# CONFLICTS IN URBAN SETTLEMENTS IN KENYA: ACCESS TO LAND AND SERVICES IN UNPLANNED SETTLEMENTS

JOYCE MALOMBE

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### LIST OF ABBREVIATIONS

CBOs - Community Based Organizations

CLT - Community Land Trust

GOK - Government of Kenya

KWAHO - Kenya Water and Health Organization

MENR - Ministry of Environment and Natural Resources

NGOs - Non-Governmental Organizations

TOL - Temporary Occupation Licences

VIP - Ventilated Improved Latrines

UNDP - United Nations Development Program

#### 1.1 Introduction

Conflicts in both rural and urban settings are said to be as old as society itself. The dynamics of these conflicts are however different in the two situations and are influenced by both internal and external factors. For example, in the rural set-up, there are usually established mechanisms of minimizing conflicts. These are usually prescribed by different cultures. It is only when conflict affects a wider scope than covered by cultural norms or when the parties in dispute disagree that the matter is taken to state or other designated bodies. Traditionally, however, the preferred way of dealing with conflicts is through informal means as usually people do not have money to engage the state or other parties.

The situation is however, different in urban areas where communities are composed of people from different cultures. Urban areas have also got large concentration of people representing different interests and intense competition for resources. The history of the growth of the cities also lends them to more conflict than rural areas. For example, colonialism led to the development of most cities which were modeled according to the needs of the colonial government. For most part, rural areas were left alone where they did not interfere with the interests of the colonial government. The situation was, however, different in the case of land and provision of services because both rural and urban settlements were affected. The impact was, however, mostly greater in urban areas where in most cases existing structures were destroyed or where new structures were created.

This paper looks at conflicts in urban settlements paying special attention to the issues of land and public services. The paper mainly looks at conflicts in informal settlements which house 60-80% of Kenya's urban population. These settlements also represent some of the visible conflicts in urban settlements located on both public and private land. This paper, however, concentrates mainly on public land. The paper looks at the historical dimensions of the problem, the approaches to the conflicts overtime and assesses whether different conflicts have been intensified by different policies and strategies undertaken. Roles of different actors are assessed with a view to identifying their role in dealing with some of these conflicts. A few case studies are used to illustrate the point and recommendations drawn to indicate the way forward.

#### 1.2 Conflicts in Urban Settlements

Conflicts in the urban set-up are caused by many factors. According to Albert (1995), some of the causes include the following:

- The ethnic, cultural and religious heterogeneity of the urban settlers often make them compete aggressively for insufficient resources in the cities. Urban conflicts occur therefore, in competition for jobs, land, housing and other related opportunities;
- Poverty among city dwellers which often leads to high rate of urban crime and delinquency.
- Persons who belong to the less advantaged social status, are often prone to harassment and arrest by police.

The ethnic, cultural and religious heterogeneity of urban settlers also means that people can no longer depend on their cultures to resolve whatever conflicts they have because there is no common culture. Further, different groups have different points of reference and are not usually under any obligation to consider other groups. The role of the government in conflict resolution therefore becomes very important because this is the main mechanism of regulating people's behaviour. In addition, some of the resources belong to government or require government regulation to deal with. This is particularly true for land and service provision. But on the whole the role of government assumes new importance in urban areas. Informal conflict resolution mechanisms are used occasionally in some cases in urban areas. reasons for using informal mechanisms include the fact the poor cannot afford to have conflict resolved by state or other designated bodies. At times most people, and especially in informal settlements, do not understand how the system works and are often intimidated by it. In other cases, like access to land in informal settlements, there is no legal mechanism to deal with land issues because structure owners do not have legal rights to land. The arrangements are mainly informal and the residents have no choice but deal with conflicts on an informal basis.

When it comes to poverty in urban areas, there is no established mechanism to deal with whatever problems are brought about by poverty. Most people in urban areas want to survive even if it is at the benefit of other group members. Also social control in urban areas is limited and depends more on law enforcement. There is also no relationships that necessarily bind people together and so individualism takes the upper hand most times. This is aggravated by a government that may not necessarily be representative and at times will tend to favor some members in the community and not others. All these factors intensify poverty and conflict in urban areas.

The nature of low income urban settlements also mean that the poor need both state and police protection. In spite of this they are most times harassed more because of the nature of the settlements where they live. They are also usually subject to harassment because of the perceptions that most criminals and undesirable people live in informal settlements. The poor are also least able to demand their rights which they at times do not know or are too scared of being victimized if they demand their rights. This is the case in many informal settlements in Nairobi, Kisumu, Eldoret where cases of police harassment were reported. The fear of the police force is so paramount that most wrongs committed to people in the informal settlements are never reported. These factors intimidate the poor urban residents who have no choice but keep quiet. This, however, explodes at times as evidenced by cases where the policemen have been attacked by residents.

All the above factors intensify competition for limited resources which at times intensifies conflict. These conflict are, however, at different levels ranging from individual groups to the state. According to existing literature, conflicts which take place within a state, include activities of predatory states, natural emergencies and internal wars, development wars and poverty. These are seen as part and parcel of development, and thus objects of development planning, funding and implementation.

In the Kenyan situation most development efforts seem to have been trying to resolve conflicts surrounding distributions of resources among different groups. This is particularly true in the urban areas. These efforts have, however, to be assessed historically to understand the reasons behind unresolved conflict especially in relation to land and public services.

### 1.3 Conflict and Conflict Resolution Before Independence

As indicated above, conflicts are part and parcel of society and conflict resolutions is usually in-built in the culture of different people. These cultures also determine the system of accessing property within any particular people group and this reduces the amount of conflict. But this situation changed with the advent of colonialism when conflicts intensified, mainly because of the forced transformation that took place and disrupted peoples culture, restructuring power relations with two groups of people - the rulers and the those ruled. This created an underclass where one group could only take dictates from the other. The new power relations also changed internal power structures reducing ability to deal with conflicts. Before the conquest, African power had been stored in unequal human relations that were underwritten by an ideology of lineage seniority and kinship (Unhappy valley: 14).

These structures had established ways of dealing with conflict. In addition, Kenya's precolonial societies showed little stratification in their standards of living which minimized conflict. Further, there was limited urbanization and with the advent of colonialism came significant growth of urban centers. These centers were formed to facilitate the exploitation of resources from the hinterland and mainly served the agenda of the colonial government. The structure of the city was determined on racial grounds and that set the stage for conflict. There was, for example, land reserved mainly for colonial masters and this was characterized by availability of services provided by the government of the day. Laws were put in place that alienated the new comer to the city who was meant to be only in the city to provide labor as indicated by vagrancy laws that limited stay in urban areas for those not in the work force. In the urban set up choices of where to live were limited by the employer who provided housing. One could also live in unregulated settlements which were illegal and lacked basic services. This completely dis-empowered the workers who had no other choice but to look to the Government or their employers to provide them with housing. Further, their salaries were so low that they could not access whatever housing was available at market rates. This problem was resolved by giving some of them temporary occupation licenses which entitled them to use of land as long as it was not needed by the government. Once it was established that the land was required people were evicted from the area.

Some people living in these new circumstances were also landless because their land had been taken by the colonial government. Taking away land greatly affected those who had to move because they had no sense of belonging since they were uprooted from their ancestral land. Land therefore became one of the main causes of conflict - a situation that has continued today largely because of the administrative and commercial importance of the city. Access became a crucial issue as indicated by the development of a dual city where part of it was formal and had the required services while the other one was informal mainly lacking basic infrastructure.

### 1.4 Conflict and Conflict Resolution After Independence

By the time of independence, many cities had been started on the basis of exploitation of resources and these lacked basic services and facilities. The cities' residents were supposed to be temporary migrants and yet some of them had no other home to go to. As indicated most of these lived in informal settlements which are/were illegal anyway, leaving the residents with no choice but to be grateful that they were allowed to temporarily settle there in the first place.

Little about the functional lay out and spatial distribution of Nairobi's population changed with the coming of independence in 1963. The influx of Africans into the city was so great that the existing services and job opportunities were overwhelmed and survival in the city became a real struggle (Agevi 1996). This whole situation intensified the already existing conflict and competition for existing services. In addition, land redistribution in both rural and urban areas was never dealt with although areas that were initially outside the city were brought within the jurisdiction of the city. These informal settlements, however remained illegal in spite of being part of the city. Thus hardly any real services were provided on grounds that the land was illegal.

This system of access to land and services was unjust since there was no framework for participation of those being ruled. Participation of all would have assured identification of socio-political demands from all parts of the society. As indicated, this situation persisted after independence and those who took over power marginalised the poor. According to Mutiso the politics of post-independence Kenya maximized the power of bureaucracy and, further, the post-independence politics depoliticized society. The attendant political process was not participatory, for the single party politics tended to be dictatorial. This process was reinforced by the inherited colonial structures which reinforced the class structure with the ruling elite imposing their power on majority of the urban dwellers. This non-democratic behaviour of a single party state, is not just a Kenyan problem. According to Mamdani " The fist of colonial power that was the local state was tightened and strengthened. The more it centralized coercive authority in the name of development or revolution, the more it reinforced and deepened the gap between town and country and also between the haves and havenots" (quoted by Mutiso 1997). This seemed to be the case in Kenya where classes have been created which determine the level of access to competitive resources like land and public services. The 'haves' had to access land in the urban areas while the 'havenots' could only squat on public land, especially in Nairobi. This created a structure which justified provision of services for the haves, a situation worsened by the high level of poverty among these "havenots" who could not even access whatever available land or services.

### 2 Historical Background to the Conflicts on Land and Public Services

Although conflicts existed before colonialism, an established mechanism of dealing with them was in place. Colonialism brought with it a different system and a power structure vested mainly in the state, not social structures and a system of government that mainly ruled people without consulting with them. No consideration was given to people's established systems and where these interfered with the interests of the colonial government, they were destroyed and replaced with others.

A significant change from colonization was urbanization which until then had been mainly limited to costal areas. This new trend of urbanization was mainly dictated by labor relations where majority of the people came to towns to work and were in town as temporary The housing provided then was for transient migrants and services were for employees not their families. African villages where majority of Africans lived were established, and these were both illegal and lacked basic services. At the time of independence, large African populations lived in areas without services. Movement to urban areas was pegged to employment and those who did not have employment were not allowed to live in urban areas. All these contradictions created a lot of conflicts on both land and services. The people living in unregulated areas had no legal status and the government assumed no responsibility to provide services in these settlements. Residents of these areas could also not do much for themselves because they were only supposed to construct temporary structures. This discouraged any meaningful development and left residents with a mind set that they do not belong to the city although some did not have land in the rural areas either.

After independence, restrictions on movement to urban areas were removed although very few services were provided for the new comers. Instead of providing more services, the government concentrated on improving the existing units while the population continued to increase. No supportive action was taken on unregulated land and these settlements continued to be demolished -a factor that further reinforced their temporary nature and generated more conflict. Thus rapid urbanization intensified conflict and competition for resources in urban areas.

#### Urbanization Process and Growth of Informal Settlements

Since independence Kenya has experienced rapid urban growth. For example, urban population increased from 7.8% in 1961, 10% in 1969, 15.1% in 1979 to 19% in 1989. Similarly the number of towns increased from 34 in 1962, 48 in 1969, 91 in 1979, to 139 in 1989. This trend is likely to continue and by the year 2025, it is estimated that approximately 45.7% of Kenya's population will be living in urban areas (UNDP 1989). This indicates a significant growth of the bigger towns and especially Nairobi which has been growing fast. For example, in 1962 Nairobi accounted for 33.8% (266,976) of the total urban population, while it rose to 47.2% (409,286) in 1969. In 1979, the city had 36% (850,000) of the total urban population (Obudho 1987: 39). 1989 had 36% - 1.324,570 with a growth rate of 4.7%. Following is a table showing the centers by size of urban population 1962-1989:

Table 1 Urban Centers by Population Size 1962-1989

2	Number of Urban Centers			
Urban population size	1962	1969	1979	1989**
100,000	2	2	3	6
20,000-99,999	2	2	13	21
10,000- 19,999	3	7	11	19
5,000-9,9999	11	11	22	32
2,000-4,999	16	25	42	61
Total	34	48	91	139
Total Urban population in '000	671	1080	2309	3,877
% of Total Pop.	7.8	9.9	15.1	18.1

Source: Population Census

\*\* There has been a lot of debate surrounding 1989 census because they underestimated the population in most areas.

The above information shows that majority of the urban centers are very small with a population of less than 10,000. However the growth rate in smaller towns is significantly higher than in larger towns. (Growth rate for 2,000-4999 was 9.1%, 5,000-9,999 was 6.8%, over 10,000 4.9%). Recent estimates indicate that in Kenya urban population totals 5.2 million and is increasing at a rate of 6.5 % per annum. It is estimated that by the year 2010, urban population will be 40% of the total population in the country (National Plan of Action 1996. The highest growth is among the small towns which have relatively fewer inhabitants but are characterized by acute shortage of services. What is remarkable is the high growth rate of these centers and the inability of the local governments to address the problems they are facing. The difference with smaller towns is that these are mainly on private land which lack basic services.

Increased population was compounded by lack of strategies to provide services for urban residents as confirmed by the rapid growth of informal settlements which house a majority of urban residents. There has never been a clear cut policy to provide services to residents in these areas because they are illegal. The problem of illegal settlements has been worsened by increased urban poverty. Currently over one third of the urban population in Kenya is below the poverty line. Given that urban population is growing at 6.5 % this therefore means worsening of poverty and perhaps the rate of severity of such incidence will increase. This is indicated by the increase of informal settlements where most of the poor live. For

example, national estimates of the contribution of the unplanned settlements have ranged between 60 percent and 80 percent (UNCHS 1987). Further, between 1979-1989 the informal sector accounted for 60-80 percent of all the housing constructed (Hoek-Smit 1989: 9, UNCHS 1987). In addition, the housing situation is such that about 500 unapproved houses are erected and occupied every week in the urban areas with a total of about 26,000 housing units being erected illegally every year (Republic of Kenya 1990a: 1). All these problems intensify conflict while at the same time it reduces the power of the poor to improve their situation.

In Nairobi 55% of the residents live in informal settlements and these occupy 5.98% of total residential land (Matrix Development Consultants 1993). These settlements are growing faster than the rest of the city creating serious problems of access to services. Access to land is closely related to provision of services because most actors are unwilling to invest in services in informal settlements because of insecure land tenure. The temporal nature of these settlements causes fear among residents and other outside actors to invest. Thus even where other actors would be willing to invest they are put off by the possibility of their developments being destroyed. This is particularly true of Nairobi where these settlements are located on prime land. Some Non-Governmental Organizations (NGOs), many Community Based Organizations (CBOs) and individuals have not given in to these fears and have developed these areas. The impact of NGO and CBO activities are, however, too small to reach the many households living in informal settlements.

Access to Services - Rapid urbanization and lack of policy on informal settlements is the fact that these settlements lack basic services like water, sanitation and garbage collection services and have suffered neglect in the past on account of their being "illegal". The settlements have been characterized by rapid growth and overcrowding. According to the 1997-2001 development plan, 75% of the country's urban population has access to safe drinking water. In most cases, however, this water is not extended to unplanned settlement and where it exists it is inaccessible on account of high cost. For example, 43% of the people living in unplanned settlements in Nairobi do not have safe drinking water while 11.7% of the plots do not have water connection on their plot (Alder, 1994: 9). Even where these services are available, cases of discrimination were cited in Kibera that during time of scarcity of water the kiosk owners preserved water for their regular customers.

Data for three Nairobi slums, show that most residents in unplanned settlements depend on water kiosks. Potable water in these settlements is inadequate, unreliable and costly. For example, in unplanned settlements only 12% of the plots have water available directly on the plot. The majority of the population (86%) obtains its water from kiosks (NCC 1996). In Nairobi, unit prices at water kiosks, which serve the majority of the poor, are about five times the prices paid by middle and high income groups who can afford direct connections. These prices are higher in times of shortages where costs can increase by more than 100%. Water shortages are frequent in unplanned settlements where pipes can be dry for two to three days a week. Moreover, the limited number of water kiosks in many settlements reduces accessibility to water. Consequently, the poor consume far less water than they would were prices lower and distances to water sources shorter. In some cases residents are forced to use contaminated water from bore holes (like in Kibera) or the Nairobi dam. This

further worsens their situation as many residents are prone to diseases and other hazards associated with consumptions of dirty water.

Very poor drainage leads to pools of stagnant water. Where drainage exists, it is largely in the form of open earth drains which are frequently choked with refuse and stagnant water becoming good breeding places for mosquitoes and flies. Generally the drains are shallow and poorly maintained. Another problem experienced in these settlements is that of waste water (i.e. sullage from laundry, washing of kitchen utensils etc) which is normally disposed by throwing it outside the houses. In addition, many places have no place for a bath or shower.

Solid waste disposal is similarly a major problem in unplanned settlements. In most urban areas this is disposed of in open dumps or crude sanitary landfills; burned; or turned into compost. In low income areas garbage collection service is very poor, the commonest mode of disposal is dumping along streets, play fields and between houses (MENR 1994: 101). For example, according to 1994-1996 Development Plan, the City Council only collected 1/4 of the nearly 340,000 tons of garbage generated in 1992. This situation has worsened in subsequent years and those most affected are those living in large informal settlements where garbage is a major course of many diseases, disability and death especially among the children (1994-96 Development Plan: 174). This problem is exacerbated by the fact that most of these settlements are inaccessible by the municipal refuse vehicles as roads/paths are too narrow and inaccessible.

Inadequate excreta disposal is a the major problems facing residents in informal settlements. For example, in 1990, 35% of Kenya's urban population had access to a public sewer, septic tank, pour flush latrine, VIP latrine or simple pit latrine; the remaining 65% of the population lacked adequate sanitation. This problem is more acute in unplanned settlements where almost 90% of the population does not have access to adequate toilet facilities while an estimated 60% of the households have no access to a toilet. They usually share a pit latrine with as many as 50-400 people (NCC 1996). For example, 36% of households living in unplanned settlements in Mombasa and 56% of both Kisumu and Nairobi had no means of proper excreta disposal (GOK and UNICEF 1992: 89).

In Nairobi, households living in unplanned settlements mainly share pit latrines where they exist. The pit latrines are usually constructed by landlords. Although some settlements have pit latrines, they are still not adequate in number due to their structural state and high level of usage. Often no latrines are provided at all (NCC 1996: 19). As pit latrines are fewer compared to the number of users, it is not uncommon to see open areas used for excreta disposal causing a serious health hazard (NCC 1996).

Most pit latrines are also not accessible by emptying vehicles. When some become full, they are simply closed or demolished and new ones are constructed nearby. In most cases lack of available land makes construction of new pit latrines impossible.

In Mombasa the sanitation system is grossly inadequate and about half of the population would be unable to pay for full sewerage system. Only 17% of the town is served with a sewer while 18% uses septic tanks/soakage pits. The remaining 65% mainly use unimproved pit latrines/pour flush.

Some of the pit latrines and especially in Swahili houses are normally manually emptied. In many cases manual pit emptying is done at night and the pit contents are illegally dumped in open spaces/areas, or in surface water drains on the beach. The emptying process pollutes the air and is a health hazard to both the workers and the community. Surveys done in 1995 indicated that the pit latrines pollute most wells and bore holes,. This is a big problem in Mombasa where only 30% of the population has piped water while the rest of the households depend on water from wells and bore holes. Like in Nairobi, ventilated improved latrines (VIP) latrines have been constructed by Mombasa Municipal Council and community with the support of UNICEF through the Child Survival and Development Program. A total of 144 demonstration VIPs have been constructed for primary schools.

The above scenario clearly indicates increased population in urban areas leading to many people living in unplanned settlements which lack most basic services and land tenure. In big towns land belongs to public authorities like the government or the Councils or private individuals. Where there is illegal occupation of land not much has been done on account of illegality and so assumes greater importance because development of these settlements depends on it. It is, therefore, clear that conflict in these areas have been intensified although this is mainly suppressed by existing administrative structures. The following section will look at the strategies followed after independence and how they dealt with the issue of land and services in urban areas.

## 3. Responses to Growing Demands on Land and Public Services

### 3.1 Responses by Public Sector

Hardly any supportive strategies existed in response to unplanned settlements before and immediately after independence. The settlements were viewed as illegal and temporary which justified lack of provision for services or adequately addressing critical land issues especially in Nairobi. Before independence the problem was dealt with by non-interference since the settlements were usually outside the city boundary and unregulated. Many settlements were, however, demolished just before and after independence confirming their temporary nature. Colonial administration at the time viewed the settlements as a habor for criminals, a view that continued after independence. Thus immediately after independence the government concentrated on a program of improving colonial housing, construction of a few new housing units, and demolitions of informal settlements, increasing conflict between the state and residents of informal settlements, since apparently the settlements were not going to be tolerated although no alternatives were provided.

Demolitions led to displacement of many people who moved to other areas of the city to settle there, knowing very well that they could easily be victims soon or later. This is true of settlements like Korogocho which to date are named after the villages where people were evicted from initially. The residents were given Temporary Occupation Licenses (TOL) with the condition that if this land was needed by the government they would have to move. This left their situation uncertain since they did not know what would happen and previous experiences has shown that they could be moved anytime often without notice. They also could not voice any objection because the government had given them alternative in the form of temporary occupation licenses. Thus the conflict was suppressed and never resolved up to today. Whatever minimal resistance existed at the time was dealt with immediately and only involved a few people who then lost credibility because "they were fighting the government" which until recently cold not be questioned. In addition, demolitions of informal settlements abandoned in late 1970s have resurfaced during the 1990s. The more cent demolitions have been resisted like in the recent case of Soweto village (1997) and a few other cases.

Eviction had been done by different groups including the government, landlords or political opponents and with urban land being scarce the problem is likely to get worse. Following is a box indicating eviction of tenants in one of the settlements.

#### Box 1

Thika: at least 20 families in Thika's Majengo Estate spent the night out in the cold after their landlord demolished their houses on Friday evening. The tenants said the landlord, accompanied by a team of laborers, forcibly removed their belongings from their houses before demolishing the buildings. They accused the landlord of failing to give them notice as required by the law and children became ill due to exposure to cold. However, the landlord said that he had given them a month's notice to vacate the building. (Agevi 1996).

Agevi indicates that eviction/demolition is highly detrimental to the integration of informal settlements within mainstream urban development. Demolitions discourage inhabitants from investing in the improvement of their environment and perpetuate a climate in which government regulators are seem by the majority of urban population as adversaries rather than partners. Further demolitions eradicate scarce housing stock and displace thousands of families and further marginalize the households affected.

#### Box 2

Households evicted in November 1994, had over 2,000 people. The area was formerly a garbage dump on public land which was filled, covered with soil and later settled upon.

Residents began settling in 1981 after a Nairobi City Council official began selling plots. In 1993 this same land was allocated to an individual who started pressing for eviction of residents.

This person filled an affidavit to have the households evicted. He got it and with the assistance of Administration officers directed the local District Officer to proceed with mass eviction. The householders were evicted and their attempts to come back were futile.

Source: Kituo cha Sheria

As the boxes above indicate the policy pursued immediately after independence failed to address the shelter problems affecting the poor. Demolitions increased their insecurity and further marginalised them in the city. Failure to address the land problem merely postponed the problem. Meanwhile, the population continued to increase and the informal settlements continued to grow rapidly.

By early 1970s, it had become clear that demolitions were not solving house problems and so a viable alternative had to be sought. This coincided with international support for people living in informal settlements lacking basic services by the World Bank. This was mainly in the form of site and service schemes and squatter upgrading programs. Site and service projects provide urban land and services in small plots so that individual households can build their own dwellings.

In these projects, plots are levelled and furnished with access roads, drainage, water, sewerage, electricity, health clinics, refuse collection, fire protection and other services. Projects of this type were implemented in Nairobi in 1975 (Malombe 1990).

Site and service schemes had the following shortcomings:

- did not benefit the target income group because they were too expensive;
- brought serviced land into a highly competitive market and those who had money just bought out the poor and thus benefitting a much higher income group (Malombe 1990);
- had very little impact on the growth of informal settlements which have continued to grow rapidly in the 1980s and 1990s due to increased demand and low supply of appropriate low income housing.

These programs stressed improvement of services in squatter settlements. In this case services were provided in the settlements and the displaced persons resettled. The landlords paid for these services and community participation was also expected was expected to reduce cost of services. Land tenure was also provided. Providing security of tenure, however, proved to be too complicated in bigger cities like Nairobi and hardly any upgrading was done. Where implementation took place the programs were plagued by a number some of the following problems:

- Squatter upgrading mainly benefitted structure owners leaving out the majority who included tenants. These comprised about 80% of the residents;
- Improved led to increased rents which forced to move to other informal settlements who had to either crowd in existing informal settlements or start other informal settlements. This therefore postponed the problem to another area and at times even worsened the situation because new informal settlements do not have any services at all.

Both site and service projects and squatter upgrading programs were the first large-scale strategies to address conflicts around land tenure and provision of services. The approach however, did not deal with the historical factors affecting land and provision of services, and was not well targeted and ended benefiting a higher income group than intended. The availability of funds from support agencies was the main criteria for decision to implement site and service projects and squatter upgrading programs. Once the funds were not forth coming, no more housing was provided by public agencies for the poor. Meanwhile the numbers continue to increase and so does poverty and conflicts on available of scarce resources.

Implementation of site and service projects and squatter upgrading programs were a major shift from providing complete housing units to provision of infrastructure. Although the project provided services to many respondents, they were expensive. Water bills paid in Dandora were the highest in the city because of the large number of people per plot (averaging 13 persons). Electricity connection to the plots was also costly and more than 50

percent had not connected electricity to their plots (Malombe 1990). All these factors meant that both land and services remained inaccessible for many urban residents.

The mid 1980s were marked by lack of public sector involvement in the provision of services to the poor. With time it became increasingly clear that there is need to support some of the activities on the ground so as to find a viable way of dealing with this ever increasing problem of unplanned settlements. This was also at the time when government's ability to invest in services, in particular were diminishing. Particularly in the last five years partnerships have been forged with other actors like NGOs to look for solutions to this difficult problem. The Mathare 4A Development Program and Community Land Trust in Voi described below illustrate these recent approaches to improve shelter delivery.

#### **Mathare 4A Settlement**

Mathare 4A is one of the villages in Mathare Valley informal settlement located on government land. Partnerships between a local church, a donor agency, the Council and the government were forged. These allowed the government to release their land and the other parties to release their resources. The main target was tenants who in previous years are displaced whenever their are improvements. The objective was therefore to make sure that they do not get displaced after the improvement. This was done by ensuring that rent does not change. Further the absentee structure owners were compensated for their structures and the structure owners who resided in the area compensated for their structures (but continued to occupy their structures as tenants).

The strategy included improvement of infrastructure without delay, eg by providing toilets and improving conditions to create an environment for the residents to carry out their economic activities and improving rental accommodation. Sanitation, accessibility and security were improved. Shelter was improved through successive replacement of mud and wattle structures with improved cheaper housing. The land is being held in trust by the Catholic Diocese and the tenants continue to pay rent. Tenure was secured with the government transferring the land to the church which has taken over the structures from the absentee landlords. Part of the rent is reinvested back into the community in form of maintenance costs and the surplus will be used in formal housing development.

This project addressed land tenure, service provision and problems of tenants. Tenants have been mostly ignored in most housing improvements although they constitute a majority of households in informal settlements. Their right to decent housing has never been the subject of concern for a long time.

Although the strategy presents an interesting model worth testing, there is the issue of land ownership remains unresolved. Although ownership rights are with the church there are possibility of future problems. There is a possibility that tenants can be dissatisfied with these arrangements because they were hardly involved. This could lead to rejection of the tenure system. This system is also vulnerable to change of leadership within the church or government. If another person who does not support the strategy takes over the parish they may decide that it is not such a good idea.

The high cost of infrastructure development in this area is not likely to be sustainable and dependence on donor funding has many limitations. Maintenance of services of services is bound to be a problem as well because the tenants may not want to maintain services that do not belong to them. Thus ownership is bound to bring about a lot of conflicts in the near future.

The project also seems to have overlooked important issues like the existing rent markets. It is doubtful that the target beneficiaries will continue to occupy such highly marketable housing while they continue to pay low rents. Experience from other developments, like City Council housing suggests that the tenants will most likely move to cheaper rental accommodation and rent this to others so as to make money from these rooms because the markets rates are much higher than what is being charged.

### Community Land Trust (CLT) in Tanzania Bondeni Voi

The objective of this project is to empower poor communities living in the urban slum and squatter areas by securing land tenure for the community. CLT has ensured that land remained effectively in community ownership by removing it from the speculative land market.

Tanzania-Bondeni, an informal settlement in Voi town was started in 1940s. The project activities started in 1990 with a socio-economic survey while community mobilization started in 1992. The project started with community participation to avoid the pit falls experienced in previous upgrading programs indicated above. Previous experience had indicated that the security of tenure was important to encourage further investment of residents resources because one of the issues affecting investment was fear of eviction.

Previous development had also shown that whatever standards were developed should be affordable by the target group otherwise it would lead to displacement and defeat of project objectives. Another important issue to be considered was the residents who comprised both structure owners and tenants.

Community mobilization was seen as a very important component of the project and was one of the first main activities. The main objectives included the following:

- to increase awareness, knowledge and ability of the community to organize themselves for self reliance around the upgrading process;
- to sensitize to overcome the idea of dependence. So far they had mainly been recipients of support from others. This was also important in terms of ownership of the project;
- to mobilize all available resources within the community;
- to create the sense of and urban community.

Upgrading in Tanzania-Bondeni in Voi settlement can be described as a systematic and progressive improvement of the social and physical environment of existing unplanned settlements through provision of secure tenure and basic infrastructural services like roads, water supply, sanitation, community facilities.

This project addressed the following:

- land tenure by introducing a new ownership by community;
- provision of services;
- community empowerment and community participation.

Though very small, the project has addressed conflicts on land and services, as well as established new community structures that create a sense of belonging which eventually should play a significant role in resolving community disputes. The representative committee selected by the residents, played a significant part in resettling households who were displaced by the new developments in Tanzania-Bondeni. The committee also has a mandate to deal with outsiders which limits exploitation or duplication of projects. The training process which the community went through and the process of owning land together created a more cohesive community which has a lot at stake together.

Both this project and the Mathare 4A organized around issues that are of great interest to the households in these areas and have activities that have addressed urban poverty among others. They have also addressed serious environmental problems faced by the communities namely sanitation and water provision. The projects involved the communities and build their capacity to deal with whatever problems they face now and in the future.

These projects, however, face some challenges like land ownership patterns which can be abused by powerful members as has been the case with land companies which have faced many problems in the past. Also the possibility of them being scaled up are doubtful given lack of government land in most urban areas, the long process required to implement these kinds of projects and necessary funding.

### 3.2 Responses by Other Actors

NGOs have made a significant impact in the development of infrastructure although they have not addressed the issue of land. Lack of tenure has limited the extend of their involvement in informal settlements. NGOs provides most services in these settlements in spite of the settlements being illegal. For example, Kenya Water and Health Organization (KWAHO) has assisted in the construction of demonstration Ventilation Improved pit Latrines (VIP) in communal places and institutions besides providing training in their construction. By 1990, KWAHO had constructed fourteen (14) ventilated improved pit latrines for demonstration in communal places and institutions. However VIPs are costly and due to lack of secure land tenure, landlords are unwilling to construct them. Sometimes tenants are unwilling to contribute for construction because improvement basically benefits the owner who may evict tenants any time or increase rent after improvements.

Through KWAHO's assistance, the community obtained a latrine emptying vehicle funded by the Norwegian Aid Program which was able to access difficult areas and service pits with dense wastes. The exhaust van was managed by the user community within a committee composed of 9 members. Beneficiaries paid Kenya shillings (Kshs.) 150 for a full load. KWAHO's support for an exhauster emptying vehicle worked for only two years 1991-1993. The failure of the emptying service was due to inadequate maintenance of the vehicle. Operational problems of the emptying vehicle arose from:

- puncturing of the vehicle tires by broken bottles;
- the vehicle gets stuck in the mud;
- the vehicle being taken over by powerful residents eg. Kibera;
- services developed for the poor have been taken over by powerful landlords and used to generate incomes for individual landlords. Another case in point is communal latrines constructed by UNICEF which have been locked up by powerful landlords and their used limited. This is a major issue to be addressed in any improvements aimed at the poor because powerful landlords/individuals have a tendency of taking over these public services. The lack of resistance from communities is mainly because most powerless tenants are usually at the mercy of the landlord who can decide to evict them any day. Powerful landlords also have strong ties with powerful politicians and makes sure their interests are protected in all these areas. A case in point is the strong ties existing in Kibera between the chief and landlords. Several groups in Kibera for example, indicated the powerful landlords had taken over public toilets in the settlement.

The Undugu Society of Kenya is involved in a range of activities which include settlement upgrading, water and sanitation among others. Undugu's activities are in three informal settlements namely Kitui-Pumwani, Kibera and Mathare. In Kitui-Pumwani, before UNICEF's intervention, the area had rudimentary latrines built along the Nairobi river banks which were most inadequate and inappropriate due to the unstable ground and high water level. Meetings between the communities and Undugu led to the identification of new sites for communal latrines. The community contributed unskilled labor and some funds for the skilled labor, while Undugu helped with finance for materials and supervision.

After the success of the first phase of latrine construction, UNICEF offered funds for further construction. The City Council with funds from UNICEF's Child Survival program also constructed water borne toilets near the sewage line. The management of the toilets is entirely the responsibility of the community especially through the settlement health committee. A community group called "Beba Twende" also runs a few of the toilets. Normally the village committee allocates a group of households to a toilet and these households, in conjunction with Afya Bora group, are responsible for the maintenance of the toilets (Kiamba M. J. Malombe, R. Muchene, 1992:50).

Apart from regular pit latrines attempts have been made to introduce improved pit latrines. For example, Ventilated Improved Pit (VIP) latrines in Kibera were built by UNICEF through Kenya Water and Health Organization (KWAHO). Many of these have, however, been grabbed by some powerful landlords and are usually locked as indicated above. Some latrines have also not been emptied when full due to lack of adequate accessibility (NCC 1996 20). Very limited emptying is being piloted by KWAHO but the magnitude of the problem requires a number of technologies to adequately deal with the problem.

These two case studies indicate strategies that mainly deal with provision of services while leaving aside the issue of land. This is mainly because these settlements are located on government land and NGOs have no say on what happens. Most NGOs have also concentrated on non-controversial developments to avoid conflict with the government. The improvements are also greatly limited by the land issue because lack of secure land tenure could mean demolitions of the settlements. While NGOs are playing a significant role in service provision and reducing conflicts around access to services their efforts could be seen at times at providing temporary relieve which reduces direct conflict with the government which is not providing services for majority of urban dwellers. This could also work against the poor whose needs for services and security of tenure remain unaddressed by the government. The NGOs have also an advantage of empowering communities to demand their rights because they work directly with communities. But their activities are limited because they are not supposed to be political in anyway. If the NGOs were not involved they way they are, one wonders if the government would be forced to address the conflict or, if communities would rise against lack of these essential services and force these issues to be addressed.

### 4. Constraints to Conflict Resolution

Some of the main constraints related to land and service provision include:

- Lack of Recognition of informal settlements and the right of the inhabitants to live in the city. This is very closely tied to the historical problem of not having dealt with the issue of redistribution of land after independence. Issuance of temporary occupation licenses which give residents limited rights to land as long as the government does not require has aggravated the problem. This puts the landlords in a vulnerable situation where they have no bargaining power because the government is doing them a favor.
- The fear of eviction that limits participation by both public and private sector and thus providing excuses for not providing infrastructure. The fear is sustained by temporary occupation licences which gives one only temporary occupation rights and this limits how much one can do. This fear has been a powerful tool for government to silence the landlords because living in these settlements remains a privilege not a right.

- Restricting investment in unplanned settlements by all actors due to insecure tenure. The illegal nature of the settlement is a dis-incentive to investment because of fear of evictions. As long as different organizations keep a safe distance the issue will not be addressed. The poor often do not have the power to address issues of such magnitude.
- People's participation is crucial in conflict resolution. Lack of meaningful community participation makes it difficult to address conflicts and especially conflicts on resources like land and provision of services. It is not clear who constitutes the community in informal settlements because residents have conflicting interests. For example, the landlords and tenants have very different interests and provision of services represent different benefits for both groups. Improvement, does not always lead to resolving of conflicts because this could benefit a group that is already benefiting. For example, squatter upgrading benefits landlords who not only get tenure but get services as well. This increases the value of land leading to increased rent. Increased rent affects tenants in a negative way because they cannot afford the new rent and have to move to other informal settlements increasing their housing problems. About 80% of all the residents in informal settlements are tenants. Displacing them, therefore, increases conflict of large numbers of urban households.
- The communities do not usually participate in decision making even for their own development. Representation does not always work and vested interests lead to many elected leaders addressing their own needs and not those of the community. There is also a lot of manipulation when it comes to election of local leaders. Most times election depends on how much money you give to community members before election and not necessarily dealing with problems that affect the community. Another important aspect of this leadership is representation. Most of these leaders do not necessarily represent the people because they are hand-picket to advance the interests of politicians or government. They are, therefore, subject to manipulation and haven taken decisions that negatively affect the communities that they are supposed to represent.
- The undeveloped multi-party politics have also affected communities. For example, those supporting the opposition parties have greatly suffered and this has mainly been expressed by denial of basic services. Some parts in Nairobi in 1996/7 were impassable because the roads were in a bad state of disrepair. In fact the Kenya Bus Services Company (public transport system) boycotted some routes in Eastleigh because of these problems. In this case a lot of issues were left unresolved and the since the ruling party has the money they dictate what happens. This has also been indicated by politicians who are constantly pleading with the voters to vote in the ruling party to ensure development. These kind of politics intensify rather than resolve conflict.
- The power structures in informal settlements affect conflict resolution. Provincial administration have undue power because they are the ones who allocate the Temporary Occupation Licenses and are thus the only means of access to urban land by the poor. This gives them a lot of power and control over communities that they govern. They also control law and order at the local level and can utilize the police

at will to enforce whatever they want done. So far they have used their selected local informal leaders who are very powerful in spite of being informal and are the main link between the community and provincial administration. Informal leaders are used by provincial administration to enforce both formal and informal rules. For example, in Korogocho the chief through these leaders collects money from any landlord who wants to improve their plots. In 1996, the payment was reported to Kshs. 2000 for development of a latrine and Kshs. 5,000 for the development of a new room. The collection of "informal tax" is illegal and is never accounted for but according to the residents the chief knows about it.

The land allocation powers of the chief also gives him undue powers to do as he pleases. The residents have no power to address these issues because going to the police means going through the same administration that is oppressing them or using the same machinery to solve the problem and it does not work. In fact some residents in both Eldoret and Nairobi reported undue harassment by police who demand bribes and other favors from residents. Failure to grant these often leads to further harassment or being locked up in police cells. This harassment was prevalent among residents who brew chang'aa or provide other services in informal settlements. A resident in Korogocho reiterated how they have to both bribe the policemen to continue brewing chang'aa and also provide them with free chang'aa. A resident in an informal settlement in Eldoret also indicated how she had to regularly roast free meat for policemen working in the area although she was licensed. This is something she had to do on a regular basis.

For some residents in Manyatta in Kisumu the presence of policemen in the settlement meant trouble because they were always harassed by police who demanded money from residents or threatened to lock them up. Another example include community based leaders in Laini Saba in Kibera who suffered from double allocation of land. The community organization is involved in cleaning the village on a voluntary basis and needed an area to damp the garbage and also construct a room where they could undertake their activities. Recognizing their good efforts, the chief allocated them a piece of land. According to the group, a more powerful resident approached the chief for the same piece of land where he supposedly gave handsome bribes and got the land allocated. In no time the land was fenced and the community group had no access. Construction has already stated. A few protests have been put up by this community group and others who sympathize with the situation. The response of the chief has been mainly promises and nothing has been done on the ground. Referring to this situation one of the leaders felt helpless because a rich landlord was involved and new that their fighting would be futile. They had however not given up completely but new they would never get that particularly piece of land but hoped the chief could allocate another piece of land. This example shows how powerful the chiefs in informal settlements are and the powerlessness of communities in dealing with land conflicts. This whole set-up limits what community members can do to resolve conflict. They are so preoccupied with daily survival and avoiding police brutality that they hardly have time to organize meetings that would question the way things are done leave along dealing with conflicts around resource allocation. What one ends up with is marginalised communities who can hardly raise meaningful resistance most times.

There has been increased freedom of speech since 1992 due to the introduction of multi-party politics. In some cases residents have been able to air their views and protest against land grabbing by powerful individuals. Although this mainly involves residents from middle-income neighborhoods there are a number of cases where residents from informal settlements have protest eviction. Some have even gone to court although this has not yielded usually much fruit. There have been cases of protest against government actions by residents which was not the practice before the advent of multi-partism. These efforts will hopefully lead to questioning of land allocation procedures and lack of policy and service provision for informal settlements.

### 5. Conclusions and Recommendations

- Device adequate secure tenure mechanisms. Since some kind of improvements seem to benefit the wrong group of people, it is important to establish mechanisms that allow secure tenure without necessarily giving title because if the residents cannot sell land the rich will most likely not be interested in it. A lot could be learned from the two innovative tenure systems adopted in Mathare 4A and CLT in Voi. This should, however, be accompanied by a land policy that recognizes the rights of people in informal settlements.
- Need for awareness raising at all levels and especially at government levels on the very important role played by informal settlements and their need to build community experiences and activities. There is a negative attitude among policy makers and basically the middle income people about informal settlements. Policies do not recognize the important role played by these settlements and the fact that they house majority of urban dwellers in Kenya. They are also not a passing phenomenon as lack of policy would indicate and will dominate the urban landscape in Kenya and indeed in many African cities for many years to come. Ignoring informal settlements will not solve the problem. The settlements should be recognized for what they are and efforts made by the government to deal with the tenure issue so as to release individual and private funding to support development in these areas.
- Organize the community and sensitize them on election of good leaders. Good leaders could be a conduit for development funds instead of using self-appointed ill-motivated leaders who just exploit communities. Empowerment of community members as well is a very important issue in informal settlements in Kenya. This mainly because this the only way that community members can deal with conflicts and demand the services they require. Yet most of the current leaders are part of the government system because they were brought to power by government and elected. They therefore cannot oppose what is being done by the state because they are part of it. They are also inclined to controlling the community but that is not always for the benefit of the community. All these management systems have their root in history and will take time to be changed. This is therefore need to educate the communities about their rights and especially in relation to choosing leaders who can represent them. The system of government must also be willing to allow these kinds of changes to take place otherwise it will not happen. A case in point is where communities in Korogocho have been trained by Kituo cha Sheria to elect their

leaders and the local administration blocked the election and temporarily stopped Kituo's operations in Korogocho.

- Access to information and knowledge about peoples obligations and rights. A culture of with-holding information exists in Kenya. Information is a very powerful tool used by most politicians and other people to control the community. People's ignorance is also used to cause fear leading to inactivity. All these problems are particularly acute in informal settlements where a few leaders control vital information and seem to do everything within their powers to withhold this information. Knowledge among community members will also mean that they will loose power or some illegal benefits. This barrier has to be broken but again it has been resisted very effectively in Korogocho where Kituo cha Sheria has been educating communities on their rights. They have been in trouble with police regularly with all kinds of accusations.
- NGOs need to realize the significant role they each play in strengthening communities and empower people to make right choices this underscores the importance of advocacy because governance is directly related to service provision. NGOs seems to have taken the safe route by not dealing with sensitive issues like land tenure. While this is understandable, they are currently the only ones close to communities enough to empower the communities to act. This has to be done in spite of the threat that it presents for NGOs. This is particularly important because their activities in these settlements have tended to give residents force hope for change. Their approaches also reduce the impact of poverty without necessarily dealing with route causes of poverty. This keeps the residents quite and protects the government because the level of discomfort is somewhat reduced by the activities of NGOs and so people do not question what happens. Thus the very activities that are meant to support the poor could be used to maintain them is poverty because structural issues are hardly addressed.
- Strengthen capacity of different groups to enhance their performance at the grassroots level. Kenya has a large grassroots movement which is hardly utilized because it is not organized. If the capacity of these groups was strengthened, they could go a long way in addressing some of the issues that affect them directly. The current move to form associations of these groups is a commendable one and will hopefully lead to these groups addressing the major bottlenecks that undermine their efforts.
- Community development associations should be encouraged to move towards self-sufficiency rather than rely on outside support. These associations seem to thrive as long as their is support but one this dries up their activities are greatly affected. They are also unable to follow their own agenda because the money they receive has conditions that at times restrict their activities.
- To protect the interests of tenants who constitute the bulk of the poor, they should be encouraged to organize community development associations where their problems can be tabled, discussed and resolved. Most policies or development programs do not address tenants rights and because they do not own land. These programs often work against them and they have to move to other settlements after development. Tenants also need to organize so as to address issues that affect them.

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