retaining certain percentage at source-for facilitating urban management and development. Obviously, there will be significant budget deficits owing to the relatively weak economies of medium-sized and small towns. County governments will likely be compelled to offer significant budgetary support to these

urban centres. This is crucial, given the role these towns play in enhancing urban-rural linkages and supporting the entire county development system.

- Approach and sustainability of utility services.

URBAN FORM CHARACTERISTICS

An analysis of urban form of various towns from the surveyed counties indicates spatial patterns that are characteristic of: planned, unplanned and spontaneous forms of land development (See Figures 2.2- 2.11).

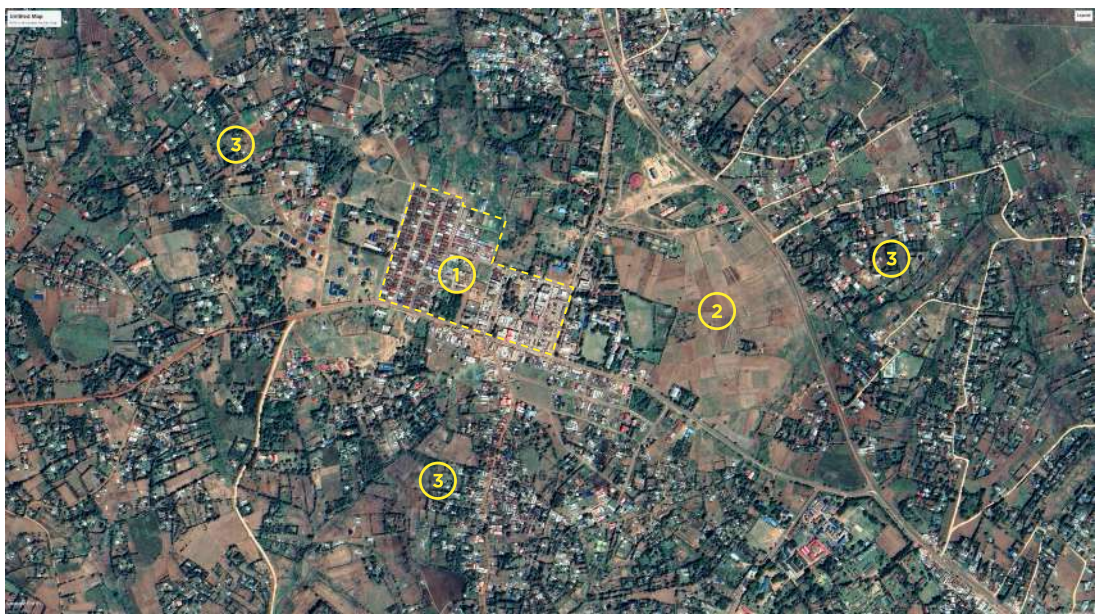
Figure 2.2: **Spontaneous Rural-Urban Transformation**



Figure 2.3: **Linear spontaneous urban expansion**



Figure 2.4: **Planned town centre with unplanned peri-urban areas**



- ① Planned urban core
- ② Large area under farming within Urban fabric
- ③ Rural-urban transformation

Figure 2.5: **Uncoordinated waterfront planning and development**



Figure 2.6: **Planned urban extension engulfed by unplanned expansion**



Figure 2.7: Land use mix challenges



Image, Athi River, Machakos © Digital Globe/Google Earth

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|
| 1 1. Informal Settlement | 2 2. Small Plots Subdivided for Residential Developments |
| 3 3. Small Gated Community | 4 4. Industry |

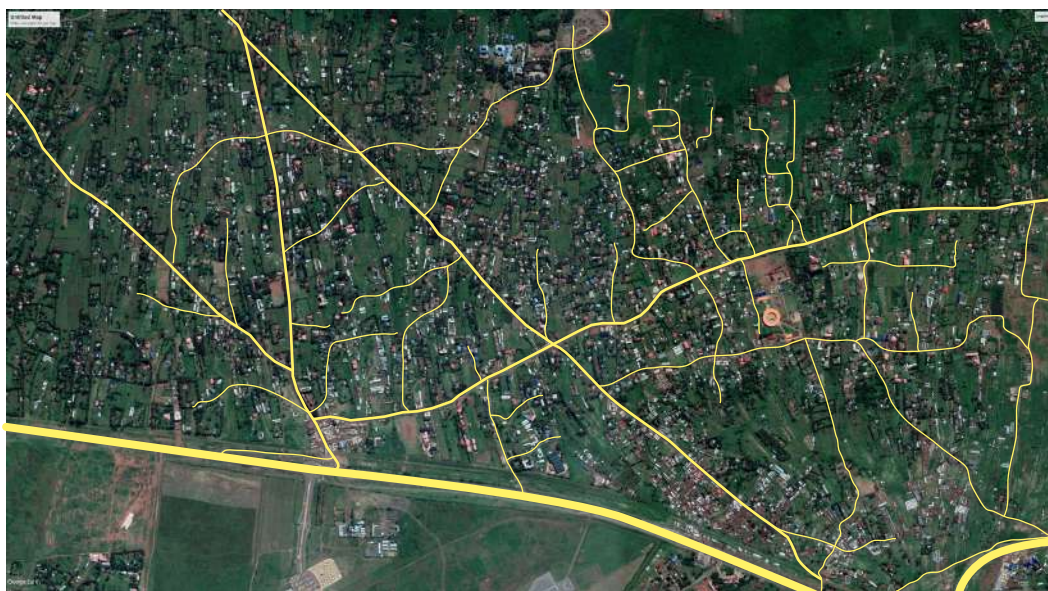
Figure 2.8: Planned urban layout, but with varied forms of residential developments



Image, Eldoret © Digital Globe/Google Earth

- | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 1. Planned and developed housing scheme |
| 2 2. Planned subdivisions with small plots for residential developments |
| 3 3. Planned subdivision but with informal or poorly regulated housing developments. |

Figure 2.9: **Complex peri-urbanization without appropriate planning interventions**



Image, Outskirts of Kisumu. © Digital Globe/Google Earth

Figure 2.10: **Underutilized land within urban core**



Image, Kitui. © Digital Globe/Google Earth

- ① Area Dominated by Institutional Developments
- Characterised by low density and inefficient landuse

Figure 2.11: **Urban-rural spatial interface**

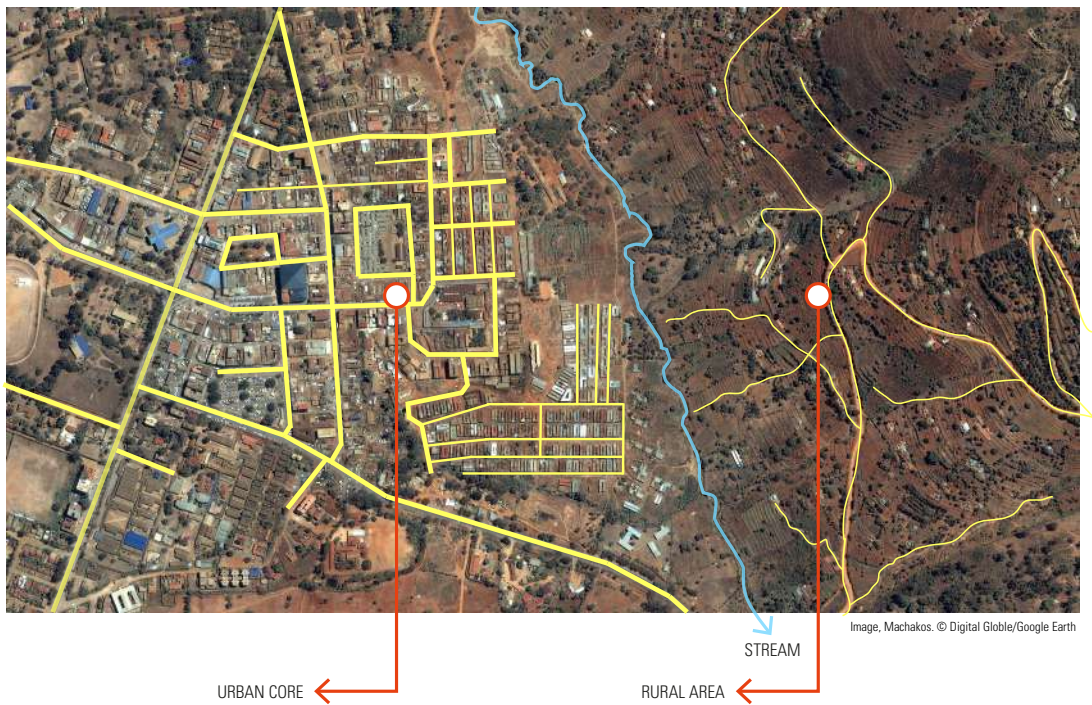
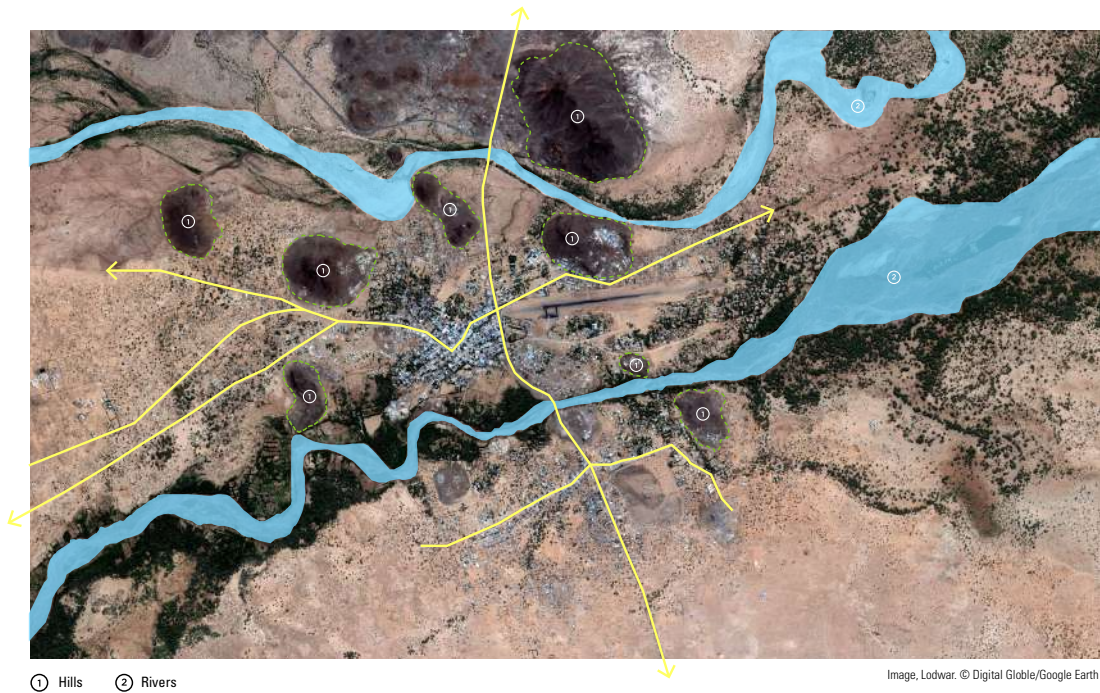


Figure 2.12: **Natural features as major spatial growth structuring elements**



PART 2 **FINDINGS**

Nyeri, Kenya. © GIS Data Republic of Kenya
Illustration © BarakaMwau/UN-Habitat.

CHAPTER 3.0. PREVAILING URBAN PLANNING IN THE COUNTIES



Image, Kisumu © Digital Globe/Google Earth.

OVERVIEW

The focus of this chapter is how urban planning is practiced in various counties, based on the findings of the survey. In this chapter, the analyses of the assessment findings are discussed in relation to the existing policy and legal framework for planning in Kenya. The chapter also examines how various practices have had impact on the prevailing urban context, including establishing gaps and opportunities, while providing recommendations on various aspects of the planning system.

MAKING A CASE FOR EFFICIENT AND EFFECTIVE PLANNING SYSTEM

An effective and efficient planning system is prerequisite to attainment and sustenance of high quality of life in Kenya's human settlements system. There are significant and evolving challenges facing Kenya's planning system. For instance, planning authorities are unable to meet the demand; faced with institutional capacity challenges, the legislative framework is inadequate, and there is shortage of expert planners to address complexities related to country's rapidly changing human settlements (urban and rural) system. Nevertheless, planning remains a critical tool to guide sustainable development in Kenya's changing human settlements landscape.

Figure 3.1: Example of planning and variations in urban form - Kericho Town



Image, Kericho © Digital Globe/Google Earth

- ① Planned section with defined street layout ② Informal developments without a planned layout

In anticipation of the urban transition, Kenya will require a reformed planning system. A system that has the capacity to effectively and efficiently shape development, ensuring that it's beneficial for the people, economy and environment. For the planning system to respond to the future demands, various reforms targeting different aspects of the system are required, especially on training, practice and policy. This is in consideration that the outcomes of the prevailing system have been largely ineffective, as characterized by dominance of unplanned developments, infrastructure and housing constraints, environmental degradation, policies and plans that are rarely implemented, among other challenges.

Nevertheless, where attempts have been undertaken to plan well, there is evidence of how planning and design can be a useful tool in achieving a desired urban form and functionality. Such attempts are mainly observed in most of central business districts (CBDs) which have a planned layout and functional activity patterns and observed in various 'fragments' of planned neighborhoods. But, due to urban management challenges and lack of urban regeneration interventions, even such planned areas are now under threat of degrading. Indeed, several of such areas have since degenerated as populations increase and infrastructure and buildings age, with the appropriate interventions having evidently been delayed.

PLANNING IN POST- 2010 KENYA CONSTITUTION

The Kenya constitution of 2010 introduced a devolved government system, through which planning functions are now shared across national and county governments. The constitution also created the National Land Commission, whose mandate include oversight over land use planning in the country. Chapter 5 of the constitution is dedicated to “Land and Environment”. Under Article 66 (1), the constitution clearly states that:

Despite this constitutional directive, several county planners identified exercising planning on private land as ‘difficult’ and a major hindrance to effective planning. While this has been the assumption or even the reality, it is worth noting that the inadequate capacity within planning institutions is largely the main contributor to these inefficiencies of planning, as currently practiced.

“

“The State may regulate the use of any land, or any interest in or right over any land, in the **interest of defence, public safety, public order, public morality, public health, or land use planning.**”

Legislation on county governments, particularly the County Governments Act and the Urban Areas and Cities Act emphasise [spatial] planning as the mechanism to inform and integrate cross-sectoral development strategies, plans and programs. This legal recognition of the fundamental role of planning in the society-presents a greater opportunity for Kenya’s planning system to guide and coordinate development than it was the case in the previous constitutional dispensation. However, this ‘expanded room’ [for planning] will only result in the desirable outcomes if fundamental measures are undertaken to make the planning system effective and efficient. A ‘fit-for-purpose’ system that commands a steering role in policy and decision-making.

The prevailing planning system is characterised by weak or lack of integration of land-use planning, transportation planning, infrastructure and housing delivery etc. In most counties, decision-making is mainly aligned to departmental mandates, with inadequate coordination, and urban planning acting more of an ‘independent’ department than would be an integrative department. This was indeed identified by the county planners as one of the key obstacles that planning continues to face in the wake of devolution; despite the progressive policy and legal framework that came with devolution.

In the first cycle of devolution, the planning function did not attain its role as a facilitator and integrator of development planning; sectoral plans, programs and investments. Officers interviewed in this study indicated the structure of county governments inherited or borrowed a sector-based (sic) approach, with weak systems for cross-sector integration.

The continued fragmentation of what ought to be related functions and planning function departmentalized in the similar manner as with the previous governance system, threaten to nurture an overly complex structure of achieving integrated interventions. However, the legislation on devolution (i.e. CGA and UACA) envisages an integrated approach to delivery of development, with emphasis on urban planning as the overarching framework for guiding development⁴.

Nevertheless, there are notable efforts in some of the counties. For instance, in Mombasa County, after the approval of ISUDP, the survey established that efforts were underway to create a coordination mechanism that will work with sector departments to align their budgets and activities with the plan implementation framework, with urban planning department providing the coordination support. Whereas Mombasa county is a ‘city county’, in other counties, the coordination of urban planning and development functions is undermined the lack of urban boards and or town committees, among other factors. County officers identified inadequacies within the Urban Areas and Cities Act as among the factors hindering institutionalizing of effective urban planning at the town level. At the time of this survey, the Act was yet to develop subsidiary legislation (regulations) that can effectively guide

⁴ County Governments Act-Section XI on Planning; Urban Areas and Cities Act

urban administration and management within the county government structure.

Another aspect of integration that the urban legislation must address is the coordination of planning and urban management for cities and towns whose growth transcends county boundaries. It was noted that there lacks proper policy and legislative framework, guidelines or even consensus, concerning demarcations of urban areas, plan formulation and implementation, and urban management for such cities and towns. For example, the survey established that the ISUDP for Embu town only covers the area that falls under Embu County's jurisdiction, leaving out a fast-growing area that falls under Kirinyaga County's jurisdiction. Another example is Thika town, whose continued expansion is shaping a contiguous urban form across Kiambu and Murang'a counties.

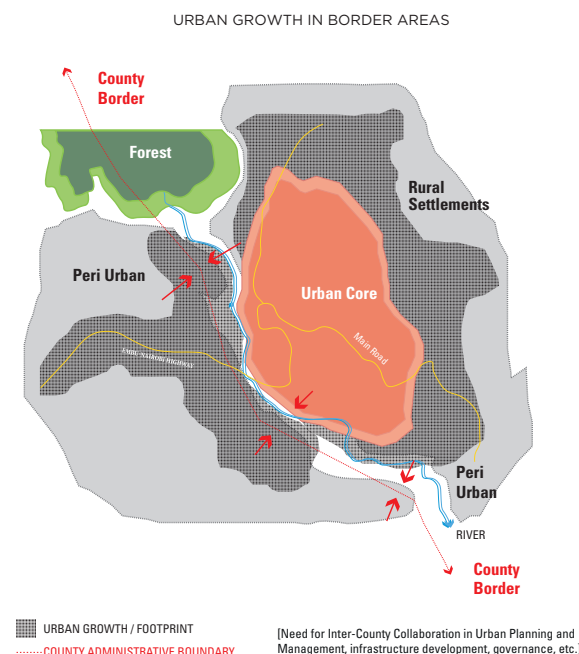
Planning Legislation

Planning in the counties rely on multiple laws, but that are inadequate. Fundamentally, it is important to note that while some legislation exist on paper, its implementation remains a major challenge. Persistent unregulated land use; illegal land subdivisions and developments are the clearest evidence of unsuccessful planning legislation in Kenya's urban centres. Several challenges have contributed to this, including inadequate institutional capacity to formulate and enforce appropriate laws, and a culture of impunity that has crippled enforcement in various occasions, and made it difficult to mediate private and public interests. This is not only a challenge in Kenya, but in many other urban contexts of sub-Saharan Africa⁵, ⁶.



Every **city** and **municipality** established under the **Urban Areas and Cities Act** shall operate within the framework of **integrated development planning** -UACA, 36(1)

Figure 3.2: **Planning for urban centres with shared administrate boundaries**

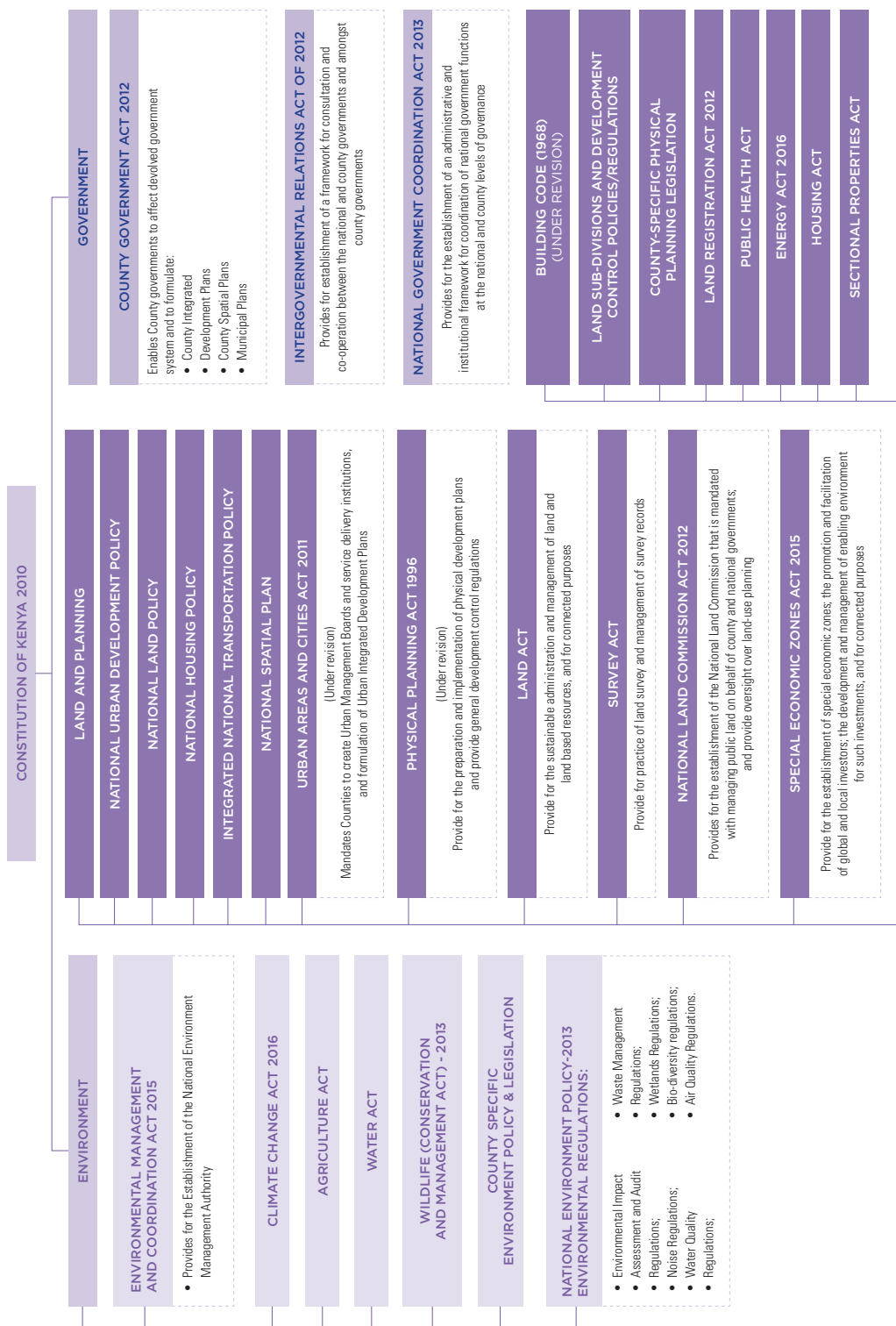


Source: BarakaMwau/Jiacong Ang/UN-Habitat

This survey established several laws that are regularly used by county planning authorities. These laws are mainly national laws, with very few planning laws having been formulated by specific counties. Zoning ordinances and the physical planning act are especially dominant in deriving regulations on land use.

⁵ See: Berrisford, S (2013). How to make planning law work for Africa. Retrieved on 17/10/2018 from: <https://www.africaresearchinstitute.org/newsite/publications/planning-law-in-africa/>
⁶ See: Berrisford, S & McAuslan, P (2017). Reforming Urban Laws in Africa: A Practical Guide. Retrieved on 17/10/2018 from: https://www.africancentreforcities.net/wp-content/uploads/2017/06/ULR-Report_FINAL_LR.pdf

Figure 3.3: Planning Policies and Legislation



Source: Baraka Mwaui/UN-Habitat

LEVELS OF DECISION MAKING AND THEIR IMPLICATIONS

This survey established that counties have adopted a two-level system of decision making. Various decisions are undertaken at the sub-county/town level, and others at county level. However, it was established that in some counties even final decisions regarding simple planning matters are sanctioned at county level, an indication that planning is not adequately decentralized. This is mainly due to the absence of established administrative institutions beyond the county government. For instance, urban boards/committees (the municipality structure) are not yet established in all the counties featured in this study.

The Director of Physical Planning coordinates planning functions in most of the counties. It was however noted that in some counties, for instance Nyeri and Kakamega, the Directors of planning were also the substantive officers undertaking day-to-day administration of planning functions for the entire county.

It was also not clear from the counties as to how decision making will be structured upon the creation of urban boards/town committees. This is therefore an area that requires the relevant stakeholders, especially the legislative system to ensure that such mechanism is enacted to avoid overlaps in mandates and poor decision-making, or even introduction of unnecessary layer[s] of bureaucracy.

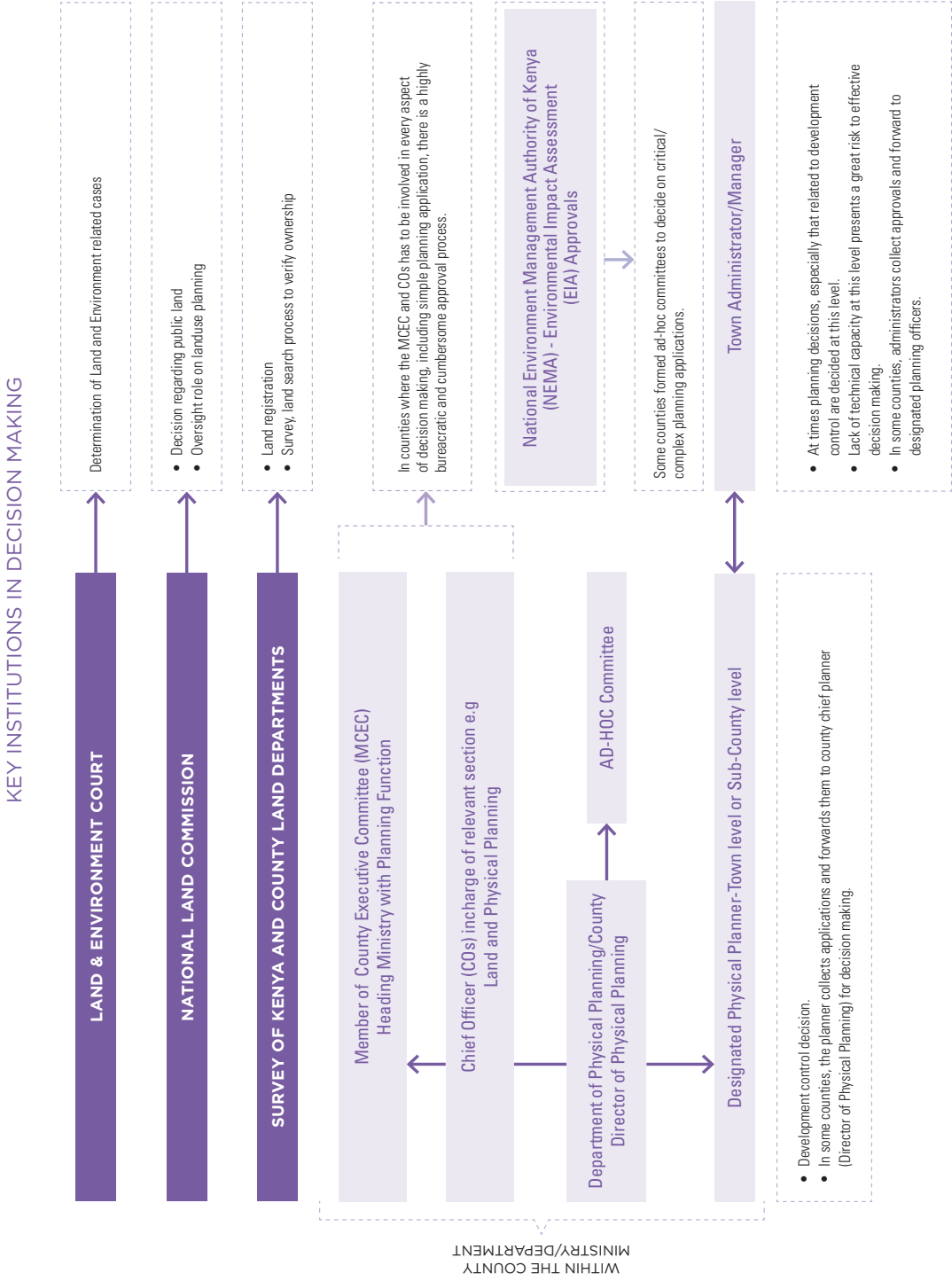
Counties expressed concerns over lack of guidelines on how to set up functional planning systems, as well as urban management institutions⁷. Attempts have been undertaken on county-by-county basis. For instance, in Embu, the planning officers indicated that a proposed organogram for the planning department was drafted but was not approved in the county assembly or by the county public service board. According to the officers, this organogram had mapped the functions and decision-making mechanisms for all relevant planning matters in the county. Part of the reasons it was rejected or not considered was that if implemented, it would have increased the wage bill of the county-if all posts were filled as proposed. This scenario, not being unique to Embu, requires further engagement by the relevant stakeholders including the relevant county and national government institutions and professional associations⁸.

The above is an indication that there is need to scale-up awareness on the importance of the planning function, among county governments' leadership. More of this issue is discussed in the institutional capacity section of this report.

⁷ It should be noted that counties are of varied population sizes, at different levels of urbanizations, and have diverse human settlements patterns; hence, such guidelines must take that into consideration. This will therefore require guidelines that provide for content-dependent county planning systems-adjustable to suit the specific county planning needs.

⁸ Government institutions that need to be involved include the public service boards, ministries charged with land, physical planning, infrastructure, housing and urban management functions, as well as the Salaries and Remuneration Commission.

Figure 3.4: Key government institutions involved in planning decision making



PERCEPTIONS ABOUT THE VALUE OF PLANNING

It was noted that whereas the devolved government system has strong emphasis on planning, the new dispensation is yet to resonate with the wider public and to some extent within the political leadership. Public engagement is rarely or hardly financed, as part of the activities that planning departments must undertake. Whereas the County Government Act⁹ requires counties to ensure public participation during planning and other forms of decision-making process there is little potential for this, due to limited financing, inadequate technical capacity to undertake meaningful participation, or even mere lack of goodwill to engage the public. This ‘detached’ approach to planning practice continues to shape the discipline as an elitist function, rather than a vital tool for guiding societal development.

Besides, the survey established that the norm in prevailing planning practice is the perception that stakeholder/public participation require a specialization i.e. a sociologist. Indeed, it was noted in formulation of Terms of References (ToR) for outsourced planning work, most of the planning authorities [and procurement guidelines] demand for a team composed of at least one trained sociologist. However, this has not been effective as it is noted that some of those professionals, albeit their complementarily skills, tend to have little understanding of spatial planning issues; hence, their communication and ability to actively engage stakeholders on certain planning matters, becomes ineffective and inefficient. Fundamentally, what is required is to equip professional planners with participatory planning skills. This way, there will be better communication between the public and planners, which is critical towards reconfiguring public perceptions on the value of planning.

Within the county government structures, the survey noted that there has been a slow progress in building synergetic working relationships with financial and economic specialists, legal specialists etc. This is especially critical for planners working in the major towns.

TYPES OF PLANS PREPARED IN THE COUNTIES

The counties were found to have three approaches to urban planning, namely: (1) Integrated Strategic Urban Development Plans (IUDP), (2) Local Physical Development Plans (LPDP), and (3) Zoning Plans (ZP).

County Spatial Plan and County Integrated Development Plan

The County Spatial Plan (CSP) covers (geographically) the entire county and is supposed to be a long-term plan, 10-15 years. It also the main plan upon which the short-term (5-year, reviewed annually) County Integrated Development Plans (CIDP) ought to be derived from. However, this is not the practice. In contrary, all counties were found to have a CIDP but lacked a CSP. This was attributed to several factors including:

- The CSP was considered a lengthy and ‘costly’ process; hence, several counties had not budgeted for the plan formulation.
- While the CIDP is a mandatory requirement to access county revenue allocation from the National Treasury, the CSP is not part of such requirements; hence, it’s not considered a priority in several of the counties.
- It was also noted that the relation between the CIDP and CSP is not adequately understood, especially within political leadership and policy makers in the counties.

a. Integrated [Strategic] Urban Development Planning

IUDP gained traction after the devolved government system, have been part of a recent urban planning approach spearheaded by the Urban Development Department (UDD) of the national government. This approach has focus on integration of sectoral planning issues, using a spatial dimension as the guiding principle of coordinating land-use planning with other aspects of urban development such as infrastructure, social amenities, environmental management, and economic development.

⁹ See: County Governments Act. ‘Part VIII-Citizen Participation’

This survey established that most of the major towns in Kenya now have an ISUDP, although many are unapproved. It is further noted that formulation of these ISUDPs have been through development assistance programmes such as the World Bank funded KMP and Nairobi Metropolitan Improvement Programme (NAMSIP). Kisumu Urban Support Programme, and a few others have been funded by specific counties through regular budgets (e.g. Turkana County).

The formulation of these plans has largely relied on some legal provisions of the County Governments Act and the Urban Areas and Cities Act.

Importantly, it was established that integrated development planning is not firmly institutionalized. This is partly contributed by the inadequate technical 'know-how' on how to undertake integrated planning. There were varied interpretations as to what is the right approach in linking spatial plans and integrated county/urban development plans (CIDP, IUDP).

b. Local Physical Development Planning

Local Physical Development Plan (LPDP) has been the traditional type of plan since the enactment of the Physical Planning Act in 1996. This type of planning can be done at different scales—from regional, city-wide to local Area scale. This nomenclature is focused on prescribing land development, and it was noted that it is limited, in both perceptions and prescriptions that seem to propagate a command and control concept (see Physical Planning Act), rather than communicating and informing delivery of integrated urban development.

According to the Third Schedule of the Physical Planning Act, part of the purpose of formulating LPDPs include: “providing a coordinated basis upon which various implementing agencies can develop their individual programmes of work for which they have executive responsibility, for example, housing, transportation, water supply, electricity supply, sewerage developments, etc.”. the key contents of the plan, as provided by the Act are aligned to guiding a planned urban form. However, the Act has insufficient provisions on how to address other aspects that planning must rely on such as financing arrangements for implementation.

During this survey, it was noted that the informal settlement upgrading plans being undertaken through the World Bank-funded KISIP are aligned to this form of plans. What emerged as debatable, though, was the approval process of the plans. The team received varied opinions as to what was the correct process of obtaining approval of LPDPs initiated by national government and whose part of the legal implications is to regularize land ownership in informal settlements that sit on public land. While in some counties, there was a strong impression that such level of planning is a county affair; hence, approval should be done at county level; others were of the opinion that national government through the Lands and Physical Planning ministry, ought to approve the plans. It was also suggested that in such circumstances, two levels (county and national government) were needed for the approval process.



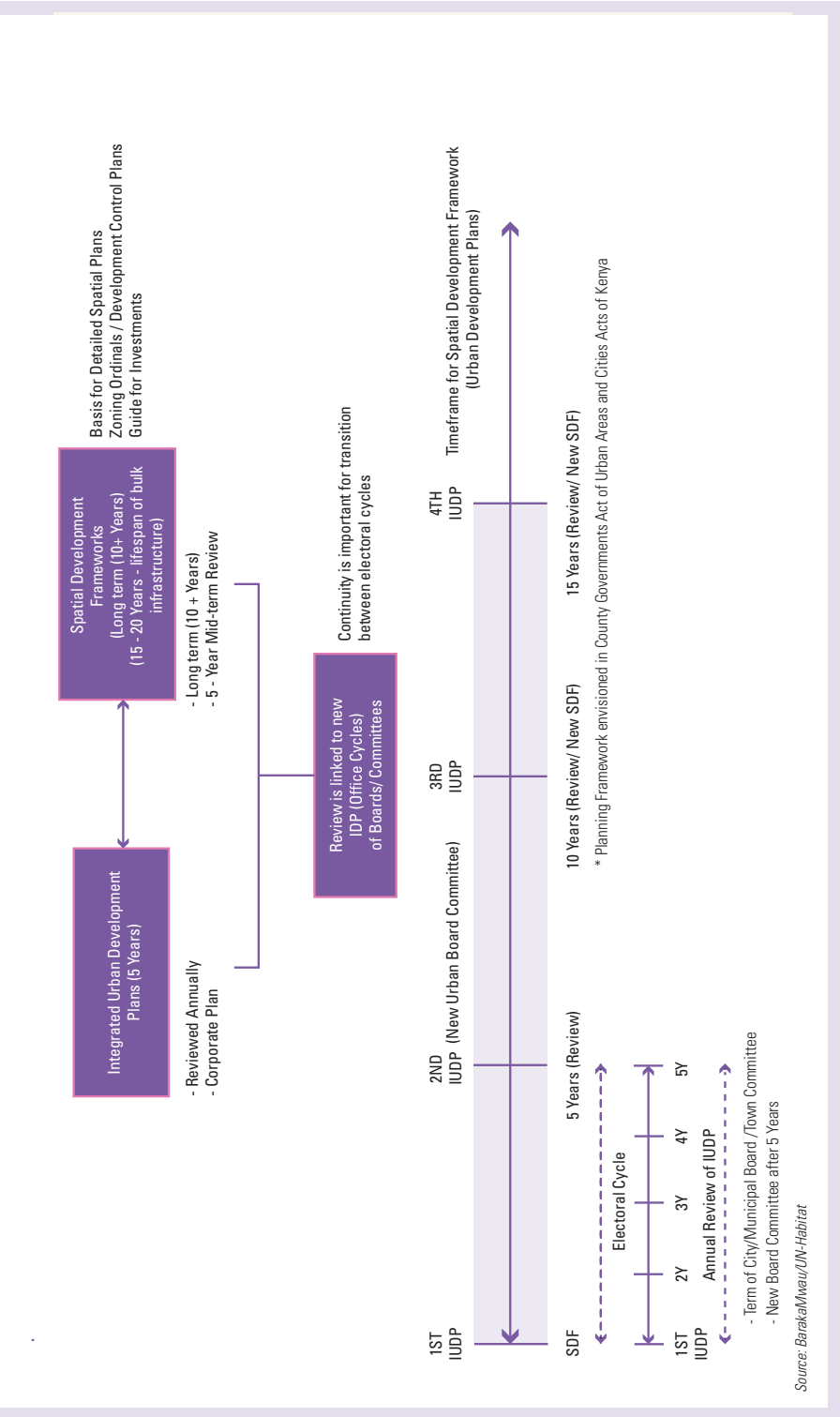
The shift to **Integrated Urban Development Planning** is among the critical factors informing urban planning reforms in Kenya.

Essentially, the survey established that the continued delay in reviewing the Physical Planning Act had created uncertainties on certain procedural matters related to LPDPs. This legislative review is inevitable for the country's key planning legislation to be consistent with the Constitutional provisions and subsequent laws related to county governments (e.g. County Governments Act and Urban Areas and Cities).

Overall, the survey established that although with the recent traction in uptake of integrated planning, there remain grey areas in practice. These are mainly related to methodologies, content and legal frameworks that can sufficiently guide the formulation of integrated development plans as envisioned in the devolved governance system. Indeed, various county officers noted that the introduction of ISUDPs is yet to record a transformative impact in the planning approaches, as noted that in some cases, the approach to ISUDP is same as what the practice has adopted for the LPDPs. Thus, it is important for policy makers in the planning sector to develop tools/methods and guidelines that can support the formulation of various types of plans.

Figure 3.5: The link between spatial development framework and integrated urban development planning in Counties

Kenya's Urban Areas and Cities Act (UACA) mandates urban authorities [urban boards or committees] to formulate a five-year Integrated Urban Development Plan (IUDP), which is a strategic planning instrument for guiding implementation of spatial development frameworks, and hence, urban development. A Spatial Development Framework (SDF) is key component of the IUDP, as required by the legislation (UACA). The SDF is designed to inform the formulation of an IUDP, and addresses a number of urban development issues including urban form and structure; land use and urban edge; natural and built environment interface; special planning/development areas; infrastructure and housing; mobility and connectivity; local economic development and the environment. It is used to determine, with a spatial dimension, the capital expenditure framework for the urban authority. It provides a spatial dimension to the IUDP, its strategies and priorities.



c. Zoning Plans

Conventional “Euclidean” zoning is a popular approach used by most of the counties in regulating urban development. This approach to zoning remains traditional; unresponsive to prevailing urban trends and is deficient of principles that aim to facilitate sustainable urban development. Traditionally, zoning has been found to be characterized by rigidity, inflexibility and highly predetermined, making it unresponsive to rapidly changing urban form and growth patterns.

Whereas this tool has been in existence in most of the major towns featured in this survey, it was noted that one of the greatest challenges hindering well-planned urban development is that of ineffective development management. Poor urban governance further compounds the inefficiencies of development control. Related factors to this include: cases of corruption and malpractices in land administration and planning approvals, impunity and disregard of legislative provisions, poor decision-making, and lack of public participation etc.

Planning authorities have been unable to adequately engage the public and stakeholders in formulating zoning ordinances, and conformity levels are generally low. Unapproved developments or developments that deviate from approved plans and designs is a common occurrence in the counties. This has been attributed to inadequate capacity of planning authorities, corruption and impunity, and abuse of discretionary power or its ill-informed application in approval of development applications for areas without specific regulations. There is also outdated zoning ordinances which, for instance, are unable to guide large-scale urban development projects emerging in rapidly urbanizing areas such as areas within Kiambu and Machakos Counties that form part of the larger Nairobi urban region.

It was further observed that zoning, despite it being a popular tool in the counties, had on several occasions drafted without any reference to a comprehensive spatial development framework. In such contexts, this tool is available as a set of written regulations only (as by-laws), or written regulations and a map, which are drafted with a high degree of conventional (Euclidean) zoning¹⁰.

¹⁰ Euclidean/Conventional Zoning is primarily based on single-use zoning.

The zoning plans and or regulations applied in most of the urban centres have facilitated socio-spatial stratification. For instance, it is common for zoning plans/regulations to designate certain areas for high-income residential housing, low-income residential housing etc. And even where the approach is based on densities, it is highly likely that low-density residential areas are aimed at producing exclusive housing markets-mainly single-family residential neighborhoods and which not only happen to price-out the lower income groups in Kenya’s large cities, but also catalyze urban sprawl.

However, zoning is a useful tool if guided by good principles such as enhanced connectivity and limited land-use specialization, mixed land-use, social-mix, high density [compact urban form], enhanced public space, etc.¹¹ It is useful in ensuring that there is compatibility of land-uses, protection of property rights, ensuring right buildings are built, protecting public spaces, as well as providing developers and investors with a defined framework which minimizes risks, among other benefits. It was established that such principles have been applied, although ad-hoc, in some of the counties.

Having an up-to-date zoning system is therefore essential in ensuring that the tools is responsive to local needs and facilitates sustainable urban development.

Globally, many cities have advanced the use of zoning as a tool for regulating urban development. The changes have been geared towards making the tool flexible and progressive with focus on quality of the built form. Subsequently, new terms have emerged to define ‘new’ methods of applying the tool such as: “performance zoning”, “impact zoning” or “flexible zoning”¹²; “form-based zoning”¹³, “hybrid codes” etc.

¹¹ UN-Habitat (n.d). A New Strategy of Sustainable Neighborhood Planning: Five Principles. Retrieved on 10th July 2018 at: https://unhabitat.org/wp-content/uploads/2014/05/5-Principles_web.pdf

¹² University of South California. Planning and Markets: IV. The Alternative of Performance Zoning. Retrieved online on 10th July 2018 at: <http://www-pam.usc.edu/volume1/v1i1a4s4.html>

¹³ Evans, Q (2009). The SmartCode: Understanding a Modern Zoning Trend. Retrieved online on 10th July 2018 at: <https://www.bradley.com/-/media/files/insights/publications/2003/10/understanding-a-modern-zoning-trend/files/ftd0910evans/fileattachment/ftd0910evans.pdf>

Figure 3.6: **A Residential Development in Kiambu County**



Source: Google Earth

For instance, in New Zealand which is considered to have among the world's most efficient municipal planning systems, the planning system has adopted the use of up-to-date zoning plans that must be derived from legally binding district plans. The district plans are periodically updated-involving a participatory process- to align them to changing urban trends. This has provided investors and developers with a predictable and reliable reference for investments, and ensured the public is actively engaged in local planning and development.¹⁴

d. Other Types of Plans

Other types of plans found in the counties include structure plans (e.g. Tatu City Plan in Kiambu County) and local scale master plans. Most of these master plans are developed to guide large-scale private developments with focus on residential real estate. Institutional master plans (e.g. for college campuses) are also in existence. Although not formulated to the scale required it was observed that such developments are approached in ad-hoc manner with expansion of institutional facilities approached on a building-by-building basis without reference to a comprehensive site development plan.

HOW URBAN DEVELOPMENT PLANS ARE APPROVED IN THE COUNTIES

Another important aspect of the county planning system is the Plan Approval Process. Ideally approved plans become legal instruments and policies that planning authorities use as the basis for managing development and guiding municipal investments. Whereas this is the case, most of Kenya urban centres lack approved plans. **The survey established that despite the considerable resources utilized towards formulating town plans in the counties, most of the plans remain draft plans, some many years after their finalization.** For instance, at the time of conducting this study, some KMP-financed plans were already in their second year as draft plans e.g. Machakos and Kitui plans.

At the time of conducting this survey (July-October 2017), only Kisumu and Mombasa had a current-approved plan. The rest of the ISUDPs [formulated under KMP] were draft plans at different phases of the approval process. For example, in Embu County, the ISUDP for Embu town was still awaiting resolution from the county assembly. A similar situation was observed in Kilifi (Malindi ISUDP), Kiambu (Thika ISDUP),

¹⁴ World Bank (2014). Doing Business 2015: Going Beyond Efficiency. Retrieved online on 10th July 2018 at: <https://openknowledge.worldbank.org/bitstream/handle/10986/20483/DB15-Full-Report.pdf?sequence=1>.

Nyeri (Nyeri ISUDP) and Kitui (Kitui ISUDP). In other counties such as Machakos, the ISUDP was yet to be discussed and forwarded to the county assembly.

Lack of clarity on the procedure to get plans approved emerged as the main factor affecting the approval of plans. Fundamentally, we established that the plan approval process was unclear, and or interpreted differently. For instance, in Kiambu County, it was indicated that the Thika ISUDP [a KMP output] had been forwarded to the county but returned for gazettelement to present the public with an opportunity to scrutinize the final draft. The plan was also cited to have various contradictions with the draft county spatial plan. Besides, the local physical development plans undertaken under KISIP were being approved by the national government (the Lands and Physical Planning Ministry), through the office of the Director of Physical Planning.

This lack of clarity was mainly attributed to the inconsistencies in the provisions of various laws. However, the County Governments Act and Urban Areas and Cities Act have made [although not in detail] various provisions for approval of plans formulated at the county level. Essentially, these laws indicate that urban plan approval and adoption processes must involve urban boards/committees, county executive committee, and the county assembly as institutions responsible for plan approval and adoption¹⁵. For instance, Turkana County government had adopted, in the absence of urban boards/committees, a two-level process that involves plan approval and adoption at the county executive committee and the county assembly levels.

While county governments have legislative mandate, we established most of the counties were yet to institutionalize regulations for plan formulation and approval process. The delays in review of the Physical Planning Act [CAP 286 of Kenya Laws] was cited as the main factor for the slow pace of [planning] legislative development at the county level.

The Kenya Constitution, Article 185, vests legislative authority of a county in its county assembly. Therefore, plan approval, being a legislative process, must be exercised through the

county assembly, in addition to the other relevant processes related to approval of the plan.

Other reasons for failure to approve or delay plan approval process were identified as follows:

- **Lack of satisfaction with draft plans** - In various instances, the county planning departments indicated that various plan proposals [including plans outsourced to private planning firms] were not feasible or in some cases, questions were raised on the quality of the entire plan. For instance, Kitui and Kilifi Counties identified various aspects of the land-use proposals related to recreational and education facilities as untenable-not responsive to the specific urban contexts. This relates to the KMP ISD-UPs for Kilifi and Malindi towns. Importantly, it emerged that during the process of formulating the two ISUDPs, led by a private firm, there was no sustained-active involvement of the respective county planning departments or there was no consensus on various issues related to the content of the draft plans. It was further established that whereas the planning authorities are willing to revise the draft plans (even immediately after their approval), they faced an institutional capacity challenge.
- **Weak ownership of the planning process among various stakeholders:** This could also be related to the approach applied in plan formulation process. For instance, the KMP ISUDP processes had positioned the county as the beneficiary, with outsourced consultants reporting to the national government, and with public participation that was only limited to a specific number of workshops (at least six workshops). Subsequently, indications of weak ownership of some of the plans within counties were evident, and perhaps this undermined commitment levels to the planning processes [including the approval process].
- **Adverse politicization of plans** In some instances, it was noted that whereas the draft plan contained satisfactory content, the approval process was deliberately delayed due to negative politics-often based on misinformation or vested interests that are in contradictory with the advancement of public interest. This mainly transpired as 'differences' between the county executive and county assembly arms of various county governments.

¹⁵ See County Governments Act of 2012 [Part III-County Assembly: 8(1 e); Part V-County Executive: 30(2, f); 37; Part XI-County Planning: 112(6)]; and Urban Areas and Cities Act [Part III – Governance and Management of Urban Areas and Cities: 20; Part V-Integrated Development Planning: 39; 41].

- **Contested legal status of plans:** For instance, in Nakuru, it emerged that although the existing approved plan¹⁶ had been overtaken by events, it remained legally enforceable. Further, the KMP planning process was perceived as a new plan, which was not geared towards replacing the Structure Plan. Thus, at the initial phases of the ISUDP process, the public ought to have been sensitized that the outcome (ISUDP) would replace the existing [and expired] plan. This however emerged in the late stages of the KMP process, during approval; hence, it triggered a debate on the legality of approving the ISUDP while a notice was not initially issued to the effect that it replaces the Structure Plan of 2000.

DEVELOPMENT CONTROL PRACTICE

Development control is the main function undertaken by county planning departments. This mainly entails processing of development applications/approvals (building plans, change of use, extension of use), and land sub-division applications. Other activities of development control include: supervision of enforcement, processing of lease applications, approvals for land amalgamation etc.

The survey established that in the absence of approved local plans, determination of applications is mainly based on the general provisions of national legislation on land¹⁷ and planning¹⁸, local by-laws, zoning regulations/ordinances, building code (1968)¹⁹ and draft national Planning and Building Regulations - 2009²⁰, draft physical planning handbook, and discretion. In other circumstances, draft plans were used as a guide for decision-making, although without citing such plans as a basis for approval or disapproval. For instance, Kiambu County relied on zonal plans and guidelines for approval of applications. Across the counties, it was noted that use of discretion was ineffective and acted as a recipe for a flawed development control.



“city or municipal plans shall be the instrument for development facilitation and development control within the respective city or municipality.”

County Governments Act; 111(2)

Systems used to obtain planning and construction permits

Two main types of permit systems were found to be used in the counties:

1. Analogue [Manual] permit system
2. E [Digital] permit system

Except for Mombasa and Kiambu²¹ that have e-permit systems, the rest use manual systems to process applications. At the time of conducting the survey, Nakuru was developing its Digital Permit System, embedded within a Land Information System.

It was also established that the Mombasa's e-construction permit system²² combined a pre-manual processing of applications, and the system at the time, had not incorporated the role of the Physical Planner-it was primarily designed for Architects and Engineers. The system processes three types of permits: (1) Construction Permits, (2) Repair Works Permits, and (3) Occupation Permits. This leaves out applications for: planning permissions; change of use, extension of use, land sub-division, land amalgamation, advertisements and signage, large-scale development schemes, etc. Mombasa planners indicated that a review of the system was being undertaken to ensure that it incorporates all relevant professions involved in processing of various types of development applications.

¹⁶ The Nakuru Strategic Structure Plan was approved in the year 2000. The plan since not been replaced with a new one.

¹⁷ This include: The Land Act, Land Registration Act

¹⁸ The following laws are regularly used in development control: Physical Planning Act, Environmental Management and Coordination Act, Water Act, and Public Health Act

¹⁹ The 1968 Building Code has been considered as outdated, with the drafting of the 2009 Planning and Building Regulations aimed at replacing it.

²⁰ Republic of Kenya (2009). Planning and Building Regulations – 2009. Draft. Retrieved on 26/09/2018 at: <http://www.kpda.or.ke/documents/Policies/Building%20Code%202006.pdf>

²¹ See: County Government of Kiambu. Electronic Development Applications Management System. Retrieved on 26/09/2018 at: <https://edams.kiambu.go.ke/index.php?id=1>

²² See: Mombasa County Government. e-construction. Retrieved on 26/09/2018 at: <https://econstruction.mombasa.go.ke/index.php>

Table 3.1: **Matters subjected to development control**

| Matter | Description | Rationale |
|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| Building Plans | A drawing made to scale to represent the view (vertical and horizontal) of a structure | Ensure conformity with approved development plans, regulations and standards in the subject area |
| Land Subdivision | Entails parceling of land into two or more portions | Ensure conformity with approved development plans, regulations and standards in the subject area. Ensure conformity with design principles |
| Amalgamation | Entails combination of two or more parcels of land into one | Ensure conformity with approved development plans, regulations and standard in the subject area |
| Change of Use | Any alteration in the use, purpose or level of activity within any land, space or building that involves material change which does not conform to the existing plans and policies | Ensure compatibility and compliance to the set regulations and standards |
| Extension of use | Introduction of a new user in addition to the existing use within the same building or site while maintaining the dominance of the existing use The additional use should be compatible with the existing use and the neighbourhood character | Ensure compatibility and compliance to the set regulations and standards |
| Extension of Lease | Involves the Lessor of land extending the lease period to a lessee before expiry of the lease period following an application for the extension. | Ensure the extended lease conditions factor any new development policies of the area |
| Renewal of Lease | Involves the Lessor of land getting into a new lease agreement with the Lessee for a new lease period (and new lease conditions) following the lapse of the old lease period after an application for the renewal. | Ensure the new lease conditions factor any new development policies of the area |

Source: Ministry of Lands and Physical Planning, Council of Governors

In summary, the planning outlined the following as the key issues with approval processing:

- **Strained or inadequate technical capacity for evaluating applications.** However, this is varied, with counties that have employed more planners and other built environment professionals having improved capacity for evaluating applications.
- Documentation of the approval process-the digital systems offer planners in Kiambu and Mombasa counties a more efficient system than their counterparts in counties that use analogue system.
- **Consultation process for complex applications-** this is also easier in counties that have invested more in experienced and certified professionals. However, the survey established that review of complex applications mostly relies on ad-hoc teams. For instance, in Kiambu County it was established that a special sub-committee is usually created whenever a large-scale development is submitted for planning approval. This sub-committee makes recommendations to the main committee for final decision making. The counties are yet to institutionalize a form of planning board/commission that can develop capacity for reviewing complex planning applications.

- **Inadequate guidelines for management of applications and approvals.** This make it hard for newly recruited officers to learn the practice applied. It also undermines efforts to develop capacity of junior staff. It is only in Kiambu County where there has been attempts to develop comprehensive guidelines.
- **Weak or absence of a functional appeal mechanism.** The current approval process is largely referenced to the Physical Planning Act. This Act provides for the formation of Physical Planning Liaison committees at different levels. However, the levels identified by the Act are aligned to the former provincial administration. The current devolved government system requires this Act to be revised to provide for the establishment similar structures within the county planning system. Nevertheless, given counties are constitutionally mandated to plan, similar institutions can still be created within the current legal provisions.

Development Control and Revenue Enhancement in the Counties

The survey established that **planning-related revenue is one of the key generators of revenue to county governments; yet, planning departments remain under-financed.** Most of the county planning departments keep records of revenue generated from planning and building permits. However, the revenue and disposal laws prohibit spending at the source, which implies that planning departments generate revenue but are not guaranteed of commensurate budgetary allocations.



Absence of detailed [local] plans has created a **'planning vacuum'**, creating room for discretionary decision-making in determining planning applications. This has resulted in a **faulty and ineffective approval system**, contributing to prevalence of approved developments, but that does not produce the desired outcomes.

It was also established that counties using e-permit systems (i.e. Mombasa and Kiambu) recorded increased planning-related revenue, after the shift from analogue to the digital platforms.

Table 3.2: **Planning-Related Revenue**

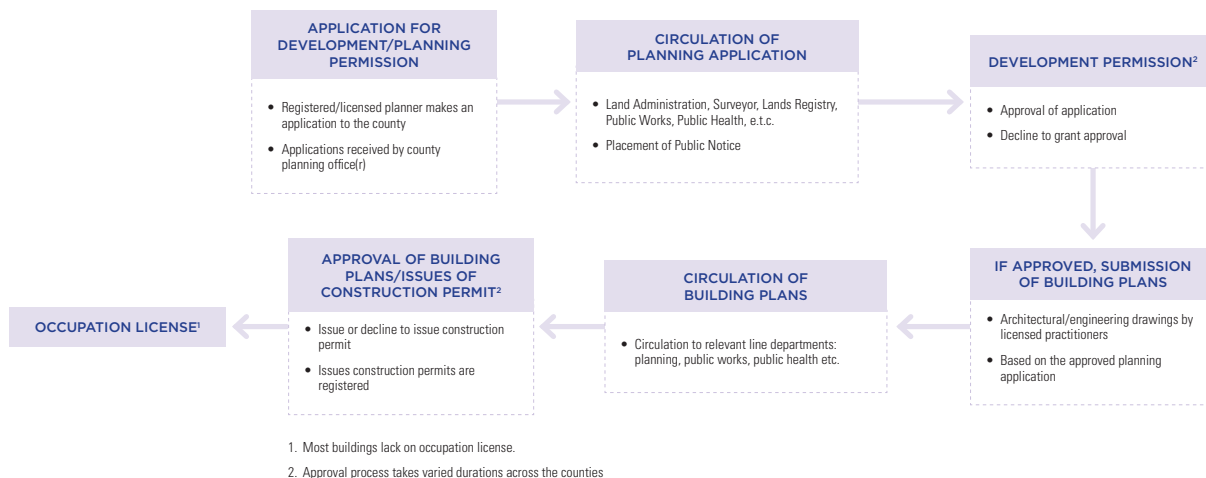
| County | Fiscal Year | Planning Related Revenue |
|-------------|-------------|--------------------------|
| | | Amount [Ksh] |
| Kakamega | 2015-2016 | 298,500 |
| | 2016-2017 | 1,102,650 |
| Kericho | 2015-2016 | 2,572,781 |
| | 2016-2017 | 2,197,460 |
| Kiambu | 2015-2016 | 442,150,000 |
| | 2016-2017 | 480,782,000 |
| Kilifi | 2014-2015 | 3,605,701 |
| | 2015-2016 | 18,833,676 |
| | 2016-2017 | 6,000,880 |
| Kitui | 2015-2016 | 4,845,827 |
| | 2016-2017 | 6,992,108 |
| Kisumu | 2015-2016 | 30,762,971 |
| | 2016-2017 | 48,504,245 |
| Nakuru | 2015-2016 | 400,000,000 |
| | 2016-2017 | 400,000,000 |
| Nyeri | 2015-2016 | 19,220,028 |
| | 2016-2017 | 20,555,106 |
| Uasin Gishu | 2015-2016 | 7,310,081 |
| | 2016-2017 | 14,161,772 |

Source: Data obtained from the respective county planning departments

Issues Emerging from Development Control Approaches

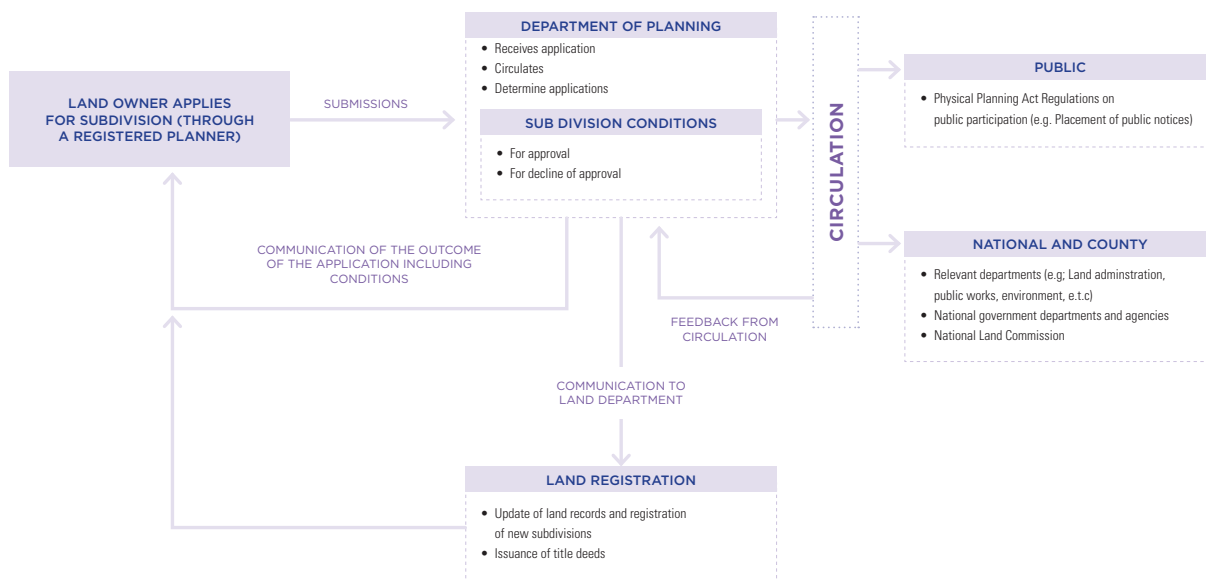
Corruption, inefficiency, 'quack practitioners', political interference [undermining effective decision-making] and discretionary decisions are some of the prevalent challenges facing development control in the counties. This has facilitated prevalence of unplanned developments, irregularities and illegalities in approvals, and unsuitable planning permissions, which has undermined effectiveness and efficiency of development control in facilitating attainment of well-planned urban development.

Figure 3.7: Typical planning and building permit approval process



Source: Baraka Mwau/UN-Habitat

Figure 3.8: Typical land sub-division approval process



Source: Baraka Mwau/UN-Habitat

Another issue is the reliance on outdated development control regulations. It is acknowledged that neither can planning regulations capture everything nor are spatial plans entirely perfect in their projection on how growth and development will unfold. This is because changes in the built environment, economy and other configurations in development can necessitate evaluation of other factors before granting permits. This entails development management, where planning becomes facilitative, while still subjecting development to policy and regulatory framework. We established that where a town had an approved plan (e.g. Nakuru), with time and within the plan lifecycle, the plan strategies and proposals became outdated-outpaced by rapid urbanization without corresponding planning capacity. In this case, continued reliance on the plan, without its review, becomes ineffective and an inadequate basis for regulating urban development.



“City or municipal land use and building plans shall be binding on all public entities and private citizens operating within the particular city or municipality.”

County Governments Act; 111(4)

In the public domain, it was noted that development control is at times perceived as an obstacle, while in other cases it is viewed as necessary for guiding orderly urban development. The county officers noted that negative perceptions on development control are often attributed to lack of transparency and cases of ‘bad’ decisions on approval or regularization of certain developments. Further, the fact that many towns lack approved plans that are in the public domain, there is little in the public domain to inform the public in contributing to development control process. For instance, while it was noted that as a requirement, a public notice must be published in newspaper with national circulation and a board erected in the respective site of proposed development, there is still little engagement with the public. Besides, given most of the areas lack approved local plans and zoning ordinances are not common knowledge, the public becomes limited in their engagement on such decision-making. This makes such notices a mere compliance and ineffective for public engagement on matters decision-making.

To nurture public trust, this survey identified several interventions:

- **Undertaking detailed [local] plans through a participatory process**, upon which such plans form part of the mandatory references for planning approvals.
- **Investing in public awareness on the importance and value of development control/management**, what it entails and its procedural requirements.
- **Creating and institutionalizing a pre-application consultation process**²³, where potential applicants can obtain information and guidance on permitted/desirable development, the procedure and requirements, the relevant policy documents, and planned public investments in infrastructure and services in the locality. This enables the applicant to make an informed application and simplifies the approval process. A pre-consultation exercise is fundamentally important for developers seeking planning permissions or approvals for large-scale developments e.g. housing schemes, large mixed-use developments, industrial parks etc.
- **Efficiency and transparency in handling planning applications**, appeals and communication.
- **Good /efficient tools for grounding decisions.** This study noted that use of discretion and case reference/precedence are not effective in the local contexts. Besides, it was established that such decision-making is ill-informed, and rarely does it rely on adequate data and information.
- **Guidelines [standards] for planning applications-disseminated to both practitioners and developers**, and accessible in the public domain.
- **A system of monitoring and assessment of performance.**
- **Integration of Information and Communication Technologies [ICTs]** in improved development control/management [promote E-Planning]

²³ Pre-application processes have been found to be useful to both the proposer (e.g. developer) and the planning authority. This process entails Outline Application, where a proposed development is submitted to establish whether its is acceptable in principle. Detailed plans are not usually required at this stage, although the planning authority may ask for more details. Approval of Reserved Matters is done after approval of an Outline Application.

At technical level, it was noted that the shortage of specialized enforcement officers is a major constraint to effective development control in many of the counties. This has resulted in a development control system that is weak on the field monitoring of developments, where there is little professional engagement with developers. Incidences of corrupt practices in development control processes have been witnessed including after approval, where some developers and development control officers conspire to deviate from approved plans and designs during construction phase. This was further complicated by the fact that enforcement officers report to a different department and not that of planning. At the same time, it is difficult to coordinate joint field inspections, owing to the often bureaucratic and poorly coordinated communication between planning and enforcement departments.

There is need to link development control with forward urban planning. We realized that data collected on development control is rarely utilized to inform forward planning. Whereas such data can be useful in monitoring land use change, evaluation and review of plans and analyze urban development trends, there was no county that had a structured system of managing the data.

Appeal Mechanisms

A critical element missing from the development control process is structured appeal mechanisms and institutions that can decide on complex planning applications and appeals from applicants. These institutions were initially set up, under the Physical Planning Act to provide for dispute resolutions and address appeals related to certain planning decisions. However, they have since become dysfunctional or non-existent in many jurisdictions. This has created a gap, which has somewhat been replaced by ad-hoc committees, and at times by 'power brokers' and even corrupt practices, as applicants are left with little room for appealing decisions or channeling projects that warrant special considerations. The gap has also been partly filled by the court system, as witnessed with the numerous court cases that relate to development control. In addition, there is little public knowledge on the appeal mechanisms in the counties.

Such institutions are some of the critical areas of transformation for the county planning system.

PLANNING TOOLS

There are various tools available to planners; however, their use and application is largely dictated by several factors including technical know-how, availability/accessibility of such tools, institutional context, and urban context. Nevertheless, such tools have been found to contribute towards effective and efficient planning. In this survey, focus was on (1) Development Management tools; (2) Technical Tools for Plan-making; and (3) Regulatory Tools.

Development Management Tools

Development Monitoring Tools - In all the counties surveyed, it was established that the planning departments can estimate the level of conformity to development control regulations. However, none of the counties had a structured mechanism of monitoring development control. In this case, tools such as spatial monitoring of development applications, level of conformity audits, etc. are not being applied to ensure effective management of development.

Growth Management Tools - A major planning challenge in the counties is how to manage urban growth. For instance, the conversion of agricultural land to urban real estate is a major planning issue in Kiambu County. The county has tried to use various tools such as zoning regulations, planning permits, and formulating a spatial plan. While urban growth management is not actively practiced in the counties, the survey established that there is need for such tools, given the land use challenges in the counties. In other contexts, various planning authorities have successfully used tools such as urban containment policies²⁴; delayed approvals of land subdivisions, delayed expansion of infrastructure to peripheries, densification, land value taxation, fee reduction incentives, mixed use development policies, annexation policies, land readjustment, forecasting demand based on development applications, site and service schemes, etc.

²⁴ Jørgensen, G., Alexander Sick Nielsen, T., & Grünfelder, J. (2011). Urban growth management: Effectiveness of instruments and policies.

Technical Tools for Plan Making

Qualitative and Quantitative Tools - More and often, the nature of work done by planners demand the acquisition, analysis and management of data, and interpretations and critical thinking about the phenomenon. Data (qualitative and quantitative) is critical for making well-informed planning decisions. Within the counties, the skills for working with quantitative data are limited. The use of software for statistical analysis and spatial analysis etc. are inadequate in the counties. Similarly, planners in the counties also cited limited skill set in qualitative analysis.

Participatory Planning Tools - (Workshops, Information Meetings, Social Media, Questionnaires and Survey, Urban Score Card etc.)-We found that workshops are the commonly used tools, and mainly during plan formulation.

Drafting and Drawing Tools - The use of technical drawing and drafting tools (e.g. AutoCAD software) is at varied levels across the counties See (Table 3.2). Overall, there is inadequate skill capacity for use of Computer Aided Design (CAD) software in planning and design. Given, most of the plans are outsourced to consultants, this was found to be a factor contributing to limited incentives for planning authorities to build such capacity.

Spatial Analysis Tools - (e.g. GIS, Remote Sensing, etc.). The survey found that although GIS is a popular tool, it's integration in county planning is hampered by various factors such as lack of licensed software, limited technical expertise and inadequate hardware facilities e.g. computers and servers for data storage.

Table 3.3: **Number of Planners with Applied CAD and GIS Skills**

| County | No. with CAD Skills | No. with GIS Skills | Total No. of Planners in the County |
|-------------|---------------------|---------------------|-------------------------------------|
| Embu | 1 | 1 | 3 |
| Kakamega | 0 | 2 | 2 |
| Kericho | 0 | 1 | 2 |
| Kiambu | 6 | 1 | 13 |
| Kilifi | 0 | 0 | 3 |
| Kisumu | 0 | 0 | 4 |
| Kitui | 2 | 2 | 17 |
| Machakos | 1 | 1 | 3 |
| Mombasa | - | - | 3 |
| Nakuru | 11 | 11 | 12 |
| Nyeri | 0 | 0 | 1 |
| Turkana | - | - | 3 |
| Uasin Gishu | 2 | 2 | 4 |

Source: UN-Habitat/ Survey Data June-October 2017

Geographic Information Systems (GIS) for Planning

The survey established that GIS application in the work of county planners is very minimal, but at varied levels across the counties. In fact, we established that some of the county planning departments lack staff that is proficient in applied GIS. A survey conducted by the Council of Governors²⁵, before this assessment, established that most of the counties making use of GIS applications is mainly through external consultants, such as those hired to formulate various plans. It was found that skill capacity for GIS use is inadequate in the counties. Besides, most of the counties were found yet to have acquired well-resourced GIS facilities (hardware and software).

In this survey, acquisition of applied GIS skills, combined with well-equipped GIS systems, was ranked by county planners as a priority area for capacity development.

Overall, the survey noted that application of technical planning tools is basic, evidence of a critical technical capacity gap that will require training (e.g. in the form of specialized short courses). It was further noted that it was easier to access [locally] training for technical tools that are IT-oriented. However, it is hard to locally access training for planning tools of normative nature (e.g. Land Readjustment, Transit-Oriented-Development, Urban Renewal etc.). This was attributed to the fact that the regulatory institution of the planning profession and the numerous professional associations have been inadequate in designing and offering specialized Continuous Professional Development (CPD) to practitioners. Likewise, the planning schools in Kenya have also not designed such trainings, albeit their value in advancing the skills in the sector. Such continuous trainings should be complemented by regular issuance of Practice Notes.

Planning schools are also expected to continuously conduct research that will inform policies and review of training curricula.

Furthermore, the county planners expressed concerns that the protracted process of formulating a Technical Planning Handbook for Kenya has undermined enhancement of technical capacity in the practice. Nevertheless, this survey found out that the existing draft handbooks are referenced in various plan-making processes, such as the recently drafted ISUDPs under KMP. It was therefore recommended that the National and County Planning authorities, and other stakeholders, to revisit the drafting of a national planning handbook. This will introduce appropriate standards that resonate with Kenya's planning context²⁶.

Regulatory Tools

Regulatory tools play a critical role in determining outcomes of planning practices. This survey identified several regulatory tools at use in the counties. They include: local plans, regulations for development control such as by-laws, zoning ordinance, environmental regulations, land regulations, the building code etc.

These tools are derived from existing laws such as the Environment Management and Coordination Act (EMCA), Physical Planning Act (PPA), Land laws etc.

It was further noted that in application of some of the tools was informed by perceived jurisdictional mandates. For example, some counties indicated that it was the function of the National Environment Management Authority (NEMA) to implement environmental regulations. This not only creates a disjointed regulatory approach, but also reinforces a 'silo' approach to planning in the counties.

²⁵ Council of Governors (2017). GIS Needs Assessment in Kenya: A National and County Level Analysis of the State of GIS and its Application for Spatial Planning in Kenya. Retrieved on 16 July 2018 at: <http://www.ke.undp.org/content/dam/kenya/docs/Democratic%20Governance/UNDP-KE-GIS-Needs-Assessment-Report-2017.pdf>

²⁶ The Kenya's planning context is characterized by among other aspects; cities and towns of varying sizes, which are in areas with varied geographic and climatic conditions, rural settlements, and existing built form which is largely unplanned.

Nevertheless, it observed that whereas counties are mandated by the constitution to formulate own policies and legislation, on the planning front, many of the counties are yet to develop local planning laws and regulations. What was identified were attempts to formulate various policies, as entry points to drafting the related laws/regulations. For instance, Kakamega County was in the process of formulating a County Urban Development Policy.

The use of [approved] local plans²⁷ as regulatory tools was non-existent in the counties. It was only in Kisumu County where efforts are currently underway to formulate specific local plans for select areas in Kisumu town.

On the building code, the survey established that the current building code is outdated, with protracted process to draft a modern one. However, it was noted that some counties refer (informally) to the draft National Planning and Building Regulations of 2009²⁸. It was further noted that it is important to consider variations in the provisions of building regulations, especially in relation to weather and climatic patterns. For instance, building regulations for the coastal urban areas ought to resonate with the humid-hot weather patterns that are not experienced in higher attitude areas e.g. central region of Kenya. Fundamentally, counties cited inadequate capacity to formulate regulatory tools.

²⁷ Local Plans are used to apply city-wide policies at the appropriate local level and inform the public, statutory authorities, developers, land owners, institutions and other interested bodies of the policy framework and land use proposals that will guide development decisions within a specified area.

²⁸ Republic of Kenya (2009). National Planning and Building Regulations-2009. Retrieved on 18/07/2018 at: <http://www.kpda.or.ke/documents/Policies/Building%20Code%202006.pdf>

CHAPTER 4.0. INSTITUTIONAL CAPACITY



Image, Kakuma © Digital Globe/Google Earth.

OVERVIEW

The focus of this chapter is on the institutional capacity in the surveyed counties, primarily discussing aspects of planning human resource, organization of planning and role of planning in urban management affairs. Overall it was established that institutional capacity varies across the counties, but there are similar challenges that face counties in relation development of institutional capacity, which touch on fiscal, technical, political and governance issues.

“

“Given the complexity of contemporary urban systems, the capacity for effective urban planning depends upon coordination of interdependent actors within and beyond the formal structure of government.”

UN-Habitat: Global Report on Human Settlements 2009

Table 4.1: No. of Planners in Each County

| County | County Population [2009 Census Data] | Level of Urbanization [Percent of Total County Population- 2009 Census Data] | No. of Planners [June-July 2017] | Planner: Population Ratio |
|-------------|-----------------------------------------|------------------------------------------------------------------------------------|-------------------------------------|------------------------------|
| Embu | 516,212 | 15.9 | 3 | 1:172,071 |
| Kakamega | 1,660,651 | 14 | 2 | 1:830,326 |
| Kericho | 758,339 | 38.3 | 2 | 1:379,170 |
| Kiambu | 1,623,282 | 62.2 | 13 | 1:124,868 |
| Kilifi | 1,109,735 | 25.3 | 3 | 1: 369,912 |
| Kitui | 1,012,709 | 13.6 | 17 | 1:59,571 |
| Kisumu | 968,909 | 51.8 | 4 | 1:242,227 |
| Machakos | 1,098,584 | 51.6 | 3 | 1:366,195 |
| Mombasa | 939,370 | 100 | 3 | 1:313,123 |
| Nakuru | 1,603,325 | 45.1 | 12 | 1:133,610 |
| Nyeri | 693,558 | 24 | 1 | 1:693,558 |
| Turkana | 855,399 | 11.8 | 3 | 1:285,133 |
| Uasin Gishu | 894,179 | 38.5 | 4 | 1:223,545 |

Source: UN-Habitat/ Survey Data June-October 2017

PLANNING HUMAN RESOURCE

Counties are at varied levels of planning capacity. But generally, planning departments are highly understaffed (See Table 4.1) and underfinanced (See Table 4.2). For instance, in Nyeri, the county director of planning was the sole planner servicing the entire county. In Mombasa, only 3 planners [all at senior levels] serve a city of more than 1 million people. However, Kitui County had the highest number of planners, 17, serving a population of slightly more than 1 million (2009 census)-of which only 13.6 percent is urban.

A similar scenario was observed with regards to the other built environment professions, especially architecture and engineering. Some counties such as Kericho did not have an architect at the time of conducting this study. It was further noted that where architects and engineers existed, their functions were limited to the department of public works, with their only planning-related work being that of approving building plans. They had very little involvement in plan formulation and development management; hence, undermining a multi-disciplinary approach in plan making.

Among the planners employed in the counties, we found that the largest share of them are not certified by the regulatory body, the Physical Planners Registration Board (PPRB). This includes some of the planners serving at senior levels such as a County Director of Physical Planning or a planner in-charge of the municipal planning function in a major town. According to a Kenya Gazette²⁹ notice of 4th May 2018, there were only 204 certified planners in Kenya, of which 112 (or 55%) were licensed to practice in the private sector and the rest assumed to practice as public-sector planners and or those who may be not in active practice.

It was also noted that several staff officers were employed by the national government ministries but seconded to the counties. This implied that there was no guarantee of long-term tenure at their respect counties of current deployment.

Moreover, it was reported that staff turnover was relatively high among built environment professionals, especially during the initial years (2013-2015) of devolved governments. This turnover was attributed to various factors including: low remuneration rates, and unappealing work environment, which offered little incentives to retain staff in

²⁹ Republic of Kenya (2018). Kenya Gazette Notice Vol. CXX-No. 52: Nairobi, 4th May 2018. Retrieved on 18/07/2018 from: <https://kip.or.ke/wp-content/uploads/2018/02/GAZETTE-NOTICE-MAY-2018-1.pdf>

the public sector as compared by pursuing a career in private sector practice etc.

To attain the requisite human resource capacity for an effective and efficient planning authority, counties must recruit adequate and skilled staff; not only planners, but also personnel drawn from the other built environment professionals. Undoubtedly, a capable planning authority must have a certain threshold of internal capacity, even when the work-at-hand necessitates it to outsource services.

ORGANIZATIONAL STRUCTURE OF PLANNING DEPARTMENTS

Planning is structured as one of the sub-departments in the county government structure. The placement of the sub-department within the county departments³⁰ varied across counties. For instance, in Embu County, planning function is under the Department of Lands, Water, Environment and Natural Resources. In Nyeri County, planning falls under the Department of Lands, Physical Planning, Housing and Urbanization. Where planning is placed under ministries undertaking capital intensive projects, there were concerns that such projects take priority whenever budgetary allocations are being done.

“

“A county government shall plan for the county and no public funds shall be appropriated outside a planning framework developed by the county executive committee and approved by the county assembly. The county planning framework shall integrate economic, physical, social, environmental and spatial planning.”

County Governments Act; 104 (1); (2)

Above all, it was established that departments tend to operate in ‘silos’, and often with little coordination especially at planning and budget implementation aspects. This reinforces the operationalization of planning as an autonomous unit, rather than the coordinating entity for aligning departmental plans and budget investments with a defined spatial development framework.

In all the counties, building inspectors and development control officers are in different departments [other than planning], mainly the Enforcement and Administration Department. This poses a challenge to administration and has also contributed to the weak development control systems in the counties. Indeed, the survey established that majority of the development control officers lack specialized training, and are often recruited as enforcement officers, whose responsibility in development control is mainly to check constructions have obtained permits or not. But majority of these officers lack [or they have insufficient] technical capacity to follow-up on the compliance level of the regulations associated with those permits or even to assist developers in meeting or ground interpretation of the requirements of the permit approvals. Consequently, this capacity gap breeds room for deviations from approval regulations, which at times is further escalated by corrupt practices. It was also noted that planning authorities expect developers to exercise self-regulation when undertaking projects. But this has evidently not been a reliable approach, as witnessed by the significant number of illegal and irregular developments.

Given the separation of departments, it also becomes difficult for the planners to follow-up on field reports of enforcement officers given that the reporting and administrative structures are separated. The approach to organizing planning functions is largely to blame for this ‘detached’ structure of operations.

³⁰ A county department is headed by County Executive Committee Member (CECM)

Figure 4.1: A planned section of Nakuru town



Image, Nakuru town© Digital Globe/Google Earth.

It was further noted that whereas each county is supposed to establish an integrated County Planning Unit³¹, none of the counties had set up such unit. This was attributed to several factors including:

- **Lack of clarity and guidelines on how to setup the unit.** In some counties, this unit was assumed to be a function of the economy department. This implies that even the interpretation of the scope of planning required is problematic; hence, require clear guidelines established to information formation of the appropriate institutional setup.
- **To establish a GIS data-based management system requires resources (human capital and finances).** Most of the counties, if not all, were yet to allocate adequate funds to setup the system, and even where
- **Related to the GIS system, it also emerged that there are no guidelines on how to setup; for instance, it was not clear to what are the standards and data management protocols e.g.** what GIS coordinate system to use, hardware and software specifications, the users, security features etc.

Addressing these issues will provide a clear roadmap for setting the county planning unit.

³¹ According to the County Government Act of 2012, Article 105(1), a county planning unit shall be responsible for integrated development planning within the county, establishment of a GIS based data base system, among other functions.

ROLE OF URBAN PLANNING AS A TOOL FOR INTEGRATED DEVELOPMENT PLANNING

As currently constituted [within the county governments], the planning function is not able to facilitate planned development. In many of the counties, development planning and financing is guided by the County Integrated Development Plan (CIDP), which are mostly anchored on an economic planning approach. Whereas the County Governments Act envisions an integrated planning approach, the spatial dimension of planning remains 'sidelined' or has 'isolated' itself, as established by this study. Notably, a county must have a CIDP in place to receive devolved funds from the National Treasury. But such conditions do not apply for spatial development plans. Ideally, a CIDP (short-term corporate plan) is supposed to stem from a County Spatial Plan (CSP), which has long-term projections. However, most of the counties in Kenya have yet to have an approved CSP.

This survey established that several counties (e.g. Kilifi, Kiambu, Nakuru, Nyeri) are at different stages of drafting CSPs, while others such as Turkana, Kericho were in the initial phases of designing the CSP process. For Mombasa County, which is classified as a city county, a CSP is not required but an equivalent plan (e.g. the ISUDP) is deemed to suffice for the city. At urban level, a similar scenario was noticed. Investments in urban areas were limited and anchored on the CIDP as opposed to a specific urban plan. This is partly because none of the counties had established urban boards/committees and the urban centres lacked approved plans.



“The county government shall designate county departments, cities and urban areas, sub-counties and Wards as planning authorities of the county.”

County Governments Act; 104 (3)

In terms of institutional organization, it was established that planning activities are usually spread across various departments such as physical planning, roads and infrastructure, public works, lands, environment etc. However, despite the existence of a dedicated planning department (i.e. the physical planning department), the role of planning to facilitate coordinated development remain insignificant. Importantly, whereas the Constitution of Kenya and subsequent county legislation envision an integrated development approach, the practice of planning was observed to be slow in transforming towards the facilitative role it ought to play in the current governance structure. Several factors can be associated with this, including:

- **The current structure of county governments is highly departmentalized**, with coordination across hindered by the bureaucratic nature of departmental operations.
- **The inadequate capacity within planning departments has as well hindered their optimal engagement with other departments or disciplines within the county.** This casts doubt on whether the planning function has proved its value to the wider development sector in the counties.

As the planning function struggles to locate within an envisioned integrated system, its role in revenue enhancement is evident. However, this survey noted that a conservative view of the role of planning has reduced the function to more of a revenue generation unit at the expense of the broader role planning can play in guiding sustainable development. The underfinancing of the planning function is perhaps limited to this view that planning is mainly tasked with development control. For example, in the fiscal year 2015-2016³², Kiambu County generated planning-related revenue of **Kshs.442,150,000**, while at same year, the county allocated **KSh.256,822,000** to the planning department.

In other counties, it was noted that planning received more funds than the money it directly generated through fees. For instance, in Kericho County, during the 2015-2016 fiscal year, planning received **Ksh 43,124,876** and generated revenue of **Ksh.2,572,781**. It should be noted that Kiambu County has higher urban population (62%) and towns than Kericho County.

³² Data provided by county planners during the survey

Thus, by presenting these two examples, it does not suggest that budgetary allocation to the planning function should be proportionate to the revenue planning directly generates, as contexts vary. Most importantly, therefore, is for the counties to ensure that the planning function is well-financed to attain optimum capacity for responding to the county planning needs, which vary from one county to the other.

By financing the planning function to a level of attaining the requisite capacity to steer a plan-led development system, counties will be able to invest better, limit wasteful spending and increase value per unit spend in development expenditure.

Table 4.2: Budget Requests and Allocations for Select County Planning Departments

| County | Fiscal Year | Urban/Physical Planning Department Annual Budget Estimate/ Proposal to County Government [Kshs] | Actual Amount Received by the Planning Department from the County Government's Annual Budget Allocation [Kshs] |
|-------------|------------------|-------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|
| Kakamega | 2013-2014 | - | 15,760,552 |
| | 2014-2015 | - | 95,490,000 |
| | 2015-2016 | - | 25,195,155 |
| | 2016-2017 | - | 50,460,166 |
| | 2017-2018 | - | 33,241,758 |
| Kiambu | 2013-2014 | - | - |
| | 2014-2015 | - | 433,942,936 |
| | 2015-2016 | 355,909,158 | 256,822,000 |
| | 2016-2017 | 347,486,813 | - |
| | 2017-2018 | 368,336,022 | - |
| Kitui | 2013-2014 | - | - |
| | 2014-2015 | 5,445,000 | 22,078,426 |
| | 2015-2016 | 16,871,364 | 12,671,984 |
| | 2016-2017 | 17,798,451 | 42,255,000 |
| | 2017-2018 | 17,148,451 | 17,419,292 |
| Nakuru | 2013-2014 | 500,000,000 | 350,000,000 |
| | 2014-2015 | 500,000,000 | 350,000,000 |
| | 2015-2016 | 500,000,000 | 350,000,000 |
| | 2016-2017 | 500,000,000 | 350,000,000 |
| | 2017-2018 | 500,000,000 | 350,000,000 |
| Uasin Gishu | 2013-2014 | - | - |
| | 2014-2015 | 1,372,500 | - |
| | 2015-2016 | 251,300,000 | 100,500,000 |
| | 2016-2017 | 1,000,000 | - |
| | 2017-2018 | - | - |

Source: UN-Habitat/ Survey Data June-October 2017

SPECIAL FOCUS AREAS FOR STRENGTHENING PLANNING CAPACITY

It is important to note that building the requisite planning capacity will require a holistic approach, including focus on institutional restructuring, human resource development (skills), and financing. For institutional organization, there is need to establish municipal planning functions within urban boards and committees. The point of departure is, however, the establishment of the urban boards/committees.

There is a significant skill gap in the counties, which must be addressed to make planning fit-for-purpose; effective

and efficient for facilitating sustainable urban development. A summary of specific skill gaps is presented on Table 4.3. From the table it is evident that planning technics are highly deficient among county planners. No planning department had advanced to the level of having in-house specialty capabilities. When needed, such capabilities are often outsourced from the private sector-and in some instances, foreign expertise, given the scarcity of some of the specialties in the country's planning system. What this, therefore, means is that there will be continued reliance on outsourced planning services if internal capacity is not developed. Consequently, chances of accomplishing successful implementation of such plans will dampen, given the limited internal capacity to handle such plans.



Mathare, Nairobi County. © Baraka Mwau

Table 4.3: Aspects of skills development identified across the counties

| | Embu | Kakamega | Kericho | Kiambu | Kilifi | Kitui | Kisumu | Machakos | Mombasa | Nyeri | Uasin Gishu | Counties (%) that ranked this skill set as top-priority for capacity development |
|------------------------------------------------------------------------------|------|----------|---------|--------|--------|-------|--------|----------|---------|-------|-------------|----------------------------------------------------------------------------------|
| How to formulate Integrated Urban Development Plans [IUDPs] | ✓ | ✓ | ✓ | | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | 43 |
| How to formulate Spatial Development Frameworks (SDFs)-in relation to IUDPs] | ✓ | ✓ | ✓ | | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | 43 |
| How to do Detailed Planning | ✓ | ✓ | ✓ | | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | - |
| Urban Design and Place Making [Public Spaces] | ✓ | ✓ | | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | 43 |
| Urban Renewal and Informal Settlements Upgrading | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | 29 |
| Housing Delivery | ✓ | ✓ | | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | |
| Integrated Land use and Infrastructure Planning | ✓ | ✓ | | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | 57 |
| Urban Management & Service Delivery | ✓ | ✓ | | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | 29 |
| Project Management for Planners | ✓ | ✓ | | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | 29 |
| Land Administration and Management [with GIS Systems] | ✓ | ✓ | ✓ | | ✓ | ✓ | | ✓ | ✓ | ✓ | | 43 |
| Formulation of Planning Tools and Policy Frameworks | ✓ | ✓ | ✓ | | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | 29 |
| Development Management | ✓ | ✓ | ✓ | | ✓ | ✓ | | ✓ | ✓ | ✓ | | 43 |
| Capital Investment Planning & Financial Integration | ✓ | ✓ | ✓ | | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | 29 |
| Urban Legislation | ✓ | ✓ | ✓ | | | ✓ | | ✓ | ✓ | ✓ | ✓ | - |
| Urban Transportation Planning | ✓ | ✓ | | | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | 29 |
| Planning for Local Economic Development | ✓ | ✓ | | | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | - |
| Municipal Revenue Enhancement and Budgeting | ✓ | ✓ | ✓ | | | ✓ | | ✓ | ✓ | ✓ | ✓ | - |
| Strengthening Capacity for Plan Implementation | ✓ | ✓ | ✓ | | ✓ | ✓ | | ✓ | ✓ | ✓ | | 43 |
| Environment and Climate Change | ✓ | ✓ | | | ✓ | ✓ | | ✓ | ✓ | ✓ | | 29 |
| Regional Planning | ✓ | ✓ | | | ✓ | ✓ | | ✓ | ✓ | ✓ | | - |
| Participatory Planning and Budgeting | ✓ | ✓ | | | ✓ | ✓ | | ✓ | ✓ | ✓ | | - |
| Community Development | ✓ | ✓ | | | ✓ | ✓ | | ✓ | ✓ | ✓ | | - |

Source: UN-Habitat/ Survey Data June-October 2017

Related to the growing specialty skill gap is the prevailing planning education in Kenya. County planners identified difficulties in obtaining specialty training within Kenya. There is no planning school in Kenya that offers specialty training in various aspects of planning such as transportation planning, urban renewal and housing etc. Nevertheless, it is undeniable that the urban realities in Kenya require nurturing such specializations. During this survey, various counties identified context-dependent aspects of specialized planning, mainly: (1) Waterfront Planning and Development, (2) Institutional Planning, (3) Participatory Planning, (4) Informal Settlements and Community Planning and (5) Integrated Land use and Infrastructure Planning.

Figure 4.2: **A section of Mtongwe in Mombasa**



Source: *Digital Globe/Google Earth*

Figure 4.3: Kilifi, waterfront town



Image, Kilifi © Digital Globe/Google Earth.

Waterfront Planning and Development

In Kenya, several urban centres are situated on waterfronts (lake, ocean, major river etc.) e.g. Mombasa, Kisumu, Nakuru, Naivasha, Malindi, Mtwapa, Kilifi etc. However, it has been observed that integrating urban development with the waterfronts have been largely unsuccessful. To the extreme, a number of these water resources have turned out to be urban waste receptors. Besides, the economic development opportunities associated with these waterfronts have been foregone or are not fully harnessed due to poor planning. Where attempts have been undertaken, this survey noted that private interests have superseded public interests.

For instance, in Mombasa, the ocean front is largely characterized by developments (mainly hotels) which have since privatized the beach areas, leaving the public with very limited access to the ocean front, and with less of commercial and

mixed-use developments that would have served to enhance the city's socio-economic development. Although the existing developments have to some extent played an instrumental role in the city's economic growth³³, there still lie untapped potential, which is mainly attribute to the absence of a comprehensive waterfront development plans. It was further noted that the city's reliance on the largely hotel-dominated waterfront developments [and tourism economic sector], has proven unsustainable following the 'recession' facing the sector. A similar scenario was observed in Naivasha, while in Kisumu, the pollution of the lake, combined with poorly designed lake interface and existence of brownfields have hampered its lakefront development. But there are on-going interventions to redevelop the lakefront in Kisumu.

³³ Kenya's Ocean front developments are dominated by hotels and resorts, which have shaped the tourist-oriented urban economies.

The county planners noted that whereas there is potential to redevelop the waterfronts, such expertise is limited within the counties, and perhaps in Kenya. Yet, waterfront planning is critical if such cities and towns are to connect residents and businesses, as well as visitors to the waterfront, as a critical environmental and economic asset for the city. Thus, the Kenya's planning system must nurture specialty in this aspect of urban development, within a broader framework of harnessing the potential in the blue economy.

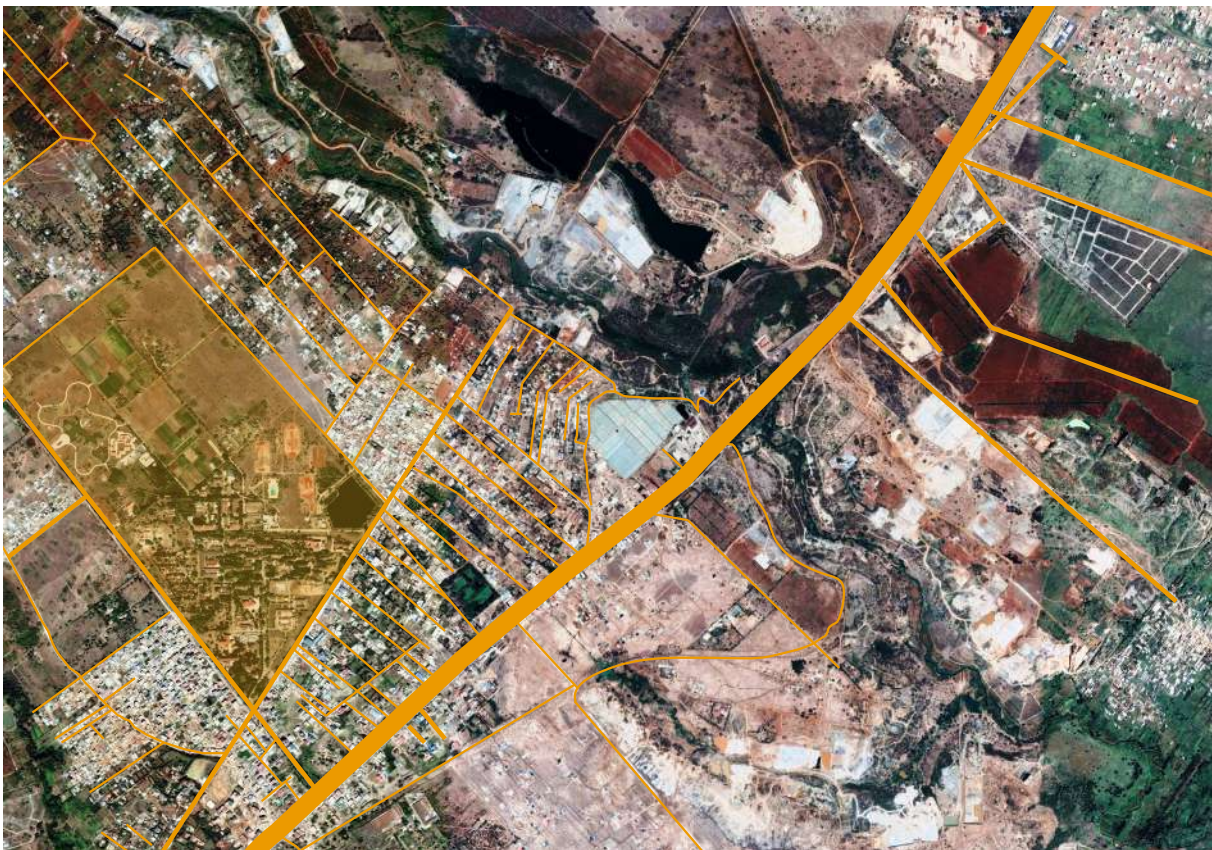
Institutional Planning

In several towns, it was noted that institutions related to education and referral medical services have had significant impact on land use and urban development patterns. For instance, Nyeri, Kiambu and Embu planners acknowledge that universities locating in the periphery of their towns have

catalyzed rapid land-use conversion [agriculture to real-estate], and led to rise in localized housing demand, while in the process reconfiguring urban growth patterns in the towns. However, there have been little spatial planning interventions to better integrate and plan for these institutions.

Some of the institutions become an urban form structuring element owing to size of land they occupy and the influence they have on adjacent land uses. This scenario can, for instance, be observed with the impact Jomo Kenya University of Agriculture and Technology (JKUAT) has had on Juja town's development, in Kiambu County. It is therefore, imperative for planning authorities to review and approve master plans for such institutions and to establish a long-term working partnership on implementing those institutional master plans, alongside the wider urban development plans.

Figure 4.4: Juja Town Development - Jomo Kenyatta University of Agriculture and Technology



Source: Digital Globe/Google Earth

Figure 4.5: Participatory Planning Session



A Community Planning Session in Kitui, Kenya. © Baraka Mwau.

BOX4.1: PUBLIC PARTICIPATION IN COUNTY PLANNING

Public participation in the county planning processes shall be mandatory and be facilitated through—

- (a) mechanisms provided for in Part VIII of this Act; and
- (b) provision to the public of clear and unambiguous information on any matter under consideration in the planning process, including—
 - (i) clear strategic environmental assessments;
 - (ii) clear environmental impact assessment reports;
 - (iii) expected development outcomes; and
 - (iv) development options and their cost implications.”

Source: County Governments Act; 115(1)

BOX4.2: ESTABLISHMENT OF MODALITIES AND PLATFORMS FOR CITIZEN PARTICIPATION

The county government shall facilitate the establishment of structures for citizen participation including—

- (a) information communication technology based platforms;
- (b) town hall meetings;
- (c) budget preparation and validation fora;
- (d) notice boards: announcing jobs, appointments, procurement, awards and other important announcements of public interest;
- (e) development project sites;
- (f) avenues for the participation of peoples’ representatives including but not limited to members of the National Assembly and Senate; or
- (g) establishment of citizen fora at county and decentralized units.”

Source: County Governments Act; 91

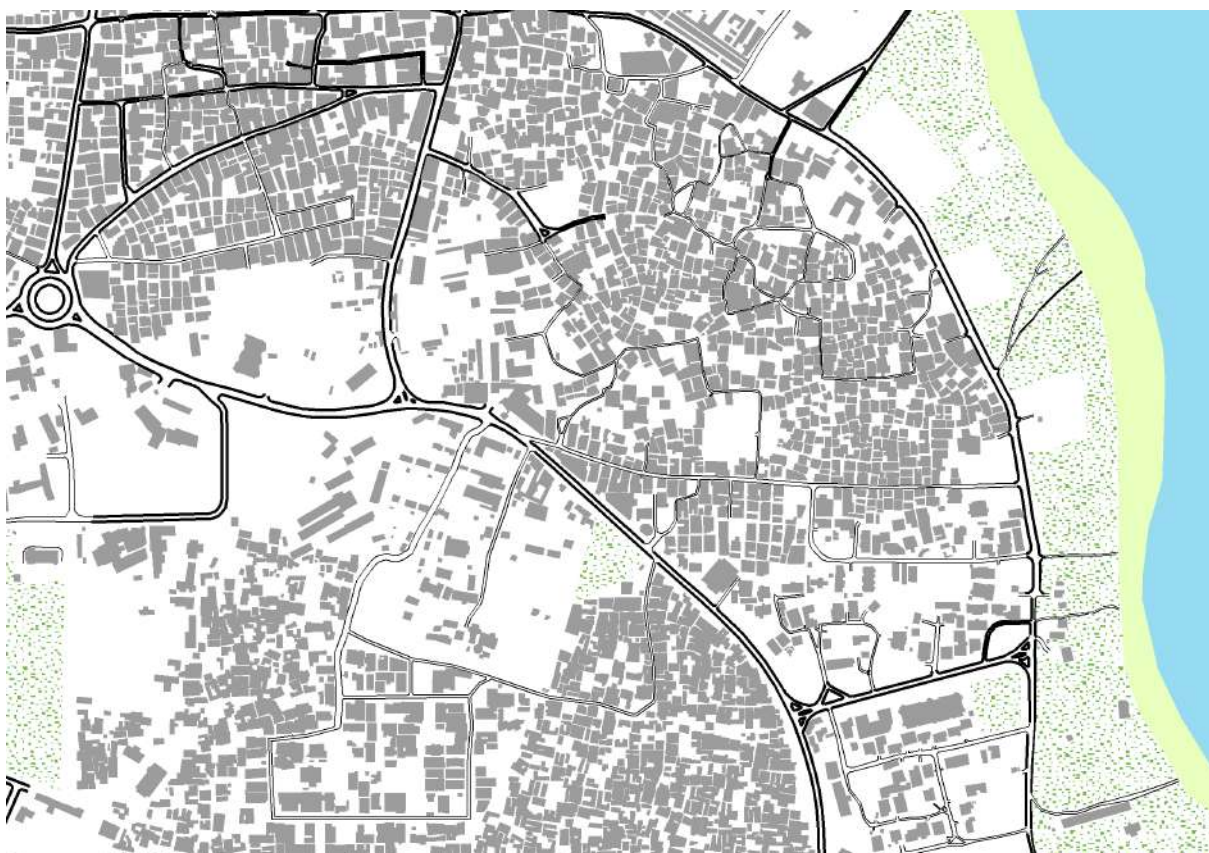
Participatory Planning

Working with local networks, communities, businesses and other actors to shape sustainable urban development is imperative. But weak engagement with these actors has reduced the impact of planning on guiding urban development in most of Kenya's cities and towns. Development management, for instance, would have perhaps performed better if planning authorities were more proactive in engaging local stakeholders. We established that none of the counties have a dedicated community planning approach, and many of the departments lack specialty in community planning. Where such specialty existed, it was mainly through partners such as the civil society organizations, who seem to have nurtured expertise in community planning-mainly linked to upgrading of informal settlements.

Essentially, the over-reliance on outsourced consultancies in plan making has been a contributing factor to low levels of participatory planning with communities.

It was noted that more than often consultants find community planning as lengthy and a politicized process, which tends to delay delivery of outputs. At the same time, it was noted that given the legislative provisions on public participation, even outsourced planning services must meet a certain level of public participation. However, this has largely resulted in mere compliance at the expense of achieving meaningful stakeholder engagement. Indeed, part of the issues related with delays in approval of plans or poor implementation of approved plans have to do with inadequate public participation in planning processes.

Figure 4.6: Informal settlement in Malindi



Data Source: Republic of Kenya/Kilifi County



Community Planning © Studio Team.

This will require a paradigm shift in the manner planning has approached participation. **The traditional approaches of relying on fixed number of workshops, alone, cannot build long-term engagements between planners and stakeholders.** Therefore, there is need for planning departments to advance participatory planning capacity through skills developments and continuous public-engagement activities.

Informal Settlements and Community Planning

Virtually all urban centres in Kenya have informal settlements. County planners acknowledged that it was indeed inevitable for planning to guide sustainable urban development if the practice is deficient in skills and expertise to address informal settlements, and overall urban informality.

Interventions in informal settlements require holistic and integrated approaches, which are not just limited to provision of affordable housing, but those designed to concurrently address socio-economic development, tenure security, and access to basic services, quality living environment,

and overall integration in the wider urban fabric, among other aspects. In doing so, planners will require specialty in community planning; including innovations and creativity in developing adaptive standards that are context-dependent.

In nurturing such planning expertise, planning schools and the practice regulator will have to work together in developing the relevant training and expertise.

Integrated Land-use and Infrastructure Planning

The county planners noted the importance of integrated land-use and infrastructure planning. Notably, infrastructure investments are among the critical interventions required for effective implementation of urban development plans. Yet, quite often it was observed that land-use planning, and infrastructure planning is carried out independently. Investment decisions on where to build infrastructure, its capacity and purpose, are on many occasions done without or with inadequate guidance of urban planning.

The separation of land use planning and infrastructure development is associated with the departmental structure in the county governments. In this structure, where there is lack of (or inadequate) effective coordination and collaboration, the gap between land use and infrastructure planning is wider. This is further escalated by the detachment of utility providers from mainstream county government management.

Restructuring of utilities in 1990s affected delivery of coordinated urban development. As a result, a privatized business model was introduced-with focus on returns and niche locations [often where services are most likely to have highest rate of cost recovery]. Ever since, urban planning in Kenya detached from utility delivery. It was established that rarely do planners circulate planning permissions to utilities for their consent. While this is not intended to create another layer in the bureaucracy, it is critical for forward planning of infrastructure development, to enhance a utility's preparedness to match demand, and to ensure certain standards.

While it is evident that utilities have increased their coverage through their autonomous [e.g. Kenya Power] or semi-autonomous powers [e.g. water companies], there is a growing concern to have local planning priorities and policies adopted by the utilities to converge towards better urban management. But, whether county planning authorities have the potential to influence operations and strategies of utilities is another policy issue-altogether-for stakeholders to address. However, the bottomline is that enhanced linkages between county planning authorities and utility agencies will deliver better planned developments and will present a good opportunity for successful implementation of spatial plans. This is especially in consideration that infrastructure investments are key factors shaping urban growth and form. Unless there is a deliberate effort by planning authorities to engage, there is risk of continued polarization and inequalities in service provision as utilities prioritize areas they consider low-risk. This will likely exclude urban poor households.

It is equally critical for planning departments to ensure that plans are formulated and approved. Indeed, it was established that given that most urban centres lacked approved plans, this created room for continued investments in infrastructure without reference to plans. Consequently, development has preceded planning in most of these urban centres.

URBAN ADMINISTRATION AND MANAGEMENT

Urban administration and management are critical functions of the county governments. The effectiveness and efficiency of this function is a critical determinant of successful planning at the urban level. From this survey, it was established that counties lacked urban boards or committees. While Kakamega County had identified persons to comprise the board for Kakamega Municipality, it was noted that the board was dysfunctional; lacking clarity on mandate and without the necessary institutional infrastructure required for it to fully assume municipal management roles.

Attempts to establish these vital governance institutions were unsuccessful owing to varied factors. These are mainly:

- **Insufficient legal provisions.** The county officers cited various limitations of the Urban Areas and Cities Act of 2011 and its subsequent amendments. For instance, the minimum population thresholds were found to be too prohibitive (high) and unrealistic in relation to Kenya's urbanization context; hence, a review of the classification of urban centres ought to be done in line with the urbanization levels of size of towns in Kenya.
- **Identification of urban boundaries** - while still related to the insufficient legal provisions, it was noted that at national level, there lacked a clear policy guideline on demarcation of urban boundaries. Such guidelines are required and ought to be comprehensive.

- **Lack of political goodwill to establish urban boards/committees in several counties.** Urban centres were found to be key sources of revenue for the entire county; hence, there were perceptions that urban boards/committees would ‘disrupt’ prevailing structures of revenue management. However, these prevailing structures were found to have resulted in under-investment in urban development, despite urban centres being key sources of revenue for county governments.



“There shall be a city or municipal manager for every city or municipality established under this Act, who shall implement the decisions and functions of the board and shall be answerable to the board.”

Source: Urban Areas and Cities Act of 2011; (28)

Figure 4.7: **Impact of informal and traditional land administration on urban form in Kakamega**



Source: Digital Globe/Google Earth

- **Overall, there lacked clear guidelines on how to setup urban boards/committees from scratch to fully functional municipal institutions.** This grey area in policy direction has resulted in continued delays in establishing the institutions. Furthermore, it was established that the failure to guide an effective transition from the now defunct local governments to the urban board/committees resulted in knowledge gap. Indeed, several county officers observed that the repealed Local Governments Act was a comprehensive law that provided sufficient legal grounding for establishment of local authorities, which can perhaps inform a similar law (UACA) under devolution.

In the absence of these institutions, urban management was being undertaken through a mix of approaches, identified as follows:

- Some counties have recruited urban managers (city managers, town administrators)
- Sub-county administration structure
- Departmental approach to execution of line duties -at the local level. For instance, the county department in charge of environment undertaking solid waste management in all the county urban centres.

LAND ADMINISTRATION AND MANAGEMENT

The link between urban planning and land administration was found to be weak and not well institutionalized. Whereas development control relied on land data to identify ownership and status of land rates payments, it was noted that most of the counties lack updated urban land records. Fundamentally, this absence of updated land records has been counter-productive to revenue enhancement. It is only in Kiambu County where the survey established efforts to institutionalize a structured system of linking land records and municipal revenue enhancement.



“There shall be the following forms of land tenure—

- (a) freehold;
- (b) leasehold;
- (c) such forms of partial interest as may be defined under this Act and other law, including but not limited to easements; and
- (d) customary land rights, where consistent with the Constitution.”

Land Act-CAP 280

Several factors were linked to absence of updated land records, including:

- **Continued reliance on analogue land databases-** this has resulted in pile-up of outdated land records and delays in incorporating changes in land records.
- **Informal and at times illegal land sub-divisions that are usually not recorded in formal land records.**
- **Failure to update land records upon approval of land subdivisions.**
- **Traditional land administration processes, where land subdivisions, sales and transfers are undertaken outside the formal land regulatory systems.** This was especially found to be common in peri-urban areas and in urban centres whose growth has largely been unplanned, spontaneous and lacking formal urban governance.
- **Inadequate institutional capacity**

It was noted that through KMP (ISUDP process) the cadaster digitization component provided critical database that can be a basis for updating the respective records and developing a digital land information system. However, for that to happen, counties must invest in the required expertise and facilities (e.g. GIS Labs). Besides, political goodwill will be critical given several parcels of land have contested ownership, which will require political support beyond the technical expertise.

Figure 4.8: **Actors in urban planning and governance in Kenya**

Source: Baraka Mwau/UN-Habitat

THE POLITICS OF PLANNING AND ITS IMPLICATIONS FOR INSTITUTIONAL CAPACITY

Planning, is by its nature of practice is a technical and political process, involving decision making in an environment of multiple actors where interests converge or diverge. Planning entails decisions that have impact on allocation of resources, which interface on regular basis with political leaders [elected officials], civil society and citizens, and businesses. Often, planners and politicians [and other actors] have divergent agendas which if not well managed result in conflicts.

However, planners must master how to engage constructively with politics of the practice, if they are to play the critical role of advancing public interest within complex and often changing political environments they operate in in Kenya. This is critical, given that urban governance has shifted; now involving multiple of [non-state] actors, including the civil society and private citizens, and private sector. The state [planning authority] is now compelled to engage these actors

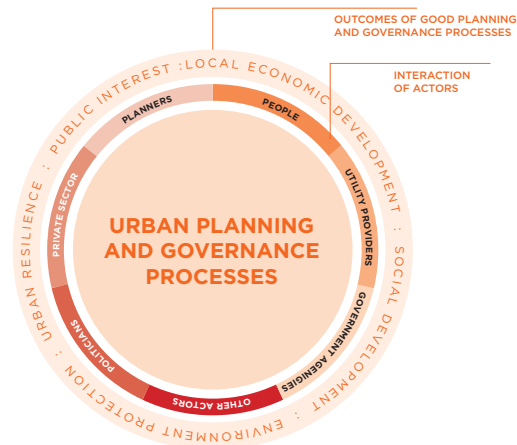
in decision making. Many of the planners interviewed in this study agreed that besides technical tools and legislation, it is imperative to equip planners with techniques to engage with the political nature of practice. This should be part of the critical ingredients of the reform agenda in Kenya's urban planning system. Indeed, a progressive political environment is a precondition for an effective planning system, which is needed by both the public and private sectors.

In a county government context, political priorities may not and often be not in tandem with priorities set in approved plans. Therefore, with mutual understanding of what benefits planning offers, good communication and better understanding of each other's role, the politician, the public and planner can work better towards achieving public good, within a 'plan-led development' framework. It also means that planners must master how to influence decision making, a process that is characterized by the prevailing dynamics of power relations. Further, it was noted that miscommunication that often arise between planners and politicians is by and large associated with the lack of a mutual understanding on what urban planning entails and the benefits it offers.

In several counties, planning officers noted that other disciplines [departments] and political leaders have little regard for planning. This was largely attributed to the fact that previous planning practice have had little impact in influencing a desired [built environment] outcome; hence, priority is somehow rendered to work activities are considered immediate and urgent and whose outcomes are considered as ‘tangible’ (“that has a spatial-fix”) such as infrastructure developments. Whereas this is the reality and reads of a short-sighted approach, it was further noted that even the decisions to designate type of infrastructure needed and areas for their development is often perceived not to be a planning function. Rather such decisions often ignore planning advice including where approved plans exist and rely mainly on priorities of public works departments or semi-autonomous agencies, and the prevailing political priorities. In addition to this, it was noted that in many counties, the planning function has been reduced to just development control or is perceived as such, while in some cases, it is just practiced as such. This has over the time reduced the role of urban planning in facilitating development and has undermined effective plan formulation and implementation.

At the practice level, we established there is shortage of appropriate skills among planners to engage strategically with politics. It was cited, severally, that among the factors for poor performance of development control and failure to approve urban plans and their successful implementation, had to do with lack of political goodwill. For instance, the team in Nyeri cited part of the factors delaying the approval of the ISUDP plan, then, was that a section of the land owners had expressed reservations and objections to a Member of County Assembly, citing fears that there will be negative impacts of some of the land-use proposals and further making claims of inadequate consultations during the plan formulation process. With such scenario, the planners found it difficult to convince the politicians to approve the ISUDP resulting in delays. In this context, it is common for the politician to link approving a plan with certain risks [the political implications]. At times such perceived political risks override the intended benefits of the approved plan.

Figure 4.9: Urban planning and governance processes



Source: Baraka Mwau/UN-Habitat

While there are politicians who understand the importance of planning, some remain reluctant to support certain planning decisions such as approval of land use plans. This was attributed to perceptions that such approvals are not favorable to a section of the electorate; hence, limiting chances of their re-election; a threat to their political interests. This is a constraint that needs to be analyzed beyond the role of the politician or the relationship between planners and politicians, but more so to engage with issues of how effective the participatory activities are applied in plan formulation, and to what level is the public aware of planning and its associated processes and benefits. Fundamentally, public awareness on the role of urban planning in the socio-economic development is an imperative for making the planning system more responsive to Kenya’s planning needs. The county governments and their subsequent decentralized units provide the ideal levels of articulating such intervention.

Further, to mediate the decision-making on matters land-use and development management, it is important for planners to work closely with politicians in engaging the public and other stakeholders. This not only offers the politician a chance to build stronger relationships with the public on planning issues, but also creates a political environment that is conducive for both the planner and the politician.

Key recommendations are to:

- **Strengthen the capacity of politicians in understanding planning** and how they can provide political leadership appropriate for effective planning.
- **Engage the public in planning-creating awareness.**
- **Equip planners with negotiation, mediation and ‘political skills’.** The planner as an advocate [advocacy planning] of public interest.
- **Orient elected officials [members of county assembly] and appointed officials [County executives and urban board/committee members] to urban planning processes.** This needs to be a long-term process; continuous and with priority to newly elected/appointed officials. Key aspects of this orientation include: learning basics about urban authorities [e.g. urban boards/committees], orientation to existing plans and other plans; including their status of implementation, existing policies and regulations related to urban planning and development, budgeting and development financing procedures, and importance of urban planning to delivery of their development goals [‘social contracts’ signed with the electorate].

CHAPTER 5.0. IMPLEMENTATION OF URBAN DEVELOPMENT PLANS



Mukuru slums, Nairobi. © Baraka Mwau

OVERVIEW

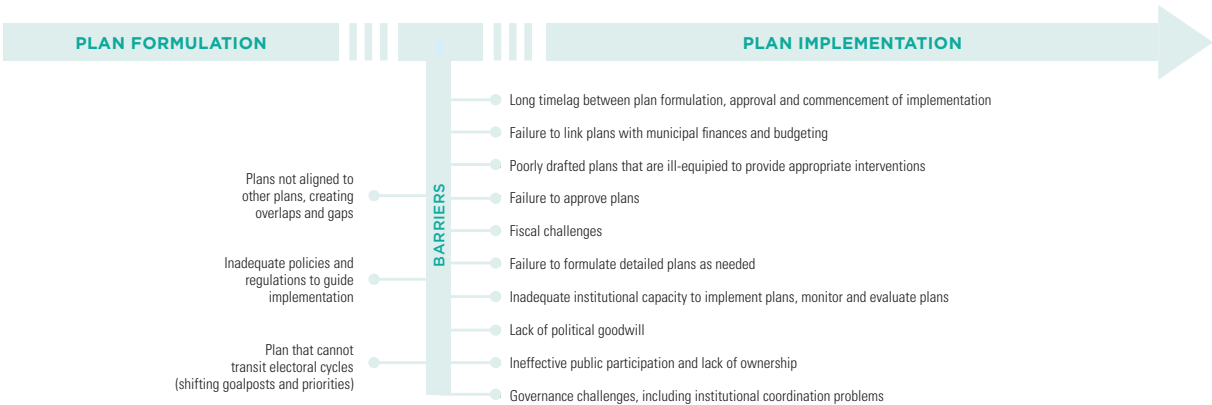
Traditionally, there has been little success in implementation of urban development plans in Kenya. The county governments inherited cities and towns whose development have largely been unplanned and that face a myriad of infrastructure and housing challenges, among others. Yet, such urban areas offer the counties immense opportunities for advancing socio-economic transformation.



“Given the diversity of actors and interests involved in managing urban futures, it becomes evident that planning is not just about formulating ideas, policies and programs, but also about implementing these through collective actions”.

UN-Habitat: *Global Report on Human Settlements 2009*

Figure 5.1: Factors undermining successful implementation of plans in the counties



Source: Baraka Mwau/UN-Habitat

OUTSOURCED PLANNING SERVICES AND IMPLICATIONS FOR PLAN IMPLEMENTATION

Often, and as was the case with the KMP Component 2 on Planning, recent urban plans in Kenya have been formulated by private sector consultants, contracted by government agencies. In this case (KMP), the national government contracted private sector planning firms to formulate plans for various towns in the counties. While acknowledging the prevailing limited capacity at the county level to formulate plans, officers raised a fundamental concern that interventions to address this capacity gap have not been well framed; hence, the subsequent approaches have been ineffective.

Consequently, the increasing [over]reliance on private consultants has been undertaken at the expense of strengthening internal capacities. Indeed, the county officers cited that very little gains arise from the on-the job capacity development activities incorporated in the recently outsourced planning services. Several factors were attributed to this including issues linked to Terms of References and their interpretation by the consultants, design of the on-the job capacity development task, high turnover of staff at the counties, language [communication] barriers between some of the consultants (especially foreign sourced ones) and county planners, difficulties in understanding contexts, and project management challenges.

It was therefore observed that assumptions that on-the job capacity development will be effective in such urban support programs, has been counter-productive to efforts geared towards realizing meaningful planning reforms within the planning authorities. For instance, owing to limited internal capacity in planning authorities, managing implementation and review of the plans initially formulated by external consultants becomes problematic.

We got mixed reactions on what approach is best suited for an effective planning approach. There were county planners who were of the idea that plan formulation was best done by private sector consultants on behalf of planning authorities, while others were for the opinion that private sector consultants should only be brought on board on case by case basis [e.g. where certain specialized/expert skills are required], while building internal capacity for planning. This is a critical debate, which we recommend the key actors in Kenya's planning system to engage in. In doing so, it is critical to note that an efficient planning system requires sustained competence in various domains of both public and private sectors, progressive planning education [academia], and must be supported by sound policies and legislation.

Consequently, by revisiting approaches to plan formulation, governments will be able to address one of the fundamental determinants of successful plan implementation- how effective is the plan formulation process. From this survey, it was evident that planning authorities are best placed to steer a successful plan implementation if they have a clear understanding of the process leading to the plan; the issues arising and its subsequent contents, and the strategies proposed for implementation.

‘SILO-ORIENTED’ MANAGEMENT AND ITS IMPLICATIONS FOR PLAN IMPLEMENTATION

Another issue arising from the survey, in relation to plan implementation has to do with organizational structure and cultures. Agencies and budgets in the county governments are organized by sector. Planning is just one of the many sectors or departments in a county government.



“The designated planning authority in the county shall appropriately organize for the effective implementation of the planning function within the county.”

County Governments Act’ 105 (2)

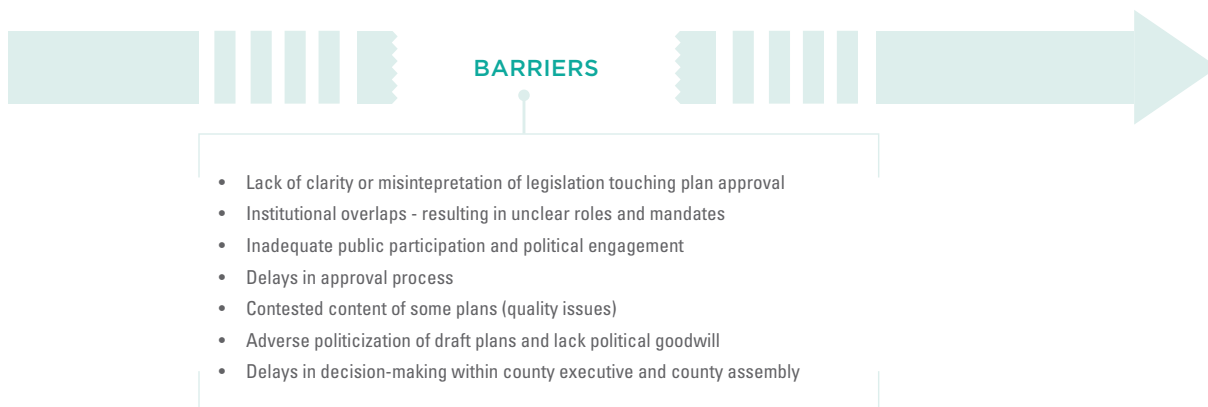
Ideally, planning ought to be a cross-cutting function given its multidisciplinary nature and the purpose plans are formulated. This is the case envisioned in the Kenya Constitution and the County Governments Act. However, this survey established that there remains a challenge on how planning can play the role of the ‘facilitator sector’ that can inform integration of sector plans, strategies and budgets. The failure of planning to assume this critical role in county development continues to threaten effectiveness and efficiency of planning in the counties.

In summary, the survey identified the coordination of planning in many of the counties is characterized by:

- **Lack of clarity on responsibilities for coordinating implementation of plans.** Partly, this stems from poorly integrated plan formulation processes, where the output-the plan- is perceived as for specific department-the planning department. This has resulted in lack of adequate ownership of plans across departments.
- **Further, inadequate cooperation between departments has led to absence of harmonized decision-making and prioritization of investments.**
- **Highly centralized decision-making system, where decisions regarding planning permissions, building approvals etc. are made at county head quarter level.** Lower units such as sub-counties, wards or cities often lack power to decide on such matters and they act as liaison offices between the local level and the head quarter.

PLAN APPROVAL AND ITS IMPLICATIONS FOR IMPLEMENTATION

As mentioned earlier, among the key hindrances to effective planning is lack of approved plans. Ideally, approved plans become legal instruments and policies that planning authorities use as basis for development management, and a guide for municipal investments. Whereas this is the case, most of Kenya’s urban centres lack approved plans. This has significantly undermined efforts to achieve well-planned urban development.

Figure 5.2: **Barriers to plan approval**

Source: Baraka Mwau/UN-Habitat

LACK OF LOCAL PLANNING AND DETAILED PLANS

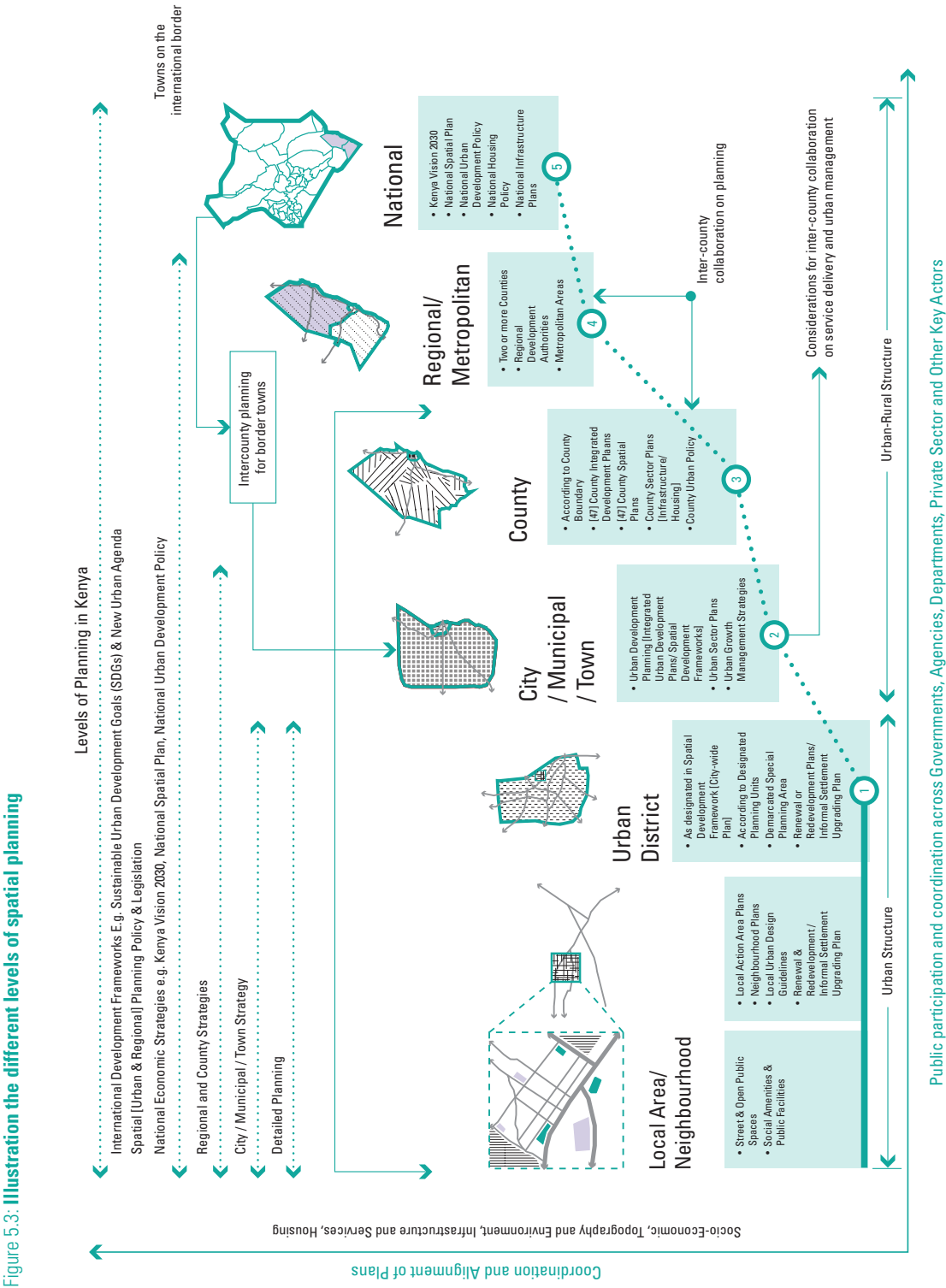
A critical gap in implementation of urban development plans in Kenya is the absence of local planning and or detailed [local] plans. For a long time, plans in Kenya have been prepared at city/municipal scale; providing broad land use frameworks, strategic spatial development proposals, development management guidelines and broad strategies for local economic development and infrastructure investments etc. However, many of these plans, albeit many being unapproved, are rarely scaled down to detailed planning at district and local/neighborhood levels. This has been a defining hindrance to effective implementation of urban development plans, as those prepared at city-wide level, often require detailed planning for their implementation.

This survey established that recent planning approaches have attempted to address this gap, but it's still early to measure the impact. For instance, the ISUD planning approach identified several "Action Area Plans"/Local Plans that needed to be formulated alongside the city-wide planning process. An analysis of recent ISUDPs, mainly the KMP ones, reveals that whereas there is acknowledgement of the importance of detailed planning, the interpretation of what entails [contents and scope] is varied. Further, perhaps due to limited budgets and timeframes for planning assignments, the choice and prioritization of which areas to prepare such plans is often not aligned to the contextual analysis.

All in all, there are considerable steps being undertaken in Kisumu County. We established that Kisumu has embarked on formulated detailed plans for purposes of implementing its ISUDP.

Key Issues Emerging:

- **Assumption that planning ends with the delivery of city-wide plan,** which has influenced low or zero budgetary allocations to local planning.
- **Related to the above is the perception that plan implementation primarily has to do with development control.** This approach has weakened the role of planning in guiding planned urban development.
- **Overall, the low budgetary allocations to planning departments have resulted in inadequate funds and capacity to undertake detailed planning.**
- **Reliance on private consultants to formulate city-wide plans has contributed to weakened capacity for plan formulation in many of the public planning authorities.** Consequently, with insufficient financial resources to further engage external consultants on detailed planning, implementation of city-wide plans become unsuccessful at the district and local levels of planning.



Source: Baraka Mwaui/Jazang Ang/UN-Habitat

- **Inadequate capacity (specialty) in detailed planning-** it was noted that county planning departments have limited technical and financial capacity to effectively undertake local planning. Such expertise entail assembling planning and design teams with skills in urban design, architecture and construction, urban engineering, land survey, environmental planning, community development, urban renewal, finance and economic development, urban legislation etc.

LACK OF PLAN-FINANCE LINKAGE

The previous plans have largely been formulated without a financing and operating strategy. This has resulted in poor coordination of plan implementation, missed opportunities in tapping land-based financing of strategic investments, and overall under-financing of plans.

However, the KMP ISUDP component attempted to shift this approach, with the introduction of Capital Investment Planning (CIP) element as part of the plan implementation tools. Whereas this is a critical shift, this survey established that operationalizing CIPs was a challenge for most of the counties. Such challenges were related to high budgets associated with various plan costings and whose financing was yet to be established amid limited revenue streams, and CIPs that were yet to be linked with county budgeting processes.

Notably, for effective plan implementation, linking plans and county budgeting processes is inevitable. This also means coordinating external revenue streams (e.g. development partners, national government urban support programmes etc.) to align with plan priorities.

LACK OF PLAN- POLICY- LEGISLATION LINKAGE

Another area of concern is the weak urban policy and legislative framework prevailing in the counties. Approved plans on their own are not enough to act as a policy and legislative guide. Often, such plans require policies and legislation to support their implementation.

In the counties, such capacity for targeted policy making and legislation, aligned with urban plans, is very limited. Indeed, it was established that only a few regulations in the form of by-laws exist in the counties.

INSTITUTIONAL AND POLITICAL GOVERNANCE ISSUES

During this survey, we established that the draft plans (ISUDPs) face the risk of being shelved or poorly implemented. The main factor to this is their status as draft plans and delays in approving the plans. Except for Turkana County, where plan approval was undertaken within a reasonable timeframe, the rest of the counties have delayed approval processes. For instance, whereas the KMP draft ISUDPs were completed in late in 2015 [except for Kericho, Uasin Gishu and Kakamega counties], most of them remain unapproved, some to date (close to two and half years). Given these plans were formulated to guide urban development for a minimum period of 15 years, in between with reviews; time is elapsing without commencement of their implementation. Eventually, such plans face the risk of being ‘abandoned’, owing to their likely contextual irrelevance.



Housing construction using alternative building technologies, Nairobi. © Baraka Mwau/UN-Habitat



“An integrated development plan adopted by a board or town committee may be reviewed and amended during the term of the board or committee and shall remain in force until a **new integrated urban area or city development plan** is adopted by the succeeding board or town committee, but the incoming board or committee shall ensure that the **viable projects are continued or completed.**”

Urban Areas and Cities Act of 2011; 39(2)

Besides, it was also established that there were plans that had not been approved or approved but whose implementation had not been well-institutionalized, face the risk of unsuccessful implementation owing to priority changes as political leadership change upon elections. For instance, it was noted that many of the draft ISUDPs at the county assemblies could not be debated or approved towards the August 2017 general elections. A follow-up after the elections indicated that new political leadership that characterized most of the county assemblies meant further delays in the approval process. With reconstitution of county assembly committees, new membership needed to be oriented to the draft plans, which translates into further consultations; hence, extended timeframes for the approval process.

Newly elected political leaders could also be having different priorities or interests that they not necessarily converge with those identified in the draft plan. Mediating such divergent interests is a political process that further delays or may completely halt a plan approval process. Nevertheless, in some cases, new political leadership can fast-track plan approval process and subsequent institutionalization of its implementation. This makes political goodwill a major determinant of successful plan implementation.

The failure to link urban development plans with county [and municipal] budgeting is a major factor affecting plans that have been approved by not well-institutionalized for implementation. Most of the planners in the

counties were in consensus that county budgeting is rarely synchronized with spatial planning. Yet, the County Governments Act (Article 104) (5) states that “County plans shall be binding on all sub-county units for developmental activities within a County”, and Article (107) (2) emphasis that “the County plans shall be the basis for all budgeting and spending in a county.” It was also evident that spatial plans are of lesser priority, with many of the counties opting to formulate short-term corporate plans, which are reviewed annually, and for the purposes of meeting legal obligations related to revenue expenditure. While this is anticipated to change, there are still considerable interventions needed to position spatial planning as the guiding framework for development planning and capital investments in the counties.

COMPETENCIES EXPECTED OF URBAN ADMINISTRATION AND MANAGEMENT

[Reference to Urban Areas and Cities Act]

Integrated Urban Planning

Prepare and implement integrated urban development plans, land use plans, development control regulations, infrastructure plans, and other types of plans.

Development Management

Regulate land use, land sub-division, land development and zoning by public and private sectors for any purpose, including industry, commerce, markets, shopping and other employment centres, residential areas, recreational areas, parks, entertainment, passenger transport, agriculture, and freight and transit stations within the framework of the spatial and master plans for the city or municipality as may be delegated by the county government.

Local Economic Development

- Infrastructure and service provision
- Revenue Generation
- Environmental Management

At city level, all counties surveyed were yet to establish urban boards/committees. These boards/committees were to replace the dissolved local governments, in post-2010 Kenya constitution. This vacuum in urban management has meant that urban development plans formulated in the first cycle of devolution (2013-2017) were coordinated at county government level as opposed to the decentralized (urban) level. This implies that even with creation of such boards/committees the appointed members and the institutional management established for the respective urban centres, they are likely to adopt plans which they have little knowledge about. Besides, to fully re-establish functional urban administration and management will take some time, which will have undesirable impacts on the time frames for implementing the existing plans.

To address this, it will be critical for both levels of government (national and county) to work together in creating fully functional urban management systems. This requires formulation of comprehensive resource tools³⁴, putting in place the requisite human resource capacity, and allocating the needed financial resources. It is important to note that an urban boards/committee is envisioned to run a fully functional municipal management system.

³⁴ Examples of tools needed include: City Manager's/Town Administrator's Handbook; Handbook for Urban Ward Representatives; and Urban Board/Committee Member's Handbook

PART 3: **RECOMMENDATIONS**



Nakuru, Kenya. © GIS Data Republic of Kenya
Illustration © BarakaMwau/UN-Habitat.

CHAPTER 6.0. STRENGTHENING PLANNING IN THE COUNTIES



Pedestrian walkway in Eldoret town. © Baraka Mwau.

OVERVIEW

Throughout the implementation of Kenya Municipal Program, Component 2 on Integrated Urban planning, UN-Habitat was involved in supporting county planners in enhancing their engagement with the consultants appointed to formulate the plans. The agency extended similar support to enhancing the capacity of decision makers managing line departments and political leaders on their understanding of urban planning. This was executed through trainings designed as rapid planning studios (interdisciplinary; involving planners and

other professions e.g. engineering, finance and economics, architecture, etc.) and interactive learning sessions for county managers and political leaders. The agency was also involved in providing technical advice to the formulation of the ISUDPs. Drawing from the findings of this survey and lessons learnt from the agency's involvement in supporting KMP-Component Two, several interventions are required to enhance planning capacity in the counties. Such interventions need to primarily focus on institutional and human resource capacity.

TRENDS AND NEED FOR A RESPONSIVE PLANNING

RESPONSIVE URBAN PLANNING

SOCIAL TRENDS

- Rural-urban migration
- Urban population increase
- Demographic changes (young/youthful urban population)
- Urban-rural linkages
- Affordable housing deficit
- Demand for healthy living and social wellbeing
- Digital lifestyles - altering traditional thinking about space
- Settlement transformation

ECONOMIC TRENDS

- Small and medium-sized towns and agricultural interland
- Surplus labour (seeking off-farm jobs)
- Regional development
- Urban real estate and land-use transformation
- Informal economy

INFRASTRUCTURE AND TECHNOLOGICAL TRENDS

- Infrastructure and basic services deficits (water supply, sewerage, solid waste management, energy)
- Smart infrastructure networks, disruptive technologies and their implications for land use planning
- Mobile-tech solutions and space implications

ENVIRONMENTAL TRENDS

- Climate change and urgency for decarbonization
- Environmental degradations
- Resource management
- Urban sprawl and land use change
- Green infrastructure and efficient buildings

GOVERNANCE AND POLITICAL TRENDS

- Devolution and decentralization
- Public spaces
- Participation
- Policy and regulation



“Urban settlements in all parts of the world are being influenced by new and powerful forces that require governments to reconsider how they manage **urban futures**. Urban areas in both developed and developing countries will increasingly feel the effects of phenomena such as **climate change, resource depletion, food insecurity and economic instability**...But if planning is to play a role in addressing the major issues facing urban areas, then current approaches to planning in many parts of the world will have to change.”

UN-Habitat: Global Report on Human Settlements 2009

ROLE OF PLANNING IN THE COUNTIES

The Kenya constitution and legislation on devolved governments envision planning as an integrative function.

In 2010, Kenya adopted a new constitution that introduced a devolved government system with two tiers: national government and 47 county governments. The county governments were further structured to be decentralized, with counties mandated to establish devolved units, and to create urban authorities. Subsequently, this implied a shift in the planning system, where planning functions were distributed across the two levels of government, with principles of collaboration and coordination emphasized across inter-agency/inter-governmental units.

Previously, the Physical Planning Act centralized planning authority within the office of the Director of Physical Planning. But with devolution, several planning authorities can be created within the county government, which in principle are aligned to the decentralization architecture prescribed by the County Government Act. For instance, Article 48 of the County Government

Act mandates a county to establish decentralized units, key among them being urban centres which are to be governed as guided by the Urban Areas and Cities Act. This Act mandates Urban Boards/Committees as planning authorities. This implies that there is need for clarity on how different levels and agencies of government execute planning mandates. For instance, the roles and responsibilities of urban boards/committees and county government planning departments need to be clear and well understood, especially with regards to decision making and exercise of powers. Without such institutional clarity it will be difficult to achieve an effective planning function within the county government structure.



“The designated planning authority in the county shall appropriately organize for the **effective implementation of the planning function** within the county.”

County Governments Act; 105(2)

Against that backdrop, **there is need for planning practitioners, government agencies, and other stakeholders to comprehend the range of issues entailed in the shift; the opportunities and challenges, and the strategies required to institutionalize a functional and efficient planning system** that resonates with this governance shift. In view of the ‘new system’ that ought to have emerged from the Kenya constitution of 2010, this study established that there are various aspects of planning that remain ‘contested’ or whose understanding seem unclear within the practice. Seven years after the enactment of the current Kenya constitution, and with completion of the first cycle [electoral cycle] several key reforms are still pending including:

- **Establishment of fully functional planning units and the required levels;**

- **Creation of functional urban administration and management institutions (Urban boards/Committees); and,**
- **The revision of the planning legislation, the Physical Planning Act.**

The above issues must be addressed if counties are to reap the benefits of integrated planning.

REVISITING PLANNING: MAKING PLANNING WORK FOR THE COUNTIES

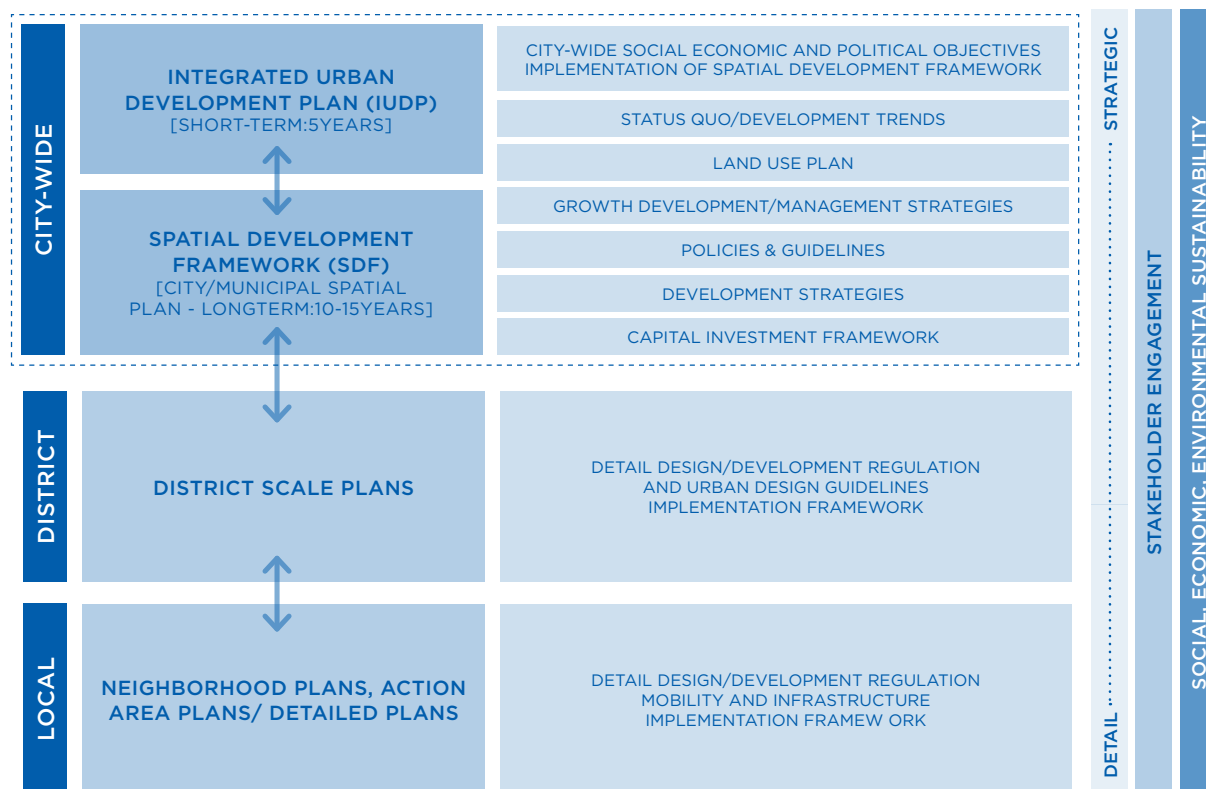
More grounded planning is required at the counties, with focus on how urban and rural settlements can develop sustainably. Considering this, it is critical to take note that human settlements are assemblies of networks and systems comprising of the public sector, private enterprises, civil society, communities, households and individuals, who are constantly making decisions which have significant implications for urban development. Therefore, ‘contestation’ in planning is likely, and indeed, it is part of planning; hence, an effective and efficient planning system must be able to mediate and negotiate appropriate decisions out of such diverse and dynamic contexts to shape sustainable development- the system must be fit-for-purpose.



“The problem of integrating different functions of urban government has become a common one, and this is seen as a potentially important role for spatial planning.”

Devolution and the new approach to planning through Integrated Urban Development Planning (IUDP) has the desire to integrate public-sector functions. Spatial planning is envisioned as the integrative function.

Figure 6.1: A typical Approach to Integrated Urban Development Planning



Source: UN-Habitat/Baraka Mwau/Ivan Thung

There is need for greater engagement with the public with focus on nurturing a planning culture, and especially to create a model of development that rely on planning framework. It was observed that the current practice of planning is largely understood [by the public] to constitute control and where some aspects are considered good e.g. creation of public space [streets and open spaces], the discipline is still viewed with elements of skepticism. This has resulted in low public trust on what the discipline can offer. For the work of public planning authorities to be efficient and meet the aspirations of many, their engagement with the public [citizens, and organized groups], and private sector is imperative. It is therefore critical to rethink planning beyond development control, and anchor it as a co-ordinating instrument for undertaking development programs in the counties.



A new generation of planning legislation has been introduced, stemming from the Kenya Constitution of 2010 and subsequently the County Governments Act and the **Urban Areas and Cities Act**. This new generation of legislation calls for shift to **integrated development planning** and will require a **more specific planning law** to guide the full realization of this shift.

Adapting a Plan-Led development System is Imperative for Making Planning Work in the Counties

To realize the benefits that accrue from good urban planning, counties must institutionalize a plan-led system of development. This means that all public investments (e.g. infrastructure projects) and approvals of land development by non-government actors (e.g. private sector), must be aligned to urban development plans and policies. Indeed, this is the vision set in the County Governments Act and the Urban Areas and Cities Act. However, this survey noted that often, public investment decisions are made without reference to existing plans, especially when such investments are being undertaken by state agencies (e.g. road construction authorities).

Another challenge is associated with conditional funds provided by development banks or national treasury, which at times tend to set priorities that do not necessarily align with those set in existing urban development plans. It is therefore critical for greater inter-agency engagements before investment decisions are taken. And such decisions, ought to be aligned with development plans. Notably, some infrastructure projects, for instance transportation infrastructure, have significant impact on land use. If such are not aligned with plans, their development often triggers urban sprawl or significant land use changes that need to be well anticipated through appropriate planning and legislative mechanisms.

A reformed planning system should possess the capability to act as the decision framework for funding infrastructure in the counties. Attaining such capability will also enable counties to implement value capture as a funding tool for implementing infrastructure developments, which is a major component of urban development plans.



“City or municipal land use and building plans shall be the **regulatory instruments for guiding and facilitating development** within the particular city or municipality.”

County Governments Act; 111(5)

Planning at Scale

For planning to attain its coordinating role in development sector, it must be undertaken at scale and within appropriate scope. Scale relates to various levels of planning, dictated by geographical coverage-at the counties scale implies from county spatial plan to the lowest unit of planning e.g. a neighborhood or street, and higher up, this implies coordinating county planning with inter-county regional plans as well as national plans. Scope is informed by purpose of the plan such as land use and transport plan, water supply plan etc., as well as limits and extents in what a plan address. In defining both purpose and scope of planning, it is important to pay attention to the fact that land uses, and places are subject to change as cities and towns respond to demographic, economic, social and technological changes.

A functional planning system must therefore be adapted to the local urban contexts, which among other things, will entail:

Establishing participatory structures and an appropriate approach to participatory planning.

This involves creating decentralized structures for public participation in plan preparation and implementation including development management.

Establishing the citizen fora and citizen charters. The UACA requires counties to establish a citizen-fora where urban residents can actively participate in governance of the respective urban area. As a good practice, such governance structure can be complemented with a citizen charter, where the urban authority specifies services, standards and processes. The scope of such charter should encompass planning aspects for the respective urban area.

Prioritising preparation of local (detailed) plans. Local plans are important in operationalizing city-wide plans at the lowest scale. These plans enable a planning authority to effectively undertake development management, program infrastructure investments, engage local stakeholders in shaping better spaces while contributing to the overall vision of the urban area.

Table 6.1: **Permitting Functions and Software**

| FUNCTION | SOFTWARE TYPE | | | | | | | |
|--------------------------------------------------------------------------------------------------------------------|---------------|-------------|------------|--------------|------------------|----------------------|-----------|-------------------|
| | Permitting | Plan Review | Inspection | Transactions | Project Tracking | Communications Tools | Reporting | Other specialized |
| Permit Applications: submission for simple projects, review, information keyed into system, permit issuance | ✓ | | | ✓ | ✓ | ✓ | ✓ | ✓ |
| Plan Review: submission | | ✓ | | ✓ | ✓ | ✓ | ✓ | |
| Plan Review: distribution of documents, comments, approval | | ✓ | | | ✓ | ✓ | ✓ | ✓ |
| Plan Review: approval and permit issuance | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | |
| Plan Review: archiving | | ✓ | | | ✓ | ✓ | | ✓ |
| Inspection: scheduling | | | ✓ | | ✓ | ✓ | | |
| Inspection: preparation of pre-inspection reports | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | |
| Inspection: results, post-inspection reports, remote capabilities | | | ✓ | | ✓ | ✓ | ✓ | ✓ |
| Utility Hookups | | | ✓ | | ✓ | ✓ | ✓ | ✓ |
| Certificate of Occupancy | | | ✓ | | ✓ | ✓ | ✓ | ✓ |
| Contractor Licensing | | | | ✓ | | | | ✓ |
| Customer Registration | | | | ✓ | | | | ✓ |
| Fee calculation and payments | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Management Reports | | | | | | | ✓ | |
| Workload Analysis | | | | | | | ✓ | |
| Statistics | | | | | | | ✓ | |

Source: U.S. Department of Housing and Urban Development (2002). *Electronic Permitting Systems and How to Implement Them*. Retrieved on 15/10/2018 from: https://www.huduser.gov/portal/Publications/PDF/permitting_all_4_12_02.pdf

BOX: ELECTRONIC PERMIT PROCESSING: CONSIDERATIONS IN CONTRACTING

Often, e-permit systems are supplied by vendors- rarely do municipalities have sufficient IT capabilities. It is therefore important to ensure that the procured system has value for money. Key considerations include:

Determine the Need:

- What level of service does the city need (citizens, developers etc.),
- Workflow, and workload,
- Existing technical expertise,
- Existing technology,
- Operating budget.

Redundancy- The electronic permitting system and its records must be well protected and routinely backed up on a separate server. Related capabilities may include uninterrupted power supply and a back-up server.

Security- protection of the system from hackers and viruses. Measures must also be in place to protect hardware and data from unauthorized access, theft or tampering.

Training- is an ongoing activity during implementation and upgrading of the system.

Licensing -It is important to consider long-term implications for continued use of the system. In some cases, licenses are paid once-off, in other cases it can be through subscription fees.

Source: U.S. Department of Housing and Urban Development (2002). Electronic Permitting Systems and How to Implement Them. Retrieved on 15/10/2018 from: https://www.huduser.gov/portal/Publications/PDF/permitting_all_4_12_02.pdf

Address urban informality and tailor interventions for informal settlements.

Inevitably for a planning system to efficient and effective (fit-for-purpose) in Kenya's urban context, it must have adequate capacity to address urban informality including the informal economy and informal settlements. In doing so, such planning system ought to focus on tapping the opportunities (e.g. livelihoods sustained by the informal economy, potential for redevelopment to increase densities and promote mixed-use developments etc.), while addressing the challenges (e.g. security of tenure, infrastructure challenges, housing conditions etc.).



"Potentially, planning can play an important role in **encouraging sectoral alignment and coordination** if the function is correctly positioned within **governance structures**."

UN-Habitat: Global Report on Human Settlements 2009

Create an efficient land acquisition system

to increase share of urban public land. Counties must make it deliberate to increase the supply of urban public land. Acquisition of land to build infrastructure, public housing and amenities, have been a major factor contributing to higher costs in delivery of such public goods. Therefore, appropriate mechanisms are needed at the local levels. Such mechanisms may entail land readjustments, timely land appropriation with compensation, and appropriate documentation of land surrendered during approval of subdivision schemes etc.

Better Development Management

The state has jurisdiction over all types of land Kenya, as stipulated in the constitution. In that case, property rights are not absolute, but can be constrained by law. Land use policies and regulations are designed to define privileges and constraints of property rights, but this must be undertaken carefully without restricting development, rather to facilitate efficient development within a regulated environment. This entails reducing regulatory burdens and unnecessary conditions for planning approvals as well as institutionalising an efficient enforcement system, within a framework of good urban governance.

There are basic policies and guidelines required at the counties to achieve better development management. These include:

- **Formulation of detailed local plans** as the core basis (reference) determining planning applications.
- **Development of a management policy on subdivision of urban land** and conversion of rural (agricultural) land into urban land.
- **Development of a management policy use of rural (agricultural) land.**
- **Regulations on approval of land subdivisions** (conditional approvals, full approvals etc.) including aspects of infrastructure financing.
- **Guidelines on how planning applications are processed.**

Further to policies and guidelines, the institutional structure of development management needs to be streamlined. This process will entail:

- **Reducing number of offices through which applications are circulated**
- **Creating a streamlined regulatory framework on urban development management (land use, environment, construction etc.).** This will promote legal certainty in the county planning system(s).

- **Investing in digital platforms for development applications** integrated with GIS and revenue collection systems, and with adequate security features.
- **Better coordination between planning and enforcement departments**
- **Building human resource capacity** in building inspections and planning enforcement.
- **Coordinating spatial planning and infrastructure developments-** for better growth management.

Importance of Knowledge Tools

As indicated, a major gap in the prevailing planning system is the inadequacy of knowledge tools such as guidelines and manuals. This has not only undermined the effectiveness of the practice, but also its training. Among the key knowledge tools needed include:

- **Manuals and guidelines on how to formulate specific plans e.g.** SDF/IUDP, local plans, rural development plans, county spatial plans, regional plans, special planning areas, etc.
- **Urban design guidelines.**
- **Specialized planning:** coastal and waterfront planning guidelines, institutional planning, urban renewal and housing, transportation planning,
- **Guidelines for mainstreaming climate change, gender and youth issues in planning.**

In addition, non-technical tools are equally important and needed. Such tools ought to target persons and stakeholders whose role and activities have impact on urban planning and development. Such include: elected political leaders, civil society organizations, community leaders, investors, development agencies etc.

TOWARDS ENHANCED PLANNING CAPACITY

In the counties, planners are the specialized administrators of the planning system and would require other specializations to undertake substantive matters of planning (e.g. infrastructure design) and related activities. It therefore be noted that the level of competence required of planners in substantive matters (in related disciplines) should enable them to communicate efficiently and manage such projects effectively, rather than purporting to replace those specialists. **The planners should be able to effectively and efficiently manage specialty knowledge, ensure flow of information and coordinate a structured process of arriving at solutions.** This requires planners to attain critical thinking capacity, and have a firm grounding on urban development issues, especially the contextual issues. Further, with the evolving role of the planner, there is need for specialized planning in areas of project management. For instance, senior planners are engrossed in responsibilities that demand project management skills. Such responsibilities include managing planning processes, urban development projects, managing implementation of plans etc.

Although not emphasized in many planning schools, the reality of the practice is increasing demanding of planners to gain skills on politics. Decision making in planning affects many actors, and often, failure for planners to engage with politics strategically, undermines their influence on certain decisions. In this study, most of the planners blamed political leaders for various culpabilities related to planning e.g. failure to approve plans, poor performance of development control etc. However, in reality by the nature of what the discipline does-divorce between politics and spatial planning is difficult. This report, therefore, recommends that part of reforming and making the planning system efficient in Kenya is to strengthen planners' competency with 'political skills', which include skills for strategic decision making, negotiations and mediation of interests, and strong articulation of public interest etc.

Develop Internal Capacity and Accelerate Interventions to Institutionalize Planning in the Counties

It was observed that [over]reliance on outsourced private sector services, has acted as a major impediment to attainment of self-reliance in execution of planning functions in many of the counties. Moreover, the survey established that the main task of public planning authorities has been reduced to development control, but which is marred with its equal share of challenges. Notably, vital functions such as plan formulation have become a domain of private sector consultants, which are executed as seconded functions through contractual agreements. **After plan formulation, planning authorities are left with data sets and plan documents that many authorities find it challenging to manage, interpret and roll-out implementation.** Evidently, a challenge related to their limited understanding of the plan outputs and or simply, such outputs are not feasible for implementation. It therefore requires planning authorities to invest in building internal capacity, and to prioritize outsourcing on a case-by-case basis depending on specialized substantive work which must be outsourced. Even with that, efforts should be undertaken to ensure there is knowledge transfer and especially in relation to implementing interventions that emerge from such arrangements.

While developing the requisite internal expertise, it is important to note that **the Kenya constitution and subsequent laws on devolution envisions an integrated planning approach.** Subsequently, planning is at the core of development programming. However, as noted in this survey, planning is yet to attain full institutionalization to enable it to play a critical role in shaping decision making with regards to developmental work.

Alternative structures:

- Spatial Planning as a separate department-this is the prevailing structure in most of the counties.
- Spatial planning department as a support to the decision-makers-this is partially the case in some of the counties.

- Spatial planning department as a coordinator [integrator] of departmental activities-the ideal structure envisioned in devolution.

Spatial planning department as a coordinator [integrator] of departmental activities

This is the structure that offers spatial planning a decisive role in informing sustainable development and assisting decision makers coordinate investments better. However, this is a paradigm shift that prevailing system must be prepared to sail through. This shift will require planners to engage with political leaders, and other disciplines to develop a shared vision of what the expertise stands to offer-to play a stronger role in integration and ensuring there is a spatial dimension in departmental activities. At the minimum, this level of integration needs to be achieved at two levels: [1] at the county level, and [2] at municipal level. Achieving this role of planning will enhance success of implementing spatial plans-this is a critical activity that cannot be detached from departmental activities.

At the county level, this process begins with governors setting-up line departments that strengthen synergy across works, minimizing institutional fragmentation and creating a well-coordinated horizontal structure of working across departments.

A similar approach is also required at the urban level-setting up boards or town committees and the office of the urban manager requires careful consideration to **placing planning at the centre of decision making in all matters of urban development.**

Some of the key Benefits of Planning as the Coordinator:

- Provides the county departments and urban boards with a better framework for deciding on investments and coordination budgeting.
- Ensures that future-oriented development, where social and cultural, economic, and environmental dimensions of sustainability are considered.

Enhance Collaboration and Nurture a Multidisciplinary Approach to Planning

Progression of the planning practice-increasingly important for a multidisciplinary approach to practice.

Indeed, complexity of the unfolding urban context urban necessitates planners to work more closely with professionals in other disciplines such as engineers, geographers, environmentalists, architects, economists, sociologists, agriculturists, etc. for a better and more effective decision making. This will and requires planners to broaden their skill set-to be able to effectively communicate and contribute to programs and projects that require multidisciplinary execution. At institutional level, enhancing inter-departmental coordination and breaking the 'disciplinary silos' in professional practices is imperative for attaining a responsive planning system in the counties.



"Cities must be **responsive to the changing context** within which they operate- especially when that context is offering **significantly improved capability or efficiency**, or where the general population is **adopting new patterns of behavior** that are no longer served by traditional modes of governance."

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Support Continuous Skills Development

Kenya is experiencing rapid urbanization, while at the same time, there are significant changes unfolding in the context upon which planners are making decisions. Among the significant factors of change is technology. Urban planning must be flexible to technological change. Notably, technology is constantly developing and changing the way we live, work and do business. This has significant implications for land use planning, infrastructure configuration and urban form. It is therefore important for planners to continue updating their skills to be able to deploy interventions whose timeframes have optimum impact, well evaluated and that facilitate sustainable transitions.

At the same time, planners need to continuously develop skills in the following aspects of technical capabilities: urban renewal and informal settlements interventions, development management, spatial analysis and urban growth management, integrated land-use and infrastructure planning, delivery of affordable housing, policy analysis, economic analysis and local economic development. These are critical areas of expertise that cities and towns in Kenya require.

Create Public Awareness and Demonstrate the Value of Planning

Another element of building planning capacity at the county level entails **communicating planning to the public**. Planning happens in the public domain, and its essence ought to promote public interest. Besides, to have effective public participation in planning processes, the public must be aware of what is planning; its value and how it works.

Various approaches can be used in this, including: conducting public planning clinics, public exhibitions of plans, social media engagement, audio-visual media, and organizing public forums on various planning issues. Such engagements will help planning authorities build public trust, which is imperative for a successful planning system.

Related to communication, it is critical for planners to note that **planning language must be simplified for the public, as well as non-planners (other disciplines)**. Complicated and lengthy planning documents does not serve the purpose of engaging the public. Communicating planning to the public must be done in a simplified language. This requires planning authorities to develop an efficient communication strategy, with aim of creating a common understanding on planning matters, as well as to promote public awareness and participation in planning processes.

Promote People-Centered Planning

The approach to the practice requires a paradigm shift. Many of the county planners interviewed in this survey were of the view that planning must 'rebrand'; in the face of the public and stakeholders. While not undermining the various aspects of positive contribution that the discipline has had on development, it has also been criticized for numerous faults. Such faults include its role in land administration and management challenges, inability to correspond effectively to prevailing demands [opportunities and challenges] in the urban sector, and its confinement within its elite community [professionals], at the expense of making the public gain a good understanding of the practice.

Among the shifts that planning must make is to embrace partnerships and stakeholder participation. Partnerships, especially with communities, are important in nurturing an efficient planning system. One of the planning tools capable of facilitating this, although rarely used in Kenya, is the local plan. Local plans (formulation and implementation) that are grounded on participatory processes are among the most effective tools to nurture a people-centred planning practice. If well implemented, this tool perhaps holds the key to unlocking the state-people mistrust that has characterized the planning practice for long in Kenya.

Build Synergy Between Urban Planning and Infrastructure Development

The unfolding rapid urbanization has resulted in increased demand for infrastructure and services, land use transformations amid scarcity of finances, which compels all actors to work together to optimize efficiency of infrastructure investments. Planning is at the core of this intervention; therefore, county planning must assemble the required capacity to inform good decision making on infrastructure investments.



“Transport networks and systems ... are generally acknowledged to be the most powerful in shaping urban spatial structure... Major infrastructural systems for water, sewerage, electricity and telecommunications have also structured cities spatially in important ways.”

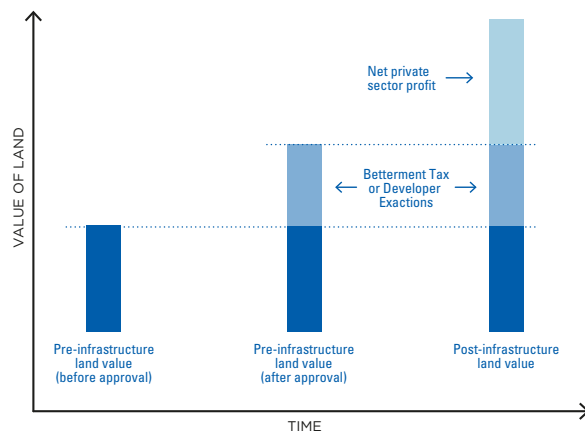
UN-Habitat: Global Report on Human Settlements 2009

Large infrastructure projects have significant impact on urban structure. Decisions to construct transport-related infrastructure, water supply and sewerage infrastructure can fundamentally change land-use patterns and densities. This change can result in undesirable outcomes, such as urban sprawl especially where good planning is lacking. Therefore, such investments require integrated land use and infrastructure planning. It also requires planners to work with municipal finance departments in deploying tools for land value capture and ensuring that the city derives optimum benefits from such investments. It is however noted that there is limited expertise in the counties to effectively execute these functions. This will require counties to invest in developing human resource capacity, with the capability to managing planning interventions of this nature.

Furthermore, the institutional and governance arrangements in the counties, cities and towns need to be reconfigured to facilitate greater integration of spatial planning and infrastructure developments. This relates to the emphasis on multidisciplinary approach recommended earlier. Although in several counties planning and public works departments [infrastructure departments] are under the same management, integration in actual work activities are minimal, and or planning has been weak to effectively inform plans and strategies of the infrastructure-related departments.

Making a stronger case for spatial planning in county's infrastructure development is critical for ensuring that appropriate infrastructure is development at the right location and in good timing. This integration presents counties, and their respective urban authorities, with an opportunity to deploy infrastructure in more inclusive and strategic approach. However, for spatial planning to play this guiding role, there must be adequate [demonstrated] capacity to deliver appropriate plans. This means that planning must inform infrastructure investments that are responsive to prevailing challenges, feasible and affordable.

Figure 6.2: One-Time Value Capture: Betterment Tax and Developer Exactions



It is also important for planning agencies to rethink approaches to implementing plans. The prevailing culture has laid greater emphasis on development control, perhaps at the expense of development management; where coordination of infrastructure developments to match the envisaged land use pattern would have resulted in better plan implementation. Development control, on its own cannot guarantee successful implementation of plans. It must be tied with infrastructure deployment, good governance, among other factors. As earlier discussed, there is need to shift to development management, where regulations on land use and construction are enacted alongside interventions to enhance infrastructure development.

In most cases, failure to align infrastructure investments with spatial plans has resulted in ‘disruptive scenarios’; where development patterns change to optimize on new infrastructure investments. Indeed, the practice of development management needs to adapt more tools beyond building regulations and planning permissions, to include tools such as Delayed Infrastructure Developments. This tool enables urban authorities to phase developments and facilitate land development in priority areas. However, this tool is highly dependent on effective coordination and integration of functions, and good working relationship between political leadership and technical operations, and non-state actors.

CHAPTER 7.0. CONCLUSION

This survey sought to establish issues facing the planning system in Kenya, with focus on select counties, identify the opportunities and challenges, and to make recommendations towards developing a fit-for-purpose planning system.

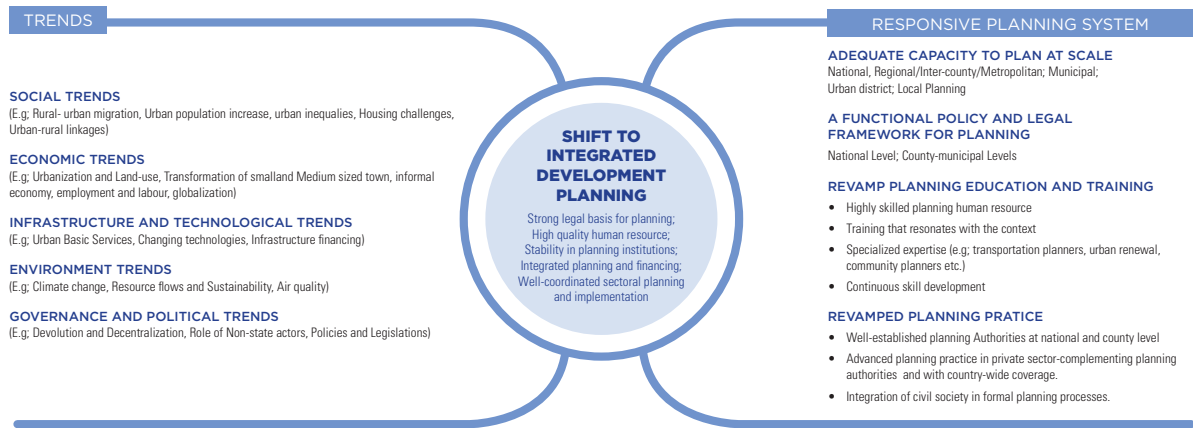
Futuristic planning in the counties will require a planning system with enough capacity to address social, environmental and economic imperatives of sustainable urban development, amid rapid urbanization and urban development characterised by decades of defective planning. After years of centralised control of planning (within national government), the Kenya constitution of 2010 ushered in a trend of devolved and decentralized administration of planning functions. This presents an opportunity to localize planning and create value for development.

However, **for counties to achieve plan-led development, there must be a deliberate effort to institutionalise an efficient and effective planning system.** Such system should be designed to meet demand-including the capacity

to effectively execute the primarily responsibilities of plan formulation and implementation, and development management. This will not only rely on human and financial resources, but also the governance arrangements. It means and calls for both national and county governments to substantially invest in planning, while at the same time engaging the public to understand and acknowledge the important role that planning ought to play in development.

At the technical level, planning authorities will have to develop a range of skills and knowledge, covering the core grounding of the discipline and extending to other disciplines and processes. Fundamentally, it will require planners to acquire strong capabilities in performing planning processes; critical thinking, policy analysis, mediation and articulation of public interest.

Figure 7.1: **Conceptual Framework for a Planning Reform in Kenya**



Source: Baraka Mwau/UN-Habitat

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County Integrated Developments Plans 2018-2022 for the following counties: Embu, Kiambu, Embu, Machakos, Nyeri, Turkana, Kitui, Kakamega, Kisumu, Kilifi, Mombasa, Nakuru and Uasin Gishu



URBAN PLANNING IN KENYA

A SURVEY OF URBAN PLANNING PRACTICES
IN THE COUNTIES

In 2018, 27 percent (13 million) of Kenya's population lived in cities and towns of varied sizes. Towards the year 2050, this share will approach 50 percent of the total country population, a transition that will induce structural transformations in social, economic and spatial development aspects. To effectively manage this transition, the country must develop the requisite urban planning and management capacities, both at the national and county levels. There are various interventions required to attain a fit-for-purpose planning system, which will be responsive to local needs and aligned to a national vision of a desirable urban future. This report, based on a survey undertaken in 13 counties, outlines key urban planning issues that warrants the attention of policy and decision makers, at a time when the right interventions are required to effectively steer the unfolding urban transition. The report has useful information for reference in formulating a reform agenda for Kenya's planning system.

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United Nations Human Settlements Programme | P.O. Box 30030, Nairobi 00100, Kenya
Tel: +254-20 7623075 | unhabitat-info@un.org | www.unhabitat.org