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Republic of Kenya

MINISTRY OF LANDS,  
HOUSING AND URBAN DEVELOPMENT

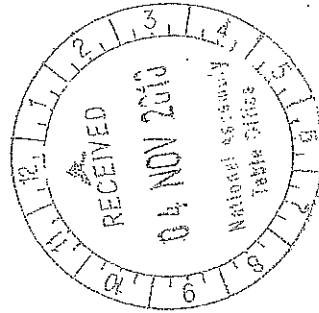
Sessional Paper No. 3 of 2016

on

National Housing Policy

April, 2016

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National Housing Policy

Sessional Paper No. 3

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## TABLE OF CONTENTS

TABLE OF CONTENTS .....	iv
GLOSSARY AND DEFINITION OF TERMS .....	viii
ACRONYMS.....	xiv
EXECUTIVE SUMMARY .....	xvi
CHAPTER ONE: INTRODUCTION .....	1
1.0 Background.....	1
1.1 Evolution of Housing Policy in Kenya.....	3
1.1.1 Pre-Independence.....	3
1.1.2 Sessional Paper No. 5 of 1966/67.....	3
1.1.3 National Shelter Strategy to the Year 2000.....	4
1.1.4 Sessional Paper No.3 of 2004.....	4
1.1.5 Housing Provision under the Constitution .....	4
1.2 Opportunities in the Housing Sector.....	5
1.3 Best Practices in Housing .....	6
1.3.1 Kenya Slum Upgrading Programme (KENSUP).....	6
1.3.2 Korogocho Slum Upgrading Programme.....	6
1.3.3 Participatory Slum Upgrading Programme (PSUP).....	7
1.3.4 Employer-Employee Facilitated Housing .....	7
1.3.5 Integrated Strategic Urban Development Plan .....	7
1.3.6 The Johannesburg Social Housing Company (JOSHCO) .....	7
1.3.7 Statutory Contributory Housing and Provident Funds .....	8
1.3.8 Vienna Municipality's Sustainable Urban Renewal Programme .....	8
1.4 Housing Problems and Challenges .....	9
1.4.1 High population growth rate.....	9
1.4.2 Inadequate affordable houses .....	9
1.4.3 Rapid urbanization .....	10

1.4.4	Complications of actualising slum upgrading and prevention.....	10
1.4.5	Weak and out-dated institutional, policy and regulatory frameworks ..	10
1.4.6	Low private sector participation .....	10
1.4.7	Insufficient capacity .....	10
1.4.8	Poor governance.....	10
1.4.9	Unaffordable construction and mortgage financing .....	10
1.4.10	Limited research on low cost building materials and construction technologies .....	11
1.4.11	High levels of poverty .....	11
1.4.12	Skewed housing provision by the private sector .....	11
1.4.13	Lack of serviced land and land banking for housing development .....	11
1.5	Implementation of Previous Housing Policies .....	11
1.5.1	Kenya Slum Upgrading Programme .....	11
1.5.2	Revamping of National Housing Corporation and Rural and Peri-Urban Housing Loans.....	12
1.5.3	Housing Sector Incentives.....	12
1.5.4	Housing Infrastructure Development Programme.....	12
1.5.5	Appropriate Building Materials and Technologies (ABMT).....	12
1.5.6	Civil Servants Housing Scheme Fund.....	12
1.5.7	Legislative and Institutional Framework.....	12
CHAPTER TWO: GOALS AND OBJECTIVES .....		15
2.0	Goal .....	15
2.1	Overall Objective.....	15
2.2	Specific Objectives.....	15
CHAPTER THREE: ELEMENTS OF THE REVIEWED HOUSING POLICY... ..		17
3.0	Introduction .....	17
3.1	Policy Targets.....	17
3.1.1	Rural Housing .....	17

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3.1.2	Urban Housing .....	18
3.1.3	Slum Upgrading and Prevention .....	18
3.1.4	Social Housing.....	19
3.1.5	Public and Institutional Housing .....	21
3.1.6	University and Institutions of Higher Learning Hostel Accommodation.....	22
3.1.7	Employer Assisted Housing .....	22
3.1.8	Urban Renewal and Redevelopment .....	23
3.1.9	Co-operative Housing.....	23
3.1.10	Urban Sprawl and Peri-Urban Housing Dynamics.....	24
3.1.11	Emergency Housing .....	24
3.1.12	Marginal and Vulnerable Groups .....	24
3.2	Housing Inputs.....	25
3.2.1	Financial Resources for Housing.....	25
3.2.2	Land Use Planning and Management.....	28
3.2.3	Infrastructure .....	30
3.2.4	Appropriate Building Materials and Technologies (ABMT).....	32
3.2.5	Estates Management and Maintenance .....	36
3.2.6	Disaster Management.....	39
3.2.7	Environmental Sustainability .....	42
3.2.8	Research and Information .....	43
3.2.9.1	Legislative Framework.....	45
3.2.9.2	Institutional Framework .....	46
3.2.10	Monitoring and Evaluation.....	53
	CONCLUSION .....	55

## GLOSSARY AND DEFINITION OF TERMS

- Adequate Housing:** Shelter with sufficient privacy; space; accessibility; adequate security; security of tenure; structurally stable; adequate lighting, heating and ventilation; adequate basic infrastructure; cultural adequacy; suitable environmental quality and health-related factors; and adequate and accessible location with regard to work and basic facilities: all of which should be available at an affordable cost.
- Affordable Housing:** Housing that is adequate and costs not more than 30% of the household income per month to rent or acquire.
- Basic Infrastructure:** Includes access roads, water-supply, sanitation, ICT connectivity, electricity and waste-management facilities.
- Cooperative Housing:** An arrangement in which an association or group of people owns a group of housing units and the common areas for the use and/or benefit of all the members. The individual members own a share in the cooperative which gives them defined entitlements including where feasible to occupy part of the property as if they were owners, equal access to the common areas, and to vote for members of the Board of Directors which manages the cooperative.
- Core housing need:** Inability of a household to rent or purchase housing that is in reasonably good condition and has adequate floor space without spending more than 30% of its income for shelter.
- Dangerous living quarters:** Living environments that is hazardous or injurious to the occupants and any temporary occupants without consideration of health and safety.
- Developer:** A person or institution who delivers at least 20 units of residential housing that meets the minimum standards elaborated in this Policy and other government instruments.
- Green architecture:** Building and structure design concept that aims at minimal use of non-renewable and/or polluting materials and resources in construction and use of the facility.
- Homelessness:** The plight embodied by lack of residence or housing which is often compounded or is as a result of

	unemployment, no role within the community in general and lack of social support systems.
<b>Housing:</b>	A multi-dimensional product that includes physical shelter, the socio-economic and cultural dynamics, related services and infrastructure and the inputs required to produce and maintain it. It also includes the processes and outcomes of the production and use of residential dwelling.
<b>Housing back log:</b>	The difference between housing need and existing housing stock.
<b>Housing demand:</b>	Desire to access housing backed by the ability to pay. The number of households actually seeking for accommodation, which they are willing and able to pay for.
<b>Housing market:</b>	The supply and demand for houses in a particular area. This constitutes the type, cost and number of houses transacted as well as the activity of buying and selling either directly by owners or indirectly through agents for rental, owner-occupation or other related purposes. Where there is no physical exchange for a housing market, the general term often refers to the performance of the housing market index but not the housing market index itself.
<b>Housing need:</b>	The number of habitable dwellings required to house the country's population adequately.
<b>Housing supply:</b>	The number of adequate housing units delivered in the housing market in a specific period.
<b>Human settlements:</b>	The totality of the human community - whether city, town or village - with all the social, material, organizational, spiritual, cultural elements and physical elements that sustain it.
<b>Inadequate Housing:</b>	Housing that does not meet the adequacy threshold.
<b>Informal settlements:</b>	A residential area where a group of housing units have been constructed on land to which the occupants often have no legal claim; these areas are unplanned and the housing so developed is not in compliance with planning and building regulations.

## ACRONYMS

ABMT	Appropriate Building Materials and Technologies
ADRs	Alternative Dispute Resolutions
AUSTC NO. 8	African Union Specialized Technical Committee No. 8
CBO	Community Based Organization
CEDAW	Committee on the Elimination of Discrimination Against Women
CIF	County Infrastructure Fund
CoK	Constitution of Kenya
CPI	Consumer Price Index
CPF	Central Provident Fund
EIA/EA	Environmental Impact Assessment /Environmental Audit
EPS	Expanded PolyStyrene
HABRI	Housing and Building Research Institute
HDB	Housing and Development Board
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
JOSHCO	Johannesburg Social Housing Company
ICT	Information and Communication Technology
KENSUP	Kenya Slum Upgrading Programme
KSh	Kenya Shillings
LAs	Local Authorities
NGOs	Non-Governmental Organizations
NSUPP	National Slum Upgrading and Prevention Policy
NHC	National Housing Corporation
PIU	Project Implementation Unit
PMU	Programme Management Unit



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PPPs	Public Private Partnerships
RIHORT	Regional Institute for Housing Research and Training
REITs	Real Estates Investment Trusts
SEC	Settlement Executive Committee
UN	United Nations
UN-HABITAT	United Nations Human Settlements Programme

## EXECUTIVE SUMMARY

The Sessional Paper No. 3 of 2016 on National Housing Policy is expected to ensure progressive realization of the right to accessible and adequate housing and reasonable standards of sanitation for every person as per Article 43 of the Constitution. It also intends to arrest the deteriorating housing conditions countrywide and bridge the shortfall in housing stock arising from demand that far surpasses supply particularly for low-income housing in urban areas. This scenario is as a result of high population growth rate, rapid urbanization, widespread poverty, escalating costs of providing housing and cumbersome approval processes.

The shortage in affordable housing is manifested through overcrowding and proliferation of slums and informal settlements. In the rural areas, the problem manifests itself in poor quality of the housing fabric and lack of basic services such as clean drinking water.

The Policy therefore aims at:-

- Enabling the low income households to access housing, basic services and infrastructure necessary for a healthy living environment especially in urban and peri-urban areas;
- Encouraging integrated, participatory approaches to slum upgrading and improvement, including income generating activities that effectively combat poverty;
- Creating a National Social Housing Development Fund to be financed through budgetary allocations and financial support from development partners and other sources for rental social housing and related infrastructure, and other low cost housing programmes;
- Establishing a framework that enables the National Social Housing Development Fund to support research and slum upgrading;
- Promoting and funding of collaborative research on the development of low cost building materials and construction technologies;
- Contributing to the harmonization of existing laws governing urban development factors that interact with housing delivery especially housing infrastructure to facilitate more cost effective housing development; and
- Facilitating increased investment by the private sector in the production of housing for low and middle-income urban dwellers.

In its commitment to providing social and affordable housing, the Government has reviewed Sessional Paper No. 3 of 2004 on National Housing Policy to comprehensively address the shelter problem. The reviewed policy is anchored on

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four pillars: The first pillar is on policy targets which highlights urban housing, rural housing, and slum upgrading amongst others and proposes solutions, which include poverty alleviation. The second pillar is on main housing inputs and addresses ways of accessing and managing the housing inputs namely land, infrastructure, building materials and technologies as well as finances. The third pillar covers estates management and maintenance necessary to ensure long lifespan for housing stock, disaster management, environmental impact assessment for housing projects, human resource development and monitoring and evaluation while the fourth pillar deals with legislative and institutional framework and assigns specific roles to various stakeholders. Under this pillar, the policy also proposes enactment of a comprehensive Housing Act to strengthen the role of the Ministry in-charge of housing in regulating housing development.



## CHAPTER ONE: INTRODUCTION

### 1.0 Background

Housing is one of the basic human needs besides food and clothing. It is considered as one of the most basic human rights and an essential component of the right to an adequate standard of living. Further, adequate and affordable housing is not only necessary for security and comfort, but also critical in fostering social cohesion and development of a nation. Beyond its socio-cultural elements, housing is also a critical driver of economic development as a result of its forward and backward linkages with other economic development processes.

There is broad global acceptance that access to decent, affordable and adequate housing is a human right and an important component of the right to adequate standard of living. This has further been reaffirmed by subsequent international instruments that Kenya is a signatory to which include the following declarations and/or commitments:-

- The Universal Declaration of Human Rights of 1948 which lays foundation for the right to adequate housing;
- International Covenant on Economic, Social and Cultural Rights of 1966;
- Committee on the Elimination of Discrimination Against Women (CEDAW) which lays emphasis on enjoinderment of women to adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communication;
- Istanbul Declaration and Habitat Agenda of 1996 and the Declaration on Cities and Other Human Settlements in the New Millennium;
- The Millennium Development Goals. Goal 7 targets 10 and 11 aim to reduce by half the proportion of inhabitants without sustainable access to safe drinking water and basic sanitation services by the year 2015; and by 2020, achieve improved living conditions for at least 100 million people living in slums;
- The Sustainable Development Goal 11 which seeks to make cities and human settlements inclusive, safe, resilient and sustainable while target 11.1 specifically envisages to ensure access for all to adequate, safe and affordable housing and basic services and upgrade slums by 2030.
- The Habitat Agenda which challenges governments to use shelter development as a tool to break the vicious cycle of poverty, homelessness and unemployment.
- African Union Specialized Technical Committee No. 8 on integration of former AMCHUD within the public service, local government, urban

development and decentralization is a commitment by African governments to address issues of urban development and human settlements including housing.

- Agenda 2063: The Africa we want, which emphasizes on the need to provide opportunities for all Africans to have access to decent and affordable housing in clean secure and well planned environments in sustainable human settlements.

Against this background, housing should therefore, be viewed in its comprehensive meaning as the processes and outcomes of the planning, production (construction) and consumption (use) of residential (living) shelters. It also involves the process of analysing the shelter needs of society, organizing the resources and facilitating society to access shelter that is adequate, affordable, functional and environmentally sustainable.

The responsibility of ensuring that all Kenyans have access to adequate housing is enormous and can neither be left to public nor private sectors alone. However, the potential impact of housing on the economic and social health of the nation necessitates explicit interventions by both National and County Governments in order to ensure delivery of adequate and affordable housing particularly to low income households and other vulnerable groups in society.

Households who live in extremely inadequate housing conditions characterized by poor structural conditions, inadequate basic services, insecure tenure, and inadequate space and privacy live predominantly in slums and informal settlements in urban areas. However, such households are also found in rural areas. Estimates by Kenya National Bureau of Statistics for the period between 1999 and 2009 indicate that households in extreme housing deprivation increased by 31% from 889,696 to 1,166,138 (which translates to 13.3% of total households) while those in some form of deprivation<sup>1</sup> increased from 3,368,135 to 4,454,121 (50.8% of all households) over the same period. This is an indication of the need for State intervention particularly for the low income segment of the population who live in extremely inadequate conditions. The Constitution affirms this in Article 21, which provides that "the State shall take legislative, policy and other measures, including the setting of standards, to achieve the progressive realization of the rights guaranteed under Article 43."

In order to give effect to this constitutional provision, the National Housing Policy aims at reducing the number of households living in extremely deprived housing conditions by half in the next 5 years and ultimately and progressively uplift all households out of extreme housing deprivation by the year 2030. This commitment

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<sup>1</sup> Households who live in some form of deprivation are those households whose living condition lack in either structural soundness, access to basic services, security of tenure, space or privacy or a combination of any two of these factors.

will require a total sum of KSh. 419,809,637,520 (assuming a low income housing unit costs KSh. 1.6million as stipulated in Legal Notice No 115 of 5<sup>th</sup> September, 2008) to take care of those who are in extreme shelter needs. Out of this amount, some KSh. 209,904,818,760 will need to be availed in the next 5 years which translates to KSh. 41,980,963,752 per year in the financial years 2015/2016 through to 2019/2020.

To achieve the above target, the National and county Governments will aim to ensure that each household attains the minimum standard of housing which in this policy comprise at least 36 square metres of housing space with basic services in reasonable proximity to households at a cost of not more than two hundred times the prevailing statutory minimum wage. To this end, the counties will be required to formulate 5-yearly housing plans that ensure enough new homes are built. This should be audited as a way of ensuring that the counties and National Governments meet the targets. These will be funded by grants from the County Infrastructure Fund (CIF), National Social Housing Development Fund and National Housing Corporation (NHC).

In the past, lack of a sustainable facilitating vehicle has limited the efficient utilization of the scarce technical and financial resources for housing development. In this regard, the National and County Governments together with relevant agencies will initiate and execute several housing programmes. To this end, a National Social Housing Development Fund will be established and regulations to guide it will be anchored in the Public Finance Management Act, 2012 in the interim but will eventually be anchored in a comprehensive Housing Bill that will thereafter be enacted.

## **1.1 Evolution of Housing Policy in Kenya**

### **1.1.1 Pre-Independence**

During Kenya's pre-independence period, housing provision and policy was highly segregated. The State then developed instruments to regulate access to resources in favour of the white elite. The segregation was marked by wealthy and impoverished distinct urban zones with disparities in distribution of among other things income and expenditure, employment opportunities, access to land, infrastructure, education, health and access to justice and above all housing. Hence, government public housing followed a hierarchic order that reserved the best housing for the Europeans followed by Asians and lastly by Africans. A Central Housing Board was created through the Housing Ordinance to cater for Africans' housing provision.

### **1.1.2 Sessional Paper No. 5 of 1966/67**

The first comprehensive post-independence housing policy for Kenya was adopted as Sessional Paper No. 5 of 1966/67. The policy envisaged direct Government provision of adequate housing at the lowest possible cost. Emphasis was placed on

enhanced co-ordination to increase efficiency in programmes and projects preparation. Other areas addressed in the policy included:- increased research in locally available building materials and construction techniques, mobilization of resources for housing development through aided self-help and co-operative efforts and housing for civil servants. The policy also advocated for slum clearance but did not clearly define the role of the private sector investments in housing delivery process. This resulted in minimal and sporadic investments in the housing sector leading to demand that outstripped supply.

#### 1.1.3 National Shelter Strategy to the Year 2000

The National Shelter Strategy to the Year 2000 advocated for a policy change where the Government facilitated other actors to invest in housing. It had been informed by the discourse of the International Year of Shelter for the Homeless in 1987. The policy shift was also informed by the fact that the public sector was unable to meet the challenge of housing through direct provision and this necessitated a shift from direct provision to an enabling approach.

#### 1.1.4 Sessional Paper No.3 of 2004

The formulation of Sessional Paper No.3 of 2004 on National Housing Policy was intended to arrest the deteriorating housing conditions and to bridge the shortfall in housing stock by clearly identifying key stakeholders and outlining their role towards the housing delivery process. The policy adopted a catalytic role over and above an enabling strategy, guided by the principles of partnership and participation by all partners in accordance with their comparative advantages. In this approach, the government was to play a central role in provision of affordable social housing for renting to the low-income segments.

#### 1.1.5 Housing Provision under the Constitution

The Constitution provides that every person has the right to access decent shelter as stipulated in the following Articles and other frameworks:-

*Article 6 (3):* Oblige the National Government to ensure the access to services in all parts of the Republic.

*Article 19 (1):* Ensure that the Bill of Rights is an integral part of Kenya's democratic state and is the framework for social, economic and cultural policies.

*Article 20 (5) (a) (b):* Compels the State to ensure that adequate resources are availed and prioritized for widest possible enjoyment of the right and fundamental freedoms having regard to prevailing circumstances including the vulnerable groups (women, the elderly, persons with disabilities, children, the youth, minorities or marginalized groups) to get special attention.

*Article 21:* Obligates the National and County Governments to observe, respect, protect, promote and fulfill the rights and take legislative, policy and other



measures including setting of standards, to achieve the progressive realization of the rights guaranteed under Article 43.

*Article 28:* Affirms that every person has inherent dignity and the right to have that dignity respected and protected.

*Article 43:* Ensures economic and social rights of every person including health, housing and sanitation; clean and safe water in adequate quantities; social security and education.

*Article 53 (1):* Affirms that every child has a right and specifically (a) (b) and (c) to free and compulsory basic education, nutrition, shelter and health care and protection from any form of abuse.

*Article 2 –(1) (5) (6):* Ensures the supremacy of the constitution and that the general rules of international law, international treaties and conventions ratified by Kenya become part of the law of the land.

The right to adequate housing has been defined and detailed in key international instruments which include UDHR (Article 25), ICESCR (Article 11) CRC (Article 27), CEDAW (Article 14), and General Comments Nos. 4 and 11 of the CESCR.

Protocol on African Charter on Human and Peoples Rights on the right to women in Africa - Article 16 – Ensures that women have the right to equal access to housing and acceptable living conditions.

The African Charter on the rights and welfare of a child – Article 20-2 (a) – Affirms state responsibility in accordance with their means and national conditions to take appropriate measures and support programmes on housing.

## 1.2 Opportunities in the Housing Sector

- i) The Constitution has radically transformed the way Kenya is governed. It has entrenched the right to housing and created National and County Governments. To operationalize the Constitution, drafts of policies and statutes have been or are due to be enacted. These measures provide wide ranging reforms and opportunities for investment and growth in the housing sector at the National and County levels.
- ii) Kenya's economic transformation is bright as a result of regional integration. Besides, Kenya has in the last 10 years experienced growth of strong middle-class households that provide ready market for consumption of housing.
- iii) High urbanization and demographic dynamics in the region are driving demand for real estate and infrastructure.

- iv) Comprehensive development blueprints including Kenya Vision 2030 and Nairobi Metro 2030 are key drivers in the housing industry.
- v) Unlike in the past, the sector has witnessed better commitment and political goodwill from the Government.
- vi) Expansion of capital markets to facilitate accelerated housing development is envisaged following the introduction of REITs in Kenya.
- vii) Partnerships between the Government and shelter related international and regional institutions such as the UN-HABITAT and Shelter-Afrique provide conducive environment for the housing sector.
- viii) Increased financial inflows from Kenyans in the Diaspora.
- ix) Increased awareness that housing is not only a social good but also a powerful economic stimulus tool that has been used by major economies to spur economic growth and development.
- x) The number of institutes for higher learning has increased tremendously in the country resulting in high demand for housing and especially students' hostels. If regulated properly, this provides a new frontier for real estate development.

### 1.3 Best Practices in Housing

Some of the best practices locally and internationally in housing include the following:-

#### 1.3.1 Kenya Slum Upgrading Programme (KENSUP)

The Kenya Slum Upgrading Programme (KENSUP) aims at addressing the challenge of housing affecting majority of the urban population who live in slums and informal settlements. The Programme begun after the Government and the UN-HABITAT entered into a Memorandum of Understanding (MoU) on 15<sup>th</sup> February, 2003 to upgrade slums and informal settlements. The Programme aims at improving the lives of people living and working in the slums and informal settlements in all urban areas of Kenya and contributing to poverty reduction and the fulfilment of the Millennium Development Goals, specifically Goal No. 7 target 11- of improving the lives of 100 million slum dwellers by the year 2020 and the Sustainable Development Goals. The programme also involves the construction of social amenities such as schools and other social infrastructure.

#### 1.3.2 Korogocho Slum Upgrading Programme

This is a joint initiative of the Government of Kenya with the funding support through a debt swap for development entered into by the Government of Italy. The initiative seeks to upgrade Korogocho slum in order to improve the living and

working conditions of residents. This will be achieved through coordinated support to the residents of Korogocho to attain security of tenure through an appropriate land tenure system and prepare and implement improvement of the physical, economic and social living conditions.

### **1.3.3 Participatory Slum Upgrading Programme (PSUP)**

This Programme which is funded by UN-HABITAT is being implemented through piloting of participatory slum upgrading projects as well as community managed interventions. The programme aims at strengthening the capacity of all relevant stakeholders including National and County Governments, non-governmental organizations, civil societies and community based organizations as well as the slum dwellers on participatory slum upgrading.

### **1.3.4 Employer-Employee Facilitated Housing**

The National Housing Policy for Kenya of 2004 encouraged employers to facilitate their employees to acquire housing by way of giving them loans or facilitating them to get mortgages. To actualize this, Civil Servants Housing Scheme Fund was established in 2004 with a clear mandate to provide loan facilities to civil servants for the purpose of either purchasing or constructing a residential house, develop housing units for sale and for rental by civil servants and, raise funds for the implementation of the two objectives. As at January 2016, the Fund had benefited 3,002 civil servants. Out of these, 1,861 had bought houses developed by the Scheme, 730 had secured mortgage loans and 411 had acquired rental houses. The loans are given at 5% interest rate.

### **1.3.5 Integrated Strategic Urban Development Plan**

This is an initiative that is being carried out by Urban Development Department in the Ministry of Land, Housing and Urban Development (MLHUD). The initiative aims at preparation of informal settlements upgrading strategies for Othaya, Bungoma, Mtwapa and Garissa among others.

### **1.3.6 The Johannesburg Social Housing Company (JOSHCO)**

The Johannesburg Social Housing Company (JOSHCO) is credited for providing tens of thousands of affordable housing units, improved living conditions and basic services to poor families. As part of an exemplary project based on community development since 2004, it has converted former male-only mine hostels, derelict inner city buildings and some slum districts into liveable homes. The Company has also organized youth days, sports programmes, clean-up campaigns and other activities as part of its development plan. JOSHCO teams focus on priorities like violence against women and children, youth, the family, early childhood development and measures to reduce crime within communities.

### 1.3.7 Statutory Contributory Housing and Provident Funds

Housing development requires enormous resources, which need to be mobilised cheaply within national resources and institutions. Statutory contributory housing and/or provident funds have enabled affordable housing financing in many countries such as Mexico, Singapore and Gambia just to mention a few.

Under the 1917 Constitution of Mexico, housing is recognized as a right and every employer has an obligation to provide housing for the employees. In order to actualize this right, every employer in Mexico is required to contribute 5% of an employee's salary for housing. The employee uses this saving to buy, construct or take a mortgage for housing. In the event that an employee retires without using this money which is kept in a Fund, the money is returned to him.

The Central Provident Fund (CPF) of Singapore was set up in 1955 as an old age saving scheme for employees. The scheme has since evolved into a comprehensive social security savings system addressing not just retirement adequacy but also healthcare, home-ownership, family protection and asset enhancement. The Housing and Development Board (HDB) which is in charge of the housing component was given an award for providing one of Asia's and the world's greenest, cleanest and most socially conscious housing programmes. For over half a century, HDB has housed a growing population and played an integral part in Singapore's nation building. Today, more than 8 in 10 Singaporeans live in HDB apartments and more than 9 in 10 of them own the apartment in which they live. HDB and Singapore are global pioneers when it comes to thinking of the needs of various sectors of society-young couples, the elderly, or disabled, to cite a few and to develop housing and surroundings that cater for their needs.

**Affordable Housing Solutions:** One of the largest cement companies in the world, CEMEX, received the Habitat Business Award in 2009 for the Community Blockers and Patrimonio Hoy initiatives for innovative steps to empower the poor to build their homes. The outstanding initiatives are innovative business models that demonstrate the social and economic returns at the bottom of the pyramid in the housing sector.

### 1.3.8 Vienna Municipality's Sustainable Urban Renewal Programme

Vienna Municipality's Sustainable Urban Renewal Programme received a global award for putting people and their views first in a model of urban renovation programme that it is imparting to other cities in Eastern Europe. Under its so-called "soft urban renewal" drive that started in 1984, the city consults its residents on charges and takes their views into account – rather than opt for demolition of the rundown neighbourhoods and compulsory relocation. At the time of starting the programme, more than 300,000 dwellings without toilets or water and sanitation making up some 40 per cent of Vienna's housing stock were targeted for renovation. Under the multi-million dollar programme the sub-standard housing

stock has been reduced to below nine per cent following improvements to more than 5,000 buildings with nearly a quarter of a million apartments.

#### 1.4 Housing Problems and Challenges

Some of the housing problems and challenges include:-

##### 1.4.1 High population growth rate

A rapidly expanding population continues to put pressure on the already strained housing situation in Kenya. Demographic indicators for 1960 to 2014 show that Kenya had a population of 8.1 million people in 1960 as compared to an estimated population of 43.0 million people in 2014.

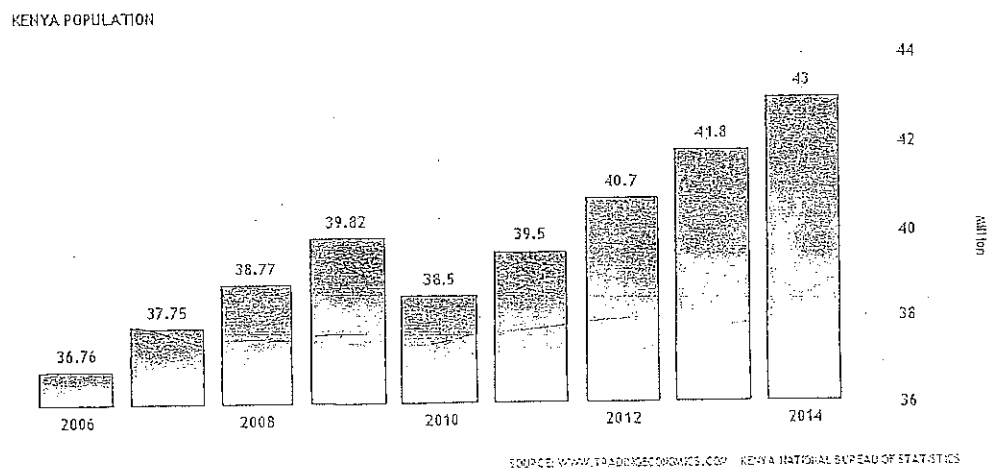


Figure 1: Population Trends and Projections 2006-2014

##### 1.4.2 Inadequate affordable houses

The housing sector is characterized by inadequate affordable and decent housing, low-level of urban home ownership, expensive and inappropriate dwelling units including slums and squatter settlements. Like many other emerging markets, Kenya has strived to provide basic housing for the low and middle income households. Currently, it is estimated that housing demand in urban areas surpasses formal production.

#### **1.4.3 Rapid Urbanization**

Unprecedented urban growth rates in recent decades in Kenya have produced some of the highest urbanization rates in sub Saharan Africa. These have caused a crisis in provision of adequate housing and related infrastructure.

#### **1.4.4 Complications of Actualising Slum Upgrading and Prevention**

Slum settlements are surrounded by complex issues such as precarious land tenure arrangements; very high densities; diverse and often competing/conflicting religious differences, cultural, political, social and economic interests. These issues make upgrading programmes slow, cumbersome and of limited impact.

#### **1.4.5 Weak and out-dated institutional, policy and regulatory frameworks**

Weak and out-dated institutional and regulatory frameworks as manifested by uncoordinated policy implementation.

#### **1.4.6 Low private sector participation**

The provision of shelter is a complex procedure involving a multiplicity of players in the building industry. One such key stakeholder is the private sector. Recent trends in the provision of shelter have tended to advocate for the public sectors indirect involvement in shelter delivery. The private sector's role should be seen as complementary to the public sector's in the provision of additional housing units since market mechanisms alone have failed to provide adequate and affordable shelter.

#### **1.4.7 Insufficient Capacity**

There are human and institutional capacity shortages in dealing with the rapid pace of urbanization and growth of slums and informal settlements. Public sector capacity is still low. Enhancing this will take resources and commitment. There is also limited capacity to generate data required to track key indicators and data to support sound policy decisions.

#### **1.4.8 Poor Governance**

Political instability coupled with poor governance and corruption affects investments in the housing sector thus increasing the already huge housing deficit in the country.

#### **1.4.9 Unaffordable Construction and Mortgage Financing**

The money market in Kenya is expensive due to relatively higher risks that raise interest rates and related construction costs and finance for housing.

#### **1.4.10 Limited research on low cost building materials and construction technologies**

Currently, there is very little research going on in this area due to low prioritization of research by both Government and the private sector.

#### **1.4.11 High levels of poverty**

This is characterized by high unemployment levels especially among the youth and low income levels. Over 75% of wage employed Kenyans earn less than KSh. 25,000 per month. This is viewed against the average cost of lowest priced housing delivered in the market, which by 2012 stood at KSh. 7.5 million.

#### **1.4.12 Skewed housing provision by the private sector**

The private sector has concentrated on developing housing for the high end of the market because this is the segment that gives the highest returns. Indeed, housing for the low and middle income population has not been adequately addressed.

#### **1.4.13 Lack of serviced land and land banking for housing development**

Land is a necessary factor for housing development. Land banking should be undertaken by all the County Governments through various strategies including public land audit, private land acquisition/purchase and Public Private Partnership (PPP) arrangements.

### **1.5 Implementation of Previous Housing Policies**

In the past few years, the Government has embarked on strengthening the housing sector by increasing its budgetary allocation that has seen housing development budget move upwards to about KSh. 4.3 billion in 2013 as compared to nearly nil in 2003. Nonetheless, this is still insufficient compared to the sector needs. The Government also recognizes the private sector as the engine of housing development and will continue playing the role of an enabler, partner and catalyst in the housing delivery process. In this connection, areas that require intervention by both the public and the private sector have been identified in order to make housing more affordable and especially to the low income households. The following programmes have been under implementation in the Ministry responsible for housing with a view to implementing proposals in the housing policy: -

#### **1.5.1 Kenya Slum Upgrading Programme**

The aim of the Programme is to improve the lives of people living and working in slums and informal settlements. One way of ensuring that the slum dwellers are not bought off by outsiders is to encourage them to form housing cooperatives for purposes of security of tenure. In this regard, a number of cooperatives have been formed by the residents of various slum settlements where the Ministry has commenced projects starting with Kibera. In addition, several social and physical

infrastructure projects have been implemented in Nairobi, Thika, Kisumu, Mombasa, Nakuru, Nyeri and Mavoko towns. Furthermore, a Slum Upgrading and Low-Cost Housing and Infrastructure Fund has been established to mobilize additional funding for the Programme.

#### **1.5.2 Rural and Peri-Urban Housing Loans**

National Housing Corporation has improved the terms of loans to eligible Kenyans in the rural and peri-urban areas who may wish to develop or improve their housing.

#### **1.5.3 Housing Sector Incentives**

To ensure increased participation by the private sector in low cost housing development, the Ministry in charge of housing proposed incentives to the Treasury and some of them have been implemented. Since these are not enough to make an impact in low cost housing development, the Ministry continues to lobby Treasury for more.

#### **1.5.4 Housing Infrastructure Development Programme**

The housing infrastructure development programme unit was established in 2006 to open up new areas for housing development and complement private sector development in reducing the cost of housing delivery.

#### **1.5.5 Appropriate Building Materials and Technologies (ABMT)**

The Government is promoting use of locally available low cost appropriate building materials and technologies in order to reduce the cost of housing through establishment of ABMT Centres countrywide. The centres are used to disseminate and train on all existing and new technologies that enhance affordability of housing. Moreover, the Ministry reviews new technologies introduced from outside the country with a view to disseminating the acceptable ones to stakeholders and users.

#### **1.5.6 Civil Servants Housing Scheme Fund**

Since 2004, the Government of Kenya established and manages the Civil Servants Housing Scheme Fund, which aims at (i) providing housing loan facilities to civil servants for the purposes of either purchasing or constructing residential houses, and (ii) developing housing units for sale and for rental by civil servants.

#### **1.5.7 Legislative and Institutional Framework**

The Ministry together with the sector players has come up with the following Bills:-



#### **1.5.7.1 Draft Housing Bill, 2016**

Once enacted, the Act will provide for the effective coordination, facilitation and monitoring of the housing and human settlements sector; capacity building within the housing sector; and the establishment of the National Social Housing Development Fund for the provision of housing and other related purposes.

#### **1.5.7.2 The Landlord and Tenant Bill, 2007**

This Bill will merge the Rent Tribunal and the Business Tribunal to create a Landlord and Tenant Tribunal that will broaden its mandate and be able to execute its own orders.

#### **1.5.7.3 National Building Maintenance Policy, 2015**

The real estate market as it exists today lacks coordination and professional standards hence the need for a policy. In this respect, the Ministry developed a National Building Maintenance Policy which aims at setting standards for building maintenance in all organizations in order to preserve and prolong the life of the building stock.

#### **1.5.7.4 Draft Leasing Policy, 2016**

The Ministry has developed a draft Leasing Policy for Government buildings and houses. The policy will guide standardization and streamlining of Government office accommodation and also help in reducing wastage on office space.

#### **1.5.7.5 Built Environment Bill, 2016**

The Bill was approved by Cabinet and seeks to consolidate the professional functions of the built environment in order to bring order, safety and harmony in the built environment.

#### **1.5.7.6 Building Laws and Regulations**

Together with the private sector stakeholders, the government has reviewed building laws and regulations that constitute the Building Code. The objective is to make laws and regulations that are in line with our aspirations as Kenyans in terms of measurements, building materials, technologies and values.

#### **1.5.7.7 Sessional Paper No. 2 of 2016 on National Slum Upgrading and Prevention Policy**

The Ministry has developed a Sessional Paper No. 2 of 2016 on National Slum Upgrading and Prevention Policy whose objective is to provide a legal and institutional framework for effective slum upgrading and prevention initiatives on a sustainable basis.

#### 1.5.7.8 Building Surveyors Bill, 2016

The Bill seeks to professionalize building surveying services in the country in order to ensure accountability in the sub sector.

## CHAPTER TWO: GOALS AND OBJECTIVES

### 2.0 Goal

The overall goal of the Housing Policy is to facilitate the provision of adequate shelter and a healthy living environment at an affordable cost to all socio-economic groups in order to foster sustainable human settlements. This will minimise the number of citizens living in shelters that are below the habitable living conditions. It will also curtail the mushrooming of slums and informal settlements especially in the cities and urban areas.

The specific goals are to develop an effective housing delivery system that aims at meeting the needs of the populace; and to establish a housing delivery system that maintains balance in the economic development and environmental sustainability of communities.

### 2.1 Overall Objective

The overall objective of this policy is to implement the provisions of the Constitution on housing delivery and improve the living environment of Kenyans.

### 2.2 Specific Objectives

The specific objectives of the Policy 2016 are to:-

- i. Put in place mechanism for the facilitation of provision of adequate and affordable housing in order to facilitate progressive realization of the right to housing.
- ii. Support adequate growth, maintenance and improvement of housing stock to meet the housing needs.
- iii. Support sustainable mixed-income housing developments that meet the needs of all socio-economic groups and also take cognizance of the needs of vulnerable groups.
- iv. Develop an effective and comprehensive legislative and administrative framework that supports housing development by all players including the National and County Governments.
- v. Develop and Institutionalize an effective monitoring and evaluation system for the housing sector including strengthening the administrative systems of monitoring the sector at both the National and County Governments.
- vi. Develop programmes and projects for delivery of adequate and affordable housing including for rental particularly to the low income households.
- vii. Promote appropriate and effective public private partnerships for investment in housing.

- viii. Increase capacity-building and institutional development within the housing sector.
- ix. Foster active participation of all stakeholders including civil society institutions, community-based organizations and individuals in the provision of sustainable housing.

## CHAPTER THREE: ELEMENTS OF THE HOUSING POLICY

### 3.0 Introduction

The major elements of Sessional Paper No. 3 of 2016 on National Housing Policy fall under two broad areas namely: - the policy targets and housing inputs. The policy targets have been discussed under the following areas:- rural housing, urban housing, social housing, public and institutional housing, universities and institutions of higher learning, hostel accommodation, employer-assisted housing, urban renewal and redevelopment, co-operative housing, urban sprawl and peri-urban housing dynamics, and emergency housing.

### 3.1 Policy Targets

#### 3.1.1 Rural Housing

##### Issue

Most of the rural inhabitants provide their own shelter using locally available building materials. Although rural housing has been adequate in quantum, it has sometimes been lacking in quality and access to basic services such as sanitation. Besides, the budgetary allocation through the exchequer, including funds for rural housing has not only been inadequate but also declining.

##### Policy statements

1. Create an enabling strategy which advocates for the participation of a cross-section of actors in the housing sector;
2. Promote use of appropriate technologies and programmes in advocating for improvement of rural shelter;
3. Adhere to minimum standards related to ventilation, lighting, sanitation and height as well as encourage and institutionalise incremental construction;
4. Promote a sustainable process of shelter improvement and maintenance in the rural areas. In this regard, the use of locally available appropriate building materials and technologies will be aggressively disseminated. This implies publicizing the advantages of using these technologies and proven traditional methods of construction;
5. Encourage households in the rural areas to live in designated areas/settlements while they commute to their farms to facilitate efficient provision of services and security;
6. Encourage rural communities to form housing cooperatives to improve their economic welfare;

To encourage development and financing of rural housing, the following steps shall be taken:

7. Borrowing/lending criteria shall be liberalized to take cognizance of the special constraints of borrowers in rural areas. In particular, the repayment terms set by lending institutions shall be reviewed to allow for part lump-sum payments of loans by the borrowers commensurate with their levels of incomes;
8. Encourage financial institutions advancing mortgage loans to rural borrowers to work out lending mechanisms which will take into consideration the plight of the family; so that for instance, where the value of the land exceeds the amount of loan in default, the family should be allowed to sub-divide the land so that only part of the land can be sold to clear the outstanding loan; and
9. Enhance rural and peri-urban housing loan scheme of National Housing Corporation to improve rural housing.

### 3.1.2 Urban Housing

#### Issues

Rapid urbanization being experienced world-wide has brought about many challenges, the most critical being a general deterioration of the living standards of an increasing majority of urban dwellers. In Kenya, the problem of urban housing is characterised by an acute shortage in the number of dwellings, overcrowding in the existing housing stock as well as the existence of sub-standard human settlements such as slums and squatter settlements. The acute shortage in housing supply has led to high rents being charged by landlords. According to the 2009 Kenya Population and Housing Census, urban renters were 66.2 per cent while rural renters were 11.0 per cent. This trend has increased over the years. Notably, the 2012/2013 Kenya National Housing Survey basic Report, urban renters were 70.5 per cent while rural renters were 12.4 per cent. Majority of the people in urban areas do not own homes. In addition, the provision of infrastructural facilities has not adequately satisfied the demands of the growing population.

#### Policy Statements

10. Encourage rental housing and rent- to- own forms of access to housing
11. Encourage use of appropriate and low cost building materials and technologies

### 3.1.3 Slum Upgrading and Prevention

Due to rapid urban growth and lack of affordable housing, a significant proportion of urban dwellers live in slums and informal settlements. These settlements are

often located in hazardous and precarious areas such as riparian land, road reserves, and land under high voltage power lines, quarries, dump sites and railway reserves. They are densely constructed since they accommodate large proportions of people in small areas. The sheer size and expanse as well as the pathetic situation of the population living in the settlements calls for urgent and coordinated interventions by County Governments guided by the national slum upgrading and prevention policy.

#### **Policy Statement**

12. The National and County Governments shall encourage and facilitate the private sector through various initiatives such as incentives for development of rental housing while authorities managing cities and urban areas will be encouraged to initiate programmes to facilitate development of affordable rental accommodation for all income groups.
13. Slum prevention shall be prioritised through appropriate planning interventions guided by a holistic approach and dictated by local circumstances, information and dynamics.

#### **3.1.4 Social Housing**

##### **Issues**

Social housing is necessitated by the following factors:-

- (a) Rapid urbanization due to high population growth rate as a result of new births, new household formation and rural-urban migration;
- (b) High unemployment and underemployment rates especially among the youths who are the majority of the population;
- (c) Low income levels that impedes access to adequate and affordable housing;
- (d) Lack of funding for social housing and related infrastructure by the exchequer for over two decades; and
- (e) Lack of proactive involvement of target groups as a means of sustainable social housing programmes to ensure they own the projects and are responsible for the decisions and projects developed for them.

##### **Policy statements**

In order to address the need for social housing the following will be undertaken:-

14. Creation of a National Social Housing Development Fund to develop social housing

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- viii. Increase capacity-building and institutional development within the housing sector.
  - ix. Foster active participation of all stakeholders including civil society institutions, community-based organizations and individuals in the provision of sustainable housing.



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- (e) Lack of proactive involvement of target groups as a means of sustainable social housing programmes to ensure they own the projects and are responsible for the decisions and projects developed for them.

##### Policy statements

In order to address the need for social housing the following will be undertaken:-

14. Creation of a National Social Housing Development Fund to develop social housing

15. Establishment of an elaborate programme that will be responsible for planning, provision and management of social housing;
16. The Government, in accordance with the United Nations Committee on Economic, Social and Cultural Rights (General Comment No. 4 of 1991) on adequate housing, shall recognize the key indicators of adequate housing and will ensure that all social housing projects adhere to them;
17. The National Government in collaboration with county governments shall develop a criteria for identifying the target groups and other special groups for consideration for social housing as identified by income levels, need for housing and vulnerability among others;
18. Increase emphasis on development of social rental units that should be located appropriately with regard to access to working areas. This will help people currently living in insecure and unfit housing access decent homes;
19. With recognition that more than 70% of urban dwellers are tenants, Government-backed or approved private-run schemes shall be encouraged to develop tenant purchase schemes to help people who cannot afford to purchase their own home in the open market;
20. The County Governments shall prioritize provision of social housing through provision of infrastructure and availing serviced land with security of tenure. This will be through setting aside suitable public land, compulsory acquisition, recovery of grabbed public land that is kept idle for speculative purposes and ensuring commensurate penalties are imposed on idle land;
21. The National Government shall introduce a contributory fund for all employees that will assist members to purchase homes depending on their level of contribution. The institutional framework will be developed in tandem with the regulations for the National Social Housing Development Fund;
22. Contributions from employees together with budgetary allocations shall constitute a social housing development fund whereby members will be beneficiaries. Corporate and individuals will be encouraged to make ex-gratia contributions out of their profits into the fund. A percentage of capital gains tax will be paid into the fund to support social housing; Further, the Government shall leverage on sovereign bonds to boost the fund.
23. Banks shall be encouraged to increase availability of affordable mortgages (responsible lending) and also be encouraged to relax lending criteria and make it easier for individuals to borrow higher amounts at low and stable interest rates. Besides, multigenerational mortgages shall be encouraged as a way of extending repayment period;

24. Employers shall be encouraged to take responsibility in housing their own employees especially those with low income;
25. Private developers shall be encouraged to invest in social housing. A certain percentage of all housing development projects shall be required to comprise social housing;
26. Old or dilapidated urban housing estates in the counties shall be re-developed to facilitate urban renewal and optimum land use thereby increasing housing stocks for both rental and tenant ownership;
27. Where justified, leaseholds in urban areas whose lease period expires shall be availed for social housing or the previous holder who seeks extension shall be required to pay a percentage of the value thereof and such payment applied in provision of social housing. Proper urban zoning shall be done to ensure that social housing is developed near the Central Business District;
28. Target groups shall be organized into suitable organizational structures like residential associations and housing cooperatives in order to achieve effective community participation; and
29. There shall be clearly defined systems of ensuring houses developed are well managed and maintained. A portion of rents collected will be set aside for this purpose and a clear programme of preventive and corrective maintenance put in place and communicated to all the beneficiaries involved.

### 3.1.5 Public and Institutional Housing

#### Issues

Most of the public houses are in poor physical conditions arising from lack of regular maintenance. They are normally few and thus benefit only a small number of the people to be served. For example, institutional housing for public servants especially the police and prisons staff have greatly deteriorated over the years. A section of the uniformed forces live in deplorable conditions with up to four families sharing a house meant for only one family thereby compromising their dignity and privacy.

#### Policy Statements

30. The Government shall develop and properly maintain public housing especially in remote areas.
31. The Government shall also carry out periodic rental valuations for all existing public housing stock as a basis for determining realistic economic rents payable.

32. All tenants in public housing shall be required to pay economic rents with the Government paying where feasible, market responsive house allowances to civil servants.
33. Provision of institutional housing shall be limited only to those institutions whose nature of service demands such housing.
34. The National Government shall develop institutional housing of socially acceptable space and standards especially for the disciplined forces.
35. Pool housing shall only continue to be developed in parts of the country where stocks of housing have not been presently constructed in adequate quantities. This arrangement shall cease to operate progressively as the market economy flourishes when such housing can then be disposed of.

### **3.1.6 University and Institutions of Higher Learning Hostel Accommodation**

#### **Issues**

There has been phenomenal growth of public and private universities and other institutions of higher learning in various cities and towns, which require housing for the teaching and non-teaching staff and more so student hostels. Lack of anticipation of this is generating slums and informal settlements in the neighborhoods of the institutions. The situation manifests itself in makeshift accommodation, excessive subleasing and overcrowding presenting a scenario of social and health hazard.

#### **Policy Statement**

36. Guidelines on hostel accommodation that include location, facilities, space, design and amenities shall be developed in collaboration with the institutions of higher learning.

### **3.1.7 Employer Assisted Housing**

#### **Issues**

Most employees, especially those that are lowly paid and not adequately facilitated to access affordable housing accommodation are likely to stay in slum and informal settlements as a coping mechanism.

#### **Policy Statements**

37. Facilitate both public and private sectors to assist their employees to acquire housing in accordance with the Employers Ordinance Act Cap 109 Sec 41 and in recognition of the fact that adequately housed labour-force generate higher productivity;

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38. Employers shall be encouraged to facilitate their employees by way of loans either directly or indirectly through the existing network of mortgage finance institutions for the purpose of acquiring residential properties; and
  39. The Government shall, in collaboration with housing finance institutions, enhance the existing low interest mortgage scheme, and make it affordable to all categories of civil servants. This scheme enables civil servants to acquire houses at affordable repayment rates. Other employers shall be encouraged to follow suit.

### **3.1.8 Urban Renewal and Redevelopment**

#### **Issue**

There are many estates neighboring central business districts that have very low densities yet occupy very prime land and are in a dilapidated state. These areas have the potential of accommodating more people especially the low income close to the work place.

#### **Policy Statement**

40. The Government shall encourage governors and managers of urban areas and cities to identify, map and secure these areas for redevelopment.

### **3.1.9 Co-operative Housing**

#### **Issues**

Currently, most housing cooperatives operate like land buying companies and are thus not structured to facilitate communal ownership and management of housing. Yet, the cooperative movement is capable of mobilizing cheaper housing finance to facilitate access to affordable housing. Cooperative housing if applied correctly has the potential to address the housing situation in urban and rural areas.

#### **Policy Statements**

41. The National and County Governments shall empower existing and potential housing cooperatives through provision of clear guidelines as well as develop various housing cooperative financing models on communal ownership and management.
42. A framework for tapping cheaper housing funds from the cooperative sector shall be developed and will include among others a structure that will enable current saving and credit societies to develop special products for housing financing that may be repaid over a period of up to 7 years, up from the current 3-4 years. Where necessary, the required legislative amendments shall be undertaken.

### **3.1.10 Urban Sprawl and Peri-Urban Housing Dynamics**

#### **Issues**

A significant number of the urban population resides in peri-urban areas. Lack of adequate planning, enforcement and oversight has yielded haphazard development in these areas whereby service provision comes after development.

#### **Policy Statements**

43. The Government shall encourage/strengthen an inter-county planning and development coordination platform; and
44. The National Government in collaboration with the county governments shall prepare and/or enforce integrated spatial plans in line with the Urban Areas and Cities Act, 2011 and County Government Act, 2012.

### **3.1.11 Emergency Housing**

#### **Issue**

Emergency housing includes housing for internally displaced persons, refugees, natural calamity victims due to floods, earthquakes, landslides etc. Currently, there is no effective institutional arrangement to address emergency housing issues.

#### **Policy Statement**

45. The Government shall establish mechanisms that will proactively plan for emergency housing by encouraging use of appropriate technologies that will ensure quick delivery of the housing as a way of ameliorating the challenges of the citizens who require emergency housing.

### **3.1.12 Marginalized and Vulnerable Groups**

According to Kenya Constitution 2010, "marginalized group" means a group of people who, because of laws or practices, are disadvantaged by discrimination on one or more of the grounds in Article 27 (4). The vulnerable groups cover the poor, women, children in difficult circumstances, the handicapped, the elderly and the displaced persons. The broader term for marginalization is social exclusion, a process in which individuals or an entire community is systematically or unconsciously excluded from basic rights, opportunities and resources such as housing, employment, health care, civic engagement, education, democratic participation and due processes, that are normally available to members of society and which are key to social integration. Subsequently, affected individuals or communities are unable to participate fully in the economic, social, and political life of the society resulting in material deprivation among other related challenges.



## Policy Statements

The Government shall endeavour to achieve the following:-

46. Involve all the targeted groups at all levels of project planning processes to create ownership and, therefore, sustainability in the programmes/projects;
47. Further encourage vulnerable groups to participate actively in housing by strengthening relations with Community-Based Organisations and by promoting the formation of self-help groups;
48. In order to ensure a conducive environment for the physical and psychological growth of children, the Government shall use housing as an entry point in breaking the vicious cycle of poverty which all too often forces poor children out on to streets. Through Community-Based Organizations (CBOs) and Non-governmental Organizations (NGOs) working in the poor neighbourhoods, home-based activities will be upgraded and their operations expanded. The Government shall also facilitate the provision, maintenance and safeguarding of playgrounds and open spaces for recreation;
49. In order to cater for the shelter needs of elderly persons, the Government shall encourage the establishment and maintenance of elderly people's homes. Currently, the few existing homes are inadequate and the private sector will be encouraged to establish more homes; and
50. New public buildings and facilities, public housing and transport systems will be required to put in place measures that ensure access by elderly and disabled persons. Similar measures will be encouraged during renovation of existing buildings whenever feasible.

### 3.2 Housing Inputs

The housing inputs have been discussed under the following areas:- Financial Resources for Housing, Land Use Planning and Management, Infrastructure, Appropriate Building Materials and Technologies, Estates Management and Maintenance, Disaster Management, Environmental Sustainability, Research and Information, and Legislative and Institutional Framework.

#### 3.2.1 Financial Resources for Housing

##### Issues

The housing finance sector is faced with the challenges of a complicated three-tier market that is served by an elaborate financial system. At the top of the hierarchy are households that can afford high quality housing. In the middle category fall the middle-income groups, which are predominantly composed of wage and salaried workers as well as the self-employed. This category is not adequately catered for in the provision of housing and as a result they are relegated to housing targeted for

low-income earners. The third category which forms the majority of households is the low-income earners. They are the most affected by housing problems arising from inadequate housing and the displacement brought about by insufficiently housed middle-income earners.

The mobilization of a steady flow of funds and making such funds available and accessible to those who need them is a key factor to shelter provision. In addition, efficient management of such funds has been lacking.

Limited access to finance is a major limiting factor in housing development and lending institutions have not really reached some target groups. Qualifying terms for mortgages are still too stringent despite the fact that housing is still in short supply. Inappropriate fiscal policies on real estate financing, inability to finance house loans to groups, low affordability due to poverty, high interest rates on mortgages, absence of graduated payments of mortgages and lack of access to the large deposits of retirement benefit funds have hindered the development of the housing sector.

Currently, mortgage lending by formal financial institutions only benefits the high-income households besides being concentrated almost exclusively in the urban areas. The borrowing needs of the low-income earners and rural people have not been adequately addressed.

In as far as sourcing funds for lending is concerned, the financial institutions have had to either depend on short term deposits or go to the open market and source funds at high market rates, so as to lend to housing buyers/developers. This has resulted in very high house prices. Whilst housing development bonds have been used by some financial institutions to mobilize funds for housing, they have been subjected to taxation, hence making them less attractive to depositors. On the other hand the budgetary allocation through the exchequer, including funds for rural housing loans, has not only been inadequate but also declining.

Currently, there are attempts to expand the role of capital markets in mobilization of resources for housing delivery and amongst this is the development of regulations for REITs. REITs are however likely to replicate the current housing markets trend characterized by a private sector that predominantly produces housing for high income households. Unless regulated appropriately, the special tax concessions given to REITs could be abused and not used for the wider public benefits particularly low-income housing.

### **Policy Statements**

In order to increase availability and access to finance for housing the Government shall:-

51. Establish a National Social Housing Development Fund;

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52. Establish a special purpose agency for housing finance which will be a vehicle for affordable housing development. The Agency shall also liaise with Central Bank to achieve affordable and sustainable interest rates on housing loans;
  53. Develop a programme that will facilitate further development of PPPs in housing finance as capital projects. This calls for tailoring of the PPPs policy and legislative framework to ensure that they support housing development. This shall be done in consultation with all stakeholders including county governments;
  54. Promote savings for housing as a national priority. Some of the initiatives to be undertaken include use of quasi-banking institutions to mobilize additional savings for housing as well as coming up with innovative products which can redirect savings in the quasi-banking institutions into housing finance and encouraging lower interest rate spread to encourage savings and borrowing for housing development;
  55. Increase the amount of public funds allocated to the housing sector in order to strengthen capacity of the sector to effectively play its role in the field of shelter development;
  56. Continue developing mechanisms of tapping more funds from capital markets for housing as well as developing innovative strategies for utilizing REITs to deliver low-income housing;
  57. Allow full interest charges on all home ownership loans to be treated as deductions from taxable income as tax relief and be subject to review every 3 years. This shall apply to the institutions that have the necessary administrative structures in place to ensure that such loans are applied to housing projects for which they are advanced;
  58. Exempt first time home-buyers from payment of stamp duty;
  59. Give low-cost housing developers in all regions a 100% investment deduction on tax payable in line with other investment incentives existing in the tourism and manufacturing sectors;
  60. Create an entity in National Housing Corporation to facilitate Diaspora investment in housing;
  61. Come up with mechanisms to safeguard buyers' interests when buying houses off-plan;
  62. Encourage offshore long-term borrowing of finance such as sovereign bonds for social housing in order to check high rate of interest on mortgages;

63. Promote the supply of a variety of affordable housing solutions in terms of quality, size, price and location for all the different income segments and ensure that the private sector matches these options with appropriate housing finance products;
64. Encourage cities and towns to develop by-laws which are friendly to alternative housing solutions;
65. Encourage the financial institutions to accept the alternative housing solutions; and
66. Encourage public institutions to utilize alternative technologies for housing delivery such as the Expanded PolyStyrene (EPS) panels, Interlocking Stabilized Soil Blocks, among others.

To assist the low and middle income groups:

67. Banks shall be encouraged to allow for multi-generational mortgage loans;
68. The low-start mortgage scheme or the graduated payment mortgage shall be encouraged. This method allows low initial repayments, which rise at a fixed normal rate over the life of the loan. The loan repayments during the early years allow a wider band of low and middle-income households to qualify for loans than would be the case under the conventional mortgage; and
69. Micro financing and informal funding mechanism shall be encouraged and harnessed for the delivery of housing for the very low income groups especially in the informal settlements.

### 3.2.2 Land Use Planning and Management

#### Issues

- (a) Currently, all land in Kenya is categorised as public, community or private land as stipulated in the Constitution. The National Land Commission will base its activities on this land categorization as it monitors and provides oversight responsibilities over land use planning nationwide.
- (b) Land use planning, housing development and provision of sanitation services are now functions of the County Governments. The National Government shall provide capacity building, technical assistance and policy framework for housing and general county planning and development to the County Governments to enable them effectively handle their mandate especially ensuring that *“Every person has the right to accessible and adequate housing and to reasonable standards of sanitation”*.

- 
- (c) Currently, too many institutions are involved in approving development applications thereby making the process expensive and time consuming before approval is granted.
  - (d) Kenya's high rate of urbanisation and population growth has not been matched with planning for housing development leading to haphazard development of human settlements that have no infrastructural facilities. In addition, the development of road bypasses and new highways has led to massive subdivision of mainly freehold private, cooperatives and institutional land. Due to weak enforcement of planning regulations, most of the subsequent plots are largely for residential development yet the ownership documents do not indicate so.
  - (e) Land in the peri-urban areas is largely under freehold title tenure with no clear development conditions. This has posed a great challenge to the planning of these areas since County Governments are at formative stages and have not been able to control development.
  - (f) High-end market self-controlled housing estates are emerging at a fast rate. There is therefore the need to integrate them with the larger county development agenda in order to create harmony.

#### Policy Statement

- 70. The Government shall encourage quick implementation of the Cities and Urban Areas Act, 2011 which sets a clear guideline in the urban hierarchy system outlining related functions and general management. The cities and urban areas managers shall ensure that land use planning guides development through a framework of integrated development plans in order to create harmony of developments within their jurisdiction. This shall include planning and management of the peri-urban land.
- 71. The National and County Governments shall ensure security of land rights for house owners and housing developers and also ensure formalization of community land trust and cooperatives land ownership.
- 72. The policy proposes a one-stop shop system in the Counties where development applications are received, fees paid and approval given within given timelines. This shall facilitate accelerated and efficient housing development.
- 73. The urban physical development plans shall be prepared through public participation with emphasis on implementation of the approved plans. Areas designated for housing development whether on public, community or private ownership shall remain so unless adequate public consultations are made to change the status.

74. Land banking for housing shall be undertaken to acquire land at values based on existing use to promote planned development and social housing programmes.
75. The Government shall encourage equitable utilization of residential lands in urban and rural areas with particular attention to the needs and requirements of the under-privileged and homeless citizens.
76. County Governments shall undertake an inventory of urban land whether under public, private or community ownership that has been planned and set aside for housing development.
77. County Governments shall be encouraged to ensure harmony in housing developments within their areas of jurisdiction including peri-urban areas and new towns.

### 3.2.3 Infrastructure

#### Issues

- (a) The opening up of new land for housing development or the upgrading of existing informal settlements require installation and maintenance of physical infrastructure such as water, sewerage, roads and electricity.
- (b) In the past few decades, ICT has taken center-stage in driving the economy all over the world yet this has not been fully capitalized on in Kenya. In addition, social services and economic infrastructure need to be integrated in housing development but more often these are usually not planned for, yet infrastructural facilities form a major and vital component of shelter provision.
- (c) Lack of trunk infrastructure is a serious constraint to private sector housing development. This has led to high costs of houses and high rents for houses developed by the private sector because the cost of infrastructure is passed on to housing consumers.
- (d) Approved housing developments are sometimes not implemented as approved. Developers have in some cases ignored provision of infrastructural services like access roads and sewer lines and this has led to serious challenges especially in densely populated areas.
- (e) Provision of infrastructural services by the Government usually increases the value of land/properties yet this benefit is not passed on to the consumers in terms of affordable housing.

#### Policy Statements

Access to adequate urban basic infrastructure and services will greatly improve people's economic capacities, health and the quality of life in general. Expansion

and improvement of infrastructural facilities and services shall be undertaken through the following:-

78. Ensuring that the County Governments carry out proper land use planning and zoning in all urban areas and cities so as to integrate provision of infrastructural services in all housing developments;
79. Encouraging County Governments to prioritize provision of social amenities such as theatres, social halls, markets, play grounds and onsite infrastructural services especially access road, water, sewer and electricity especially in low-income housing development areas. The funds collected for provision of these services shall be ploughed back for further provision of basic services;
80. Encouraging County Governments to strengthen their development control sections in order to monitor housing developments and ensure compliance;
81. Encouraging County Governments to enter into joint ventures with land-owners in peri-urban areas for mutual benefit in terms of providing way leaves for infrastructural developments and land for social services;
82. Enhancing the financial capacity of County Governments to enable them maintain and extend infrastructural services;
83. Facilitating community groups willing to contribute their labour and resources towards the improvement of on-site infrastructure, for example, by community labour contracting for small infrastructure development and maintenance works;
84. Boosting the Slum Upgrading and Low-cost Housing and Infrastructure Fund established under the Ministry responsible for housing financed from the exchequer and development partners for funding shelter related infrastructure;
85. Encouraging private developers to participate in development of infrastructure in rural and urban areas through their own initiative in collaboration with County Governments on a cost-reimbursement basis;
86. Encouraging County Governments to embrace construction technologies which are cost effective, appropriate, incrementally up-gradable, environmentally sound and labour intensive. The National and County Governments shall ensure that service providers including ICT infrastructural developers work together in harmony to minimize cost of installation of service lines. In addition, they shall be encouraged to consolidate service lines so as to free up more area for housing development especially where land is scarce;
87. The County Governments shall ensure that the common citizen benefits from any infrastructural development undertaken by the State by controlling the

prices/rents at which the benefiting private developers charge for services;  
and

88. The National Government in collaboration with the County Governments shall develop infrastructural maintenance guidelines clearly articulating roles of National and County Governments, developers and communities.

#### 3.2.4 Appropriate Building Materials and Technologies (ABMT)

Among the key functions of the Ministry responsible for housing is mitigation against the high building costs in order to facilitate the realization of the right to housing as enshrined in the Constitution by promoting collaborative research, development and utilization of ABMT. In line with this, establishment of Appropriate Building Technology Centres in all the constituencies in Kenya is one of the flagship projects under Kenya Vision 2030. This will lead to increased access to decent housing by promoting location-specific building materials and low-cost housing. Further, Article 2 (11) (b) and (c) of the (CoK, 2010) requires the State to recognize the role of science and indigenous technologies in the development of the nation and to promote the intellectual property rights of the people of Kenya.

#### Issues

- (a) Centralised large-scale production of building materials has led to high costs of building materials as a result of the high costs of electricity and transport.
- (b) Kenya is endowed with un-interrogated natural resource base such as deposits of limestone, gypsum, clay, coral, forests as well as agricultural, industrial and domestic wastes that can increase the supply of building materials and substitute current imports. However, the country does not have well-developed local building materials industries that can provide such benefits which would in turn lead to improved skills, greater income generation and stimulation of other sectors.
- (c) The Building Code order of 1968 is material based and solely recognizes conventional building materials like stones, bricks, and mortar in its application. It has several out-dated and inappropriate provisions that are susceptible to multiple interpretations, are not performance-oriented and do not recognize new building materials and technologies that could drastically reduce the cost of construction without compromising the quality of the finished building. Promotion of ABMT in the Country has been going on for the last three decades. The process has however been slow due to weak implementation of new building regulations (Code 95) developed through government/private sector initiative with the aim of promoting housing standards and procedures that could effectively reduce building costs through the use of innovative designs and local materials for low-income housing areas. There was a set-back in this initiative as no significant success was



realized since most of the defunct Local Authorities (LAs) failed to adopt the new code.

- (d) The ABMT research agenda in Kenya is faced with a host of challenges including low prioritization, inadequate funding, limited range of researched materials and technologies, marginal cost-effectiveness, elusive affordability, lack of co-ordination and limited dissemination of results. In addition, some research on locally available building materials has been undertaken by our research institutions particularly stabilized soil blocks and fiber-cement roofing tiles. This function had over many years been supported by HABRI of the University of Nairobi which nevertheless ceased operations. Other public and private institutions are involved in some form of research but in uncoordinated manner and there has also been a serious gap between research and industry.
- (e) Stabilized soil blocks and associated equipment, which have been fairly well received across the country, have their own challenges. Imported manufacturing machines such as Hydraform are costly and not supported by elaborate after-sale services, spares and maintenance. Production of stabilized soil blocks if poorly handled could degrade the environment especially in areas of commercialization. Further, workmanship could be compromised in the absence of proper training culture plus quality control and assurance.
- (f) The ABMT Centres established in some constituencies in accordance to Vision 2030 have been operating below capacity due to inadequate equipment, lack of competent staff and minimal workload since most trainings are conducted on site.
- (g) Kenyans are stuck with conventional building materials like stones, bricks, and mortar and take long to accept innovative materials and technologies in modern context.
- (h) Materials generated during excavation of sites including tonnes of black cotton soil may be disastrous if not efficiently managed in respect of environmental concerns, design options, use of space, relocation and possibilities of re-use.

#### Policy Statements

In order to increase the production of affordable housing through utilization of ABMT the National and County Governments shall: -

89. Prioritize, increase and ensure sustainable funding for structured and comprehensive research on building materials and technologies, and also consider imposing a research levy on the building construction industry;

90. Establish a suitable working definition of ABMT while elaborating on the accurate meaning of the usually confused terms such as appropriate, alternative, conventional and traditional as well as conduct baseline survey and evaluate local and alternative building materials available in Kenya with a view to establishing their appropriateness and make necessary recommendations;
91. Bench mark best practices in ABMT through regional and international learning visits;
92. Develop and implement a sustainable, systematic and prioritized collaborative ABMT research agenda that addresses various elements/aspects of the broad built-environment and meets the needs of the different Counties in the country as well as income groups;
93. Transform the Regional ABMT Centre of Kenya to a Regional Appropriate Building Technologies Research Institute (RABTRI) for the Built Environment;
94. Create linkages between the proposed RABTRI with the Constituency Appropriate Building Technologies Centers in areas of capacity building, curriculum development, technology transfer, material testing and standardization, quality control as well as assessment and certification of local and foreign technologies. This will be achieved through operationalization of a well-structured National Research Coordination Secretariat to be established within the Ministry responsible for housing to coordinate and disseminate research findings;
95. Require all research actors to harness, document and disseminate their research findings on ABMT to users as appropriate;
96. Bridge the gap between research and industry by facilitating small-scale enterprises in incubation, production and application of researched technologies, sharing of areas in need of immediate research as well as student internships;
97. Assess the viability of converting various domestic, agricultural and industrial wastes into suitable building products, utilities and means of income;
98. Develop suitable criteria for transfer and adaptation of foreign technologies into the country;
99. Design appropriate guidelines, strategies, coordination structure, networks, partnerships, collaboration and technical cooperation necessary to facilitate research and development, testing, evaluation, certification, technology

transfer, training, curriculum development, dissemination, adaptation, utilization, quality control/assurance and maintenance of ABMT;

100. To mitigate affordability challenges faced by many households, professional bodies in the built environment shall develop innovative, green and indigenous architecture including cost-effective house type-plans suitable for various parts and climatic regions of the country as part of their Corporate Social Responsibility;
101. Evaluate means of supporting ABMT through affordable and accessible housing finance models, insurance, increased plot ratios aided by on-site eco-sanitation, tax rebates on building materials and technologies and other incentives pegged on materials used, savings made and sustainable employment created;
102. Encourage efficient production of conventional building materials like cement, steel and stones as part of the industrial policy;
103. Engage in researching on the sustainability of natural building materials deposits with respect to addressing the housing needs given the rapid rate of depletion due to high population growth and rapid urbanization;
104. Promote continuous revision, wider adoption and application of National Building Regulations that are performance-oriented with regard to specifications of design, materials, and construction methods and facilitate use of new and emerging materials and technologies;
105. Encourage the public and private sectors to utilize the research findings in their housing and other development programmes;
106. Promote intensified training in requisite skills and construction technologies through National, County and Youth Polytechnics, Vocational Centres, Women and Youth Groups, CBOs, Faith-Based Organizations and ABMT Centers;
107. Encourage afforestation to ensure increased production of building materials such as timber and bamboo products;
108. Identify the various inherent and potential disasters that face the country and develop suitable rapid response materials/technologies together with suitable prototype designs to mitigate them;
109. Explore possibilities of using appropriate foundations in black cotton sites, creative use of excavated space for suitable purposes, use of excavated soils for production of stabilized soil blocks or rehabilitation of deficit sites like quarries, organized relocation of excavated materials and intense research to establish the possibility of converting black cotton soil into usable materials;

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110. Expand the services provided by ABMT Centers to include fora for developers, designers, suppliers, artisans, financiers and users to show case their innovative work; and
  111. Employ proper linkages to complement ABMT through other initiatives in land, finance, layout design, infrastructure design, unit design, construction specifications and project administrative overheads since the cost of housing is a function of all these areas.

### 3.2.5 Estates Management and Maintenance

Estate Management is the direction and supervision of an interest in landed property with the aim of securing maximum returns for financial, social, prestige or political power benefits or some other goal or group of goals. Estate management therefore includes the making of decisions as to the best use of any housing estate, its development, layout and equipment, the provision of services, selection of tenants and the maintenance and improvement of its equipment and services. In contrast, maintenance refers to work undertaken in order to keep or restore a facility/property to an acceptable standard.

#### Policy issues

- (a) There is a multiplicity of legislations that deal with estates management and maintenance of the built environment;
- (b) Rental housing, as an essential option for the urban poor in Kenya, has not been given the importance it deserves in the previous policies while social housing has often been allocated to the wrong social or income group;
- (c) Lack of proper management and maintenance reduces quality of housing stock adversely and affects the built environment including infrastructural facilities and other services. This lack of maintenance is evident in the poor state of many public owned rental houses and also seen in the attitude of landlords and renters towards maintenance;
- (d) There is need to have Residents Associations to leverage on their own contribution in terms of self-help management and maintenance initiatives to improve solving of community problems especially in informal settlements;
- (e) The sector lacks a legal framework to guide PPPs in terms of Estates Management and Maintenance;
- (f) The sector lacks adequate capacity within the built environment and maintenance as a result of which there are growing numbers of quacks in estate management who do not uphold integrity and ethical issues;

- (g) The physical conditions of housing for civil servants and estates provided by defunct LAs and parastatals have greatly deteriorated over the years due to lack of maintenance;
- (h) Low prioritization of funding for maintenance by the National Government as well as defunct LAs and parastatals coupled by lack of nationally funded housing, maintenance and management kitty;
- (i) Poor enforcement of minimum acceptable standards in estates management and maintenance;
- (j) Some employer facilitated housing is neglected and the workers live in unhealthy environment which is hazardous and can contribute to spread of diseases;
- (k) Lack of proper feedback on housing faults from Estate Managers to design teams. This is important because the estate agents are responsible for management and maintenance of estates;
- (l) There are increasing cases of eviction and disputes between tenants and land lords on issues of rent and maintenance;
- (m) Some of the premises are not secured leading to vandalism and exposure to risks; and
- (n) There is poor waste management for all types of properties.

#### **Policy Statements**

- 112. National guidelines on estates management and maintenance shall be prepared and implemented covering all modes of housing i.e. social housing, gated communities, owner occupier, rental housing, employer-employee housing etc;
- 113. Rental housing shall be given more prominence and private rental housing will be supported through incentives to financial institutions;
- 114. Every developer and landlord shall develop a maintenance manual for all houses he or she develops;
- 115. The Government shall encourage community participation through creation of Residents Associations and Tenants Association that will take care of owner occupier and renter's interests respectively;
- 116. The Government shall develop and implement a legal framework to guide PPPs in housing sector in terms of Estates Management and Maintenance;
- 117. The National and County Governments shall continue building capacity and upholding of issues of integrity and ethics in terms of Estate Management;

118. Emphasis shall be placed on conservation and increasing of the housing stock by encouraging upgrading activities as opposed to demolitions in unplanned settlements;
119. For public provided rental housing, Counties will have direct financial responsibilities for the rents they collect for purposes of maintenance, management and development of more houses and related infrastructure;
120. Property managers will be expected to mitigate against climate change by having energy saving and conservation policy, rain water harvesting etc. for environmental sustainability;
121. Estate managers and building surveyors shall be involved in the design, management and maintenance of buildings;
122. The National Government shall facilitate creation of a national database for Estate Managers to collect data and keep records on administration, design, rent records, building records etc. and avail data to government, investors and professionals in the built environment;
123. Disputes shall be handled by the appropriate Alternative Dispute Resolutions (ADRs) bodies if unresolved by the National Environment Tribunal and finally by the Environment and Land Court;
124. The National Government shall develop regulations and ensure enforcement of minimum acceptable standards for estate management and maintenance including an efficient and effective planning and monitoring system of residential accommodation;
125. The National Government in collaboration with the County Governments shall spearhead public education and sensitization on the need to keep the built environment clean and in habitable condition. Appropriate sanctions shall be put in place for offenders as provided for in the Public Health Act and other relevant legislative instruments and incentives shall be given to those keeping their environments clean;
126. Guidelines shall be given to all household on how to separate their waste for recycling purposes.
127. The County Governments shall take charge of preparation and submission of approved "as-built" drawings and maintenance manuals for each new building developed as a pre-requisite for obtaining a "Certificate of Occupancy" by the Development Control Agencies;
128. This policy advocates for a Fund from which investors in the housing sector can access financing for Maintenance and Estates Management;

129. Residential Estates that accommodate fewer households shall be gradually replaced with high density units that can accommodate more households within the County Governments;
130. There shall be periodic review of terms of performance, standards and inspections in estate management and maintenance at the County level;
131. All the existing government accommodation guidelines on leased residential accommodation shall be harmonized. The National Government shall develop a data bank for all its owned and leased residential accommodation and update the same annually while the county Governments will be expected to develop their own data banks at the County level;
132. The Government shall encourage public participation in the management and conservation of the built environment;
133. Maintenance manuals/guidelines on management and maintenance of buildings that have used appropriate technology shall be developed and provided;
134. Social housing meant for the socially disadvantaged shall be allocated fairly. Landlords shall be given tools to identify and recover properties that are being used unlawfully and to charge market rents for people earning high incomes and living in social housing;
135. A procedure shall be put in place requiring all buildings to be re-inspected every 5 years by the Development Control Agencies for renewal of "Certificate of Occupancy";
136. Kenya will benchmark on best practices from other countries on issues of estate management and maintenance to keep up with the standards; and
137. Greater application of project management from housing inception to post construction stage and throughout the project cycle will be encouraged.

### 3.2.6 Disaster Management

Disasters are events that seriously disrupt the functioning of a community, compelling affected community to cope using its own means. Disasters, natural or man-induced, and depending on causal factors, can be either slow or sudden. Many Kenyans are exposed to a wide range of hazards in the natural or man-induced environment, which adversely affect their lives and property. The range of disasters includes drought, desertification, soil erosion and landslides, deforestation, terrorism, fires, epidemics (human and livestock), refugee influx and internally displaced persons as well as unplanned urbanisation and settlements, among others.

Human induced disasters include fires, collapsing mines, industrial pollution and collapsing buildings due to structural failure. The latter has generated a lot of concern owing to increased incidents, which lead to loss of human life and property. The most devastating impacts of disasters are in human settlements especially those of the poor and disadvantaged communities where the state of preparedness and relief are lowest.

Since housing is holistic and not just the physical dwelling; there is need to define physical, socio-cultural and economic aspects of housing and how disasters influence or affect them, regardless of what causes them. For instance, when a disaster happens, and people are being evacuated, issues of how their children's education will be affected and the climatic conditions that the people will be exposed to should be considered. In cases of resettlement, both the sentimental and emotional attachment of the people should be put into consideration.

#### Issues

- (a) Lack of effective plans towards disaster management e.g. fire out-breaks in slums;
- (b) Inadequate land set aside to meet urgent shelter requirements for displaced persons in case of disaster;
- (c) Inadequate research in building systems, designs, and materials suitable for addressing disasters;
- (d) Non installation of emergency escapes in buildings;
- (e) Inadequate maintenance of services like storm water drains and fire alarm systems;
- (f) Inadequate capacity in both National and County Governments on disaster management coupled by meagre resources for sensitizing the public on what to do in the event of a disaster; and
- (g) Insufficient monitoring and evaluation on early warning systems and disaster management which is crucial for future preparedness in case of re-occurrence.

#### Policy statements

The following measures shall be put in place to strengthen the country's mechanism to manage disasters:-

138. The National Government in collaboration with County Governments shall ensure that affected communities are adequately involved in interventions towards disaster management;



139. Land banks shall be identified and set aside so as to meet urgent shelter requirements for displaced persons such as construction of temporary housing with basic facilities while taking into account vulnerable groups including children, people living with disability and the elderly;
140. Undertake mapping of the whole country, specifying the most prone areas to disasters, develop a database on the fragile ecosystems and use the information to discourage people from settling in high risk areas, remove those already settled in areas known to be unstable and offer them suitable alternative settlements for housing. A database for fragile ecosystems like hillsides, coastal beaches, swamps and wetlands shall be established. In this regard, a National Land Plan is important so as to indicate which areas have what characteristics;
141. Research on building systems, designs, and materials shall be broadened, deepened and continuously reviewed, so as to minimize the occurrence of man-made disasters such as incidences of people building without due regard to unique properties of the building materials they are utilizing and appropriate technology available;
142. Only buildings with emergency escape provisions shall be issued with Occupation Certificates;
143. Maintenance of services like storm water drains and fire alarm systems shall be made mandatory as a disaster prevention measure;
144. Occupation certificates for buildings shall be renewed every five years, so as to guarantee safety of people living or using the buildings;
145. A National Land Plan and Information System on disasters shall be put in place and appropriate dissemination channels developed to enhance community preparedness;
146. A risk assessment and insurance of buildings shall be conducted to enable those living in them to be adequately compensated in the event of a disaster taking place, and also "periodic" inspection of buildings so as to check for faults and correct them accordingly. For example, checking doors, frequent emergency drills; opening up of escape routes and also civic education on the dos and don'ts when a disaster strikes;
147. Creation of neighbourhood groups (grassroots cells) to sensitize their communities on disaster preparedness, and how to adequately and quickly respond to distress calls when a disaster happens shall be encouraged. Safe rescue mechanisms shall be employed to assist those trapped in buildings during an emergency;

148. National and County Governments shall build capacity on disaster management at all levels but most importantly at the grassroots by availing resources for sensitization on the need for quick response when a disaster happens;
149. All stakeholders in the housing sector shall be encouraged to be ethical in dealing with disaster management issues, spearhead conscious land use and point out what should be done without fear or favour. For example, the land sizes that can comfortably accommodate residential units and space for septic tank in a residential plot should not be left to chance;
150. Continuous monitoring and evaluation shall be undertaken so as to create awareness of other disasters that have never affected the country e.g. nuclear attacks, contamination of water sources etc. There shall also be need to benchmark Kenya's preparedness with other countries that have dealt with such disasters, and use such information to inform our decision making processes and systems as a country; and
151. More sensitization on how to minimize effects of disasters such as taking life insurance covers and insuring property shall be done.

### 3.2.7 Environmental Sustainability

Environmental sustainability is a state in which the demands placed on the environment by renewable resource use, pollution creation, and non-renewable resource depletion can be addressed without compromising the social, economic and other requirements of present and future generations. For housing development projects, Environmental Impact Assessments are undertaken to provide information on likely environmental impacts, possible alternatives and mitigating measures for the negative impacts.

#### Issue

- (a) Ignorance on the need to adhere to Environmental Impact Assessment/Environmental Audit (EIA/EA) reports.
- (b) Minimal utilization of the 3Rs concept i.e. reduce, recycle, reuse.
- (c) Non-participatory, non-interrogative and unplanned EIA report preparations.

#### Policy Statements

152. EIA shall be applied on sources of building materials such as quarries, forested and woodland areas, sources of sand like riverbeds, soils for making bricks and even how such bricks are cured for building purposes and encourage the 3Rs; and

153. EIA shall be participatory, interrogative and well planned in order to unearth any weaknesses, if any.

### 3.2.8 Research and Information

The mushrooming of slums, erection of poor quality informal structures, inadequate infrastructural services and inaccessible housing finance amongst others have largely been considered as consequences of rapid urbanization process which is not matched by the requisite resources. Despite projections of increased urban population growth, little has been done by way of forward planning to absorb such growth. Secondly, whereas the current focus of research in the housing sector has concentrated on materials and technology, this has not translated into actual low cost housing delivery and thirdly, most of research and information efforts by a plethora of actors have been piecemeal.

It is recognized that some research has been undertaken either by individuals or organisations but this has been mainly to meet their narrow objectives, with most of the studies focusing on specific urban areas or specific aspects. The ideal situation requires joint research efforts that feed into the overall housing policy and addresses all facets of housing delivery such as affordable materials, land, housing and infrastructure financing.

#### Policy issues

- (a) Inadequate ABMT information which promotes environmental sustainability for different climatic zones in various Counties of the Republic of Kenya.
- (b) Unaffordable financial models of housing delivery for different societal needs.
- (c) Inadequate systems of enhancing skills of existing and new construction processes and maintenance.
- (d) Non-existence of clear roles of building and housing professionals in housing development in all levels of the society.
- (e) Uncoordinated framework for various stakeholders involved in the facilitation of adequate housing in slums and informal settlements.
- (f) Inadequate incentives for housing research and delivery by various actors.
- (g) Un-coordinated information sources on activities of real estate markets and actors on housing provision.
- (h) Insufficient inventory of data and periodic market analysis on housing supply and demand as well as best practices at National and County levels.

- (i) Inadequate housing research and development funds at both National and County Government levels.
- (j) Inadequate housing development plans and by-laws on minimum standards applicable to all Counties.
- (k) Non-existence of research coordination secretariats at the National and County Government levels.
- (l) Insufficient information on levels of housing demand, supply as well as rent and price indices.

#### Policy Statements

- 154. Information on Appropriate Building Materials for different climatic zones which are area specific in all Counties of the Republic of Kenya will be compiled and disseminated;
- 155. Research on building technologies will continue to be encouraged;
- 156. Systems will be developed to enhance skills of existing and new construction processes and maintenance;
- 157. The National and County Governments will develop strategies of promoting information on green housing including appropriate designs, energy efficiency, water conservation/harvesting, space utilization, green building materials and environmental sustainability;
- 158. The National and County Governments will formulate development control working mechanisms that ensure conformity with laid down building standards, procedures, and proper planning for housing neighbourhoods and urban regeneration;
- 159. Development of mixed housing neighbourhoods for more effective provision of housing and infrastructure services will be promoted;
- 160. Different categories of incentives that will attract different participants in housing delivery will be established;
- 161. The National and County Governments will establish data bases on activities of real estate actors in housing provision, carry out periodic market analysis on the housing supply and demand at National and County levels through surveys after every 5 years in collaboration with accredited research institutions;
- 162. The National and County Governments should set aside funds for housing research and development; and also consider imposing a research levy for the building construction industry;

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163. Each County will establish By-Laws on minimum standards for housing;
  164. Every County Government should develop a 10 year housing development plan and implementation strategy;
  165. The Government will establish a National and County Research Coordination Secretariat within the Ministry/Department responsible for housing to coordinate and disseminate research findings from accredited research institutions; and
  166. National and County Governments shall ensure protection and promotion of the interest and rights of minorities, marginalized groups and communities and their access to relevant housing information.

### **3.2.9 Legislative and Institutional Framework**

#### **3.2.9.1 Legislative Framework**

##### **Issues**

- (a) The successful implementation of the housing policy shall depend on the existence of a favourable legal framework and availability of adequate resources and capacity at all levels of implementation;
- (b) Section 22 (2) of the Building Societies Act restricts the resource mobilisation capability of Building Societies to 2/3 of their mortgage portfolio, Section 24 (1 and 2) dictates the type of security that Building Societies may take to secure their lending. Section 24 (3) further restricts the amount that the Building Societies may lend to each individual borrower;
- (c) Rent control is a tool for regulating rents for the privately owned housing and for providing a legal framework for landlord/tenant relationship. People who invest in rental housing do so with the intention of getting profit. If they are subjected to rules that deter them from achieving their objective, then they will be discouraged from investing in this sector. Certain sections of the Rent Restriction Act that restrict the operations of the rental market in favour of the interests of the tenants more than those of landlords, invariably discourages investment in rental housing;
- (d) The building regulations and infrastructural standards are still too restrictive to enable the use of appropriately functional materials; and
- (e) The present Housing Act, Cap. 117, only covers the operations of National Housing Corporation. The activities of the Ministry in charge of housing on management of the sector are limited due to absence of legal authority.

##### **Policy Statements**

To make existing legislation enabling for housing delivery:-

167. The existing Housing Act shall be renamed the National Housing Corporation Act;
168. An all-encompassing Housing Act shall be enacted to provide a comprehensive framework for the coordination and facilitation of the housing sector and thus increase housing production;
169. Recommend to the National Treasury that the PPP policy and legal framework shall be amended to enhance partnerships in the sector in order to facilitate faster housing delivery;
170. The standards governing housing development shall, where applicable, be performance oriented allowing enough flexibility to suit the various socio-cultural, economic and climatic situations of different local regions as stipulated in the Reviewed Building By-laws and Planning Regulations;
171. A permanent broad-based consultative body known as Building By-laws Review Board shall be operationalized to review and update housing standards and regulations on a continuous basis, taking into consideration alternative technologies and socio-cultural values;
172. The Sectional Properties Act, which governs ownership of shared property to enhance security of tenure, shall be popularised to facilitate investment in high-rise construction of housing;
173. The Government shall continuously review the Rent Restriction Act (Cap. 296) and the Landlord and Tenants Act (Shops, Hotels and Catering Establishments) (Cap. 301) to make them conducive for investment in rental housing without compromising the interests of the tenants and those of the landlords. The upper limit of housing rent falling within the jurisdiction of Rent Restriction Tribunal of KSh. 2,500 per month shall be revised upwards to cover all current low-cost housing while considering the current cost of construction and price of land;
174. Alternative dispute resolution mechanisms other than litigation that are cheap, quick and effective such as arbitration shall be promoted; and
175. The Government shall facilitate both public and private sectors to assist their employees to acquire housing in accordance with the Employers Ordinance Cap 109 Sec 41 and in recognition of the fact that adequately housed labour-force generate higher productivity.

#### 3.2.9.2 Institutional Framework

##### Issues

- (a) Successful implementation of the right to housing shall require the cooperation and active participation of all relevant actors and individuals.

However, the current institutional arrangement for housing planning, development and management is fragmented, inconsistent and characterized by overlapping of roles and lines of accountability;

- (b) The portfolio of housing has over the years, been moved from one ministry to another and sometimes paired with portfolios that are not compatible with housing delivery. This has resulted in creation of an environment that is not conducive for effective performance;
- (c) The roles of the stakeholders, have in the past, not been clearly defined. For example, the role of National Housing Corporation has been changing since its establishment under Cap. 117;
- (d) The defunct LAs were not able to mobilise resources from developers for service provision in all residential areas. Stakeholders such as the private sector, professionals, NGOs, CBOs, co-operatives, communities and international organizations have not been sufficiently mobilised and organised to play their role in harnessing resources for housing development;
- (e) The huge potential of the co-operative movement in mobilising resources has not been fully exploited. Experience has shown that the movement can be an effective tool in mobilising people and their resources especially the vulnerable groups, women, the elderly, the handicapped and displaced in both rural and urban areas; and
- (f) Professionals in the building industry may have been an impediment to the development of affordable shelter due to their insistence on rather complex designs and costly specifications of construction materials and techniques. Further, professional fees are based on cost and therefore do not augur well with specifying alternative and affordable building materials and techniques.

#### **Policy statements**

The National Government shall provide the enabling environment in housing by forging partnerships with the County Governments, private sector, community and other actors at different levels. In this regard:-

- 176. The National Government, in collaboration with County Governments as well as Cities and Urban Area Authorities shall mobilize resources from potential developers for financing the provision and maintenance of housing and its related services and infrastructure;
- 177. The Government shall review existing laws in order to remove inconsistencies;
- 178. The Government shall promote an optional Tenant Purchase Scheme for public servants. Those willing to pay rent for the Government houses or for privately rented houses in decent localities shall be encouraged to do so;

179. The Government shall develop institutional and social housing of acceptable space standards especially for the disciplined forces;
180. The Government shall forge partnerships with other development partners in the exchange of information on shelter and human settlements issues such as identification, documentation and dissemination of best practices on the one hand and evaluation of housing development activities on the other. This shall help to build capacities through exchange of experiences;
181. The Government shall undertake maintenance of public buildings including institutional and pool housing while at the same time coordinating and compelling other building owners to maintain their properties to acceptable standards; and
182. The rural housing improvement programme shall be enhanced to provide access to housing finance for the rural population.

In order to facilitate successful implementation, the main actors in the implementation of this policy and their respective roles shall be as follows:

**The Ministry Responsible for Housing shall:-**

183. Formulate and regularly review the housing policy to cater for the diverse needs and resource endowments of different regions of the country;
184. Facilitate a systematic and appropriate increase in the national allocation of the State budget to housing development;
185. Initiate the establishment of a funding framework for housing development;
186. Be responsible for overseeing and co-ordinating statutory activities at the national level e.g. National Urban Forum, World Habitat Day and facilitating other institutions including the National Housing Corporation, NGOs and housing co-operatives; private sector and County Governments;
187. Account to Parliament for the performance of the housing sector against set targets and efficiency parameters;
188. Create conditions favourable to both men and women in exercising their rights and responsibilities through effective participation in housing. These conditions shall also cater for all vulnerable groups;
189. Undertake regular monitoring and evaluation of national, regional, and county performance of housing delivery in order to evaluate impacts of policy, programmes and projects and identify bottlenecks;
190. Collaborate with institutions of higher learning and research bodies to undertake research and training on the housing sector; and



191. Encourage decentralised execution of housing schemes at County level in line with the Constitution and at the same time collaborate with the County Governments towards increased provision of serviced land and infrastructure, assist people in construction and house upgrading, extension of appropriate technology and dissemination of information on housing.

**National Housing Corporation shall:-**

192. Contribute towards the National and County roles in the realization of the Constitutional right to housing;
193. Collaborate with the National and County Governments towards provision of social housing to the low-income and disadvantaged section of the population;
194. Work with County Governments towards improving rural housing.
195. Mobilize capital from local and international markets for housing development;
196. Play a leading role in provision of rental housing and stabilization of rental levels in all Counties;
197. Set up a housing finance delivery subsidiary to facilitate access to affordable housing finance; and
198. Create an entity to facilitate Diaspora local investment in housing.

**County Governments, Cities and Urban Areas Authorities**

The County Governments as well as Cities and Urban Areas Authorities shall:-

199. Undertake land-use planning and administration, provision of infrastructure and low-cost housing for sale or rental at economic rates;
200. Set aside properly secured land bank for housing development purposes;
201. Provide and maintain infrastructural services intended to open up land for housing development in collaboration with prospective developers;
202. Enforce settlements development conditions, standards and regulations;
203. Collect data on housing development;
204. Motivate and support key actors seeking to improve shelter through upgrading, extension of basic services, income generation, environmental conservation; and fast tracking of one-stop planning and building approval process;

205. Set up and manage the site and service schemes with support from the National Housing Corporation by providing infrastructure and services to enable developers and individuals to construct houses; and
206. Continuously search and implement innovative affordable housing delivery strategies.

#### **The Private Sector**

The private sector shall be an anchor to housing development by participating in the construction of housing for all categories of the population either for rental or for sale. In this respect the private sector shall:-

207. Participate in the manufacture and supply of conventional and alternative building materials in the housing construction sector;
208. Participate in infrastructure development for human settlements on PPP basis;
209. Be encouraged to enter into joint ventures with public sector in housing developments programmes; and
210. Encourage communities to improve their living environment through community participation in projects.

#### **Financial Institutions**

The financial institutions shall:-

211. Spearhead development of a Secondary Mortgage Market together with Capital Markets Authority and Treasury;
212. Encourage investment in low cost housing by providing incentives for such developments;
213. Provide mortgage finance for housing development and house purchase; and
214. Establish mechanisms for the creation of seed capital to assist developers involved in housing delivery.

#### **Co-operatives**

215. Individuals and organized groups shall be encouraged to be members of housing co-operatives with a view to mobilizing funds for their own houses whether owner-occupier or for rental purposes;
216. The Government will support the formation, development and empowerment of housing cooperatives as vehicles for development of affordable housing and resource mobilization;

217. The Ministry in charge of housing in collaboration with the Ministry in charge of cooperatives development shall continue encouraging formation of cooperatives and building capacity of the cooperatives formed in the slums and informal settlements.

### **Professionals**

Contrary to popular belief, the housing challenge in developing countries is complex and requires more of non-design than design interventions. The sector is multidisciplinary that requires knowledge and competence on various aspects including: - policy, finance, social-economic structures, political dynamics, community mobilization and participation, planning, design, infrastructure, services and environmental sustainability all of which affect housing delivery and management. Currently, most of the practitioners within the sector deal with specific elements in line with their qualifications. This means that the sector has a wide range of practitioners whose activities need to be coordinated for the benefit of the sector. Moreover, there is also need to ensure that important services necessary for the realization of adequate shelter are provided by people with the right qualifications and competencies. For this purpose there shall be established a housing practitioners professional body whose members shall be expected to have the right training, orientation and appreciation of the whole spectrum of the housing sector, and coordinate all professionals involved in housing planning and development. The body shall register, provide advice, tools, knowledge, continuous learning and coordinate housing professionals.

Professionals shall be obliged to facilitate shelter delivery process by:-

218. Being sensitive to the people's limitations, especially the disadvantaged and offer pro-bono professional services where necessary;
219. Involving end-users in the design process to ensure that the end product incorporates their values;
220. Building on existing initiatives in the use of building materials and construction technologies;
221. Establish clear definitions of the roles of the building professionals and paraprofessionals in provision of housing development in all levels of the society (rural and urban); and
222. Upholding professional integrity and charge reasonable fees.

### **The Non-governmental Organisations and Community Based Organisations**

The Non-Governmental Organisations and Community Based Organisations shall contribute to the development of housing through sensitizing and mobilizing

communities that they work with to improve their housing and living environment. They shall among other things:-

223. Encourage community savings to enhance access to housing;
224. Promote small-scale building materials industries;
225. Organize seminars/workshops on housing development issues;
226. Promote proper book keeping and accounting systems; and
227. Assist members to acquire land for housing development.

#### **International Agencies**

The country has in the past benefited from international co-operation in the development of housing. As a result, it shall be of necessity to get support and collaboration with the international community in the following areas:-

- (a) Research and dissemination of housing sector issues including ABMT;
- (b) Training and capacity building;
- (c) Exchange of experiences and Best Practices; and
- (d) Partnerships and access to financial resources.

#### **Research Institutions**

Research is an important ingredient to the housing and building sectors to which it is expected to provide innovative and timely data and information to facilitate decision-making. The Ministry responsible for housing in collaboration with research institutions shall:-

228. Initiate, encourage, promote and conduct research related to planning, design, construction and performance of buildings;
229. Explore social, economic and technical challenges in housing and community planning and help to establish appropriate standards;
230. Conduct research in the use and development of indigenous and innovative building materials and construction technologies;
231. Provide reference and documentation services to parties interested in housing, building research and development;
232. Provide research-based advisory services to both levels of government on research, training and innovative development work; and
233. Encourage architects in collaboration with County Governments to develop different typologies/prototypes of affordable and accessible housing suitable

for different categories of users in society (low, middle, and upper income groups) including but not limited to incremental housing.

### 3.2.10 Monitoring and Evaluation

#### Issues

- (a) Monitoring and evaluation are important in programme implementation and provide feedback to policy formulation, programmes and projects. This helps the policy makers to respond in a timely manner to any issues that may arise. However, the performance of the housing sector has not been effectively monitored and evaluated through regular assessments. Hence, it has been difficult to measure progress on the objective of facilitating provision of adequate shelter.
- (b) The sector lacks monitoring and evaluation experts who are trained to undertake effective monitoring and evaluation in the dynamic housing sector.

#### Policy statements

234. The key actors in the sector including the National Government, County Governments, co-operatives, private sector and other institutions shall develop and implement action plans to suit local needs. The Action Plans shall cover specific time frames for time bound implementation strategies;
235. The County Development Plans on housing sector shall inform the National Development Plan to create accurate and reliable data thus enhance effectiveness and efficiency in monitoring and evaluation;
236. The Ministry responsible for housing shall carry out regular national housing surveys on rural and urban housing needs;
237. The Ministry responsible for housing shall continue to undertake comprehensive housing census concurrently with the national population census;
238. The National Government shall develop an appropriate information management system and a data bank on housing and urban services at various levels under the supervision of an Inter-Ministerial Monitoring Committee hosted by the Ministry responsible for housing;
239. The National Government shall spearhead review of National Housing Policy every ten years in the light of emerging needs of different sections of the population and the demands of the changing socio-economic conditions in the country;

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240. The National Government shall ensure there is coordinated implementation of the National Housing Policy by all stakeholders while taking into account other complimentary and related national and global policies;
  241. The National Government in collaboration with the County Governments shall develop a framework and mechanisms of monitoring and evaluation of the housing sector at County level for accuracy of the performance of the housing sector including capacity building of the personnel;
  242. A holistic approach for Monitoring and Evaluation shall be adopted by bringing together all the built environment professionals and other stakeholders in evaluating housing sector performance;
  243. Appropriate building technologies shall be evaluated before approval of housing development by County Governments;
  244. Regulations shall be developed to guide the housing sector in monitoring and evaluation; and
  245. A template on specific and measurable outcomes shall be developed to enable effective annual reporting during monitoring and evaluation on the implementation of the housing policy.

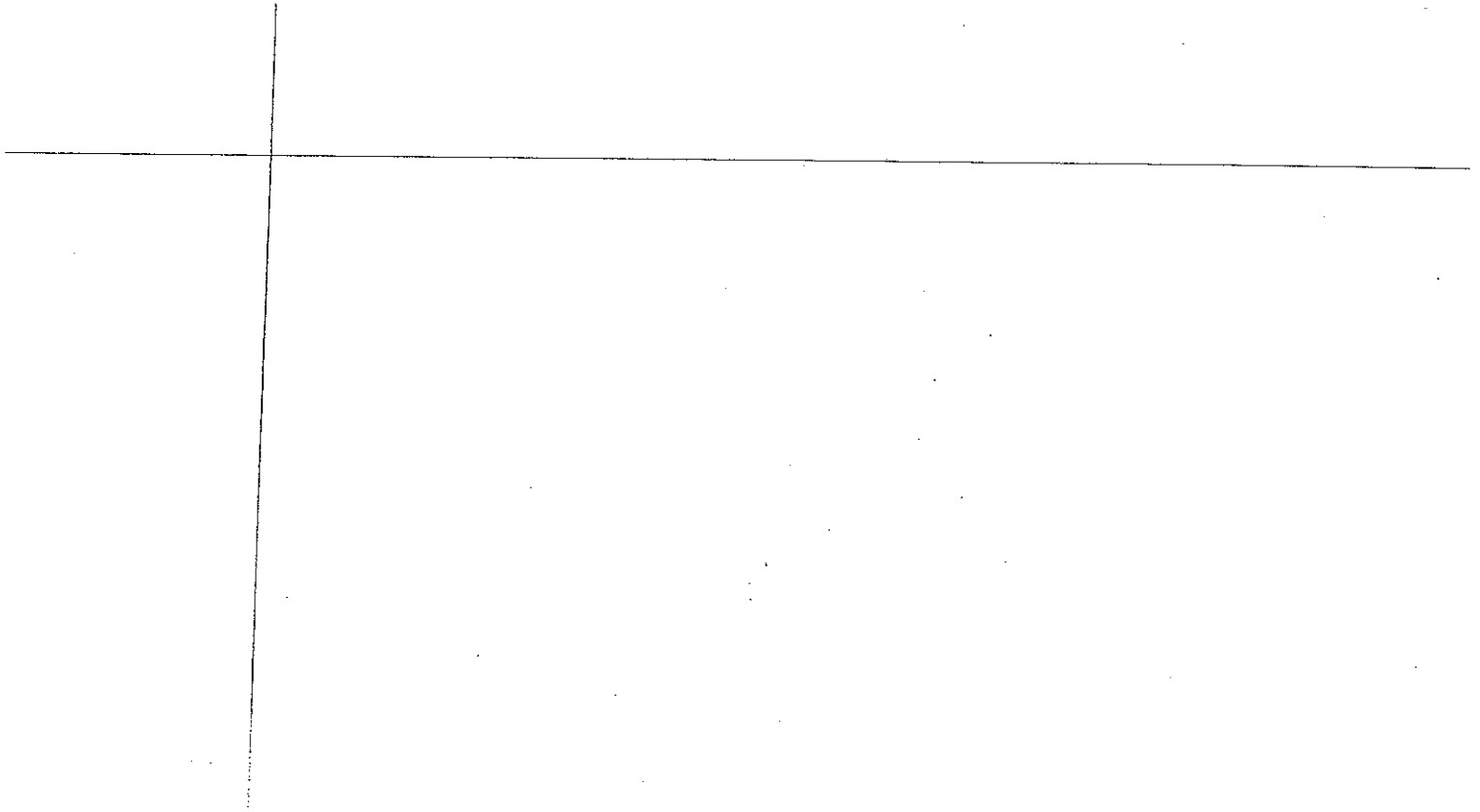
## CONCLUSION

The Sessional Paper No. 3 of 2016 on National Housing Policy addresses key issues relating to delivery of housing in this country and takes into consideration Article 43(1) (b) of the Constitution, which guarantees every person in Kenya the right to accessible and adequate housing and to reasonable standards of sanitation while the State shall undertake legislative, policy and other measures including the setting of standards, to achieve the progressive realization of the right to accessible and adequate housing.

The Policy proposes measures towards provision of adequate shelter in healthy living environments at affordable costs to all socio-economic groups in Kenya. It further proposes measures that shall tackle housing problems in both the rural and urban areas and offers special attention to vulnerable groups through introduction of social housing while encouraging adequate growth, maintenance and improvement of housing stock to meet human needs. Moreover, it fosters active participation of all stakeholders in the sector while taking into account the role of the National and County Governments as enshrined in the Constitution.

Rapid population growth and high urbanization rates have continuously pushed up the demand for housing and related infrastructure. This demand has however outstripped the supply leaving huge gaps, which have been filled through development of slums and informal settlements. For the country to realize the expected future output of housing stock, the National and County Governments shall rally all actors in both public and private sectors including NGOs, CBOs, co-operatives, banks, building societies, regional development authorities and individuals and also embrace current legislations like the Public Private Partnerships among others. In addition, the combination of all the factors of housing production as earlier outlined shall form basis for the preparation of housing development programmes.

The Sessional Paper No. 3 of 2016 on National Housing Policy addresses development of an effective and comprehensive legislative and administrative framework that supports housing development. It proposes a National Social Housing Development Fund to be established under regulations that will be anchored on the Public Finance Management Act, 2012 which will provide a sustainable facilitating vehicle for efficient utilization of the scarce technical and financial resources for housing development.





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