

Governance Issues in Informal Settlements

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SUMMARY

In the past financial year 2005/2006, Kenya's GDP grew by 5.8%. It is no mean achievement. It is also a reflection of the leadership of the economy at the highest level. Perhaps more fundamentally, it is a testimony of the resilience of the Kenyan people themselves. Kenyans have developed the knack to carry on, eking, scratching and searching, with the sole purpose of survival (and where possible even thriving), with determination and without losing hope, like the hen does for her brood of chicks.

Kenyans have seen opportunities at home (and even abroad) and seized them with tenacity. There have been challenges as well. The most glaring has been and continues to be infrastructure, the appalling condition of most of what exists. Without a National Maintenance Policy, more than 70% has been left to degenerate beyond economical repair. Similarly development of the much needed new physical and social infrastructure to underpin our economic development, in a sustainable manner is challenged. This is at the formal level, with all the development plans, fully funded by government and donor money. That is just one aspect of Kenyan life. The informal part is more compelling, since it affects majority of our citizens and yet is not catered for in the scheme of things.

Whereas infrastructure (quality and quantity, as well as its distribution) impact on the overall well-being of the economy, *Decent shelter* for the Kenyan people, and indeed all human kind is an essential part of the whole existence equation. In terms of the hierarchy of human needs it is way up there with food and clothing. This leads me to asking myself who is responsible for the decision-making that perpetuates the existence of informal settlements? In broad perspective the answer is all about Governance.

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GOOD GOVERNANCE

According to the UN ESCAP (United Nations Economic and Social Commission for Asia and Pacific) analysis which I will adopt and discuss, the concept of "governance" is not new. It is as old as human civilization. UN ESCAP describes "governance" as: *the process of decision-making and the process by which decisions are implemented (or not implemented)*. Governance can be used in several contexts: - corporate, international, national and local.

The UN ESCAP report points at the tendency to draw a line between the formal and informal actors involved in decision-making and implementing the decisions made. At the same time we must take cognizance of the formal and informal structures that have been put in place to arrive at and implement the decisions. Government is one of the actors in governance.

In addition to Government, media, lobbyists, international donors, multi-national corporations, etc. may play a role in decision-making or in influencing the decision-making process. According to the UN SCAP, all actors other than government and the military are grouped together as part of the "civil society."

In some countries in addition to the civil society, organized crime syndicates also influence decision-making, particularly in urban areas and at the national level.

“KITCHEN CABINETS”

Formal government structures are one means by which decisions are arrived at and implemented. At the national level, informal decision-making structures, such as "kitchen cabinets" or informal advisors may exist. In urban areas, organized crime syndicates such as the "land Mafia" may influence decision-making. In Kenya there has been extensive talk about “kitchen Cabinets” and there is the real threat of “Mungiki”. For a detailed account please see under Rule of Law below. In some rural areas locally powerful families may make or influence decision-making. Such, informal decision-making is often the result of corrupt practices or leads to corrupt practices.

POLITICAL PRINCIPLES

- Good governance is based on the establishment of a representative and an accountable form of government and requires: -
 - A strong and pluralistic civil society, where there is freedom of expression and association;
 - Good institutions – sets of rules governing the actions of individuals and organisations and the negotiation of differences between them;
 - The primacy of the rule of law, maintained through an impartial and effective legal system;
 - A high degree of transparency and accountability in public and corporate processes.
 - A participatory approach to service delivery for public services to be effective.

ECONOMIC PRINCIPLES

- Good governance requires policies to promote broad-based economic growth, a dynamic private sector and social policies that will lead to poverty reduction. Economic growth is best achieved in an efficient, open, market-based economy.
- Investment in people is a high priority, through policies and institutions that improve access to quality education, health and other services that underpin a country's human resource base.
- Effective institutions and good corporate governance are needed to support the development of a competitive private sector. In particular, for markets to function, social norms are needed that respect contract and property rights.
- Careful management of the national economy is vital in order to maximize economic and social advancement.

WORLD BANK'S VIEWS ON DEVELOPMENT ASSISTANCE

“Various countries that are quite similar in terms of their natural resources and social structure have shown strikingly different performance in improving the welfare of their people. Much of this is attributable to standards of governance. Poor governance stifles and impedes development. In countries where there is corruption, poor control of public funds, lack of accountability, abuses of human rights and excessive military influence, development inevitably suffers.” WB Report on Governance

A landmark study by the World Bank, *Assessing Aid – What Works, What Doesn't and Why* (1998), demonstrated the crucial role that good governance plays in enhancing the effectiveness of aid. The study found that where there is sound country management, an additional one per cent of GDP in aid translates into a one per cent decline in poverty and a similar decline in infant mortality – whereas in a weak policy and management environment aid has much less impact. I think it also depends on how well the specific aid is organized.

If most of the aid goes towards administration or other uses than the main intended use then impact is minimal. Hence the maxim:- "Keep the Main Thing, the Main Thing".. Other peripheral items are just weather reports and must be curtailed and capped in budgetary considerations

Competitiveness in Marketplace and Returns on Investment:-

One element of good governance that is needed for sustained development is an economy that operates in an ethical, accountable and appropriately regulated environment, which facilitates competition in the marketplace. Without this, there will be no driver for economic growth and sustainable development will not be possible. A dynamic private sector, operating in a properly functioning competitive market system, creates jobs and income, generates wealth and helps ensure that resources are used efficiently.

Public/Private/Partnerships (PPP's) Debates:-

Recent debates amongst Government, World Bank and NCBDA on Private/Public/Partnerships (PPP's) models that NCBDA is currently spearheading are meant to sensitise stakeholders on the relative merits of PPP's. PPP is 'a risk-sharing relationship between the public and private sectors based upon a shared aspiration to bring about a desired public policy outcome'. UK's Institute of Public Policy Research and Analysis

Social Policy: -

Ken Blakemore in his book 'Social Policy: An Introduction' describes policies thus: - "In one way they can be seen as aims or goals, or statements of what ought to happen. Social policies aim to improve human welfare (though they often fail to do so) and to meet human needs for education, health, HOUSING, and social security. As goals, intentions and ideas, policies can be found in the form of official government policy (legislation, or guidelines that govern how laws should be put into operation). The ideas and proposals put forward in manifestos and glossy leaflets by political parties are examples of policies as broad ideas and stirring goals.

In Kenya today, the year 2007 is an election year, we have seen a number of presidential aspirants spell out their policies and they are quite cogent, at least on paper. It must be noted that Policies are living things, not just static lists of goals, rules or laws. Policy blueprints have to be implemented, often with unexpected and sometimes with disastrous results. Therefore social policies are what happen on the ground when they are implemented, as well as at the preliminary decision-making or legislative stage. There is often a gulf between the concepts and goals that inspire policy and 'real' policy, the ugly result of compromise"

GOOD GOVERNANCE: CHARACTERISTICS

According to UN ESCAP, Good Governance has 8 major characteristics. It is participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law. It assures that corruption is minimized, the views of

minorities are taken into account and that the voices of the most vulnerable in society are heard in decision-making. It is also responsive to the present and future needs of society.

‘Governance’ is the exercise of power or authority – political, economic, administrative or otherwise – to manage a country's resources and affairs. It comprises the mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences.

‘Good governance’ means competent management of a country’s resources and affairs in a manner that is open, transparent, accountable, equitable and responsive to people’s needs. Must be effective and efficient, observe rule of law, consensus oriented and participatory.



Source: UN ESCAP

PARTICIPATION

Participation by both men and women is a key cornerstone of good governance. Participation could be either direct or through legitimate intermediate institutions or representatives. It is important to point out that representative democracy does not necessarily mean that the concerns of the most vulnerable in society would be taken into consideration in decision making. *Participation needs to be informed and organized.* This means freedom of association and expression on the one hand and an organized civil society on the other hand.

For a long time being able to take part was the preserve of the various decision-makers from the Government through the Provincial Administration in the form of the village elder, the Assistant Chief, the Chief, the District Officer (DO), and the District Commissioner (DC), and culminating in the Provincial Commissioner (PC) as the legitimate representative of the President. He flies a flag, as a Cabinet Minister does.

The Local Government has decentralized its services to the Ward levels where we have ward Units headed by a Ward Manager. This is meant to be a self-sustaining unit that offers the essential services that would be expected to emanate from the City Council of Nairobi ranging from Public Health, Education, and Social Services. The question is what is the quality and quantity of services offered? And do these services reach all those who need them?

The Government has made attempts to even further decentralize decision-making and resource allocation through the introduction of Constituency Development Fund (CDF) and the Local Authority Service Delivery Action Plan (LASDAP).

CDF is a programme that was initiated in 2003, to give citizens at the grass root level an opportunity to be part of decision making in their own matters of development. A lot of resources have been allocated to this project and many areas which were otherwise marginalised have benefited from the initiative. The challenge has however largely remained to be the putting up of proper institutional and structural frameworks that will ensure transparency in its use and optimal benefits to the community.

LASDAP on the other hand is a programme in which the central government transfers funds to the local authorities to be used for development at ward levels. The community is mobilised into forums to discuss and agree on their priorities to development. Major hiccups to these initiatives are the control by the politicians, members of parliament and councillors has made it a polarised programme.

Despite these initiatives the informal sector remains a highly marginalised area in terms of development and effective governance. Their participation remains incidental, at best a footnote.

RULE OF LAW

UN ESCAP suggests that good governance requires fair legal frameworks that are enforced impartially, full protection of human rights, particularly those of minorities. Impartial enforcement of laws requires an independent judiciary and an impartial and incorruptible police force. The following is an excerpt from Kenya's leading weekly newspaper: -

“The Sunday Nation can reveal today that the era of violent, bloodthirsty gangsters taking over the running of parts of the city in the style of the Sicilian Mafia as portrayed in Hollywood movies is here.

One particular gang, the Mungiki, which began life as a tribal religious sect has, over the last few years, transformed itself into probably the most organised and feared crime group.

Working in a tight, disciplined manner, the Mungiki have taken over the provision of security, water, electricity, management of transport services in parts of the capital city, and replaced administration chiefs and assistant chiefs in matters such as the arbitration of family disputes. The Mungiki has managed to set up what can only be described as a parallel government complete with its own elaborate tax collection machinery and a judicial system to boot. Mungiki leadership is a well organised chain of command whose real leaders are unknown even to the members. The money collected from various sectors by the gang is used as business loans and also used to bail out those arrested.

Just like the government, this organised gang of self-proclaimed society prefects has meted out punishment, including death, to those who challenge their existence. The enforcers come in gangs of about 50 and no one has ever been able to defy them. Abraham Ngugi found that out in November 2006. A long-time habitual drunk, Ngugi would occasionally beat up his wife Ruth much to the chagrin of their Mathare 3C neighbours whose sleep was frequently interrupted by the woman's screams.

Two months ago, however, Ruth, who was tired and sore from her husband's beatings, sought the assistance of Mungiki youth to resolve the domestic problem. That evening, minutes after her drunk husband began his ritual beatings, the youth stormed their shack and dragged him out of the house to their court where he underwent a "trial" and was sentenced to 20 whips of the cane and a Sh5,000 fine. He was also warned never to beat his wife again.

Since then, Ruth's life has been peaceful because her husband has never raised a finger against her. Thanks to the youth whom she only paid Sh200 to lodge her complaint. Like many other slums dwellers, Ruth resorted to Mungiki to get instant solutions to her domestic problems instead of expecting redress through the bureaucratic provincial administration or police.

She is not the only one. 35 year-old grocer Angelina Ndung'u could not tolerate her unemployed boyfriend's thanklessness. Although she paid the rent for their two-roomed Dandora house, catered for their one-year-old son and even gave him pocket money, he had the temerity to beat her up when she arrived home late one night.

Angelina reported the incident to her brother, a Mungiki adherent, and the boyfriend was summoned to a popular entertainment spot along Outer Ring road where he was arraigned before a three-man bench and a sentence passed.

With a lawyer on call, Angelina's boyfriend was asked to pay her Sh100,000 in damages. If he did not, he would be killed. The second-hand clothes vendor only opted to pay the fine to save his life after discovering that the group had contacts at Buru Buru police station.

Forty-one-year-old Huruma resident Simon Mageto subscribed for a water connection and established a water kiosk in Huruma Ngei II hoping to make some money but discovered he needed Mungiki's consent to do so.

One evening, in 2005, a gang of youth came and took over the kiosk which they have since been running and collecting money from. The father of two says that although he reported the matter to the local chief and police, nothing was done.

"I have resolved to live with it. These people are here and we cannot do anything about it. If the government has failed to crack down on them, how can an individual?" Mageto asks.

In Mathare area 1, 11 and III, the organised gang taps electricity from high voltage power lines and "supplies" it to tenants at a fee. They also impose curfews on residents.

These stories show just how entrenched the Mungiki are in the everyday life of many ordinary Kenyans. Meanwhile, the government, through the provincial administration and police, has issued numerous statements but can do very little if anything at all to crackdown on the many-headed monster that Mungiki has become. **Sunday Nation, February 4th, 2007**

TRANSPARENCY

- In UN ESCAP’s report on Good Governance, Transparency means that:-
- Decisions taken, their enforcement is done in a manner that follows rules and regulations.
- It also means that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement.
- It also means that enough information is provided and that it is provided in easily understandable forms and media.

The people in the Kibera informal settlements do not really know their rights. Efforts have not been made to ameliorate this situation. So much so that they have tended to get left out of the equation in the decision-making that relates to them. They do not have access to the information required to make useful contributions in discourses to their well being. This explains why there has been little if any improvement in their infrastructure needs.

It is speculated that the leaders prefer to keep them in the dark deliberately. It is easier to lead them when they have no knowledge of their rights. But in these days of the FM radio, things are bound to reverse.

Publications such as “THE VENDOR Shaping the Future of Informal Trade” are useful for the informal shelter inhabitants, and should be made available to them all as a way of keeping them informed about developments in their trade. It is sold for ten shillings. This newspaper is so useful that it should be subsidized so that more people have access to it. It is quite desirable that as many of the people as possible are put in the know so that they have an indication of what government and civil society are doing for them or even intend to do with them.

RESPONSIVENESS

Good governance requires that institutions and processes try to serve all stakeholders within a reasonable timeframe. The informal settlements are crowded and have no infrastructure. Given the conditions in which the people in Kibera live, it cannot be said that they that the political leadership has been in any way responsive to their needs to a significant degree. There are no standards to write home about. The responsive time is lengthened in emergencies like fire, accidents, and illnesses.

The government bureaucracies do not simplify matters either. Urgently e.g. some simple cases which requires urgent arbitration may be referred to courts. That is the reactive aspects.

“Slum Tourism”:-

Of late there has been talk hue and cry about Slum Tourism. Several Kenya Government officials, including a Cabinet Minister on TV last evening, are condemning the practice where visitors (read Tourists) are shown Kibera as part of their official itinerary. I believe that in the long run this will turn out for the best as government's soft flanks will be exposed to ridicule. It may then do something about Kenya's and Africa's largest slums.

CONSENSUS ORIENTED: - DEMOCRATIC SPACE

There are several actors and as many view points in a given society. Good governance requires mediation of the different interests in society to reach a broad consensus in society on what is in the best interest of the whole community and how this can be achieved. It also requires a broad and long-term perspective on what is needed for sustainable human development and how to achieve the goals of such development. This can only result from an understanding of the historical, cultural and social contexts of a given society or community. Kenya enjoys a democratic form of governance and the informal settlement is not exempted. Even with the democratic space, a slum dweller would still find it an uphill task to enjoy the space. At what forum would she express herself? Who would she be expressing herself to? Does she have faith that if she expresses herself, her situation would improve?

The experience of Community extension workers is slum dwellers generally have a sense of apathy. They view their situation as being vulnerable, they have accepted their vulnerability and they believe they are not going to get any better so will always remain in that situation. In most of the cases, the politicians will use the slum dwellers due to their poverty and vulnerability to achieve their end by inciting demonstrations or stage managed fracas.

EQUITY AND INCLUSIVENESS

The well-being of any society depends on ensuring that all its members feel that they have a stake in it and do not feel *excluded from the mainstream* of society. This requires all groups, particularly the most vulnerable, to have opportunities to improve or maintain their well being, but not degenerate further. In my view this is possibly the worst state of affairs for slum dwellers. The people who live in slums have been disenfranchised for a very long time. During elections they are called upon to vote but that is where it all starts and ends. The facilities available suggest that the slums have, almost totally been excluded from the schemes of things. It is as if they do not exist at all. In fact they do not feature in the planning system except as those who must be removed and relocated elsewhere but nobody wants to say where that is.

At one time it was decided that land had been identified in Kitengela near Athi River town. This is about 20KM from the city of Nairobi. It was never discussed how these persons would manage to get to work. Most are the ones that arrive before anybody else to clean and prepare tea. They then go get newspapers and other snail mail. In the evenings they are the last to leave the factory, as security guards.

As earlier stated, the government has devolved power to the grassroots level through its administrative system and in resource utilisation. The participation of slum dwellers in these initiatives is minimal. This can be attributed to lack of civil education and non transparency. Even when the projects are undertaken, the slum dwellers will not know the degree to which the work has been complied with the plan and who is answerable hence the 'cow boy contractors'.

EFFECTIVENESS AND EFFICIENCY

UNSCAP defines three parameters on efficient and effective good governance:-

- That processes and institutions produce results that meet the needs of society
- While making the best use of resources at their disposal.
- The sustainable use of natural resources and the protection of the environment.
- Meet Society Needs:

It has long been hoped that slums will eventually become a thing of the past as government and civil society step up their policy implementation of eliminating slums altogether. This has failed miserably. The slums are growing not necessarily on the ground surface but in intensity and density of population. There are many more people per square foot than before. The living conditions have not really improved. In a sense they have deteriorated and degenerated. The substitute houses that were intended to house the slum inhabitants are far too expensive and therefore do not address the needs of the slum dwellers. These are decent houses, the one bedroom ones each goes for Kes. 7,000.00 rent per month. The two bedroom ones are charging 11,000.00 per month. These are way beyond the meagre means of the slum people.

Best Use of Resources:

The land on which the Informal settlements are erected could be utilized differently than at present, if it were well planned and worked on a rational basis. No space has been set aside for recreation or any other infrastructure.

Sustainability and Protection of Environment:

The whole area is a health hazard and demonstrates how insensitive the government and the local authority are to the needs of the slum dwellers. There is no sewerage, no electric power, no roads, no social infrastructure

ACCOUNTABILITY

Being held to account is another name for responsibility. Accountability is a key requirement of good governance. Not only governmental institutions but also the private sector and civil society organizations must be accountable to the public and to their institutional stakeholders. Who is accountable to who varies depending on whether decisions or actions taken are internal or external to an organization or institution. In general an organization or an institution is accountable to those who will be affected by its decisions or actions. Accountability cannot be enforced without transparency and the rule of law.

Out of their vulnerability, the slum dwellers are an easy target for exploitation. They will not go demanding for audited accounts, financial statements and are hardly bothered with what happens outside their immediate environment, they have no time to waste on what they consider as remote, yet decisions made elsewhere affects them directly.

Their being in the slums in first instance is on an unplanned settlement therefore the provision of basic services is not planned for and no one is willing to take the responsibility for the existence of the slums and the lack of facilities. Why for example has the land never been sub-divided and allotted to them? Why were they excluded in previous national development plans?

RESULTS

Recently the new UN Secretary General, Mr. Ban Ki-Moon visited the slums. He was one of a string of world famous people who have visited the place. Others are Gordon Brown, Britain's Chancellor of the Exchequer. Other celebrities too have visited Kibera. There have been faltering steps towards embracing good governance in the informal settlements of Mathare, Mukuru, Kibera, Korogochio. These are spearheaded by Civil Society which is sometimes at cross-purposes with government. All the slums have the following in common:- they are unsightly, dirty, crime infested. They are the outcome of absence of good governance or neglect or both.

The trickle down effect of policies is not felt soon or fast enough. The net result is that most of the inhabitants have lost faith in government's willingness to assist them out of their circumstances. They have embraced and sing praises of NGO's instead. Civil Society has gained acceptance at the expense of government (local and central). This state of affairs is so much so that when they are asked who they recognize one of them said they are safer in Mungiki hands.

CONCLUSION

Based on the eight UN ESCAP's specific criteria used to adjudge good governance in slums or elsewhere, there certainly are challenges to the slum dwellers in all parameters, some more than others. For instance, there is massive ignorance of their rights, duties and obligations under the laws of the land.

- There is indifference on the part of government and to some extent on the governed. There is also an aspect of hostility by the inhabitants, out of frustration and exhausted patience arising from an attitude of neglect leading to despair, due to absence of participatory mechanisms
- The needs gap is growing, as result of the growing population fuelled by those who live there, borne and bread, and those who come to join them. Population density per capita is getting desperate and there is danger of epidemics
- Absence of transparency in the equitable distribution of resources between formal and informal settlements, equally there is a subtle inequity amongst the various inhabitants, groups and individuals

- Rule of law is reactive and the people have been compelled to form extra-legal (vigilante) groups for self-preservation and protection.
- Accountability in the use of resources does not meet the universally accepted and practised tenets
- The concept of efficiency and effectiveness can be discounted on the basis that the people do not enjoy some of the basic amenities and facilities that are taken as given in the formal settlements. Social Infrastructure like schools are few and ill-equipped; health facilities are few and badly equipped. Physical Infrastructure is needed and missing, for the moment it is not expected any time soon.
- Responsiveness is very painfully slow if at all and judging from the conditions that prevail in the slums, which in some cases are getting from bad to worse, there seems little hope, unless things change dramatically for the better.
- The decision-making process is not consensus oriented given that they are rarely ever asked what they really need, so that their needs can be analysed and addressed suitably.
- Based on the specific parameters, good governance remains abstract to the challenging situation that the slum dwellers live with day in and day out.

SUGGESTED WAYS FORARD

- A massive awareness campaign, coupled with public education is needed to bring the people up to speed on their rights, duties and obligations as citizens. This can only be achieved if there is full and unconditional recognition of their existence and their being put in the mainstream of economic, social and political affairs of the nation
- At a policy level there ought to be specific legislation addressing the plight of the informal settlement dwellers. Currently there is a one page mention in the proposed National Housing Policy, and clearly this is what can only be referred to as “tokenism”. This new and specific policy would cater for a budget, underwritten by law just to deal with slum dwellers’ and squatters’ needs. It would also spell out their representation in parliament and in the civic authority.
- Land banks should be set aside to cater for future housing needs, especially those of the informal settlements. The current ration is adverse and an outright disgrace to their needs. That sixty percent of Nairobi’s population lives in the slums and occupies about 6% of the total land surface is a shame
- Planning laws relating to slums should be revised to be more practical in the use of appropriate materials for construction and services
- Centres of excellence in education should be developed in the informal settlements to begin to fill the gap that has evolved over the years, so as to give the children born and/or living there a fighting chance at national resources, through equitable employment opportunities
- Vocational and Entrepreneurship centres should also be developed to enable the youth in these slums get an education that facilitates self-employment. Such centres must also proffer coaching in business education (including rudimentary book-keeping) and marketing so that the people are ready to set up shop as soon as they graduate.

- Infrastructure that is practical and suitable should be developed in the informal settlements. I have in mind bicycle lanes and footpaths. All the dwellings must have access to fire engines. So purpose-built fire lanes must be developed.
- Potable, wholesome water should be installed and made affordable, in need, through subsidy. At the moment the slum dwellers pay more for water than those in formal dwellings.
- Sewerage facilities should be developed to cater for the large population residing on a tiny area, in order to minimize the possibilities of an epidemic. Simultaneous, toilets must be developed to facilitate comfortable ablution
- Subsidized housing should be developed and leased out to the slum people, as part of social policy on welfare
- Micro-finance banks should be set up to facilitate savings and credit to the informal settlement people who would otherwise have difficulty with large banks. This would enable the slum dwellers set up businesses and stock them, with the ultimate aim of mainstreaming them into the national economy. They will then be able to pay taxes and demand a fair return on their contributions

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