



Photo : Mazingira institute

# NAIROBI

## URBAN AGRICULTURE PROMOTION AND REGULATION ACT



THE NAIROBI URBAN AGRICULTURE PROMOTION AND REGULATION ACT 2015 REPRESENTS A MAJOR U-TURN IN ATTITUDES TO URBAN FOOD PRODUCTION AT THE CITY LEVEL. IT CAME ON THE BACK OF SUSTAINED CIVIL SOCIETY EFFORTS TO UNIFY AND AMPLIFY THE VOICES OF URBAN FARMERS AND TO BUILD SUPPORTIVE RELATIONSHIPS WITH NATIONAL CIVIL SERVANTS. INSTITUTIONAL CHANGE FOLLOWING THE ADOPTION OF KENYA'S CONSTITUTION IN 2010 LED TO THE DEVOLUTION OF AGRICULTURE AND REASSIGNMENT OF CIVIL SERVANTS WHO WERE SUPPORTIVE OF, AND KNOWLEDGEABLE ABOUT, URBAN AGRICULTURE TO THE NAIROBI CITY COUNTY GOVERNMENT.

In the late 1970s/early 1980s massive in-migration from the countryside, coupled with a downturn in the Kenyan economy during the era of trade liberalization<sup>21</sup>, privatization and exchange rate reform (Gertz, 2009), meant many of the country's urban poor were food insecure. Urban agriculture — whether for subsistence or to supplement meagre incomes — became a means of survival. By the mid 1980s, around 20% of Nairobi's population were either growing food crops or rearing animals for food (Egziabher et al., 1994).

Yet for decades they were doing so illegally. Nairobi City Council<sup>22</sup> staunchly opposed farming in the city, believing it to be a threat to public health and land rights. It enforced its opposition through interpretation of national laws<sup>23</sup>, and officials harassed anyone who tried to produce food on open land (Kweyu, 2014).

In August 2015, the Nairobi City County Assembly passed the Nairobi Urban Agriculture Promotion and Regulation Act, marking a complete U-turn over urban agriculture in the Kenyan capital, from hostility to active promotion and regulation. The Act is intended to boost food security by facilitating food production in the city, to promote job creation, value addition and value chain development, to protect food safety and envi-

ronmental health, and to regulate access to land and other resources (Nairobi City County, 2015).

Now, the Nairobi City County Government is explicitly responsible for training farmers, for ensuring their access to organic waste, and for developing marketing infrastructure. It must also monitor and regulate quality and hygiene standards, and promote animal welfare and traceability. The Nairobi Urban Agriculture Promotion and Regulation Act falls under the remit of the Agriculture, Livestock, Fisheries, Forestry and Natural Resources Sector, and implementation is led by the Executive Committee Member for Agriculture, Livestock and Fisheries, currently Dr. Bernard Mugeny, who is charged with preparing a strategic plan for urban agriculture. The Act establishes the Nairobi City County Urban Agriculture Promotion Advisory Board to advise the executive member on promotion and development of the sector<sup>24</sup> (Nairobi City County, 2015).

This case study explains how such a dramatic policy change came about. In particular, it shows how civil society actors created an enabling environment for urban agriculture despite the opposition of local government — and paved the way for policy development once the institutional barriers had been swept away.

21. In 1980 Kenya became one of the first countries to sign a Structural Adjustment Loan with the World Bank, heralding the gradual replacement of import-substitution policies with liberalized trade over the next two decades.

22. Nairobi City Council was replaced by the Nairobi City County Government in 2013, following restructuring of the sub-national level of government.

23. The *Local Government Act* and the *Public Health Act* were used to prevent rearing of chickens, cows, goats and rabbits, and the *Land Control Act* was used to target those who grew crops on open land.

24. The Nairobi City County Urban Agriculture Promotion Advisory Board is made up of a Chair; four members with expertise in urban planning, agriculture, public health, and economics; and a Chief Officer Responsible for Agriculture to serve as secretary to the Board.

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### SUPPORTIVE POLICY AT THE REGIONAL AND NATIONAL LEVELS

With urban agriculture spreading across East Africa, in 2003 the government of Zimbabwe — backed by a consortium of international funders<sup>25</sup> — hosted a regional meeting of Ministers for Local Government. The outcome of the meeting was the *Harare Declaration on Urban and Peri-urban Agriculture*, in which the Ministers from Kenya, Malawi, Swaziland, Tanzania and Zimbabwe agreed to develop policies and instruments for integrating urban and peri-urban agriculture into urban economies (Mushamba et al., 2003). Another meeting for regional stakeholders was convened by the UK's Department for International Development (DIFD-UK) and the International Livestock Research Institute (ILRI) around the same time.

Dr Diana Lee-Smith, co-founder of Kenyan NGO the Mazingira Institute and, at the time, regional coordinator of Urban Harvest<sup>26</sup>, also attended the Harare meeting. She recalled that the director of the Kenya Agricultural Research Institute (KARI) subsequently agreed to start developing the draft national *Urban and Peri-Urban Agriculture and Livestock Policy*, known as UPAL (Ministry of Agriculture, 2010). The director of KARI became Kenya's Permanent Secretary for Agriculture in late 2005 and consultations were carried out with actors from across Kenya, including individual farmers.

This high-level momentum faltered when changes in leadership caused UPAL to slip down the agenda. The entry into force of Ken-

*Constitution of the  
Republic of Kenya:  
Article 43 of the Constitution  
- Economic, Social and  
Cultural Rights*

*(1) Every person has the right*

—  
*(c) to be free from hunger,  
and to have adequate food  
of acceptable quality.*

ya's new constitution in 2010 delayed it further: the sub-national level of government was re-structured and agriculture was devolved to the 47 newly-formed counties. Consequently, the draft policy document had to be sent out for approval by the new county governments. As of 2017 it has not been adopted.

While these institutional changes delayed adoption of UPAL, they did, however, enable development of the Nairobi Urban Agriculture Promotion and Regulation Act in two respects.

Firstly, the devolution of agriculture led to the creation of an Agriculture, Livestock, Fisheries, Forestry and Natural Resources Sector within Nairobi's new City County Government; previously no institutional structures or mandate for

25. Three United Nations agencies (UNDP, UNICEF and FAO), the International Development Research Centre (a Canadian government initiative); and RUAF Foundation (Resource Centres on Urban Agriculture and Food Security).

26. A research programme of the Consultative Group on International Agriculture Research (CGIAR).

supporting agriculture existed at the city level. Moreover, some highly knowledgeable and supportive civil servants from the restructured national Ministries of Agriculture and Livestock Development, who had been involved with the UPAL process, were re-assigned to Nairobi.

Secondly, clause 36(f) of the Urban Areas and Cities Act (Republic of Kenya, 2011), part of the legislative package to enact the Constitution, requires all cities and municipalities to provide a framework for regulating urban agriculture<sup>27</sup>. Moreover, the right to food is enshrined in the constitution (adopted in 2010), which includes measures that the state must undertake to realize this right.

As a result, when the Nairobi City Council was replaced by the Nairobi City County Government in 2013, the latter had an obligation to draw up an urban agriculture policy, and also had the expertise on hand to do so.

**CREATING AN ENABLING ENVIRONMENT AT THE LOCAL LEVEL**

While the policy process for UPAL was taking place at the national level, efforts were underway on several fronts to change prevailing attitudes to urban agriculture within Nairobi. These efforts paved the way for securing political commitment for a policy to promote and regulate urban agriculture.

Firstly in 2004, concerned over urban farmers' treatment by law enforcers, the Mazingira Institute called an open meeting for everyone interested in food growing in Nairobi. This meeting

led to the foundation of the Nairobi and Environs Food Security, Agriculture and Livestock Forum (NEFSALF), which is credited as one of the most important drivers of institutionalization of urban agriculture in Kenya (Gore, 2016). On the one hand, NEFSALF builds the expertise and capacity of farmers by providing training in agricultural techniques (including ensuring food safety). On the other hand, it helps farmers — who were previously marginalized and disempowered — to organize into a more powerful lobby group. For over a decade NEFSALF spoke out as the collective voice of urban farmers against raids and advocated for local policy support. It had some important wins: in 2005 a delegation to the Nairobi Provincial Commissioner and the City Council forced both to soften their hard-line stance on urban livestock; in 2006 Nairobi Province was selected as the pilot for the National Agricultural Extension Program and Nairobi small-scale farmers have been among top national prize-winners.

*There was this forum of farmers who originally were extremely downtrodden, poverty-stricken people with no voice, ... and because of the forum they became a voice in public. They began to articulate their issues and appear in the media. And take a stand on things. ... In my opinion that's how policy works. That's the key. The farmers have a voice... That's really the story from the bottom up.*

Civil society actor

27. This came about as a result of enthusiastic participation of many civil society organizations, since one of the provisions of the Constitution is for public participation in law-making.

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Multi-stakeholder participation at NEFSALF forum (Photo: Mazingira Institute)

Secondly, actors from the Mazingira Institute fostered strong and trusting relationships with civil servants at the national level through their involvement in international and national level policy processes over many years. Independent analysis by an associate professor at Ryerson University in Canada found that collaborative dialogue was crucial in establishing conditions for support for urban agriculture prior to devolution (Gore, 2016), not least because — as mentioned above — some of these civil servants were reassigned to Nairobi in 2013.

Thirdly, in addition to the work of Mazingira and NEFSALF, several other NGOs have run projects in Nairobi that have helped raise the profile of urban agriculture and built a critical mass of support for it. These include the French NGO Solidarités International, which established a sack gardening project in the slums<sup>28</sup>, and projects run by the Aga Khan Foundation, the Undugu Society, and a number of church organizations. Media outlets have picked up on the trend. National newspaper *The Daily Nation* has a popular pull-out supplement called *Seeds*

*of Gold*, which publicizes small farmer initiatives, many of which are in cities.

Once the institutional barriers to Nairobi developing a policy on urban agriculture had been removed, advocates (both within the local government and from civil society) impressed on policymakers the need to provide a regulatory framework. They no longer met with objections — and not only because of the legal obligation under the 2011 Urban Areas and Cities Act. The government had responded to the bottom-up pressure, training and capacity-building in the community, and long-standing direct advocacy efforts; political will now existed. According to a 2014 newspaper interview with Anne Lokidor, then Executive Committee Member for Agriculture, Livestock and Fisheries, the Nairobi City County Government acknowledged that Nairobi residents would continue to practice urban agriculture with or without regulation. Putting regulations in place would help ward off future food safety and sanitation problems, help to develop the agricultural economy and encourage value addition through processing (Kweyu, 2014).

28. Solidarités' sack gardening project was funded by the French government

## DRAWING UP THE POLICY

When the Nairobi City County Government finally gave the green light for development of its urban agriculture policy, officials were able to borrow heavily from the pending national law (UPAL), for which farmers in Nairobi, Nakuru, Kisumu and other cities had played a consultative role.

This expedited the process, although the constitutional requirement for public participation meant a new round of consultation was required. This involved farmers organizing meetings in the sub-counties to discuss current issues, and their input was taken into account in drafting the policy. Mazingira Institute and other organizations also commented on draft documents.

The draft bill then entered internal processes within the County Assembly. According to a representative of the Nairobi City County Government, it was championed through these processes by Members of the County Assembly from the peri-urban areas where farming is most commonly practiced, in the face of some resistance from members from other areas, and concerns from planning officials that the city did not have space for farming. The objections were allayed through dialogue.

## EARLY STAGE IMPLEMENTATION

Implementation of the Act was in its early stages at the time of writing. While it was too soon to discern any impacts, the Act assigns responsibility for collecting and collating data on agricultural activities to the county government, and makes provision for monitoring the social, economic and environmental effects — even

though no indicators of progress towards the objectives are given.

Members of the Nairobi City Council Urban Agriculture Promotion Advisory Board<sup>29</sup> had not been announced at the time of writing and, according to a Nairobi City County representative, regulations to operationalize it were still to be published in the government's official journal. However, the contents of the Act were already being applied at a high level, as urban agriculture has been incorporated into the recently concluded County Master Plan and its Strategic Plan 2015-2025.

Other sectors (departments) of the Nairobi City County government have yet to embrace the new Act, and remain sceptical about the purported benefits or the relevance to their work, reflecting the fact that urban agriculture has not previously played a part in urban administration, nor in the education of urban planners, public health workers or local government officials.

Efforts are now underway to break down remaining prejudices. Mazingira Institute has cooperated with the Nairobi City County Government to provide inter-sectoral training for staff members. According to Lee-Smith, a key tool in shifting the views of public health professionals has been the circulation of recent study findings from Kampala, Uganda, which showed that the nutrition benefits resulting from rearing animals for food in the city outweighed the public health risks (Yeudall et al., 2007). More is also known about mitigation of the risks to food safety (Cole et al., 2008). Work published by key actors from Mazingira Institute — such as a book chapter identifying housing, food and transport as three areas

29. The Board will guide the Executive Member on promotional activities. Board members are to include actors with expertise in urban planning, agriculture, public health, and economics.

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that are critical to the future of Nairobi (Lee-Smith & Lamba, 2000) — has featured on international syllabuses for planning students and is informing the outlook of graduates as they enter professional life.

### SUMMARY OF ENABLERS

This case study has shown that a key enabler for developing the Nairobi Urban Agriculture Promotion and Regulation Act has been strong civil society activity over a sustained period of time, which led to a groundswell of community and media support and the establishment of trusting relationships with civil servants. This bottom-up pressure and preparatory work made the promotion of urban agriculture a powerful idea that captured the public imagination, and was critical for generating political commitment to promote and regulate urban agriculture once a conducive institutional environment was established.

The policy process was participatory, involving NGOs and consultations with urban farmers, the latter having been empowered to defend

their interests by being helped to organize into a collective lobbying group and through training. Supportive civil servants who had been re-assigned to Nairobi's new agriculture department, as well as some politicians, served as champions for the policy through the County Assembly.

While delivery is still in its early stages, it will be enabled by measures to educate civil servants within the city government and to break down prejudices around urban agriculture, as well as by drawing on the experiences of other cities to demonstrate the value — and improve the safety — of urban agriculture.

*Very often [the urban agriculture phenomenon in East Africa] is painted as an international initiative coming from outside interests and pushing urban agriculture to people in Africa, and it's not. And never has been.*

Civil society actor

**TABLE 2 - KEY ACTORS AND THEIR ROLES**

ACTORS	ROLES
Poor, landless urban farmers	<ul style="list-style-type: none"> <li>• Growing food to support families illegally for three decades</li> <li>• Became empowered working collectively through NEFSALF, achieved significant wins through lobbying</li> <li>• Participated in consultations for the new Act</li> </ul>
Nairobi City Council (defunct) and law enforcers	<ul style="list-style-type: none"> <li>• Wielded power over urban farmers, actively opposing urban agriculture and conducting raids</li> </ul>
Mazingira Institute (Nairobi-based environmental and human rights NGO)	<ul style="list-style-type: none"> <li>• Convened meeting that created NEFSALF; hosts NEFSALF</li> <li>• Advocated for urban agriculture and farmers' rights over three decades, including fostering contacts with civil servants</li> <li>• Co-founder Dr Diana Lee-Smith conducted early research into urban agriculture prevalence and participated in process leading to UPAL development in role as African regional coordinator of CGIAR Urban Harvest programme</li> </ul>
Other NGOs, e.g. Solidarité, Aga Khan University, Undugu Society, PCEA Church	<ul style="list-style-type: none"> <li>• Ran visible urban agriculture projects, especially in the slums</li> <li>• Attracted media attention and contributed to the enabling environment.</li> </ul>
Media	<ul style="list-style-type: none"> <li>• Reported positively on urban agriculture initiatives, contributing to an enabling environment</li> </ul>
International development agencies (e.g. DFID-UK)	<ul style="list-style-type: none"> <li>• Convened stakeholders in the region through ILRI for initial discussion</li> <li>• Enabled civil society lobbying through funding (e.g. NEFSALF)</li> </ul>
Director of KARI, later Permanent Secretary for Agriculture	<ul style="list-style-type: none"> <li>• Began process for national UPAL with stakeholder meeting at KARI</li> <li>• Advanced national policy process in latter role</li> </ul>
Civil servants (previously in Ministry of Agriculture, now City County government)	<ul style="list-style-type: none"> <li>• Participated in development of draft UPAL</li> <li>• Supported urban agriculture within City County government after devolution, and instigated policy development process</li> </ul>
Agriculture and Livestock Executive, Nairobi City County Government	<ul style="list-style-type: none"> <li>• Key figure in implementing the Urban Agriculture Promotion and Regulation Act</li> </ul>