The Kenyan RGUU Experience; Context, Processes And Lessons



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Cover photo, close-up of ramshackle houses in Kaswto settlement, definitely the poorest and most deserving squatter settlement in the municipality

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1 OVERVIEW OF THE REGULATORY GUIDELINES FOR URBAN UPGRADING PROJECT

The purpose of the RGUU project is to support local authorities and their partners revise and design the regulatory frameworks governing the regularisation and improvement of informal low-income settlements. This is an international research project supported by DFID under te Knowledge And Resarch(KAR) facility in selected pilot community locations in 3 local authorities: Mumbai (India), Colombo (Sri Lanka) and Mavoko (Kenya). The project aims to reduce the constraints of inappropriate legal processes and unsuitable structures which negatively impact on the livelihoods of the urban poor. The international project partners include ITDG-UK as co-ordinator, ITDG-EA in Kenya, Homeless International and SPARC¹ in India, and WEDC and Sevenatha in Sri Lanka².

Since project inception in 2000, the project team has been convening for the purposes of sharing information, lesson learning and formulating process-oriented approaches and strategies for research and the drafting, testing and disseminating of guidelines for enabling standards, procedures and regulations for urban upgrading. The focus of the project's research agenda is on that section of the urban population which is currently excluded from the formal planning and housing processes. Local and international researchsw is intendind to establish how far the enhancement of poor women and men's assets is hampered by regulations and procedures, and what can be done to reverse this trend.

1.1 <u>The Existing Regulatory Regime In Kenya</u>

In Kenya the number of urban dwellers more than doubled from 3.5 million in 1989 to almost 10 million in 1999 representing an increase in urban population from 16.8 % to 34.9 % in the intercensal period (GOK 1997; 2001) if this trend continues the urban population is expected to rise to 44.5 % of the national population by the year 2015, and with it the prevalence of urban poverty.

The growth of informal settlements in Kenya is attributed to various factors among them rapid urban growth rate, coupled with the high rate of rural-urban migration, declining employment opportunities, increasing poverty of the inhabitants, deficient national housing policy framework and inefficient and corrupt systems of urban governance. The inadequate provision of land for shelter development, a disposition towards over regulation/development control, unresponsive urban management practises and an institutional framework that is unsympathetic to the needs of the urban poor are additional reasons for the continued existence and expansion of informal settlements.

Current shelter regulation in Kenya like in most developing countries is inappropriate for poor people who live in the rapidly growing urban centres. Most of the urban population cannot afford to build housing that confirms to the prevailing standards. Complicated building by laws, planning regulations and protracted approval procedures compound the problem. Insecurity of tenure and limited access to credit further hinder investments in housing .As a result the number of towns in which the population living in informal settlements is larger than formal settlements is increasing rapidly. For example, in Nairobi, 60% of the population lives in informal settlements occupying only 5% of land designated for residential purposes.

The current regulatory framework prevents the urban poor from improving their shelter and making the most of it a source of income from rental units and home based enterprises. This has a negative impact on the livelihoods of poor people. It is a contributing factor to their poor health, low productivity, vulnerability to eviction and violence. Women often suffer more than men because of the more restricted rights and constrained access do to property and finance. In addition to the longer periods they spend at home. The latter also applies to children and the aged.

However, informal settlements have become home to the majority of the people in the rapidly growing urban centres in Kenya. Instead of condemning the settlements, time has come to rethink how they can be upgraded in order to better the lives of the many people who reside here. In the same breath, the impediments that seriously affect and threaten their livelihoods assets must be eliminated.

¹ Society for the Promotion of Area Resource Centres (SPARC)

² This project runs parallel with another DFID-funded project on regulation of New Housing Development spear headed by Dr. Geoffrey Payne and hopefully the results will have important lessons for both.

1.2 An Overview of The Mavoko Municipal Council

Mavoko municipality is located 20 km South East of the nation's capital Nairobi along the Nairobi-Mombasa Highway³. It is home to a population of approximately 65,000 and covers an area of 693 sq. km large parts of which are owned by the government, the rest being owned by private entities.

Athi River is the main town within the municipality, and hosts the Municipal Council head office. It is within Athi River Township that the RGUU process has concentrated its efforts. Athi River Township grew as an industrial town, initially as a result of the labour force attracted by the now defunct Kenya Meat Commission processing plant and supporting industries. The plant collapsed in the mid 1980's and as hundreds of workers were laid off, the town faced a labour crisis and an upsurge in poverty. This sparked a rise in the rate of poverty, and with it the growth of slums in the township.

The town has since somewhat recovered with the establishment of an Export Processing Zone concentrating of textiles. The town also boasts over 40 industrial entities comprised of factories, go-downs, cement and mineral processing plants, steel and galvanised iron sheet rolling mills. Since the early 90's several large flower farms have been established in the outskirts of the town, attracting a large workforce of mainly unskilled labour, most of who live within the town. Nevertheless, the town has a high unemployment rate as more jobseekers than can be employed have come to the town.

All these have seen the town grow more rapidly than the service providers can cope with. This has speeded the growth of slums, strained service provider capacity and placed a huge strain on the town's infrastructure. The rapid growth in population has created a high demand for residential land as the town's industrial prospects have heightened the completion for land ownership. This has encouraged speculative holdings of land reducing the amount available for residential development.

As a result, the town now hosts five large informal settlements, home to some 1,800 households, some dating back to the early 70's. A substantial number of squatter households are scattered in a number of other smaller settlements in the township. Residents of these settlements have been largely excluded from the social, political and economic life of the town⁴.

This context, as will become evident in this presentation have largely defined the towns upgrading needs.

1.3 The Process of Drafting of the Regulatory Guidelines in Mavoko Municipal Council

1.3.1 Introduction To Building Standards And Regulations

Building standards are the means by which authorities e.g. city or municipal council control construction or building activities, providing prescriptions on the construction of buildings. Authorities also use codes and by- laws to control housing activities; codes and by-laws also guide developers in setting up housing developments. In Kenya building standards and regulations are found in various legal documents such as the Physical Planning Act, Public Health Act, The Building Code, The Local Government Act and the Revised Building by Laws.

Regulations on the other hand are legislative edicts made by parliament and only become operational in a given area when the local authority concerned adapts them as by laws. By laws therefore refer specifically to those laws made by a particular local authority. Each local authority is allowed to make its own by laws based on local conditions and circumstances. By laws serve functions such as;

- Control the development of slums
- Enable proper planning and delivery of services such as water and sanitation
- Ensure proper implementation of development plans
- Enable the enforcement and administration of other acts such as the Public Health Act.

³ See map in Annex one

⁴ For a graphical insight to the town, please see Annex one.

Some of the regulatory standards in force were drafted a long time ago, and since then there have been considerable changes in the urban situation in the areas they cover. This has rendered them inappropriate, creating the need to revise them to in line with current realities. For the past three years, ITDG has been coordinating a Regulatory Review Process within Mavoko municipality aimed at achieving a much-needed revision of standards and regulations.

1.3.2 <u>The RGUU Process in Mavoko</u>

The process, dubbed Regulatory Guidelines for Urban Upgrading (RGUU) project aims to assist local authorities and their partners to revise the regulatory framework governing the regularization and improvement of informal low-income settlements. This has been done through a participatory process that has involved residents of such settlements, The Municipal Council, relevant Government Ministries and Departments, the Private sector and partner NGOs in drafting revised regulatory guidelines.

The review process has adopted the Sustainable Livelihood Framework⁵ (SLF) to analyse the asset base of the poor urban households and community groups in Mavoko and identify areas in which changes are most needed. The SLF framework appreciates that the asset base of a household is subject to a host of factors that affect the ability of the household to develop its assets and its livelihood. Some of these factors stem from existing regulations and standards, the effects of which are acutely felt in poor marginalized neighbourhoods, as is the case in Mavoko. To fully appreciate the variety of factors affecting a community's asset base, the project developed a number of situation analysis documents.

1.3.2.1 Catalogue of applicable instruments

An analysis of Regulatory Guidelines was carried and a catalogue of applicable regulatory instruments developed to guide the revision of Regulatory Guidelines. In the preparation of this catalogue, the project was aware that it must include not only those rules found in the statutory books but also relevant edicts and ordinances imposed by custom, religion and administrative directives.

The project focus is on regulations governing physical development, community services and work opportunities. Nevertheless within this narrowed scope , the project had to negotiate around numerous relevant regulatory factors.

1.3.2.2 Household Profiles

A set of household case studies were conducted and compiled into a profile of households living in informal settlements in Mavoko municipality. These case studies depict a vivid picture of the aspirations and challenges of households living in the slums and reflect the outcomes of regulations affecting their livelihoods.

1.3.2.3 Participatory Survey

The survey gave residents of informal settlements an opportunity to express their perceptions on the state and effect of regulatory instruments and procedures in force within their localities. The survey revealed the extent of marginalisation of informal settlements residents in urban management. This was reflected in the fact that there is no consultation with the urban poor on issues that affect their livelihoods and that existing regulations are not sensitive to their economic plight.

For example, high trade licensing and service charges create a hostile environment to the development micro enterprises ,which have the potential to support sustainable livelihoods.

The survey also established procedures that governing land tenure and allocation processes are insensitive to the plight of the landless, who have to live in constant fear of eviction. This deprives poor people of the ability to plan for their livelihoods as they live in constant fear of eviction from that support their livelihood strategies.

The survey covered five informal settlement sites and interviewed over 150 respondents to establish the extent to which regulations and procedures hamper the enhancement of poor women and men's assets. The survey also covered various professionals with a bearing on urban management.

Responses from the professionals and community members indicated they are strongly in favour of the presence and enforcement of regulations for various reasons as listed below:

- To enable proper planning 81.8%
- To improve environment 2.6%
- To improve infrastructure 10.0 %
- All of the above 2.6%

⁵ In brief, the SLF is a holistic and people centred framework for understanding poverty by analysing the asset base of a community.

Only 3.2 % of respondents felt that regulations are not necessary.

In the opinions of professionals covered in the study, the trends in the impact of regulations on the urban poor has taken negative trend, , 45% said there is increased marginalization of the urban poor, 35 % said there was increased evictions, while 15 % said slum development was on the increase.

From the focus group sessions and an analysis of the survey findings, the major issues pertinent to urban upgrading were identified as;

- Development of processes in land tenure, security and allocation.
- Implementation of improvements in shelter water sanitation and the environment.
- Development of planning standards and licensing procedures that create an enabling environment to Income generating activities.
- Establishment of processes that enhance access to information on local authority planning and development control.
- Implementation of improvements in the transport infrastructure system.

These findings were strongly supported by the perceptions of professional stakeholders in urban management who listed shelter (29%), water (30%) and income (15%) as the most relevant issues to the livelihoods of the urban poor. Land tenure (13%) and security (13%) were also listed as priorities.

1.3.3 <u>Selection of Domain Areas For Review;</u>

To build consensus among stakeholders on which regulations have the greatest impact on the livelihoods of the urban poor, whose review would have the biggest impact on their livelihoods, the project convened a stake holder's workshop. This brought together project partners and the Mavoko Municipal Council who collectively proposed the domain areas below for review:

- Land allocation
- Plot sizes
- Water and sanitation
- Information and communication

- Businesses
- Building by laws
- Service charges

The workshop also selected five settlements as pilot areas for the development and piloting of draft reviewed guidelines. The settlements selected are Kasweto, KMC, Slota, Kijiji 39 and Kimongo.

To increase the thoroughness with which these areas were examined, the workshop resolved to concentrate the review process on the four domain areas of Land Allocation Procedures, Plot Sizes, Water& Sanitation, and Information & Communication as these featured strongly in the baseline findings, participatory discussions and realities on the ground.

Subsequently, the project team together with project partners, and officials from Mavoko Municipal council held a 3 day **Guideline Development Workshop**.

During the workshop, four working teams were constituted, one for each domain area, to analyse the existing situation and decide what needed to be changed in relation to standards and procedures. After extensive deliberations the groups identified the key principles to guide the process, the proposals formed part of the Kenyan team presentations during the international workshop held in Nairobi 2002.

1.4 Principles Guiding The Review Process

The key guiding principles identified were;

1.4.1 <u>Affordability</u>

Policies must address the issues of appropriate subsidies and protect against high rent levels. In addition, regulations should prescribe guidelines that poor households can implement

1.4.2 <u>Equity driven process</u>

The regulatory review committed itself to engendering processes that engender equity of access to assets and participation in the decision-making processes

1.4.3 Integrated and proactive planning

The regulatory review adopted an interdisciplinary approach with the involvement of actors at different levels of government, local community and other concerned institutions. The process was also committed to the institutionalisation of forward planning as opposed to reactive planning

1.4.4 <u>Sustainable development</u>

The review took cognisance of the fact that processes should consider their future implications including present and future environmental implications.

1.4.5 <u>Community empowerment</u>

The review process sought to empower the community so that it can actively participate in and own the process

1.4.6 <u>Regulation as a process</u>

Regulatory review should remove obsolete traditional regulatory paradigms and embrace regulation as a process that is open to new insights and refinements.

1.4.7 <u>Creation of awareness</u>

The process has been committed to creation of easy access to information to engage all stakeholders in meaningful input to the processes

1.4.8 Accountability

Information on implementation and project progress was be readily available to the concerned stakeholders through out the process

1.5 Expected Outcomes Of The Review Process

The final product of the regulatory guidelines process is expected to reflect a number of outcomes;

- A harmonized legal framework that results in comprehensive legislation dealing with land matters, these
 include the Physical Planning Act, the Building Codes and the Local Authority Act plus other related
 legislation. A policy framework that is friendly for the alleviation of poverty should be advanced and focus on
 slum upgrading in Mavoko Municipality and be replicated in other areas.
- Establishment of administrative and management of institutional systems that facilitate sustainable livelihoods and avoid duplication of government activities scattered in several offices. This should result in enhanced participation by the recipients of development efforts in matters affecting them.

- Involvement of community members in maters related to their development. In this regard, community based organizations must be involved fully in development processes. Skills that can enhance the living standards should be enhanced. In particular, the project has had a participatory approach inculcating homegrown polices.
- 4. Long-term Government polices for the urban poor. These should include plans for regulating urban development. There should be clear project implementation mechanisms where the design, operation, monitoring and evaluation are done with ease and with the commitment of partners to their implementation.
- 5. Mechanism of vetting land beneficiaries should be bolstered to stop occurrences in the past where squatters who deserved to be settled have missed out on such opportunities with plots being allocated to the rich instead
- 6. Increased local authority autonomy -There should be increased local authority autonomy to minimise central government interference in Local Authority activities.
- 7. Information sharing and use of information technology should be encouraged. Communications channels should be strengthened and liberalized to ease access to information.
- 8. The development of slums in the future should be forestalled thorough the adoption of pro active strategic planning and land use polices.

2 LAND ALLOCATION DOMAIN

Land is a critical component in the process of urban upgrading; and allocation and tenure processes are significant in any upgrading process. That most informal settlements are located on private or government land, complicates land ownership and reduces the prospects of their upgrading.

In Kenya land allocation is governed by a number of parliamentary acts and other complex, fragmented and overlapping procedural regulations. This makes the legal systems for the permanent allocation of land unclear and prone to abuse. Indeed the control of land is a contest between public procedures and private means.

The statues governing land tenure are spelt out in the Local Government Act Cap 265 of the laws of Kenya. Section 166 of this focuses on planning in local authorities, which are required to act as planning agents of their municipal jurisdictions. This gives Local Authorities the powers to control the subdivision of land within their jurisdictions.

Other laws influencing land allocation processes include the Constitution Of Kenya Section 115, The Government Lands Act Cap 280, Registration Of Titles Act Cap 281, The Trust Lands Act Cap 288 the Land Acquisition Act Cap 295, the Registered Land Act Cap 300, Land Control Act Cap 302, physical planning Act N0 6 of 1996. All these statutes result in three land tenures systems, namely Private Freehold Land, Government Leasehold Land and Trust Land (Community Land). The review process concentrated on the allocation process for Government Leasehold Land.

According to the UN-HABITAT, applications for the allotment of Government Leasehold Land are (ideally) processed through either a points share system, merit system, date of application order, or random selection by the balloting method. successful applicants should then notified by the commissioner of lands by letters of allotment. However, this process has largely been abused and circumvented to the detriments of the poor.

2.1 Background To The Existing Land Tenure Scenario In Mavoko

The first residents of Mavoko settled there in the 1960s. By then, land for farming and housing was in abundance. At the time, there were only and two factories in the town. Beginning the in 1970s, the land on which present day residents of informal settlements in Mavoko used to farm and live on was sold to individuals while the rest was reserved for industrial developments, pushing the poor in the town to the margins where today they hang on precariously to their squatter housing , in ever present fear of evictions .

From the survey finding on informal settlements in Mavoko town, 88.1% do not own land, 5% own small plots, only 2.4% own adequate land only 44.8% have letters of allotment. On the whole, 90.5% are unsure of their tenure fate.

This has had a detrimental effect on the ability of residents to develop their own shelter; respondents to the participatory survey said they would only improve their houses only if security of tenure is assured. This was validated in Jam City, once residents were given allotment letters they felt secure enough to embark on construction of semi permanent houses.

Findings in Mavoko indicate that lack of shelter is intrinsic to poverty, emphasising the need to review land allocation procedures. Under the current procedures, residents who are fortunate to be allocated land by the Local Authority are easily tempted by affluent persons to sell the land for pittance. They then move to other informal settlements, trapping themselves in a vicious circle of professional squatting

The effects of access to land and pertinent regulations on the ability of residents of informal settlement to develop shelter are evident in the findings of a participatory survey conducted in 2001;

For those already allocated land in Mavoko their expectations on developing it in the course of the next 12 month were, 12.3% planned to build, 86.6% had no plans while 10% were not sure on their course of action.

Standards also have a large bearing on the development of shelter this is evident in the course of action respondents to the participatory survey said they would take if standards, procedures and regulations were streamlined;

- 16.2 % would want to build permanent houses
- 2.6 would invest in buy household goods and build latrines
- 4.6% would purchase plots
- 4.0 % would extend their houses,
- 0.7% would improve their houses by plastering (incremental housing)
- 0.7% would move from the Mavoko area.

Additional problems stemming from the allocation process are the numerous instances where too much land is allocated to a few people who do not develop it but hold onto it for speculative purposes. This is partly because the allocating authority- The Ministry of Lands and Settlement, does not have the capacity inability to monitor usage of land allocated to private individuals and repossess undeveloped land.

The laws governing land allocation and development are also wanting since they are unable to eliminate curb speculative holding. Since they are and are unclear in their definition of *development*. Applicants can therefore get away wit speculative holding while purporting to have 'developed' it.

2.2 <u>Proposed Regulatory Guidelines for Land allocation</u>

Following the 3-day guidelines development workshop, the following proposals on land allocation procedures guidelines were developed, marking the first substantive level of the review process.

Land allocation	Procedures	Standards	Regulations
Specific Proposals	 Zoning -specify zones for the urban poor Participatory identification of the alottees Allotment to be done through balloting. 	 Develop wealth- ranking criteria to guide allocation of land. Develop specific plot sizes and plot coverage Set the minimum standards for the provision of infrastructure. 	 Legal framework Prohibit selling of allocated plots Legal framework to enable development targeting the poor Use of appropriate low cost building technologies

Gender dimension	 Identification of household heads regard less of kinship relationship Participatory identification of house heads and dependants. Create awareness on women and youth rights to property 	 Equal representation of women and men and youth and the marginalized groups such as the aged and the disabled in decision making processes on land allocation 	 Legal framework to protect discriminatory allocation of land along gender lines and through , inheritance
Guiding principles	 Open and democratic Gender sensitive Non political Participatory allocation Inclusive by involvement of all concerned institutions 	 Specific income level and / or age limit For acquiring property 	 Legal framework Clear balloting procedures Review of the Land Control Act CAP 302 Review of Government Lands Act Cap 280 on procedures of land allocation Review Trust Lands Act CAP 288 on Land allocation with reference to gender issues Review of registration of land under Registration of Tittles Act Cap 300 on gender issues
Design cost implications	 Cost effectiveness in relation to employment /places of work Low cost and efficient infrastructure services Provision of public utility plots Balancing of uses e.g. residential and commercial Minimize environmental degradation Neighbourhood concept to enhance the provision of security services and preservation of the social fabric 	 Minimize cost of designs Use low cost building materials Low cost storm water drainage Easy to maintain infrastructure and building typologies 	 Adaptation of low cost building construction Technologies by formulation of by laws
Institutions and processes	 Involvement of all stakeholders Review of land tenure system Discourage land speculation through land tax and other instruments. 	 Evolve standard allocation procedures agreed by all stakeholders. 	 Registering all parcels of land and issuing of tenure documents.

2.3 <u>Community Level Consultations</u>

The second level of review of draft proposals was dissemination at the community level. This was meant to disseminate draft guidelines to bigger audience and to build consensus on what is acceptable and what needs additional review.

From the reflections of community members from the five pilot settlements it emerged that there exist three upgrading scenarios, which need to be considered in any allocation process in Mavoko and other locations.

2.3.1 In- situ upgrading

This would apply in KMC and Slota since the community members already has allotment letters but lack adequate infrastructure services.

2.3.2 <u>Relocation</u>

This would apply in the squatter settlements like Kasweto and Kijiji 39 since the land they occupy is privately owned although they have been squatting there for over 20 years.

2.3.3 <u>Peri- urban settlements</u>

This would apply in locations such as Kimongo, which is a peri urban settlement. Here the upgrading process would focus on upgrading with peri urban land use patterns in mind and consideration given to the special treatment of such areas.

Issues emerging from these sessions reflect the fact that communities are fully aware of the problems facing their livelihoods and are determined to overcome them. In some cases, they are able to address their immediate problems like in the case of Kimongo where the community themselves took the lead in saving and buying a 10 acre piece of land and subdivided it into 270 plots measuring 30 by 60 feet. Others like those in Kijiji 39 are still in the process of saving to purchase land.

That the upgrading process should bear in mind the fact that communities are heterogeneous and have distinct problems also emerged strongly in the community dissemination sessions. While some aspects like security of tenure are important to all irrespective of their income levels and status, some desegregation should be made for differential treatment of categories in the community.

The overall message that came from the community feedback sessions is that, procedures should be accessible, simple and easy to apply. Standards for housing should be affordable. The following specific points were raised.

- There is need to simplify the procedures involved in the land allocation process .Fees charged for land allocation process should be affordable to the poor.
- The minimum plot sizes should be revised and harmonized and regularized from the recommended 40 by 60 to at least 30 by 60 feet. Existing plots that fall foul of the current minimum sizes should be regularised.
- The Local Authority should be empowered to allocate land, which includes the issuance of title as this would reduce cases of double allocation.
- There should be zoning of specific areas for the urban poor and provision infrastructure services in such areas.
- Clear balloting procedures and mechanism put in place to deter professional squatters-Community
 members were unanimous that to ensure transparency and democracy, balloting is the best method
 in selecting recipients, coupled with participatory identification of beneficiaries to vet all beneficiaries.

2.4 Pre-Testing of the Land Allocation Domain: The Case of Canaan Settlement

In the course of the project, the Mavoko Council was involved in the relocation of over 348 community members to a settlement called "Canaan", from "Sinai" which had burnt down. The relocation was necessitated by the fact that the community was squatting on private land making reconstruction on the old site undesirable.

The project took this as an opportunity to pilot the implementation of the revised guidelines on land allocation. In particular those recommendations stipulating that that allotment should be done through balloting, beneficiaries should be the poor and that participatory identification of allottes be undertaken to ensure equity. The relocation involved ITDG and a key project partner NGO – NACHU⁶. The process was as follows

2.4.1 Participatory Identification of Allottees

During the allocation process, a participatory process involving the local was adopted, ensuring only the targeted beneficiaries were allocated plots. A land allocation committee was constituted, comprising of representatives from the Mavoko Municipal Council and village representatives, including women and youth from the area. They assisted the council surveyor in placing beacons for the new plots. The community members also designed criteria for allotment whose key tenets in this included:

- One had to be a resident and structure owner of the former settlement.
- Be above 18 years of age
- Alottees must be well known to the community members
- Alottees must be able to pay the fees due to the council.

To ensure transparency, selection of beneficiaries was by secret ballot, a list of approved beneficiaries was used, only persons in the list, (developed by the village committee and Mavoko municipal council) were eligible to ballot. The list took into account the community stratification and was a simplified process of community enumeration. This ensured that at least 90% of the poor benefited.

From the comments after a session held with the community members after the allocation process it was evident that the community felt the process was very transparent and inclusive allowing even single mothers and the youth who have families and had lived long in Sinai to be allocated plots. Cases of double allocation were non-existent as the process was open and democratic. The council gave each beneficiary a beacon number, which will facilitate allotment letters in due course and guarantee their security of tenure.

2.4.2 <u>Service Standards</u>

The municipal and the community developed a neighbourhood plan for service provision. It included building typologies to act as guides for incremental housing improvement using cost effective building materials.

2.5 <u>Constraints</u>

From the entire project process, and the piloting of the land allocation process in Canaan the following constraints emerged;

- There exists no legal framework prohibiting selling of plots apart from caveats invoked in succession cases.
- The communities have yet to develop self-regulation mechanisms to prevent sale of plots.
- Rather than allowing the poor to identify suitable sites, identification of the relocation site was driven more by
 political force
- No zoning of land reserved for the urban poor has been done; as a result, the poor do not have a choice of the land where they are to be allocated. Illustrative of this is the fact that the land Canaan stands on is condemned for residential purposes.
- There is lack of clear mechanisms for resource mobilization to undertake shelter improvement. Limited
 exposure to low cost appropriate technologies and a legal framework targeting the poor further limit their
 ability to develop the land once it is allocated.

⁶ NACHU- National Cooperative Housing Union

2.6 <u>Recommendations.</u>

- In case of relocation, residents should be involved in choosing relocation sites.
- Residents in the informal settlements should be encouraged and assisted to build cheaper but decent houses. Facilities such as roads, pathways and drainage should put be provided on a cost sharing basis with the Local Authority.
- Clear legal framework needs to be developed to prohibit the sale of allocated land.
- There is need for institutional and regulatory measures to prevent future developments of slums in new areas and enable improvements to be undertaken in existing slums.
- Clarification should be made on the role of the local authority in land allocation to avoid double allocation and forestall complications that arise when the allocating authority is far from the land allocated. The local authority under whose jurisdiction the land to be allocated falls should be consulted.
- Enumeration as a means of participatory identification of households and dependents should be enhanced.
- Discourage land speculation through taxing of idle land and professional squatters.
- Registration of all parcels of land and issuance of tenure documents should be done as soon as possible.
- Minimal fees need to be charged for the land allocation process.

3 PLOT SIZES DOMAIN

Plot sizes and subdivisions of land usually dictate to a large the developments that can be accommodated in a parcel of land in terms of densities, plot ration, plot coverage, plot frontage, plot sizes and building. According to the local government act cap 265 of the laws of Kenya, -which actually established the local authority itself⁷- Section 166 of this act is focuses on planning and requires local authorities i.e. municipal or town councils to act as planning agents. As such, local authorities have powers to control the subdivision of land in its area of jurisdiction. Section 29 of the act gives each local authority powers to consider and approve all development applications and has the right to approve plans while section 42 deals with the disposal of land and extension of leases. This gives local authorities a lot of leverage in the determination of plot sizes.

3.1 Existing Situation In Mavoko

Existing plot sizes in Mavoko's low-income settlements differ across settlements as shown in the table below with plots for commercial purposes generally being larger.

Settlement	Designation	Subdivided by	Plot size
			Residential
Kenya meat	Residential	Mavoko Municipal	15x50 ft (approx70 sq m)
Commission	Cum	Council	20x50ft (approx. 93 sq m)
Housing (KMC	Commercial		
Slota	Commercial	Mavoko Municipal council	30x33ft (approx.92 sq m) Residential
Kisumu Ndogo	Cum	-	33x36ft (approx.110 sq m) Residential
	Residential		30X100 ft (approx 259 sq m) commercial
Kimongo	Residential	Residents	30x60ft (approx167 sq m)
kasweto	Residential	Not sub divided	30x65ft (appro.181 sq m)
			30x100ft (appro 279 sq m)

Based on the analysis was is apparent that a typical plot in Mavoko for residential purposes ranges between 70 to 90 sq metres, considerably smaller than the stipulated minimum national size of 111 sq metres. However, the project was informed that in the ongoing review of the physical planning handbook the minimum plot size has been reduced to 75 sq metres.

Existing regulations that are applicable in Mavoko stipulate that;

- Plot sizes slum rehabilitation and upgrading scheme 111.8 ms and low cost housing 168.4 sq metres.
- Plot coverage –slum rehabilitation and up grading scheme, 65% of plot area, and low cost housing 65% of plot area.
- Plot frontage slum rehabilitation and upgrading scheme 6m and low cost housing 7.5 m
- Building line –slum rehabilitation and upgrading scheme 2.5 m (front) 1.5m (side) 3m (rear) and low cost housing; 3m(front), 1.5(side) 4.5(rear)

According to the above information most of the plot sizes in Mavoko before the project were not allowable in law, as they did not meet the national and local standards. For instance the plot sizes in KMC are much smaller 15x50ft (70 sq.), is far below the minimum allowable plot size as per national prior to the project.

⁷ This act is currently under review.

National standards are not applicable as plot sizes are typically small and the plot owners maximize plot coverage to maximise returns from the developments.

3.2 Findings on required guidelines on plot sizes

According to an analysis of the basic requirements in shelter, the following considerations are necessary, applicable and appropriate low cost and informal settlements

3.2.1 Room consideration- single dwelling unit

- Minimum; (9X9 ft)81 sq feet or 7.5 sq metres.
- Provision of a safety kitchenette
- Provision of privacy with at last one bedroom
- Provision for functional lighting and ventilation windows
- Flexibility in space arrangement

3.2.2 <u>Plot considerations- 4 dwelling units</u>

- 15 ft x 50ft or 4.5X15 metres (6.75 sq metres)
- Provision for the development of rental facilities
- Provision of a toilet and a bath for (every) 4 dwelling units.
- Environmental concerns incorporated e.g waste disposal and safety.
- Coverage to a maximum of 70 % of total plot area.

3.2.3 Planning considerations

- Vehicular access at 6.0 metres /20 feet ft to cater for ambulance and fire engines etc.
- Handcart bicycle and human access paths provided at a minimum of 1.3 metres or 4 feet.
- Application of a neighbourhood concept in planning and provision of infrastructure
- Consideration for non motorized traffic
- Consideration for security issues.
- Cost of basic infrastructure considered in the choosing of infrastructure typologies and standards.
- Economy of land use due to of limited land availability.
- There should be provision of a nursery school of one quarter of an acre within walking distance.
- Provide reserves for future settlement.

3.3 <u>Proposed guidelines on plot sizes</u>

Based on these considerations, revised regulatory guidelines on plot sizes were proposed as shown in the table below

Plot sizes	Procedures	Standards	Regulation		
Gender dimension	 Kitchette space Toilet Wash area School /nursery 	 Regular slope. Width ratio at not leas that 1.15 Avoid irregular shapes. 	 Building codes By laws Public health 		

Key phases Design and cost Implication	 Neighbourhood concept Economy of space Environmental concerns Affordable costs Minimum services Functional approach Building materials Iron sheets Timber Stone Stabilized soil blocks 	 Rectangular shape Durable building materials. Availability of building materials. Affordability. Local resource utilisation 	 Building code. by laws. Regular reviews of laws and building practises.
Institutions and procedures	 Local authority Settlement laws Council society CBOs Private sector 	 Flexibility. Transparency. Partnership building. Guiding rather than control/restrictio n. 	 Dialogue with stakeholders. Information sharing. Partnership building.

The room considerations should have a private bedroom safety kitchenette provided with functional lighting and ventilation and flexible in terms of space arrangement.

Regarding the neighbourhood concept the plot-planning requirement should accommodate allocations for infrastructure, schools and reserve parcels for future developments. All this should be done with the development and use of appropriate, cheap and affordable building materials.

3.4 <u>Constraints</u>

Some of the plots that have been allocated are too small, leading to overcrowding and lack of basic facilities within the neighbourhood. These may require redevelopment to implement the revised guidelines.

3.5 Recommendations.

- The plot sizes and coverage need to be reviewed and regularized for those areas with small plot sizes.
- Small plot sizes should only be considered if space for infrastructure is taken into account.
- Densities and building lines must be reconsidered.

4 WATER AND SANITATION DOMAIN

Lack of proper planning and small plot sizes in informal settlements has contributed greatly to congestion with no space spared for building infrastructure facilities. This has made the provision of water services to informal settlements difficult in those few instances the will to do so exists.

4.1 Existing water and sanitation scenario in Mavoko

Like in any other informal settlements in Kenya the relevant authorities in Mavoko have over the years discouraged the provision of basic services to informal settlements as they are considered illegal hence do not qualify for council service. They are also perceived as temporary 'holding grounds'. No space is provided

However, the provision of services is a requirement in the constitution, The Public Health Act cap 242 water Act Cap 372, Local Government Act Cap 265, The Building Code of 1995 and The Environmental Management And Coordination Act of 1999.

According to the Public Health Act section 129 the Local Authorities have a duty to protect and provide water supply within their area of jurisdiction. The standards of water quality adopted by the country from the World Health Organization guidelines have no differential standards because the basic requirements are the same all over the world. These are that

- The water must be free from pathogenic organisms
- The water must be free of chemical compounds
- Water must be clear (colourless)
- It must not be saline
- Water must not have an offensive taste
- Water must not cause corrosion of the reticulation system.
- For refuse disposal the **Building Code by Laws, Section 221** requires that every domestic building shall be provided with the means for disposing their refuse. Every residence should have a permanent structure to accommodate a dustbin and this should be covered with concrete on all sides.

Poor water supply and deteriorating environmental conditions are some of the key areas of concern in Mavoko's informal settlements. This has been caused in part by the nature of existing regulations procedures and standards prior to the project. There is very limited services provision to the informal settlements in terms of garbage collection water provision, and wastewater disposal

The council has provided water in only two settlements using standpipes, which are hardly adequate to cater for the large number of residents in these settlements. Consequently, residents in these and other informal settlements depend on nearby rivers and streams, whose water quality is questionable, while others have to buy water from the far off water points at high prices.

Water quality assurance is poor as public health officers do not sample and analyse the quality of water being consumed from such sources.

The Ministry of Water and Resource Development and The National Water Conservation and Pipeline Corporation dictates tariffs without taking cognisance of the situation on the ground.

The provision water supply is costly within the municipality and the council needs plenty of water to cover for existing users and to cater for plans to increase coverage. Currently the council purchases water from the EPZ ⁸at f 37 shillings (0.52 USD) per cubic meter and sells the same at 50 shillings (0.66 USD) per cubic meter. The council also buys a smaller quantity of water from the National Water Conservation and Pipeline Corporation at 15 shillings (0.20 USD) per cubic meter. This high cost is partly due to the tariffs set by the Water Ministry and The National Water Conservation and Pipeline Corporation, which are insensitive to the plight of the consumers. Additional cost for equipment, operation and maintenance costs are absorbed by the consumer, pushing the cost even higher. There are several boreholes in Mavoko, but these are not a viable alternative for drinking water as they are sunk near pit latrines.

Access to water is further hindered by the cost of connecting to water mains, for example the deposit for a domestic connection is set at kshs.1000 (13.2 USD) for the residents of KMC and Slota settlements.

Plot sizes in informal settlements are very small hence most of them do not have toilets. Exhaustion fees for latrines are to high ranging upwards from Kshs. 500(6.66 USD), a rate that the poor cannot afford. Absentee landlords in squatter settlements are not motivated to develop proper sanitation further compounding the problem. Storm water drainage and solid water disposal is only provided in the central business district, high-income residential and industrial areas, leaving low income residential areas prone to flooding and road degradation in the rainy season.

⁸ Export Processing Zone – an oversight authority mandated to oversee an export oriented industrial park.

Options like communal toilets would be appropriate for such areas but the requisite community management structures are absent. Further due to cost and space limitations there is a need to explore appropriate technologies in sanitation. As options like the VIP latrine are inappropriate .

4.2 <u>Proposed Regulatory Guidelines For Water And Sanitation</u>

Based on the current situation, and deliberations in the course of the project, the following guidelines have been proposed for water and sanitation.

Water and sanitation	Procedures	Standards	Regulation			
Specific proposals	 Relaxing down payments for connections Provision of communal water points 	 Affordable fees. Convenience. Accessibility. 	 Termination of contracts and court proceeding Cash payments 			
Guiding principles	 Commercial water points to be run by community groups. Flexibility 	 The council to regulate the fees Affordability 	_			
Design and cost implications	 Collective responsibility 	 Affordability 	 Building standards and codes. 			
Institutional process	 The council and shareholder management team 	 Transparency and accountability 	 Memorandum of understanding 			
Solid Waste						
Specific proposals	 Sanitation and environments department to be in charge of the stake holder's forum. 					
Gender dimension	 Participatory approach by both women and youth 	-	 Sustainable cost effective 			
Key phrases	– Accessibility	 Environmental friendly 	 Commitment and regular evaluation 			
Design and cost implications	 Collective responsibility by landlords and tenants. 	 Suitable management and updated mechanisms 	 Stakeholders and the council 			
Institutional process	 Council and residents to constitute management team 	 Transparency. Accountability 	 Memorandum of Association 			

4.3 <u>Recommendations</u>

Based on the existing scenario, and the insights obtained from the project process, the following proposals to guidelines on water and sanitation have been suggested.

- The council should to provide sufficient potable water within a radius 150 meters of any given residence depending on the densities at a cost affordable to the communities. Moreover this water should be treated and certified it is fit for human consumption. Where such services exist there should be public education on how to treat water and avoid water borne diseases such as typhoid and diarrhoea, which are frequent in the poor neighbourhoods.
- Fire hydrants and communal sanitary facilitates within the informal settlements must be provided in adequate numbers and in convenient locations.
- Solid waste to promote handling mechanisms that promote community based waste management programs geared towards income generation through should be encouraged. This should include recycling and reuse, biogas generation to provide street and path lighting power supply at appropriate points to support a micro enterprises.
- Appropriate and affordable wastewater and human waste disposal mechanisms should be introduced.

5 INFORMATION DOMAIN

The ability of poor men and women to sufficiently understand their livelihood context is central to their ability to manoeuvre in it to achieve their livelihood aspirations. Lack of livelihood relevant information further cements marginalisation, furthers vulnerability to exploitation, deepens insecurity and limits opportunities for prosperity. In this regard, access to crucial information can make all the difference in reducing poverty and vulnerability.

5.1 Existing Situation In Mavoko

As at the time of the baseline survey, there was an absence of organised groups to facilitate communication within, to and from the community or other information access structures. For instance while community member would send representatives to meetings, seminars and other forums, the chosen representative would be expected to return and disseminate the proceedings of the meetings to the community in the local language. However, owing to the weakness of community groups, some people would be excluded from receiving such information. In response to this, community members recommended that development actors including the council should establish the best community entry points to ensure that all community members get the information they need to improve their livelihoods.

	Council modes of communication	Community reception channel	Community response	Community recommendations
Plot sizes	 Advertising through the Kenya gazette 	– Rumours – Bararaza – Area councillor	 Information does not get to the community on time 	 Council personnel to disseminate information.
Land allocation	 Verbal notification Letters of allotment 	– Bararaza – Area councillor	 The community fells the plot sizes are too small The council needs to inform the community in advance 	 Standard plot sizes Improved site value Meetings with the municipal council should be convened Chiefs Barazas should be used
Rent	– Posters – Circulars	 Council personnel Hand delivery of letters 	 Poor service standards in relation to rates charged Delays in community reception of information. 	 Services need to be improved The council should ensure the notices get to recipients in time
Rates	 Demand note Computer generated bill Verbal information/invoicing Posters 	 Postage/ hand delivery Verbal information Posters Direct consultations 	 Bills are usually delayed Community members are not confident in the correctness of the bills (complaints) 	 Bills to be delivered in time Council to liase with the ministry to avoid confusion
Water and sanitation	 Demand note Water bills (invoice) Visits by W&S personnel Maintenance and daily operations. Posters on water tariffs. Verbal communication 	 Council personnel Postal delivery Hand delivery Scheduled meetings with meter readers 	 Community feels water tariffs are too high. Maintain ace of the sewer system is poor 	 Water and sanitation services need to be improved. More service points and water kiosks to be installed, especially in Slota
Schools.	 Council personnel. Circulars Seminars. Meetings Consultative forums 	 Visitation. Meetings. Verbal messages. Circulars. 	 There are sufficient nursery schools, but not enough primary schools The ministry of education needs to look into the construction of more primary schools. 	 There needs to be more courses to update the skills of teachers. Teachers need to be employed by the ministry of education. The council needs to set up secondary schools.

Groups (CBOs)	-	Telephone messages.	-	Council personnel	-	Visits	to	the	people	-	Service standards need to be
	-	Circulars	_	Area councillor and		(groups).				improved.
	_	Meetings		other leaders	-	Informa	ation	doe	s the	—	Leaders need to visit the
	_	Visits.	-	Barazas.		people i	n time	e.			communities more regularly
	_	Verbal messages.	-	Consultations.	-				be more		
		3				involved	in gro	oup act	ivities.		

5.2 <u>Proposed Improvements To The Information Sector In Mavoko</u>

Community and project partners suggested the following proposals as important changes need in the communication processes in Mavoko.

- All communication should be done in widely understood languages ego Kiswahili and be structured in simple, inn technical format.
- Government offices need to be demystified to encourage community members to fell at ease there.
- The Kenya Gazette should be demystified.
- Focal points for the collection and dissemination of information should be established.
- Focal points for information dissemination should be established.
- Adequate recourses for the collection and management of information should be allocated.

6 <u>CONCLUSION</u>

The RGUU process has brought to the fore the primary role of institutions in enabling the upgrading process. In most instances, attempts to upgrade informal settlements are constrained by prohibitive and cumbersome legal and institutional set-ups. This raises the need for the establishment of an institutional, administrative and management systems that facilitate sustainable livelihoods-including aces to shelter. Institutions have been defined as the hardware, which forms legitimate governance structures they are the mechanisms by which processes like legislation function, without them legislation does not exist.

Institutions are also, ideally the, means by which people can be informed of government policies and within which they can find ways of working to achieve their rights. But rarely are the rights of poor people given much legitimacy by government institutions and all too often, the elite control the institutions and processes with little regard to the needs of people in poverty.

There are various levels of analysis and interface individuals and institutions, ranging from those between individuals, within and between households and neighbourhoods, cities and national bodies are enormously complex, overlapping and often contradictory. Each level of institutional map functions according to a different "set of rules" and each therefore requires different modalities in interaction and reform. It may be relatively straightforward to map which organisations exist and who does what in theory (i.e. what is on the statute books) but the relationships between them and their intended and actual impact on the livelihoods of the poor is not so simple to quantify nor qualify.

RGUU in Kenya has been no different; it has had to negotiate around a Byzantine maze of cross linkages between institutions, people, households and communities. In the process, RGUU has come to fully appreciate the importance of institutional stimulating change within institutions and their process in Regulatory Reform and Urban Upgrading.

In Mavoko, the prevailing institutional framework was modelled along top-down lines, with the exception of Community Based and Non-Governmental Organisations. This was reflected in the regulations that were meant to further the interest of the elite with access to decision making processes. The poor and their institutions on the other hand had no access, and input to decision making within the municipality.

At the inception of the project, it became clear that the substantive involvement of community members (women, men, and female and male youth) in the review process, dissemination and application of standards, procedures and regulations was the only way by which the revised guidelines would reflect and facilitate the aspirations of the poor. But owing to the traditional exclusion of the poor communities, it has become necessary to establish **effective information system and centres** to enable the urban poor to access information on standards, regulations, procedures and other decision making processes. To this end, ITDG-EA is in the process of establishing communication channels and community-based information providers trained to ensure that two-way knowledge and communication systems are in place. ITDG-EA is also piloting community notice boards at strategic points in the community and is exploring other communication options such as community radio in collaboration with Daystar University – Athi River campus.

The project in Kenya has also come to appreciate the need for an **inclusive co-ordinating mechanism in upgrading** to incorporate a broad-range of stakeholders (local authorities, CBOs, government departments, professional associations and NGOs and Civil Society). The involvement of these actors is requisite to attaining the critical mass and consensus needed to get the upgrading process going. The example of the Nairobi Informal Settlement Committee (NISCC) is particularly relevant and worthy of adaptation and replication in other local authorities

While empowering the community has increased their access to the Municipal Council, the need for **increased local authority autonomy** so that the central government does not interfere with activities within local authorities has been brought to the fore. This measure is of great significance to Regulatory Reform, as it will enable local authorities to develop By Laws that uplift the living standards of the urban poor. Local Authority autonomy would reduce for instance cases of allocation cancellations by the Ministry of Lands and Settlement, which is usually to the detriment of the poor. At the National Level the need for the government to develop a comprehensive policy and strategy for Urban Upgrading. This includes the need to **harmonize the legal framework** so that all the pieces of legislation dealing with land matters are put into one Act.

Finally, the need to prevent **future development of slums**, has been re-emphasised through out the course of the project. Upgrading should deal with existing imperfections in urban shelter as well as forestall the emergence of similar problems in the future. To this end a proper **planning and national land use policies** are needed. these should include linkages with rural development as rural-urban migration is one of the factors aggravating the urban shelter situation.

This has been the RGUU process in Kenya.

The RGUU process has been a challenging learning experience for all partners involved in the project, in particular, the project team has come to appreciate that upgrading is a long continuing, rather than a set of checklist items that can be]

7 ANNEX ONE: PHOTOS FROM THE RGUU PROCESS.



Ramshackle housing in Kaswitu , repeated evictions have devastated the asst base of residents of this settlement . Credit: Zul Mukhinda



Children playing on the pavement in Sloat , lack of provision of open spaces in neighbourhood planning has deprived children of playgrounds. Credit : Zul Mukhinda.



Long shot of the East African Portland Cement Factory, one of the largest industries in Athi River Credit Zul Mukhinda



Contrast between low income and high income housing in Kijiji 39, rising land value in the settlement has contributed to the marginalization of the poor due to speculative land holding. Credit: Zul Mukhinda



Construction using a variety of scrap materials in Kasweto , lack of awareness on appropriate low cost building materials has contributed to inability of the poor to upgrade their housing . Credit: Theo Schilderman.



Land use in Kimongo, a Peri Urban settlement , such areas demand special consideration in land use planning ; Credit: Kamwati Wango