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Social Safeguards in Infrastructure Development.

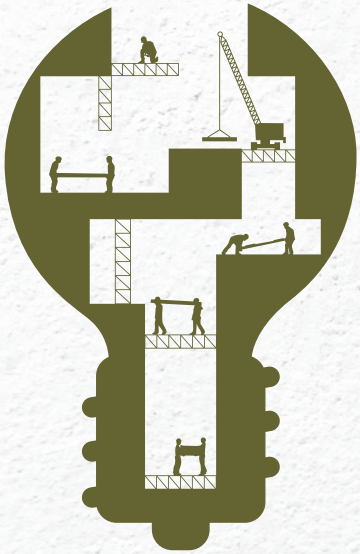
Sally Miruri, Irene Kinoti, Mercy Limiri and Jim Kaketch.

Executive Summary

Infrastructure development is vital for economic growth and improving livelihoods in Kenya. However, the social impacts of these projects, such as displacement, loss of livelihoods, and human rights concerns, often receive inadequate attention. Evidence from the Utafiti Sera House on Urban Governance and City Transformation reveals critical gaps between national legislation and the social safeguard standards required by international donors like the World Bank and African Development Bank (AfDB).

Current infrastructure planning primarily emphasizes economic and property considerations, often neglecting the human and social dimensions. Legal frameworks in Kenya tend to prioritize property law over human rights, limiting professionals like planners and engineers in addressing social impacts unless mandated by international financiers. Feasibility studies similarly prioritize financial and land acquisition aspects, sidelining displacement, loss of livelihoods, and community disruption.





To bridge these gaps, the policy brief recommends:

1. Enhancing Legal Frameworks: Harmonize infrastructure development laws to equally prioritize property and human rights, leveraging existing legal instruments such as the Constitution of Kenya, 2010, and the Social Risk Management (SRIM) policy.
2. Capacity Building: Train project planners and engineers to integrate social safeguards into infrastructure projects beyond donor-driven requirements.
3. Holistic Impact Assessments: Expand feasibility studies to comprehensively assess social and environmental impacts, including displacement, loss of habitat, and cultural disruption.
4. Legislative Alignment: Foster continuous dialogue between the Kenyan government and international financiers to align national legal provisions with global social safeguard standards.

Implementing these recommendations will ensure that infrastructure development in Kenya is not only economically viable but also socially inclusive and protective of human rights.

Introduction

Infrastructure development plays a critical role in advancing economic growth and improving livelihoods. However, the social impacts that accompany these projects often go underexplored, particularly when it comes to human rights, displacement, and loss of livelihoods. This policy brief seeks to highlight the importance of integrating social safeguards during infrastructure development in Kenya, addressing discrepancies between national legislation and the social safeguard requirements of international donors. The policy brief is benefiting from evidence generated from the Utafiti Sera House on Urban Governance and City Transformation in Kenya.

Evidence from the Utafiti Sera Urban Governance House

Feasibility Studies and their Dual Role

Evidence from the Utafiti Sera House indicates that a comprehensive feasibility study not only examines the financial cost of a project but also assesses its social and environmental impact. However, current practices tend to prioritize the economic and property aspects such as land acquisition and financial cost over human factors, such as displacement and the loss of livelihoods. This imbalance must be addressed to ensure infrastructure projects benefit all stakeholders equitably.

Disparities in Legal Focus

While Kenyan infrastructure development gives significant attention to property law, the law of persons is often overlooked during impact assessments. Issues such as displacement, loss of shelter, and disruption of income sources should be viewed through the lens of human rights, rather than being treated as secondary concerns. Legal frameworks should be adjusted to balance the rights of individuals with those of property owners. The values of the Constitution of Kenya are very important in promoting comprehensive consideration of social safeguards, but often times, the values are left out during the design and implementation of development projects as evidenced from the Utafiti Sera House interactions.

Influence of Regulatory Constraints

Professionals responsible for the planning and execution of projects, such as planners and engineers, are often bound by legal frameworks that may not fully align with the broader social context. This legal rigidity can limit their capacity to prioritize social impacts unless these considerations are explicitly required by project financiers, such as the World Bank, African Development Bank (AfDB), or other international development institutions. To address this challenge, there is a need to review and align local legal frameworks with evolving social and environmental standards. Additionally, capacity-building initiatives for professionals should emphasize integrating social safeguards into project planning, regardless of external mandates. Strengthening public participation and community engagement processes can also ensure that social concerns are addressed proactively rather than reactively.

Narrow Economic Focus in Impact Assessments

Infrastructure projects tend to focus on land and financial implications, often overlooking the broader social consequences. For example, terms like "loss of habitat" and "loss of income opportunities" are frequently framed in purely economic terms, such as "loss of shelter" and "displacement of people," without adequately addressing the human cost. There is a need to redefine such impacts in more holistic terms, such as "loss of habitat" and "loss of livelihoods."

Donor-Driven Social Safeguards

Evidence from the Utatifi Sera House, indicates that there remains a gap between the legal provisions under Kenyan law and the expectations of international donors, especially concerning human rights and environmental protections. International lenders, such as multilateral organizations, often attach social safeguards conditions to their funding. These safeguards are designed to protect vulnerable populations, ensure fair compensation, and mitigate the negative social impacts of development projects. As a result, the Kenyan government is compelled to interpret and adjust national laws to align with these requirements.



Policy Recommendations

Enhancing Legal Frameworks for Social Safeguards

Ministry of Roads and Transport should ensure that laws governing the infrastructure development in Kenya is harmonized to prioritize both property rights and human rights equally. This will ensure that displacement, loss of shelter, and livelihood disruptions are adequately addressed during the planning phase of infrastructure projects. Existing or draft laws such as the SRIM (Social Risk Management), policy The Constitution of Kenya, 2010 on Occupiers on good faith can be exploited to address the social issues.

Capacity Building for Project Planners and Engineers

Professionals involved in infrastructure development should be trained to understand and incorporate social safeguards considerations into their planning and implementation processes. This will reduce the over-reliance on donor-imposed conditions.

Holistic Impact Assessments

Feasibility studies should be relooked by respective implementing agency to include comprehensive social and environmental impact assessments that consider the full spectrum of human impacts, such as displacement, cultural loss, habitat, and community disruption, rather than focusing solely on economic factors like land acquisition, financial costs and environment impacts.

Alignment of Kenyan Legislation with International Standards

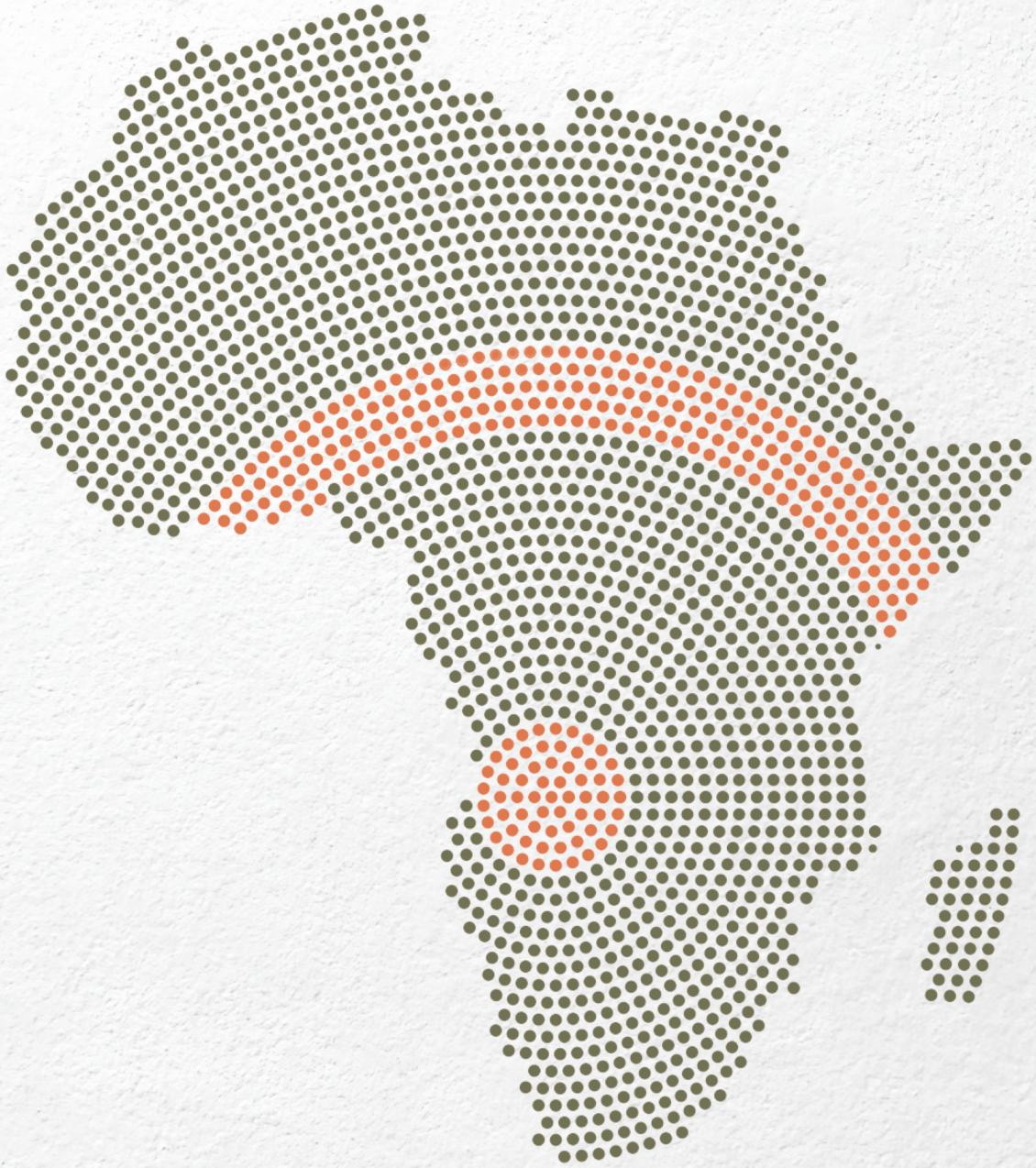
There is a need for continuous dialogue between the Kenyan government and multilateral organizations to bridge the gap between local legal provisions and the social safeguards standards required by international donors. This could involve the establishment of a unified legal framework that addresses the requirements of both parties.

The policy brief was written by Sally Miruri and Irene Kinoti Pamoja Trust and Mercy Limiri and Jim Kaketch from PASGR. It was produced in the context of the Utafiti Sera projects under the Urban Governance House and City Transformation in Kenya. Urban Governance House is Hosted by Pamoja Trust and is focusing on Social Safeguards in infrastructure development. The views expressed do not necessarily represent those of both PASGR and Pamoja Trust, their staff, or Board of Directors.

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