The Dynamics of Roadside Micro-Enterprises: A Case Study of Kayole-Soweto Informal Settlement

This is a Kenyan case study which, investigated informal roadside micro-enterprises faced with immediate involuntary displacement toward development of public infrastructural services financed through international development partners. From findings, these type of MEs present a challenge for an effective development strategy. The existing strategy makes them vulnerable to inconsistent and unsuitable support, thus threatening inclusive development of the MSE sector. The existing legislation does however provide for regular review of the strategy for appropriateness. The value of this study is in addressing this.

Keywords: Micro-enterprises, Public Road Reserves, Development, Involuntary Displacement, Kenya

Introduction

Research informs of three reasons that have contributed to expansion of total employment in the informal sector of Kenya. These are: i) growth of enumerated employment in the formal sector of Kenya having, over the past years, been relatively lower than growth of the economically active population of Kenya (KNBS₁, 2010; CBS₁ [now KNBS], 2001; CBS₂ [now KNBS], 1994; CBS₃, 1988; CBS, 1996; and CBS, 2002; Economic survey reports of 1996 to 2016; and, KNBS, 2016); ii) economically active persons who view work in the informal sector more desirable, therefore prefer it to formal sector work (KNBS, 2016); and, ii) employees in the formal sector who establish enterprises in the informal sector, a practice they engage in with an objective of enabling them survive their low wages or reduce some of the risk associated with dependence on wage employment, or both (Ronge et al, 2002 quoting McCormick, 1988).

Thus, should these contributing factors persist, the likelihood of Kenya having an expanded informal sector in the future is inevitable. The concern of the study this paper is based on, however, was not centred on the fear of an expansion of total employment in the informal sector, rather with the challenge which a section of this informal sector constitutes for an effective development strategy. This is the micro-entrepreneurs occupying a public road reserve without authorisation.

The study site was Kayole-Soweto Informal Settlement, an informal settlement in Nairobi, Kenya. At the time of the study, formalisation of the settlement had commenced. This was under the Government of Kenya (GoK) in collaboration with international development partners, one of which was the World Bank Group (WB). The formalisation included implementation of infrastructure services for purposes of public good. With respect, fourteen key
public road reserves had been identified for the effective implementation of the
infrastructure services. Therefore, demanded was a clear public road reserve.
Following, micro-enterprises (MEs) operating from a public road reserve
would be among the affected assets. The study investigated the dynamics of
these MEs with the purpose of determining the possible courses of action the
GoK could consider in supporting them, and then selecting from among these
options the most promising. This is in addition to contributing to the knowledge,
which would be referred to during review for appropriateness of the MSE sector
national policy and interventions, therefore support this type of enterprises in
creative ways that develop their potential, hence contribute to the achievement of
Kenya Vision 2030.

The question then was, during implementation of public infrastructure
involving public road reserves, “what are the possible causes of action the GoK
could consider in supporting informal roadside MEs, and from among these,
which is the most promising?”.

This paper is divided into six sections. These are this Introduction, followed a
Literature Review Summary in Section 2, Methodology in Section 3, Results in
Section 4, Discussion in Section 5, and Conclusion and Recommendations in
Section 6. It then concludes with a section on References, which gives the full
citation of the references used in the main text.

Summary Literature Review

Demographic Distribution in Kenya

The sum of urban centres of Kenya with a population of 2000 persons and
above has increased over the years. In 1948, it was 17 and by the 2009 census
results, 215. On a par is an increase in the Country’s urban population, including
its urban potentially economically active population as Figure 1 illustrates
(KNBS1, 2010; CBS1, 2001; CBS2, 1994; CBS3, 1988; and, CBS1, 1981).

A potentially economically active population comprises persons ages 15-
64 years. These are either economically active or inactive. The economically
active are also referred to in Kenya as the labour force; and, are defined as
persons supplying labour as well as persons who are not supplying but is
available to supply labour for the production of goods and services in any of
the following three employment sectors: formal, informal and, small-scale
agriculture or subsistence farming and pastoralist activities (CBS, 1996; CBS,
2002; KNBS2, 2010; Economic Surveys 2006 to 2016). Why these three
employment sectors, is because employment in Kenya is categorised into the three
sectors (Economic Surveys 2006 to 2016).
As Figure 2 below illustrates, over the years the percent of the employed has been higher than the unemployed. However, the sum of the unemployed has been increasing and in the thousands. These persons include both skilled and unskilled, both male and female. Of the sexes, more females have been unemployed (CBS, 1996; CBS, 2002; and, KNBS, 2010). And, on the skilled, the situation has been such that advertised job vacancies have attracted applications from both the qualified and over qualified (Menya, 2015).
The Informal Sector of Kenya

Existence and Growth of the Informal Sector

What’s more on the economically active population of Kenya, is that it has been growing at a relatively higher rate than enumerated employment in the formal sector. Subsequently, thousands of economically active Kenyans have found themselves faced with three choices: a) employment in the informal sector; b) employment in the small-scale agriculture or subsistence farming and pastoralist activities; and, c) unemployment. Those that opted for the informal sector then contributed to its existence, expansion, and higher growth rate as Figure 3 illustrates (Economic Survey reports, 1966, 2009 and 2016; ILO, 1972; and, KNBS, 2016).

Figure 3. Total Recorded Employment1, 2004-2015

![Graph showing employment stock from 2004 to 2015]

Key: *Provisional; 1Figures refer to employment stock as at 30th June and excludes small scale farming and pastoralist activities; 2Estimated Sources: Economic survey reports 2009 and 2016

Two other factors are also recorded to greatly influence the existence and growth of the informal sector of Kenya. These are:

(i) Economically active persons who view work in the informal sector more desirable. These justify their decision on an evaluation of the costs and benefits of formalising (Moyi et al, 20052). Operational in Kenya are legal obligations that an enterprise must comply with when formal. Compliance means fulfilment of associated statutory costs. Beyond the licensing requirements of a County Government (i.e. local authority), informal enterprises in Kenya do not meet the requirements of law. Hence, by evading the requirements, they are able to enjoy cost advantages and probably grow more than formal enterprises (NESC, 2007; and, Moyi, 2006; and KNBS, 2016).
Employees in the formal sector who establish enterprises in the informal sector - a practice engaged with an objective of enabling them survive low wages or reduce some of the risk associated with dependence on wage employment, or both (Ronge et al, 2002, quoting McCormick, 1988).

Overall, growth of the informal sector of Kenya is recorded more in urban than rural Kenya. One reason given for this is a high flow of migrants into the urban areas (Economic Survey, 2014). Additionally, the micro-enterprise (ME) sector of the MSE is recorded to have the largest number of establishments in Kenya (KNBS, 2016). These are enterprises: a) with an annual turnover not exceeding five thousand Kenya Shillings (KES); b) employing less than ten persons; and, c) with assets and financial investment in the manufacturing sector not exceeding ten million KES, and in the service and farming sectors not exceeding five million KES (MSE Act No. 55 of 2012). The establishments are either licensed or unlicensed, and operating either in or outside markets (NESC, 2007; and, KNBS, 2016).

Thus, provided the aforementioned facts of the MSE sector in Kenya persist, an expanded MSE sector in the future seems inevitable.

Roadside Micro-Enterprises in Kenya

The concern of the study, however, was not centred on the fear of an expansion of total employment in the sector, rather a challenge presented by a section of this sector. These are MEs operating outside markets, from an existing public road reserve, herein referred as roadside MEs.

A review of the legal and policy framework as well as other documents informs that they constitute a challenge for an effective development strategy. They have features that make them both appreciated and less appreciated. Their less appreciated features largely relate to their informal status (see 0) and unauthorised occupation of a public road reserve. While, their appreciable features relate to their developmental value, which includes the potential to generate incomes and to provide employment to a large number of Kenyans (see for example ILO, 1972; Mullei, 2003; KIPPRA, 2005; and, KNBS, 2016). Thus, they are crucial to the national goal espoused in Kenya Vision 2030. Kenya Vision 2030 is the blueprint guiding Kenya toward realising its long-term development goal of being “a newly industrialised middle-income country, providing a high quality of life to all its citizens by the year 2030”. It identifies individual long-term development goals to attain by 2030. Then by each goal, the development challenges to overcome, the available opportunities, the strategies to utilise, a structured period of action and, the sources of resources. Overall, its implementation is to occur, the while observing compliance with the Country’s regulatory framework and, recognition of the State as provider of public good (NESC, 2007).

Besides, there lacks in Kenya a clear guideline on how to appropriately support them during implementation of infrastructural services that require a public road reserve. This has resulted to them being vulnerable to inconsistent and inappropriate support. Also, it has mobilised them to negotiate for suitable

The question then is, during implementation of public infrastructure involving public road reserves, “what are the possible causes of action the GoK could consider in supporting them, and from among these, which is the most promising?”

Methodology

Among the urban centres of Kenya is Nairobi, the capital city of the Country. Year-in-year-out, it has been the largest urban centre in the Country in terms of population and level of advancement in infrastructure and functions. The latter has contributed to a cumulative perception by many, particularly the youth, that comparatively, accessibility to rewarding opportunities is higher here, thus it is the place to be. However, successive census results indicate a reduction of Nairobi’s share of urban population (see Figure 4). This shift corresponds with an increase in the number of urban centres, implying a shift in the flow of urban migration in Kenya (KNBS1, 2010; CBS1, 2001; CBS2, 1994; CBS3, 1988; CBS1, 1981; Mitullah, 2003; and, World Bank, 2017).

Figure 4. Population Distribution of Nairobi, 1979 to 2009

The outcome is appearance of adverse conditions relating to social, economic, and...
natural environment. One of this is proliferation of informal settlements. By the 2009 census results, they were estimated to be over 200, occupying about 2% of the City’s land, and resident to approximately 44% of the City’s population (CAS Consultants et al, 2014; and, Runji & Partners, 2013). This challenge of informal settlements in Nairobi is however being addressed through projects funded by the GoK in collaboration with international development partners. One of the beneficiary settlements is Kayole-Soweto Informal Settlement. The case study was carried out here.

This informal settlement was built on approximately eight-hectare parcel of land belonging to the NCCG. At the time of the study, land use planning and subdivision that provides for road reserves, residential and commercial areas, as well as social service places had been undertaken; and, the official document landowners possessed was an allotment letter. Additionally, centralised piped water supply and sewerage collection infrastructure, as well as the conditions of the road network were wanting. Specifically, none of the roads had street lighting and stormwater drainage, and none were to bitumen standards. Few residents accessed piped water and none were connected to the main sewer network (KISIP, 2012). By the 2009 census results, the settlement’s total population was estimated at 13,343 individuals, which was about 0.43% of the estimated population of Nairobi. About two-thirds of this population was potentially active. Of this, majority (≈82.43%) were economically active: employed in low skilled occupations either as wage earners or self-employed. Majority (≈69.31%) of the economically active were youth aged 15-34 years (KNBS; Runji & Partner, 2013; and, GoK, 2007).

At the time of the study, formalisation of the settlement had commenced through two projects, namely:

1. Kenya Informal Settlements Improvement Project (KISIP) and, the partners were French Development Agency, Swedish International Development Agency and the World Bank (WB) Group (KISIP, 2012); and,
2. Water Supply and Sanitation Services Improvement Project (WaSSIP) and, the partner was WB (EMC Consultants, 2016).

Under the projects, fourteen key public roads were to be upgraded to bitumen standards and their road reserves used in the development and provision of improved water, sanitation, stormwater, and street lighting services. MEs located on the land reserved for these roads were among the assets faced with immediate involuntary displacement. A census survey was conducted to investigate the dynamics of these MEs, with a view of determining and selecting the most promising action the GoK could consider in suitably supporting them. The study applied a combination of qualitative and quantitative research strategies. The unit of observation was the roadside MEs; and the unit of analysis, dynamics of these roadside MEs. The sources of data were both primary and secondary. The primary sources were all the affected MEs, identified key informants, and general observation. The secondary sources included: a) documents by the GoK, various
international development partners such as the World Bank Group (WB), and researchers in the industry; b) magazines and local newspapers; and, c) journals. Descriptive analysis was used to analyse the data collected. The study was guided by the environmental and social safeguard frameworks of Kenya and the WB, as well as by the Dual Sector Model, the Micro-Enterprise View Theory, the Rational Choice Theory, and the 1972 ILO mission publication (on Employment, Incomes and Equality in Kenya) (Lewis, 1954; Fields, 2005 and 2007; Moyi et al, 2005; Lawrence, 2004; Ranis, 2004; ILO, 1972; Lovett, 2006; Levin et al, 2004; and, Meier, 2002).

**Results**

**Background of the Enterprises**

An estimated 2,334 enterprises were located on the public road reserves. Twenty-three were non-operational, but their structures were up. On the proprietorship, it was estimated at 2,198 – implying existence of proprietors with more than one establishment on the public road reserves. The enterprises employed more than 2,800. Fifty-nine percent of these employees were females.

As Figure 5 illustrates, the distribution of individuals per enterprise was between one and 13. Slightly over 99% of the enterprises, however, employed not more than five individuals, majority (i.e. ≈ 86.6%) of which had only one employee.

**Figure 5. Total Number of Employees in the Business**

An estimated 86.1% of the enterprises, as Figure 6 illustrates, earned not more than KES 1000 per day. Noteworthy too, slightly more than 54% of the enterprises earned less than KES 600.
As to their premises, an estimated 99.3% were temporary; and, about half of these temporary premises were open air (i.e. had neither roof nor wall). Overall, only slightly less than a quarter (~22.71%) provided adequate shelter from harsh environmental elements (e.g. dust particularly in the dry season; and, mud in the rainy season).

The spaces the premises occupied ranged from about a square metre to over 17m$^2$. Most (~96.18%), however did not exceed 16m$^2$; and, nearly half did not exceed 3m$^2$. Additionally, less than half (~44.97%) of the premises were rented and, majority of these were temporary. The rent ranged as shown in Figure 7 below. For nearly three quarters, it did not exceed KES 2,000 per month.

**Figure 6.** An Enterprise's Average Net Business Income (Profit) per Day in Kenyan Shillings

**Figure 7.** Rent Paid Per Month in Kenyan Shillings
What’s more, all the enterprises were required to make a mandatory fee to NCCG. But, as Figure 8 illustrates, only about a third were doing so at the time of the study. According to these, the fee could be made under a flexible platform that provided a choice ranging from daily to yearly rate. Majority (≈ 97.4%) though preferred the daily rate platform - favouring daily, weekly or fortnightly payment as Figure 9 illustrates. These enterprises additionally informed, the fee charged per day was Ksh. 50.

**Figure 8. Does Enterprises make a payment to the County Government**

![Bar Chart: Percentage of Enterprises Making Payment](image)

Source: The Study

**Figure 9. Amounts Complying Enterprises Paid to NCCG per Visit**

![Line Chart: Amount Paid per Visit](image)

Source: The Study

Lastly, nearly all (i.e. ≈97.9%) the enterprises were unregistered, thus informal (see Table 1 below).
Table 1. Is the Business Registered?

<table>
<thead>
<tr>
<th>Is the Business Registered</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>1</td>
<td>.0</td>
</tr>
<tr>
<td>No</td>
<td>2285</td>
<td>97.9</td>
</tr>
<tr>
<td>Total</td>
<td>2286</td>
<td>97.9</td>
</tr>
<tr>
<td>Missing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>N/A</td>
<td>24</td>
<td>1.0</td>
</tr>
<tr>
<td>System</td>
<td>24</td>
<td>1.0</td>
</tr>
<tr>
<td>Total</td>
<td>48</td>
<td>2.1</td>
</tr>
<tr>
<td>Total</td>
<td>2334</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Source: The Study

Nature of Activities Undertaken by the Micro-Enterprises

The MEs activities were concentrated in the food and beverage (55.4%), clothing (15.4%), footwear (7.5%), household items, and hair grooming (4.0%) industries respectively; and, as Table 2 shows, they cut across trade, services and manufacturing sectors, with most (≈ 78.1%) in trade.

Table 2. Nature of the Establishments Owned

<table>
<thead>
<tr>
<th>Operator has More than One Enterprise</th>
<th>Nature of Business*</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Not Operating at the Time of the Study</td>
<td>Trade</td>
</tr>
<tr>
<td>Yes</td>
<td>.0%</td>
<td>2.9%</td>
</tr>
<tr>
<td>No</td>
<td>.2%</td>
<td>75.2%</td>
</tr>
<tr>
<td>Total</td>
<td>.2%</td>
<td>78.1%</td>
</tr>
</tbody>
</table>

Key: a. Group

Source: The Study

Majority of the establishments, estimated at slightly over 90%, were retailers as Figure 10 illustrates. On the wholesalers and distributors, most were in the food industry and, in this industry, most were vending raw vegetables and/or fruits. These vegetable and/or fruit wholesalers procured their wares mainly from Nairobi’s largest farm produce market, the Wakulima Market. Some procured from Gikomba Market, another large market in Nairobi but popular for trading in second hand clothes and footwear. Their customers were largely retailers from the Settlement, who resold to the resident community. Few households purchased directly from them and this was at wholesale price, implying a saving to the households.
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Figure 10. Distribution of Business Grouping

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Wholesale Only</th>
<th>Combined Wholesale &amp; Retail</th>
<th>Distributor</th>
<th>Retail Only</th>
<th>Total Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>141</td>
<td>4</td>
<td>2</td>
<td>2187</td>
<td>2334</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Cumulative Percent</th>
<th>Wholesale Only</th>
<th>Combined Wholesale &amp; Retail</th>
<th>Distributor</th>
<th>Retail Only</th>
<th>Total Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.04</td>
<td>6.21</td>
<td>6.3</td>
<td>100</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: The Study

The vegetable and/or fruits wholesalers comprised entrepreneurs of both sexes, but females were more (see Table 3). They operated from verandas of shops located adjacent to the Project Roads and this was on agreed terms with the shop operators. The verandas were among the estimated 99.3% temporary premises discussed above.

Table 3. Comments on Business Type

<table>
<thead>
<tr>
<th>Business Type</th>
<th>Comments on Business Type</th>
<th>Total Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wholesaler</td>
<td></td>
<td>M</td>
</tr>
<tr>
<td>Combined</td>
<td></td>
<td>M</td>
</tr>
<tr>
<td>Distributor</td>
<td></td>
<td>M</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Sex of Entrepreneur</th>
<th>Selling vegetables and/or fruits</th>
<th>Others (food)</th>
<th>Others (non-food)</th>
<th>Total Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>M</td>
<td>42</td>
<td>1</td>
<td>7</td>
<td>50</td>
</tr>
<tr>
<td>F</td>
<td>82</td>
<td>8</td>
<td>1</td>
<td>91</td>
</tr>
<tr>
<td>Total</td>
<td>124</td>
<td>9</td>
<td>8</td>
<td>141</td>
</tr>
</tbody>
</table>

Key: M is Male | F is Female
Source: The Study

Services Received from the Nairobi City County Government

Table 4 below illustrates the services the MEs were accessing from NCCG, but in connection with water and sanitation services. The enterprises access of improved types of water and sanitation was wanting. About three quarters considered it not applicable to question them about access to the services, suggesting they operated without. Among those that considered it applicable, approximately 9% accessed an improved water source and about 3% an improved mode of human waste disposal as a main. A lower percent (≈2%) though, accessed
both as a main. Among the improved types of sanitation and water services provided by NCCG at a fee are main sewer and piped water. The MEs access of these was very low: approximately 0.65% and 6.30% respectively. Regarding the enterprises that paid the mandatory NCCG fee discussed above under sub-section “0. Background of the Enterprises”, as
Table 5 illustrates, about 78.7% accessed no improved services as a main. Only about 5.9% accessed both as a main. Of these, only 20% accessed both piped water and main sewer as a main.

**Table 4. Access to Improved Water and Mode of Human Waste Disposal**

<table>
<thead>
<tr>
<th>Main Mode of Human Waste Disposal</th>
<th>Unimproved Source</th>
<th>Improved Source</th>
<th>Total (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>None</td>
<td>N/A</td>
<td>Others</td>
</tr>
<tr>
<td>N/A</td>
<td>0.00</td>
<td>74.32</td>
<td>13.12</td>
</tr>
<tr>
<td>None/Bush/Flying Toilet</td>
<td>0.04</td>
<td>0.04</td>
<td>0.04</td>
</tr>
<tr>
<td>Bucket</td>
<td>0.00</td>
<td>0.04</td>
<td>0.00</td>
</tr>
<tr>
<td>Traditional pit latrine</td>
<td>0.00</td>
<td>1.29</td>
<td>0.73</td>
</tr>
<tr>
<td><strong>Sub-Total</strong></td>
<td>0.04</td>
<td>75.70</td>
<td>13.90</td>
</tr>
<tr>
<td>VIP Latrine</td>
<td>0.00</td>
<td>0.13</td>
<td>0.60</td>
</tr>
<tr>
<td>Other On-Site Mode (septic tank/cess pool/flash toilet)</td>
<td>0.00</td>
<td>0.35</td>
<td>0.13</td>
</tr>
<tr>
<td>Main sewer</td>
<td>0.00</td>
<td>0.09</td>
<td>0.17</td>
</tr>
<tr>
<td><strong>Sub-Total</strong></td>
<td>0.00</td>
<td>0.56</td>
<td>0.91</td>
</tr>
<tr>
<td>Other/Assisted by Neighbour</td>
<td>0.00</td>
<td>0.04</td>
<td>0.26</td>
</tr>
<tr>
<td><strong>Total (%)</strong></td>
<td>0.04</td>
<td>76.31</td>
<td>15.06</td>
</tr>
</tbody>
</table>

Key: N/A is Not Applicable | VIP Latrine is Ventilated Improve Pit Latrine
Source: The Study

Lastly, on the establishments handling foods and beverages, majority (≈89.7%) accessed neither an improved water source nor sanitation mode as a main. The products these establishments traded were either cooked or raw.
Table 5. Main Water Source and Human Waste Disposal Mode of MEs that Paid the Mandatory NCCG Fee

<table>
<thead>
<tr>
<th>Mains Source of Water</th>
<th>Main Mode of Human Waste Disposal</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Unimproved Mode</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Traditional pit latrine</td>
<td>26.82</td>
</tr>
<tr>
<td></td>
<td>VIP Latrine</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td>Septic tank</td>
<td>0.20</td>
</tr>
<tr>
<td></td>
<td>Main sewer</td>
<td>0.20</td>
</tr>
<tr>
<td></td>
<td>Flash Toilet</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td>Other</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td>N/A</td>
<td>27.42</td>
</tr>
<tr>
<td>Unprotected dug well</td>
<td>N/A</td>
<td>51.68</td>
</tr>
<tr>
<td></td>
<td>Traditional pit latrine</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td>VIP Latrine</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td>Septic tank</td>
<td>1.58</td>
</tr>
<tr>
<td></td>
<td>Main sewer</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td>Flash Toilet</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td>Other</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td>N/A</td>
<td>55.03</td>
</tr>
<tr>
<td>Unprotected spring</td>
<td>N/A</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td>Traditional pit latrine</td>
<td>0.20</td>
</tr>
<tr>
<td></td>
<td>VIP Latrine</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td>Septic tank</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td>Main sewer</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td>Flash Toilet</td>
<td>0.59</td>
</tr>
<tr>
<td></td>
<td>Other</td>
<td>0.39</td>
</tr>
<tr>
<td></td>
<td>N/A</td>
<td>0.79</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: The Study

The study also investigated the MEs main source of lighting fuel. As Figure 11 shows, most (≈82.4%) enterprises considered the question inapplicable, suggesting they operated without. Overall, approximately 83% had invested in none and an estimated 13% used lamps. NCCG too had not invested in street lighting. This restricted the working period per day for most MEs to daylight hours. It also escalated insecurity for MEs working outside daylight hours.

Figure 11. Main Type of Lighting Fuel

Source: The Study
Among establishments that worked outside daylight hours, basing on business hours per day, they could generally be grouped into two: a) MEs that operated from around 3:00 a.m. to about 9:00 a.m.; and, b) MEs that operated from about daybreak to evening hours. The former were generally the vegetable and/or fruit wholesalers discussed above. Their about 9:00 a.m. closing hour was related to their operation from verandas of shops located adjacent to the project roads and an agreement with the shop operators to vacate about this time to enable readiness for the day’s business. These MEs business hours imply half of their activity was conducted during hours when it was dark. A significant challenge they associated with this was insecurity, particularly for the female MEs who, besides theft and physical harm, risked rape and murder. This compelled the MEs to include security measures in their business cost.

**Legality of the Micro-Enterprises Occupation of the Road Reserves**

None of the enterprises had permission from a relevant roads authority to occupy the public road reserve located on. The permission is a legal requirement and, when given, contains prescriptions that must be complied with (Kenya Roads Act, 2007; Land Act, 2012; and, Physical and Land Use Act, 2019). Additionally, it was observed that the MEs congested entrances of adjacent buildings, thus disrupting movement in and out of the buildings, as well as window displays. They also congested pedestrian walkways, forcing pedestrians to walk on main carriageways. Observed as well was that their methods of disposal of the waste they generated was unsupported by organised or formal management, consequently untidy.

**Implementation of the Development Projects**

**Potential Impacts**

Commencement of works associated with KISIP and WaSSIP would result to involuntary displacement of the MEs. This would either be whole or partial. Partial displacement was defined in the study as a micro-entrepreneur opting to continue operating from a project road by adapting to the altered conditions brought about by on-going construction works. Four factors were identified that would encourage this, namely: a) ME’s premise is temporary and easy to modify to respond to altered surroundings, e.g. can easily adjust to operate from the land adjacent to the corridor of impact; b) Fear of losing loyal customers; c) Loyal customers suggestion; d) To tap the construction workforce market; and, e) Hostility from entrepreneurs in potential areas of relocation, which would be from the need to guard against competition.

Four potential adverse impacts associated with the involuntary displacement of the MEs were identified. These were:

1. Reduced or total loss of revenue. Whole displacement would result to either relocation or closing shop. Closing would cause total revenue loss. While relocation may result to reduced revenue...
would occur when the relocation site: a) experiences lower human traffic, and/or b) necessitates re-establishing clientele. Partial displacement may result to reduced hours of operation, which could erode revenue.

2. Increased exposure to unsanitary conditions. This would be among MEs that opt for partial displacement. Water and sanitation structures were other assets observed on the project road reserves (see

3. Figure 12). Their damage through construction activities, and without adequate mitigation measures would bare raw sewage. Additionally, this would likely aggrieve affected households. These households may seek to resolve through illegal connections to installed sewer-lines, prior to testing of the lines for their effectiveness. Also, the illegal connections may be defective. Overall, the outcome would be contamination of the physical environment, thus expose the MEs to poor sanitary conditions.

**Figure 12. Type of Water and Sanitation Structures likely to be Affected on Implementation of the Projects**

![Graph showing the frequency of different water and sanitation structures affected.]

Source: The Study

4. Exposure of the enterprises that opt for partial displacement to a variety of elements that would threaten the workforce’s well-being, e.g. accidents from construction machines, and upper respiratory tract infections due to elevated dust levels.

**Proposed Mitigation Measures**

The MEs proposed measures to mitigate these potential adverse impacts. As Figure 13 illustrates, about 6.9% wanted no compensation, citing three reasons: a) premise owned was open-air; b) business structure was ‘mobile’, hence adaptable to altered conditions; and, c) business was non-operational. Of the 93.1% with differing opinion, majority (~89.6%) preferred non-cash compensation modes; and, most of these wanted to continue operating their business. Respecting, they were in favour of the Projects developing a designated market within the settlement and resettling them there. At the time of the study, the settlement had no market place. This was courtesy to land grabbers. During sub-division of the land on which the settlement is located, lands were allocated for development of public
infrastructure, namely: market, health centre, public schools, children’s playing
ground, public roads, and police station. The lands allocated for the first four
had been grabbed at the time of the study.

**Figure 13. How Enterprises Proposing Compensation would like to be
Compensated**

![Diagram showing compensation preferences]

- Percent of MEs

<table>
<thead>
<tr>
<th>Compensation Type</th>
<th>Percent of MEs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash compensation</td>
<td>86.9</td>
</tr>
<tr>
<td>As the Project recommends</td>
<td>10.4</td>
</tr>
<tr>
<td>Connection to main sewer line at Projects cost</td>
<td>1.5</td>
</tr>
<tr>
<td>Reconstruction of affected structure</td>
<td>0.3</td>
</tr>
<tr>
<td>Relocation to a designated site within the Settlement</td>
<td>0.9</td>
</tr>
</tbody>
</table>

Source: The Study

On the other hand, the Projects preferred mitigation measure was cash
compensation. This would involve estimating in cash value the just entitlement
of each MEs, and drawing agreements. An agreement would contain the cash
award offered to a ME and condition of award. The condition was vacating the
project road reserve within a specified period, which is prior to commencement
of works. During primary data collection, it was however noted the MEs were
likely to sign the agreement to benefit from the offered award, but opt to
continue operating from a project road by adapting to the altered conditions
brought about by on-going construction works.

**Discussion**

**Features of the Establishments**

The enterprises located on the land reserved for the Project Roads in Kayole-
Soweto Informal Settlements offered products and goods oriented to serving the
resident community. Therefore, they constituted an important market and supply
point for the resident community. These enterprises were large in number and
provided employment to a large number of individuals, majority of whom were
females. They operated from premises that could generally be described as
flexible, as the characteristics the premises possessed made them easily adapt to
altered conditions. Specifically, they were typically small and temporary, with few
providing adequate shelter from harsh environmental conditions (e.g. sun, dust,
rain and wind). Additionally, few of the premises had lighting, water and
sanitation facilities; specially, about three-quarters had no water and sanitation
facilities, and more than eighty percent had no lighting mode except the sun. And,
less than half of the premises were rented; and, majority of these rented premises
were temporary.
By the GoK definition of at least looking at employee size and annual turnover to guide description of scale, and registration status to guide description of formality, the MEs could generally be described as micro and informal respectively (MSE Act No. 55 of 2012; NESC, 2007; and, MSME, 2016). Majority employed between one and five employees, and had an annual turnover not exceeding KES. 500,000. What’s more, slightly more than half earned less than the legal basic minimum wage for the lowest paid occupation in Nairobi. As per Legal Notices 197 of August 2013 and 112 of July 2017, the basic minimum wage in Nairobi for the lowest paid occupation at the time of the study and at prior to 1st May 2018 was, respectively, KES 470.60 per day (or KES 87.40 per hour) and KES 622.00 (or KES 115.50 per hour). Thus, the MEs could generally be described to be within the brackets of low-income earners in Nairobi.

As to their informal status, local authorities in Kenya, such as the NCCG, levy a mandatory fee to establishments of the nature of these MEs. This fee is payable under a flexible platform ranging from daily to yearly. Munandi (2012) reports that the amount and timing of the fee can be negotiated; and the agreement can be sealed under an MoU between the Local Government and a ME association. However, roads authorities established under the Kenya Roads Act 2007 are unlikely to be involved in the MoU. From the results presented above under “0 Background of the Enterprises”, suggested is that:

(a) The MEs could easily evade making this payment; and, when they made it, they were likely to shun giving one time payment covering beyond ten working days. By behaving this way, they were then able to: a) enjoy flexible working days, and b) manage the risks associated with long-term commitment.

(b) The MEs were to make the payment regardless of premise type and whether accessing NCCG services or not.

(c) Payment of the fee did not result to upgrading the status of an ME from informal to formal. According to the paying enterprises, this fee was toward access to operate their activities. From the literature reviewed, for the MEs to upgrade to formal status, they had to get registered as per other enacted legislation (KenInvest, 2017), which would obligate them to comply with specific regulations that include: paying taxes (e.g. income tax); observing social and minimum wage obligations; and, respecting minimum product quality requirements, property rights (e.g. copyright) and environmental and road safety requirements (NESC, 2007; and, Moyi, 2006). Vis-à-vis, nearly all the MEs were unregistered. Besides, none of the MEs had permission from a road authority to occupy the land reserved for the project roads.

Collectively, all the above-mentioned characteristics of the roadside informal MEs made them either appreciable or less appreciable. They also presented a challenge for an effective development strategy.
The Appreciable Features of the Informal Roadside MEs

The informal roadside MEs appreciable features related to developmental value. By the field results and the literature reviewed, including Kenya Vision 2030, these include: potential to generate incomes; potential to provide employment to a large number of Kenyans; ability to save on scarce capital in creating jobs; contribution to the output of goods and services; linking producers, suppliers and consumers; flexibility and ease in adapting to altered conditions and market changes; and, as a primary source of developing a pool of skilled and semi-skilled workers and entrepreneurial talent, which are important base for future industrial expansion (Economic survey reports 1966, 1973 to 1975, 2006, 2009, 2013, and 2016; Moyi et al, 2005; Moyi, 2006; Ronge et al, 2002; GoK, 2005; GoK et al, 2010; KNBS, 2016; and, MSE Act No. 55 of 2012)

The Less Appreciable Features of the Informal Roadside MEs

The less appreciable features of the informal roadside MEs related to unauthorised occupation of public road reserves and informal status. Public road reserves are officially planned for specific public purposes, namely: i) movement of goods and people from one place to another, using motorised and non-motorised means; ii) road safety; iii) future expansion; and, iv) provision of certain infrastructure services for purpose of public good, e.g. electricity distribution, stormwater drainage, municipal water distribution, sewerage collection and transportation, and cable networking. Following, it becomes necessary to regulate usage of them (Kenya Roads Act, 2007; Land Act, 2012; and, Physical and Land Use Act, 2019). Unauthorised occupation by informal activities, particularly when in large numbers, is therefore potentially disruptive and harmful. An analysis of the field results, and supported by the literature reviewed, identify the disruptions and harms as follows (NESC, 2007; eKLR, 2014; Munandi, 2012; Dolan, 2015; Achuka, 2015; Achuka, 2015; Macharia, 2015; CAS Consultants et al, 2014; Ondieki et al, 2014; Odhiambo, 2014; Kiarie, 2014; Makori, 2014):

(1) Compromise of road safety, sometimes with fatal outcomes. This would be from the MEs congestion of pedestrian walkways, therefore forcing pedestrians to walk on main carriageway. The fatalities may be to the pedestrians, motorists, and even the MEs. By Kenyan law, the MEs would be considered offenders and liable on conviction to punishment. Thus, they are ineligible to any compensation when themselves experience losses and damages.

(2) Disruption of ease of movement around building on adjacent land, thus disturb the enjoyment occupants are legally entitled to. Besides it can rile the occupants to the point of protesting against presence of the MEs.

(3) Stalling of scheduled official infrastructure development activities that require use of the public road reserve.
Insecure tenure of the MEs. The MEs commit an offence through their unauthorised occupation of the public road reserves. Subsequently, strict enforcement of the law would be steep on them. This includes eviction and ineligibility for compensation on involuntary displacement. Additionally, on conviction, the imprisonment term does not exceed one year, while the fine does not exceed KES 10 million; and, in the case of a continuing offence, an additional fine not exceeding KES 100,000 for every day during which the offence shall have continued (Kenya Roads Act, 2007; Land Act, 2012; and, Physical and Land Use Act, 2019). As the micro-entrepreneurs generally fall within low-income earners in Nairobi, it is highly likely they would experience a challenge raising a fine, therefore end up in prison.

This legal position exposes the micro-entrepreneurs to exploitation and harassment from corrupt local government officials, with the following potential consequences: i) reduced profits for the MEs; and, ii) harassment that could trigger clashes between the MEs and the officials, which could be fatal – damage and/or theft of property, injuries and even death of the operators. The legal position also exposes the micro-entrepreneurs to manipulation from dishonest politicians, whose campaign messages would include empty promises of support as reward of support for an elective seat.

Compromise of public health and safety due to violation of minimum public health requirements. The business environment on the project roads comprised; i) over three-quarters of MEs operating from premises with neither an improved mode of water nor sanitation facility; ii) poor regulation of MEs; and, iii) more than fifty-five percent of MEs handling food and beverages, either cooked or raw. Nearly 90% of the MEs handling the food and beverages accessed neither an improved water source nor sanitation mode as a main. Following then, these MEs were a potential source and transmitter of poor sanitation related diseases. Other public health and safety concerns, but inclusive of all the MEs, are:

(a) Degradation of the physical environment due to improper disposal of the waste the MEs generate.

(b) Upsurge in security, e.g. the large presence of MEs may ease escape of thugs or facilitate selling of drugs which may disturb the local community’s values hence peace.

Cumulatively, these (points 1 to 5) discourage service providers to invest on infrastructure that encourages the MEs to be “comfortable” and continue operating unlawfully from a public road reserve. It also disincentivises the micro-entrepreneurs against upgrading their formality status as well as improve on their business premises beyond the barest. It instead encourages a preference for flexibility to respond to altered conditions.
Regarding the informal status of the enterprises, this implies they flouted legal obligations and associated costs which, are operational in Kenya and enterprises must comply with when formal (NESC, 2007; and, Moyi, 2006). Following, this informal status of the enterprises, jointly with the MEs employee size, flexible premise type, low NCCG fee, and flexibility in making the NCCG as well as the ease with which it can be evaded, collectively contribute to overall flexibility of the MEs. Accordingly, the MEs can easily modify to respond to altered conditions, e.g. the surroundings and market. It also provides a buffer which allows the establishments to offer lower prices, which can make them attractive to consumers. When this is unchecked over a prolonged period, the establishments would eventually gain abnormal share of the market (NESC, 2007), which infers adverse consequences on human and environmental safety and health, as well as the government revenue essential for development, including maintaining and improving service provision.

**Revenue the Nairobi City County Government Generates from the MEs**

The Constitution of Kenya (2010) mandates NCCG to provide certain services and, generate revenue from them. These services include: licensing and control of undertakings that sell food to the public; refuse removal and solid waste disposal; street lighting; development of markets; trade licenses - excluding regulation of professions; storm water management systems in built-up areas; and, water and sanitation. By the results, NCCG was providing no services to the MEs, and was earning negligible revenue from the MEs, yet the potential existed.

**Implementation of the Development Projects**

Commencement of works associated with KISIP and WaSSIP would definitely result to involuntary displacement of the MEs. According to the regulatory framework of Kenya on involuntary displacement due to a development project, the MEs are ineligible for compensation as they are illegally occupying the public road reserves (Land Act, 2012; IDP Act No. 56 of 2012; and, Constitution, 2010). However, as the WB was one of the development partners, it expected its policy on involuntary displacement to be complied with. By this policy, the projects were to explore alternatives to minimise on the potential adverse socio-economic impacts of involuntarily displacing the MEs. Subsequently, the MEs were ineligible for compensation for the land they occupied but, in lieu of compensation, were eligible for: a) assistance to re-install in a new place; and, b) compensation for loss of physical assets and revenue for the duration of work stoppage due to relocation (World Bank, 2017; and Repcon Associates, 2011).

Inspired by this knowledge, by the results presented, the mitigation measure majority of the MEs preferred was a non-cash compensation mode, namely “resettlement in a designated market within the settlement. This way, they would be able to continue operating their business, and under secure tenure”. The Projects preference was however cash compensation, and this was likely to carry
the day. The most likely site to locate the designated market had been grabbed. Recovering it would necessitate just compensation to the occupants in compliance with WB Policy on involuntary displacement. This would increase the resettlement cost as well as stall works commencement. The alternative cash compensation measure would be less disruptive and costly: less persons to resettle, and small payment to MEs to vacate site, then commence works. However, the designated market measure held more promise:

(a) To the MEs as it assured secure tenure, protection from harsh environmental elements, road safety, security, and access to improved public services.

(b) To NCCG as it would appreciably enhance its revenue collection and public health regulation efforts.

(c) To residents of the informal settlement in terms of lowered morbidity incidences (due to poor sanitation and road safety), ease in road use and, aesthetics.

(d) To Kenya in terms of sustainably and inclusively addressing the challenges of its MSE sector, therefore enabling realisation of its Kenya Vision 2030.

Conclusion and Recommendations

Conclusion

The long-term development goal for Kenya is “to be a newly industrialised middle-income country, providing a high quality of life to all its citizens by 2030”. And, the Micro- and Small Enterprise (MSE) Sector of the Country has been identified to have a role in the realisation of this goal (NESC, 2007). Justification of this role is empirical evidence documented for over five decades (see for example Economic Survey, 1966, 1973-75; ILO, 1972; Ronge et al, 2002; and, KNBS, 2016). Subsequently, the MSE sector, which includes MEs in the informal sector, must be appropriately supported (NESC, 2007; and, MSE Act No. 55 of 2012).

However, the informal roadside MEs studied demonstrated that MEs of this nature in Kenya do present a challenge for an effective development strategy. These MEs possess both appreciable and less appreciable features. Their appreciable characteristics relate to their developmental value; while their less appreciable features relate to their informal status and unauthorised occupation of public road reserves. But, the existing MSE development strategy in Kenya is inadequate on the appropriate support for them, particularly when faced with immediate displacement for purposes of implementation of an infrastructure service for public purposes. Due to this, the MEs are vulnerable to inconsistent and unsuitable support. This then threatens inclusive development of the MSE sector, as well as successful delivery of Kenya’s long-term development goal as espoused in the Country’s long-term development blueprint, Kenya Vision 2030.

The Country’s MSE legislation does however provide for regular review of the strategy for appropriateness. It is time it was reviewed. With respect, more
thought should be given on the strategy to adopt about informal roadside MEs. It is commendable to discourage them from illegally occupying public road reserves. However, this should be accompanied with a plan guided by the principle of sustainable development. This plan should at the very least provide development control guidelines and investment decisions.
Recommendations

The recommendations of the study were:

(1) During formalisation of an informal settlement, the government should consider development of a market infrastructure within the settlement, and resettling the identified informal roadside MEs there. Development of the infrastructure should be in collaboration with the local authority; and, on its completion, the local authority should manage it as per the existing legal framework.

(2) Development of infrastructural services that require a public road reserve should be perceived as presenting an opportunity to appropriately support informal roadside MEs located on the public road reserves. This should be part of the detailed design.

(3) The road authorities should take the lead in developing an appropriate development strategy about informal roadside MEs.

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