

## **COMMENTS BY THE GOVERNMENT OF KENYA ON SOME ISSUE PAPERS**

---

### **Introduction**

The Government of Kenya welcomes the issue papers on Habitat III Conference as fair attempt at explaining the issues at hand. We believe that the New Urban Agenda must be all-inclusive and capable of effectively responding to the proposed sustainable development goals no 11 “make cities safe, inclusive, and resilient and the evolving post-2015 development agenda.

In that regard, the New Urban Agenda must sufficiently answer to the needs of all persons living in both urban and rural settings. The agenda must address the multidimensionality and complexities of sustainable development as well as extend what is otherwise called ‘urban services’ to populations living in rural areas.

In addition, it must be emphasized that realizing sustainable urbanization and human settlements at the national and sub-national (county levels) will require mobilization of adequate financial resources, technology transfer, capacity and institutional building. At the global level, stronger institutions capable of galvanizing various actors around the issues will be imperative.

### **Issue paper No: 1–Inclusive cities**

With regard to growing opportunities and inequalities, the issue paper seems to over emphasize women, yet they are one category of marginalized groups. There is no denial that the population of the youth is growing especially in Africa. This requires deliberate policies and efforts to translate such demographic growth into democratic dividends for nation building.

The paper needs to make explicit reference to the marginalised and people in vulnerable situations while ensuring gender balance rather than singling out woman/girls. The paper should address the empowerment of the marginalized and people in vulnerable situations.

### **Issue Paper No. 5-Urban rules and regulations**

Most cities in the developing world are still relying on redundant laws that are exacerbating the urban challenge. As such existing urban regulations and policies are not effectively responding to the current, new and emerging challenges in the urban areas including unemployment, inequality and marginalization, climate change, threats to security and the phenomenon of specialized cities. Notably, urban development models especially in African countries have in common legislation challenge brought about by the multiplicity of laws

and regulations guiding planning and building. Besides, there has been no obligation on the part of local authorities to implement provisions of the (*national*) policies.

More importantly, while informality is an urban reality that cannot be underestimated, there is an absence of clear “rules of engagement”, (urban laws). Consequently, the attitude of public authorities to informal sector has been harsh and punitive. Development and planning regulations have failed to provide orderly and sustainable urban development. This has resulted in a continued predomination of development outside planning and building regulatory frameworks and proliferation of informal settlements

Regulatory frameworks in much of Africa have been unrealistic, archaic, and not reflective of the lifestyles and citizen needs especially the poor. Some laws actually undermine the full potential of urban economies and local businesses by constricting rather than encouraging citizen participation in matters of urban development. In addition some laws and regulations slow down the development process and promote inequality by favouring the rich in access to urban services. For example, the ever escalating costs of urban land in the global South actually translate into higher cost of housing thereby preventing the majority from owning housing units.

It should also be noted that in terms of practice, there has been the promotion of “one-size-fits-all model” to planning laws from outside the continent. This has not served Africa well because of the diversity of cultures and circumstances. Additionally, some by-laws have been regulating single issues rather than providing broader sectoral coverage. Another critical aspect relates to the process of formulation and or review of by-laws and codes which in many cases is slow and less participatory despite the obvious demand for appropriate instruments.

Critical still is the fact that many urban authorities in Africa are still operating with by- laws designed by former colonial powers. Most of such by-laws have not been reviewed to make them adaptable to the current and changing needs of the urban population. In addition, enforcement of the by-laws remains the weakest link in the entire urban discourses. Most urban authorities have not been able to fully enforce by-laws primarily because of weak capacities, that is, financial, technology and Institutional.

Sometimes, enforcement of by-laws is undermined by lack of political will. Powerful interest groups have been known to defend the status quo which in many instances works to the disadvantage of the majority. A system needs to be put in place to enforce regulations and policies that are for the greater good.

The other issue is that some authorities have not only failed to enforce the by-laws, but have given them form and coverage which make them impossible to enforce. Instances abound where some regulatory provisions have not only been abused but also turned into conduits for perpetuating corruption for those charged with enforcing them. These concerns should be reflected in the Issue paper and proposals to address them made.

### **Issue Paper no 6: Urban Governance - Metropolitan Governance**

The emerging concept of metropolitan governance is at variance with existing constitutional and legal frameworks in which they are expected to operate. African states have been slow to embracing metropolitan wide planning for urban conurbations as they increasingly grow beyond traditional municipal boundaries. Besides, political and managerial initiatives have not been sufficient to grapple with the issues of demographic growth, social tensions and economic expansion.

Metropolitan governance is a political issue with a difficult component of establishing area-wide governance. Devising the full cooperation of all local authorities in a metropolitan region is a major hurdle to overcome because of the limits area-wide governance implies for the smaller towns' local autonomy and territorial authority.

The growing demand for infrastructure necessary for social services such as transport and electricity remains unmet and concerns for environmental degradation including pollution is a reality in the current urban areas. Such factors continue to engender poverty and social exclusion in cities. Hence, there is need for urban governance lead to a shift from city-based to city-region urbanization.

Going forward, there is need for revisiting the constitutional architecture to achieve the following objectives. First, to maintain the functional integrity of a metropolitan region, a unified approach to coordination and planning is required. Second, there is legal recognition of metropolitan agglomerations and careful delineation of functions between counties/regions/ provinces and metros.

Third, since urban centres and metropolitan cities matter as engines of economic growth and development, they should be provided with appropriate platforms which accommodate their active engagement and participation within the state structures that deal with their issues. They should be provided with funded mandates to deal with such issues as may arise.

**Issue paper No: 10 Urban - rural linkages**

Under Figures and facts, reference is made to the Habitat 1 conference as having been in 1996 which is erroneous. The correct year is 1976. The urban population is estimated to have been 41.5m in 196, which is typographical and should be 1996.

Under key drivers of action, we propose the need to increase capacity and infrastructure of small and intermediate , secondary cities, towns, rural service and market centres, villages and other human settlements to attract and accommodate growing population and serve as growth centers. The paper only makes reference to cities yet other settlements also act as growth centres. In the African context, there are numerous towns and market centres which will in future develop into cities and towns and thus cannot be ignored.

**Issue Paper No: 11 - Public Spaces**

Quality public spaces represent an excellent indicator of improved standards of urban life for all citizens and springboards for revitalizing communities. However public spaces in African cities are often viewed as empty or residual spaces open to all forms of urban use and grabbing. The perception has been further compounded by irregular and illegal allocation of lands in urban areas which has led to a loss to private interest of many public utility lands.

The by-laws governing the use of open spaces are also restrictive and do not seek to create a balance between different uses. Moreover, given the colonial past, public spaces have been considered a foreign tradition brought to Africa thus not important to African culture. The current situation in African urban areas and cities has made little provision for these facilities and some have overtime deteriorated.

The potential of attractive, active, well-functioning public green spaces in promoting economic development in a community-from a small rural town to a big city-has been recognized increasingly around the world. Besides being recreational facilities, public spaces including green spaces are important in controlling pollution emanating from emissions.

Thus, promotion of public spaces should be a common goal that local governments, diverse existing groups and NGOs should work on collaboratively to advance sustainable development practices. They constitute part of the urban environment, a key structural element. They contribute to urban continuity since they act as a link between buildings and neighbourhoods

**Issue paper No: 20 -Housing**

Under main concepts, the definition of accessibility to housing shouldn't be confined to disadvantaged and marginalized groups only as housing should be accessed by all. The issue paper needs to address itself to access to affordable, decent and sustainable housing for all.

Under figures and key facts, housing has been referred to as a major environment of exposure to hazards and health threatening factors. This should not be the case since adequate and proper housing is a safe environment for human habitation. On the other hand, work places and other environments can pose health hazards. The work environment needs to be socially compatible with the needs of various workers as well as environmentally safe. Hence there is need to contextualise these issues.

**JUNE 29TH, 2015**

**MINISTRY OF LAND, HOUSING AND URBAN DEVELOPMENT**

**NAIROBI**