Good governance in the management of land means that settlements, buildings and other projects can be expressions of the people for whom, and with whom, they are planned. But government institutions at the national and local levels, as well as the traditional leadership structures, have been unable to manage the transition from village to cities efficiently (UNESCAP, 2010). The high value of land is a major source of corruption and intimidation – in the worst cases, dispossession of local people and sustainable livelihoods.

The private sector has been said to be the mechanism to harness that resource. Government by itself cannot do everything: it has limited technology, limited capital and limited appetite for risk. In Africa, there are pockets of successful joint ventures between government and the private sector in particular sectors, but the capacity and integrity of local authorities is critical when it comes to serving the citizen or reassuring the legitimate investor that legal safeguards are in place. Planning also has huge implications for consumption, waste and conservation, and climate resilience. Whether or not the Commonwealth withdraws from agriculture and human settlements as programmatic areas, the interface between anti-corruption, environmental governance and resource management will remain.

**Constitutional change**

The ink had barely dried on the Kenya Constitution 2010 before there was talk of what needed to be done in order to realise its fruits; now came the real work. One of the key policies necessary to ground the new constitutional order, alongside those concerning security, the judiciary, governance and devolution, and finance, was the National Urban Development Policy (NUDP, 2010). Until now, urban development in Kenya has largely been taking place without a comprehensive national urban policy framework; planning has lagged behind rates of urban growth, creating undesirable urban forms and haphazard growth of informal settlements. A 2010 study showed that out of the 175 local authorities (municipalities, town councils and county councils), more than one-third were not self-sustaining and were a drain on the Exchequer.

Does Kenya have the appropriate capacity and governance structures in place? Indeed, has it ever? The jury is still out: ask the citizens. At the time of Kenya's independence in 1963, only about 8 per cent of the population lived in cities and towns. The Vagrancy Act and Pass laws of the colonial era (now repealed) made it difficult for rural folk to go to towns. Forty years on, over 35 per cent now live in cities and towns. It is projected that more than 50 per cent will live in urban areas by 2030.

Past sector policies did not adequately address urbanisation as an evolving system that could foster development and economic growth, and one that would integrate urban and rural development in a mutually beneficial relationship. Urban development in the country was guided mainly by the Physical Planning Act of 1996 and the Local Government Act CAP265; though the latter is now repealed, many local authorities in Kenya still invoke it in their day-to-day business. This can stem from ignorance, or inertia or impunity. Kenya’s urban development has long been compromised by an inadequate supply of good quality land for various uses, and land management has been mired in corruption, controversy and conflict.

The institutional framework can only operate where there is a Structure Plan or other document that tells landowners and promoters what the parameters of development are, which assures that their immediate investments are secure, and that the returns and use of such efforts are predictable. Public assets in the form of nature, religious places, heritage sites and open space systems must be designated in a legal plan. For example, it had become fashionable for the local authorities to allow the development of bars, schools, churches and nightclubs in residential estates. This was banned altogether by government but is slowly creeping back in.

**An intelligent urbanism for Kenya**

The new draft policy seeks to improve access to land for urban development by supporting a range of reforms that address land banking, land allocation and utilisation, property taxation and land management information systems. In short, it is a pill for the degenerating state of
Affairs in cities and urban areas. The draft policy has prioritised planning and development of the much-needed physical infrastructure and services for sustainable urbanisation. Urban safety is critical. The draft policy creates structures for mainstreaming disaster risk management in urban planning and development. In compliance with the constitutional provision on marginalised and vulnerable groups, the draft policy requires urban authorities to take necessary measures to mainstream the needs and concerns of these groups in planning and development. It also addresses cross-cutting issues and the key elements of an implementation framework.

‘Intelligent Urbanism’ (the term was coined by Professor Charles Benninger) facilitates the public in carrying out their honest objectives. It does not regulate and control the public. It attempts to reduce the requirements, steps and documentation required for citizens to process their proposals. Intelligent Urbanism also promotes furthering the interests of the public in their genuine utilisation of opportunities. It promotes site and services schemes for households that can construct their own houses. It promotes upgradation of settlements with inadequate basic services. It promotes innovative financing to a range of actors who can contribute to the city’s development. Intelligent Urbanism promotes a limited role for government – for example, in ‘packaging’ large-scale urban development schemes – so that the private sector is able to actually build and market urban projects, which were previously built by the government.

At the same time, Intelligent Urbanism recognises that there are developers and promoters who have no long-term commitment in their own constructions. Their only concern is to hand over a dwelling, gain their profit and move on. For these players, it is essential to have Development Control Regulations, which assure the public that the products they invest in are safe, hygienic, orderly, maintainable, durable and efficient. For the discerning citizen, such rules also lay out the civil understanding by which a complex society agrees to live together.

Some principles of Intelligent Urbanism

- **A balance with nature.** Proponents of Intelligent Urbanism hold that balance with nature emphasises the distinction between utilising resources and exploiting them. They believe that it focuses on the thresholds beyond which deforestation, soil erosion, aquifer depletion, siltation and flooding reinforce one another in urban development, saving or destroying life support systems.

- **A balance with tradition.** Balance with tradition is intended to integrate plan interventions with existing cultural assets, respecting traditional practices and precedents of vernacular style. This principle demands respect for the cultural heritage of a place – including views and vistas.

- **Appropriate technology and infrastructure systems.** People’s capacities, geo-climatic conditions, locally available resources and suitable capital investments all temper technology. Where there are abundant craftspeople, labour-intensive methods are appropriate. Where there are surplus savings, capital-intensive methods are appropriate.

- **Conviviality.** Vibrant societies are interactive, socially engaging and offer their members numerous opportunities for gathering and meeting one another. City level domains include plazas, parks, stadia, transport hubs, promenades, ‘passages’ or gallerias. These are social spaces where everyone can go – with no physical, social or economic barriers.

- **Efficiency and effectiveness.** A major concern of this principle is transport. While recognising the convenience of personal vehicles, good city planning practice promotes alternative modes of transport. Medium- to high-density communities have shorter pipe lengths, wire lengths, cable lengths and road lengths per capita. More people share gardens, shops and transit stops.

- **Human scale.** Proponents argue that the car, single-use zoning and the construction of public structures in isolated compounds all deteriorate the human condition and the human scale of the city.

- **Regional integration.** Intelligent Urbanism envisions the city as an organic part of a larger environmental, socio-economic and cultural-geographic system. If one does not recognise growth as a regional phenomenon, then development will play a hopscotch game of moving just a bit further along an arterial road, further up valleys above the municipal jurisdiction, staying beyond the path of the city boundary, development regulations and of the urban tax regime.

- **Institutional integrity.** Good practices inherent in considered principles can only be realised through accountable, transparent, competent and participatory local governance, founded on appropriate databases, due entitlements, civic responsibilities and duties. Intelligent Urbanism facilitates the public in carrying out their honest objectives. It does not regulate and control the public, so much as the developer.

**Conclusion**

The long-term goal of the NUDP is to accelerate economic growth, reduce poverty, promote equity and help the nation realise Vision 2030, which aims to make Kenya a middle-income country within two decades. The Cities and Urban Areas Act was passed into law as a matter of urgency, but there has been no movement on the ground and much remains to be done to sell the NUDP to the Cabinet, the parliament and ultimately to the people of Kenya. A team consisting of the Devolution Task Force Leadership and the NUDP visited Sweden in June 2011 to witness an example of
devolution. Sweden has been driving this for a long time and now has a fully decentralised system of governance that works. Things really do work in Stockholm, and elsewhere in the country – the models are there.

Endnotes

1 Adapted from a paper presented at the FIG Working Week 2012 (Rome, 6–12 May: Knowing to Manage the Territory, Protect the Environment, Evaluate the Cultural Heritage).
