

Telephone: +254-20-318888
Fax: +254-20-2240066/341935/344333
E-mail: communication@mfa.go.ke
Website: www.mfa.go.ke
When replying please quote Ref. No. and date



HARAMBEE AVENUE
P.O. BOX 30551-00100
NAIROBI, KENYA

MINISTRY OF FOREIGN AFFAIRS

MFA.UN 15/34

14th June 2018

Ref. No.

The Ambassador/Permanent Representative

Permanent Mission of the Republic of
Kenya to the United Nations & other
International Organizations

GENEVA

**RE: RESPONSE TO THE QUESTIONNAIRE FROM THE SPECIAL
RAPPOREUR ON ADEQUATE HOUSING AND THE RIGHT TO ADEQUATE
STANDARD OF LIVING AND ON THE RIGHT TO NON-DISCRIMINATION IN
THIS CONTEXT**

Reference is made to your letter Ref No. KMUNG/OHCHR/SPMH/TI/VOL.I(48) dated 18th April 2018 regarding the questionnaire from the Special Rapporteur on adequate housing and on the right to adequate standard of living and on the right to non-discrimination in this context. The State Department for Housing and Urban Development has responded to the questions and provided the latest data available on the issues.

Forwarded herewith is the response to the questionnaire for your attention and necessary action.

J. Toroitich

FOR: PRINCIPAL SECRETARY

RESPONSE TO THE QUESTIONNAIRE BY THE SPECIAL RAPPORTEUR ON ADEQUATE HOUSING AND ON THE RIGHT TO ADEQUATE STANDARD OF LIVING AND ON THE RIGHT TO NON-DISCRIMINATION

INTRODUCTION

Kenya participated in the negotiations and adoption of the Sustainable Development Goals and has been in the frontline of implementing the goals and targets therein, and especially Goal 11 (Agenda 2030). Special focus has been made to ensure Kenya achieves target 11.1 of ensuring access for all to adequate, safe and affordable housing and basic services and upgrade slums. Several policies which include the slum upgrading and prevention policy was adopted in 2016 to provide a framework for achieving this target among others.

It is worth noting that though much has been achieved and a lot is ongoing, documentation of initiatives and the resultant outcomes may not be in the required format by the special rapporteur. This report has however responded to the questions raised by the special rapporteur though all the required data is not available. Some of it is not disaggregated by gender, age and disability, and this calls for capacity building and assistance in this area so as to improve on future reporting.

Question 1

Provide statistical data on the number of people living in informal settlements, classifying the definitions used and including disaggregated data by relevant characteristics (gender, disability, age etc.) where available. Provide estimates of the number of households renting within informal settlements.

Slum is a human settlement characteristic by dilapidated housing structures, overcrowding abject poverty and unemployment, high insecurity incidences, insecure land tenure issues, exclusion of unplanned physical development, inadequate infrastructural services and often located in unsustainable environment.

Informal settlements – refer to as squatter settlements, slum or shanties. The inhabitants are usually the poor segment in a society and have no access to secure tenured land of their own and therefore squat on vacant public or private land.

According to the Project Appraisal Document for KISIP, in 2009, 30% of the Kenyan population (11,400,000 million people) were living in slums in 2009. Considering that annual population growth rate of Kenya at 2.8%, this population has risen to 20,000,000 in 2018. In Kenya, the male and female populations are almost equal, Almost $\frac{3}{4}$ of such population rents their housing

The Government through the slum upgrading department is in the process of creating slums/informal settlements database. This is planned to be done in phases the phase I which is complete, involved identification and verification of slums and informal settlements. This exercise confirmed that 498 settlements were confirmed to be slum/informal settlements country-wide.

Phase II will involve; formation of Settlement Executive Committee, social economic survey to inform information on; gender, age, disability and population size.

Phase III the actual mapping of the verified settlements and creation of a database.

Some information is however available for some settlements and according to 2005 master register of Kibera Soweto East and 2011 master register for Mariguini settlement the following information is available

KIBERA SOWETO EAST			
S/NO.	ZONE	POPULATION	NO. OF HOUSEHOLDS
1.	A	6376	2454
2.	B	4789	2103
3.	C	3320	1566
4.	D	4389	2118
MARIGUINI SETTLEMENT			
1.		5312	2112
	Total	24,186	10,353

Question 2

Please provide information on access to water, sanitation, electricity and other services, including availability and costs. Also refer to any relevant qualitative studies or documentation of the lived experiences of residents.

The majority (71 percent) of households in Kenya have access to an improved source of drinking water. Twenty-three percent of households have an improved toilet facility that is not shared with other households. The majority (64 percent) of households in Kenya do not have electricity. (Kenya Demographic and Health Survey, 2014 Page 11-16).

Question 3

Please provide information and data on environmental, health or security concerns and experiences, including violence against women, affecting residents in informal settlements. Please include disaggregated health statistics including life expectancy, mortality and any data on injuries or

fatalities of residents in informal settlements as compared to the general population.

Regarding Environmental, health and security concerns and experiences, the following information is available for some and not all informal settlements in Kenya following some surveys conducted by Haki Jamii in collaboration with Amnesty International.

The Survey by Amnsety International confirmed that there are two main water pipes passing through Kibera. One is from the City County while the other was built by the World Bank.

Table showing source of water in Kibera.

Source	Private piped	Communal piped	Well	Tank	Vendors	River/ Dam	Not Mentioned	Total
%	3	19	1	19	1	17	40	100

Source- Kibera socio economic mapping report Hakijamii and Amnesty International 2016

From the above data it can be noted that most of the residents in Kibera get their water from communal pipes as well as the water tanks where water is sold at between 2 and 5 shillings for 20 litre jerrican.

Sanitation facilities in Kibera %

Private pit latrine	Communal pit latrine	Paying Latrine	Flying toilets	Open Spaces	Total
35	49	11	4	2	100

Source – kibera socio- economic mapping report by Hakijamii and Amnesty International 2016

It is noted from the above data that the residents use the communal pit latrine as the common sanitation facility.

The location of water points and sanitation facilities also expose women and girls to insecurity. Most of these services cannot be accessed during the night due to the distance and poor lighting. Women suffer from sexual violence and general violence while trying to access these basic services at night.

Water and sanitation in mathare informal settlement.

90% of the residents do not have piped water in their premises.. Water quality and reliability is inconsistent with frequent contamination of vandalized pipes and shut offs.

There are numerous piped water points mainly owned by the landlords within their plots and sell at Ksh 2 for 20 liter container. Sewer system is in place and well maintained by the residents. There are several private and communal toilets but

they are not adequate given the high population of the settlement. Key Actors are CCN, NGOs, and Catholic Church.

Sanitation facilities- key findings.

The findings of the study by Haki Jamii through Amnesty International were that sanitation and drainage is a major problem within the informal settlements. Four settlements in which the study was conducted proved that there was lack of proper facilities of excreta disposal and that approximately 50 people use one pit latrine, which is the main source of excreta disposal. These are inadequate in relation to the number of users; they overflow especially during the rainy season as a result of which the residents are continually exposed to diseases. Some of the pit latrines are health hazard since they are poorly constructed and some are located adjacent to the residential houses. Others are far from dwelling units and along dark paths, alleys. Their use during the night therefore becomes a security concern for women and children including the elderly in these settlements. This group of vulnerable population therefore resorts to other means of excreta disposal other than using the pit latrines at night. Most households lack proper bathrooms hence they use their one roomed units or toilets (during the day for privacy) or bath outside their units early in the morning.

Most service providers have built toilets and bathrooms whose services range between 5 shillings and 10 shillings. Community or public facilities remain few and far between, and invariably involve walking for long distances through insecure neighbourhoods with poor public lighting. The elderly, both men and women, hardly use them due to their location and generally the feeling of insecurity.

Water in the informal settlements is provided by private vendors who sell between 3 shillings and 5 shillings per 20 litre jerrican. Other water suppliers include Community Based Organization, NGOs and NAWASCO who have built water point with tanks in some areas e.g. Mukuru. In Kibera Maji na Ufanisi and Umande trust have built toilets, bathrooms and water points.

To a certain extent, all the water providers have been able to supply water adequately except during certain seasons or situations. Quality of the water can hardly be assured by most of the providers since the water pipes pass through raw sewer, drainages and are hardly serviced or replaced. This perhaps explains the high cases of water born related diseases in the informal settlements.

Insecurity and women.

Violence against women in Nairobi's slums and informal settlements takes different forms, and is exacerbated by the environment within which these women live. The violence is inextricably linked to their daily lives and routines. Inadequate access to essential services, particularly the lack of access to sanitation and public security, significantly increases women's vulnerability to violence.

Question 4

What goals and timelines have been adopted to ensure that all informal settlements will be upgraded to meet the standard of adequate housing by 2030? Please provide information on plans, upgrading/resettlement policies

and whether these plans include human rights standards. Please also explain how responsibilities have been allocated to different levels of government

Goals and timelines that have been adopted to ensure that all informal settlements will be upgraded to meet the standard of adequate housing by 2030

1. Kenya Slum Upgrading Department Implementation Strategy (2005-2020)
2. National Slum Upgrading and Prevention Policy (sessional paper No. 2 2016) has been adopted. The overall objective of the policy is to promote, secure and protect dignified livelihoods of the poor living and working in slums by strategically integrate them into social, political and economic framework in line with the constitution of Kenya. The Department plans to disseminate the policy at County levels to create awareness of the policy and enhance public engagement in Slum Upgrading interventions.
3. Affordable housing – To deliver 200,000 social housing in 61 slums and informal settlements in the country (2018-2022)
4. Creation Database of all slums and informal settlements in the country.
5. Regulatory framework – Establishment of a regulatory framework informing slum upgrading Bill.

Responsibilities for the two levels of Governments

The implementation of the policy requires an effective system of well-coordinated institutions. To achieve this, the Government is in the process of establishing two institutional frameworks;

1. National Multi Stakeholder Support Group (NMSSG)

- a) Policy and research
- b) Monitoring and evaluation
- c) Coordination
- d) Capacity building
- e) Resource Mobilization
- f) National Data Banks
- g) Develop of Standards and Guidelines

2. County Multi Stakeholder Support Group (CMSSG)

- a) Implementation policy
- b) Community mobilization
- c) Coordination
- d) Resource mobilization
- e) Public works and services

- f) County planning and development.
- g) County Data Bank
- h) Approval of Development Plans
- i) Monitoring and evaluation

Question 5

What are the primary reasons for people living in informal settlements? Please refer to relevant research or reports.

1. Poverty- the urban poor, who are unable to compete for scarce resources or access decent housing conditions. The growth of large cities, particularly in developing countries, has been accompanied by an increase in urban poverty which tends to be concentrated in certain social groups and in particular locations in this case, informal settlements
2. High rates of unemployment and search for a good life
The inability of cities to absorb the labour market has a negative impact on economic growth and poverty reduction, a trend that undermines the endeavours of the right to adequate shelter. This is caused in large part by the high rate of unemployment, especially amongst young people.
3. Rapid urbanization -the formation of slums is closely associated with rural-urban migration. Poor people living in the city slums have mostly migrated there from rural areas rather than other cities or town
4. Industrialization - Slum formation is closely linked to industrialization, economic cycles, trends in national income distribution, and in more recent years, to national economic development policies. Indeed, the cyclical nature of capitalism, increased demand for skilled versus unskilled labour, and the negative effects of industrialization and urbanization - in particular, global economic booms and busts that ratchet up inequality and distribute new wealth unevenly contribute to the enormous growth of slums (UN-Habitat, 2007)
5. High cost of housing both rental and ownership coupled with low income levels by majority of Kenyans.

6. What laws are in place to protect and ensure the rights of residents of informal settlements, before, during and after any upgrading, if it takes place? Have these laws been effective? Please provide references to any important court decisions.

- a. **The Constitution of Kenya, 2010**

The Constitution of Kenya, 2010, Article 43 (1) (b) states that "every person has the right – to accessible and adequate and to reasonable standards of sanitation".

It further establishes in article 59, Kenya Human Rights and Equality Commission to among others "to receive and investigate complaints about alleged abuses of human rights and take steps to secure appropriate redress where human rights have been violated".

Chapter 5 on Land and Environment, particularly Article 67 (2) (e) mandates the National Land Commission "to initiate investigations, on its own initiative or on a complaint, into present or historical land injustices, and recommend appropriate redress".

b. The Land Laws (Amendment) Act, 2016

This is an act of Parliament that amends the laws relating to land, aligning them to the constitution as well as provides procedures on eviction from land.

Section 152G (1) elaborates on the mandatory procedures during evictions It stipulates that;

- i. Persons carrying out the evictions/ demolitions be properly identified
- ii. Formal authorization for the evictions must be presented
- iii. Where groups of people are involved, government officials or their representatives to be present during the eviction
- iv. Evictions must be carried out in a manner that respects dignity, the right to life as well as the security of those evicted
- v. Special measures must be put in place to protect vulnerable groups such as women, children and the elderly
- vi. Include mechanisms that ensure that there is no arbitrary deprivation of property as a result of the eviction
- vii. Include mechanisms to protect property and possessions left behind involuntarily
- viii. Minimum use of force
- ix. Give priority to affected persons to demolish and salvage their property

These laws have been effective in ensuring that informal settlements upgrading is in line with the laws of the country and that fair practice is observed in awarding compensation and relocation where necessary.

7. Please provide, if applicable, information on international development assistance received for projects and programmes related to informal settlements. To what extent are these projects implemented within a human rights framework and linked to the achievement of the 2030 Agenda targets?

In 2011, the government of Kenya signed a financing agreement worth 165 million US\$ with the World Bank (IDA), Sida, AfD and government contribution of 10% of that sum to finance the Kenya Informal settlements Improvement Project (KISIP). The project development objective is to improve the living conditions of people living in informal settlements. This project commenced from 2011 and is expected to be complete in June 2019 for the 1st phase.

It has been implemented in 14 counties of Kenya which combined are resident to more than ¾ of the total urban population in Kenya– Kisumu, Mombasa, Nairobi, Machakos, Kitui, Embu, Kiambu, Nyeri, Nakuru, UasinGishu, Kericho, Garissa and Kakamega, within these counties, KISIP has worked in 138 informal settlements and has benefitted 1,030,000 people so far through enhancement of tenure security (issuance of allotment letters and title deeds. 72,250 households will receive titles) and investment in infrastructure and service delivery (125 no. 30-meter-high mast lighting; 100 km of drainage canals; 70 km of settlement access roads paved to bitumen standards; 80 km of water pipeline and 7,000 water connections; 60 km of sewer pipeline and 5,000 sewer connections; 21 ablution blocks; 50km of settlement footpaths paved.

These projects have been implemented in consultation with the communities, counties and various government agencies as per the Constitution of Kenya, article 10 and 232 which states that government must undertake public consultation, respect for gender diversity, address marginalization and promote principles of equity and inclusive development. Before any project commences in these informal settlements, the community must elect democratically the Settlement Executive Committee (SEC) made of land lords and tenants; youth; widows; persons living with disabilities; religious leaders; representatives from local Member of County Assembly; area chief (representing national government) and Ward Administrator (representing county government) among others. In addition, the community must elect Grievance Redress Committee to sort out any complaints at the local level that arise from the project implementation. The GRC committee can also pass difficult cases to the county or national government. Through the SEC, the communities prioritize their development interventions and projects through the socioeconomic surveys, detailed settlement upgrading plans and engineering designs which are done in consultation with them. Local

knowledge and expertise is used in project implementation and this has ensured sustainability and improved maintenance of the infrastructure.

8. Please provide information about successful upgrading or resettlement projects or experiences that could provide good practices elsewhere. Please also share lessons learned from unsuccessful projects or approaches.

Kenya Informal Settlements Improvement Project (KISIP) has successfully improved infrastructure in 40 settlements and provided tenure in 86 others in a five-year period from 2011-2018. The first success factor was working with the communities through the Settlement Executive Committees (SEC) which are highly representative, encompassing people of all ages and classes of society. Communities were encouraged to prioritize their development options and ranked them in order of importance. Public sensitization forums were held with the communities and Settlement Executive Committees were trained on identification of projects and prioritization. Feedback was given through Settlement Executive Committees and the bigger community meetings. Comments were acted upon informing the final designs and project interventions. The second success factor was the decision to work with counties. Counties were involved from inception to completion and handing over of projects. County staff were included in the project implementation structure and were trained on operation and maintenance of completed projects, environmental and social safeguards, project planning and management, contract management, designing of projects and procurement of goods and works.

Failure was experienced in few settlements where planning and survey process took longer to conclude before infrastructure installations could be undertaken. The lesson being that planning and survey of informal settlements should be done before infrastructure installation to reduce cases of slow progress of infrastructure works due to implementation of Resettlement Action Plans (RAPs) and the need to facilitate affected structures to be moved before infrastructure development can be undertaken.

Description of Best Practice in Redevelopment and resettlement of Kibera Soweto Zone A Project

1. The Redevelopment of Kibera Soweto East Zone 'A' housing project

- i. The process of redevelopment of Kibera Soweto East Zone 'A' started in 2005 when enumeration of all residents was done and the details captured in a master register. All residents were provided with a unique identification card. For ease of redevelopment, Soweto East village was divided into four zones (A, B, C and D).

- ii. The Decanting Estate was set aside on part of the land for Langata Women Prisons by the Government of Kenya as a holding ground for the residents of Kibera Soweto East Zone 'A' residents to pave way for redevelopment.
- iii. The residents were relocated to the Decanting Estate on different dates commencing 16th September 2009. The last lot was moved to Decanting Site Estate on 5th March 2010 whereas other beneficiaries chose to seek alternative accommodation elsewhere.
- iv. The residents at the Decanting Estate were to pay rent as per the tenancy agreement and Memorandum of Understanding (MOU) for the entire period they were at Decanting Site Estate.
- v. The residents were to be resettled after the completion of construction of the housing units.
- vi. The residents were advised in many forums including barazas and stakeholders meeting to join and save through Soweto East Housing Cooperatives to enable them raise the required 10 % deposits for the houses were completed.
- vii. Upon completion the pilot project delivered 822 housing units. Residents were sensitized on house typologies and their prices, house application process and criteria for allocation.

a. 7th July, 2014

- Notice from the Ministry to All Residents of Kibera Soweto East Zone 'A' on issuance of house application forms from 8th to 21st July, 2014 to the beneficiaries of Kibera Soweto East Zone 'A' Housing project.

2. Resettlement Process of Kibera zone A Housing Project

To ensure free and fair allocation of the houses, the following activities were undertaken

21st July, 2014

- Ministry received application forms from all interested beneficiaries of Kibera Soweto East Zone 'A' Housing project.

25th July, 2014

A team selected from the Relocation Committee was tasked with the responsibility of analyze the application forms to come up with a list of potential beneficiaries.

21st November, 2014

The Ministry planned for a Physical Verification exercise for all successful applicants at the redevelopment houses at Kibera Soweto East zone 'A' Housing Estate.

15th to 19th June 2015

The Ministry carried out physical verification exercise for all successful applicants at the redevelopment houses at Kibera Soweto East zone 'A' Housing Estate.

March, 2016 Balloting and house allocation of the housing units was successfully done.

Challenges

1. Court cases
 - On relocation process which delayed the project.
 - Court order suspending house allocation exercise.
2. Inadequate housing units for the target beneficiaries
3. Political interference.
4. Resistance from the community to vacate the site.
5. Poor maintenance of the housing units

Lessons learnt

1. Need for political good will in the upgrading interventions.
2. Importance of Multi-Stakeholder engagement in upgrading activities.
3. Establishment of a legal framework to govern slum and informal settlements upgrading.
4. Capacity building of beneficiaries on proper use and maintenance of social amenities.

