

From Formulation to Implementation: Investigating the Environmental Policy Process in Nairobi

by

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AUTHOR'S DECLARATION

I hereby declare that I am the sole author of this thesis. This is a true copy of the thesis, including any required final revisions, as accepted by my examiners.

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ABSTRACT

An examination of the environmental policy process provides insight into the mechanisms of decision-making that create and implement policies, which in turn affect planning outcomes and development directions. Such in-depth scrutiny has rarely emerged in the East African context, with few studies providing an analysis of the entire policy process and the actor network involved. This study offers a thick, descriptive narrative of the environmental policy arena in Nairobi, where rampant environmental degradation due to unconstrained development is occurring despite the existence of an environmental regulatory framework. The effects of newly implemented constitutional and strategic development reforms in this rapidly evolving African metropolis are also interrogated. The study lens shifts from the macro-level perspective of the policy system and context, to the micro-level of the institutional and individual actors, examining their roles, authority, and the interconnections between them.

A qualitative case study approach is utilized, consisting of 25 semi-structured interviews conducted with environmental policymaking leaders in Nairobi. Both deductive (themes are applied to the data) and inductive (themes are derived from the data) analyses are applied to examine the research data in detail. The primary data is supplemented with numerous secondary sources, which provide a practical grounding for the primary analysis. The narrative that coalesces around the data themes uncovers the underlying causes for poor environmental regulation thus far, prominent among them being a lack of institutional capacity in state agencies; corrupt and nepotistic governance; and the splintering of the environmental mandate among numerous state institutions, leading to competition and conflict among them. Adam and Kriesi's Network Approach (2007) is then critically adapted and applied, revealing the concentration of power in state authorities and disproportionate distribution of influence among non-state actors in the environmental policy subsystem. This policy network analysis shows how these conditions create the potential for low to moderate incremental policy change going forward.

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DEDICATION

To the women of Kenya, who continue to amaze, inspire, and provide hope for a better future.

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Chapter 1

Introduction

1.1 Background Summary & Research Objective

As the capital of Kenya and its largest city, Nairobi is easily recognizable as the vibrant beating heart of the country. Nairobi has experienced phenomenal growth in the last five decades since Independence from British colonial rule was achieved in 1963, growing from just 350,000 residents then to a current population of approximately 3.14 million people (Kenya National Bureau of Statistics, 2009). This increase in the urban population has placed a significant degree of pressure on natural and municipal resources, particularly with respect to land. Indeed, the burden of the population load of Nairobi is embodied in UNEP's (2009:149) observation that 'rapid population growth has outstripped the city's ability to deliver adequate services such as education, health care, safe water, sanitation, and waste removal.'

Despite the existence of an environmental regulatory framework that includes legislation which mandates Environmental Impact Assessments for all development projects since the late 1990's, environmental planning in Nairobi has failed to constrain natural resource degradation - as demonstrated by mushrooming informal settlements, extensive water quality deterioration, soil and air quality pollution, and most prominently, by losses of forest cover and prime agricultural land (UNEP, 2009). These circumstances are fundamentally due to two major factors: the first is the absence of a comprehensive strategic development plan for the city - in effect, 'most urbanization [in Nairobi] is taking place in a planning vacuum' (City Council of Nairobi, 2007). The second is a failure to adequately or appropriately implement the existing policies and acts of the regulatory framework which governs environmental concerns in development (Kimani, 2010a; Mwaura, 2006; Kameri-Mbote, 2000), a gap which has also been acknowledged by the Ministry of Environment and Mineral Resources (2012), who has stated that 'weak enforcement of laws and weak implementation of policies remains a major issue of concern in Kenya's environment sector' (National Environment Policy Draft v.5, 2012: 11).

As an emerging economy, Kenya has made great strides recently in reforming national development policy with a view to being more democratically stable as well as progressive with regard to concepts of sustainable development, as evidenced by the promulgation of a new Constitution in 2010 which places a strong emphasis on environmental conservation and public involvement in planning and decision-making (National Council for Law Reporting, 2010). The Constitution's vision also calls for a renewed focus on

revising existing policies and legislation to align them with the principles of the reformed public agenda, as the country moves into a new era of highly devolved and decentralized governance. When combined with recent urban strategic planning including a new metropolitan growth plan for the city titled Nairobi Metro 2030 developed in 2008 (Ministry of Nairobi Metropolitan Development, 2008), it becomes clear that these recent policy shifts have set the stage for identifying and addressing existing gaps and challenges in both the policy and planning processes, so that these issues do not carry forward into forthcoming plans and policies, both new and revised.

Environmental policies and the processes that create them are directly linked to planning and development, in that development should ideally evolve around sound planning practice, which in turn is guided by policy and legislation. This policy and regulatory framework is the product of the development process and actors that formulate and subsequently implement it (Kean, 1994, cited in Juma & Clark, 1995). As such, the motivations and priorities that are defined by the policy agents (and the networks they form) in creating policy will filter down to influence the direction that individual plans take, and the ultimate impact they have in achieving policy goals. As defects in policies themselves may stem from the process chain beginning at formulation through to implementation (as a function of both enforcement and compliance); (Keeley and Scoones, 2003), understanding the dynamics of the policy process is a significant component of wider policy and planning studies and would provide useful insights into any key gaps in the policy framework. More broadly, the distribution of decision-making power among the various actors involved in the policy process and the capacity to adequately incorporate citizen participation with respect to environmental management decisions is a measure of the true level of democratic governance (Birkland, 2005), both for Nairobi as a city and Kenya as a nation.

The environmental policy process is therefore also a crucial component of the wider governance scheme, as it forms the basis for all future environmental legislation at the national level as well as at the county level (Ministry of Environment and Mineral Resources, 2012). The process of policy creation is an area of study within the realm of environmental policy which has not been particularly focused on, and which is therefore of both academic and practical interest (Adger et al., 2003). As the African region has begun to carve out an ever-increasingly important niche in global economic affairs, there is an imperative for greater attention to the processes of development and growth as regulated by policy and legislation. The position, roles, and power of actors within the policy network is drawing greater attention, and there is therefore a call for widening environmental research to include the policymaking process, and 'broadening the range of problem-definition claims, and negotiating outcomes among an extended peer group of actors' (Leach &

Mearns, 1996). Furthermore, as Keeley and Scoones (2003: 5) state, in the African policy realm ‘understanding policy processes means understanding the interaction of networks and relationships, agency and practice, and knowledge and power dynamics in particular contexts’. While there have been previous studies examining the structure of policy networks in Kenya (Ryan, 2004; Kameri-Mbote, 2005; Kimani, 2010b; Coleman & Fleischmann, 2011, etc.), an in-depth examination of interactions and decision-making mechanisms from the perspective of actors within these networks in Nairobi has not been covered by the existing literature.

This study thus makes a critical contribution towards the growing body of research on policy process in Africa’s developing urban context through an investigation of the environmental policy subsystem in Nairobi. This is done at a higher level through the macro-scale perspective of the policy system and context, to a more detailed examination at the micro-scale of the institutional and individual actors, examining their roles, authority, and the interconnections between them. As such, this study incorporates the following areas of scrutiny: how actors in the environmental policy network in Nairobi interact to form policy; how contextual factors in the arena of politics, economy, and society help to shape decision-making, particularly given the current environment of policy and legislative reform; how key gaps and challenges in the implementation process can be considered and addressed in the context of future growth, development, and governance; and how the perspectives and priorities of actors within the network translates into specific policy goals and statements.

The offerings of this exercise are found in a more holistic understanding of the wider contextual factors that affect decision-making and thereby lend insight to the potential reasons for policy success or failure on the ground. Furthermore, in applying policy network theory to the study data, the implications of network arrangements for policy outcomes are revealed. The theoretical contributions of the study are outlined in Section 1.5. This study is grounded in the underlying context of Constitutional reform and the ensuing social, political and economic context of Nairobi described in more detail in the next section.

1.2 Policy Context of the Study

In the environmental governance arena, Kenya in comparison to its neighbours in the region has been both a trend and a precedent setter with regard to the formulation of policies and regulations. It is the first country in Africa to have instituted the practice of Environmental Impact Assessment (EIA) into law (Okidi, Kameri-Mbote, & Akech, 2008), and is home to the worldwide headquarters of the United Nations

Environment Programme (UNEP). The presence of UNEP among other international development organizations, private corporations, and academic institutions has led to a continuous flow of expertise into the country, and has arguably in certain instances benefitted Kenya's ongoing policy development efforts (Cohen, 1992; Sharkansky & Dresang, 1974). Environmental research both in Nairobi and across the country has also expanded with the benefit of local and international donor funding, and numerous studies have emerged focusing on various aspects of environmental governance. In particular, public participation and the role of civil society in environmental decision-making (Kameri-Mbote, 2000; Kimani, 2010a; Kimani, 2010b) and environmental legislation and institutional structures (Okidi et al., 2008; Devas & Grant, 2003; Kameri-Mbote & Cullet, 1997) have been key areas of focus in published research on Kenya.

The environmental policy and planning stage in Kenya is set to change dramatically in the coming months. A number of reforms in recent years have caused fundamental shifts in both the governance scheme as well as the planning direction across the country and particularly in Nairobi - notably, a long awaited Constitutional referendum passed in 2010 has created a new system of devolved government in Kenya, dividing the nation into 47 counties as opposed to the previously existing framework of eight provinces, subdivided into over 170 municipalities (National Council for Law Reporting, 2010). The implication is that some of the existing municipalities will be combined to form counties, with a view to transferring more of the central decision making powers to local commissions in each county and bringing decision-making power closer to the citizenry through increased public participation (Nyanjom, 2011). The autonomy and control in county governance is envisioned through further decentralization at the county level to create sub-counties, as described by Article 184 of the Constitution which calls for urban management practices to be developed by each county (Ibid.). This unprecedented shift in the regulatory management scheme may act as a catalyst for more structured, bespoke planning guidelines to be developed for each urban county in the country. The new Constitution does not specify the guidelines for authority distribution at the sub-county level, leaving it to the discretion of elected county governors (Ibid).

Consequently, at this stage of the research process the future administrative framework is to some extent speculative, as the specific arrangements at the sub-county level remain undecided. Nairobi has been ascribed the dual status of county and city under the new Constitution, and will remain the national capital (National Council for Law Reporting, 2010). The environment has been given a distinctive level of attention in the Constitution, which calls for greater attention to the effects of growth and development on the natural environment, and greater access to environmental justice through legal instruments and judicial reforms (Odote, 2012; Kibugi, 2011). This concern has precipitated a new wave of reforms in environmental

regulations and policy. While environmental planning in Kenya is governed by a mixed bag of policies and legislation (see Chapter 3 for a discussion), there is no precedent for a cohesive umbrella policy that would guide the actions of the numerous administrative structures whose activities impact on both the natural and built environs. In recognition of this, the Ministry of Environment and Mineral Resources is currently spearheading the effort to collaborate with stakeholders and draft a maiden National Environmental Policy that will operate in concert with the new Constitution and more authoritatively structure environmental planning at a national level going forward (Ministry of Environment and Mineral Resources, 2012).

Another recent defining planning act for Nairobi came in 2008, when the newly instituted Ministry of Nairobi Metropolitan Development (MNMD) expanded the urban boundary of the city to cover a gross area of 32,000 km², close to a fifty-fold increase over the previous 696 km² area, as part of the city's Metro 2030 Strategy (MNMD, 2008). This decision holds important implications for the creation and implementation of urban environmental policies, particularly with respect to the protection of arable and forest lands that were previously not considered part of the metropolitan region, and which will now likely be held to metropolitan population density targets (Mwongela, 2011). Figure 1 shows depicts the expanded metropolitan growth boundary for Nairobi in comparison to the former municipal area.

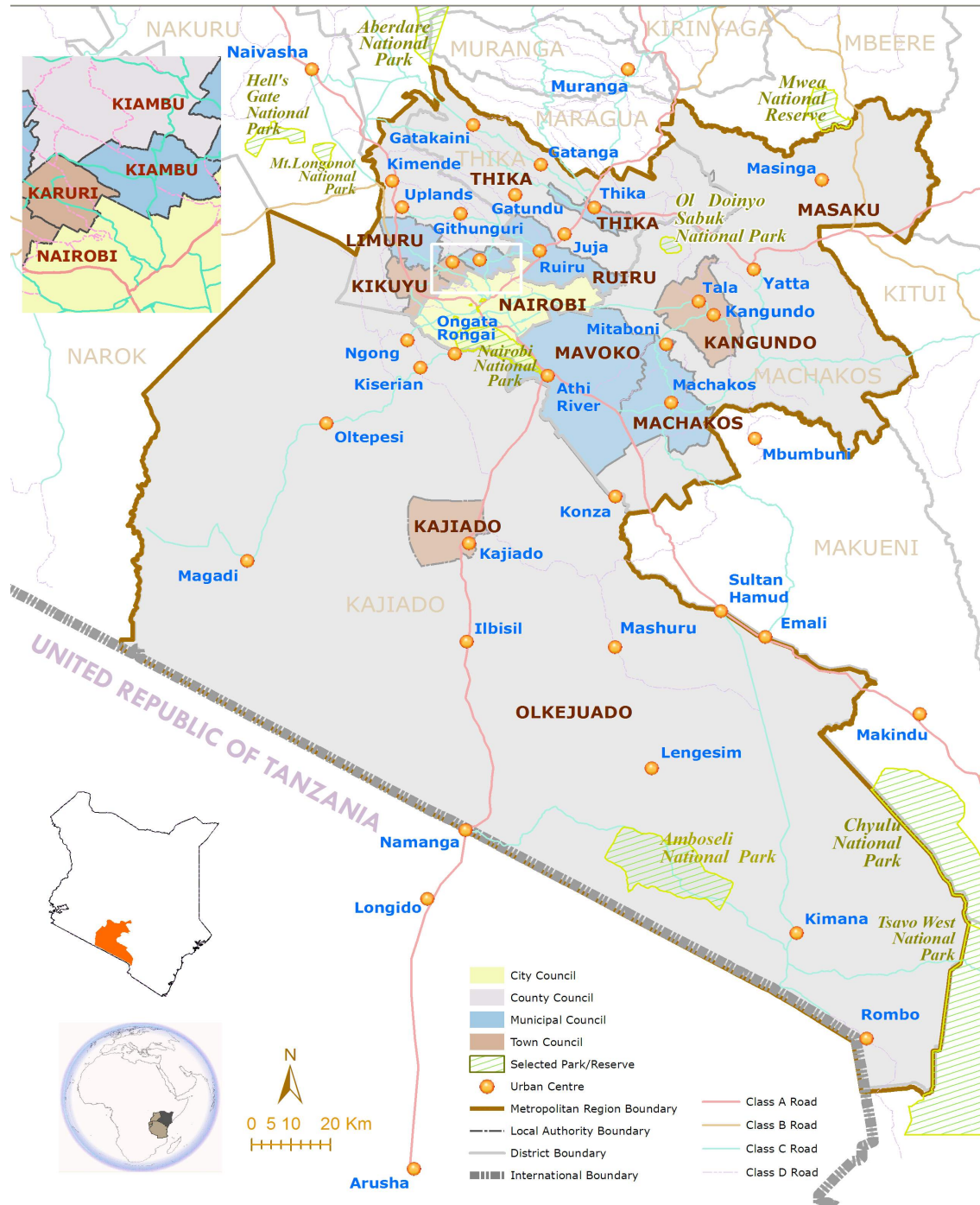


Figure 1 EXPANDED METROPOLITAN REGION OF NAIROBI AS OF 2008, INDICATED BY THE THICK BROWN BOUNDARY LINE (TOTAL AREA OF 32,000KM²). THE YELLOW AREA ABOVE THE CENTER OF THE MAP SHOWS THE FORMER MUNICIPAL JURISDICTION OF THE CITY COUNCIL OF NAIROBI (APPROX. 700KM²). Source: Ministry of Nairobi Metropolitan Development, 2008.

At this pivotal juncture in the country's history, the challenges of navigating the decision-making process under an emergent urban framework will have a significant impact on policy development moving into the next several years. As such, a review of the existing policy making structure and the nuances of its operations from the perspective of the actors therein is important for the purpose of understanding impending changes, to provide a basis for comparing future environmental policy governance in order to determine whether policy reforms have in fact effected the desired changes to the decision-making process. At the practice level, understanding the policy process particularly with respect to the implementation stage lends insights into the reasons for existing gaps and challenges to environmental planning which can be addressed before they are embedded into the norms and practices of the forthcoming governance structure.

1.3 Research Focus

The key questions to be answered through this study are:

How does the environmental policy process take place from the perspective of individual actors and stakeholders within the current policy framework, and

How will changes to the urban framework under the reforms of the Constitution affect the policy process and structure?

The underpinnings of this research question are Constitutional reform, collaborations and the distribution of decision-making power within and across the policy process. This lead question is explored through the following investigative queries, which further elaborate on the components of governance through the mechanisms of stakeholder consultation and participation in decision-making, and the implementation process which represents the crucial link between paper policy and planning on the ground:

- 1) How does decision-making take place during the environmental policy formulation process?
 - a) Who are the actors that get involved in environmental policy formulation in Nairobi, and how is authority divided among them in the actor network that forms?
 - b) How do individual policy actors within the networks view the needs and issues affecting environmental policy formulation and implementation?
 - c) How will Constitutional and strategic reforms change or otherwise impact upon existing policy formulation processes?
- 2) How does environmental policy implementation take place?

- a) Who are the actors who play a role in policy implementation, and how do implementation and monitoring activities provide feedback to formulation processes?
 - b) What are the gaps in policy, particularly from an implementation and compliance perspective, and how can these be addressed in order to improve results for long-term environmental planning?
 - c) How will Constitutional and strategic reforms change or otherwise impact upon existing policy implementation processes?
- 3) How does policy network theory aid in explaining the environmental policy subsystem in Nairobi, and what can it tell us about the future outcomes of policy activities?

These queries hold importance with respect to the wider objectives of sustainable urban growth and environmental planning. While the conditions of the governance scheme present at the time of this study (in 2012) are subject to change following the General Elections held in March 2013, the processes and practices relating to policy development and implementation will be much slower to change, particularly given the shortfalls in institutional capacity and political will (Kimani, 2010a, 2010b; Thomas & Grindle, 1990). Thus this study provides meaningful insights regarding current policy process which may carry forward into the new political scheme, highlighting the key challenges currently impeding the implementation of existing policies, and ultimately offering recommendations for structuring the future policy framework to help overcome barriers to more efficient policy processes. For an administrative structure that is currently in flux, there will certainly be a need to revisit current and forthcoming policies periodically over the coming years in order to ensure that they remain relevant to the country's future needs (Flanagan, Urayya, & Laranja, 2011).

1.4 Overview of Methodology

The methodology for this study follows a qualitative approach, integrating triangulation in order to increase the validity of the research findings. The three data components involved were: firstly, the primary data, comprising of twenty-five (25) in-depth, semi structured interviews with a range of policy actors divided across five categories: State environmental agencies, non-governmental/civil society organizations, international donor agencies, private organizations, and university-level academic researchers involved in policy formulation; secondly, document sources internal to the policy process such as reports and policies from stakeholder institutions across the various sectors; and thirdly, secondary data sources external to the policy process, including media sources such as articles from local and international news outlets, and

available academic literature. By combining these three data sources via triangulation, the validity of the qualitative approach is enhanced, because ‘researchers go through this process and rely on multiple forms of evidence rather than a single incident or data point in the study’ (Creswell and Miller, 2000: 127).

The data analysis stage involved separate processes for handling of these key data types. The interview data analysis took the form of an initial deductive stage to process the themes identified by the interview questionnaire (Appendix C), followed by an inductive stage to identify emergent themes. Both analytical approaches, were utilized in order to garner the advantages of each – in the deductive instance, certainty is increased because the themes were identified before the interview and therefore specific detail gathering was guided, reducing the possibility that the targeted processes would not be clearly explained at the participant’s discretion (Yin, 2011). Given the wide breadth and complexity of issues concerning the policy process and environmental planning, this is a highly important advantage for this study. However, the certain degree of leeway proffered by the semi-structured interview method used allowed for participants to elaborate on particular concepts that they considered important, and which may have been previously unknown to the researcher or unacknowledged by the guiding interview questions (Yin, 2011). The inductive method thus brings these concepts to light, and in this thematic analysis was based on the step-by-step framework proposed by Green et al. (2000) from data immersion, to coding, to creation of categories, and ultimately identifying themes in the data. The findings from the interview analysis were compared with the literature on policy formulation in a developing context, in order to draw out the distinctive features of the Nairobi case study and provide a more comprehensive set of recommendations on best practice and strategic environmental policy creation.

For the sake of analytical practicality, the policy process has been approached in this study on the basis of two key policy activities: formulation and implementation. While it is a reductionist approach (see Chapter 4 for a discussion), addressing the policy process in this manner allows for important insights into how policymaking and implementation are approached in the environmental arena in Nairobi, in order to explain why planning activities on the ground have not benefitted from the presence of environmental regulations and policies in place. A highly descriptive narrative of both policy formulation and implementation are therefore provided. As Dowding (1995:15) proclaims, ‘Formalism in political science is to be encouraged, but we should not have inflated expectations of how much it will teach us. In the end the descriptive approach, bounded by a formalized theory, will prove most fruitful’. To this end, the descriptive narrative is then supplemented by a theoretical analysis of the actor network that is responsible for these policy activities, applying the Network Approach (Adam & Kriesi, 2007) to the study data. This is done in

order to determine what, if anything, network theory can tell us about the policy outcomes that have thus far manifested in environmental and developmental planning, and what changes can be expected as a result of Constitutionally mandated devolution and decentralization going forward.

It should be noted that this qualitative study is a snapshot in time, focusing on a 'certain context, at a certain time, with certain people' (Stake, 2010). Indeed, the policy process is by its nature in a continuous state of evolution (Weible, Heikkila, Deleon, & Sabatier, 2012; Juma & Clark, 1995), and this characteristic creates cause for policy systems to be studied at various points in time, to track progress and aid in identifying challenges which may inhibit goal achievement or successful progress. Given the transitional, and in fact evolving, status of Kenya's current governance scheme, this exploratory study seeks not only to identify patterns and practices at the micro-level through interactions between actors, but also describe the macro, system-level phenomena that structure the policy process in Nairobi which go beyond the administrative framework.

1.5 Summary: Research Significance, Assumptions and Key Findings

In summary, the theoretical contributions of this thesis pertain to the application of existing theoretical concepts and models to the analysis of the environmental policy process in Nairobi. Extending from the policy process analysis is a review of the implications for environmental planning practice that arises from the implementation of policy, and this study attempts to elucidate the critical gaps and challenges that have thus far impeded efficacious policy implementation, with a view to providing recommendations for future policy development that would be better suited to the emerging governance scheme. From a methodological standpoint, the in-depth interview method has been applied in a variety of previous studies, but a detailed analysis using both inductive and deductive approaches has not previously been applied to the context of Kenya, and has rarely been applied in the wider African regional arena as well. It is anticipated that the current system of high diversification of the environmental mandate among state authorities will have led to competition and conflict rather than harmonization of activities.

In addition, the low implementation record of existing regulations was expected to link to deficits in funding, capacity, and awareness on the part of the general public as to the ramifications of development activities for the environment. Indeed, these assumptions proved to be correct, although the complexity of the environmental subsystem was revealed to be far more complex. There are both systemic and procedural causes that have led to the failure of the existing regulations to adequately constrain the deleterious effects of urban

development on the environment in Nairobi. Among them are cultural barriers to sharing information, command-and-control centric measures to regulations which have alienated residents, corrupt governance practices, and the highly politicized policy environment. Further, the potential benefits and challenges of forthcoming devolution and decentralization for environmental governance were explored, with the finding that while there may be increased potential for citizen engagement in decision-making, inter-county conflicts and capacity challenges will likely continue to persist.

The Network Approach, as described by Adam and Kriesi (2007), is utilized as the key framework for analyzing the underlying mechanics of the policy network. This framework was selected for its applications in describing the roles and attributes of actors in the policy network, and the interactions between them, that form the basis for policy activities. Network theory has not been commonly been applied to environmental case studies in Africa, hence this study aids in assessing the applicability and usefulness of Western-centric methods for policy process analysis in a developing urban context in sub-Saharan Africa.

1.6 Thesis Organization

This research thesis is segmented into multiple components, with a literature review (Chapter 2), case study background summary (Chapter 3), and description of the research methodology (Chapter 4). The first main data discussion component is an examination of how decision-making takes place during environmental policy formulation, qualitatively assessing the actor networks that form and the perspectives of the actors within them regarding environmental policy and planning issues on the ground (Chapter 5). The second component scrutinizes environmental policy implementation in Nairobi, in order to assess the key challenges and gaps in policy that are impacting planning (Chapter 6). Thirdly, these Chapters are followed with a theoretical analysis of the entire environmental policy process through the lens of the Network Approach put forward by Adam and Kriesi (2007);(Chapter 7). Each of these three components generates analytical, evaluative, and prescriptive knowledge, thereby providing a theoretical and conceptual contribution to current research on the area of urban environmental policy and governance in the Kenyan context in particular and the African region more generally. The findings and contributions of the thesis are summarized in Chapter 8.

Chapter 2

Literature Review

This study investigates the processes and actors involved in the environmental decision-making process in Nairobi, in order to determine how existing challenges and the forces of decision-making culminate in actual policies, which in turn manifests in implications for environmental planning on the ground. The following literature review therefore outlines the key theories, concepts, and phenomena that are associated with this research course - specifically, an overview is provided as to who the actors are that generally get involved in policy making, what are the major current theories of the policy process that explain its functioning and complexity, how the decision-making process is shaped by contextual factors both external and internal, and how policy change, success and failure relate to the policy making and implementation processes.

These various components of the policy process are intrinsically linked – as Linder and Peters (1991: 125) argue, ‘a policy analyst's claim to expertise is a combination of instrumental rationality and sensitivity to process and context that constitutes a technology for solving public problems.’ As such, this Chapter also offers a review of existing literature on the policy process from studies based in Africa, in order to place this study within the context of current academic research and create a basis for the theoretical contributions of this study.

2.1 Policy Processes: Concepts, Theories, and Frameworks

2.1.1 *What is the Policy Process?*

As this study is grounded in an investigation of the environmental policy process, it is necessary as an initiation point to define the specific parameters of this construct. From a contemporary standpoint, the policy process as a component of governance has been defined as ‘**the study of change and development of policy and the related actors, events, and contexts**’ (Weible et al., 2012: 3). In general use, the phrase ‘policy process’ refers to policymaking procedures and associated processes. Policies, for purposes of this thesis, are understood from the stance of the environmental governance arena as the actions of government and intentions that determine those actions (Cochran, Mayer, Carr, & Cayer, 1999). Given the practical implications of the subject matter, the policy process as discussed in the upcoming sections has been treated

primarily from the perspective of the implications for environmental planning, while integrating the concurrent relationships in the political and socioeconomic arenas that interact with the policy process - as has been done in similar environment-oriented policy studies (c.f. Keeley & Scoones, 2003; Leach & Mearns, 1996).

To begin with, it is important to first identify and categorize the actors involved in the policy process, in order to create a basis for exploring the interactions between them. The types of institutions that cohere around a particular policy issue would vary widely across geographic and socio-economic contexts, and would include government, private organizations, civil society or non-governmental organizations (henceforth referred to as CSOs), foreign agencies, and academic institutions (Sutton, 1991; Keeley & Scoones, 2003). Government agencies would include those operating at all scales, from the national to the local level. The roles and responsibilities of each agency would differ based on the policy exercise and the reach of the document in question; further, the administrative framework of the country would dictate the sharing of power and decision-making authority across the range of agencies (Keeley & Scoones, 2003).

The state occupies a particularly significant role in managing the environment and natural assets in African contexts, and as a result, these agencies often hold some degree of vested interest in maintaining decision-making power, as 'stewardship over natural resources is properly the responsibility of the state. It depends on and serves to perpetuate the conventional view that local inhabitants are incapable of acting as resource custodians' (Leach & Mearns, 1996: 457). Private organizations frequently participate in policymaking in an advisory capacity, seen as a pool of expertise and an authority on the practical implications of implementing policy (Fritzen et al., 2009). CSOs have had a historic leg-up with respect to goal-achievement on small-scale environmental and agricultural projects in Africa, and represent an important sector in the effort to fill the service and welfare gaps left in the economy by government institutions (Bratton, 1989; Kameri-Mbote, 2000). CSOs also work to create levels of dialogue between government and citizens and often represent the voices of marginalized groups at the decision-making table, a role which may create tensions between them and their government counterparts (Bratton, 1989). Adding to this complex relationship is the control that public agencies often exert over the operations of NGOs and CSOs, effectively restricting their activities and realm of influence (Bratton, 1989; Kameri-Mbote, 2000). In Kenya, the role of NGOs has evolved over time, moving from philanthropic and welfare services oriented functions in the colonial era, towards activism and drivers of change in the form of legislative and societal reforms in a more contemporary timeframe (Kameri-Mbote, 2000).

In the developing world, the common types of foreign agencies with operational influence include multilateral organizations including bodies of the United Nations, as well as lending institutions like the International Monetary Fund and World Bank in addition to the aid offices of foreign governments operating out of embassies in their host countries (Thomas & Grindle, 1990; Goode, 1984). The experts working out of foreign offices may then be referred to as ‘policy entrepreneurs’, given their influence in directing and affecting the outcome of policy development (Mintrom & Norman, 2009); as these networks of experts spread across transnational boundaries, they form ‘epistemic communities’, acting as conduits for the spread and transfer of knowledge across contexts (Adler & Haas, 1992). These individuals represent an imported segment of knowledge on policy issues; as Weiss (2010: 4) notes, ‘international organizations live or die, thrive or shrivel up, by the quality and relevance of the policy ideas that they put forward and sustain.’ However, their involvement in development and analysis of policy is a function not only of their contributed input, but also of the agents that carry that contribution as well as how that input is incorporated in policy documents and implementation plans (Juma & Clark, 1995).

In instances where support is offered restrictively in the form of project funding, it is often directed through reliable CSOs, often with certain conditions attached with regard to the positions taken by those CSOs in policy debates; in the same vein, aid channeled directly through government may carry the caveat of required ‘structural adjustment policy reforms’ regarding the appropriation of funds (Bratton, 1989: 570). This mixed-bag of activities thus affords foreign offices with a significant degree of sway with official public agencies in developing countries, creating a niche for them as decision-makers or at the very least as important stakeholders in the policy making process (Thomas & Grindle, 1990).

The environmental arena in Kenya displays the fingerprints of foreign expertise and funding in multiple areas, including energy, agriculture, conservation, forestry, and water management (The World Bank Group, 2012; Community Development Trust Fund, 2002¹). The United Nations (UN) represents another level of foreign involvement in the local affairs of developing economies. Offices of the UN Environmental Programme (UNEP), UN-Habitat, and the UN Development Programme (UNDP) all play a role in influencing environmental policy and governance, usually through under the auspices of binding Multilateral

¹ The Community Development Trust Fund (CDTF) is a joint venture between Kenya’s Ministry of Finance and Planning and European Union member states, founded in 1996 to provide funding and program support for community-based economic development and environmental initiatives (CDTF, 2012).

Environmental Agreements (MEAs) between bodies of the UN and local government (Fritzen et al., 2009). Expert advice is also garnered from the academic realm, with researchers and academicians from local and international institutions often being called upon to provide a broad based comparative perspective on past policy experiences across contexts (Ibid.).

2.1.2 Theoretical Frameworks of the Policy Process

In order to properly discuss the various levels of analysis of the policy process, it is important to first distinguish between the types of theoretical organization that can be applied. As Carlsson (2000: 511) asserts, '*frameworks* should be understood as broad conceptualizations, *heuristics* provide aid to learning, discovery, or problem-solving but are otherwise unjustified. *Models* are precise assumptions about specific relations between variables and their outcomes, while *theories* can be described as deductive systems of hypotheses or propositions' (emphasis in original). Hence an investigation of the policy process may be approached from an array of angles, and researchers have frequently opted to focus on one specific dimension or stage of the chain, such as implementation. One highly common tool to describing the policy process in this manner is through the stages heuristic, which portrays the policy process as either a linear or unidirectional, cyclical process, going from agenda setting to policy formulation and legitimation, implementation and ultimately, evaluation (Sabatier, 1991). This approach has somewhat gone out of vogue in recent years, perhaps aided by criticism of this analytical lens from some academic scholars (Sabatier, 2007), under the pretext that the linearity of its derivation belies the reality of the policy process, which is in fact a much more complex system where these stages often overlap and are informed by one another through feedback and monitoring (Ibid.).

Thus in favour of adequately representing the complexity of the policy process, a number of alternative theoretical frameworks exist to aid in analyzing and evaluating a given policy setting. These frameworks vary and can be grouped based on the unit of measurement selected for an inquiry - more specifically the actor, the institution, groups of institutions, or from a systemic, broad-based perspective of the policy system as a whole - although some frameworks overlap and integrate more than one lens at a time in their investigative models. Beginning from the broadest level, policy can also be viewed through the lens of discourse (Keeley & Scoones, 2003). The objective in adopting this perspective would be outlining the key participants in the policy process and dividing them into populations based on common goals and activities, thus examining their roles and viewpoints that form the basis for collective action. In a discourse analysis, the mandates of various institutions and individuals are of importance to their contributions toward the wider

policy issue, not just the context within which they operate. Another option in this broad based narrative is an approach to assessing the policy mix, for example through the innovation framework, which provides a pathway to understanding the ways in which policies are accepted or rejected in a given area (Berry & Berry, 2007). This approach involves describing the 'evolutionary process wherein multiple policies are considered across different contexts (e.g., organizations, sub governments, governments) with some policies selected and others rejected' (Weible et al., 2012).

Alternatively, and still from a system perspective, it is the contextual triggers of policy change that are the focus of Punctuated-Equilibrium (PE) theory (Baumgartner & Jones, 1993). PE theory contends that issues arising in the public agenda of a given context direct policymaking, and thus it is the prominence of these issues that would determine the nature and amount of policy interventions that are developed. In recent years, the complexity of transnational policy systems has received greater attention in the literature, through the parameters of innovation and diffusion models and comparative studies which encompass a large sample base, also known as large-N comparative studies (Sabatier, 2007). Policy process analysis may also be approached from a political perspective, examining the partisan objectives and approaches to policy issues based on ideological motivations. Fundamentally, this perspective is geared towards multi-party economies in the developed world, and from a cursory review conducted by this researcher, many of the studies encountered that are based on this approach are drawn from the USA and Western Europe.

A third framework that bases the level of inquiry on the policy process as a system is the Multiple Streams Framework (Kingdon, 1995) which divides the activities of institutions and actors into three 'streams' according to their perceived motivations, and then addresses the ambiguity that arises when all three streams act in concert (Zahariadis, 2007). The streams in question include a problem, or issue stream; a politics stream, defined by the ideological leanings of the parties involved; and a policy stream, which encompasses the various approaches of stakeholders in deciding on policy matters (Ibid.). The outcome of a given policymaking venture would depend ultimately on the ways and degrees to which the three streams interconnect at the final stage of policy creation (Kingdon, 1995). Kingdon was one of the first theorists to acknowledge and attempt to theorize on the 'stochastic' nature of policy, given the ostensibly random outcomes of policy creation exercises that at times could not be explained by the actors involved (John, 2003).

Thus the MS framework addresses the ambiguity inherent within the policy process due to range of points of view held by the various actors involved in any given policy exercise; hence the 'garbage can model' analogy, whereby decision-makers and policy formulation participants are depicted as 'dump(ing) largely unrelated problems and solutions. No one person controls the process of choice, and fluctuating attendance,

opportunities and attention give the process highly dynamic and interactive qualities' (Zahariadis, 2007:66). This model of selecting between policy alternatives as adopted by Kingdon, soon became a popular metaphor for the un-relatedness between a policy problem and the final policy solution adopted, a disjuncture explained on the basis of political and economic conditions prevailing during the decision-making process (Zahariadis, 2007).

Traditional approaches have, to a large extent, adopted the institution or institutional networks as the core units to explain structures and processes in a policy subsystem; the frameworks that utilize these two lenses thus overlap and the inquiry can be focused at either level depending on the purpose of the study. Further, agenda setting, political influences, and wider contextual factors are all integrated into the analysis, creating links with the 'system' lens already described. Each of these frameworks approaches the roles and interactions of policy institutions in different ways, and is therefore useful in different contexts. The combined lens of the institutions and institutional networks that aggregate around a policy issue, effectively termed a 'policy subsystem', emerges most prominently in the focus of two key frameworks: First, the Institutional Analysis and Development (IAD) framework (Ostrom, 2005), which provides a coherent framework for dissecting the involvement of the various institutions involved in decision making, and the actors within them. The IAD approach can be applied to a wide range of social contexts, referred to as 'action situations', and is versatile enough to apply to system-level analysis as well as zoom in to the actor level. Individual action is seen as the product of institutional structures, their operational procedures, and associated norms (John, 2003). Thus the values, beliefs, and norms that structure individual action are of fundamental importance to the IAD framework, and as such a large amount of in-depth information on these factors is necessary when applying it as an analytical model.

Second, the Advocacy Coalition Framework (ACF), proposed by Sabatier and Jenkins-Smith (1988) creates a basis for the investigation of the roles of and interactions between institutions in the policy process. ACF theory is built on the assumption that within a policy subsystem, policymaking is carried out by specialists in the particular field in question - while these individuals and institutions are influenced by contextual political and socioeconomic factors, for purposes of understanding the policy process they can be organized into a set of 'advocacy coalitions' based on their policy position (Sabatier & Weible, 2007). Therefore, ACF theory suggests that the influence of participants is predicated on their ability to assume a particular policy position and advocate for it successfully, thus bringing their point of view to bear within the decision making process (Ibid.).

Narrowing the focus further, as Birkland (2005) notes, since the 1950's policy research has started to

pay greater attention to the actions and influence of individual policy agents, as opposed to institutions – a change in the analytical paradigm of institutionalism² towards behaviorism³, or what is now known more commonly as neo-institutionalism, a method by which political and policy related issues are studied on the basis of the institutions, both formal (such as the legislative and executive arms of the government) and informal, such as political arrangements and systems; and on the basis of actors and the networks they form in creating policy (Ibid.) Within institutions, the actors who hold the decision-making power often form collaborative and interactive networks with one another. These policy networks⁴ tend to cohere around a policy issue, and their structure therefore fluctuates depending on the issue du jour and the policy positions taken by the actors involved.

In Third World networks, forging a partnership with a local experienced policy practitioner is an effective way for newcomers to gain an understanding of the nuanced forces at work and thereby develop successful strategies to influence the policy process (Weible et al., 2012). There are two kinds of policy agents: official, and unofficial. The former refers to those hosted by administrative structures involved in the process by virtue of powers entrusted to them by law, while the latter are usually affiliated to institutions with a particular interest in the type of policy being developed. These agents are termed the ‘policy elite’ (Grindle & Thomas, 1989) for their impact on formulating and even implementing policy. Beyond these individuals, the wider public in democratic settings may get involved in providing feedback to inform and guide the policy process; however, depending on the context, their power to truly influence outcomes varies (Kapoor, 2001).

Some of the frameworks described previously do provide a level of theoretical analysis that elucidates the roles, connections, and power of individual actors within institutions, such as Ostrom’s IAD framework, and concepts such as that of the ‘policy entrepreneur’ described previously can aid in further explorations of the actor unit across theories. Another group of theories that aids in mapping actor relationships is policy network theory, which can be applied in any of three ways: first, to describe a policy network as a new

² Institutionalism: ‘The study of politics and policy based on the interaction of formal institutions in government.’ (Birkland, 2005: 52)

³ Behaviourism: A method of studying and analyzing phenomena based on the behaviour, both observed and postulated, of the individuals involved (Birkland, 2005: 52).

⁴ Policy networks are defined by Henry (2011: 361) as networks that ‘describe the patterns of interaction among actors working a particular policy system or decision-making process, in reference to a particular type of relationship such as information exchange or political coordination.’

governing structure existing outside the traditional hierarchy of authority by focusing on horizontal arrangements between public and private actors; secondly, to describe existing interconnections between actors without introducing the policy subsystem as a new arrangement; and third, to quantitatively map the relationships between actors while not particularly considering their individual characteristics (Adam & Kriesi, 2007). In particular, the relationship between the State (as the main anchor for policy development and implementation) and other actors is of crucial importance, as Coleman & Perl (1999: 696) explain, actors within a given policy network would -

‘...interact strategically, while engaging in exchanges involving the sharing of information, expertise, and political support. Some of the participants in these exchanges will be state actors, with access to a very particular resource: their decisions are considered binding on society and are backed by the possibility of the legitimate use of force. The manner in which state actors share this resource and the resulting distribution of resources among community members create different patterns of public – private relationships, or *policy networks* that provide the context for policy deliberations.’ (Coleman & Perl, 1999:696).

These relationships can be described on the basis of links between actors, forged through ‘participation in decision making, membership in representative bodies, communication, information exchange and other resource flows’ (Schneider, 1992:110).

Policy network studies have drawn strongly on the idea that networks should be classified on the basis of interactions between the state and other stakeholders (Waarden, 1992). Building on the work of Atkinson & Coleman (1985), Schneider (1992) offers three categories of structures for policy networks: **corporatist**, wherein the policy process is led by the state and only a limited number of interest groups interact with public agencies in creating content; **pluralist**, whereby policy is informed by numerous actors interact across sectors interacted through a variety of pathways with the state apparatus; and **clientelist**, which creates a dichotomy between ‘strong’ actors (most commonly the state) who control opportunities for involvement in the policy process, and ‘weak’ actors who compete with one another for resources and privileges including access to participate in governance activities. Jordan and Schubert (1992) point out that ‘there is a tendency in the basic models to associate competition and bargaining with pluralism, and to associate collaboration and consensus with corporatism.’

There are a number of objections to describing policy networks through these three forms, primarily that the use of discrete labels exempts a more detailed and nuanced description of the true realities of policy arrangements on the ground, which are very rarely easily categorized as one or the other of these three types

(Jordan & Schubert, 1992; Waarden, 1992). In addition, there is a call for more empirically sound methods of analyzing policy networks, in order to increase the 'explanatory power' of network theory by treating networks as independent variables in the context of policymaking (Carlsson, 2000).

As such, it is more useful to focus the application of policy network theory on two key dimensions: **the attributes of actors themselves, and the relationships between them** (Wassermann & Faust, 1994; Adam & Kriesi, 2007). To this end, Adam and Kriesi (2007) propose the 'Network Approach', consisting of an 'analytical toolbox' that aids in assessing a policy network based on these two dimensions. There are five key variables used to describe a given network: the number of actors; the complexity of the network, which is also a function of the number of actors within it; the degree of self-referentiality of the network, which is to say the extent to which the network is permeable to external actors or conditions; conflicts of interest between the actors involved; and the costs of network management, in situations where this is a formal arrangement. The benefit of the Network Approach is that it applies a specific typology which can then be utilized to predict the policy outcomes and types of policy change that would emerge as a result of various kinds of policy network arrangements.

However, social interactions are invariably affected by their social and material surroundings, and in the case of environmental policy, additional elements at play include political and economic considerations as well as a complex set of circumstances relating to both the natural and built environs. All these factors play a role in shaping the policy network and its operational structure. By proposing the idea of a network, this approach does not ignore the unique traits or viewpoints of individuals within these structures but rather emphasizes that each actor is influenced and perhaps even directed by interactions with others in the same social situation. Thus the approaches and attitudes towards policy making favoured by one party would have knock-on effects throughout the network, and so on. Network theory shares some parameters with the IAD framework but can be altered to focus on varying aspects of actor-oriented activities and viewpoints. Hence, attention to the nuances of the individuals contained in policy networks at a given point in time is of importance for learning about network structuration and the ways that policy decision-making can be improved.

The theoretical frameworks described above provide a backdrop for organizing the data collected during policy research studies, which have in recent times, and to a larger extent, come to incorporate qualitative methods (Srivastava & Thomson, 2009; Ritchie & Spencer, 1994; Rist, 1994). Under this umbrella of qualitative methodologies, the most prominent approaches used to answer the 'how', or process related questions in policy studies (as explicated by the theoretical underpinnings of the various frameworks

discussed thus far), are participant observation, focus groups, and interviews, used to generate the types of in-depth data sources that can be analyzed to draw valid conclusions in answer to research questions (Ritchie & Spencer, 1994). The narrative method⁵ is often central to this approach, particularly through the collection of first-hand accounts from those participating in the policy process through in-depth interviews, thereby allowing for a rich level of detail to be derived from the study of a specified area of policy (Keeley & Scoones, 2003). Bevir and Richards (2009), in their push for a greater diversity and cultural focus in policy studies through what they term ‘decentered theory’, explain:

‘A decentered theory posits that networks cannot be understood apart from traditions. The people whose beliefs, interests and actions constitute a network necessarily acquire the relevant interests and beliefs against the background of traditions. In other words, there is no essentialist account of a network, but only the several stories of the participants and observers. So there can be no single tool kit for managing them. Instead practitioners learn by telling, listening to and comparing stories’ (Bevir & Richards, 2009: 7).

Indeed, a review of case studies on policy process reveals that first-hand accounts are drawn upon as a basis for explaining the nuances and motivations behind focused decisions, and explicates the complex inner workings of a subsystem that a pure content analysis of policy would likely fail to capture. The theories of the policy process described thus far are explanatory in nature, positing various models and approaches to understanding the complex phenomena comprising of social and human behaviour that comprise the decision-making process.

The application of these various Western-based theories to an African context may prove problematic in some respects, particularly given the disparity in cultural, administrative, and economic conditions between the two contexts (Honadle, 1999). However, as noted previously, the involvement of foreign agencies and the relics of colonial occupation have in many instances introduced and cemented Western modes of thought, analysis and practice in the policy and legal frameworks of many African countries - as Leach and Mearns (1996: 447) observe, ‘In many cases, the ideas that drive contemporary environmental policy in Africa can be traced back to early colonial times.’ These policies have been perpetuated through the influence of foreign development agencies, and often this type of ‘received wisdom’ is embedded in within the cultural dynamics of policymaking to the extent that it becomes indiscernible from indigenous ideas (Hoben, 1996).

⁵ The narrative inquiry method, as defined by Robert Yin (2011: 17), refers to a type of qualitative research wherein the researcher ‘constructs a narrative rendition of the findings from a real-world setting and participants, to accentuate a sense of “being there”.’

Adjacent to this discussion is the way in which policy change may occur, that is to say how the particular policy position adopted either on a local or national level might shift. While policy change is usually incremental (Birkland, 2005), radical shifts do occur, given the right confluence of conditions. Grindle & Thomas (1989) suggest that reforms occur either under conditions of duress or during periods of more normal operations; determining whether change is occurring under one or the other of these conditions is a matter of investigating ‘the stakes involved in reform, the type of public official involved in decision making, the degree of change introduced, and the timing of decision making’ (Ibid: 216). In more baseline conditions, change can occur through the actions of actors, or pressure from external forces such as international bodies through multilateral treaties, although in many instances the onus would be on the proponents of change to prove its benefits to decision-makers, who are characteristically risk-averse (Mintrom & Norman, 2009). One of the key theories of incremental change is evolutionary theory, which suggests that change is an inevitable consequence of the fluctuating nature of policy systems (John, 2003).

One example of radical change in the administrative or political structure of a state is that of devolution and/or decentralization. As Leach & Mearns (1996: 459) contend, these kinds of shifts could have the potential to reduce the hegemony of the state in environmental management, allowing for changes in the way that policy decisions are made:

‘If orthodox thinking about natural resource stewardship provides the *raison d’être* for certain state institutions, it is relevant to ask whether it might change along with a change in political context. How much room for maneuver is there to shift the environmental agenda? Periods of transition from one political regime to another may provide an opportunity for [...] resistance to be voiced more strongly.’

In the case of nation-wide policy, devolved governments face the added challenge of attempting to apply a top-down policy that may not necessarily meet with local goals, objectives or even requirements.

Decentralization in the African context has shown results across a spectrum, and is becoming an increasingly popular choice for reform movements across the region. Nonetheless, the actual impacts of devolution and decentralization do not always manifest in the same way as theory would suggest (Ribot, 2002) – as such, the idea of a more pluralistic policy environment through decentralization should be approached with some skepticism.

It is thus necessary to further explore how the mechanisms of decision-making operate, with regard to sources of information, stakeholder collaboration, and the distribution of authority among policymakers. While the theories of the policy process described achieve this end in various ways, the following section

further details some of the important aspects and concepts of the decision-making process from a theoretical standpoint.

2.2 Decision-making and Environmental Governance within the Policy Process

Moving beyond the characteristics and interactions of the policy elite, of key concern to understanding the policy process are the ways that policy is developed through individual and collaborative decisions, the main goals and values that are central to environmental decision-making, and the gaps therein that impact on policy outcomes. Decision-making may be defined as ‘a process which proceeds via a series of stages or phases as part of a problem-solving exercise’ (Adger et al., 2003: 1095). As such, the notion of ‘governance’ refers to the distribution of authority and power among the myriad of state and non-state actors who come together in the decision making process, as opposed to the concept of ‘government’, which would refer more exclusively to state administrative process. This is a significant distinction under modern conventions of democracy. In addition, the link between policy process research and governance is underscored by the fact that ‘understanding the structure of networks is also relevant to the praxis of policymaking because policy networks are a key part of the context that shapes the success or failure of governance systems’ (Dietz & Henry, 2008 - cited in Henry, 2011: 361).

In particular, the role of consultation and collaboration is of concern in environmental governance, especially in the urban realm where the implications of policy for development impact on the livelihoods and quality of life of large and ever-expanding populations. Thus the involvement of the wider public in decision-making, particularly those groups most affected by a given policy, is crucial to ensuring the validity of its objectives and implementation measures (Juma & Clark, 1995). However, in the context of complex or broad-based environmental policy, the complication of explaining scientific evidence and the more high-level details of policy contents can prove an impediment to inclusive public participation (Keeley & Scoones, 2003). The integration of public opinion may therefore be considered a necessary evil in democratic process, given the implications for more protracted decision-making time frames and a considerable investment of resources.

Modes of decision-making are an important concern for policy theorists, as they form the basis for understanding the distribution of power and authority, which in turn would determine just how democratic or collaborative the governance approach of a policy subsystem actually is. Both top-down and bottom-up approaches have their advantages and setbacks, and each approach is variably effective based on the size of the

policy net. Top-down approaches often work best when the scale of the program goes beyond local municipal boundaries, while bottom-up approaches are more suited to local-level programs so as to allow for the creation of more bespoke and nuanced policy options (Birkland, 2005). Expert advice is also a much sought-after resource in determining the potential consequences and efficacy of policy (Juma & Clark, 1995), and given the interdisciplinary nature of environmental policy, these experts may be drawn from a variety of fields and sectors. These experts form 'epistemic communities' (Adler & Haas, 1992), creating a niche for themselves as a recognized authority on the spectrum of policymaking methods and their relative efficacy, and acting in an advisory capacity transnationally (Peck & Theodore, 2010). Those with specialized scientific or technical knowledge, particularly those in the employ of government institutions, think tanks, and multi-lateral bodies, form a type of 'knowledge elite' – labeled as technocrats, these individuals have a large role in formulating evidence-based policy statements (Fischer, 2000).

Given the wide array of stakeholders and groups of actors involved in the policymaking process, arriving at policy decisions which can be agreed upon by all involved is notoriously difficult to achieve (Leach & Mearns, 1996). As such, it is expected that there would be a disproportionate distribution of power among stakeholders, creating a hierarchy which would lend final, authoritative say to one or a small group of parties (Ibid.). State actors are often the major conveners of policy exercises, directing the process and taking responsibility for final content (Ibid.). This top-down approach has important implications for the democratic value of decision-making procedures and process; as Kapoor (2001: 269) notes, 'there is an emerging body of literature supporting a participatory approach which is decentralized, community oriented and holistic in its view of the environment. Participation here is aimed at making environmental decision-making socially inclusive and environmentally sustainable'. Thus from a governance perspective, leadership is an important component of the decision-making process, but by the same token, the input of stakeholders is required to be given due consideration in order to provide a legitimate final output for policy.

Stone et al. (2001) suggest four main conceptions of decision-making in the policy process: the first is the rational comprehensive model (RCM), which is highly dependent on the use of expert opinion and values the use of empirical research. The second is the 'muddling through' approach, which espouses the notion of 'bounded rationality', explained as an approach that 'focuses on the boundary between rational and the non-rational aspects of human social behaviour. Decision-makers, accepting the limits of their situation, choose compromise policies that satisfy (rather than maximize) organizational goals, and which are acceptable in the face of competing demands' (Ibid: 5). In the environmental policy arena, scientific evidence is a key component of deciding policy content. The concept of 'bounded rationality' appears repeatedly in models of

policy decision-makers who make choices based on the information available to them, seeking not optimal results but rather the closest satisfactory outcomes within the limits of the resources available (Grindle & Thomas, 1989; Ostrom, 2005).

The third conception proposed by Stone and her colleagues is that of the knowledge utilization model, which is based on authoritative decision-making derived from incremental knowledge growth over a protracted policymaking timeframe (Stone et al., 2001). Similar to the RCM, the knowledge utilization model lends credence to the use of expert opinion (Ibid.). Lastly, the fourth option is the use of particular policy paradigms to dictate decision-making – these range widely, essentially forming a continuum at one end of which incremental policy changes are preferred, and at the other end, radical shifts in position (Ibid.).

It is important to note that the process of decision-making can be optimized, but ultimately there is a wide range of factors at play that would affect the outcome of those decisions. For this reason, scholars agree that the important social, political, and economic conditions of the context in question should be considered when investigating decision-making in the policy process (Grindle & Thomas, 1989). Adger and his colleagues propose a set of four criteria which can be applied to judge and compare environmental decision-making across contexts (Adger et al., 2003: 1098-1099). The first of these is efficiency, which targets the incorporation of a range of values and interests across stakeholders, although often a particular emphasis is paid to the issue of economic advantage through payments for ecosystem services. Secondly, effectiveness is used as a metric for gauging how well the stated policy is at producing the intended results, while a third criterion is equity, emphasizing the environmental justice through the distribution of benefits drawn from environmental decisions. Fourthly, legitimacy guides the discussion on power sharing and the rules that are employed to make decisions, as a way to determine the ‘procedural justice’ of the decision-making process.

In developing contexts, the persistence of ideas and conceptions of local ecological and environmental functions as developed by foreign experts is of some concern, given that in some cases these ‘received wisdoms’ were either completely lacking in any form of empirical justification, or worse, were based on superficial and therefore misleading data (Leach & Mearns, 1996). For instance, the carrying capacity of land areas in Africa based on the observations of colonial settlers were often underestimated in cases where the population, thought to be at its peak, was in fact suffering from losses due to environmental or social stressors (Brockington & Homewood, 1996; Anderson & Grove, 1987 – cited in Leach & Mearns, 1996). Thus, the ‘broader economic, political and institutional context shape the manner in which science is put to use in public policy’ (Leach & Mearns, 1996: 453). In addition, some current policies which have lingered on from

the colonial era were originally drawn from the experiences of settlers in alternative settler outposts, creating a thread of consistent policy measures adopted across these contexts (Leach & Mearns, 1996).

In addition, in the developing world particularly, factors external to the discussion of the environment itself often take a more central role in shaping decisions – for instance, the evaluation of policy options as part of decision-making inevitably integrates the inherent values of the actors involved, which in turn will vary based on political and personal interests (Bracken, 1999; Weible et al., 2012). More specifically, in considering the various dimensions of environmental issues, individual perception is subject to a number of non-professional related variables, including ‘mental set, self-interest, and local norms’ (Sharpes, Hess & Rayes, 2007). These nuances are important because policy decision-makers often act with a degree of autonomy while still being limited by their environs (Grindle & Thomas, 1989), and as such the choices they make and methods they adopt to make decisions are the product both of who they are as well as their operational context.

Thus in order to better address the complex layers and connectivity of policy statements, a deeper exploration is required as to how the policy objectives were derived, not just in terms of the formulation process, but also in terms of the theory and assumptions behind these objectives. For instance, consider the use of labeling in the context of policy formulation, which refers to way certain descriptions or labels are ascribed to populations or “target groups” as passive objects of policy (e.g. the “landless”, “sharecroppers”, “women”), rather than active subjects with projects and agendas of their own’ (Leach & Mearns, 1996: 445). Furthermore, narratives that weave a particular storyline around these target groups have an important role in the types of policy options that are adopted to deal with the environmental challenges they face - as Hoben contends, ‘the environmental policies promoted by colonial regimes and later by donors in Africa rest on historically grounded, culturally constructed paradigms that at once describe a problem and prescribe its solution. Many of them are rooted in a narrative that tells us how things were in an earlier time when people lived in harmony with nature, how human agency has altered that harmony, and of the calamities that will plague people and nature if dramatic action is not taken soon’ (Hoben, 1995:1008).

The use of labels and corresponding narratives in shaping policy should therefore also factor into an evaluation of policy in order to determine the basis for recommended actions. While policies do tend to compress or simplify the problem or issue at hand, it is crucial to examine how this reduction is approached, and whether it is legitimate in the context of serving the wider public interest (Crabbé and Leroy, 2008). For instance, Cocklin (1988) in his description of land preservation issues, notes that the motivations of policy

should be deciphered beyond their stated objectives, for there may be a trade-off between these two elements.

He states:

‘It is in the policy arena that the spatial element has even further significance relative to the land transferal issue. This is because it might, for example, be in the interests of a particular municipality to zone land at the urban periphery for residential and industrial use. Not the least important justification would be an enhanced rating base. However, the zoning may be counterproductive relative to national food supply goals. This would be the case particularly if the land had some special significance in terms of food production’ (Ibid: 97).

The values endorsed by a policy thus form the basis for the types of objectives and interventions that it prescribes. When evaluating a policy, it is useful to understand the standpoint from which the problem it addresses has been framed.

Interestingly, a review of the literature reveals a cleavage between investigations of policy formulation, and policy implementation. Numerous scholars over the years have argued against this separationist paradigm, noting the fallacy of segregating these elements of the policy process and advocating for more feedback-oriented approaches that favour information exchange and adaptation of policy development based on implementation challenges on the ground, such as Juma and Clark (1995) who advocate that in practice, implementation should inform formulation, and vice versa. Furthermore, while scientific evidence has a use in informing policy decisions, it is important that science is not used as a means to undermine the value of inclusive stakeholder input, but rather as a means to optimize the development of the most mutually beneficial approach (Keeley & Scoones, 2003). Likewise, monitoring and feedback practices from the implementation of policy then informs scientific research, which in turn would communicate its findings to policymakers. In this manner, concurrent iterative processes would develop in a nexus of policy development, science, and implementation (see Jäger, 1998, for a discussion on the science-policy feedback loop).

These elements of the decision-making process thus create a theoretical setting for understanding how policymakers are influenced by factors both within their policy subsystem and beyond, taking into account the sources of information, the partnerships and alliances that form between actors, and the ways in which decisions taken at one point in the policy process would come to impact upon other points and stages in the process. For any given policy initiative, the process of decision-making will vary (Grindle & Thomas, 1989); this lack of constancy means that policy studies remain a dynamic and ever-evolving arena, with lessons to be learned from every policy experience. The following section further explores the linkages between policy formulation and implementation in the context of the consequences of policy for subsequent

planning and development projects on the ground.

2.3 Operationalizing Policy Through Implementation: Linking Policy with Practice in Planning

As noted in the preceding discussion, the area of environmental policy has the potential to impact greatly on the planning process on the ground. Given that this thesis is towards a Master of Environmental Science in Planning, it is important to more concretely link the narrative of policy formulation with that of planning process. Traditionally, the fields of urban planning and policy analysis, particularly environmental policy, have had a distinctive level of overlap, although in recent times a greater degree of labour division between these two fields has emerged (Alterman and McRae, 1983). Nonetheless, exercises in policy formulation and implementation are usually ingrained in the activities of planning departments, particularly at the local level (Ibid.). In addition to this, policy as a regulatory mechanism has a clear relevance to planning practice, given that all plans must adhere to the same framework of laws in order to allow for structured development. Given the complexity of modern developing urban contexts, it is logical to anticipate the ideal merger of the expertise of policy development and analysis with planning practice. For planning practitioners to function effectively in an urban environment, an understanding of the motivations behind policy and the processes that form it is essential to influencing the content of policy and subsequently the ultimate outcome of planning proposals – as Lucy (2007: 306) argues, ‘planning academics and practitioners should consider expanding, rather than limiting, their roles and subjects, in particular by overlapping more into public administration and policy analysis’.

While policy is a critical component of environmental governance as it aids in bringing together the interests and perspectives of the target population, policies are also a predecessor to the more specific acts or legislation that convert them from intent to practice. Zube (1984: 17) states, ‘(...) policies, which tend to be generalized statements, need to be expressed in more specific terms as goals and objectives in order to facilitate policy implementation in programs and projects’. It therefore follows that the considerable majority of planning and development undertakings are hinged on the existence of a well-structured, collaborative, and ethical policy decision-making framework, which includes both compliance with and enforcement of legal statutes (Keeley & Scoones, 2003). In common with planning interventions, policy decisions may sometimes culminate in unintended consequences, creating or compounding conditions that are in opposition to their intended purpose (Adger et al., 2003).

Thus, policy is in reality constantly in a state of change, and particularly in Africa's developing setting, the capacity to adapt to change and develop flexible policy interventions is crucial to maintaining growth and progress (Juma & Clark, 1995). Given this requirement of adaptability, an important aspect of the policy process is the monitoring and feedback mechanisms that would identify gaps and challenges presented by existing policy, and create room for constructive review and amendments that would then be integrated during policy revision exercises. As such, the area of policy evaluation and analysis is a critical aspect of policy review. The following section explores some relevant examples of existing environmental policy studies that have been conducted in the African context, in order to provide some background on the particular aspects of environmental policy that are of interest in the region, and the theories and methods used in their research.

2.4 The Current State of Research on African Environmental Policy Process

The available literature on policy process in the African context is severely limited; while numerous studies (described below), have examined the role of foreign aid, expert knowledge and scientific information in policy creation, issues such as agenda setting, decision-making frameworks and the influence of political and cultural norms have not featured significantly in the existing discourse. Indeed, knowledge of the policy process is considered to be one of the most important and largely ignored spheres of policy research in the developing world (Juma & Clark, 1995). In recent years, attempts have been made to reduce the existing research gap, and these research studies often adopt a case study approach, focusing on a particular location and type of policy in order to provide in-depth, real world information (Yin, 2011) on the policy process in that context.

Policy studies in the African region have often been interested in the role of foreign agencies and governments in local affairs, with a range of opinions on the positive and negative consequences of such international partnerships in guiding governance and development. The role and influence of foreign aid agencies in shaping policy discourses has been explored by multiple scholars, including Norton-Griffiths, (2010) who argues for the reduced role of foreign NGOs in Kenya, and Svensson (2000) who claims that aid has been beneficial for supporting the policy process in developing economies, and that conditional aid can be effective under conditions of mutual commitment between donors and recipients, a view supported by the work of Goldsmith (2001). The phenomenon of co-production of science and policy and the various international agencies that play a role in the environmental policy process in West Africa are explored by

Fairhead & Leach (2003). The World Bank view on policy process in the developing world, with particular attention to Africa, has been elucidated by Sutton (1999), who looks at the major concepts and influencing factors in policymaking and the roles of the various stakeholders involved from a general perspective in developmental policy.

Several policy studies have emerged as an extension of research into particular areas of environmental science, such as the dynamics of soil nutrient balance (Scoones & Toulmin, 1998), or particular aspects of the policy process, such as multi-stakeholder collaboration or public participation. This is embodied by the work of researchers such as Kameri-Mbote (2000) and Kimani (2010a; 2010b) on participatory governance in Kenya; Devas & Grant (2003) on municipal-level decision-making in the context of decentralization and citizen involvement in governance in Uganda and Kenya; and Menezes and her colleagues (2009) on the various stakeholder institutions involved in fisheries regulation in Mozambique. Ikdahl and her colleagues (2005) discuss the complex issue of land rights, which ties into almost every area of national policy, with reference to Tanzania, Mozambique, South Africa and Zimbabwe. The System-wide Program on Collective Action and Property Rights (CAPRI, 2009) has also published the work of numerous scholars on land issues from a developmental and progress-based perspective in the African region.

In addition, policy implementation is a key area of interest in the literature, and numerous studies have examined the factors that influence policy success or failure at this stage of the process. As Kimani (2010a) observes from interviews with policy actors in Kenya and across East Africa, implementation failures could potentially be caused by unrealistically ambitious policy statements, deficits in capacity of institutions, strategic shortfalls in regulations, or even the cultural and intellectual values of officials charged with implementation. Kameri-Mbote has written on a variety of legal issues relating the implementation of various environmental protocols, policies, and acts, including the Cartagena Protocol in Africa, which regulates the GMO industry with respect to transgenic crops (Kameri-Mbote, 2000), as well as the Environmental Management and Co-ordination Act of Kenya, in collaboration with Okidi and colleagues (2008), and more generally regarding the environmental management framework in Kenya and the historic shaping forces from the colonial era (Kameri-Mbote & Cullet, 1997).

In recent years there appears to be a growing interest in applying dominant models and theories to test their applicability to the policy context in Africa. Some examples include Ridde (2009), who applied the Multiple Streams (MS) framework developed by Kingdon (1995) to investigate health policy implementation in Burkina Faso, West Africa, using a case study methodology that integrated in-depth unstructured

interviews, focus groups, document analysis and field observation. In this study, Ridde applied the notion of a 'coupling' between the problem stream (in this case care for the indigent) of the MS framework and the problem stream (in this case public health policy), during implementation.

In an environment and resource management context, Tewari (2000) selected the Advocacy Coalition Framework (ACF) proposed by Sabatier and Jenkins-Smith (1993) as a theoretical basis in her study on the prospects and sustainability of commercial forestry in South Africa. Interestingly, this particular study did not integrate any qualitative research methods, but appears to be drawn on the author's knowledge of the real-world setting and supported by secondary data sources. Huntjens et al. (2011) also experimented with the applicability of ACF theory to their cross-national research on policy learning and water management regimes on three continents (including Africa), but ultimately decided that it was inadequate in explaining their observations and instead proposed their method of modeling the various levels of learning on the part of decision-makers during the policy process. Huntjens and his colleagues selected a questionnaire as their method of data collection, with qualitative data coded according to the indicators they were targeting. Phillips and Seck (2004) have compiled a set of studies on policy issues and processes in seven African countries, albeit from a primarily fiscal and economic point of view. Their book on the subject is a compilation of studies by various authors on the ways in which African economies apply public policy, particularly with respect to various market sectors.

Notably, the work of Keeley and Scoones (2003) provides an in-depth look at the policy process in Ethiopia, Mali and Zimbabwe, with a focus on the management of agricultural resources and policy debates on soil fertility. The roles and mutual interactions of various policy actors with the environment they manage have been explored in the context of South Africa and Ghana by Leach, Mearns, and Scoones (1999). Network approaches have contributed extensively to the work of all these scholars, although policy network theory has been more prominently applied in Western contexts, where as Primmer (2011: 133) notes, 'network analyses have paid attention to ways in which actors communicate relative to, learn about, and influence natural resource management.' There is therefore a significant precedent for the applicability of the various theories discussed in this chapter in both an environmental as well as an African context. The following section summarizes the key points of this literature review and the way forward to applying some selected theories to this research study.

2.5 Summary and Theoretical Framework for the Study

As this literature review demonstrates, the policy process in any given arena, be it the environment or any other, is a complex area of study and there are a number of multifaceted perspectives and lenses through which it can be approached. The underlying basis of this study is that the mechanics of the environmental policy process in Nairobi and the subsequent content of the policy that is its outcome, together form the basis for the implementation of policy, on which developmental planning is predicated. As such, the challenges of protecting natural resources and regard for environmental services in the course of planning can be traced to the decisions and values that are held by those involved in the early stages of policy formulation. In effect, in order to understand why existing environmental policies and laws have failed to adequately provide for environmental considerations in planning, one must go back and examine every stage of the policy process from the beginning.

To that end, this thesis provides an in-depth look at how decision-making in the environmental policy process in Nairobi takes place, both during the formulation as well as the implementation of said policy. The objective, in doing so, is to shed light on the particular reasons why policies either succeed or fail on the ground, what sorts of challenges are faced under the current system of environmental policy decision-making and governance, and offer suggestions how these challenges may be addressed under the reformed structure of devolution and decentralization that Kenya is moving towards. For purposes of this thesis, given the focus on both the roles of the various institutional and individual actors involved in the policy process as well as the power and authority associated with the positions held by these actors, a combination of both the political and institutional lenses was adopted. A case study methodology was adopted, as is the most common approach in policy process research. The specific aspects of the qualitative methodology are charted in detail in Chapter 4 of this thesis, and a summary of the key theoretical underpinnings of the methodology is outlined below.

There are **three** components to this study of the environmental policy process in Nairobi. The **first** is the policy formulation process, examining which particular agencies play a role in the policy process, how networks and authority distribution form between these actors, and the contextual climate in which decision-making takes place (in terms of the political and social forces that shape the policy content development process). **Secondly**, following on the formulation process, the implementation of policy also merits scrutiny, particularly given the realm of influence of environmental policy in affecting planning and development. Implementation is a highly context dependent process, as Kemp and Pontoglio (2011: 35) conclude from

their study on the innovation effects of environmental policy: ‘policy impacts depend on the design of the policies and context in which they are used. Research should be more concerned to the generation of robust knowledge than it presently is... there is no single truth about it: the influence of policies is bound to differ across places and sectors.’

Thirdly, the policy network approach (Adam & Kriesi, 2007), was selected as the ‘analytical toolbox’ for understanding the layers and complexity surrounding the interconnections and relationships between participants in the policy making and implementation processes. The network approach was selected over the other policy process theories and frameworks described in this Chapter because of its focus on what network arrangements can tell us about the way that policy is formulated and implemented, and the link between network types and policy outcomes, which provides the connection to planning on the ground. This approach has been adapted to Nairobi’s developing context with respect to the types of agencies that typically participate in policy development and implementation, and with respect to cultural considerations regarding practices on collaborative governance and public participation in decision-making. The application of the network approach is tested for its potential contribution to current knowledge on how major urban centers in developing countries, particularly in Africa, create and operationalize policy in an environment where foreign agencies are also actively involved as key stakeholders in the governance scheme. A more detailed description of the analytical tools used in the Network Approach is laid out in Chapter 7.

This study yields insights into the character of the policy process in an urban developing context; the conclusions drawn, while primarily embedded in Nairobi’s specific circumstances, also have to the potential to extend to other urban centers in the country, and create a basis for future research as to the impacts of the reforms the country is currently undergoing with respect to governance restructuring and growth. Table 1 provides a summary of the key aspects and variables selected for this study, and the corresponding analytical approaches that were adopted to examine and measure them.

ENVIRONMENTAL POLICY ASPECT	VARIABLES	ANALYTICAL APPROACH
Formulation: Decision-making during policy formulation	1) Stakeholder collaboration and public participation in decision-making 2) Authority and power distribution in the actor network	Use of a case-study, narrative based approach to examining the formulation and implementation processes of environmental policy.
Implementation: Challenges, existing gaps between policy and practice and the reasons for these gaps	3) Critical environmental concerns in Nairobi County 4) Gaps in existing policies or processes 5) Uses and sources of scientific or fact-based evidence and data 6) Implications of policy and administrative reform	
Analysis of the environmental policy network as an indicator of future policy outcomes	1) No. of actors in the network 2) Complexity of the network 3) Degree of self referentiality of the network 4) Conflicts between actors 5) Costs of network management	Variables and typology laid out by Adam & Kriesi (2007) in their assessment of the Network Approach, and supplemented by additional policy network theorists as applicable to the study data

Table 1 SUMMARY OF ANALYTICAL FRAMEWORK

As Keeley and Scoones (2000: 90) contend, ‘policies...are culturally embedded, and understanding how national and sub-national political and administrative histories and practices shape policy processes is key’. With this in mind, the next Chapter (Chapter 3) explores the history and current administrative and institutional structure of the environmental planning arena in Nairobi, with respect to both policy and practice.

Chapter 3

Environmental Policy in the Kenyan Context: Case Study Background

A discussion of the environmental policy subsystem (as defined in the literature review) in Kenya would not be complete without a description of the macro level setting within which it operates. Indeed, Birkland (2010) indicates that the physical, cultural and legislative conditions of the wider country framework must be understood in order to adequately address the functioning of the policy arena. As the literature review showed, the arena of environmental policy is often closely intertwined with that of planning, and this is no less true in Kenya. The city of Nairobi has been at the center of Kenyan political and legal reform since Independence from British colonial rule was attained in 1963. As an emerging urban region, current challenges on the path to sustainable development include: a lack of cohesive administrative guidance in urban planning, in that the aspects of urban planning are segregated across a range of institutions with overlapping mandates; a distinct lack of a well articulated strategic framework or masterplan for the city's growth; and a burgeoning population as a result of increased rural-urban migration from around the country, natural increase, and the expansion of the urban boundary (Cohen, 2004; UNEP, 2009).

The following sections summarize the general history of planning and environmental policy over the course of Nairobi's development history, the current state of planning within the urban boundary, and the anticipated changes to the governance structure following the General Elections held in March 2013. An exploration of the environmental governance system in Kenya and at the local level in Nairobi is provided, in order to identify the key actors in the environmental policy subsystem in Nairobi. This is important because, as Weible et al. (2012: 6) explain:

'For individuals wanting to achieve their goals, understanding the structure of policy subsystems—e.g., who is involved, what are the boundaries of an issue, how is information shared, how are decisions made—is critical because goal achievement usually requires attention to policy issues within an existing government program or policy or groups of policies and programs. Knowing the policy subsystem helps simplify a macro-political system by bounding individuals and issues and removes those policy issues and decisions that are irrelevant to the issue of concern.'

While it is outside the scope of this background study to fully trace the history of colonial control in Kenya, some of the salient events of the most recent settlement, that of British origin, are briefly revisited in order to paint a portrait of the urban regime that existed leading up to independence and its influence on contemporary urban planning in Nairobi.

3.1 Historical Context of Planning and Environmental Regulations, Strategies and Policies in Nairobi

Urban planning in Kenya has been strongly influenced by British colonial rule, and several of the laws and policies enacted prior to the achievement of independence in 1963 are still in place (Otiso, 2005; Klopp, 2000). A timeline of planning developments up to 2009 is provided in Appendix A. The British colonial empire arrived in Kenya in the late 1800's, and selected Nairobi to be one of the major settlement points along the Uganda Railway (Otiso, 2005). A trading economy was soon established based on key cash crops, particularly tea and coffee. In 1948, a masterplan for the city was produced that outlined some of the main objectives for development (Ibid.). Seen as a plan for the establishment of a predominantly colonial settler town, the design put in place a land zoning scheme that allocated 90% of land to white settlers and 10% to the Asian population, leaving the marginalized African labour population to fend for themselves in squatter abodes that had begun to mushroom around the town periphery (Aschwanden & Vogel, 2007). These informal settlements continue to persist and have been the object of recent upgrading schemes, with varying results. The urbanization of larger sections of the urban periphery will require the relocation of some of these populations, which introduces further complexity in terms of preserving indigenously owned land that may be drawn upon to create future settlements.

Kenya once again became a sovereign nation on 12 December 1963, witnessing the withdrawal of British colonial control and the rise to power of the first president, Jomo Kenyatta. Kimani & Musungu (2010) summarize the creation of policy and legislative acts passed to guide construction and city building in the early years of independence. Prominent among these was the Land Planning Act of 1968, which was formulated along the lines of the previously existing Town and Country Planning Act; as the building by-laws were not suited to the urban challenges of a rapidly growing city, a low-cost housing building by-laws review was conducted in 1979 (Ibid.). The modified standards met with Cabinet approval in the mid 1980's. The guidelines were designed to improve access to affordable housing within the urban center of Nairobi and provide a framework to ensure that construction met with certain standards of quality and design, although there was no clear regulation on environmental protection in the course of urban development. The impetus for this early planning act came primarily from the unmitigated growth of informal settlements along the outskirts of the city, which were becoming increasingly difficult for the city to police and service.

The Land Planning Act of 1968 was repealed in 1996 with the institution of the Physical Planning Act (Kimani & Musungu, 1979). The new language in the legal framework addressed development at three levels: national, regional, and local, an improvement over the 1968 act which was limited in its inclusion of

rural areas (Ibid.). The 1996 act also empowered local municipalities with the decision-making authority to formulate, execute and enforce additional by-laws and standards as appropriate to their circumstances (Ibid.). However, the weight of the act was impeded by a distinct lack of capital both in terms of material and labour across municipalities as well as a missing support structure to provide assistance through the federal government (Ibid.). In order to enforce greater accountability in terms of environmental and resource preservation, the Environmental Management and Coordination Act (EMCA) was passed and implemented in 1999 (National Council for Law Reporting, 1999). The EMCA works in tandem with the Physical Planning Act, laying out specific procedures and requirements for environmental protection and impact assessment (Kameri-Mbote, 2005) that insure that these aspects of development are adequately considered alongside the issues of morphology, density, and design. In addition, the EMCA empowers individual citizens by codifying their right to take legal action to ensure environmental justice. This is evident in clauses pertaining the polluter pays principle, sustainable development, rights to information, and precedent setting locus standi in case of legal disputes that can be brought to the attention of the court system (EMCA, 1999; Kameri-Mbote, 2005).

The first comprehensive development strategy for the city after independence was produced in 1973, and was designed to carry the city to the year 2000 (Ministry of Lands, 2008). Titled the 'Metropolitan Growth Strategy', the plan was a distinct shift from the colonial period plans, with the key contrast being that much of the legalized racial bias with respect to development objectives was largely eliminated. The 1973 plan also used highly conservative population estimates as provided by the Ministry of Lands to outline a growth corridor for the installation of public infrastructure to guide development; this stretched well outside Nairobi's Central Business District to the rural highlands of Ruiru and Thika (Aschwanden & Vogel, 2007). The strategy was not well implemented and the growth corridor has not been realized, as much of the intensification has taken place on a more concentrated scale within Nairobi's urban core (Kimani & Musungu, 2010). Ultimately, the command-and-control framework institutionalized by the Colonial administration, and which to a large extent persists today, has been seen as inadequate to fulfilling the environmental management needs of Kenya and other countries with similar tenets in place (Kimani, 2009).

3.2 Urban Administration: The Institutional Framework

In contemporary Nairobi, one of the key issues that plague the arena of urban governance is the fragmented state of the planning legislature and statutes described in the first section of this chapter, which

are spread across several ministries and are often in conflict with one another – for instance, the Ministry of Lands is the primary source of regulatory land management for all areas of Kenya, although the Ministry of Public Health wields a significant amount of sway over the development of housing (through the mandate of the Public Health Act of 1972, drafted to mitigate the potential for overcrowding and unsafe or unsanitary dwellings). The Ministry of Regional Development handles more large-scale planning but does also have an impact on city level planning, as well as the Ministry of Public Works dealing with infrastructure, Ministry of Roads and Ministry of Housing which all have a seat at the table in planning decisions for Nairobi.

The environmental policy process in Kenya is spearheaded by the Ministry of Environment and Mineral Resources (MEMR), which oversees the activities of subsidiary offices including the National Environment Council (NEC) on policy creation, the National Environment Tribunal on environmental legal disputes, and the National Environment Action Plan (NEAP) which brings together a cross-sectorial committee to develop strategic proposals for environmental management in the country. The implementation process falls under the purview of another MENR subsidiary, the National Environmental Management Authority (NEMA). NEMA operates as an independent commission responsible for the enforcement of policies and regulations developed under the auspices of the Ministry of Environment. These two government bodies thus form the core of the environmental governance process in Kenya. However, as the literature review depicts, the environmental agenda in Kenya is further divided at the public level between a number of arms of government, including the Ministry of Lands, Ministry of Tourism, Ministry of Water, Ministry of Agriculture, and the Ministry of State for Planning, National Development, and Vision 2030. All of these offices are considered stakeholders in the governance process, and provide input into new policies formed by the Ministry of Environment. At the level of Nairobi County, the Nairobi City Council through its Directorate of Environment and Department of Planning oversee the majority of environmental management issues for the county.

In recent years, public disapproval of the ad hoc structure of planning in Nairobi has led to the creation of the Ministry of Nairobi Metropolitan Development (MNMD) in 2008 by presidential decree. The MNMD holds a mandate for ‘equitably distributing resources and development throughout the country, providing a framework for sustainable urbanization through providing capacity for urban and regional planning, provision of adequate housing for all, replacement of slums with affordable housing, improve and enhance proper infrastructure and sanitary facilities, among others’ (MNMD, 2008). The MNMD released the ‘Nairobi Vision 2030’ strategic plan in 2010, a document that has been met with mixed reviews by the urban population it speaks for. As mentioned, the Plan 2030 document envisions a much wider urban

boundary for Nairobi, a point of contention for some planners who have criticized the expanded scope as being motivated by political interest and profit rather than being derived from sound planning principles (Kigada, TEDx Conference Presentation, 2010). At the national level, the Kenya Vision 2030 development program was launched in 2008, and has been designed as a strategic plan aimed at developing the country's economic capacity by capitalizing on local assets and greater urbanization through infrastructure improvements (Kenya Vision 2030, 2008). This document does not prioritize environmental management, but incorporates it into the 'social' projects arm of the plan, thus hinting at the federal government's level of commitment to environmental issues.

The permutation of all these separate arms of government agencies sharing a stake in environmental planning and policy makes for a complicated and lengthy process in deciphering the planning code and dealing with bureaucratic elements along the way. The nascent and unconfirmed governance structure under the new Constitution may lead to significant changes in the mandates of these public entities, some of which may be subsumed under local county leadership. The issue of institutional capacity and efficiency would need to be revisited by the legislature following the General Elections, expected to cement the roles of leadership structures. As Flanagan et al. (2011) observe, the existence of a 'policy mix' can lead to certain conflicts between stakeholders, depending on the degree to which they are complementary or incompatible. Disagreements may thus arise between policy rationales, policy goals, and/or implementation approaches (Ibid: 709).

Going beyond public institutions, as mentioned in the previous chapter, there are a number of additional stakeholders involved in environmental governance, both at the national and at the local level. The private sector often participates in the policy process through public forums, or on a consultancy basis on particular projects. These institutions are often seen as possessors of practical knowledge garnered through the implementation or application of policies and laws in planning and development projects, and are therefore a valuable contributor to the strategic components of policy. In contrast to their counterparts in the private sector, civil society groups in Kenya have an active presence in policy debates and processes. There are a wide variety of CSOs working at the grassroots level, and community economic development often intersects with environmental sustainability in their activities. CSOs are governed by legal mechanisms, and may be considered a conduit for public interest. However, foreign donors frequently provide aid to CSOs, thereby exerting significant influence on activities and the types of engagements pursued based on the conditions of the funding (Bratton, 1989). Aid agencies of foreign governments and multilateral bodies like the United Nations Environment Programme and UN-Habitat have a long history in Kenya, and have been involved in

shaping the environmental and urban development framework which currently governs Nairobi (Kimani, 2010a).

Academic institutions have long been held as the centers for expertise and specialized knowledge. In recent years, the level of academic involvement in policy affairs in Kenya has decreased. Nonetheless, individual researchers often participate in policy teams and provide expert advice on content and reforms. In recent years, there has been increased attention in Kenyan academia with regard to environmental management and policy affairs, as evidenced by the institution of the Department of Environmental Management and Planning in 1991 at Kenyatta University, one of the country's largest institutes of higher learning, as well as a local branch of the Swiss-based International Environmental Law Research Center (IELRC), and the Center for Advanced Studies in Environmental Law and Policy (CASELAP) at the University of Nairobi Faculty of Law which opened in 2010.

In addition to these formal institutions, there are a number of informal community organizations, CSOs, and individuals working at the grassroots level to manage resources and who often play a role in micro-level environmental management - in some instances, the goals of these entities may conflict with that of the administrative apparatus (Kameri-Mbote, 2005). Some of the challenges that may arise from this contentious relationship between the public and nongovernmental sectors are discussed in the next section.

3.3 Contemporary Environmental Planning Challenges in Nairobi

Rapid urban expansion has contributed significantly toward environmental degradation of land and waterways in recent years (Mundia & Aniya, 2006). In 2010, a landmark referendum was passed and promulgated for the new Kenyan Constitution, following over two decades of reform negotiations between government, the civil sector, and international human rights groups (Githinji & Holmquist, 2011). The new Constitution makes several amendments to the national land rights policy with a view to increasing ownership security and preventing malpractice, corruption and land grabbing (Hansen, 2011); however, as the Center for Strategic and International Studies notes, 'land remains closely tied to the electoral dynamics of Kenya, meaning that many vested interests will stand to lose if these reforms are successfully implemented' (Kennedy & Bieniek, 2010).

In essence, land tenure and environmental justice are closely linked, and the consequences of annexing ex-urban land into the metropolitan boundary (as determined in the Nairobi Metro 2030 Spatial Plan of 2008) has already raised conflicting interests, since land ownership is linked to tribal heritage in

Kenya. For instance, the Maasai Tribal Community of Kajiado has filed a public declaration opposing the creation of the new urban policy boundary, with the contention that their ancestral land has been expropriated in the process (Kajiado Declaration at Isinya, 2009). The institution of a new metropolitan boundary is a crucial turning point in the urban development of Nairobi, particularly since food security and climate change adaptation are closely entwined with political conflict in Kenya and across Africa (Boone, 2007; Eriksen & Lind, 2009).

Land use planning in Nairobi has been impeded by a lack of spatial data, legislative deficiencies and decision making difficulties caused by conflicting user demands (Mundia & Aniya, 2006; Kameri-Mbote, 2005). Table 2 below shows how land uses have changed in Nairobi between 1976 and 2000, with a notable increase in the built-up component of 351% and a 74% reduction in forest cover. Conservation of natural parks is the cornerstone of the natural tourism economy, and protection of wildlife reserves falls under the purview of the federal government (Akama, 1996). The effects of climate change in recent years have manifested in severe drought conditions, creating food shortages and loss of life in many arid parts of Kenya (Eriksen & Lind, 2009). Urban agriculture in urban Nairobi was barred during colonial rule but has emerged in the years since independence as a subsistence-oriented activity, primarily undertaken by migrants to the city (Lado, 1990).

YEAR	1976		2000	
	Area (km ²)	% (of total area)	Area (km ²)	% (of total area)
Urban/Built-up	13.99	1.90	61.23	8.58
Agriculture	49.83	6.98	87.78	12.30
Forests	100.15	14.04	23.56	3.30
Bushlands	154.48	22.35	95.98	13.45
Mixed Rangeland	357.32	50.08	237.63	33.31
Shrub/bush range	25.22	3.53	170.78	23.94
Open/transitional	6.92	0.96	32.72	4.58
Water	0.50	0.07	3.77	0.53
Total	713.41	100.00	713.45	100.00

Table 2 LANDUSE CHANGES IN NAIROBI BETWEEN 1976 AND 2000. Source: Mundia & Aniya (2006: Table IV)

Environmental protection and public consultation are two areas that have been strongly influenced by international legislation, with Kenya as a signatory to multilateral agreements which help provide citizens with a platform to campaign for the protection of natural habitats (Kameri-Mbote, 2000). Kenyan federal legislature does not contain explicit statutes on the implementation of public information sessions or consultation, nor does the Constitution contain a proviso on the right to information. However, public participation particularly where environmental issues are concerned does extend from the rights and protection of life in the Constitution (Ibid.).

The issue of sustainable urban development practice is intricately linked to public process; both of these are predominantly foreign aid causes. As Myers (2008) describes it, the ‘donor-driven character of much urban policy and urban research in sub-Saharan Africa keeps the neoliberal SUD [Sustainable Urban Development] approach to the fore regardless of injustice or the absence of urban democracy’. In Kenya, the World Bank has had a significant impact in developing environmental governance, particularly with respect to EIA procedure and inclusion of public opinion, as the Bank makes public participation in mandatory environmental assessments of projects a condition of aid continuity (Kameri-Mbote, 2000). For the most part, the consultation process tends to include some influential NGOs and public interest groups, along with developers and government stakeholders. Public meetings are not a regular part of the proceedings, despite the success of some in incorporating the views of community participants for the betterment of project performance (Chege, 2006). Particularly in regard to issues of land tenure and rights of the urban poor as discussed above, the voices of the marginalized are silenced (UN-Habitat, 2009). As Kameri-Mbote (2000: 12) points out, ‘although regulations on the right of public participation in environmental decision-making have been promulgated, overall assessment indicates that these rights have not been realized in practice’.

Regular Kenyans have thus found alternative ways to express their concerns over various development projects. One of the most poignant examples of this is can be seen in the campaigns against land grabbing and deforestation in the Karura Forest, the last remaining natural forest reserve in Nairobi (Klopp, 2000). The late Wangari Maathai led the campaign, along with local NGOs and concerned citizens, who opposed the clearance of the forest and were instrumental in its preservation (Maathai, 2004). Maathai was one of the co-founders of the Green Belt Movement, a civil rights and environmentalist movement that had at its foundation a group of remarkable, organized and purposeful Kenyan women who believed in the cause of conservation and environmental protection (Nixon, 2011). Even in the face of police brutality and government opposition, the advocacy campaign had the effect of securing the protection of hundreds of acres of natural forest and planting over 30 million trees (Maathai, 2004).

Another landmark project is Operation Firimbi ('whistle' in Kiswahili), an NGO-led drive to reduce corruption and land grabbing by providing whistle-blowers with a platform to be heard nationally. This campaign has received international acclaim due its success in raising awareness and a sense of patriotic action among private citizens (Klopp, 2000; UN-Habitat, 2006). The initiative included the dissemination of educational and awareness building materials to inspire public interest and action, by identifying three main categories of property rights: public, private, and community land (Mazingira Institute, 2010). A hotline was put in place to take calls from citizens when corrupt procurement of land or expropriation was witnessed; in September 2010, the Mazingira Institute reported that 'Over 300 of these cases were presented to the Commission of Inquiry into Irregular and Illegal Allocation of Public Land, commonly known as the Ndung'u Commission' (Mazingira Institute, 2010). In particular, forest has successfully been protected through this mechanism of facilitating public awareness, in a way that existing environmental policies have failed to achieve. The civil sector thus provides citizens with access to due process, facilitating the circumvention of barriers to class and ethno-tribal exclusion (Fox, 1988). Indeed, Njeru (2010) asserts that governance decisions that led to the protection of the much-contested Karura Forest (one of the last remaining vestiges of urban peripheral forest land in Nairobi) were precipitated by pressure from the domestic civil sector as well as international observers, rather than an interest in the civil rights of the urban poor.

3.4 National Environmental Policy in Kenya

Kenya's first ever National Environmental Policy is currently in its fifth draft, and as per legal procedure will be submitted for Parliamentary review within the next few months once stakeholder consultations are deemed complete by the Director of Policy at the Ministry of Environment and Mineral Resources (MEMR). The saga of events leading up to the current version of the NEP dates back to 2007, when an attempt was first made by the MENR to assemble a team with a mandate to craft such a document (Ministry of Environment and Mineral Resources, 2007). This first team was eventually disbanded, and over the intervening years since then, the policy formulation process was largely handed over to private consultants external to the MEMR as a means to expedite the outcome (Interview, GOVT1; Interview, GOVT2).

The delay in creating the NEP may stem from the colonial legacy of sectorial environmental policy, which in many cases lays out a distinctive divide between the mandates of the various environment-related ministries, and creates a culture of parochial attention to specific issues rather than a system wide approach to

environmental management (Kimani, 2010a). Kimani (2010a: 39) describes the clear directional procedure involved in creating environmental law, which largely resembles the policy creation procedure:

‘First, a national consultant’s review of national environmental law and policy takes place, which is followed by a draft law. Next, a national consensus-building workshop is held to review the draft law’s overall normative prescriptions, procedural requirements and institutional arrangements. Here, the national consensus-building workshop offers the 40-60 individuals, drawn from different sectors such as agriculture, wildlife and fisheries, an opportunity to make recommendations for improvement of the draft law. Finally, following satisfactory review by national stakeholders, the final legislative report is submitted to the respective government ministries for eventual presentation to Parliament in accordance with the national Constitutional procedures.’

Thus, the final outcome of the policy process is at the mercy of bureaucratic process as represented by the power of Members of Parliament to modify, reject, or accept the policy as they deem fit. However, under the impending system of devolved government, policy creation and implementation will be to a greater extent the purview of local county governments – in Nairobi’s case, this entity would be the Nairobi City Council. Nation-wide entities such as NEMA will still hold the mandate for federal environmental policy implementation, and in this scheme a form of sharing of responsibility will likely emerge, with new networks of local and state-level actors involved. In particular, there has been a greater push for the NEP to include a more multi-sectorial approach to environmental management, in order to counter the existing culture of separating environmental issues from those of economic, social, and developmental planning, as Oulu and Boon (2011) note, in Kenya ‘the country’s development planning framework is clearly separated into socio-economic...and environmental planning processes, with few inter-linkages.’ (Oulu & Boon, 2011: 221).

The success of the National Environment Policy in achieving its goals is contingent on a strong cooperative framework for implementation, and a dedication from all actors involved to ensure that the policy statements are converted into strategic plans and provided with the resources to be operationalized. As such, the attitudes and perceptions of actors in the network and the challenges inherent in policy implementation as a result of the network structure are of crucial importance and interest in predicting the outcomes of policy change such as that being proposed by the NEP. The following chapter lays out the methodology for studying and analyzing the policy formulation and implementation in Kenya and in Nairobi in particular, in order to better understand the implications for policy reform based on the policy process.

Chapter 4

Methodology

4.1 Overview of Conceptual Framework

The existing research on environmental policy in Kenya and across the African region (described in Chapter 2) provides a window to public policy discourse in Africa. However, the current state of research shows a need for a greater in-depth analysis into the mechanics of this process. The core contention of this thesis is that contemporary environmental planning challenges are the product of deficiencies in the policy (and subsequent legislative) framework that guides development, and that these deficiencies can be traced back to root causes in the policy formulation process that creates them. The rationale for this study is that the views, values, and priorities of actors within the environmental policy subsystem in Nairobi link to policy content and therefore point to the reasons for existing gaps. These policy gaps in their most damaging form result in policy failure manifested in poor planning of the built environment and consequential environmental degradation. Figure 2 provides a broad overview of the conceptual framework for this study within the context of environmental policy and planning practice. The dotted line indicates the core area of research focus.

This study firstly interrogated actor roles and interactions at the policy formulation level, examining the particular considerations of each actor category in contributing to policy content. Secondly, the implementation stage was scrutinized as the key juncture at which policy outcomes are determined, and the challenges faced in implementing policy which are indicative of the reasons for policy failure or success. Thirdly, the structure and internal attributes of the policy network were theoretically analyzed, in order to link the descriptive narrative provided in the first two components to the potential and types of policy change. The combined analytical and evaluative knowledge that was generated from these three components of the study was used to inform the generation of prescriptive knowledge, in the form of recommendations to decision-makers.

The research approach was built on a theoretical and conceptual framework that draws from a variety of fields, primarily the social science research and public policy literature. Broadly, the joint political and institutional lens of this study draws on the constructivist paradigm, which emphasizes the contextualized nature of a research subject, focusing on a detailed narrative utilized in order to gain an appreciation of the subject matter at that particular point in time and place (Creswell and Miller, 2000). As described previously,

the narrative method involves ‘construct(ing) a narrative rendition of the findings from a real-world setting and participants, to accentuate a sense of “being there”’ (Yin, 2011: 17). As an extension of the constructivist lens, the ‘naturalistic’ paradigm (Guba, 1981) is employed. One of the most prominent forms of naturalistic study is ethnography, which involves immersion in a given context in order to provide an insider perspective and detailed analysis of the subject matter. One major variant of ethnography is the case study approach, recommended by Yin (2008) for in-depth investigative inquiries. This approach entails a study of the phenomenon, (in this case the environmental policy process), in its real world context, (in this case Nairobi County); (Ibid). Table 3 provides an overview of these elements of the conceptual framework. The key theoretical framework used to inform this is the policy network approach, based on the work of numerous theorists (but in this study draws strongly on the work of Adam & Kriesi (2007)), which was used to provide a depiction of the interactions and interdependencies between the various stakeholders and actors involved in the policy process. Further details of how the case study method has been deployed are described in the next section.

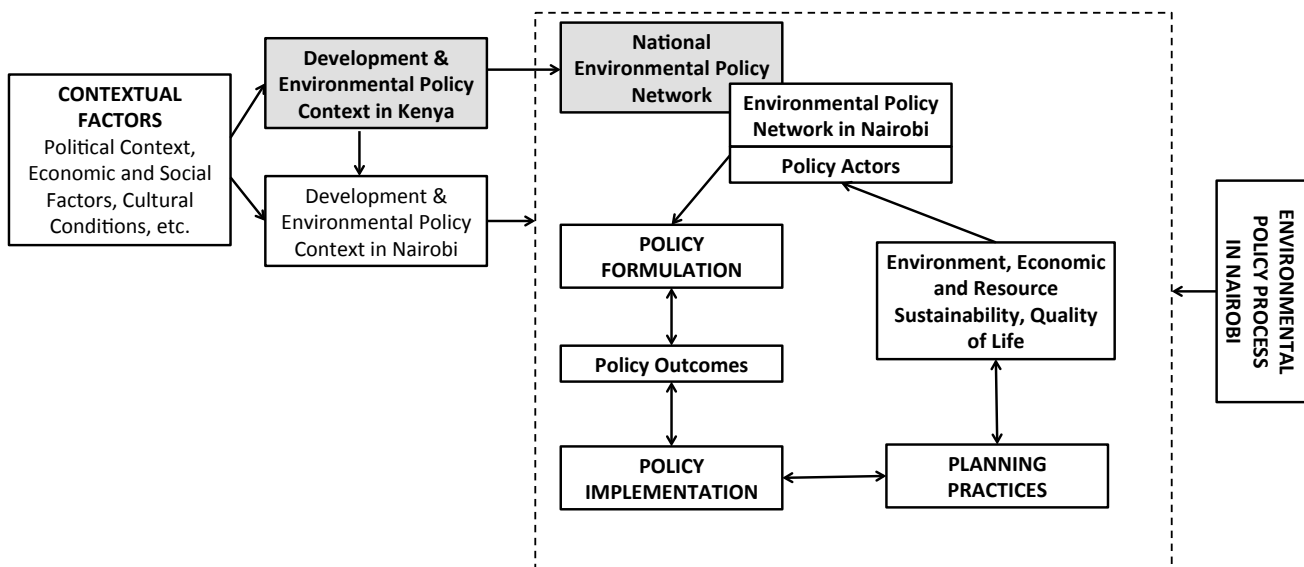


Figure 2 CONCEPTUAL OVERVIEW OF RESEARCH STUDY

4.2 Research Design

The research design of this study was constructed around two key research questions:

How does the process of environmental policy formulation take place from the perspective of individual actors and stakeholders within the current policy framework?

How will changes to the urban framework under the reforms of the Constitution affect the policy process and structure?

These lead questions in turn are further specified to reflect the three key components of the study (formulation processes, implementation challenges, and policy network analysis)

- 1) How does decision-making take place during the environmental policy formulation process?
 - a. Who are the actors that get involved in environmental policy formulation in Nairobi, and how is authority divided among them in the actor network that forms?
 - b. How do individual policy actors within the networks view the needs and issues affecting environmental policy formulation and implementation?
 - c. How will Constitutional and strategic reforms change or otherwise impact upon existing policy formulation processes?
- 2) How does environmental policy implementation take place?
 - a. Who are the actors who play a role in policy implementation, and how do implementation and monitoring activities provide feedback to formulation processes?
 - b. What are the gaps in policy, particularly from an implementation and compliance perspective, and how can these be addressed in order to improve results for long-term environmental planning?
 - c. How will Constitutional and strategic reforms change or otherwise impact upon existing policy implementation processes?
- 3) How does policy network theory aid in explaining the environmental policy subsystem in Nairobi, and what can it tell us about the future outcomes of policy activities?

The individuals as actor units within the environmental policy network are seen representatives of the institutions within which they operate (Atkinson & Delamont, 2006), and were examined from the perspective of their individual approaches and contributions to environmental policy creation. The study combined this first-hand narrative from policymakers and implementers with policy theory to provide an in-depth examination of the environmental policy process in Nairobi.

The first two questions are answered through a detailed, descriptive narrative of the mechanisms of policy formulation and implementation, a necessary prelude to the application of policy network theory in answering the third question. This approach was selected because network theory has a basis for application in understanding policy network arrangements and the resulting policy outcomes, but is limited in its capacity to

provide a thorough description of all facets of a policy subsystem (Dowding, 1995; Thatcher, 1998; Adam & Kriesi, 2007). In addition, network theory has the potential to elucidate the link that this study makes between policy processes and planning outcomes, for as Provan and Kenis (2007: 229) proclaim, ‘understanding the functioning of networks is important since only then can we better understand why networks produce certain outcomes, irrespective of whether networks result from bottom-up processes or are the product of strategic decisions made by network participants or government officials.’

A qualitative descriptive research design was utilized in order to provide detailed information on the ‘how’ and ‘why’ aspects of the study, and similarly in applying theoretical explanations to the research data (Adam and Kriesi, 2007). Sandelowski (2000) gives an interesting interpretation of descriptive qualitative research, and insists that this type of in-depth study can have useful outcomes and contributions without necessarily requiring additional follow-up research studies. She states: ‘I see qualitative description as a categorical, as opposed to “non-categorical alternative” for inquiry; that is, the method already exists but is relatively unacknowledged... Second, I see qualitative descriptive studies as less interpretive than “interpretive description” in that they do not require researchers to move as far from or into their data. Third, they do not require a conceptual or otherwise highly abstract rendering of data’ (Sandelowski, 2000: 335). Descriptive research from this point of view allows the researcher to delve into the details of the phenomenon at hand by developing indicators that are directly measurable from the available or collected data, without becoming confused by arbitrary definitions of concepts.

For such in-depth research, the case study approach fits as a method of choice, and has been used prolifically in policy studies (see Chapter 2). Yin (2011) suggests four different conceptualizations of the case study method: the first is the descriptive case study (answering ‘what happened’ questions); the second is the explanatory case study (answering ‘how and why’ questions); the third is a cross-synthetic form which integrates multiple smaller case studies into a larger whole; and fourth is the application of the case study method to evaluate an initiative. Of these four types, the explanatory case study fits with the objectives of this study best, as embodied by the research questions above.

Given the highly context-dependent nature of policy research, the case study approach integrated components of narrative inquiry, in order to draw on the experiences and opinions of policy decision-makers who are regarded as experts given their position of authority within stakeholder institutions. As Flyvbjerg (2006: 225) notes, ‘Case studies often contain a substantial element of narrative. Good narratives typically approach the complexities and contradictions of real life.’ Carrying forward from the theoretical framework provided at the end of Chapter 2, the variables selected were measured via indicators and techniques that are

both integral to case study and narrative inquiry and also popular among policy researchers. The following section explores how each of the techniques was applied to measure the intended variables, and the corresponding analytical procedures that were applied to the collected data in order to generate analytical, evaluative, and finally prescriptive knowledge from them.

4.3 Data Collection Techniques

This study employs multiple data sources: the primary data were derived from in-depth, semi-structured interviews, and secondary data from numerous policy documents, journal articles, organization publications and reports, and media sources. This section describes the procedures entailed in collecting, managing, and analyzing the data in order to achieve the study objectives.

4.3.1 In-Depth, Semi-Structured Interviews

Expert opinion is an important resource in case study research, as Flyvbjerg (2006: 222) points out: ‘Common to all experts...is that they operate on the basis of intimate knowledge of several thousand concrete cases in their areas of expertise. Context-dependent knowledge and experience are at the very heart of expert activity. Such knowledge and expertise also lie at the center of the case study as a research and teaching method or to put it more generally still, as a method of learning’. The narrative approach was therefore applied (within the context of the case study method), through the use of in-depth interviews. This allows for a deeper investigation into the personal and even cognitive attributes of individuals, which guide their decision-making capacity and which are therefore highly relevant to their involvement in the policy process (Weible et al., 2012). The interview technique is recognized for its effectiveness in teasing out details and revealing layers of complexity in real-world situations which would otherwise be missed through other methods. For example as Yin (2011:5) suggests, "your overall goal would be to unravel the power control and other relatives each conversant might be pursuing... in their real-world settings". This tool is popularly employed in environmental policy research (Ritchie & Spencer, 1994; Keeley & Scoones, 2003), and has been previously utilized in policy process research in the African region (Keeley & Scoones, 2003; Kimani, 2010a; Ridde, 2009).

The semi-structured interview entails having ‘a number of interviewer questions prepared in advance but are designed to sufficiently open that the subsequent questions of the interviewer cannot be planned in advance but must be improvised in a careful and theorized way’ (Wengraf, 2001: 5). The semi-structured

format allows the researcher leeway to ask additional questions based on preceding responses, thus expanding on themes or concepts that may unexpectedly arise during the course of the interview. The flexibility allows for deeper analysis of the attributes and influence of individual actors. In addition, in-depth interviews create a context for exploring a wider range of variables in the operational context of the individual actor, which are indicative of the providence of their policy positions.

As discussed in the literature review, the private, civil society, and international donor sectors in Kenya play a critical role in influencing environmental governance and shaping policy. For this reason, stakeholders from all of these sectors of the economy were interviewed, with the aim of adding salient insights to the ground-level practicality and implementation extent of existing policy. In developing a conceptual approach to investigate the research questions, the governance framework was carefully considered. Due to restrictions on time and resources for the study, a selection of actors within each of the agency groups were selected to be part of the interview course. The sampling process to determine which institutions would be included in the interview group was based on a combination of considerations, most importantly the relevance of the individual institution's contribution to policy generation or implementation. Indeed, the policy literature attests to the influence of individual actors within institutions (Mintrom, 2000; Kingdon, 1995) as the key drivers of the policy process.

Existing environmental regulatory documents available through the public domain of the Ministry of Environment and Mineral Resources were reviewed to determine which institutions were most commonly cited as being part of the content development process for that policy. Purposive sampling was utilized to target the specific institutions known to be involved in the policy process. From a preliminary analysis, the participants were categorized across five sectors operating within the policy realm in Nairobi, namely the government (public) sector; non-governmental/Civil Society Organizations (CSOs); the private sector; international donor agencies and multilateral bodies; and academic researchers and institutions. The sampling technique applied to recruit participants remained fairly constant between these groups, with the exception of the Government Sector, as explained in further detail below. Figure 3 provides a summary of the organizations in each sector that were included in the sample.

In each case, once the target institutions were identified, each one was contacted by telephone with a request to speak to the relevant person engaged in policy related projects for the organization. An interview time and place was arranged with the key informant, and an email sent to each one prior to the interview to formally thank them for their willingness to participate and detailing the confidentiality procedures for the study. Snowball sampling ('the selection of participants or sources of data to be used in a study based on

referrals from one source to another' (Yin, 2011: 312)) was then employed to gather recommendations for participants beyond this initial sample set, and further interviews were arranged based on the referrals received. The table in Appendix B shows the number of interviews conducted for each category of participants, along with the format for coding of participant identities in order to retain their anonymity where their interview data is referenced in this thesis.

The majority of the primary research (data collection) phase was carried out *in situ* in Nairobi County from the period June 15, 2012 to July 30, 2012. There were 23 in-person interviews were carried out during this period, with an additional 2 interviews conducted via Skype and personal correspondence between 31 July and 10 August 2012 (for a total of 25 in-depth, semi-structured interviews). All the interviews were conducted in accordance with the ethics guidelines of the Office of Research at the University of Waterloo, and confidentiality maintained for all participants.

1) *Government Sector*: Due to the time constraints on this study, it was not possible to include participants from all the separate offices of government involved in environmental policymaking. Thus, the key departments operating in Nairobi County as mentioned above were targeted, in addition to the Ministry of Environment and NEMA. To supplement these interviews, a more general view of the policy process in Kenya was acquired from the Kenya Institute of Governance. At each government office, the Director of Environmental Affairs, Policy or Planning was approached in person to request an appointment or referral to a point of contact for an interview. In the majority of instances with this approach, the researcher was welcomed and directed to the most informed department official, who was then contacted and an in-person interview arranged.

2) *Private Sector*

The private sector corporations included in this study were selected firstly on the basis of their activity in, and therefore perceived knowledge of, environmental planning and policy affairs in Kenya, and secondly using snowball sampling, whereby participants in the interview process were asked for recommendations on the individuals they perceived to be in a position of expertise regarding environmental policy issues. Three consultants from institutions in the private sector were included in the sample.

3) *Non Governmental / Civil Society Organizations*

In a similar method to the selection of private sector participants, a review of environmental policy conference proceedings and web-based searches to determine the involvement of various CSOs in policy proceedings was conducted to identify the participants in this category. A total of four individuals from as many CSOs were interviewed.

4) *Foreign Multilateral Agencies and International Donor Groups*

The participants belonging to this sector were selected based on their recent involvement in policy issues related to the natural and built environs in Kenya. The selection process involved a careful perusal of conference proceedings and sector publications, which provided information on participation in previous policy reviews. While there are a large number of aid agencies and foreign offices operating in the environmental sector in Kenya, those involved in high-level environmental policy development are relatively few, as was ascertained from initial interviews with sector participants. As such, a total of six different bodies were targeted, and seven interviews performed with individuals in key policy related positions within those institutions.

5) *Academic Institutions:*

The targeted institutions in this sector were the planning and environmental studies departments of the main post-secondary academic institutions in Nairobi, specifically the Department of Urban and Regional Planning (DURP) at the University of Nairobi and the Department of Environmental Planning and Management at Kenyatta University. Subsequently, an interview was also arranged with a professor at the Center for Advanced Studies in Environmental Law and Policy (CASELAP) at the University of Nairobi Faculty of Law.

During and after each interview, detailed impression notes were made to supplement the interview process. Following each interview, a letter of appreciation was sent to the participant. Each interview was audio recorded with the permission of the participant. These were then played and summary notes taken to note the themes or points discussed during each segment of the interview, in place of full transcription of the interview material. A brief summary of the transcript was then emailed to the relevant participant to request their input and advise on any editions or modifications to the content. A period of seven days was afforded for feedback to be received. In applying the in-depth interview method to multiple participants from various sectors, it is acknowledged that there is a relativistic facet to the research, in that it is expected that the viewpoints of the various participants would vary based on their perspective and position, but would also be similar in some respects (Yin, 2011).

4.3.2 Interview Analysis

The value of qualitative research is largely predicated on the extent to which data analysis provides a coherent structure for recognizing the relevance or importance of a given study. Further, in order to place a

given qualitative study within the wider context of theoretical debates, it is necessary to apply some form of reductionism that allows themes to be identified, and which can then be linked with the literature and contemporary thought on the subject matter. The use of the thematic method of analyzing the interview data revealed the continuum along which the participants' views converge and diverge on the issues of policymaking and environmental planning at hand. Precedent for the use of thematic interview analysis as a methodology in public policy research can be found in studies originating in Africa, including Ridde's (2009) study of the implementation stage of the public health policy process in Burkina Faso, where the author applied Kingdon's Multiple Streams (MS) framework to reveal critical insights into the reasons for gaps and failures in implementing health policy at the district level.

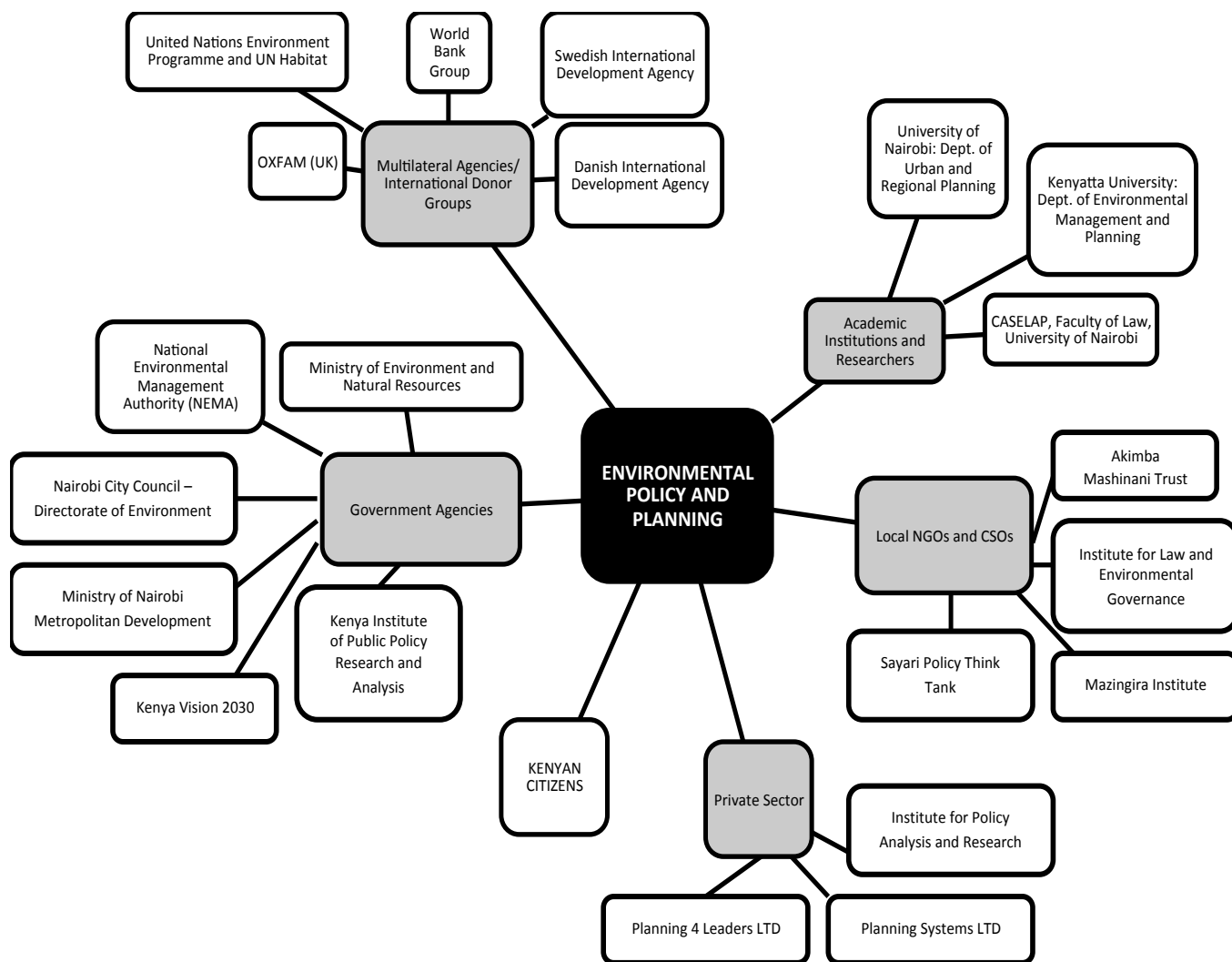


Figure 3 ORGANIZATIONS BY SECTOR INCLUDED IN THE INTERVIEW SAMPLE (NON-HIERARCHICAL)

Thematic analysis is of two types: inductive themes, which come from the data, and deductive themes, which are known beforehand and are subsequently applied to the data. Both methods have their benefits and drawbacks, and can be applied in the case study approach. In particular, deductive analysis, such as through the use of a theme-centered interview, offers a more focused approach to the analysis, and ‘aims to decode manifest as well as defended and latent meanings of communication’ (Schorn, 2000). At the same time, this approach limits the potential for capturing important concepts or phenomena at work that would be better revealed through an inductive approach. However, the inductive strategy is also highly subjective, and creates problems with the validity of the conclusions drawn from it, requiring repeated checking and

several passes through the data, preferably through the eyes of a second researcher, to reduce this effect (Burnard, 1991).

Thus in order to focus on the specific areas of interest in this study, the deductive approach was applied. The key themes were filtered from the interview questions, which focus on the various stages of the environmental policy process in order to present a definitive structure of decision-making authority within the actor network. The interview questions were, prior to the interview process, categorized according to the policy process stage to which they referred. This made it fairly simple to deduce the key characteristic themes, which could then be applied to sort responses. The themes are:

- 1) Stakeholder collaboration and public participation in decision-making
- 2) Authority and power in the actor network
- 3) Critical environmental concerns in Nairobi County
- 4) Gaps in existing policies or processes
- 5) Uses and sources of scientific or fact-based evidence and data
- 6) Implications of policy and administrative reform (through the revised Constitution, Nairobi Vision 2030, and other plans).

Some of these themes are consistent with previous policy studies which have utilized the in-depth interview in their methodology, although in some cases these were emergent themes rather than pre-defined through the questionnaire. For instance, Dongol & Heinen (2012)'s review of the implementation of the CITES convention in Nepal revealed the recurrence of issues such as accountability, management capacity, political stability and/or influence, corruption, and penalties or sanctions, which are all sub-categories in the themes for this study. In order to facilitate the narrative flow in describing the policy process, the themes are not been addressed individually, but rather integrated as part of the overall policy process analysis.

4.4 Policy Network Theoretical Analysis

As the authors of the network approach selected for the theoretical analysis phase of the study note, 'Network structures are not only connected to specific policy outcomes ("what"), but also to the type of change ("how") that creates these outcomes (Adam & Kriesi, 2007: 152). The typology these authors offer is applied to the research data and secondary sources to provide a theoretically-based portrayal of the environmental policy actor network in Nairobi, with a view to better understanding the roots of policy outcomes and the consequential implications for practical environmental and development planning.

The five key variables outlined by Adam and Kriesi were used to further filter the policy formulation and implementation process analyses. The portrait of the policy network painted by the descriptions of the five variables was then treated with the Network Approach typology to produce schematics pertaining to the influence of power and interaction types in determining policy outcomes.

4.5 Credibility and Validity

The issue of validity in qualitative research has been oft debated, given the perceived subjective nature of the interpretation of qualitative data. Given that multiple interpretations of the data would exist based on the research lens and the perspective of the researcher, in using such reductionist techniques, the researcher is prone to interlacing their own preconceived notions and interpretations with that of the participants (Yin, 2011). In order to reduce this subjectivity and bias which would potentially invalidate the research findings, the following steps were taken.

Credibility for this qualitative study is built by integrating three key endeavors into the course of the research, analysis, and conclusions, based on recommendations of Yin (2011: 19-20): firstly, transparency, which entails a clear description of all assumptions and methods used in the study as well as provision of data used in the analysis; secondly, 'methodic-ness' (Ibid: 19) which requires that a clear procedure was adhered to in both the collection of data as well as the analysis; and thirdly, adherence to the evidence, in order to provide rigor and support to findings from the data and other sources and acknowledge evidence that both supports and is contrary to the arguments made in this thesis.

While the case study approach inherently involves a certain degree of ambiguity associated with it due to the wide variability of its applications (Yin, 2011), there remains a distinct notion of fine grain, context-specific information that can be garnered from its use (Verschuren, 2003). The use of 'multiple sources of evidence' (Yin, 2011: 8) is also a core component of qualitative in-depth research. Validity is thus bolstered through the integration of several key measures, based on recommendations provided by Maxwell (2009; cited in Yin, 2011): first, a spectrum of interviews were collected with participants from the sectors involved in environmental policy-making, in order to gather an array of available viewpoints and perspectives. This type of detailed and varied data increases the likelihood of gathering a wider net of perspectives and provides opportunities to reveal contradictions or important points from the interviews; secondly, triangulation was adopted by integrating the interview data with sources internal to the policy system such as policy documents

and reports from stakeholder institutions, and sources external to the system such as articles from local newspapers and published research from the academic community; thirdly, these alternative secondary data sources used in the triangulation scheme were studied to interrogate the interview data in terms of both discordant and supporting evidence; and fourthly, where statements from the interview data could be compared with existing statistical data from reliable academic or institutional sources such reports from NGOs, the UN or other funding agencies, this was done to determine whether normative statements could be justified based on statistical evidence. Validity, as an attribute of the analysis, is therefore targeted through a combination of triangulation and thick description of the context (Creswell & Miller, 2000).

Consequently, while there are limits to the generalizability of the study, through the application of theoretical models it is possible to identify trends that place the study within the wider geographic, social and cultural context of the region. From an analytical standpoint, an effort was made to utilize 'disconfirming evidence' (Creswell & Miller, 2000: 127) as a tool to compare themes from the interview data with secondary data sources in order to lend rigor to the conclusions drawn. With regard to the impact of this study, given its qualitative nature there are certain limits to the generalizability of the portrait of the policy process offered, but these do not preclude the extension of the study findings to other developing contexts. In particular, the actor network that is described may be unique in some respects to the Nairobi context, but there are commonalities across the region with regard to the mix of actor types and even the perspectives held by stakeholders involved in the policy process. Thus, there would be useful analytical generalizations (Yin, 2011) involving certain concepts inherent to the research course, such as stakeholder engagement in the policy process or the authority of public institutions, which could then hold comparative value in the context of the wider African region for future cross-national research purposes. Furthermore, the use of policy network theories (Kenis & Schneider, 1991; Schneider, 1992; Coleman & Perl, 1999; Adam & Kriesi, 2007) tests the applicability of these theories and their usefulness in explaining policy process phenomena in the context of both a developing and an African context.

4.6 Research Timeline

The timeline for the study was divided into three main phases:

- 1) Initial research planning, proposal development and construction of a preliminary literature review, which was approached over a seven-month time frame from December 2011 to June 2012. During this time, ethics clearance was obtained from the Office of Research Ethics at the University of Waterloo.

- 2) Research implementation in Kenya, from June 16 – July 30 2012. Upon arrival in Kenya, a permit to conduct research was sought from the National Council of Science and Technology. As part of this application, affiliation with a University planning or environmental studies department in Kenya was required. This was obtained in the form of affiliation with the Department of Environmental Management and Planning at Kenyatta University. Thereafter, the process of recruiting participants and conducting interviews was initiated. Additional interviews were conducted via Skype, telephone and personal correspondence up to August 10 2012.
- 3) Writing and thesis development, and results analysis for policy recommendation reporting, from August 2012 to June 2013.

4.7 Ethics Approval

This study was conducted under approval and full ethics clearance from the University of Waterloo Office of Research Ethics (ORE), received on 11 May 2012 following submission and acceptance of ethics review documentation prior to the primary research phase. In addition, research approval was obtained from the Kenya National Council of Science and Technology (NCST), once the researcher arrived in Kenya, as required by the state regulations on academic research. As part of this latter application, affiliation during the research course was obtained from the Department of Environmental Planning and Management at Kenyatta University. The affiliation involved a procedural agreement between the researcher and Kenyatta University as a formal requirement of the research approval from the NCST, but did not entail any assistance in developing the thesis or conducting research.

All requirements of the ethics approval from both the ORE and NCST were met and adhered to in this study, including procedures for ensuring the anonymity and confidentiality of key informants.

4.8 Summary: Overview of Methodology

Table 3 provides a summary of the three dimensions of this study and the data sources and measurement tools associated with each.

ENVIRONMENTAL POLICY ASPECT	VARIABLES	DATA SOURCES/ MEASUREMENT TOOLS
PART I: Formulation: Decision-making during policy formulation	1) Stakeholder collaboration and public participation in decision-making	- Review of past policy documents - Analysis of in-depth interview data (each of the variables is represented by specific interview questions) - Use of secondary data sources to confirm/disconfirm stakeholder testimony
PART II: Implementation: Challenges, existing gaps between policy and practice and the reasons for these gaps	2) Authority and power distribution in the actor network	
PART III: Policy Network Analysis: Explicating the interactions, power, and influence in the network and the potential and types of future policy outcomes	3) Critical environmental concerns in Nairobi County 4) Gaps in existing policies or processes 5) Uses and sources of scientific or fact-based evidence and data 6) Implications of policy and administrative reform	
	1) Number of actors in the network 2) Complexity of the network 3) Degree of self referentiality of the network 4) Conflicts between actors 5) Costs of network management	- Applying theory to the detailed narrative in Parts I and II using Adam & Kriesi's (2007) Network Approach and complementary concepts from other policy network theorists

Table 3 SUMMARY OF DATA SOURCES AND MEASUREMENT TOOLS

Chapter 5

Tracing the Environmental Policy Formulation Process

The administrative procedure for developing and implementing environmental policy in Kenya (as described in Chapter 3) is fundamentally a government driven initiative, with the Ministry of Environment and Mineral Resources as the lead agency in charge of this venture, and the National Environment Management Authority in charge of implementing policy and regulations. As discussed previously, there are also numerous Ministries and their subsidiary agencies involved in environmental management and therefore in policymaking, including the Ministry of Lands, the Ministry of Water and Irrigation, the Ministry of Forestry and Wildlife, and the Ministry of Tourism. This fragmentation and overlapping of the environmental mandate between these national, sub-national and local institutions presents complications for effective development and implementation of policy.

Although there has been some attempt to use Memorandums of Understanding (MoUs) to harmonize objectives between select natural resource management authorities, there continue to be conflicts regarding the roles and authority of the various state actors involved (Matiru, 1999). As one UNEP officer put it, 'you have different people coming from different ministries with different views, and these trickle down to the country itself, where...different partners within the ministry don't agree or don't talk to each other. So it's kind of difficult really to get a coherent approach...it's a very practical thing but it has a huge influence on the decision-making process.' (Interview, INTL1). For this reason, this Chapter examines the policy formulation process from the perspective of how the key national environmental institutions operate and collaborate with local level agencies in Nairobi, thus painting a truer portrait of the challenges and gaps that currently exist with regard to pressing environmental planning challenges as they relate to progress and development. The description offered here aims at combining instrumental rationality and sensitivity to the policy process, as the key goals in policy analysis as prescribed by Linder and Peters (1991).

5.1 Overview of the Environmental Policy Formulation Process: Actor Roles, Power, and Authority

With the variation in sectors associated with policy-making in Kenya, there are a number of pathways to influencing policy processes for the actors involved. This section provides an overview of the main

institutions and sectors involved in Nairobi's environmental arena, along with the inter-linkages between them that influence the way they interact and contribute towards policy.

5.1.1 Government Agencies: Leading the Process

Stakeholders in the environmental policy process are accustomed to participating under the auspices of the Ministry of Environment and Mineral Resources (MEMR), as the key institution housing all levels of environmental policy exercises. The National Environmental Management Authority (NEMA), acting as a subsidiary body of the MEMR, is responsible for the 'general supervision and co-ordination over all matters relating to the environment' and 'the implementation of all policies relating to the environment' (National Environment Management Authority, 2013). In this manner, the agency is largely supported by 'internally generated funds' accrued through the levying of fines, or for services such as conducting Environmental Impact Assessments on behalf of development investors (Bird & Kirira, 2009). The pressure to collect sufficient income through monetary sanctions would have implications for the integrity of the institution, which are discussed further in Chapter 6. In terms of policy contributions, NEMA officers are often called upon to provide expert advice, making them integral to the development of policy content – as one NEMA official outlined,

'...We are supposed to do the implementation, but we are also considered to be within the ministry, so when the ministry calls for technical officers we would be part of the team...but that process will be driven from the ministry because it's their job, their role and their responsibility to deal with policy formulation issues. But I can say that NEMA issues or gives technical support, because there is a lot of expertise in different areas resident in the institution.' (Interview, GOVT4).

Another NEMA official clarified that although technical officers were often appointed to be part of policy formulation teams at the behest of the MEMR, ultimately a policy would be instituted at the approval of a Parliamentary sub-committee:

'The Ministry of Environment and Mineral Resources is well placed in terms of policy to guide the process. So...the PS [Permanent Secretary] has to write...to the Cabinet, [saying that] "we have produced this policy which will be the subject of discussion." And then it will be presented to the Cabinet, and also be presented to members of Parliament – so those are the policymakers at that high-level. So at that high-level now they have received all the input from the technical partners and also other sectors.' (Interview, GOVT3).

Therefore from a formulation perspective, the MEMR and NEMA are the two main national-level government institutions involved in overarching environmental policy. However, input is sought from other

government ministries associated with an environmental or resource management mandate, such as the Ministry of Water, although these institutions have their own policies as well which may overlap with and in some cases contradict MEMR policies (Bird & Kirira, 2009; Wamicha & Mwanje, 1999; Interview, INTL6); in addition, some environmental projects are co-facilitated between agencies. For instance, the country's climate change policy is coordinated by the Office of the Prime Minister, while the National Climate Change Response Strategy is housed under the MEMR (Norrington-Davies & Thornton, 2011).

At the local level in Nairobi County, the City Council (NCC) conducts planning and environmental management activities, including the formulation of internal policies and by-laws to aid regulation (Mittulah, 2010). In particular, the NCC's mandate with regard to the environment focuses on service provision in the urban realm, particularly waste management, noise pollution, and maintenance of landscaped areas. The organizational structure of the NCC was explained by a staff official as:

'Two distinct authorities, that is the one that deals with the politics, [called] the civil authority; and the technocrats. The civil wing is led by his worship the Mayor, and it has...17 assisting committees, that run the different departments of the Council. Each and every committee has a chairman and a deputy. The main functions of these committees are to formulate policy for the different departments of the Council. Once policies have been formulated, through...various committee meetings within the Council, they ratify through...a full Council meeting...after ratification, [the policy] has to go to the Ministry of local government for further scrutiny and final approval.' (Interview, GOVT7).

However, the interviewee noted that in a more practical sense, policy is in fact formulated by the technocrats within the various departments of the NCC, which include Planning, Environment, Engineering and Enforcement wings, for the following reason:

'...What we need to appreciate is that as much as we have vested a lot of responsibility on the civil wing of the Council, the capacity is relatively low. So what they normally do once we formulate these policies is just to rubber stamp [them], because they have a limitation on capacity. So the bulk of the policy originates from the technocrats within these departments after vigorous consultation with the stakeholders within those departments.' (Interview, GOVT7).

Indeed, the NCC has long been viewed as lacking the technical expertise and manpower to adequately meet the challenges of a rapidly urbanizing capital city (see Oyugi & K'Akumu, 2007). Further environmental management responsibilities including the protection and conservation of forests and waterways, regulation and monitoring of agricultural and food production activities, and wildlife conservation all fall under the mandate of numerous alternative national-level institutions, even if the resources concerned are within the

County boundaries. Furthermore, the Nairobi City Council appears to play a conspicuously limited role in the formulation of both national as well as sub-national environmental policy, as expressed by the views of the NCC interview participant, who insisted that there was ‘very little’ interaction between the NCC and the MEMR in matters of policy formulation, and that it was an issue ‘we really need to work on. For us to achieve the goals as they are, we need to work as one entity and coordinate as much as possible’ (Interview, GOVT7).

To further complicate the relationship between national and local-level institutions, the NCC appears to also have had a limited role in the environmental management strategy of the Nairobi Metro 2030 spatial plan, which was created by the Ministry of Nairobi Metropolitan Development (MNMD): ‘it will all again boil down to the relationship between the Ministry of Local Government and Ministry of Metropolitan, because all local authorities are answerable directly to the Ministry of Local Government...for Ministry of Metropolitan to deal with any local authority, it’s just natural that they go through the Ministry of Local Government. So there is also duplication at that level’ (Interview, GOVT7). The MNMD thus to some extent usurps the role of the NCC in creating local planning policy and strategic plans. This may in some part be due to a perceived lack of capacity within the NCC, leading the national government to create an entirely new agency to take over strategic planning. As Mundiya and Aniya (2004) note, referencing a 1993 report by the City Hall of Nairobi (Karuga, 1993): ‘The NCC is endowed with extensive development control powers but these have not been effectively enforced. As a result, current zoning patterns no longer protect the quality of life and the resulting environment is costly to maintain and service’.

It should be noted however, that the highly politicized nature of environmental policy and planning in the context of development, means that some decisions would be made based on non-public interests – in the words of one government researcher, ‘with politics nothing is impossible [and] with bad politics, you might find cases where what could have been implemented is delayed because of some political interests.’ (Interview, GOVT9). This apparent disjuncture between the local and national levels of environmental management and policy creates a schism which reduces the potential for successful outcomes and produces major challenges in city planning for Nairobi, including a lack of certainty that operationalized plans and policies will remain in effect for the required duration of time (Interview, GOVT7).

Co-ordination between the various agencies concerned with environmental management and policy therefore becomes more crucial and simultaneously, more complicated, particularly when the high turnover rate in leadership of high-level institutions is considered (Ryan, 2004). As one policy staffer at the MEMR pointed out, ‘the manpower keeps on changing - that’s part of the problem. How can we have permanent

secretary when after two years he has moved?', while another agreed emphatically, exclaiming, 'sometimes even after two months!' (Interview, GOVT1 & GOVT2). Indeed, the policy process in Kenya is significantly shaped by the Minister in charge at any given time. One staffer at the Kenya Institute for Governance noted that 'the individual character and desire of a minister in position has a lot of impact on how much government drives environmental governance...that personal energy of the individual...translate(s) into a lot more attention to the issues at hand.' (Interview, GOVT8). Thus, the potential for a policy to complete the drafting procedure and be presented to Parliamentary Committees to decide its fate is hinged on the commitment of the top official at the MEMR (Bird & Kirira, 2009), as attested to by numerous other interview participants as well (Interview, GOVT3; Interview, GOVT8; Interview, CSO1; Interview, INTL6).

This complexity in coordination and distribution of authority notwithstanding, policy staffers at the MEMR stressed that the incorporation of input from all affected government ministries was prioritized in the drafting of the National Environment Policy (NEP), for instance. 'We used a wide range of sources, through the process called SWAP - sector wide approach to planning – so they collected the input from all the ministries and also took data from research, various studies that had been done, in order to ensure that it was a cross-cutting formulation process' (Interview, GOVT2). In contrast to this claim, there appears to be a strong bias against the sharing of data between separate government agencies that was attested to by various informants and that therefore disputes this claim. The subject of the data sources that guide policy formulation is further scrutinized in Section 5.2.

Finally, one of the last stages in the policy formulation process (prior to submission of the policy to a Parliamentary Committee for approval) is a review of the policy by the National Economic and Social Council (NESC), a review body responsible for development and implementation of socio-economic policies, as well as monitoring and evaluation of economic trends with a mandate to create recommendations for Cabinet approval; the Council consists of 'heads of several sectorial ministries, representatives of the private sector, professional societies, labour unions, farmer associations, academia, private healthcare providers and nominated international experts' (Oulu & Boon, 2011: 222). Whilst the Minister for Environment holds a seat on the NESC, environmental experts from NEMA or alternative agencies or non-state actors are absent (Ibid.). Given the importance of the NESC for approving environmental policies (Interview, GOVT1), the structure of the Council constitutes a major gap in the representation of environmental considerations in developmental planning. A schematic of the various organs involved in environmental management is provided in Figure 4 below.

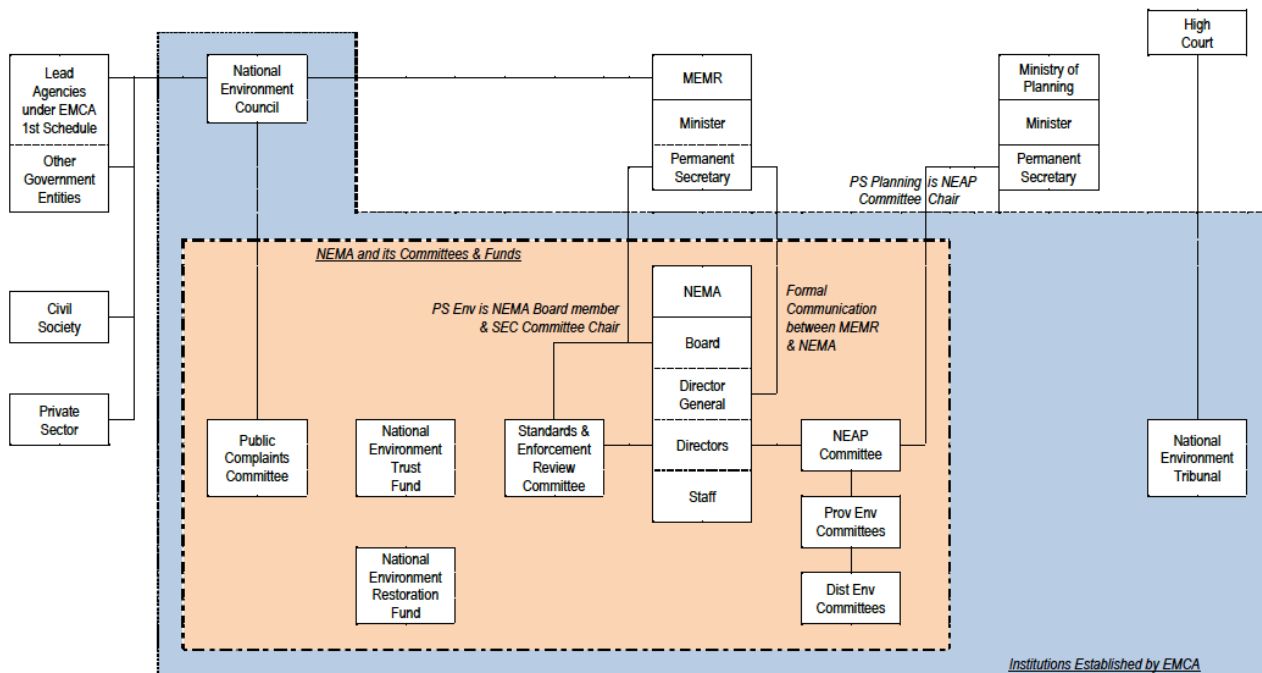


Figure 4 STRUCTURE OF ENVIRONMENTAL MANAGEMENT AND COORDINATION BODIES IN KENYA PRIOR TO THE PROMULGATION OF CONSTITUTIONAL REFORM (2010). Source: Benthem and Holmes (2010: Figure 2).

The ultimate stage in policy formulation is the submission of a draft policy to a Parliamentary Cabinet Committee, comprised of elected officials who may not have the right level of technical expertise to evaluate policy content and quality (Interview, GOVT3; Interview, CSO1; Interview, CSO2; Interview, INTL5). In some instances, political interference at this stage creates a logjam in the process; effectively freezing the policy before it can be institutionalized, or alternatively, a parliamentary committee could autonomously introduce modifications to the policy, which are only revealed once the policy has been approved (Interview, INTL5; Interview, CSO2). One World Bank informant described the frustration of this scenario: ‘I would say that we do monitor whether our advice was taken on board but it is often the case that Parliament at the very last stage of this process changes aspects of the policy. And we don't know about that until after the policy has already been adopted...So there's nothing you can do then, except start lobbying to get amendments made to the policy...’ (Interview, INTL5). Thus, there are many opportunities for non-environmental interests to hijack the formulation process, and the roles of non-state actors becomes much more crucial both in terms of providing input but also as overseers of state-led actions. These roles are examined in the upcoming sections.

5.1.2 Civil Society Organizations, International Agencies and Foreign Donor Agencies: Influencing the Agenda and Representing the Public?

There are a growing number of environmental CSOs that are active in Kenya and in Nairobi in particular, although their activities are not currently coordinated through a formal network (Interview, CSO2; Interview, CSO3). In 2006, the Heinrich Böll Foundation of East Africa (a Dutch international NGO) compiled a list of then-known environmental NGOs in the country, stating that it was an effort 'towards creating some order, nurturing healthy open information sharing networks, and hopefully nurturing a vibrant environmental movement in this sector, which has very many actors doing wonderful work but who often do not even know of each others' existence' (Gikang'a, 2006: vii). This list has not since been updated, and some of the organizations contained appeared to have closed down when the fieldwork segment of this study was conducted in the Summer of 2012.

The portrait of Civil Society engagement in environmental policy as described by informants indicated an association with policymaking on a sliding scale, motivated by the specified directions attached to the funding received from donor agencies (both foreign and local). In addition, this sector is controlled and constrained by political influence from the government (Kameri-Mbote, 2000). One CSO participant bemoaned the limits of civil sector influence:

'...You discover quickly...that while here you are, working very hard as an environmental organization, promoting this, promoting that, all these good methods - that somebody is busy grabbing forestland, and all these resources are going, and your natural forest cover is going - Because of political decisions made elsewhere. You're seeing the forest and that kind of stuff, [while] they are seeing land - not from an environmental point of view, but as a source of political power. Both monetary and political power, because it was very powerful to own land. If you've got land than you've got money, and then you [can] convert that into political patronage' (Interview, CSO1).

The concept of environmental management is thus inextricably linked with issues of land ownership and tenure, and the processes of urban sprawl and development which places protected areas such as forests at risk.

In some respects, the civil society sector in Kenya represents the interests of the citizenry at the policy table, particularly when it comes to seizing the opportunity provided for under the Constitution for the public to provide their input in environmental governance matters, although they are not solely dedicated to this cause. As one CSO informant noted: 'I don't think [civil society is] all the time representative [of the people], but I think civil society plays a major role because...[it] has been pushing for policy, has played a

significant role in the formulation of policy, whether it's a housing act, the land act that are presently in place...' (CSO3). The contribution of civil society is also rooted in their ability to perform bridging functions between the government and local citizenry in terms of policy gaps, bringing attention to the needs that the public administration has failed to fulfill (Bratton, 1989; Kameri-Mbote, 2000). As one UNEP staffer remarked:

'In terms of environmental policy, it could be there on paper but are we translating it into action? So when you find that there is a lot of governmental organizations in some of these areas, it means there is a challenge of the formal system; system that works very well in a city or in a country with always fill in the gaps and you will not need NGOs or CBO's to fill it in - but when you have all these, you know a lot of nongovernmental organizations trying to address the gap, it means there is a failure somewhere and that is where I think a policy should come in' (Interview, INTL2).

However, these organizations are subject to government regulation which in some cases further impedes their ability to act in the public interest, particularly in cases where such interests are at odds with the regime (Kameri-Mbote, 2000).

Thus CSOs do have an important role to play in policy formulation, although their positions would also be influenced by their mandate, which in turn is often subject to the conditions attached to the funding under which they operate. Ultimately, the capacity of CSOs to engage with and influence policy directions varies widely and on a case-by-case basis. Kameri-Mbote (2000: 20) notes that

'There is arguably need for more political space for NGOs to contribute to political processes in the country...Policy participation by NGOs and civil society is always labeled political activism and discouraged if not restricted...Government agencies fail to understand that democratic government is strengthened and not weakened by an active society. However in the midst of all that, there is no doubt that NGOs have influenced outcomes of policy-making processes at different levels either directly or indirectly'.

It is at this point in the discussion that the role of foreign and donor agencies becomes highly important, given their impact on development through direct investment with the government, and through CSO funding. Foreign and donor agencies represent an interesting stakeholder in the policy process given that these organizations are subject to both Kenyan regulations as well as internal protocols, which in some cases may be at odds, as in the instance of an electricity generating project that one foreign consultant at the World Bank described:

‘Our environmental policies require environmental impact assessments, lots of consultations, and if there is any grievance over this, the parties who are agreed can actually go to what’s called the inspection panel - it’s an independent body made of experts who will come and investigate a claim if they feel it is a credible claim...A sub station was built in a neighbourhood in violation of the zoning laws of the government, and consultation process surrounding the impact assessment process was done in a superficial manner. A special panel has come to investigate this case; I do not know what the outcome will be...so there is a lot of opportunity. The bank insists that it’s own policies are followed, and there is a lot of opportunity for citizens to also insist on that...The thing is that we don’t oversee the implementation of these things so carefully, they’re very a much on the part of the government to manage what’s happening on the environmental side.’ (Interview, INTL5).

The multifarious nature of foreign involvement in policy directions in Nairobi appears to be governed largely by the internal interest areas identified by international agencies, tempered by the perceived capacity of the Kenyan government to carry out projects (Interview, INTL6; Interview, INTL5). As one UNEP staffer explained, ‘UNEP for instance would serve both in advisory as well an advocacy capacity in their role as a stakeholder in policy formulation’ (Interview, INTL1). The involvement of foreign agencies can help facilitate the engagement of resources to create policy and foster support for environmental projects. For instance, the same informant noted, ‘...you have the expertise aspect but also the political aspect of...pushing, because if the country can say that we have a project with UNEP or any other international agency it [creates a] push within the parliament...to do something...So the technical people use this kind of strength to get people at the top to pay attention and say okay this is what we need to develop.’ (Interview, INTL1). Donor agencies have a vested interest in the content of policies due to the links with development projects on the ground – for instance, in the case of water sector policies, as one World Bank informant explained:

‘The Constitution gives the [private] water companies back to the county governments...and the local authorities have an incentive to use the revenues raised for every other thing aside from water and sanitation provision. So that makes us very nervous, that all the investment that we’re putting in right now, we won’t be able to recover the costs ultimately, and that the services will not be provided. So that’s a very concrete example of why policy matters to the projects and why we pay careful attention to the policy areas that are of interest.’ (Interview, INTL5).

Several interview participants commented that the engagement of foreign agencies is often routed through the national-level of government administration (Interview, INTL6; Interview, INTL7; Interview, GOVT1; Interview, GOVT7), and in the case of environmental policy in Kenya this would be through the MEMR, specifically the National Environment Council (NEC) which is provided for under the

Environmental Management & Coordination Act (Ministry of Environment and Mineral Resources, 1999). Kenya has received growing foreign aid assistance over the last several years to the environment sector; OECD statistics indicate that the environmental protection, forestry, water and sanitation sectors have received a total of US\$ 21.79 million in 2007, up from US\$ 5.84 million in 2002 (cited in Bird and Kirira, 2009). With respect to policy specifically, this aid applies to funding the acquisition of expert consultants from the private sector and abroad to aid in policy formulation, as well as to training and capacity building of local officials to enable them to take charge of the policy process and ensure that input is relevant to the local context (Interview, INTL6; Interview, INTL7). Government informants voiced their approval for this approach, while also asserting that local expertise is fundamental to successful policy formulation and implementation – as one MEMR officer insisted: ‘we don't dispute [that] the kind of training they offer [and] the kind of expertise they offer is what we need...But [only up to] to a certain level, where we want to be able now to do it on our own. I want to wake up in the morning and say “I am a competent policy officer”...I don't have to keep on referring [to external experts] or...on calling expatriates.’” (Interview, GOVT1).

As noted previously, foreign agencies concerned specifically with donor support do also channel funds through the CSO sector (Kameri-Mbote, 2000; Norton-Griffiths, 2010), in effect shaping the policy positions of these organizations through the weight of conditionalities attached to funding – up to 80% of NGO funding in Kenya is from foreign sources (Institute of Development Studies (IDS), 2007, cited in Norton-Griffiths, 2010). This point was further stressed by CSO interview participants, one of whom explained that:

‘...Donors influence what civil society says, which is not good and again it's not bad, depending on how you argue it. It's not good to the extent that you are limited in what you engage in but it is not bad because it can focus you on one aspect...because what donors do, and it's unfortunate, is to pick the environment policy, if they are supporting you to promote gender, they search how many times the word gender is appearing in the document. Then they say, “Previously before we gave you the money it was appearing five times, now it is appearing six times or eight times - you have done a good job”. But that does not really mean translating to it. So it's a lack of strategy of the civil society, where you have a discourse about climate change, about what specifically you want to see.’ (Interview, CSO2).

Another academic expert expressed his view that:

‘...Civil society as players in environmental governance...we cannot take them at face value. One has to go a little further and look at them more seriously, mainly from the resources point of view. Because they are not funded by foundations locally, not even a foundation within Africa, and

therefore that is something that needs to be looked at...the attachment of strings, the way that these agencies bring their package - their programs are good – [but] their priorities and rules of engagement also have to [be assessed according] with what impact they will have on the environment.’ (Interview, PROF1).

In response, interviewees at foreign donor agencies operating in Nairobi all uniformly insisted that their contributions to policy be it directly as stakeholders or indirectly through CSOs, was not done according to the interest of the donor country. For instance, one staffer at the Danish International Development Agency (DANIDA) reported that:

‘The national objectives of policy should really be articulated as part of the sustainable development agenda of that country. So Denmark can only bring its experiences and examples but the ultimate decision really comes from this country's government. So it is really spearheaded by the Ministry of Environment and we really believe that is the way to go, whereby Denmark should not influence, Denmark should only provide examples that are beneficial to this country. For this country to grow, this country should set its own agenda and we just support that agenda.’ (Interview, INTL7).

Similarly, a staffer at the Swedish Embassy iterated their position on CSO funding:

‘...There has been criticism in Kenya that some...NGOs are foreign funded and they have their own agendas, they are not working for the good of Kenya. At least in the case of Sweden I would say that we don't have a political agenda, maybe a human rights agenda and a pro-poor agenda, but in land – we don't have any interest in land in Kenya...I think we want the best for the people of Kenya, but I think there is something also true in the criticism that when you have a democratic system with elected representatives, if the lobbies are too strong, some of these NGOs that get access to sit on committees have access to parliamentary committees. And when politicians are not listening to the voters, then democracy is in danger.’ (Interview, INTL6)

Thus the notion that special interests, particularly in the form of foreign donor groups, direct the input of CSOs is met with a mixed range of viewpoints from stakeholders.

The manner in which foreign agencies operate varies from agency to another, and there is often a high degree of coordination between foreign agencies operating in the same sector to avoid the duplication of resources. This is done through the Kenya Joint Assistance Strategy (KJAS), a multilateral (albeit non-legally binding) cooperative agreement between 17 development partners created to harmonize donor activities in the country (USAID Kenya, 2007). Fundamentally, it creates a platform for donor agencies to interact with one another and plan out their sector support strategies, harmonize budget contributions, and track progress. However, the KJAS also creates a situation where funding support is directed based on the priorities set by the

local government, thereby aligning monetary support behind the regime. While such a scenario may be necessary to avoid intrusive actions from foreign donors, it also reduces the capacity of the informal, private, and CSO sectors to lobby for support for more marginalized causes. Foreign policy agents in the Kenyan context are embedded in the transnational flow of knowledge, operating as policy entrepreneurs (meeting the description laid out by Mintrom and Norman (2009)); while these actors may not be consciously mindful of their cultural influence on policy directions, their capacity to shape policy directions through numerous channels is bolstered by the requirements of foreign trade and partnership agreements and international environmental regulations such as those adopted through UNEP.

5.1.3 Private Sector and Academia: Support through Intellectual Capacity

The private sector would be considered another important stakeholder in the policy process from a theoretical standpoint, and yet in the case of Nairobi and in Kenya generally this resource for knowledge and expertise appears to have gone largely untapped. Interestingly, the views of private sector participants interviewed in this study are discordant with the documented level of opportunities for participation in environmental policymaking. The National Environment Council (NEC) offers two seats to business-oriented participants (Kibugi, 2011), and both the Kenya Private Sector Alliance (KEPSA) and the Kenya Association of Manufacturers (KAM) attest to having specific committees to aid in environmental policy and regulatory coordination with the government (Ibid.). In addition, KEPSA has cited both environmental and urban development as key areas of interest in their strategic plan (Kenya Private Sector Alliance, 2010).

However, the role of private consultants in general does not appear to consistently extend towards aiding in informing policy itself (Interviews, PLANNER1, PLANNER2). For instance, one private sector planner recalled that ‘we’ve tried [providing input] a number of times, we even had a conference where they invited us, but unfortunately politicians just hijacked the meeting that and they started complaining...’ (Interview, PLANNER1). This point of view has been reflected frequently in the literature where participatory processes in governance are concerned, as Kapoor (2001: 274) explains, ‘local participatory decision-making may sometimes proceed as though all participants have an equal say, oblivious to the fact that, outside the community meeting hall or participatory workshop, elites wield socio-economic power that can influence or silence people’s voices inside these spaces. Frequently, elites do not have to be present or directly represented in these spaces; the perceived threat of their power is sufficient to influence participants.’

Furthermore, the relationship between government and private entities forms the basis for the

manner of interaction engaged in – a case in point would be the attitude observed by Mwangi (2000: 91) towards involving the private sector in urban environmental strategies in the city of Nakuru, which neighbours Nairobi: ‘The public and private sectors have little experience of working together except on the basis of supplier and procurer’. Given the limitations of private sector involvement in policymaking, some interview participants in this study suggested that the initiative to contribute towards governance and policy should come from within the private sector itself. ‘It is the responsibility of the private sector to step up, not pointing fingers or relying on one-sided engagement from the government, and contribute towards planning and policy development’ (Interview, PLANNER2). More recently, there has been an emerging trend of greater private stakeholder participation in projects requiring direct investment through the use of Public-Private Partnerships (PPPs), which are considered a boon for underfunded development projects (Interview, GOVT1; Interview, CSO2). The overlapping of private and government interests from a business perspective is of some concern to other stakeholders in the process who suggested that the merit of private involvement in policymaking may not be entirely philanthropic: ‘The private sector really...get a document and then look at it from a business perspective, they tell you if you put this tax, then business will not be as usual. You see them informing so many things because the government looks at the private sector as a donor - which is unfortunate, but that’s how they look at it.’ (Interview, CSO2).

To some extent, the separation of environmental interests from economic interests, perceived to be championed by the private sector, is also the result of existing policy. Going back to the early stages of environmental regulation in Kenya, the EMCA (1999) and National Environment Action Plan were anticipated to act in lieu of a National Environment Policy, as one academic involved in the formulation of these statutes stated:

‘...If policy won’t drive law, then law will drive policy...So we drafted a law that provided for adoption of national environment action plans as a policy instrument every five years...If the policymakers were slow to develop environmental policy and lawyers are ready to move to adopt law, then they adopt a law and prescribe in it...as a legal obligation - that every five years there would be a new national environment policy in the form of a national environment action plan.’ (Interview, PROF3).

Unfortunately, the authority of the National Environment Action Plan, a core piece of policy for Kenya, has thus far failed to achieve its objective to integrate environmental considerations cross-sectorally. As Kibugi (2011: 179) asserts: ‘even though the private sector is a key player in development, the policy is not sufficiently forthright as to induce the integration of environmental sustainability into business decision-

making processes'. This concept of environmental mainstreaming is discussed further in Section 5.3 of this chapter.

Nonetheless, the private sector remains crucial to providing resources which the government may not have access to due to its own limitations in capacity. This base is particularly relevant in the area of data and information to inform policy, which the private sector is privy to but may not necessarily share with the government. One UNEP staffer, taking from his own experiences working in Nairobi, elucidated: 'I would say there is more comprehensive data through the private practices than you'd get from a government office. But if you get it from the government office, you will find that it will have been developed by the private firms.' (Interview, INTL2). However, some firms treat the data gathered in the course of their projects as intellectual property and withhold it from the public domain (Interview, PLANNER1), while others share it through web-based channels for open-source use (Interview, PLANNER2; Interview, RESEARCHER1).

Similarly, the academic sector in Kenya generally and Nairobi particularly is a key resource for data, research and expertise, although this sector is perceived to have fewer special interests and is therefore received more openly than the private sector. One example of recent developments in cross-sector cooperation has emerged in the form of the Environment for Development (EfD) Initiative, set up in 2007 and supported by the University of Nairobi School of Economics, the government think tank Kenya Institute of Public Policy Research and Analysis, and the Swedish Embassy (EfD Initiative, 2013). These types of joint ventures may be seen as existing outside the direct influence of the State, and with the resources necessary to conduct and publish research. Within the academic setting of Universities on the other hand, some researchers find the conditions stifling to innovation and honest research. One academic at the University of Nairobi described his experience of engagement in research:

'It is just superficial. The government does not fund research, and that's why most people who publish, like us, what we do is...we combine efforts in the private sector. Sometimes I have got a collaborating program with a certain university so what we normally do is that...once the work is done for the organization, part of that money I will use to write academic papers. That's how we fund studies...The universities also have no money for research, because also of the way that the management of universities is architecture - a lot of the resources are political...What has started to happen is that some people in academia are appointed directly by government to go and work in certain places. All those appointments are also political appointments. There is now a pattern whereby the government advertises the job contract so if you want to apply you can...But even the decision they make is also really political. So one would say that the government is hostile.' (Interview, PROF1).

Despite this purported limited public support for academic research, one of the main avenues of policy engagement with the academic sector is through the direct recruitment of researchers and University faculty to be part of policymaking committees and strategic teams. The National Environment Council (NEC) has members of University institutions on its panel (Ministry of Environment & Mineral Resources, 2010). High-level academic faculty are often called upon to take on leadership positions in development projects and strategic planning committees, and the academic sector represents an enclave of skill and expertise which can act as a driver for setting new policy agendas, especially when combined with support from other sectors.

One environmental researcher described their involvement in jump-starting the content of the National Urban Development Policy: ‘the need for urban policy was there but...the stakeholders lacked the means to pursue the goals. The initiative nevertheless started from a small group of individuals working with Non-Governmental organizations and the universities who developed a concept, and they approached the Kenyan Government [through the] Ministry of Local Government’s Department of Urban Development and also various donor organizations’ (Personal Correspondence, PROF2). Donor agencies also provide funding for academic research as part of their support to non-state actors (Interview, INTL6), and rely on local universities to provide data for their development projects (Interview, INTL5). In this way, the nexus between academia, government, and foreign agencies is formed with academic expertise lending itself to whichever funding source is available at a given time. This potential reduction in academic and research independence at the university level could have important implications for the investigative integrity of studies performed under external support for specific purposes.

5.1.4 The Public Domain: Participation and Consultation

Public participation was another key area that the interviews focused on from the perspective of policy decision-makers, with a view to deciphering the true relevance and influence of public input to policy formulation. In Kenya, members of the public are required to be included in EIA proceedings as mandated by law (under the Environmental Management and Coordination Act of 1999), but there are no specific legal guidelines for how consultations should be conducted in policy development. Nonetheless, public consultations are routinely organized and conducted by the MEMR during policy formulation, although the diversity of participants involved and the value of the collected input in improving policy is still a matter of contention. From a general Africa-wide perspective, one interviewee noted that ‘sometimes you might even have too much participation and it takes away the attention from what needs to be done - sometimes you

might also have specific interests that take over' (Interview, INTL1). Government informants held that the input gathered in consultation sessions was integrated into the final drafts of policies; indeed, many of the vagaries of public participation that exist in Western democracies are experienced in Nairobi as well. One NEMA official explained:

'...You can put all the adverts in the newspapers, the radio and so on and you find that at the initial stages where you have room to capture as much input as possible, the interest is not that high...So it can become a bit frustrating when you think you have finalized the document...people now wake up and start saying "what is this? No...we are not interested, let's start again, why were we left out", and so on...you have to now go back and start proving to people who were not alive to the process that it actually took place...In some instances the whole process can come to a complete standstill. It is important to carefully invest in stakeholder engagement.' (Interview, GOVT4).

At the level of Nairobi in particular, many of the local policies appear to have been constructed primarily on the basis of consultations within the City Council departments internally, leaving out the public component. In common with participation exercises the world over, some policy consultation settings translate to token approaches (Arnstein, 1969) rather than true engagement, as one interview participant observed:

'...It's a fine balance between having these consultations just for the sake of it, sometimes – especially when they go out...in the counties or the regions...just with an empty piece of paper. They've come a long way [from the Capital] and so they say [to the communities] "what do you expect?" And you get all these expectations [like] "you will give us our land back"...And so they take notes... Instead of trying to translate the real issues and...really get [the peoples'] views on things...It is supposed to be participation friendly and we have to be as open as possible, but then if you don't guide consultations...I think you are tricking people...definitely in Kenya there [are] very few informed people but so many people that lack information.' (Interview, INTL6).

An NCC official admitted that 'what we lack as a Council that we need to improve on, is the component of public awareness, that is key and we are doing poorly on that...' (Interview, GOVT7). The difficulty in implementing policies developed without the input of the local populace becomes ever more apparent in the urban setting, particularly in Nairobi where the majority of residents are indigenous to other cities and counties, and therefore do not truly associate their identity and hometown with the Capital (Otiso, 2005; Njeru, 2006; Interview, CSO1; Interview, RESEARCHER1). Ownership of the policy process thus needs to be shifted closer towards those most greatly affected, and it is anticipated that the mechanisms of

devolution and decentralization through the new Constitution will help to achieve this. Some key informant views that exemplify this view included:

‘For me the key [issue] is just to push for public participation, because within a centralized system of governance it is actually limited - how much you can influence any process, the assumption is that once you decentralize it and at least now it's written in the Constitution’ (Interview, CSO2).

‘It doesn't occur easily, there must be an educational process, building up awareness and getting people to appreciate that the powers to move things are with them...Takes a very long time. The law doesn't say that organizations will do it, the law empowers individuals to do it...’ (Interview, PROF3).

‘The...question [of]...whether or not comments from these meetings or input in these meetings is meaningfully utilized to shape the policy itself - I might actually say not really. In general, the government has thought it through and knows what it wants to do, and these kinds of workshops or consultations are more as validation of their proposals than as an opportunity to listen to the people and improve upon the policy. But...it's really tricky because you can't expect the general public to have much understanding of the implications of many policy measures. So it has to be a mix of experts, expertise and people willing to listen to each other.’ (Interview, INTL5).

The implications of Constitutional reform for environmental policy and planning are discussed further in Section 5.3.

The current format for involving the public involves official notices in mainstream newspapers and the Kenya Gazette, a publication issued by the Government of Kenya which provides details on consultation forums open to public, along with information on the content of policies and regulations (Matiru, 1999; Interview, GOVT4). However, this system does not seem to attract a wide audience, perhaps due to the lack of general public knowledge regarding the impacts of environmental policies (Ibid.). One of the ways to motivate interest among the general public as well as stakeholders would be to highlight environmental considerations within the context of greater economic, social, and development plans (Wamicha & Mwanje, 1999). One interviewee expressed their view that ‘...it's dangerous if you just talk about environmental protection and conservation because it gives a bit of a flavor that you're just looking more at the environment, but if you reframe the discourse and look at it as a basis for all development, for everything and also an important dimension of social development and social life, then I think it works better and it think it's more true.’ (Interview, INTL1).

In addition, even in cases where stakeholder and public input makes its way into a policy draft, there would be limited accountability regarding the ultimate use and implementation of feedback to make changes on the ground. One UNEP expert explained:

‘...There is a major gap - there is no report back for accountability. There is this perception that...you will participate, you will make your input. I may reflect your input, but am I going to...be subjected to an audit later during implementation? So that's what you need to have, the dynamic system and put things in a way that you can go back to what was discussed and maybe we are also expecting too much because it takes skill...to put the information together in an easy way of reading...we really need very abridged versions of some these things...I think whether people's opinions are captured in the report through dialogue, I think they do, but there is this sense that who will ever follow through? It's only comes back to be dealt with when something really, really, serious happens, then a lot of people collect information – [otherwise] they get away with a lot of things.’
(Interview, INTL2)

The quote above makes reference to two important issues with the participation process: the capacity for collecting and incorporating input and communicating the same back to stakeholders, and secondly the need for transparency and continuous review, both of which relate also to the implementation of policy. The view that policy should be clearly articulated but is often ambiguous instead was also supported by the testimony of another interviewee, in describing the new National Land Policy that was recently instituted by the Ministry of Lands:

‘I can't figure it out...I'm reading this and I'm thinking, so how does this work?...They talk about the National Land Commission, and...if allotments are planned then they make the allotments, and sometimes the County governments are [actually] responsible for [allocating land]...and I'm [thinking]: when is a county government [responsible], and when is the Land commission? What is the interface, and at what level do they interface? Do they interface with the governor? Do they interface with the sub-county committees?...I'm not clear at all!’ (Interview, CSO3).

This limited communicability of policy is a clear barrier to improving public participation, and yet does not appear to have been met with significant attention or attempts to reduce complexity. An NCC official concurred: ‘the best way to do it, [is] not necessarily to put it on hard paper, [but] to call some forum and break it down to the consumers, that way we really interact and get quicker feedback. Because it has been said that if you want to hide anything from a Kenyan, put it in a book...but when you call a one-on-one meeting with the stakeholders, you tend to get quicker and more practical suggestions from the consumers’ (Interview, GOVT7).

Numerous interviewees evinced the conviction that non-state local actors are instrumental in achieving environmental policy goals across sectors, indicating at least a theoretical acceptance of the idea of inclusive participation in decision-making. However, insofar as CSO participation specifically was concerned, one interviewee from this sector expressed skepticism regarding the capacity for and commitment to quality input, particularly with regard to the drafting of the National Environment Policy:

‘It can only be to the extent to which they have the capacity to engage. So the input has been there, the question will probably be has it been good enough to inform the process... I can say they have had their chance. I don't know how best to say [it] - probably it has not been the best input from civil society, but to say the truth, much of that document has been informed by some civil society groups but they are interest groups.’ (Interview, CSO2).

The narrative of public consultation that emerges from the interview data thus indicates a disjointed and inconsistent approach to public consultation in policymaking, where consultative processes are arbitrarily applied at the national (Ministerial) level and far more rarely at the municipal level in Nairobi city. However, there remains a distinctive sense of optimism and hope for the future through reforms to the decision-making process as envisaged by the new Constitution. Onyango and Namango (2005) offer a basic breakdown of development policy decision-making that also fits with this narrative of environmental policy formulation (Figure 5).

This discussion of the major actors in the policy process provides some insights into the ways that roles and authority are managed and distributed among stakeholders. However, in order to better understand the mechanisms of the policy process, it is important to explore the particular motivations that guide the formulation of new policies, and the methods that stakeholders use to bring issues to the policy table. These impetuses are discussed in the following section.

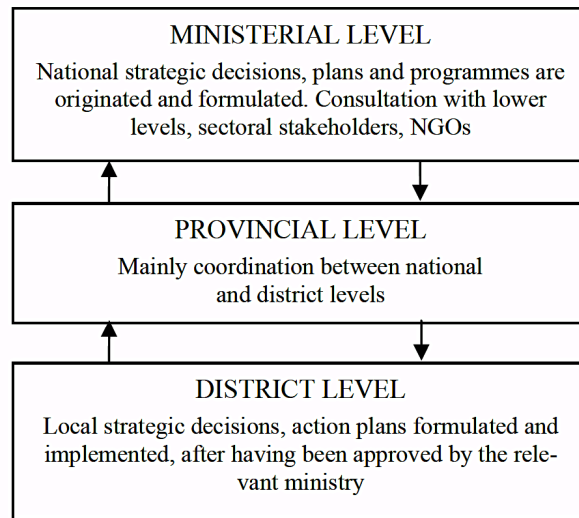


Figure 5 GENERALIZED POLICY DECISION-MAKING PROCESSES PRIOR TO IMPLEMENTATION OF CONSTITUTIONAL REFORMS. Source: Onyango and Namango, 2005: Fig. 20.1

5.2 Customary Policy Triggers and Policy Information Sources

The policy process in Nairobi may be triggered by any of a diversity of factors, and in some cases by a combination of several. Four of the main policy pathways described by key informants are discussed in this section, along with the roles and types of data sources that inform policy.

Firstly, one of the main triggers of new environmental policies under stable political conditions in Kenya (as opposed to current conditions of rolling out the new Constitution) is the influence of Multilateral Environmental Agreements (MEAs), such as those instituted through UNEP (Kaniaru, 2002), which then create a mandate for all such agreements ‘that the country has ratified...to be customized to fit into the local context, and we do that customization by rolling out regulations’ (Interview, GOVT4). In this manner, the content of the policy as formulated by a foreign agency would create the template for local policy and ensuing regulations. Similarly, donor agencies may provide a push for the creation of policies modeled on international standards, particularly if such documents are a pre-requisite to cross-national partnerships or collaborative projects. The influence of foreign powers in creating domestic policy has received scrutiny and criticism, particularly as the motivations behind such efforts may be seen as indicative of neo-colonial practices (Ryan, 2004).

A second pathway is in the context of needs-based policy, where often Ministerial or Local government agencies may internally determine the requirement for new policy interventions, based on their

experiences in implementing policies and enforcing regulations on the ground. In some instances, the influence of non-state stakeholders has aided in outlining problem areas that are then adopted as priority issues by state actors. For instance, one UNEP informant described how the decimation of the Mau forest in Kenya was illustrated to local government officials, which then led to the development of a forest policy: 'we told the Minister for Environment, "let's take a flight over the Mau, let us see with a GPS and...all that guidance [what the damage is]". We were able to see the destruction on the ground, [and] when they landed, they were fuming...that's how the policy process was triggered.' (Interview, INTL2). In local agencies such as the Nairobi City Council, the decision to formulate new policies is driven primarily by needs identified by technocrats within the various departments of Council. An NCC official outlined the process:

'...The technocrats do the initial [policy] plans based on their needs...Once they've identified the needs, they can either formulate policy, or...hire consultants to do that...But for the consultant to be effective, you need to give him some framework to work on. So once that has been done, we consult within the department, as technocrats, then lift it and take it to the departmental committee for further scrutiny and approval. Once that has been done it goes to the full council for a final approval. And again within that period, we usually have around fourteen days for scrutiny by members of the public.' (Interview, GOVT7).

This procedure indicates that there is limited involvement of higher environmental institutions in the creation of local policies, unless such input is sought during the consultation stage once the draft policy has been formulated. While this approach does grant local authorities the autonomy to create policies specific to their needs, it also limits their access to resources and expertise that are available at the national level.

A third pathway to creating policy is through local research and reporting, particularly in the form of environmental monitoring by agencies such as the MEMR, NEMA and UNEP, which may reveal a need for new policies to address contemporary challenges (Interview, GOVT4). These reports in turn may also point to areas where further research is needed, thus prompting data gathering exercises which are needed to make policy decisions. For instance, NEMA's State of the Environment Report reveals significant data gaps, such as in relation to biodiversity statistics, freshwater resources, and forestry statistics, which limit the ability of policymakers to create effective solutions to urgent challenges (Businge, Ondimu, Maina, Mutai, et al., 2011). Unfortunately, given that the environmental mandate is segregated among multiple agencies, determining the best source of information can be a complicated exercise. A NEMA official explained:

'The data is there but it is in isolated pockets within different institutions and therefore that makes it a problem because many of these institutions do not want to share that data for free, they want to sell it - and once that

monetary aspect comes into play and you don't have the money to pay for that data, you will make a decision without it, and it might not be the best decision...Kenyans don't have a culture of sharing data, they have a culture of hoarding it unless someone is paying for it. So it is an unfortunate scenario but...it becomes a bit of a contradiction because then this data is not available for use based on the reason for which the data was produced.' (Interview, GOVT4).

The cultural limitations to cooperation and coordination between the numerous agencies involved in environmental management, alluded to in the quote above, has been found across government agencies in all sectors. Although attempts have been made to share information and data through the country's 'Open Data Initiative', the validity of the data made available (much of it through the Kenya Bureau of Statistics) remains in question (Interview, CSO2; Interview, GOVT4). A local Kenyan news article on scientific innovation in the country stated that 'barely two years after the Open Data Initiative was launched, Dr. Ndemo [Permanent Secretary of Information and Communication] declared that it had stalled as government agencies remained tight-fisted with their data.' (Mumo, 2013). Another initiative called the Kenya Environmental Information Network was set up by NEMA in conjunction with UNEP, but has not yielded any results due to a lack of available funds (Mayhew & Karani, 2012). This reticence combined with an apparent lack of capacity to increase the transparency of policy-making through the public availability of crucial research adds further barriers to the flow of information, and partly explains why the various ministerial policies are in some instances at odds with one another.

Given that foreign consultants are frequently drawn on as part of policy formulation in Ministerial teams (as discussed earlier), the strategies and approaches employed in environmental policies are often modeled on experiences and best practices beyond Kenya's borders. As a governance expert attested: 'local broad-based policy is informed by best practices elsewhere...we are committed in our millennium goals with specific targets of an environmental nature - so that is set out in broad terms, but in the process of...breaking down the broad goals into projects and programs that actual data, factual information about how it is done, and what are the challenges, and how shall we measure success, become an issue.' (Interview, GOVT8). A government researcher agreed that simply adopting foreign models would not be sufficient to ensure success on the ground: 'I believe we can be the [model for] best practice for Africa, and that is why when we look for benchmarks we usually go beyond Africa. We looked at other places that have worked, and while it is true that there are idiosyncrasies and the Western countries are very different in terms of culture, even climate, that is why there is a great need to contextualize some of those lessons, and that is what we are trying to do in an adaptive manner.' (Interview, GOVT9). This process of translating foreign approaches to fit a local context is

also frequently hindered by a lack of local information and gaps in data, which could lead to less successful policy interventions.

To aid in filling data gaps, non-state actors often play a key role in research and monitoring. As one informant described, the particular types of data collected to fill spatial and environmental data gaps include:

‘...Questionnaires, and under...the infrastructure division we use mapping tools...to integrate statistics with geographical data...We do also get some data from our [Kenya] Bureau of Statistics, but even for those mapping tools we hire companies to do them for us...in the private sector through competitive bidding...but we have to offer supervision so that we get the quality we want from them.’ (Interview, GOVT9)

Private firms are therefore instrumental in data gathering and research, but as mentioned previously this information is often proprietary unless it has been produced for a Government office and been made available to the public. As a UNEP officer stated, ‘the best data you can get I think would be through the universities, through the papers that have been written depending on whether that area has been so much researched on...But if you get it from the government office, you will find that it will have been developed by the private firms.’ (Interview, INTL2). Several stakeholders also identified consultative forums as a main component of data gathering (Interview, GOVT3; Interview, GOVT5; Interview, GOVT6; Interview, CSO1; Interview, PROF2), although it is outside the scope of this study to ascertain the specific extent to which the views gathered in such forums have in fact affected policy content, given that the transcripts from consultation sessions are not made available to the public. The availability of data is connected to the practice of monitoring and evaluation that follows policy implementation, which is discussed in Chapter 6. If monitoring were not conducted on a consistent basis, then reliable data that would indicate the success, failure, or gaps in policy would not be available. A CSO participant noted ‘It’s actually a cycle that is never completed. We don’t have enough data that then influences policy’ (Interview, CSO2).

The academic sector is also a key contributor to environmental data; however, studies performed by international researchers and students from abroad are less accessible unless they have been widely published, which suggests that significant knowledge is being lost:

‘Sometimes there is this lack of collaboration, maybe some students going do their fieldwork or traineeship in the institutions, but you don’t know what research findings. And it’s also probably built into the world of research that when you want to publicize your article and if it means that you don’t want to give a hint along the way of what you’re working on, then it means that once the results are out, the practical usefulness has passed. But that’s difficult.’ (Interview, INTL6).

Universities, however, are also dependent to some extent on external funding, and as such do not necessarily provide a broad range of holistic environmental data, rather focusing on specific issues and areas (Interview, PROF1).

Fourthly, in cooperation with academia, civil society is another important source from which a demand for policy may arise, particularly in conditions where the lack of a guiding policy creates operational constraints for NGOs on the ground. Local CSOs often inform policies based on real-world experiences, and can therefore bring great value to the policy table given their ability to draw on academic expertise as well as local knowledge. Indeed, local CSOs have shown tremendous initiative and influence in policy practices (Gikang'a, 2006). Foreign agencies participating in policy processes in Kenya also rely on CSOs to inform their practices and research studies, in addition to government and academic sources, as one informant explained: '...any study that we might do specifically for Kenya will always draw on existing information that's available, even in academia or on the government's side. Almost all the data itself will be coming from the government, or from CSOs. So the entire universe of information would be drawn upon in order to do these analyses.' (Interview, INTL5).

Unfortunately, policy pressure from CSOs is often mobilized when significant threats to the environment have already materialized, partly because it is difficult to convince State actors as to the necessity of a policy from a proactive perspective - as one informant commented: 'When you're trying to influence from a proactive [stance], trying to get people to take a lead in enforcing policy action and in opening up space...we still have a problem with...policy arrangements in terms of the way institutions are organized. It's more of "is there a problem? Then we'll go there..." (Interview, CSO1). As such, there is much room for improvement in widening the arena for CSOs to actively initiate policy processes.

Often, it is a combination of factors that results in policy formulation, and with the involvement of a constellation of actors, it is sometimes difficult to determine the particular impetus or impetuses behind a given policy initiative. As one informant recounted with respect to the National Environment Policy currently in draft, 'I have never quite determined where the force was coming from, whether it was the minister...wanting a document on the table...you never really quite know what's informing the process' (Interview, CSO2). Nonetheless, these policy triggers and information sources will undoubtedly continue to be very important in Nairobi, given the County's status as an emerging urban economy with a strong presence of foreign agencies, CSO activity, and academic and research institutions. The current environment of Constitutional reform, however, presents important implications for the ways that policy will be

formulated going forward, and the ways that actors will interact in these processes. The following section turns to an exploration of some of these implications.

5.3 Impact of Constitutional Reform on the Decision-making Process

The Constitutional referendum of 2010, paired with new planning agendas for Nairobi (through the Metropolitan 2030 spatial plan) and for Kenya (through the Vision 2030 strategy) creates a strong impetus for changes in the way that policy development is approached in the urban environmental arena. Ownership of policy creation is expected to shift more strongly towards the local citizenry in Nairobi County, particularly where environmental justice is concerned. During the course of this study, the views collected from stakeholders ranged from a high degree of optimism and conviction that the new Constitution would spell a new era of better environmental governance and more inclusive decision-making in policy formulation, to a much more cynical view that the Constitutional reform could overturn an age-old system of poor policy practice. The Vision 2030 and Metro 2030 strategies have been considered here in the context of environmental mainstreaming, in order to determine the extent to which environmental considerations have factored into each of these documents and the policy formulation processes associated with decision-making. As such, this section discusses a broad range of the views collated through participant interviews in order to reflect the current climate of change and the challenges to effectively realizing their potential benefits for Nairobi County.

The Constitution of Kenya (2010) has a number of facets that hold promise for improved environmental governance. Among those most salient to the policy formulation process are greater public participation and citizen engagement, and improved opportunities for environmental mainstreaming, which is the integration of the environmental agenda with all levels of administrative, economic and social planning. With regard to the first benefit, the accomplishment of more inclusive participation is dependent upon citizens claiming their rights as afforded under the Constitution. Here, the issue of ownership of the policy process is highly relevant, because the smaller size of government authority at the county level creates potential for more efficient decision-making and the building of social capital (Sundar, 2001). However, as noted earlier, fostering a local identity and desire to own the policy process is problematic in for residents of Nairobi, because a large percentage of the population hails from alternative counties. As one informant noted, for these residents the city is 'alien in many ways – culturally, they don't identify with it...how do you remodel that? How do you turn that around?...The Constitution gives you the power to do it, but the know-

how, and how to go about it, will require quite a bit of new tools, new thinking, even new movements.’ (Interview, CSO1). Without a keen interest from the public and non-state actors to actively engage with policy and claim their voice at the table, minimal change can be expected to occur.

Interestingly, the overlapping of land and environmental management policies, combined with the strong socio-cultural context of tribalism and attachment to land in Kenya (Ryan, 2004), may create bottlenecks when attempting to create policies that affect natural resource management in multiple counties simultaneously. An MEMR policy officer expressed his concern over this issue: ‘we have a lot of tribalism [and] nepotism, where people say this [resource] will become ours. And you see once we go through devolution, it will give birth to the commodification of the environment. That is one thing we are trying to avoid, [but]...it will be there. As much as a river goes all the way from that [County] to this [County], people will say this is our part of the river.’ (Interview, GOVT1).

The emphasis of the Constitution on collaborative governance in policy formulation would be a boon for policy implementation as well, particularly in cases where the policies in question are codified through legal provisions – one academic informant noted, ‘the only way you get efficacious implementation of laws, especially like environmental law, is by broadening public participation...there was considerable scope for public participation in EMCA [Environmental Management and Coordination Act of 1999]...but now that has been broadened also further by the Constitutional provisions.’ (Interview, PROF3). However, the Constitution does not provide a clear procedure for how consultation should be approached or integrated into policy decision-making. A CSO participant warned, ‘with the new Constitution, despite having a lot of hope, we have not gotten our political process of how policy should be formed correctly. It has a lot of interference and interests from outside; I just don't know when we'll get it right. I say this with a lot of frustration on our end, because you find ways to work on it and after three years we still don't have it.’ (Interview, CSO2). This level of ambiguity could be particularly fatal for participation in the policy process, given the current formation of a devolved government consisting of 47 separate counties, each essentially acting autonomously. The mechanisms for policy formulation in each county will remain at the discretion of the County governing board, made up of elected representatives, with a potential decentralized unit at the sub-county level which has yet to be clearly laid out in the Constitutional provisions (National Council for Law Reporting, 2010).

In this new setting of devolved and highly decentralized government, a key concern for policymaking under the new scheme will be the level of political involvement in decision-making – with a devolved government, there will be greater splintering of natural resources across County boundaries, creating policy

formulation and implementation challenges. For Nairobi, the issue of local governance is further complicated by the large size of the county, and the current uncertainty as to how small-scale decisions will be made in terms of stakeholder engagement given the potential subsuming of the Nairobi City Council into a newly formed County Board. An academic expert cautioned for wary optimism in this regard:

‘When you have a new Constitution, sometimes there is room to push certain aspects of the law in purely a political context. So that’s an issue in policymaking, that sometimes in policy processes when the discussions take a partisan or party line angle in the agenda of the legislation we are likely to have a tragedy in the law...because the new county government - it will have some politicians, County assemblymen and women – who in their conception of their role, are no longer the typical City Council. They are quite high, somewhere along the lines of the provincial MPs in Canada... So they are not going to deal with the nitty-gritty of the site location and environmental issues, and now you have removed the role of the city Council – what happens?’ (Interview, PROF1).

It is expected to some extent that these inconsistencies and uncertainties will be managed over the first few years of devolved government. With a reinforced capacity for citizens to represent themselves in court against the government (*locus standi*) as initially envisioned under the Environmental Management and Coordination Act (Kameri-Mbote, 2005), there is hope that persistent issues of environmental neglect will receive attention.

Yet, past experience indicates that even with a more democratized government, there is no guarantee that anthropocentric interests will not rule supreme and that policy decisions will be made in the best interest of the environment – as Kabiri (2004: 384) concludes from his research in East Africa, ‘It is theoretically implausible to demonstrate that liberalized environmental governance necessarily translates into desirable environmental outcomes.’ With further complications relating to funding for policy decisions made in each county, the access to financial resources via the central government would present another layer of considerations when formulating policies (Kramon & Posner, 2011), particularly those that relate to environmental management issues that would potentially add further strain to a local budget. A NEMA official alluded to this point as well: ‘...as we move to the county establishment...there are certain responsibilities that have been given to the counties for example to deal with agriculture, air pollution, noise and so on. But...these are already...a challenge even as we speak at the National level. So although it is good to decentralize these functions, there is always the risk that during the changeover to county governments these issues could be lost, [if] it is not a priority...[and] people want to deal with more urgent issues.’ (Interview, GOVT4). Thus there is still no definitive mechanism to guarantee environmental prioritization in the policy

agendas of individual counties, least of all in Nairobi where consumerism reigns, infrastructural development is a recognized priority over environmental considerations (Mérino, 2010), and industries are often expected to self-regulate with regard to environmental compliance (Kamau, 2005).

The second main advantage of the constitution comes in the form of environmental mainstreaming opportunities in the public agenda. As all existing ministerial policies and plans are being reviewed to align with the new Constitution, there is great potential for environmental policies to integrate principles across sectors. For instance, the National Environment Action Plan is considered a tool under the EMCA (1999) for bringing environmental issues to the forefront of economic and development planning, and is part of the strategic guidance documents for the Ministry of Planning and Finance, so that, as a NEMA official explained, ‘...in development going forward, that environment considerations are taken into account.’ (Interview, GOVT4). However, the NEAP has not in fact succeeded in guiding developmental planning, as evidenced by the structure of the Kenya Vision 2030 Plan which highlights Economic, Social, and Political pillars of the Strategy, while minimizing environmental considerations as being a limited component of the social and economic growth areas that are focused on. Given the high rate of environmental degradation in the wake of urban development in Nairobi (Mundia & Aniya, 2005, 2006; Ndiritu, Gichuki, Kaur, & Triest, 2003), this disregard for the importance of the environment as the cornerstone for economic growth is particularly perturbing.

It is interesting to note how the dedication to public participation in decision-making enshrined in the Constitution has been adopted on an ad hoc basis in major developmental planning decisions like the Vision 2030 and Metro 2030 strategies, even though officials involved in formulating these documents insist that consultations were conducted (Interview, GOVT6; Interview, GOVT5). A CSO participant commented derisively:

‘I’d have to be too imaginative to tell you that we have engaged, because from the very beginning how Vision 2030 came about, there was limited participation. People saw a document talking about Vision 2030 and we were told to embrace it, adopt it and love it and deal with it. So the engagement with civil society at that level has never been, in my point of view, taken to actually influence the whole process, because for you to actually miss the environment pillar, it tells you they didn’t consult, they took some consultants and you got your consulting with the public. So it’s a document I would have to read but I’ve never really quite owned it.’ (Interview, CSO2).

Although the environment does not take center stage in the Vision 2030 strategy, recent meetings through the Rio +20 Summit have begun to push more forcefully for a ‘green economy’ approach to sustainable

development. However, this concept remains largely open to interpretation, as a member of the Vision 2030 team commented: 'I don't think people have got really the concept of what "green economy" is all about. I don't think it has been internalized, at least within the Kenyan society or the rural community, I think to me its more of high-level talking, because really when you talk about green economy, what is green economy? But I suspect that the end of the day...It's really just buzzwords.' (Interview, GOVT6).

Likewise, the Metro 2030 spatial plan for Nairobi purports to be a holistic plan, yet its most significant component is a massive expansion of the County boundary from approximately 700km² to 32,000km², a decision that does not appear to have been taken with important environmental considerations in mind. An official with the Ministry of Nairobi Metropolitan Development (MNMD), the agency that created the plan, recalled:

'I wouldn't think that the growth boundaries were set entirely based on environmental considerations...initially the Metropolitan region was given a 100 km radius from the city center. Not really because of environmental concerns, it is the way the population has migrated...just to be able to look for an integrative way of dealing with these interlinked towns. Now, political considerations came in...so that's why I am saying that the factors...some were actually even political - political, economic, and social...' (Interview, GOVT5).

The comments of a researcher involved in the process of creating the Metro 2030 plan confirmed that the primary considerations revolved around population growth and infrastructural development (Interview, GOVT9). Indeed, a perusal of the Nairobi Metro 2030 plan reveals that environmental management is addressed primarily in the context of sustainable transportation systems, waste management and sanitation systems (Ministry of Nairobi Metropolitan Development, 2008). Natural ecosystems including wetlands, forests, and waterways are listed as potentially fragile components of the growth region, which require protection, although no strategy or methodology is laid out to ensure this (Ibid.). Given that the current system of environmental policy formulation has significant limitations with respect to stakeholder engagement, co-ordination, and data sources, it can be expected that these issues will only be compounded with a larger area to deal with, a challenge that holds concern for stakeholders at both the National and County levels (Interview, GOVT1; Interview, GOVT7).

In summary, the Constitution of 2010 provides a number of opportunities for improved environmental governance and policy input for stakeholders, albeit with challenges in altering the prevailing institutional and cultural attitudes towards participation and engagement. Environmental mainstreaming as envisioned in the Constitution attempts to reduce the sectorial segregation of the environmental mandate

from that of economic planning and development, as has been the status quo to date (Oulu & Boon, 2011). One CSO participant described the principles behind this objective: ‘...in...indigenous systems...you do not separate...political governance, from environmental governance, from governance of livelihoods and your resources – it's all into one...it's a continuum...Now, when you have that then you see people at the center, and people's livelihoods are at the center, and then when you say livelihoods, then obviously the health of the environment is paramount.’ (Interview, CSO1). Furthermore, the mere existence of a reform agenda or reformist policies are not sufficient to guarantee changes to the status quo; backtracking often occurs in the Kenyan context and is exacerbated when several levels of policy and government must be unified (Ryan, 2004). While some limited progress has been made towards greater harmonization of environmental management and development goals, there are still significant areas for improvement both in the content of policies and strategies as well as the processes that create them. Some of these persistent gaps are discussed in the next section.

5.4 Culture, Communication, and Clarity: Systemic Issues in the Formulation Process

Given the importance of actors in the policy process, this section examines systemic challenges to effective and collaborative policy formulation in Kenya and in Nairobi from the perspective of the study respondents. To begin, as the environmental policy process in Kenya is led by elected and appointed officials in the Government, the issue of integrity is of particular concern in the formulation of policy. Unfortunately, Kenya has a history of corrupt governance practices that have created an environment of mistrust and skepticism among stakeholders (Over three-quarters of key informants cited integrity issues and corruption as barriers to environmental governance). This mistrust then breeds a sense of apathy, which is lethal to engaging in honest discourse over legitimate policy interventions. In fact, in a study conducted in Nairobi, over 80% out of 132 respondents cited corruption as a ‘very significant’ factor in environmental and development problems in the County (Shisanya & Khayesi, 2007).

The issue of corruption as a deterrent to policy success is discussed in further detail in Chapter 6; however, it should be noted that in the transition from one administration to the next following a national election, the approach to policy creation and enforcement changes as well, and any relics of malfeasance in decision-making from the previous regime will have implications for the public in the future. One MEMR policy officer recalled: ‘you look at even the way they do their planning...the motive is purely corrupt. That's why in the long run, after so many years, we have environmental disasters...And then you look at the issues we have had with the road reserves and houses – these are people who built their houses a long time ago, they

were given title deeds. But now in this government they are being told, you have built on a road reserve! Imagine!’ (Interview, GOVT2). This point takes on even more grave relevance in light of the recent General Elections held in March 2013, and the implementation of the new Constitution by members of the old regime who have remained in positions of authority within the national government (Klopp, 2013).

Secondly, the ethos that dictates both consultative processes as well as policy content will also by and large impact on the direction that environmental policy takes. Currently, environmental management in Kenya is viewed as a secondary priority to urban development (Ryan, 2004), and this creates conflicts in the formulation of effective policies. As one informant noted:

‘We still manage resources purely from what I would call a very techno-developmental kind of outlook. We still don't manage resources from an ethical livelihood angle...Policy is still driven from going “we want to develop, and we want to develop very fast”...So what you have is a consumer society that is very lazy in terms of involvement...Because [the public is] not asking questions, [the government] do(es) whatever they want with the natural environment. So to change the way we do things, the way we plan, the way we whatever –it will require a whole paradigm shift...’ (Interview, CSO1)

Indeed, studies from around the country have shown that unless the principles of environmental protection and resource conservation embodied within policies are embraced by decision-makers at the local level, the mere existence of environmental laws and regulations is insufficient to achieve these objectives (Hirji & Ortolano, 1991). This also points to the importance of the cognitive characteristics of actors involved in the policy process – as one NEMA informant pointed out,

‘The most important, critical factor is to get all the important players looking at the things from the same perspective - so that I might not be in one agency and looking at issuing [a development] permit for purposes of revenue generation, and another [official] is looking at issuing a permit for purposes of sustainable development – these people, their focuses will be quite different...you can find an appropriate balance that serves the greater good. But left to play out on its own, then...you are heading towards a dangerous abyss.’ (Interview, GOVT4).

The research indicated that the belief systems of the informants interviewed were highly variegated and tended to stand in conflict rather than concert. Some state actors, particularly in national-level agencies, tended to view the public as agents of degradation and therefore as entities that required control, rather than collaborative engagement to improve environmental conditions (Interview, GOVT3; Interview, GOVT5; Interview, GOVT6). In contrast, civil society and academic actors showed a stronger bent towards the consideration of the environment as a holistic issue with ties to every aspect of governance, and were more

inclined to advocate for greater recognition of the public voice in policymaking (Interview, CSO2; Interview, CSO3). Foreign funding institutions were perhaps best placed to lead environmental policy initiatives given their standing as donors to the process, and yet there was a wide diversity in the extent to which these actors leveraged their position to exert authority in the policy positions and pathways that emerged from these initiatives. Similarly, private organizations that were involved largely in implementing policies but also as informants in data gathering and research, showed a preference towards advocating for more progressive policies that would lead to improved planning on the ground (Interview, PLANNER1; Interview, PLANNER2; Interview, RESEARCHER1).

Furthermore, the relationship between environmental agencies and the public has fostered a sense of disconnect between communities and their roles in resource management, transforming the dialogue from a stewardship orientation into a more political and economy-centric one, in line with Cohen's (2004) evaluation. As Matiru (1999: 20-21) contends, 'Historically, the relationship between members of local communities and the institutions mandated with natural resource management has been characterized by suspicion, punitive measures and limited dialogue.' The significant weight of state authority in governing the policy process hence limits the ability of other stakeholders to provide input and be included in decision-making, particularly where there are high monetary stakes involved – as one donor informant noted, during water sector policy consultations 'They consulted with water sector institutions, and they were of course all full of self-interest, worries about their own future, but the general public, the consumers, rights activists, all these guys were somehow kept out of the loop.' (Interview, INTL6). Although the new Constitution may aid in mainstreaming environmental considerations across policy sectors, there is still significant headway to be made towards changing the overall perception of conservation and resource management.

Thirdly, the lack of a comprehensive national-level environmental policy has allowed for the splintering of the environmental mandate among various state agencies, which impedes the creation of a true natural resources management sector in favour of a highly politicized process rife with discrepancies and disputes over authority. A NEMA informant explained:

'...Issues that touch on environmental matters are scattered, and there are very many players. If you were to look at for example, just ministries with an environmental mandate, there are very many. Then after the ministries you go down to parastatal and other actors, government and others with an environmental mandate. There are very many and sometimes it is possible that the left hand might not know what the right hand is doing. So this has been a challenge, a difficulty, and sometimes it can be...not a good

environment to determine what is sustainable under such circumstances.’
(Interview, GOVT4).

Even at the micro-level, intra-agency communication appears to be problematic. A Nairobi City Council official explained how the various departments within the Council often operate in silos:

‘There is no cohesion; there is no focused targets vis-à-vis the different mandates within the departments. A case in point again is – take the issue of solid waste, vis-à-vis urban development...whereby you have...flats coming up. But...when they come here for approval, nobody looks at the issue of waste management...So the ideal situation like in other countries would be for those flats to be approved, they need to go through the city department of environment, city planning department, for further input from technical officers. Those are some of the challenges that we have even within the Council.’ (Interview, GOVT7).

This lack of communication reduces the overall understanding of technical officers as regards the interconnections between development and environmental goals, and as such limits the capacity of policymakers to create truly holistic policies. In addition, the final stages of policy formulation require submission to the National Economic and Social Council and subsequently to a Parliamentary Committee; at both levels, there is a risk that content will be modified to reflect political or economic priorities, without the explicit consent of all stakeholders.

A fourth key challenge is in the content of environmental policies, where the issue of urbanization arises as a complicating factor - within the context of environmental management, population movement has been considered primarily from the lens of development goals rather than a cross-cutting issue (Interview, CSO2; Interview, GOVT1). While the Environmental Management and Coordination Act (1999) mandates impact assessments for construction projects, without sound cross-sectorial environmental principles to guide the overall scheme of development there is significant room for political interests to take over in the case of individual projects (Bird & Kirira, 2009; Kameri-Mbote, 2000). This may in part may be due to the fact that, as one NEMA informant suggested, ecosystem services have not been adequately quantified in economic terms: ‘...from a developmental perspective, because some of these issues are political decisions...and the fact that these environmental goods and services have been treated as free goods and services for a long time, no one considers them.’ (Interview, GOVT4). Payments for Ecosystem Services (PES) can be classified in a variety of ways; Boyd and Banzhaf (2007: 625) offer a twofold definition: ‘First...ecosystem services should be isolated from non-ecological contributions to final goods and services...Second, that economic accounting is concerned with ecological end-products, not the far larger set of intermediate processes and elements that make up nature.’ The notion of PES has been touted as a crucial link between environmental and economic

policy, and scholarly work in this area indicates that the use of this type of environmental valuation is integral to achieving conservation goals (Fisher, Turner & Morling, 2009; Engel, Pagiola & Wunder, 2008).

It is hoped that approval of the National Environment Policy (NEP, currently in draft) will go some way towards aligning environmental goals across the board; nevertheless, one CSO informant involved in the drafting of this document stated that ‘some of the recommendations...do not make specific references to how we deal with issues of urbanization. They are those blanket statements that you don't know how to operationalize as such’ (Interview, CSO2). The vagueness of the policy is intentional, as it has been designed as an ‘umbrella document’, from which multiple more specific policies can be derived (Interview, GOVT1; Interview, GOVT2). However, as the quote from the CSO informant above indicates, there is some concern that the lack of specificity could lead to the policy becoming just another unimplemented or disregarded item in the overall environmental regulatory framework in the country (Interview, RESEARCHER1; Interview, INTL6; Interview, CSO2).

Fifth, environmental awareness remains disproportionately distributed, even among the key policy stakeholders interviewed in this study. Interviews with key respondents revealed an interesting conflation of the natural and built environs in the urban setting - several informants when asked what they considered to be the key environmental challenges for Nairobi, cited issues of transportation, waste management, and overcrowding, without recognizing critical concerns such as water management, loss of arable land, and deforestation. This confirms the results of previous studies, for instance as Bird & Kirira (2009: 9) found:

‘Permanent Secretaries of some of the sectorial ministries identified in EMCA as key players openly admit not to be aware of what NEC does, nor do they attend its meetings. Such a situation means they are not involved in the formulation of environmental policies and therefore cannot be expected to implement them. This can only increase the disconnect between those policies stipulated in various planning documents (Vision 2030, the Medium Term Plan) and the prioritization of programmes and activities by ministries and agencies.’

It is therefore critical for the environmental discourse to better translate goals and objectives in economic and developmental terms, particularly since ‘threats to socioeconomic security take precedence over threats to the physical and living environment in Nairobi’ (Shisanya & Khayesi, 2007: 280). These challenges at the formulation stage of the policy process also create overlap with implementation efforts, and require sound monitoring and evaluation practices in order to update policies based on the realities on the ground.

5.5 Summary: Critical Findings on the Environmental Policy Formulation Process in Nairobi

As the foregoing discussion suggests, there are a number of interesting factors that bind decision-makers together in alliances or keep them on opposing sides of environmental issues. The findings and analysis of the environmental policy formulation process strongly echo the views of policy theorists both in the region and beyond. For one, the study data confirms Leach & Mearns (1996) contention that the state agency in a given policy matter holds the highest authority because of its position of control over the environmental assets under its mandate. Private organizations are looked to for their expertise as an authority on practical planning implications of policies (Fritzen et al., 2009), while CSOs are seen to some extent as representatives of the public interest but also as doing the bidding of supranational institutions in the form of foreign aid agencies and multilateral organizations (Thomas & Grindle, 1990; Goode, 1984), particularly as a result of the conditionalities attached to aid which affect the policy positions they adopt and advocate for (Thomas & Grindle, 1990; Bratton, 1989).

This network of local 'policy entrepreneurs' (Mintrom & Norman, 2009) converges with foreign experts (who form an epistemic community of their own as they cross transnational boundaries to spread their knowledge, as described by Adler and Haas (1992)); these foreign experts who take up residence in local state policymaking agencies are the crucial link to understanding the motivations of foreign institutions in Nairobi, and the insights provided by informants from the Swedish and Danish Embassies as well as the World Bank, UNEP and UN Habitat are pivotal to elucidating some of the key considerations that go into the policy formulation process. The NEMA officers and other experts represent the type of technical 'knowledge elite' that Fischer (2000) describes.

The distribution of the environmental mandate across several institutions increases the likelihood of conflicts between state decision-makers who are interested in protecting their own political interests, as well as non-state stakeholders who have to coordinate with a diverse range of agencies and institutions in order to make contributions to policy. Environmental policy issues are separated from other crucial policy arenas such as economic, social, and urban development, which creates further conflicts between interacting policies in a practical sense. In addition, CSOs and the Academic and Private sectors are forced to compete for space at the policy table, and the weight of their influence is often predicated on their capacity to bring material or intellectual resources to bear. As a result, alliances are often formed with donor institutions both foreign and local, leading to shifts in their advocated policy positions.

The local environmental committees in Nairobi County represented by the City Council have limited space to influence higher-level environmental policies, and as a result the separation between formulators and implementers presents a challenge to the ownership of operationalized policy. As Figure 4 illustrates, there is a high level of complexity in the organization of state and non-state actors, with a disproportionately high level of authority assigned to Ministerial leaders. Further, the requirement for Parliamentary approval by elected officials who have their own personal and political motivations has often led to changes in final policy content that did not involve the input of stakeholders.

The recent Constitutional and strategic planning reforms aim to increase the democratic value of governance and policy processes. Nonetheless, the long-standing history of corruption and a lack of public investment in these levels of urban life will likely remain persistent barriers to the future of wider stakeholder involvement in policy formulation activities in Nairobi. The following Chapter (Chapter 6) explores the mechanisms for coordinating environmental policy and regulatory implementation in Nairobi, and several of the themes discussed here are revisited in the context of challenges to operationalizing policy.

Chapter 6

Linking Theory and Practice through Implementation

The policy implementation process represents the crucial bridge between theoretical policy goals and planning practice. Environmental policies have a significant impact on development planning and urban growth, and with respect to Nairobi, this relationship has long been considered a tenuous one (Mundia & Aniya, 2005; Kamau, 2005; Mérimo, 2010). As Mundia and Aniya (2004: 106) observe:

‘Urban sprawl has been converting forests, agricultural land and rangeland into built environment beyond the edges of urbanizing areas at an alarming rate. This sprawl is affecting water supply, wildlife habitat availability and overall habitat quality and is leading to serious environmental degradation of Nairobi City. Sprawl not only consumes natural habitats but also fragments, degrades and isolates remaining natural areas. Urbanization has been characterized by ad hoc landuse planning with little consideration for environment impact or physical constraints.’

Unfortunately, environmental research in Kenya thus far has not lent itself to exploring the intricacies of actor arrangements in policy implementation, particularly with regard to politics, corruption, and gender (Mwangi, 2000). In addition, given the influence of international donor agencies in the environmental arena, it is important at this juncture to differentiate between ‘espoused’ policy and ‘in use’ policy (Argyris & Schon, 1974). *Espoused policy* is often the result of pressure from interest groups such as donor organizations on state decision-makers, and may not be integrated into local strategic goals. *Policy-in-use* on the other hand conceptualizes the relationship between policy statements and actual behavioural results, hence indicating the true effects of policy on the ground (Honadle, 1999: 29).

With these issues in mind, this Chapter explores the dynamics of environmental policy implementation from the point of view of the actors and institutions involved, although it is outside the scope of this study to do a comprehensive review of the specific results of particular policies. Such scrutiny is however warranted, and would be a useful source of comparative data over the next phase of urban development in Nairobi under the umbrella of reforms and new policies that are now emerging. Given the sectorial nature of environmental management in Kenya, and given the lack of national-level environmental policy, the reviews and evaluations of existing policy activities have tended to focus on specific areas, such as water, agriculture, and forestry. In contrast, this Chapter examines the implementation process with particular regard to the ways in which state and non-state actors interact to operationalize policy on the ground, and the challenges that have emerged.

6.1 Institutional Dynamics of Policy Implementation

6.1.1 State Actors: People, Politics, and Policy

Following the Parliamentary approval of a policy and its formal institutionalization, the policy process can take a number of paths to implementation. Of critical importance are the development of strategic and investment plans that provide the budgetary support for policy implementation (Interview, GOVT3). These are then followed by the drafting of acts and regulations that provide the legal weight to enforce policy principles; while Kenya has is perceived to possess significant intellectual capacity that has been harnessed during the policy formulation processes in the past, in some cases instituted policies are simply not implemented at all, particularly if political considerations are at play. As Ryan (2004) notes, ‘though Kenya has a well-established international reputation for preparing high-quality policy documents, such written statements do not necessarily constitute policy – a term that implies a state action supported by many facilities and personnel.’ (Ryan, 2004: 95). All the informants interviewed agreed with this point, with one interviewee from the Kenya Vision 2030 team conceding that, ‘...it's very challenging in terms of implementation, not many ministries actually can [state] that they have implemented - I think it is one of the most difficult things in Kenya...in one financial year, if perhaps how much [a policy] has been used in the budget is a measure, we are averaging about 20 to 25% of the implementation [of all policies].’ (Interview, GOVT6). Another World Bank informant explained how a lack of political will is a major barrier to appropriate implementation of policies:

‘...To implement a policy...sometimes it will be [through] an actual act of parliament or law, and the regulations and by-laws...So it often is the case that aspirational policies are not implemented. We sometimes implement it through a court process, it's quite common to drag the government to the court, whenever we feel a policy is not being implemented as intended...But in Kenya it doesn't work so well because the judiciary...doesn't have much capacity, there is a lot of corruption, people who pay are more likely to win...things like that.’ (Interview, INTL5).

The vulnerability of policy implementation to political factors ties into the transparency of the decision-making process that creates policy, and the involvement of those subject to compliance (Kimani, 2010b). As one NCC Official recognized, ‘It's very unfortunate where you wake up one morning with A and B policy or new regulations without the awareness component, and we are now supposed to implement that.’ (Interview, GOVT7). Unless the local population is able to claim ownership over policies and the ensuing laws, both enforcement of and compliance with these frameworks will be inhibited. This is particularly true for new policies and their corresponding strategic plans, as introducing novel measures for environmental

management requires an adjustment period. One informant from the Kenya Institute of Governance acknowledged:

‘Many times implementation capacity lags behind, but also depends on what kind of policy because there are quite a few which are consistent with the installed capacity already, and also the political ranking and prioritization of new policy initiatives has a lot to do with how much the state targets resources for implementation. So it varies with the political priority, the sensitivity of the matter at hand, the urgency of the matter at hand, and the novelty of what it takes.’ (Interview, GOVT8).

The key institution responsible for overarching implementation of environmental laws and policies is the National Environmental Management Authority. The Environmental Management and Coordination Act (EMCA) of 1999 (which also mandated the creation of NEMA) is the main piece of environmental legislation in the country; numerous policies and acts have been fashioned after the EMCA in the absence of a National Environmental Policy (Interview, PROF3).

However, each of the alternate ministries involved in environmental management in the country have their own enforcement bodies – the Ministry of Forestry and Wildlife for instance delegates these responsibilities to the Kenya Wildlife Service and Kenya Forests Service, while the Ministry of Water and Irrigation operates through Public-Private Partnerships with parastatal corporations across the country to provide municipal water services to the population (K’Akumu & Appida, 2006). As such, policy implementation requires the cooperation of multiple state and non-state actors. As a NEMA informant pointed out, ‘if you are talking about wetlands, we can also have a department within NEMA in charge of wetlands conservation, but the role of protection of wetlands, the mandate is with the Kenya Wildlife Service, so we have to work with them.’ (Interview, GOVT3). Another informant from the foreign aid sector added that there was the added consideration of aligning environmental sector support with Kenya’s overall financial and development plans:

‘When we were undertaking the environment program support, and at the same time also an agriculture sector program and a water sector program, we realized that there was a lot of overlaps in these three silo programs, and a lot of transaction costs were being incurred. Because relatively the country being of course a very strong agriculture-backed sort of economy, natural resource management actually transcends the costs of all three, and engagement really should be done multi-sectorally...in order to [provide] support as a donor, you would want to influence even the Ministry of Planning and Finance because that’s where business happens.’ (Interview, INTL7).

Hence, and returning to a previous point made in Chapter 5 (regarding the policy formulation process), the wide diversity in institutions responsible for environmental management, each with their own individual agenda, creates major pitfalls in acquiring a consensus on planning decisions. One NEMA informant explained how overlapping and sometimes conflicting interests and mandates between agencies complicates the implementation process:

‘If for example our key partner like the [Nairobi] City Council was looking at the environment as an important thing...They would take time to look at a proposed development project, they would have an environment desk if you want to call it that, to help in the decision making process. But often times we would send these EIAs to lead agencies and they do not have the time to look at it, they just send it back with “no comment”. When the development starts to come up then acrimony starts, [they say] “where is this report?” I said, “you wrote that you had no comment!” Then everyone starts to make noise and there's politics all over. So these supervision and coordination aspects need to be streamlined...that by itself has been a challenge - now we have increased numbers because under the act it is stated clearly that if an institution does not carry out its mandate, then NEMA will do it, and therefore sometimes we have personnel doing stuff that should be done by a lead agency and this is not an ideal setup. We want to look at what would be an ideal staffing level...but it was not factored in very well from the outset.’ (Interview, GOVT4).

The issue here in particular is with regard to the ‘lead agencies’⁶ delegated under the EMCA (1999) as partners in cooperation with NEMA to ensure compliance with policies and regulations. Indeed, as Mireri and Letema (2010) confirm, ‘In many cases, lead agencies have their own legislative mandates to implement as such environmental management is seen as an incidental activity. It becomes even more difficult in cases where decisions of environmental authority conflicts with that of lead agencies. In such cases, it is unlikely to expect much needed co-operation of the lead agencies.’ The notion that environmental considerations are of concern in a post-hoc fashion with regard to development activities explains many of the issues with poorly planned projects. As one international consultant remarked:

‘NEMA is supposed to control and collect fees for...pollution and generate income etc., then in the water sector there is the water resource management authority that also collects fees and is also supposed to generate its own

⁶ The term ‘lead agency’ refers to ‘any Government ministry, department, parastatal, state corporation or local authority, in which any law vests functions of control or management or any element of the environment or natural resources’ (EMCA, 1999).

income. So it's a bit conflicting – who is doing what, and we see the institutions not releasing the point in paying all these fees; and sometimes one gives a permit when the other one doesn't...But you never really see anybody taking a stand...in stopping some dangerous environmental development, or taking any difficult decisions...they don't really manage [the environment], they [instead] resource the environment.' (Interview, INTL6).

In addition, NEMA's wide mandate includes the creation of guidelines and regulations, enforcement, technical support to agencies involved in natural resource management, monitoring and reporting on the environment, and conducting research and surveys, among other duties (NEMA, 2013). The breadth of these responsibilities is a point of contention for some of the stakeholders interviewed, who believe that the institution does not have the resources and capacity to successfully execute due diligence (Interview, PROF1; Interview, INTL2; Interview, CSO2).

'One of the other things that NEMA is having a problem in is competent people. They are really suffering from a lack of competent people, and also the number. So they are not able...to visit the hotspots...when you have a project...to send their experts to verify whether the mitigation measures that have been suggested...and...the strategies that have been taken to curtail environmental degradation... Will actually work. So you find that...many projects are approved without them going to the site. Even when you offer transport, they are not available...that's a major problem, the issue of capacity – vis-à-vis the demand and the...multiplicity of the issues that need to be addressed almost simultaneously.' (Interview, PROF1).

Interviews held with NEMA informants confirmed that there are often lengthy delays in responding to issues and carrying out required surveys and inspections following the submission of EIA reports to the Agency (Interview, GOVT3). A NEMA informant described the challenge of existing capacity within this institution as being primarily related to the strength in numbers of enforcement agents: 'capacity has got two facets to it: the capacity in terms of technical expertise and then capacity in terms of numbers. The technical expertise is very good; the challenge has been numbers. But if we found a new working model - because the main function is coordination and supervision - if this could be gotten right so that we map this properly, we might not need to increase the numbers.' (Interview, GOVT3). A similar situation was found at the level of the Nairobi City Council, where limited capacity is part of the reason for poor implementation of existing policies. A Council informant remarked: 'To a big extent there are reasonably well-qualified people but again it is a question of commitment, because...the Department of environment is really understaffed, the Department of city planning are highly understaffed. So that understaffing, you combine that with the inept

policymaking and leadership and governance issues, you have a whole lot of things going wrong.’ (Interview, GOVT7).

The above quote also makes reference to the issue of integrity within institutions, which in turn is tied to the public conception of environmental stewardship and a willingness to conform with regulations whether material incentives exist or not. While NEMA is expected to act in a watchdog capacity (Interview, PLANNER1), the agency has been structured as a political institution answerable to the Ministry of Environment. One CSO informant gave his view on NEMA’s functions: ‘[NEMA] is actually under the Ministry of Environment, its budget comes from the Ministry, and yet it is supposed to be an independent, trying to even tell the Ministry “this is where you're doing it wrong”. [The Ministry] would basically just cut [NEMA’s] funding, and then that means it limits the kinds of engagements [NEMA] is having.’ (Interview, CSO2). As a result, there is no existing agency or authority that can act as an ombudsman in the environmental arena, creating a gap that has had significant implications for transparency and accountability in environmental governance in the country. This issue of integrity and accountability is further explored in Section 6.2.

Non-state actors also showed concern over the matter of institutional capacity within NEMA and other implementing authorities. Donor agencies attested to providing funding to strengthen human resources within these agencies, including DANIDA and the Swedish Embassy (Interview, INTL6; Interview, INTL7). There was also some criticism from CSO and academic informants, with some insisting that the issue of capacity building was often used as a method of finagling foreign aid, and ignored the real issue of integrity and diligence within public institutions charged with policy implementation (Interview, CSO2; Interview, PROF1). Interestingly, this point of view was also subscribed to by a NEMA informant, who held the view that capacity limitations are an inadequate rationale for implementation failure, particularly when such limitations were apparent during the policy formulation process: ‘you don't build capacity in the institution when the program starts, it should have been thought of before, so when it comes down to the starting of the financial year the capacity is there...but I think at times the ministries overdo the issue of capacity’ (Interview, GOVT3).

In order to address these capacity deficiencies, some agencies including NEMA have invested resources in recruiting and training new officers; however, the type of training they receive is of some contention. The key pathway to employment as an enforcement officer with NEMA is through a two-week intensive course on the policy and legal framework in Kenya, particularly with regard to the EMCA (1999)

(Interview, GOVT3; Interview, GOVT4). The short duration of the course is cause for skepticism with regard to the true competency of trained officers. As one planner stated:

'I like the idea of NEMA...but NEMA has one fault...anybody can become an environmental officer. Sounds good, but it's bad - because what happens is, if I have nothing to do, I just take a two-week course and call myself an environmental expert. That is where the fault is. If you ever hear any controversy about a project, that an EIA was not done well, that is where it comes from. You have got an expert who does not understand environmental issues...They might not necessarily know if that [type of proposal] fits for [a] piece of land.' (Interview, PLANNER1).

In addition, the cost of this training course is almost prohibitively high, and there is a continuing shortfall of funding to support training exercises in all required areas of enforcement and prosecutorial procedure for environmental offences (Kamweti, Osiro & Mwiturubani, 2009).

As NEMA also has the mandate and authority to bring legal action against environmental offenders, the agency faces the uphill task of educating their own personnel as well court representatives and officials with regard to existing legal provisions, many of whom have limited knowledge of these provisions despite their positions within the justice system (Bird & Kirira, 2009; Interview, GOVT3; Interview, GOVT4; Interview, PROF1). NEMA thus retains the services of a branch of the Kenya Police on its premises (Kamweti, Osiro & Mwiturubani, 2009; Interview, GOVT3; Interview, GOVT4), a move that has added weight to the agency's interventions in private sector development activities, leading to conflicts between the two groups (Kibugi, 2011).

In addition to the political and resource aspects of policy implementation, the institutions involved are also constrained in their environmental management activities by the content of policy and legal frameworks. In particular, the sanctions and penalties mandated for environmental offenders present an area that has been met with high degree of controversy. Thus far, sectorial policies have largely indicated penalties insufficient to deter nefarious activities with regard to environmental protection. As the National Wildlife and Conservation Policy (2012) notes, 'Inadequate law enforcement, ineffective regulatory mechanisms, low penalties, lucrative markets for bush meat and rising poverty indices have contributed to escalating illegal taking of wildlife, illegal international wildlife trade and bush meat trade.' (Ministry of Forestry and Wildlife, 2012). In point of fact, several informants criticized existing policies for prescribing penalties that are 'not commensurate with what is actually happening to the environment' (Interview, CSO2) and are not taken seriously by entities subject to compliance with environmental regulations such as development corporations because they 'have a lot of mechanisms for absorbing the shock of the penalties' (Interview, PROF3). The

issue of penalties and sanctions is tied to the factors that motivate compliance with environmental policies and regulations in the public arena – these are further discussed in Section 6.1.3. First, the next section discusses the roles of non-state actors in policy implementation.

6.1.2 Non-State Actors: Dynamics of Partnerships

International and local non-state actors have a range of opportunities to participate in policy implementation in Kenya. There are three main categories of such actors discussed in this section: Civil Society Organizations (CSOs), foreign and donor agencies, and private entities. The natural resource management sector, as an area of continuing policy growth and reform, is understood to be an area that can gain from the synergistic effects of multi-level cooperation and greater access to democratic decision-making on the ground (Brinkerhoff, 2000). Local CSOs and those involved in grassroots activities have a particularly important role to play, given that ‘they have detailed knowledge of the resource base, and because they depend directly upon those resources for survival they have an interest in using them sustainably over time. This is as opposed to the limited time perspective of public agency staff who may be reassigned to another function or geographic region.’ (Brinkerhoff, 1999: 138).

As civil servants have a high turnover rate in state agencies in Kenya, including the environmental sector, (Ryan, 2004; Interview, GOVT1; Interview, GOVT2), is it not surprising that non-governmental organizations often provide functions such as the provision of consultation services to local communities, as well as undertaking development projects to create profits that can then be fed back into the institution to expand its programs (Kameri-Mbote, 2000). Local contextual knowledge is critical to ensuring that policy objectives are operationalized in a way that is relevant to existing challenges on the ground, creating a meeting point for research, policy, and action (Wacker, Viaro & Wolf, 1999). One of the barriers to expanding the roles of CSOs is the hesitation of the state apparatus to share control and accept co-operative arrangements with non-state partners (Carr & Mpande, 1996). From case studies on CSO involvement in environmental policy and practice in Africa, Young (2005) concluded that often these two entities (state and CSO actors) are often separated on the basis of their principles and experiences, creating a chasm that is particularly cumbersome to bridge when developing partnerships.

In Nairobi, CSOs have had some success in acting as a conduit between the public interest and government sanctioned development, particularly where the voices of the underprivileged and marginalized

sectors of society are concerned. One informant recounted an experience associated with a slum-dwelling population on the city's periphery:

'We were basically working with the government as a negotiator and assisting them to prepare a proposal for financing to the World Bank. And in that particular case, the government wanted to expand the railway and they wanted to evict all the people that were on the [land] reserve so we negotiated with them to not evict everyone, to provide some space for relocation and for services such as water, sanitation... And then basically the government approached the [World] Bank and they got financing.' (Interview, CSO3).

In this way, the environmental agenda in Nairobi is furthered by integrated activities involving the state, local CSOs, and foreign agencies, although it would appear that development interests often precede those of the local population. Environmental activism has grown in Kenya in the decades since Independence from Colonial rule, yet as Brinkerhoff observes, 'most environmental court cases are thrown out on technicalities, and grassroots environmental groups are harassed and threatened' (Brinkerhoff, 2000: 603).

In the case of large organizations such as UNEP, their ability to offer expert advice as well as technical assistance is a critical resource in achieving policy objectives, particularly since such organizations have in-built mechanisms to oversee and provide continuing support to projects on the ground. As one UNEP informant explained, when it comes to operationalizing a policy, 'translating it into action is two things: You roll it out into a work plan with targets and milestones, and also resource it, give it funds and finances to implement that within a particular period and you can report that, that our policy, our work plan or whatever is working.' (Interview, INTL2). Environmental projects are often developed with specific targets in mind, such as the DANIDA-funded natural resource management program developed in collaboration with NEMA – this initiative recognizes the need for support to non-state actors (in particular CSOs and the private sector) in order to align communities with policy goals and create forums for continuous integration of environmental considerations across economic sectors (NEMA, 2013; Government of Kenya & Danish Ministry of Foreign Affairs, 2009). Perhaps one of the most crucial resources offered by aid institutions is the training and tactical capacity building activities that are undertaken in order to ensure that civil servants are able to carry out their responsibilities and mandate afforded by formulated policies. Several of the informants from international agencies referred to training programs funded by their institutions aimed at this purpose (Interview, INTL5; Interview, INTL6; Interview, INTL7).

Furthermore, the threat of aid dependency allows major 'transnational CSOs' like the World Bank to wield significant influence over development outcomes in countries like Kenya, particularly with respect to

policy areas that may not have been locally prioritized, such as the environment and human rights (Schmitz, 1999). In such cases, these foreign organizations can create pathways for local CSOs, academic and research institutes to acquire resources (both intellectual and technical) and leverage these assets in practical settings (Young, 2005; Interview, INTL6; Interview, INTL7). However, the success of these ventures is predicated on a secure understanding of the local context on the part of international consultants, which is not always the case (Ibid.; Honadle, 1999). As one informant explained, particularly in the case of land development, ‘you would want someone local to look at...what needs to work, as opposed to...some donor driven process...[where] you begin to look for authenticity’ (Interview, CSO2). Nonetheless, civil society involvement across the various areas of practical environmental and natural resource management remains highly variegated, with opportunities to engage dictated by those with the monetary power behind projects and programs (Interview, PROF1; Interview, CSO1).

Interestingly, the role of donor organizations is closely intertwined with the involvement of the private sector in natural resource management – for instance, as K’Akumu & Appida (2006) observe, water sector policies have long been inclined towards Public-Private Partnerships and yet it was only through the pressure applied through donor agencies during the 1980’s that water supply services were privatized; several donor groups have been involved in the commercialization of water resources, in particular the World Bank (Sammy, 2004). Unfortunately, this partnership has failed to achieve objectives of more efficient supply due to a number of factors, including political interests and lack of cooperation from municipal governments, a poor legislative framework, and conflicting authority roles between private and public sector actors (K’Akumu & Appida, 2006). As a World Bank informant conceded, there is a clear market interest for donors involved in the outcomes of such privatization efforts (Interview, INTL5).

Hence, while collaborative arrangements with non-state partnerships can aid in improving the transparency and accountability of state-based policy implementation (Brinkerhoff, 1999), there are important considerations in terms of conflicting interests that ought to be taken into account, such as the extent of donor authority over long-term resource use and management (Interview, CSO2). Nonetheless, it is in the interest of democratic practice for there to be a space for private sector planners to engage with state agencies, but the opportunity for non-state actors to intervene in the public interest at the level of development plans which implement policy remains highly restricted. For example one planner described a case involving a commercial and residential section of the city called Upper Hill:

‘[In] Upper Hill, for very long time, they were building the KCB [Kenya Commercial Bank] Tower - this was going to be their group head offices.

When we did that [environmental] impact assessment, we realized the minute that tower is occupied... The number of cars coming in that place would cause massive traffic... So it happened [with permission of] the city Council together with the Ministry of lands... But what they always do, is they put a tiny advert in the newspaper [saying that] the plan for this development has been finished, come and view it in this office. They had to expand the road, they had to expand the water infrastructure... But development plans - the way they had done it is not the right way. They don't ask us.' (Interview, PLANNER1).

The growth of local technical capacity in the private sector has also allowed for the introduction of emergent and innovative technologies and solutions to urban environmental challenges, and this appears to be an untapped resource in policy implementation thus far.

The integration of environmental safeguards and best practices into projects on the ground through private initiatives has the potential to grow from arbitrary or experimental practice to the status quo as the benefits of these measures are realized over time. In Nairobi, the lack of strategic urban plans and policies has apparently prevented the creation of standards for sustainable intersections between the built and natural environs. However, some technologies have made their way from elective use to common practice. For instance, the use of rainwater recycling for domestic use has grown out of a basic necessity for reliable water resources through the success of such implements, as one planner noted, while 'environmental [considerations] are extra. The client has to demand it...[but] at least some things...like collecting rainwater – that's become almost now standard, and everybody has that, because they don't otherwise get [sufficient] water. But other things...like maybe now building the densities so that you can now have green spaces, doesn't really work. Sometimes it works, but not everywhere.' (Interview, PLANNER1).

While it is anticipated that the new Constitution will aid in improving the access to democratic environmental governance for the local populace, some informants hesitated to show confidence in the ability of reforms to plug the policy implementation gap. In Nairobi in particular, as one academic informant contended, the continued uncertainty over the County and sub-County authority structures and the focus on urban and economic growth versus sustainability is cause for trepidation: 'The issues of neighborhood environmental concerns, household environmental concerns, site issues, core community issues – these are issues that have been left almost unattended in terms of the services in policy implementation and processes. And that is a major gap that you can expect that this Constitution will make things worse.' (Interview, PROF1). Indeed, it will be of great interest to see how the new County-based governance scheme will impact urban environmental management, which is affected by both the capacity of implementing institutions and

non-state actors, as discussed thus far, as well as public compliance, which is discussed in the following section.

6.2 Embedding Compliance in the Public Arena

The stakeholders examined in the preceding sections have been considered from the point of view of their influence and authority in creating the existing conditions for environmental management on the ground. However, as Wacker and her colleagues observe, ‘environmental problems often have a temporal and a spatial dimension which expands the urban boundary and extends beyond the capacity of different actors and actor groups involved in decision-making to act.’ (Wacker, Viaro, & Wolf, 1999: 117). As a result, overall policy outcomes are often at the mercy of compliance on the part of the population, a highly heterogeneous group whose actions cannot be easily assessed, controlled, or predicted. The notion of compliance, as defined by one informant, refers to ‘measures that are taken by the role occupants [of] the prospective agents of degradation to do the right thing’ (Interview, PROF3). In this section, compliance is discussed from the perspective of policy decision-makers, examining the methods in place to embed compliance as a practice, the overlays between compliance and enforcement, and the gaps in policy implementation that are at the root of compliance performance in Nairobi.

There are a number of options that environmental policies use to manage compliance; Honadle (1999) categorizes these in three key ways: command and control, approximating negative reinforcement strategies such as the use of sanctions and penalties; direct incentives, approximating positive reinforcement through economic instruments such as tax rebates; and stakeholder self-management, in that resources will be allocated for management and protection to involved sectors of the population. Each of these policy options has particular implementation tools that operationalize them, and have been used to varying degrees in Kenya’s urban context, as discussed below. The concept of stakeholder compliance with enforceable regulations is explored in this section from the perspective of the various informants included in the study. While this is not a comprehensive review of the issue, the discussion offered here provides some insights into how policy directions manifest in enduring perceptions of the environment, shaping the relationships that the urban population has with the natural environment.

In the first instance, negative reinforcement consists of the use of various penalties for non-compliance with legally prescribed behaviour, such as industrial pollution and development that contravenes EIA requirements or planning regulations. There has been much discourse and debate over the sufficiency of

these penalties to effectively motivate and ensure compliance, the majority of which were created under the EMCA in 1999 and have not been updated since (Interview, GOVT4; Interview, CSO3). A NEMA official lamented: ‘we need greater sanctions on one hand, because the kind of penalties that are handed out to people... Are the bare minimum...therefore there is no need to go travel on the high road, and they know that if they are arrested or something, it is [a paltry fine]...’ (Interview, GOVT4). Several other informants from various sample sectors (Interview, CSO2; Interview, PROF1; Interview, RESEARCHER1; Interview, INTL2) echoed this perspective.

On the other hand, some informants viewed the existing scheme of economic disincentives to be sufficiently high as deterrents for egregious behaviour, and pointed to a lack of oversight and political malfeasance instead as the source of poor success in instilling better environmental practices in the public domain: ‘...in terms of agents of the private sector...invariably the perpetrators are people in the government whose agents are frequently involved in violation of the law - they have a lot of mechanisms for absorbing the shock of the penalties. Pay the penalty, the fine, and pass it on to the consumer. So I can say yes, the provisions in the law are quite severe but there are other gimmicks for the role occupants.’ (Interview, PROF3).

Nonetheless, while the existing measures may be sufficiently punitive at least in some respects, the lack of adequate enforcement has not instilled a high level of confidence – for instance, as a UNEP report accounts:

‘The penalty imposed under the EMCA 1999 for offences related to pollution or dumping of hazardous waste under the Act is the payment of a fine of not less than one million shillings or imprisonment for a period not exceeding 2 years or both fine and imprisonment. However, there is no documented case in which offenders...which includes corporate entities such as municipal authorities, hotels, and others have been fined or imprisoned for polluting or dumping waste along the Kenyan coastal zone.’ (UNEP, 2009:13).

Given that these market-based approaches are predicated on a commitment to enforcement, the lack of such a record explains in part the spirit of impunity redolent in the public domain, particularly on the part of the private sector. Furthermore, without an adequate system of assessing the payments due for ecosystem services (as discussed in Chapter 5, Section 5.4), there are major gaps in the enforcement of regulations with respect to enforcing the applicable penalties for offenders. Ultimately, unless the public is made more aware of the precise implications of environmental offences both in terms of the legal as well as environmental ramifications, these gaps in compliance will continue to persist.

The second policy option to embed compliance is through positive reinforcement, or more specifically the use of direct incentives, economic or otherwise. For instance, one NEMA official described the approach that the agency has been trying to adopt in this regard: '[in the case of] people who receive less inspection effort [during environmental licensing assessments], when we do their renewals they pay [lower fees] than someone who is a constant headache where we are spending a lot of time and effort. This must be noted on so that when we renew their annual licenses and whatever it is, they should pay more...then people will see that it pays to comply.' (Interview, GOVT4). Currently, environmental policies have focused on the use of sanctions instead of incentives, an approach that is expected to change under the new National Environmental Policy. A Ministry of Environment official agreed that direct incentives are a useful tool in encouraging compliance, particularly if they involve a monetary aspect: 'we should not just put a penalty [for offences]...we need to back it up with some incentives that will incite the public to adhere to that kind of law, and currently we are working on those economic instruments' (Interview, GOVT2). Another academic informant concurred: 'the best thing to motivate compliance would be for the government to demonstrate that the monies that they have paid for [protection and ecosystem] services have returned to the people.' (Interview, PROF1).

Perhaps the main reason why such measures have not been embraced thus far stems from the development-intensive approach to policy and planning in Kenya's political establishments (da Cruz, Sommer, & Tempira, 2006), which prevents them from viewing the protection of natural resources (except where tourism is concerned) as a profitable venture. One informant suggested:

'you could use mechanisms such as a fiscal incentive...And through that mechanism you can talk to people on Harambee Avenue, which is where the treasury is, all the powerful ministries are on Harambee Avenue and get them to appreciate that the government still benefits if there is compliance with environmental standards. So if the economists will demonstrate to them that pollution prevention pays and therefore if we have incentives that will induce people to prevent environmental degradation and net benefit accrues to the government, to the public sector, to the environment as well.' (Interview, PROF3).

It would therefore appear that the benefit of economic incentives for environmental stewardship is recognized among policy informants, and yet these measures have not made their way into policy or legal documents.

The third policy option described by Honadle (1999) is that of stakeholder self-management; while natural resources in the urban domain have not been expressly allocated to certain populations for

stewardship, there is a general approach of ‘negotiated’ or ‘voluntary’ compliance that has been embraced by implementing institutions, NEMA in particular (Interview, GOVT3; Interview, GOVT4); this is a common approach to environmental management in countries in the region, although it has not achieved favorable results as evidenced by the continuing deterioration of environmental assets in the urban environment. This is partially due to uncertainty as to the chain of authority and accountability in resource management. As some scholars have contended, ‘ambiguity in decision making authority provides great flexibility for production in an uncertain environment, but also raises real challenges for resource management plans’ (Haro, Doyo & McPeak, 2005: 29). Informal processes take over that may result in favorable outcomes in some instances, but given the ethnic ties between land and communities in Kenya, there is reason for concern as to the potential for intra- and inter-county conflicts over resources. This is particularly true for arable areas and those that provide livelihoods, and in areas where essential resources are trans-boundary in nature (Interview, GOVT4).

In the case of urban Nairobi, the poor rate of voluntary compliance thus far can be traced to a number of causes – first, the fact that a large number of residents in Nairobi are native to other parts of the country, and have not cultivated a sense of ownership or stewardship for the environment (Interview, RESEARCHER1; Interview, CSO2; Interview, CSO3). Secondly, the public awareness of the implications of detrimental actions on the environment and, by extension, on economic resources and quality of life, is highly limited (Interview, GOVT4; Interview, RESEARCHER1; Interview, CSO2; Interview, CSO3). While the importance of environmental education was extolled by numerous state officials during interviews with key informants (Interview, GOVT1; Interview, GOVT3; Interview, GOVT4; Interview GOVT7; Interview, GOVT9), awareness initiatives are still a long way from providing measurable results (Interview, GOVT1; Interview, GOVT3).

Thirdly, private industries in Nairobi are often given a significant degree of leeway in their relationship with natural resources and the environment, also in part because there are gaps in the regulatory framework of the city. As Kamau (2005: 235) notes, ‘the Nairobi municipality does not have any pollution control standards. Having seen how deficient *de jure* regulation of environmental abuses in Kenya is, it is clear that there is no *de facto* practice to deal rigorously with pollution. Industries are therefore in a position to take full advantage of the situation.’ In the urban setting, livelihoods are less commonly economically hinged on the vigor of natural resources in the same way that they would be in agrarian and pastoral regions of the country, hence limiting the commitment of residents towards environmental protection. However, quality of life is intertwined with environmental factors and access to natural resources, and in the urban realm poverty

is a significant barrier to equitable access to water and sanitation (Da Cruz, Sommer, & Tempira, 2006).

Fourthly, residents of Nairobi have appeared to have a conceptualization of the environment that separates it from that of livelihoods and well-being. As a CSO participant explained, ‘the problem is now...This thing of separating livelihoods, spirituality, social welfare, and development...That's why the urban space...people don't see it as theirs...That this is our town, this is our environment and we can actually influence it politically...there's somebody else who manages, who is supposed to do other things, and the best you can do is complain and look helpless.’ (Interview, CSO1). With the expanded Metropolitan boundary for Nairobi, the issue of urban expansion and sprawl looms as a significant threat to the protection of fragile ecosystems. As mentioned in Chapter 5, the issue of urbanization has been noted in existing policies from various Ministries, including Housing, Lands, and Water. Yet informal settlements continue to mushroom on the urban periphery, to the extent that UN-Habitat estimates indicate that at least 60% of Nairobi’s population is housed in informal settlements (UN-Habitat, 2006). This carries implications for environmental policy implementation because these populations do not adhere to regulations and, as a result of inadequate infrastructure, are often the greatest agents of environmental degradation. As one land CSO informant decried:

‘The challenge then is just with...the social and political complexity of the problem because you have first overlaying land interests...because everyone is a squatter...on either government or private land...of course if you have a very large urban area then...you are faced with the...high cost of provision of infrastructure...And...issues of sufficiency of infrastructure, then obviously the strong link with the environment, because...there is... the inevitable pollution, to the aquifers...And then of course...if we just continue with a market-based solution to many of the problems then...we don't have a solution for the poor.’ (Interview, CSO3).

Even with ongoing policy formulation exercises, the environmental aspects are often not detailed out, leaving the onus on the Ministry of Environment and Mineral Resources to appropriately deal with issues that may be only superficially mentioned. As one academic informant involved in the drafting of the National Urban Development Policy noted: ‘the issue of [the] environment was well considered although it was clustered with the thematic group dealing with land. Although, it was kind of running through other thematic chapters...I think there was some feeling that the issues of environmental policy could have been dealt with conclusively by the Ministry of Environment.’ (Interview, PROF2).

From the foregoing discussion, a pattern of delinquency regarding compliance with environmental regulations emerges, one that applies not only to the public but also to local officials charged with ensuring that environmental considerations are brought to the forefront in development decisions. The following

section explores some of the main challenges and issues for environmental policy implementation arising from the emerging scheme of devolved and decentralized governance in Kenya.

6.3 Impact of Constitutional Reform on Environmental Policy Implementation

The new Constitution has brought with it a slew of land and environmental reforms, many of which require an unmet demand for financial resources to ensure implementation (Mwathane, 2013). The various ministries involved in environmental management under the national government prior to Constitutional reform are expected to merge to form a more streamlined and focused arrangement, with reports of the Ministry of Forestry and Wildlife and Ministry of Water and Irrigation to be subsumed into the Ministry of Environment (Ongiri, 2011; Ndonga, 2013). The individual counties are expected to take on autonomous environmental management and policy operations, with oversight but not direct, day-to-day instruction from national state institutions (The Constitution of Kenya, 2010).

With these new demands placed on county and national level institutions, it would appear that the process of operationalizing environmental policies is set to grow in cost and complexity – as one NCC official commented: ‘one thing I know for a fact, we are very short of both qualitative and quantitative human resources, and for us to achieve our goals vis-à-vis the new Constitution and the devolved government act, we really need to invest in skills, and the numbers because it gives us specific roles to play and we need to have equivalent manpower to achieve that.’ (Interview, GOVT7). The body responsible for rolling out the process of transitioning towards devolution, known as the Transition Authority, has also raised the issue of county capacity, demanding that counties ‘prove their competence before taking over functions previously conducted by the national government’ (“Counties Challenged to Prove they can Govern”, 2013). The counties themselves have accused the Authority of hamstringing their progress towards development (Ibid.). This early period of adjustment towards devolution will therefore set in place an important precedent for the future functioning of Nairobi County and its relationship with the national government.

The success of devolution and decentralization is also predicated on a commitment to reform, which is not a guaranteed outcome of the new system of governance. A NEMA informant noted that existing national-level challenges with regard to educating judicial and prosecutorial parties as to the conventions of environmental law and practice would become all the more complicated under devolved government, with a significantly larger number of parties requiring training (Interview, GOVT4). Furthermore, the authority and control over natural resources to provide services, particularly in the water sector, is a source of contention for

those formerly associated with the privatization of water as a utility. Recalling a quote from a World Bank informant first mentioned in Chapter 5:

‘The Constitution gives the [private] water companies back to the county governments...and the local authorities have an incentive to use the revenues raised for every other thing aside from water and sanitation provision. So that makes us very nervous, that all the investment that we’re putting in right now, we won't be able to recover the costs ultimately, and that the services will not be provided. So that's a very concrete example of why policy matters to the projects and why we pay careful attention to the policy areas that are of interest.’ (Interview, INTL5).

There has been much discussion in the literature over the involvement of supranational institutions such as the World Bank in local environmental affairs in the global south, with a significant proportion of scholars leaning towards a negative perception of such partnerships (see Goldman, 2007 for a discussion). It would then appear that a decentralized form of environmental management would aid in reducing corporate monopolies in environmental management and services, potentially improving the affordability and sustainable management of resources. Nonetheless, the issue of pervasive corruption in the state apparatus remains an important consideration for all stakeholders involved in policy implementation in Nairobi County. The following section focuses on the underlying issue of integrity in environmental institutions from the point of view of policy stakeholders and decision-makers.

6.4 Integrity and Public Trust in Governance Mechanisms

From their research in Cameroon and Kenya, Nasongo & Kabsa (2000: 73) observed that ‘the undemocratic application of rules that govern the environment has also manifested the bad faith in the way decision-makers and rule enforcement officials implement environmental policies.’ This issue is multifaceted, and relates to a commitment to integrity on the part of policymakers and implementers, the technical and numerical capacity of implementing agencies, and the willingness to respect policy and law on the part of those subject to compliance. Each of these three elements feeds into the other, and the various sides are discussed here from the perspectives of the actors interviewed.

Firstly, the intent and veracity of policymakers and implementers is an important component of the policy process, in that these factors affect every level of decision-making. At the implementation stage, the majority of actors belong to the public sector, where the issue of impunity arose repeatedly during interviews with informants. In some cases, elected officials and official environmental officers have been found to engage

directly in corrupt practice – as Matiru (1999: 20) notes in the case of Nyeri, a town on the periphery of Nairobi, ‘Collusion between government officials and perpetrators of illegal activities in gazetted forests has also regularly featured in the media’. In addition, the culture of land appropriation by political elites extends to the years following Independence from British Colonial rule, and has cemented a lack of confidence in the State’s intent to protect the public interest (Bubba & Lamba, 1991; Medard, 2010). This feedback loop is not permanent however and can be broken with the commitment of all stakeholders involved. One quarter from which the impetus to improve environmental governance could emerge is the international and foreign donor sector, because international perception of corruption is a deterrent to monetary support to the Government (Smith & Walpole, 2005; Interview, INTL5; Interview, INTL6; Interview, INTL7). Since the State remains the key engine of policy formulation in Kenya, by extension policy exercises would also face limitations if donor funding were cut, as has happened in the past in periods of political instability and uncertainty.

The second facet relating to integrity is that of the capacity of implementing agencies to adequately carry out their mandate. This element has been addressed earlier in this Chapter (Section 6.1), but it also has a strong effect on the policy process from the perspective of convincing the public that non-compliance with environmental policy will have repercussions. With the current state of agencies like NEMA that are responsible for policy implementation and enforcement of sanctions, there are many potential ways for poor governance practices to in fact impede conservation – as Smith and Walpole (2005: 252) have determined, corrupt practice on the part of environmental officers can have manifold effects which can be summarized in two key areas: ‘(1) reduced effectiveness of conservation programmes through a reduction in available financial resources, law enforcement and political support, and (2) an incentive for the overexploitation of resources.’ Indeed, as one government informant recognized, ‘land governance in terms of...defining the limits of personal discretion on certain fragile ecosystems - is what is lacking. In spite of saying that we will limit how far you can go in the design of what you want to do with your land, particularly if it is part of the major urban area, we haven't done enough in growing the sense that the state can limit you if you are found doing things that are inconsistent with the broader projected viable and sustainable use of land resources.’ (Interview, GOVT8).

Thirdly, compliance is the flip side of the implementation coin, and the effects of sporadic and ad hoc enforcement are reflected in the attitudes of the local populace towards environmental responsibilities. There is a cultural as well as a moral complexity to the issue of environmental compliance, shaped by the belief systems of actors on both sides of the fence (Jack, 2009). To provide an example, a NEMA official stated,

‘...There is the issue of general attitude...have a category of people breaking the law because they can get away with it and they know it. You see once the old system is not robust enough from the inspections, enforcement, prosecution and so on sending out a clear message, also providing alternative approaches, giving out education, giving out awareness – it must be a multipronged process.’ (Interview, GOVT4).

In order to change this attitude, then, some stakeholders believe the sea change would have to be initiated by the electorate: ‘As long as we make issues of integrity not to become political, but we make it become a moral issue to the public, that would be good. And the strongest moral force to change the habits and attitudes in terms of integrity and accountability is the public perception. If in the public it is okay, it has always been like that, people will continue with that.’ (Interview, INTL2).

At the level of Nairobi specifically, the political nature of land ownership and planning creates an even more complex scenario where corruption and integrity are to some extent institutionalized. ‘...There is...poor planning on the part of the City Council, and I think there must be some reasons why it happened that way, maybe some processes like corruption and also a lack of professionalism on their part. So we have those challenges with the City Council, and there was also a bit of politics – the moment politics comes in, it messes things up.’ (Interview, GOVT3). A Council official admitted, ‘we need to really improve on governance and integrity across the board. For some of these policies, it really makes sense, because we have blatant abuse of office and procedure, and non-enforcement of acts, policies and regulations right from the very top.’ (Interview, GOVT7). The lack of performance of the NCC attributed to corruption is well recognized by stakeholders. Even at the planning level, decisions made are perceived to be largely arbitrary and in many cases going against the public interest. One private sector researcher was highly critical of the NCC’s capacity to perform: ‘we have a city Council which is dysfunctional. When you get people putting up structures that collapse, when you get buildings which are 10 floors when only eight have been approved, and then the city Council agrees after the person has built the 10 [floors] to amend the plan - it points to massive, massive corruption.’ (Interview, RESEARCHER1).

Hence from the testimony of informants and evidence from other research, a narrative emerges of corrupt practice within government that has nurtured a lack of responsibility and the tendency to act with impunity on the part of those developers and those subject to compliance. One measure that is intended to reduce such behaviour is through a rigorous and transparent system of monitoring and evaluation (M&E). The following section examines the current trend of M&E practice in the environmental policy realm in

Kenya, and looks at how such systems can aid in fostering a culture of accountability in environmental practice.

6.5 Monitoring and Evaluation of Environmental Policy Implementation

As has been discussed thus far, policy implementation is a process that in some ways is separated from that of formulation, in that there are often no specific mechanisms for ensuring appropriate implementation within the content of policies. Similarly, operationalized policies require monitoring and evaluation to track the achievement of policy goals and ensure that adequate resources are apportioned for this purpose. As one informant admitted, ‘policy [formulation] is done separately, we rarely tie it to implementation. And that is also a weakness because we need to go the whole hog, and the best way to do it is to tie it to evaluation, implementation and monitoring to make it complete...But that is still lacking in the civil service...there have been some changes, if you look at what we call strategic plans, they have all those components in one outfit. So there are some positive directions.’ (Interview, GOVT7). The monitoring and evaluation of environmental policies in Kenya is an area that has received some scrutiny, albeit on a sporadic and sectorial basis. Such exercises are twofold: monitoring and evaluation of a policy’s performance in order to identify issues and gaps for review and rectification; and secondly, monitoring of the agents charged with implementation to ensure delivery of policy objectives. Both levels are discussed in this section, with a view to further highlighting some of the uncovered reasons for poor environmental policy performance.

At the first level of scrutiny, the efficacy of policies based on content is usually tracked through an M&E strategy outlined in the policy itself. At the core of any effective M&E process is the requisite for a continuous and rigorous data gathering process and an effective legislative framework to ensure procedural legitimacy, both of which are severely lacking with respect to the urban environment in Kenya (Onyango & Namango, 2005). A CSO informant stated,

‘You get the feeling that we never collect our data. It's not there. That to me speaks about two things: we are not able to implement a policy to the very letter because we don't have a reference...[and] we don't have a full cycle for policymaking here...There is problem identification, we go through the whole length up to the point where we're talking about how do we implement, but for the last 10 years what we've been implementing, how do you then evaluate so there you are able to inform the next phase of the policy?’ (Interview, CSO2).

While some fragile ecosystems and environmental assets such as wetlands, forests, and river basin systems do receive monitoring from both local and international agencies, there continue to be gaps in available data due to lack of coordination and sharing of research funding among institutions (Matiru, 1999). Without accurate and continuous data collection, the impacts of policies are difficult to interpret and evaluate. For instance, in a study on how state policies can affect soil conservation among farmers in some semi-arid regions of Kenya, Pagiola (1996) concluded that ‘no simple relationship should be expected between policy changes and conservation’, partially because the data available for such a study was severely limited. Indeed, as one NEMA informant agreed: ‘The polluter pays principle, you can also look at it as one of the deterrents, but that one also has to be informed by research. If there is an oil spill in the Indian Ocean, how do we find out what Marine life we have lost? So that's why in NEMA under this act we have the institutions and also we have a coordination role our research, what is being done for other institutions, but also we must have our own people who would be able to give that kind of information or understanding.’ (Interview, GOVT3).

In Nairobi County, the lack of capacity to formulate and implement policies has also extended to monitoring and feedback activities as well. A UN-Habitat report issued a scathing critique of the NCC:

‘The [Nairobi] City Council has no institutional organ for policy development or monitoring and evaluating service effectiveness and policy impact. Councilors are reported to interfere in staff matters in the past and have put their own self-interest ahead of the public good. Corrupt practices, lack of transparency as well as poor and inequitable revenue collection are encouraged by lack of computerization and an otherwise inadequate information technology systems.’ (Da Cruz, Sommer, & Tempra, 2006: 12).

Such political interference in policy implementation and monitoring protocols is of concern for foreign aid agencies as well, which often have problems ascertaining the impact of funding on policy goals and identifying gap areas that require attention. A Swedish Embassy informant noted:

‘We are not imposing our own indicators [for reporting] but we have real problems with the fact that [Ministries] hardly use any...we have put some money into helping...the development of their M&E system, baseline studies, [we] put comments on the report...The analysis of the financial [project aspects] is really weak, and I think they don't want to show where the money going. And, there is no civil society to ask those questions, like where did all this money go...So we try to influence that.’ (Interview, INTL6).

One NEMA official ascribed the shortfall in the capacity of implementing agencies to collect feedback and manage resource allocation to staffing issues (Interview, GOVT3), while a UNEP informant indicated that inadequate technical resources might be to blame (Interview, INTL9).

However, in the case of some policy programs funded by international institutions, foreign partners do put in place systems for monitoring activities, such as DANIDA's environmental program support. An informant from the Danish Embassy explained that evaluation meetings were held with Kenyan state agencies 'in line with the fiscal year planning of the government. And in those meetings we assess performance, we assess the expenditures, and we also assess impact per se, and we have systems in place to process and assess all that. So we have ensured that success, failures, performance, expenditures are actually measured throughout the planning process.' (Interview, INTL7). Indeed, a review of the country's State of the Environment Report (Businge et al., 2011) shows that the large majority of data references were derived from academic references as well as reports from international agencies operating in Kenya, including the World Bank and various UN bodies. Unfortunately, since these projects do not represent the totality of environmental programs in Kenya, there are still significant gaps in the protocol for environmental monitoring and data collection. Due to the cross-linkages between urbanization and environmental conservation, it becomes increasingly important for policy exercises in Nairobi to be supported through an M&E framework that meets the needs of decision-makers.

At the second level of scrutiny, the implementing agencies and parties charged with operationalizing policies have a distinctive role to play in determining the success or failure of a policy. As Thomson (2000) contends, 'The way in which policy is implemented can change the effective content of policy, either because policy interactions have not been fully understood, or because the policy is subverted by those responsible for implementing it.' (Thomson, 2000: 4). Policy performance is therefore a function of the accountability of the agents responsible and transparency of the implementation process. The Ministry of Environment & Mineral Resources One of the emerging tools in Kenya for tracking these two measures (accountability and transparency) is through 'performance contracting', a system of public reckoning for government ministries in Parliamentary sessions led by the President, in order to ensure that annual policy goals are successfully undertaken and seen through. A government researcher described the intent behind this tool:

'Monitoring and evaluation has also been a weak area that needs to be advanced and that also calls for greater political commitment, [through]...parliamentary oversight committees and performance contracting to ensure that there is delivery on promised goals and also that commitment is not to only look at performance at one epoch but to

consider periods so that we can monitor the trend, who has been gaining from performance, who is declining, and what could be the problem. So you can see we have a lot of energy but it is scattered everywhere, there is need for synergy now.' (Interview, GOVT9).

Performance contracting has received a mixed response among the policy decision-makers interviewed in this study. In particular, the highly politicized nature of policy implementation brings into the question the motivations of implementing agents and the allocation of resources to the entire set of activities from implementation to evaluation. As an academic informant noted, performance contracting in Kenya

'Has been positive because performance contracts work where staff say what they want to do and you give them the resources to do that... But the issue is delivery - and also expectations of specific outputs is a problem, because you see a permanent secretary for example is a chief officer in a ministry. He has been given a job, appointed by his political party - his performance activities are actually based on his staff - the output of his staff is what he will use to prove what he has done.' (Interview, PROF1).

However, once again the high turnover rate in state agencies has implications for the undertakings of high-level officials, many of whom may favour short-term goals and projects that are not in the public best interest over more long-term and sustainable programs that would last through the headship of multiple agency leaders. On this point, the same academic informant went on to add - 'because politicians are so artificial they don't understand these things, and you cannot tell them that [sustainable projects] are not feasible to produce within [a short] timeframe... because in politics the minister cannot think beyond tomorrow. So finally there is a lot of waste of government resources. It comes back to the issue of integrity.' (Interview, PROF1).

In addition, lack of ministerial performance is not supported through specific penalties, public disclosure and the associated potential political embarrassment notwithstanding. One state official acknowledged that 'the sanctions are not really well spelled out... if somebody is not performing, really nothing happens. So maybe that's something we need to work on, so that the officers perhaps know the sanctions and what they mean.' (Interview, GOVT5). As a result, both state and non-state informants were highly cynical of the true impact of performance contracting as a mechanism for ensuring policy implementation. An NCC official scoffed, when asked if this system would yield desired results: 'not at all. It's purely, I would call it a PR exercise to get donor funding.' (Interview, GOVT7). This point of view was supported by some of the opinions collected from aid agencies - as a Swedish Embassy informant relayed from their experience in the water sector: 'Reform very often isn't prioritized. There is this big parastatal in water that's really corrupt and inefficient, and they're just supposed to be thoroughly reformed but the CEO just keeps going around asking for more money to do things that they are not even supposed to do, and then you

realize in her performance contract, it doesn't reflect the reform agenda, so because it's uncomfortable she will definitely not do anything about it.' (Interview, INTL6)

Ultimately, it would appear that policymakers continue to rely on data sources from non-state actors with regard to holistic environmental planning, although some resource management bodies such as the Kenya Wildlife Service and Kenya Forests Service do perform monitoring and reporting activities on a fairly regular basis (Businge et al., 2011). This speaks to an important role for non-state actors in informing policy decisions on the basis of evidence. The next section summarizes some of the main observations and findings of this study in relation to the policy process following formulation.

6.6 Summary: Critical Findings on Environmental Policy Implementation and Related Processes in Nairobi

The discussion of environmental policy implementation, monitoring, and evaluation processes in Nairobi confirms the link between policy processes and planning results on the ground, forged through the creation of strategic plans and environmental laws that guide development (Keeley & Scoones, 2003; Leach & Mearns, 1996). Unfortunately, the research data show that a lack of strong linkages between formulated policy content and strategic plans to implement them leaves many policies un-operationalized in Kenya. In addition, in cases where policies require an act of law to be fully operational, the legal drafting process can add further wait-times and present an impediment to seeing the intended results of that policy materialize. As these additional processes of creating laws and strategic plans progresses, often public input from non-state stakeholders falls by the wayside, and the views of CSOs, academia, and the private sector are often not invited, or in cases where they are, these parties face contested conditions in consultation sessions.

The segregation of the environmental mandate between numerous state agencies has led to a situation where the laws that are created to govern the environment have not always stemmed from sound policies, leaving a sense of disconnectedness and even conflict between the regulations emerging from different sectors of the environment such as land, water, and forestry. Further, the philosophy behind policies appears to treat residents of Kenya as a whole and Nairobi in particular as the de facto agents of environmental degradation, a position that can be traced back to colonial attitudes towards local populations and the 'received wisdoms' that Leach and Mearns (1996) have discussed (See Chapter 2). These top-down approaches to the creation of policy are expected to shift toward more bottom-up oriented strategies through the influence of devolution and decentralization; however, the unintended consequences of such reform (Adger et al., 2003) need to be

borne in mind as Nairobi County faces greater challenges in developing local capacity and operating more autonomously from the national government in policy issues going forward.

Moving further along the policy process, in the case of policies that have been implemented, no clear pattern or protocol for monitoring the effects of these policies and their associated laws was detected. In part, failures to adequately implement, monitor, evaluate, and provide feedback on policies is due to resource constraints, particularly where capacity within implementing institutions is concerned. The shortage of appropriately trained technical officers applies to enforcement officers as well as environmental law practitioners within the judiciary and legal system. Another reason for the lack of results in improving environmental and urban planning on the ground stems from poorly regulated or inadequate sanctions for environmental offenders. Informants attributed the root cause of this gap to corruption among enforcement officers and official agencies, or to the structure of sanctions which are not commensurate with offences or representative of harm to the environment. In addition, voluntary compliance is a major challenge in Nairobi because of the cognitive attitudes of residents, many of whom are thought of as unable to identify with environmental goals or claim a sense of space within the urban realm.

The following chapter (Chapter 7) provides a more coherent look at the interlinks between policy actors in Nairobi's environmental realm, in order to better understand how the facets of authority and power have affected and will potentially continue to affect the policy process, from formulation to implementation.

Chapter 7

Theoretical Analysis of the Policy Process

7.1 Introduction: The Policy Process Through the Network Theory Lens

The notion that networks govern policy has existed for over four decades (Kenis & Schneider, 1991), and theoretical and empirical contributions to this aspect of policy studies have been prolific since the early 1990's (Adam & Kriesi, 2007). The term 'policy community' is applied to all the various individual actors and institutions engaging in environmental policy dialogue, including journalists, activists and academicians. However, within this larger group there is a 'policy subsystem' consisting of a network of actors 'in which a small set of actors-such as business and government - may interact on a regular basis affecting day-to-day policymaking.' (Howlett & Ramesh, 1998: 469). It is this core group of actors that this study has focused on. The discussion in Chapters 5 and 6 addresses the first two questions posed in this thesis (see Chapter 4). Thus, this Chapter takes on the task of applying policy network theory to the research data to test its applicability in explaining the processes and phenomena revealed in the foregoing discussions.

There have been several theories that address particular aspects of the network, and various scholars have attempted to create organizational models to depict the policy process on the basis of network parameters. These various contributions hold certain commonalities, most importantly that the various levels in the network may be seen to constitute a hierarchy within which authority, power, and knowledge is distributed (Schneider, 1992). Depending on the nature of analysis, both the horizontal as well as the vertical relations in the hierarchy may be the point of focus (Ibid.). The literature has more recently placed greater emphasis on the importance of horizontal as opposed to vertical arrangements (Coleman & Perl, 1999), wherein policy actors interact across a spectrum from conflict to cooperation (Adam & Kriesi, 2007; Figure 6). There have been some opponents of the use of early policy network theories, who have argued that such frameworks are severely limited and lacking in strong theoretical underpinnings (Dowding, 1995). In addition, more recent approaches to applying network theories have shown their value in explicating the mechanics of policy processes and their links to policy outcomes (Thatcher, 1998; Adam & Kriesi, 2007). For this reason, this chapter adopts a critical qualitative analysis approach to applying policy network theory in the form of Adam & Kriesi's (2007) Network Approach, as laid out in the volume 'Theories of the Policy Process' edited by Paul Sabatier (2007).

7.2 The Network Approach and Related Concepts: An Overview

While many approaches focus on quantitatively mapping (c.f. Reed et al., 2009) and visualizing policy actor networks (c.f. Brandes et al., 1999; Prell & Reed, 2009) through sociometric network analysis (SNA), this study adopts a qualitative approach that examines the actor network more metaphorically. To accomplish this goal, the following discussion combines a description of Adam and Kriesi's (2007) Network Approach (along with additional complementary concepts from other policy network theorists) with observations from the policy discussion in Chapters 5 and 6.

7.2.1 Categorizing the Policy Network Type – Theoretical Labels

The Network Approach provides a method for identifying the existing actors in a policy subsystem without actually describing a 'new' governing structure (Adam & Kriesi, 2007). The Network Approach is designed for application in situations where change is considered a potentiality, because policy frameworks are perceived to be in a regular state of flux. There are five key variables used to describe a given network: the number of actors; the complexity of the network, which is also a function of the number of actors within it; the degree of self-referentiality of the network, which is to say the extent to which the network is permeable to external actors or conditions; conflicts of interest between the actors involved; and the costs of network management, in situations where this is a formal arrangement. These variables cover many of those summarized by Jordan and Schubert (1992), except for the issue of 'network stability' which Adam and Kriesi (2007) do not explicitly take on, but which can be considered as a function of the conflicts present between actors and the permeability of the actor network to outside interests. Section 7.3 applies these variables to the research data to determine their applicability to the environmental policy context in Nairobi.

The Network Approach thus builds on the tripartite typology using the aforementioned network variables, and proposes a typology for identifying the specific type of network in a given policy subsystem by employing two key dimensions: the *attributes of actors* in the network, expressed in terms of their capabilities, power, and authority, exploring whether these elements are concentrated in certain institutions or agents (creating 'policy monopolies', as termed by Baumgartner and Jones (1993)), or distributed more evenly across the network. This dimension is also related to the centrality of the governance scheme – more centralized systems allocate more power to specific state agencies (creating what Schmitter (1979) calls 'peak associations'), while decentralized systems are more likely to share power and policymaking activities with a wider range of actors. Hence, there are both homogenous and heterogeneous network forms, depending on the diversity between the actors involved.

The second dimension in of the typology is the *interactions between actors* in the network, based on the character of the relationship that actors hold relative to the state, typified by the level of conflict or cooperation that emerges during policy process exercises. This echoes the work of Jordan and Schubert (1992: 7), who state that ‘There are two basic types of relationship possible between interests and the State. In the first there is competition between interest groups to gain access to the policy making procedures of the State to influence political decisions. In the second approach there is cooperation between the interests and the State.’ The Network Approach provides a continuum to gauge the status of a network, shown in Figure 6 below:

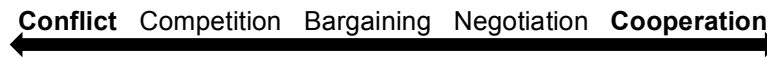


Figure 6 Generalized policy decision-making processes prior to implementation of Constitutional reforms. Source: Onyango and Namango, 2005: Fig. 20.1

There are a number of factors that contribute towards determining the nature of interactions between actors, one of which is their belief systems, whether shared or disparate (Sabatier, 2007; Henry, 2011). While examining the formation of policy networks, it is important to note the reasons why different actors occupy the roles that they do, in order to better appreciate the motivations behind their policy positions. For instance, some actors hold a place in the environmental policy network as a result of a legal mandate ascribed to them, while others are connected as a result of informal objectives, such as ideological ties with the functions of the policy network (Henry, 2011). Granovetter’s (1983) hypothesis of the ‘strength of weak ties’, which are relationships between distantly related individuals in a policy network, has been applied to policy research in the environmental arena. Reed and colleagues (2009) provide a discussion of the various types of stakeholder analysis that can be undertaken, drawing the conclusion that Granovetter’s theory manifests strongly in environmental policy networks:

‘Diverse information and new ideas have been shown to travel best through weak ties. Research has shown that weak ties tend to exist between dissimilar individuals, and as such, offer stakeholders access to diverse pools of information and resources by bridging otherwise disconnected segments of the network. Within the context of natural resource management, weak ties that link diverse individuals and groups together and bridge disconnected segments of a network can make it more resilient and adaptive to environmental change.’ (Reed et al., 2009: 1940).

Actor attributes and interactions are therefore interlinked and feed into each other to produce complex networks which various actors may occupy numerous roles and have varying degrees of power based on the

influence they are able to corral in any given policy position through the use of both their strong and weak ties in the network.

Nonetheless, the two dimensions of attributes of actors and the type of interaction between them and the state aid in assessing their position in the network. Using the variations of these two dimensions, Adam & Kriesi (2007) propose six potential categories of policy networks, as shown in Table 1 below:

Distribution of Power	Type of Interaction		
	Conflict	Bargaining	Cooperation
Concentration	Dominance	Asymmetric Bargaining	Hierarchical Cooperation
Fragmentation	Competition	Symmetric Bargaining	Horizontal Cooperation

Table 4 TYPOLOGY OF NETWORK STRUCTURES. Source: Adam & Kriesi (2007: Figure 5.1)

Adam & Kriesi’s typology then carries forward from a descriptive approach to explaining the network structure, to link to the phenomenon of policy change and the potential for certain kinds of policy change based on the types of interactions between actors in the network. As the authors describe this typology,

‘The *type of interaction* within a policy network determines the *form* of policy change. In conflictual situations we expect rapid (serial) policy shifts, whereas incremental changes are most likely to result in bargaining situations. Cooperative policy structures are likely to maintain the status quo. The *degree of concentration of power* is expected to determine the *potential* for change: we assume the potential for each type of change to be greater if power is fragmented. If power is fragmented, the scales are more easily tipped in favor of the challenging actor coalition. By contrast, if power is concentrated, challengers lack resources to break the “policy monopoly”.’ (Adam & Kriesi, 2007: 152, emphasis in original).

The Network Approach provides a typology that categorizes policy networks on the basis of the dimensions of power distribution (either concentrated or fragmented) and interaction type within the network (conflict, bargaining or cooperation), producing six ways in which policy change can potentially manifest as a result of the attributes of the network (Table 2).

Distribution of Power	Type of Interaction		
	Conflict	Bargaining	Cooperation
Concentration	Moderate potential for rapid (serial) shift	Low to moderate potential for incremental change	Low potential for change – maintenance of status quo
Fragmentation	High Potential for rapid (serial) shift	Moderate to high potential for incremental change	Low to moderate potential for change – maintenance of status quo

Table 5 POTENTIAL FOR AND TYPE OF POLICY CHANGE IN THE NETWORK APPROACH. Source: Adam & Kriesi (2007: Figure 5.2)

In addition, the Network Approach considers the transnational, national, and policy domain-specific conditions that influence the functioning of a policy network and provide a contextual basis for understanding their actor interactions and policy outcomes. Hence the Network Approach provides a clear analytical typology to categorize policy networks and predict the policy outcomes thereof, as summarized in Figure 7.

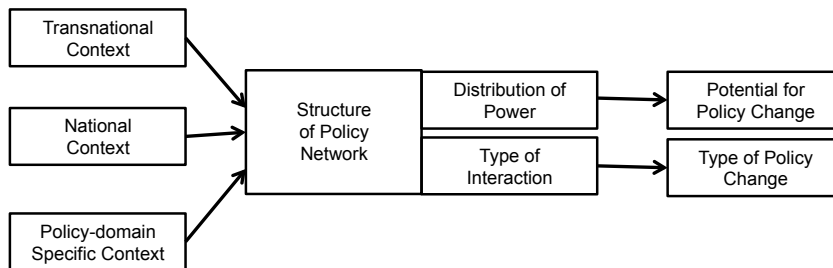


Figure 7 THE NETWORK APPROACH: SUMMARY. Source: Adam & Kriesi (2007: Figure 5.3)

Adam and Kriesi’s theoretical offerings of approach meet with the objectives with this study of characterizing the policy process in terms of the actors involved and linking these arrangements, phenomena, and interactions with the eventual policy implications and corresponding repercussions for environmental planning in practical settings.

7.3 Applying the Network Approach to the Study Data

The following section applies the Network Approach to the study data with regard to the distribution of power and authority in the environmental policy network in Nairobi, as well the potential for policy change given the network arrangements that are revealed. The Network Approach typology is supplemented with theoretical analogies from complementary policy network theories as well.

7.3.1 Key Theoretical Attributes of the Environmental Policy Subsystem in Kenya

This section provides a description of the research data through the lens of the five key variables that the Network Approach identifies. The first two variables, the number of actors and the complexity of the network, are addressed together for ease of analysis.

7.3.1.1 The Number of Actors and Complexity of the Network

The networks that form to formulate policy often overlap and intersect with those that implement it (O'Toole, 1995), and this is certainly the case in Nairobi. In fact, the implementing network may be seen as a nested arrangement within the wider policy 'formulation' network, with many of the same actors responsible for crafting policy also holding a mandate or important role in the implementation thereof. For instance, the National Environmental Management Authority is the key implementing agency at the state level, but also provides technical input into the development of policies and legislation. In addition, many of the transnational actors in Nairobi interact with the state government in both policy formulation as well as the funding of implementation, monitoring, and evaluation activities. As a result, the number of actors in the overall network structure that share 'strong ties' are primarily those that also have a higher degree of power and influence, including national-level state actors, funding agencies and private donors, and CSOs with the expertise and resources to contribute extensively to policy formulation and/or implementation.

The complexity of the network is interlinked with the number of actors involved, but also stems from a number of additional factors. Firstly, power and authority continue to be largely localized at the state level, with non-state actors acting as forces to push for change from outside the state apparatus. The State is ever more involved with discrete groups and institutions on a policy level, rather than the general public at large (Coleman & Perl, 1999). Environmental policies, among other national policies, are often developed with the involvement and resources of various non-state and 'supranational' institutions (Ibid.). The discussion in Chapters 5 and 6 depict both the direct and indirect influence of foreign institutions through State channels, as well as through their funding of CSOs, placing them solidly within the core set of policy network agents.

As a result, political relationships with foreign parties as well as stochastic changes in international environmental standards render the network as dynamic. The transnational actors in the Kenyan context include UN bodies, embassies of foreign governments acting in development roles, donor groups working at the grassroots level, and visiting policy entrepreneurs solicited by both state and non-state agencies. Together, their shared policy roles establish these foreign actors as an epistemic community (Adler & Haas, 1992), fundamentally differentiating them from local actors. Furthermore, in the face of large-scale reform through devolution and decentralization, the policy network is certainly in flux. Such reforms bring new opportunities for these supranational agents to directly engage with sub-national governing bodies and local elites, whereas previously engagement with state actors was confined to national level institutions.

Academic institutions appear to have very limited authority but do indirectly influence and shape policy content through research; however, individual academicians may hold positions of authority if contracted by state agencies to be part of policymaking teams. CSOs are crucial to grassroots advocacy and to solidifying the space for non-state actors to engage, although their policy positions are tied to aid conditionalities and are therefore not necessarily autonomously decided. Private sector actors occupy space in the policy network either as donors towards implementation projects, or as experts providing knowledge and experience to formulation and implementation activities. In the former case, greater power and influence into the policy process is conferred as a result of the material assets, which these private actors are able to bring to bear.

Given that the policy network is dealing with environmental issues in the urban arena (at the interface of society and nature), the evidence from the study indicates a high level of what Van Bueren, Klijn and Koppenjan (2003) address as three distinctive kinds of uncertainty: ‘cognitive uncertainty’, arising because the solutions to environmental problems are difficult to arrive at due to gaps in data provision and incomplete feedback loops (through monitoring and evaluation) from existing policies; ‘strategic uncertainty’, because there are multiple actors involved in deciding policy directions who are not entirely in agreement; and ‘institutional uncertainty’, because environmental issues are directly affected by developmental and economic decisions in other policy arenas which are beyond the control of the environmental policy network.

Figure 8 provides an overview of the various key actors that were identified through this research study, and their relationship with the State. The distance of connecting arms between the Ministry of Environment and Mineral Resources and other actors metaphorically represents the level of influence that each actor carries relative to the MEMR; in addition, some actors occupy dual roles in both formulation and

implementation activities, represented as overlap between the horizontal gray and white panels on the diagram. The extent of overlap into the gray shaded area indicates the extent of activities of that actor in implementation – for instance, NEMA has more of a policy implementation role than a formulation one, and is more involved in environmental policy implementation than the Nairobi City Council or the Ministry of Nairobi Metropolitan Development. Some actors, such as academicians, are involved indirectly in implementation, more in the way of monitoring and evaluation from an academic research perspective, but feed their expertise into policy formulation activities when called upon. Civil Society actors are known to combine their activities with private organizations and transnational or foreign aid agencies, forming a ‘hybrid’ type of actor with multiple loyalties.

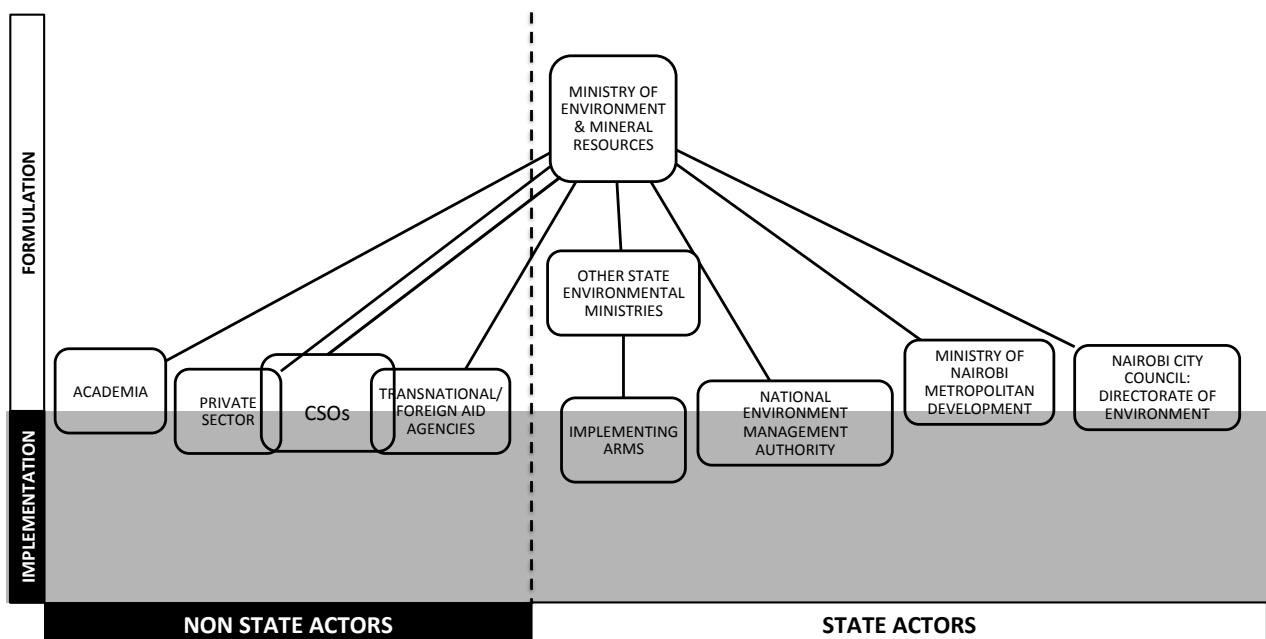


Figure 8 ENVIRONMENTAL POLICY IN NAIROBI: QUALITATIVE NETWORK STRUCTURE

7.3.1.2 The Self-referentiality of the Network

The environmental policy network in Nairobi displays a high degree of complexity, as indicated by the multifarious and nuanced interactions between each category of actors and the others in the network. Furthermore, because environmental policies are closely linked to other policy issues such as economic and urban development and tourism, the environmental policy network needs to be looked at in terms of its

interactions with adjacent policy networks in alternative policy domains. In this regards, there are clear divisions in the interests of Kenyan environmental policy stakeholders that limit the convergence of policy positions, particularly where the sectorial divides are concerned. As the study data has shown, despite pressure to ‘mainstream’ environmental issues across the board, cross-sectorial policy harmonization in Nairobi remains limited, particularly where development strategies are concerned. This condition is explicated by social systems theory, which as Krott and Hasanagas (2006: 557) explain, suggests that ‘cross-sectorial policy is difficult because organizations protect their “turf”; hence collaborations are limited by intra-sectorial interests, reluctant to ‘endanger the balance of power’ (Ibid).

The hope for bridging sectorial divides in Nairobi would be through the actions of environmental actors in three ways: the dissemination of information; the application of political influence; and the provision of financial incentives for greater collaboration (Ibid.: 559). The authority of state actors constrains these efforts, for ‘Within a network where the state is strong, an actor can hardly circumvent the dominant state influence in order to build bridges based on interactions between private actors’ (Ibid.). In addition, if the policy network is highly formalized, there would be an even lower potential for collaborations to occur (Ibid.). As the discussion in Chapter 5 and 6 indicates, the involvement of the wider community in environmental policy formulation and implementation is limited partly due to the lack of a sense of belonging and ownership among the residents of Nairobi. Another explanation for this disaffection comes from the area of social capital, where community agency, defined as ‘the power of a community to maintain and enhance its social, economic, and environmental well-being through public participation’ (Parisi, Taquino, Grice, & Gill, 2004: 99) may be lacking due to the poor economic conditions of residents in an area (Luloff & Swanson, 1995) – although this phenomenon is common in rural areas in the Western world, it is also evident among the significant majority of Nairobians, many of whom live in informal accommodations (UN-Habitat, 2006).

7.3.1.3 Conflicts of Interest between Actors

As Primmer (2011: 133) summarizes from her review of policy network literature, ‘networks are often established in the form of working groups, projects or partnerships’, although political interests and authority have an important role in shaping the way that networks organize themselves and carry out tasks. This is certainly true in the case of Nairobi, where there the evidence from this study shows that political influence remains a strong determinant in the involvement of actors and the extent to which their input is considered in policy decisions. In this setting, the main interactions that carry influence are those between

institutions and the state, a view that has been found through the work of policy scholars in the west as well (Waarden, 1992). However, at the intra-institutional level within state institutions, the head of the agency carries a significant degree of authority with regard not only to policy positions, but also to the very policies that are formulated and implemented, as evidenced by the attested-to power of the position of the Minister for Environment and Mineral Resources, for instance. As a result, corrupt practices have fostered a lack of trust in the integrity of state operations to bring the public interest to the forefront.

Hence conflicts between state agencies and non-state stakeholders are resolved to some extent through bargaining during policy consultation forums, but at the same time, the study informants indicated uncertainty as to whether their input was truly consolidated into the final policy outcome or not. This makes the policy context in Nairobi more elusive to define based on the interactions between partners, because while it would appear that both bargaining and cooperation are taking place at a procedural level, there appears to be a persistent trend of state dominance in policymaking, leading to conflicts particularly where advocacy and civil society groups are concerned.

Furthermore, network legitimacy is hinged on the participants holding the belief that ‘collaboration with one another is beneficial’ (Provan & Kenis, 2007: 243). The research data do appear to indicate that stakeholders both in the state as well as non-state levels do agree with this precept, and yet cultural barriers to sharing information, resources, and agendas continue to reduce the potential for effective collaboration both within the network and with other networks in relevant policy domains in Nairobi as well, as mentioned in the previous section. However, cooperation and filial associations between the actors appears to be distinctly lacking, as the research data indicates that the various categories of actors involved tend to view one another with suspicion, distrust, and in some instances, disregard. This can be considered as a lack of ‘social capital’, where social capital is defined as the ‘norms, trust, and reciprocity that facilitate coordination and cooperation for collective benefit.’ (Parisi et al., 2004:99). Without the necessary binding ties of trust and cooperation, the network is held together on the basis of contested ideas and viewpoints, with no clear consensus on the best way forward.

Secondly, in addition to trust and cooperation, ideological and political similarities are broadly recognized as the building blocks of network linkages (Henry, 2011). In Nairobi’s environmental policy culture, the research indicated dissimilarity in the approaches to environmental issues favoured by the different actors involved (as discussed in Chapter 5). This dissonance in the ‘belief systems’ of core policy actors appears to have led to a strong imbalance in the sharing of authority, and as a consequence, in this policy environment the views of the funding group and their key government partner take precedence as the

favoured policy position. As Henry (2011: 379) contends, 'networks are held together by power-seeking relationships that better enable individual network actors to affect policy change. However, ideological similarity appears to be a necessary condition for power-seeking mechanisms to drive the cohesion of policy networks'. In other words, linkages between actors in the networks are contingent on power and authority, but unless there is some ideological similarity between the actors, the 'cohesion' and perhaps ultimately the continuity of the network are at stake.

7.3.1.4 The Costs of Network Management

The environmental policy network in Nairobi appears to have some formal context with respect to the actors that are legally mandated to have a role in policy activities, but also has a large number of informally associated actors, particularly from the civil society sector. 'Network participants typically have limited formal accountability to network-level goals and conformity to rules and procedures is purely voluntary' (Provan & Kenis, 2007: 232). Although state policy leaders such as the Ministry of Environment and Mineral Resources are required to hold consultative sessions with the stakeholders who form the policy network, these forums are considered to be a part of the proceedings of policy formulation and do not carry forward into the policy implementation stage. At this latter stage, the separate categories of policy participants engage with each other when partnering on specific implementation programmes (as indicated by foreign funding organizations who participate in the Kenya Joint Assistance Strategy, or CSOs who work on policy implementation monitoring) but there was no indication from informants as to a wider 'network' of implementation stakeholders that meet on an ongoing basis. Highly formalized networks with a management scheme were not encountered in this study, and as such the material cost of network management is not a measurable variable for the study data.

7.3.2 Applying the Network Approach Typology

The typology of the network approach demands a characterization of the policy network based on power distribution and interaction type between the actors involved. With regard to the first dimension, power, the foregoing discussion reveals a trend of dominance of state agencies, particularly at the national ministerial level, although funding partners often hold significant leeway in influencing the final policy content. The structure of policy network holds multiple state environmental agencies at the national level,

with a far reduced sense of authority at the local municipal level. Hence, there is a disconnect between the decisions made through these Ministerial policy activities and the people that are directly affected by those decisions, and charged with implementing them within local Councils. However, the role of the National Environmental Management Authority both in policy formulation and implementation allows for some connectivity between formalized policy statements and their implementability. This 'concentrated' character of power in the policy network is linked to the long-standing trend of adopting policy positions that place the public at large, as the parties charged with environmental compliance, in the role of the 'other', requiring control and domination in order to produce fruitful results. In addition, the high degree of self-referentiality of the network as a result of the political separation of environmental issues from other key policy areas in Nairobi despite a clear intent to mainstream environmental issues is an indicator of the continuing domination of state entities in environmental policy.

The second dimension of the typology, with regard to the interaction between actors within the network, is construed on the basis of the conflicts between the state and all other non-state actors, and the complexity of the network. In the case of the environmental network in Nairobi, there appears to be at least a procedural acceptance of the practice of stakeholder consultation, although it was not possible within the scope of this study to determine the exact extent to which stakeholder input is formally integrated into policy content. As such, the conclusions drawn are based on the key informant reports, which largely indicated a mix of bargaining and cooperation except in some instances where the state had adopted a position that was opposed by a particular subset of actors, such as advocacy groups or private planners. As such, the Network Approach typology cannot clearly be applied in a categorical fashion to the entire policy network; instead, it needs to be applied systematically based on the particular actors in question.

Critics and contributors towards the area of policy network frameworks and theories have indicated that there are some disjunctures in the ways that networks are conceptualized. Notably, Marsh and Smith (2000) have argued for a more 'dialectical approach', whereby the relationship between networks, their attributes, and influencing factors (both exogenous and endogenous) should be seen as feedback based interactions rather than unidirectional effects. Specifically, these authors identify three key areas in which dialectical relationships occur: first, the structure of networks and agency of actors within them, whereby the actors in the network are integral to defining the nature of the way that the network functions, but the network also constrains and defines the roles of the actors within it; second, the network and the wider context in which it operates, which consists of economic, social and political conditions that shape and are shaped by the network; and third, the network and the policy outcomes it produces, which are indicative of

the structure and functioning of the network but also have the potential to cause shifts in the network as well (Ibid.: 5-9).

Policy network theory is concerned with both the types of stakeholders involved (that is, their institutional affiliations and social positions relative to the state) and with the characteristics they hold that confer their position in the network. In the network approach typology, when attempting to model actor relations, the source of ‘power’ that grants them influence in the policy subsystem is of crucial importance. Putting all the various facets of the actor network revealed through the detailed narrative in Chapters 5 and 6, a schematic of the network typology as applied to the research data was created. The Network Approach suggests that power distribution and type of interaction between actors should be examined as separate aspects of the structure of the actor network (Figure 7). However, the study data indicate that the type of interaction between actors and the state is often determined based on the amount of power and influence that actors hold at a given point in time.

Further, the type of interaction, or the treatment that actors receive from the state, can also feed back to affect the power or influence that an actor holds. This dialectical relationship is portrayed in Figure 9.

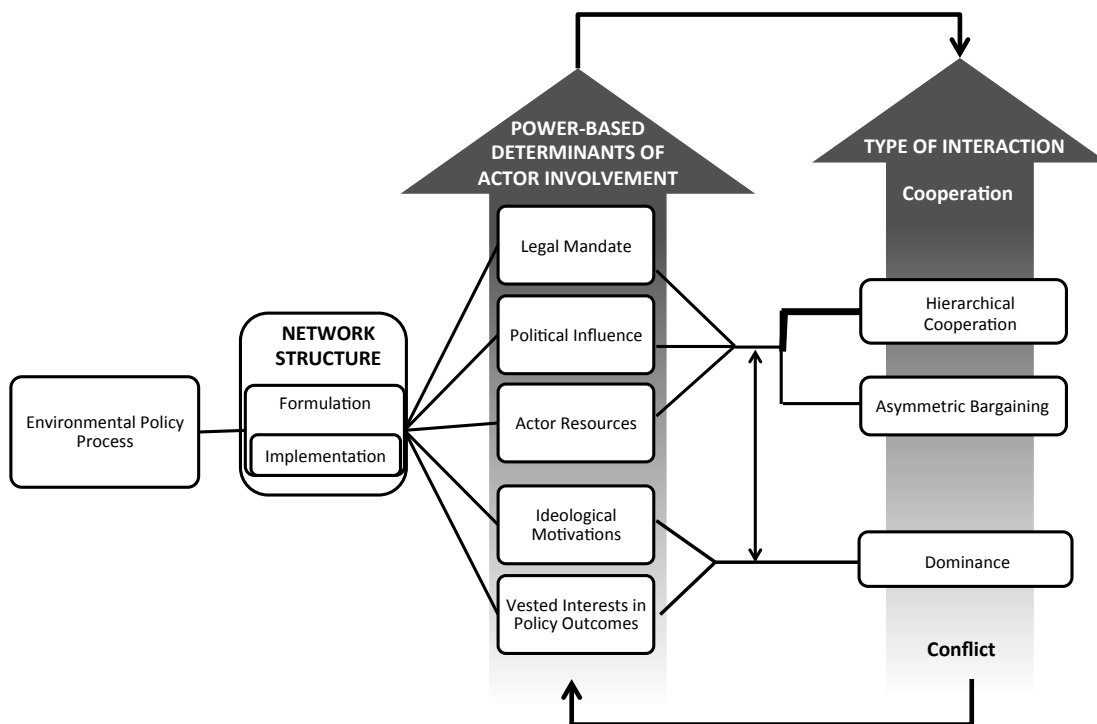


Figure 9 ANALYSIS OF STUDY DATA USING THE NETWORK APPROACH

As the schematic in Figure 9 illustrates, the factors that determine the power of actors then carry forward to aid in characterizing the relationship that actors with that type of power share with the state. The power-based determinants of actor involvement in the network have been drawn from the research data, which revealed that actors with the strongest influence are those that are either legally mandated to carry authority in the policy process, or are in possession of resources, whether political, material, or intellectual. The 'actor resources' category therefore applies to those actors such as foreign aid agencies or CSOs that have the resources to provide expertise or funding to policy formulation and implementation. The greater these resources are, the more power they confer, hence pushing for a greater degree of cooperation versus bargaining, as indicated by the denser line connecting the first three levels of power types to hierarchical cooperation, and lower degrees of the same to asymmetric bargaining.

The actors with ideological motivations include smaller NGOs that may not have the financial clout or capacity to contribute to policy processes at a higher level. Similarly, some actors may have a vested interest in policy outcomes in terms of the consequences for their activities, such as private organizations or businesses that would be affected by environmental policies, but are not able to make major donations of time or resources towards policy activities. These two latter groups may however be able to bind with other actors that do have access to more influence through their political influence, resources, or legal mandate, and by forming a coalition with such actors, the more marginalized actors would then be able to lobby more effectively for their policy positions. The funding of CSOs by foreign aid agencies, for instance, or the channeling of the interests of local communities through CSOs that have the potential to carry the public interest to the policy table shows evidence of this phenomenon in the data. Thus, a dialectical relationship exists between those with less power and resources but a greater ideological or personal motivation to get involved in policy activities, whereby those with more power can combine their resources to either support ideological movements, or direct the energies of entities (particularly in civil society and other non-state, non-partisan entities) to push for particular policy positions through conditionalities attached to aid, as discussed in Chapter 5.

The foregoing discussion thus provides a picture of the complexity of the environmental policy actor network in a developing context such as Nairobi, where the structure of the network is perpetually in flux but power is concentrated in the hands of a few, particularly the national government. However, as the County and the country move to implement Constitutional restructuring of the governing scheme, myriad changes are set to occur to the existing arrangements. The following section discusses how policy network theory

could aid in considering the effects that devolution and decentralization will have on the network discussed in this section.

7.3.3 Addressing Network Change: Consequences of Constitutional Reform

The environmental policy network in Nairobi is set to change due to the combined processes of devolution and decentralization through Constitutional reform. The emerging structure of the actor network is not yet possible to characterize clearly, and presents an interesting area for future research. At this point in time however, it is possible to apply theoretical knowledge to provide a prediction of how the network will be affected by Constitutional change, and by extension, how the policies that emerge from the new network will also change.

The move towards devolution represents a shift towards what Witte, Streck and Benner (2009: 67) call a coordination network, which: ‘facilitate(s) broad-based knowledge exchanges between governments, international organizations, NGOs and the private sector, and thereby help(s) to identify common goals and the development of coordinated action strategies. As a result, coordination networks help to improve the allocation of scarce resources and avoid duplication [of actions]’. The ‘resilience’ of the environmental policy network in Nairobi has not been established through research, although theoretically it is anticipated that such arrangements would tend to persist over time, despite opposing forces (Primmer, 2011, Blom-Hansen, 1997). However, in the face of such large scale change in Nairobi through devolution and decentralization, it would appear that the former policy subsystem that placed the national government as the core of policy activities is rapidly shifting towards greater non-state stakeholder participation, particularly where civil society is concerned (‘Counties Challenged to Prove they can Govern’, 2013).

While there is little doubt that the structure of the environmental policy network in Nairobi is set to change, particularly from a state perspective with County governments taking on greater roles and responsibilities, an answer to the question of whether there will be actual **policy** change as well remains at large. Given that the National Environmental Policy is still in draft and will likely be finalized through the cooperation of county governments, and given that individual counties will have to develop policies that match their needs and resources, this is an important question for the future of environmental management in Nairobi.

In order to provide some indication of the future of policy change in Nairobi, the Network Approach typology for predicting potential and types of policy change was applied to the data, as shown in Figure 10.

As per Adam and Kriesi's typology, in a context where power is concentrated in the hands of a few, there is a spectrum of potential for policy change from a low to moderate level, but it not highly probable. As to the type of policy change that might occur, there are three categories: first, assuming the highest possible degree of cooperation between state and non state actors, the relative harmony in interactions would ensure hardly any noticeable policy change, and the status quo would persist. Second, with a more bargaining-oriented relationship, there would be incremental change, slower than in the first instance but still showing a trend of change spurred on through the influence of various actors leveraging their assets in bargaining positions with the state. Third, in a situation where actors have a strongly conflicted relationship with the state characterized by dominance, there would be a series of rapidly occurring shifts in policy, but not a major sea change or paradigm shift.

The work of Hogl, Nordbeck and Kvarda (2009) further adds to the depiction provided by the Network Approach. Drawing on the work of Howlett and Ramesh (1998), these authors suggest four key conditions of policy networks that help in predicting whether policy change is set to occur: 'closed subsystems', which have stable actor configurations and little change in the prevailing paradigms, and hence reinforce the status quo (Ibid.); networks that are open to both new actors and new ideas, which have the most conducive and perhaps even vital conditions to ensure policy change; networks that welcome new actors but not new ideas, and are therefore capable of integrating additional actors into existing arrangements but are ultimately 'resistant' to change; and networks that are receptive to new ideas but not new actors, which often display 'contested' settings between competing actors, hence reducing the potential for effective change.

Of these four network conditions, the case of Nairobi as portrayed by the study data is perhaps best described by the 'resistant' or 'rapid incremental' (Howlett and Ramesh, 1998) model, because while the introduction of 'new' actors is inevitable through devolution and the creation of new arrangements in authority and state governance, it remains to be seen whether new ideas will also be welcomed by these emerging policy networks that may also consist of a number of actors that have carried over from the previous regime. Given the acknowledged limitations of a long history of conflicting interests between state and non-state actors, and the constraints of insufficient capacity and resources, a conservative assessment would be that policy change in Nairobi County would take the form of incremental change, best supported by the continued evolution of the ideological basis for policy decisions (Henry, 2011).

The policy strategies that emerge from a particular network arrangement can also be predicted based on the two variables of openness to new actors and openness to new ideas, as Hogl and his colleagues describe: If the new actor arrangements remain 'resistant' to new ideas, the dominant form of policy output would be

that of 'process oriented' strategies, which focus on adopting the required legal and procedural guidelines mandated through international and local laws, without significantly changing existing policy approaches. However, in the event that new ideas are able to present themselves and be welcomed in the emerging actor framework, the environmental strategies and policies that emerge from future formulation activities would of the 'change oriented' type, whereby novel policy interventions and approaches are adopted and institutionalized (Hogl, Nordbeck & Kvarda, 2009: 358-359).

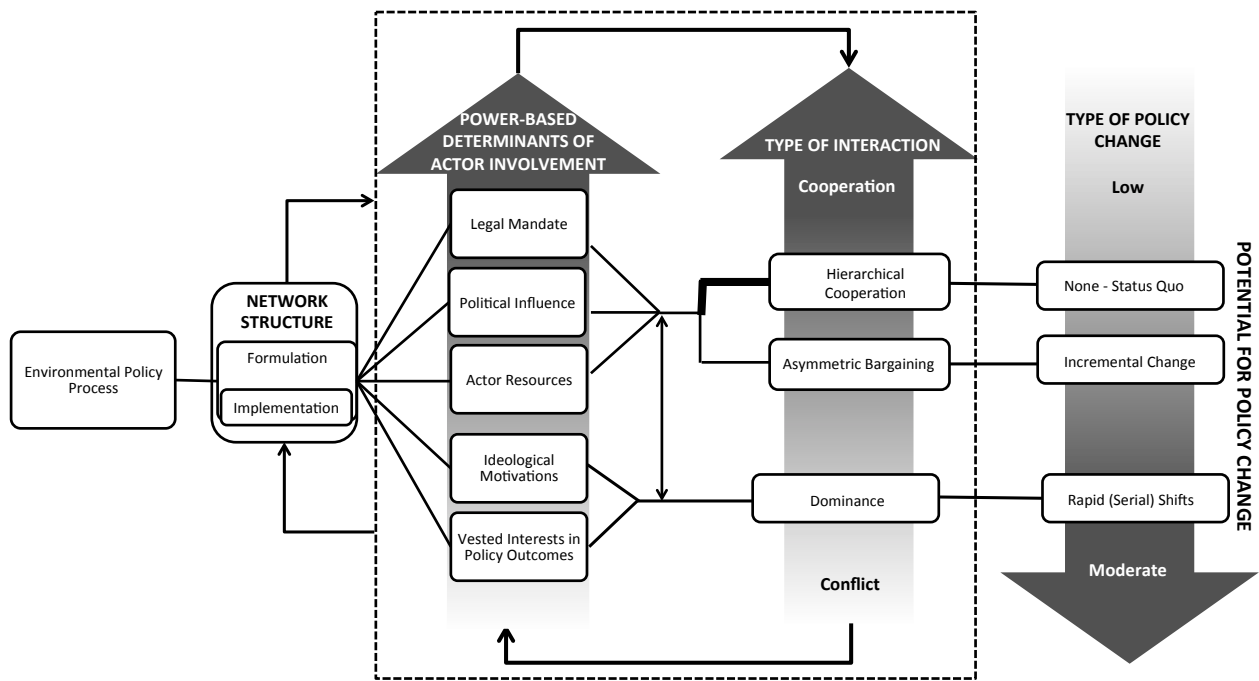


Figure 10 POLICY NETWORK: DIALECTIC RELATIONSHIPS AND POLICY CHANGE

Thus, the theoretical implications of Constitutional reform point to the potential for spurts in policy change that will occur as the network stabilizes and a new order of the day emerges with regard to how environmental policies are created and implemented, and how the environmental network intersects with other networks in adjacent policy arenas, including economic and social development. As a growing urban metropolis, Nairobi County faces a high degree of uncertainty as to the kinds of policy change that will emerge.

7.4 Summary: Applicability of the Network Approach to the Nairobi Context

The Network Approach as applied to the research data has yielded some interesting insights into underlying reasons for why actors interact the way they do, and the influence of power and authority in shaping the policy network structure as well as the interactions that occur between actors. A number of modifications were made to Adam and Kriesi's typology in order to suit the environmental policy context in Nairobi, which was to be expected given that this typology was originally constructed for applications in more stable, developed contexts. There are therefore two main criticisms of the Network Approach in its applicability to the research context.

First, the linearity of the typology is problematic in that it does not appreciate the dialectic complexity of interactions within the actor network and the link to power, authority, and the influence they confer. In addition, the feedback relationships between the structure of the actor network as a result of power and the eventual outcomes of policy networks are also not given their due credence (Figure 10). Secondly, the typology oversimplifies the categorization of actor relationships, in that it assumes that one type of interaction dominates and can therefore be used to characterize the interaction of all non-state actors with their state partner or partners (Figure 8). As the research indicated however, there is a far greater degree of complexity inherent in the policy process in Nairobi, and it is not possible to apply a single label to all the interactions present. Rather, it is important to address each type of relationship on its own (Figure 9 and Figure 10).

As a result, the applicability of the typology in predicting the type of policy outcomes is somewhat reduced, but can be applied speculatively with the assumption that within the overall actor network, some actors will emerge as more influential than others, and it is the relationship of these influential actors with the state that will decide the potential and type of policy change that will occur as Nairobi goes through the pressures of shifts in the governing scheme (Figure 10).

Chapter 8

Conclusions and Recommendations

This study is a contribution towards understanding how the environmental policy process in Nairobi is shaped by the decision-makers within it, in order to assess the linkages between contextual factors, the attitudes and perceptions of actors in the policy network, the distribution of power and influence between them, and the ultimate consequences for environmental planning on the ground. The in-depth, qualitative case study approach utilized aimed at the collation of views of a cross-section of actors, allowing for a wider range of perceptions to be captured, patterns across sectors to be detected, and ultimately for critical gaps and discrepancies in thought and practice to be identified.

8.1 Challenges to Policy Formulation and Implementation

The challenges to democratic and effective environmental policy formulation and implementation in Nairobi can be summarized in two broad categories: systemic issues, and procedural issues. In the case of systemic issues, the research data revealed a number of underlying, pervasive factors that are shaping the interactions of actors and the decisions they make and that go beyond the institutions and actors to the wider socio-economic and political context in which they operate. Chief among these is the issue of corruption and political self-interest in state agencies, which all 25 informants in the study referred to as the cause for challenges ranging from the lack of inclusive space for non-state stakeholders, to a lack of commitment to policy implementation, and shortfalls in adequate enforcement of environmental laws and regulations.

Second, as Keeley and Scoones (2003) observe from their research in Africa, policy decisions are culturally embedded, and the importance of considering cultural factors in the policy process cannot be understated. In the Nairobi context, cultural barriers to the sharing of resources and information across government agencies and with non state actors have long prevented the collation of in-depth and long-term environmental data as a metric for monitoring of policy effects on the ground. In addition, the tradition of top-down approaches towards policy development, and the consequent lack of policy ownership among County-level institutions and the public at large have reduced the potency of operationalized policies.

Third, the ethos behind policy interventions often places the public as the perceived agents of environmental degradation, leading to command-and-control oriented laws that have failed to instill a sense of environmental stewardship among local communities. This confirms the contention of Leach and Mearns (1996: 456): 'It is possible to show that the interests of various actors in development – government agents,

officials of donor agencies, the staff of Northern and Southern non-governmental organization, and independent “experts” – are served by the perpetuation of orthodox views, particularly those regarding the destructive role of local inhabitants’.

With regard to procedural issues, these relate to the ways that decisions are taken based on the hierarchy of authority and power that places government ministries at the top of the decision-making chain, with agents that have a legal mandate or political or material resources to leverage holding the greatest degree of bargaining power and drawing the cooperation of state agencies. Thus, the network that develops is strongly centered around the political priorities and aspirations of national-level institutions. As Leach and Mearns attest:

‘At least in some parts of Africa, the colonial legacy in environmental institutions was directly inherited by post-independence governments, helping to account for the persistence of received wisdoms. Furthermore, by comparison with the colonial period, some notable similarities can be observed in the relationship of contemporary expatriate scientists and academic advisers to the process of public policy formation in Africa. One is the exchange of ideas within a network or community of like-minded individuals; a second is the tendency for scientists to be more or less directly “in the pay” of policy institutions’ (Leach & Mearns, 1996: 456).

Further, the requirement for Parliamentary approval of policies presents an opportunity for higher cadre national officials to weigh in on policy content, insert amendments, and effectively change the goals of policy statements before the document is institutionalized, creating a chasm between the intended contents of policy developed during the formulation process and the ultimate content.

Implementation processes also face procedural backlogs due to the wide array of environmental and natural resource management-oriented ministries, each with their own implementing arms, mandates, and ways of approaching their activities. This creates a high degree of conflict between state agencies that should ideally be working in tandem. In addition, a lack of capacity both in terms of numbers as well as environmental expertise among enforcers of environmental regulations and in the judiciary has created another gap through which many cases against environmental offenders have fallen.

Thus the complexity of interactions and processes in the actor network that the research revealed reflects the interplay between various levels of the policy process, from issue identification through to implementation, monitoring, and feedback (Sabatier, 2007). The application of network theory to the data (Chapter 7) allows for a critical analysis and scrutiny in terms of the phenomena of power, influence, and

authority distribution, and the interactions they produce at all levels, from the nation state to County level grassroots organizations.

8.2 Constitutional & Strategic Reform: Addressing the Potential for Policy Change

Political reform is difficult to achieve, a slow burn process but one that has seen incremental benefits over the last decade. The 2010 referendum for a new Kenyan Constitution following several years of reform negotiations between government, the civil sector, and international human rights groups, makes several amendments to the national land rights policy with a view to increasing ownership security and preventing malpractice, corruption and land grabbing (Hansen, 2011). Nonetheless, as the research showed and as the Center for Strategic and International Studies notes, ‘land remains closely tied to the electoral dynamics of Kenya, meaning that many vested interests will stand to lose if these reforms are successfully implemented’ (Kennedy & Bieniek, 2010: 8). Despite this potentiality, the support thrown behind the Constitutional review process from all sectors of the nation speaks to the unrelenting faith that Kenyans, especially the urbanites, have in their leadership and the hope of a better tomorrow through good governance - what one prominent local political satirist calls ‘Kenyans’ unrelenting and, frankly, psychotic sense of optimism’ (Gathara, 2011), is an indomitable force for change in the country.

The interviews conducted reflected a wide variety of opinions on the potential impacts of mandated devolution and decentralization on the policy process and future governance in Nairobi. While many high-level decision-makers remain cautiously optimistic that devolved governance will bring the people and state institutions closer together and provide greater power to the electorate, critics warned of the territorial nature of County leaderships and the potential conflicts over the control of transboundary resources, persistent effects of corruption and political self-interest, and continuing shortfalls in the institutional capacity required to govern autonomously. The policy network analysis through the application of the Network Approach (Adam & Kriesi, 2007) showed how policy change stands at best a moderate chance if actors are able to secure a more equitable distribution of influence and power and reduce the preferential treatment of foreign donor institutions and private organizations that wield enormous clout, conferred through their proffered material and intellectual assets.

The results of the descriptive and evaluative components of this thesis are embodied in prescriptive knowledge, as represented by the recommendations presented in the following section. These

recommendations were drafted in the form of broadly defined areas for improvement in the policy process in Nairobi, as developed from the research data and academic resources.

8.3 Recommendations for Future Environmental Policy Undertakings

8.3.1 Inclusive Stakeholder Participation and Building the Public Trust

The research data and network analysis (Chapter 7) illustrated how various stakeholders in the policy process receive preferential treatment and carry disproportionate degrees of influence based on their capacity to leverage their assets at the policy table. In devolved and decentralized Nairobi, there is a stronger expectation for inclusivity and democratic governance. To aid this, the County governing will face the task of cultivating relationships built on trust and mutual interest with all stakeholders, in order to dispel expectations of continuing corruption that have long been the status quo.

Perhaps one of the most critical challenges in environmental stakeholder reform, within the context of Constitutional reform and strategic urban growth, is to aid Nairobians in developing a sense of ownership of the urban space. For residents of the County to truly feel invested in protecting the environmental and natural resources, the impetus has to come from within, and for this reason, CSOs and grassroots organizations will need to mobilize resources to bring empower the populace and encourage more active engagement in policy activities.

8.3.2 Research, Monitoring, Evaluation, and Feedback Systems

The lack of reliable data gathering and environmental monitoring procedures presents a major challenge to formulating effective policies, because there are no clear benchmarks or evidence to suggest what types of policy interventions are the most successful and why. There are a number of untapped resources for such data, including harnessing the potential for academic involvement through research grants as well community information sources. As Haro and colleagues explain, ‘communities can identify solutions to both environmental degradation and insecurity if given facilitative support.’ (Haro, Doyo & McPeak, 2005: 31).

The importance of collecting data for monitoring purposes has been stressed in the literature, but the further use of such information in revising policies has no strong precedent in the environmental arena in Nairobi. As this study revealed, policymakers often rely on best practices and expert advice when creating or revising policies, rather than recommendations developed from locally generated data analysis. Thus,

monitoring activities must also be supplemented by mechanisms for feedback and review of existing policies at regular intervals, in order to ensure that interventions remain relevant to contemporary challenges on the ground.

8.3.3 Strategic Policy Implementation

Given the significant gap between documented policies and their implementation, there is a pressing need for new ways to ensure that strategic plans are developed and that resources are made available to ensure that policy goals are achieved. To do this, County officials have the option to better utilize existing resources in the private and CSO sectors both in developing plans as well as facilitating their execution. Given that the Nairobi Metro 2030 Plan envisions a much wider metropolitan boundary for the County, there is a need to ensure that environmental policies are in place that will regulate development and prevent the emergence of greater urban sprawl and the expansion of existing informal settlements.

The development of strategic plans to implement policies would allow for a more coherent approach to identifying the resources that are available, creating manageable timelines, and soliciting the support of stakeholders involved because there are clear goals and a defined approach to achieving them, rather than only a broad-strokes policy statement or a specific law that may not be effective due to problems with judicial and legal capacity in the County.

8.3.4 Managing Institutional Resources and Growing Capacity from Within

The issue of capacity links back to the previous recommendations as well, where in many cases state agencies that lack capacity would need to seek resources and support from the wider community and non-state actors. The culture of resource control and authority, reticence in sharing information, and conflicts of interest between state and non-state actors is a major impediment to the realization of cooperative policy efforts, and would need to be addressed. As Juma and Clark recommend,

‘there has to be a recognition among those concerned with public policy in Africa that they are dealing with evolutionary social systems experiencing rapid and relatively unpredictable change. Their capacity to manage such systems will therefore depend greatly on appropriate institutional reforms that facilitate continuous social learning on the part of actors at all levels of society. Top-down, bureaucratic practices will no longer work’ (Juma & Clark, 1995: 134).

The twin processes of devolution and decentralization will place greater pressure on Nairobi County to responsibly manage urban growth in the face of environmental resource challenges and an apathetic

populace. However, as Leach and Mearns (1996) contend, periods of transition in the political regime are the greatest conditions for policy change, but this can only be achieved if County intuitions invest in growing the technical expertise of their staff and become more reliant on local resources for policy activities, rather than falling back on previous practices involving partnerships with foreign experts that often carry their own motivations and ideological positions.

8.3.5 Identifying Opportunities for Better Policy Regulation

While the current conditions are undoubtedly the result of a long history of poor governance, political upheaval, conflicting stakeholder interests, and struggles for power and space, there remains much hope for a revival of the spirit of urban democracy and positive change for the multitude of urban residents. Planning has an important role to play in aiding the realization of this outcome, through participatory approaches and the development of comprehensive strategic growth plans that recognize the diverse needs of the population. There is an imperative for the consolidation of the existing legislative and policy frameworks under the single roof of an authoritative state body that will have a mandate not only for managing planning practice but also have the weight of the law to effect change and provide for the basic rights of land owners, tenants, and developers, both private and public.

Furthermore, gaps in the content of existing policies need to be addressed, particularly with regard to harmonizing environmental policies with those in the areas of economic and land development. This study indicates how the lack of such harmonization has resulted in an ad hoc approach to the enforcement and oversight of environmental regulations, as the political and personal interests of the elite in Nairobi take precedence over the public good. The imperative to improve environmental standards in planning practices is contingent on the direction that urban development takes in pursuit of economic goals, and the alignment of these would result in more strategically viable plans.

8.4 Research Impact & Theoretical Contributions: A Summary

The significance and contributions of this study stem from the in-depth, narrative description of the policy process from the perspective of the actors involved, an exercise that has not previously been carried out in the context of Nairobi, Kenya. In addition, the application of policy network theory to the study data allowed for a theoretical analysis of the research findings, another contribution towards a scholarly understanding of the underlying reasons for the ways that environmental policy networks in developing

contexts are arranged, and the distribution of power and influence within them. The use of Adam and Kriesi's (2007) Network Approach allowed for greater clarity in the conceptualization of the actor network, but was not a perfect fit for the local developing context of the study. As such, several modifications were made to the Network Approach typology, in order to reflect the complexity of interactions and the dialectical relationships between power, interactions, network structure and policy change (Chapter 7: Figure 10). As such, this thesis offers a novel, adapted method to applying the Network Approach typology, one which may potentially be applied in other developing contexts in the region as well. The key findings from the investigation of policy formulation and implementation processes, and the network analysis, are summarized in Table 6 below.

ENVIRONMENTAL POLICY ASPECT	VARIABLES
PART I: Formulation: Decision-making during policy formulation	1) Stakeholder collaboration and public participation in decision-making 2) Authority and power distribution in the actor network
PART II: Implementation: Challenges, existing gaps between policy and practice and the reasons for these gaps	3) Critical environmental concerns in Nairobi County 4) Gaps in existing policies and implementation processes 5) Uses and sources of scientific or fact-based evidence and data 6) Implications of policy and administrative reform
<p>SUITABILITY ANALYSIS: These variables were integral to the inductive level of data analysis, and aided in guiding the narrative description applied to the study data. Indeed, the deductive themes that emerged including those relating to integrity, conflicts between actor interests, and the interactions between local stakeholders complemented these six core variables.</p> <p>KEY FINDINGS:</p> <ul style="list-style-type: none"> - There is a high degree of conflict between state environmental actors, arising from competing political interests and conflicting statutes across the multiple policy and regulatory documents, particularly at the interface of the national government and local Nairobi City Council. - The above has led to poor management of funds without harmonization of matching efforts - There is potential for further conflict in the devolved county system, particularly as regards natural resources such as waterways and forests. - NEMA's wide mandate and lack of capacity prevent it from being able to carry out sufficient oversight over development activities - The growth of environmental expertise among decision-makers has been hindered by inconsistent 	

<p>dissemination of information, a culturally-derived reluctance to share data, and insufficient training to develop the technical knowledge and skills required to enforce regulations.</p> <ul style="list-style-type: none"> - Lack of adequate data and indigenous information sources to inform policy, further exacerbated by poor monitoring and collation of feedback regarding operationalized policies. - There has been a trend of ad hoc and nepotistic stakeholder engagement, with no environmental ombudsman or mechanisms to ensure proper integration of stakeholder feedback. - Environmental concerns have largely been separated from other key policy arenas, including economic planning and development. - Foreign organizations hold significant influence in policy activities, both directly in collaboration with state authorities and by influencing CSOs and private sector firms as well. - Lack of clarity in policies, thereby reducing their approachability for laymen and the public at large. - Poor record of voluntary compliance, in part due to the low intensity of sanctions and penalties for environmental offenders, combined with ad hoc enforcement of regulations and corrupt practices in judicial proceedings of environment-related cases; also attributed to the external provenance of Nairobi's residents, many of whom do not identify with urban life and have therefore not fostered a sense of stewardship for the environment. 	
<p>PART III: Policy Network Analysis: Explicating the interactions, power, and influence in the network and the potential and types of future policy outcomes</p>	<ol style="list-style-type: none"> 1) Number of actors in the network 2) Complexity of the network 3) Degree of self referentiality of the network 4) Conflicts between actors 5) Costs of network management
<p>SUITABILITY ANALYSIS:</p> <p>The five variables laid out in the Network Approach (Adam & Kriesi, 2007) were useful in distilling from the data the key factors that affect interactions between actors, and also aided in producing schematic representations of the same. However, the fifth variable, the costs of network management, was not applicable to Nairobi's developing context.</p> <p>KEY FINDINGS:</p> <ul style="list-style-type: none"> - The Network Approach allows for the policy network to be viewed metaphorically on the basis of actor interactions and the power and influence they hold. Although Adam & Kriesi's typology is highly linear, by integrating a dialectic component to their model the environmental policy network in Nairobi is visualized as a system of interconnecting motivations and feedback effects. - Power is concentrated in the hands of a few state authorities, and actors engage across a spectrum of potential interaction types from hierarchical cooperation to dominance based on the resources they can bring to bear in policy debates. - Policy change has a low to moderate potential for occurrence. Under the new system of devolved governance where new actors will enter the network, change is predicated on the novel ideas of these non-state actors being accepted and integrated into the dominant ideology. 	

Table 6 SUMMARY OF STUDY VARIABLES, THEIR SUITABILITY, AND KEY FINDINGS

As Flanagan and his colleagues argue, ‘policy dynamics are probabilistic rather than deterministic’ (Flanagan et al., 2011: 711). That is to say, the findings of this study are indicative of the directions and motivations of the policy process, but are not a guarantee of the outcomes thereof. Future research into new actor assemblages that will form in devolved Nairobi, and the corresponding impacts on policy development and policy change, will be required in order to gauge whether Constitutional and strategic reforms have been successful in their goals. Some of these future research directions that are of interest are discussed in the following section.

8.5 Future Research Directions

This thesis explored various concepts relating to the policy process, of which the outcome is expected to be a policy document. An analysis of the decision-making process that creates policy from a general perspective is an essential component of understanding how content is shaped, and that is the core contention of this research study. Indeed, as Nairobi now undertakes its roles as both Capital City and an independent, autonomous County, it will be interesting to see how the policy process is altered and reshaped to meet the new demands imposed by Constitutional reform, population expansion, and development challenges, perhaps through new studies undertaken in the coming years.

However, going into the next phase of the policy ‘cycle’, the actual policy statements themselves that form the basis for future legislation and planning activities must be analyzed in order to provide insights into the possible consequences and repercussions that would arise from implementing these policy objectives down the line. This is particularly important in the case of the National Environment Policy, currently in its fifth draft but expected to be finalized in the near future through the cooperation of the now devolved Counties in Kenya. Evaluation exercises may take place prior to the policy being deployed (*ex ante*); during the implementation of policy (*ex post*); or in between these two stages (*ex nunc*); (Crabbé & Leroy, 2008). Each of these stages can take place once the policy is finally institutionalized, but could not be performed for purposes of this thesis given the current draft status of the document.

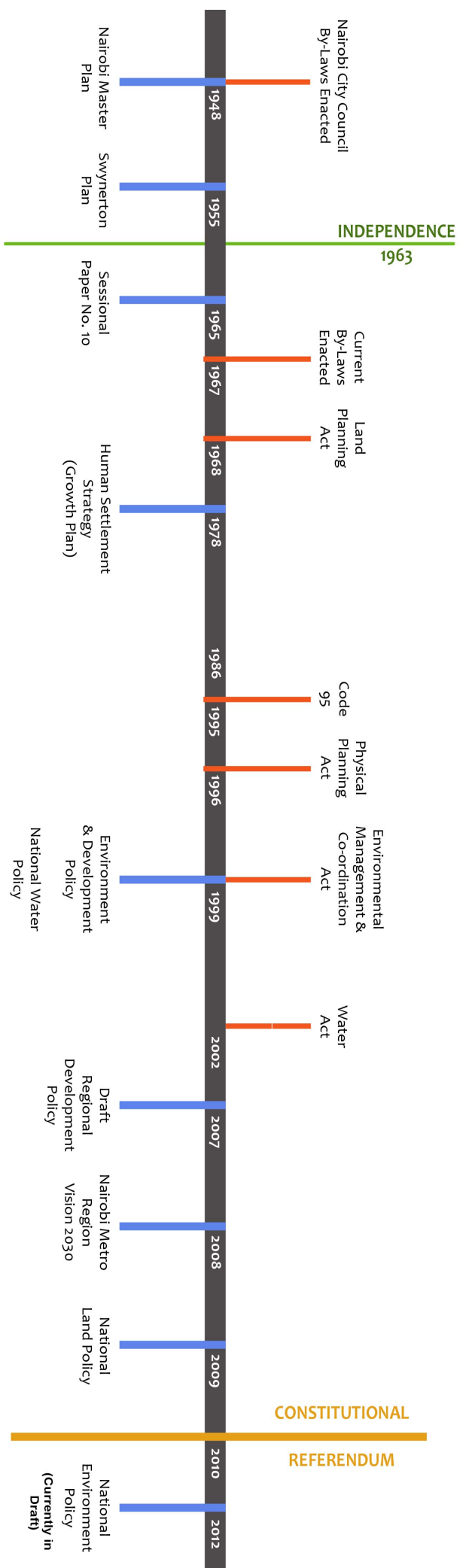
The effort to evaluate policy, in addition to supporting greater efficiency in content formulation, also holds benefits for the operationalization of these policies, in that feedback from the implementation phase would provide insights into gaps or challenges that affect the policy’s success or failure. Policy evaluation in the *ex-ante* phase would help to ensure that resources are not wasted on policy proposals that are bound to fail

because their proposed interventions or strategies are out of sync with the context in which they will be implemented. Under conditions of democratic public involvement in policy decision-making, negative public opinion has the potential to cause deleterious outcomes in policy (Burnstein, 1991).

Furthermore, policy success in the environmental realm is hinged on the qualities of the policies themselves – for instance, in the case of national sustainability policy, ‘efficient incentives, transparency of measures, consistent sustainability goals in all policy fields, as well as proper regulatory systems, can all be seen as factors necessary for success’ (Akgün et al., 2012: 20). Effective leadership and a sense of shared responsibility for policy success with all stakeholders are therefore critical. Besides these, the wider economic context and social system must be conducive to receiving and implementing the policy – that is to say, the goals of policy should not outstrip existing local capacity to fulfill them (Jänicke, 2002). Thus the implementation stage of the policy process is a critical juncture for determining success or failure of an operational policy. In situations of devolved government where inter-organizational co-ordination is required in order to operationalize policy, the policy content must be strategically geared towards reducing the effects of disputes or lack of commitment from any of the involved parties. O’Toole & Montjoy (1984: 495) thus warn us that, ‘policies that provide no inducements to implementers (tack-on mandates) will almost surely fail, unless they coincide closely with the implementers’ goals and world views’.

Given this wide arc of considerations, an examination of the policy process alone would not be sufficient when attempting to diagnose the causes of purported policy ‘success’ or ‘failure’, which are in themselves normative concepts. Data collection through the use of in-depth qualitative methods would be required in the ex post phase; however, for purposes of the ex ante phase, evidence from similar contexts can be drawn upon conservatively to reveal some of the lessons learned and to devise recommendations for policy improvement.

**Appendix A:
Timeline of Environmental Plans,
Strategies, Policies (Blue) and Laws
(Red) in Nairobi**



Appendix B: Key Informant Coding

Sector	Organization Name	No. of Informants	Position within Organization	Sampling Method/ Interview Date	ID Code
GOVERNMENT	Ministry of Environment and Mineral Resources (MEMR)	2	Policy Officer	PS 27 July 2012	GOVT1
			Policy Officer	SS 27 July 2012	GOVT2
	National Environmental Management Authority (NEMA)	2	Senior Official (Research)	PS 24 July 2012	GOVT3
			Senior Official (Education)	PS 16 July 2012	GOVT4
	Ministry of Nairobi Metropolitan Development (MNMD)	1	Senior Official (Env. Management)	SS 03 July 2012	GOVT5
	Ministry of Planning and Kenya Vision 2030	1	Senior Official	SS 15 July 2012	GOVT6
	Nairobi City Council (NCC)	1	Senior Environment Official	SS 20 July 2012	GOVT7
	Kenya Institute for Governance	1	Senior Staff	SS 18 July 2012	GOVT8
	Kenya Institute of Public Policy Research and Analysis (KIPPRA)	1	Policy Analyst	PS 17 July 2012	GOVT9
PRIVATE	Institute for Policy Analysis and Research (IPAR)	1	Senior Researcher	PS 26 June 2012	RESEARCHER1
	Planning Systems LTD	1	Architect	PS 20 July 2012	PLANNER1
	Planning 4 Leaders LTD	1	Senior Manager & Planner	SS 07 July 2012	PLANNER2

CIVIL SOCIETY ORGANIZATIONS	Sayari Think Tank	1	Senior Staff	SS 26 June 2012	CSO1
	Institute for Law and Environmental Governance	1	Senior Policy Staff	SS 27 July 2012	CSO2
	Akimba Mashinani Trust	1	Senior Staff	PS 10 July 2012	CSO3
FOREIGN ORGANIZATIONS	United Nations Environment Program	2	Legal Officer	SS 09 July 2012	INTL1
			Program Officer	SS 19 July 2012	INTL2
	UN-Habitat	1	Human Settlements Officer	SS 17 July 2012	INTL3
	Oxfam (UK)	1	Senior Staff	PS 07 July 2012	INTL4
	World Bank Group	1	Senior Staff, Urban Development Team	PS 10 August 2012	INTL5
	Swedish Embassy	1	Senior Staff	PS 27 July 2012	INTL6
	Danish International Development Agency (DANIDA)	1	Program Officer	PS 26 July 2012	INTL7
ACADEMIC INSTITUTIONS	University of Nairobi – Dept. of Urban and Regional Planning	1	Associate Professor	PS 23 July 2012	PROF1
	Kenyatta University – Dept. of Environmental Management and Planning	1	Associate Professor	PS 7 August 2012	PROF2
	University of Nairobi - CASELAP	1	Associate Professor	SS 19 July 2012	PROF3
PS: Purposive Sampling; SS: Snowball Sampling					

Appendix C: RESEARCH MATERIALS

INTERVIEW QUESTIONS

1. Issue / problem identification

- a) What is the impetus for policy formulation? E.G. government initiative, donor pressure, stakeholder pressure, etc.
- b) By whom and at what level was formal / informal processing initiated? What means (e.g. memorandum, ministerial statement, report, meeting) was used?

2. Search for cause(s) of problem

- a) Is environmental policy approached in tandem with other considerations e.g. social, economic, political, or in isolation?

3. Fact gathering / analysis

- a) What information was considered necessary for analysis?
- b) Who was / were assigned the task of providing / collecting the information?
- c) Was any or all of the information available within the organisation responsible for the policy area?
- d) Was it necessary to seek information elsewhere?
- e) What was the nature of the information and by what method(s) (e.g. letters, memo's, personal enquiry, survey, interviews) was it collected?
- f) How was the information organised / processed for analysis and who was involved?
- g) Who was / were involved in the analysis of the information?
- h) In what form was the outcome of the analysis presented and by whom?

4. Identification of options

- a) Were a number of policy options identified?
- b) In identifying options what reference, if any, was made to experience with issues / problems of a similar nature nationally, internationally (especially in countries with similar levels of development)?

5. Specification of objective(s) of selected policy option

- a) Were specific objective(s) articulated?
- b) Did the detailed objective(s) include quantification of expected output; qualitative description of outcome to be expected (attitudes, perceptions, etc.)?
- c) Who / what agencies were involved in the process of specification of objective(s) of selected policy option?
- d) How does your institution manage priorities for development alongside natural asset protection?

6. Process of policy decision making

- a) Who / what agencies - minister / ministry, cabinet, president, party, etc. – were involved in the final decision process and what specific role did each play?
- b) What specific input to the decision process (e.g. memoranda, ministerial / position papers, brief) were

- utilized? By whom were they prepared and presented?
- c) By what mechanism was the policy decision communicated?

8. Design of implementation strategy

- a) Was an implementation strategy designed?
- b) Was it part of the policy formulation process or a post-decision event?
- c) Who is in charge of implementation, and how is this process approached?
- d) Are there any specific barriers to ensuring compliance, and what steps can/will be taken to overcome these?

9. Monitoring and Feedback

- a) Was a monitoring and feedback mechanism / procedure established?
- b) Were roles assigned explicitly to key players?
- c) What mechanism existed or was put in place to facilitate utilisation of information acquired from monitoring and feedback?

10. Policy review and reformulation

- a) Has the policy been reviewed and / or reformulated?
- b) If yes, at what point was this done, who were the actors involved in it, what was the process for the review / reformulation?

11. The Environmental Agenda in Nairobi

- a) In your view, generally speaking (within the city of Nairobi), how has environmental protection as it has progressed to date been managed from an overall perspective, and what do you feel are the gaps or pressing issues? What are the successes?
- b) How do you think recent policy decisions, both through the new Constitution and extended metropolitan boundary, will affect environmental planning in general and within your institution for the city of Nairobi?
- c) Beyond planning and policy, what are the factors that affect land management?
- d) Do you think that the new Constitution and associated policy changes will affect environmental justice in urban planning for the city of Nairobi?
- e) What are the implications of greater citizen involvement for participatory planning?
- f) What are the ways that institutions and organizations in Nairobi collaborate in terms of environmental protection, given that many of your mandates overlap?
- g) Given that many of the watercourses in Nairobi extend beyond the urban boundary, how do you think planning for resource management and the maintenance of these ecological resources should be approached?
- h) Are there any other critical concerns in the area of policy and planning for environmental resource protection within your institution or in general that you would like to elaborate on?

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