



Monitoring and Oversight over Land Use Planning in Kenya: Some Reflections

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By

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Outline of the Presentation

➤ INTRODUCTION

- ❖ Country Profile
- ❖ Historical Perspective to Planning in Kenya

➤ LAND USE PLANNING FRAMEWORK IN KENYA

- ❖ Constitutional context
- ❖ Policy and Legal Agenda

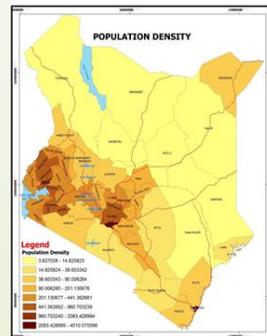
➤ OVERSIGHT AND MONITORING FUNCTION OF THE NATIONAL LAND COMMISSION

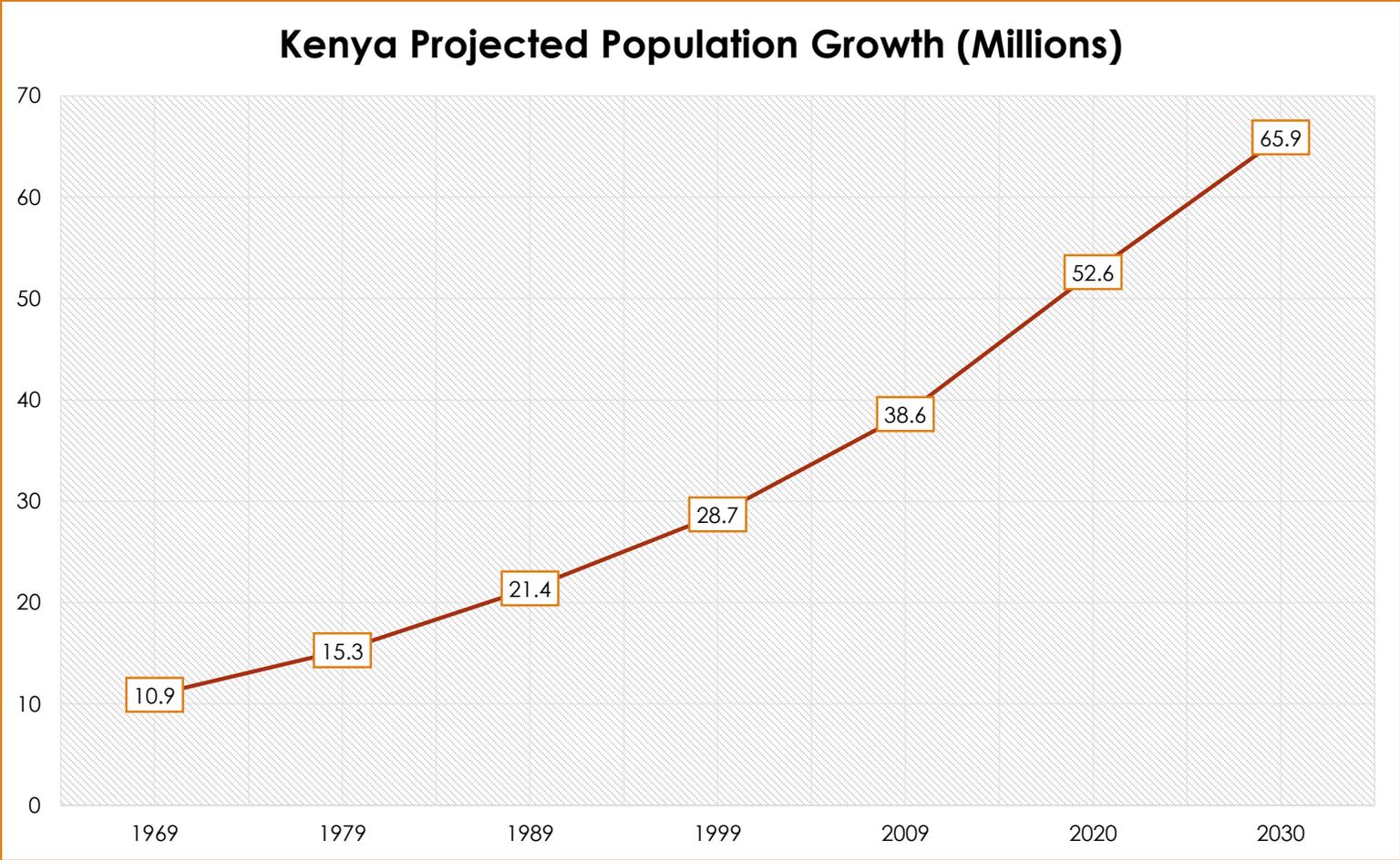
- ❖ Interpretation
- ❖ Activities

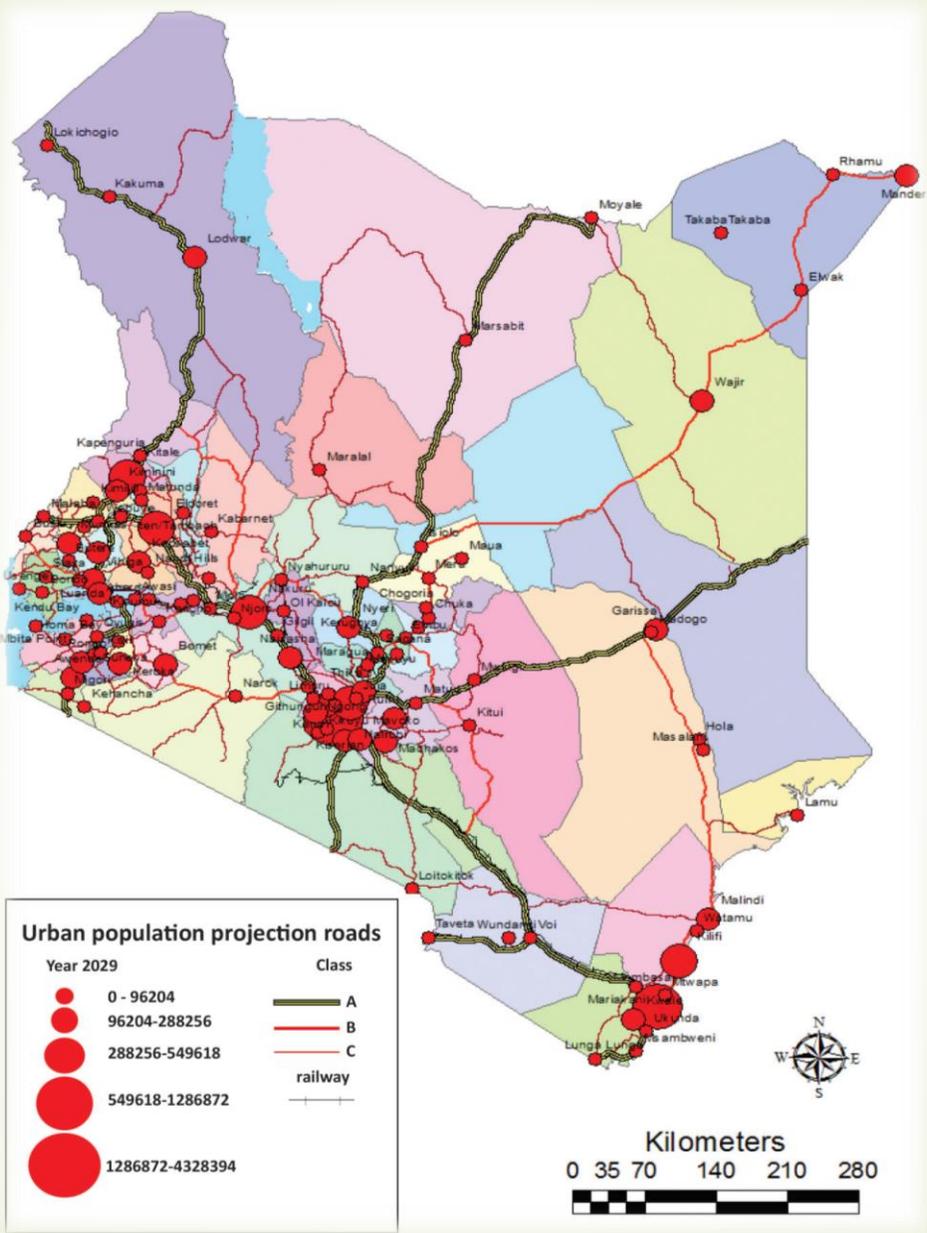
➤ CHALLENGES AND OPPORTUNITIES

1.0: Country Profile

- ❖ Republic of Kenya: 582,646 square Km
- ❖ 97.8% land, 2.2% water Surface
- ❖ 20% medium to high potential agricultural land; 80% arid and semi arid (ASAL)
- ❖ Broad geographical and Ecological Zones: The Coastal Plain; the arid low plain; the Highlands and the Lake Victoria Basin;
- ❖ Population: 38,610,097; 50.3% Female and 49.7% Male; 32.3% Urban









2.0 Previous Initiatives in Planning in Kenya

- ▶ Human Settlement strategy 1978
- ▶ Service center Strategy
- ▶ Growth Center Strategy
- ▶ Rural Trade and Production Centers (RTPCS)
- ▶ Regional Development Plans
- ▶ Nairobi Growth Strategy
- ▶ Techno-cities
- ▶ Resort Cities
- ▶ Special Economic Zones (SEZ)

2.0 Context of Land Use Planning

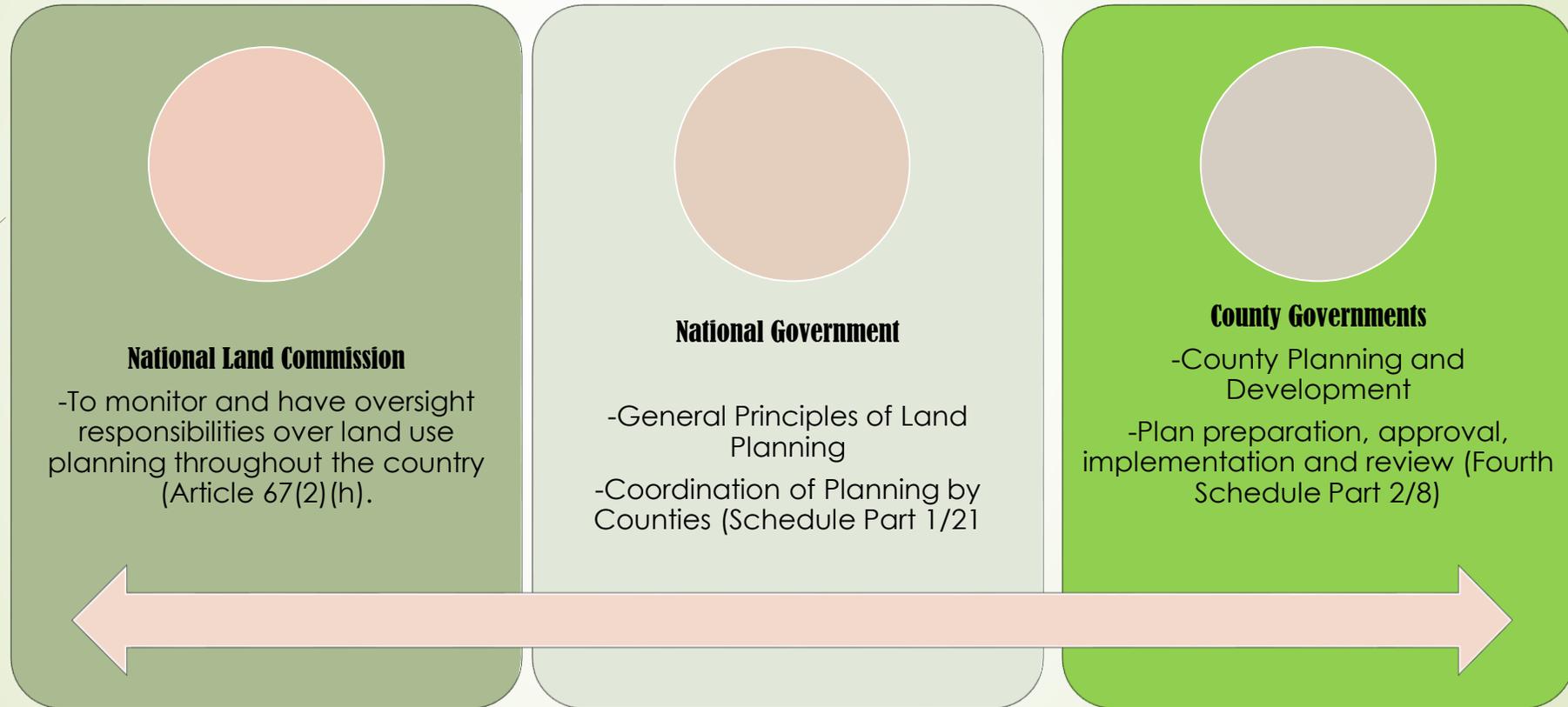




2.1: Constitutional Reference (1)

Article 66. (1) The State may **regulate the use of any land**, or any interest in or right over any land, in the interest of defence, public safety, public order, public morality, public health, or land use planning.

2.2 Constitutional Reference (2)



2.3 Constitutional Reference (3)

Article 249 (1) The objects of Commissions and the independent offices are to:

- (a) protect the sovereignty of the people;
- (b) secure the observance by all State organs of democratic values and principles; and
- © promote constitutionalism.

2.4 Constitutional Reference (4)

A) Principles of land policy

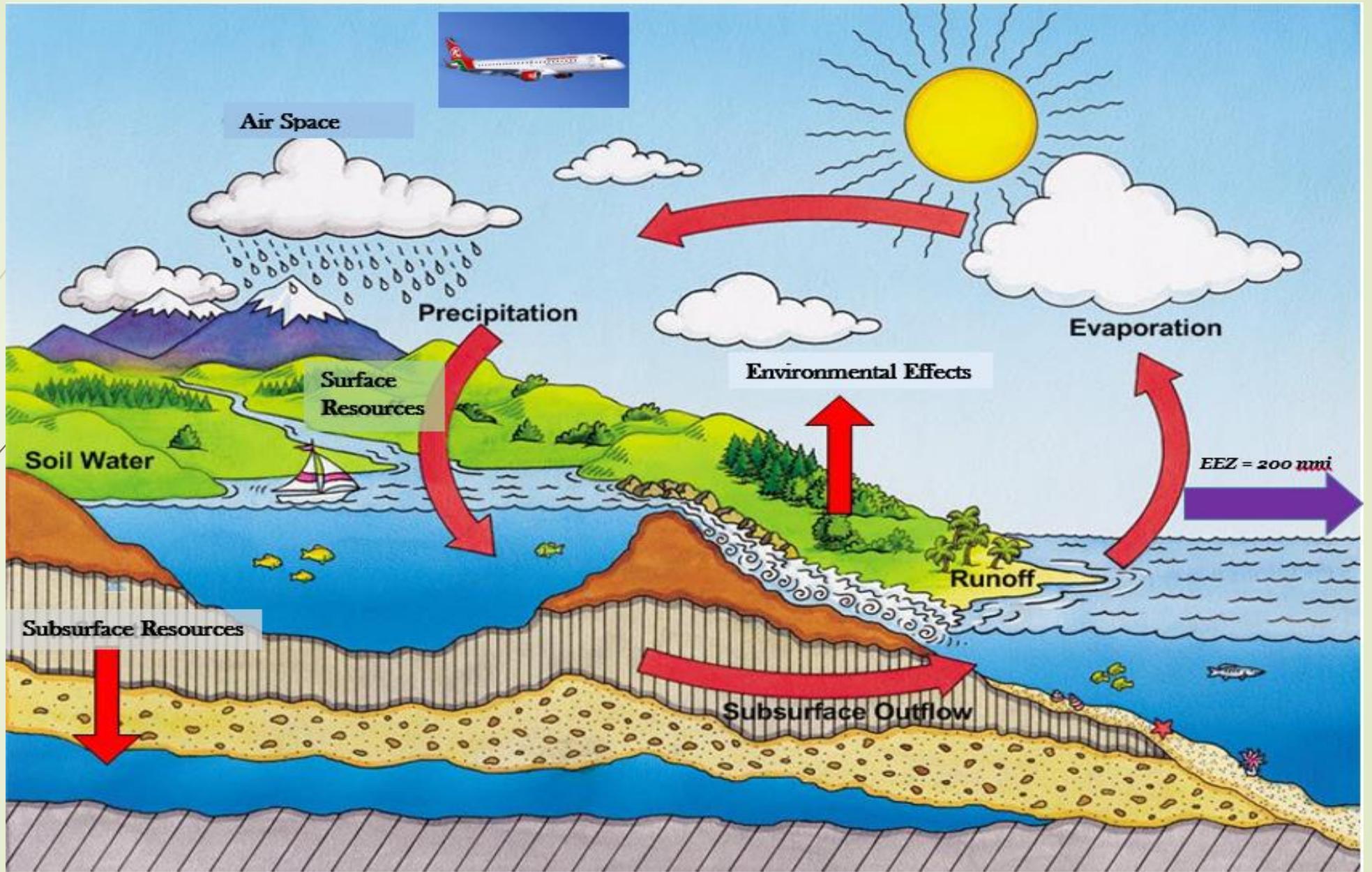
- ▶ **Article 60(1)** Land in Kenya shall be held, **used and managed** in a manner that is equitable, efficient, productive and sustainable, and -

B) Land defined

▶ **Article 260- Interpretation**

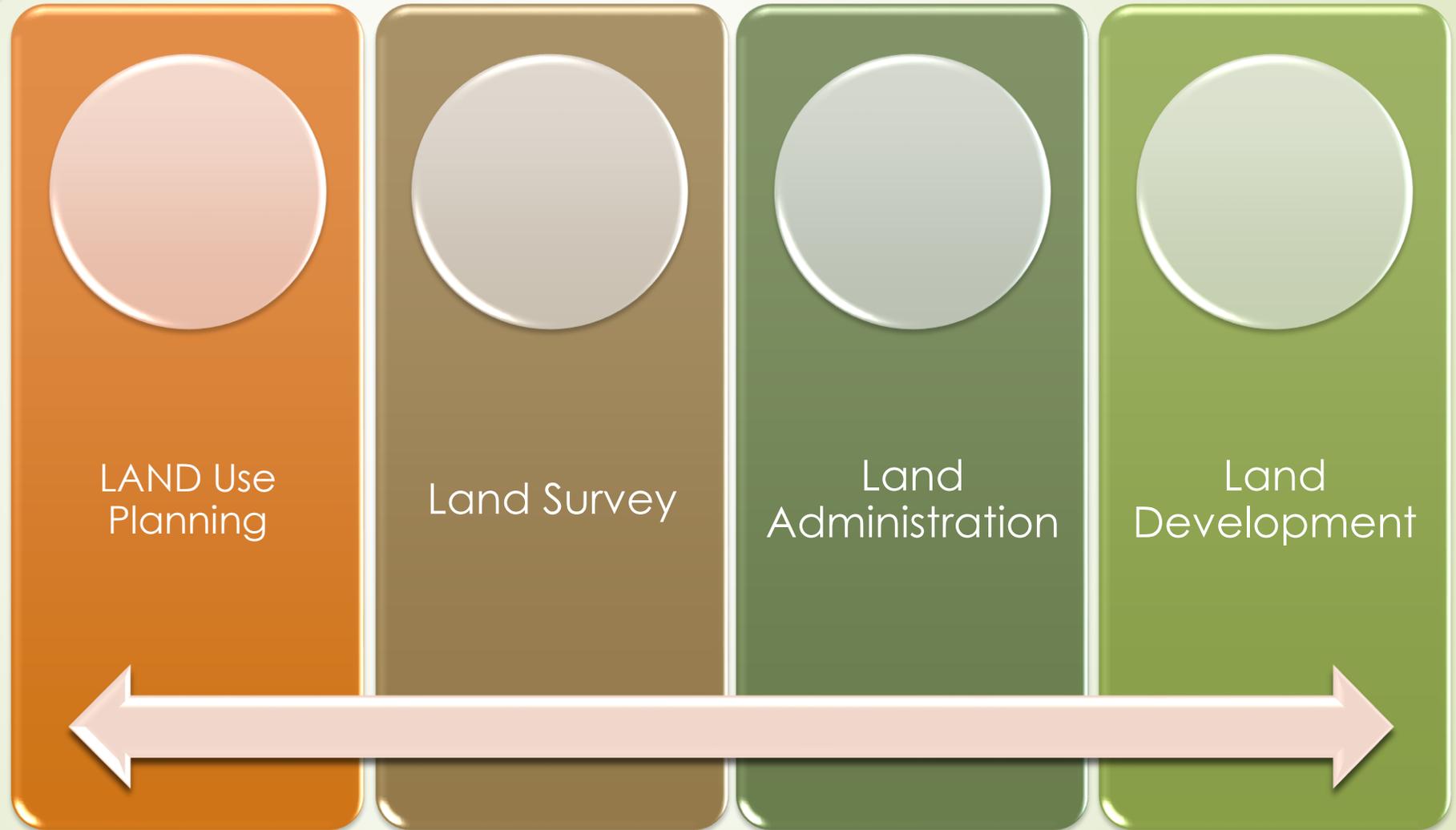
“land” includes:

- ▶ (a) the surface of the earth and sub-surface rock;
- ▶ (b) any body of water on or under the surface;
- ▶ © Marine waters in the territorial sea and exclusive economic zone;
- ▶ (d) natural resources completely contained on or under the surface; and
- ▶ (e) The air space above the surface



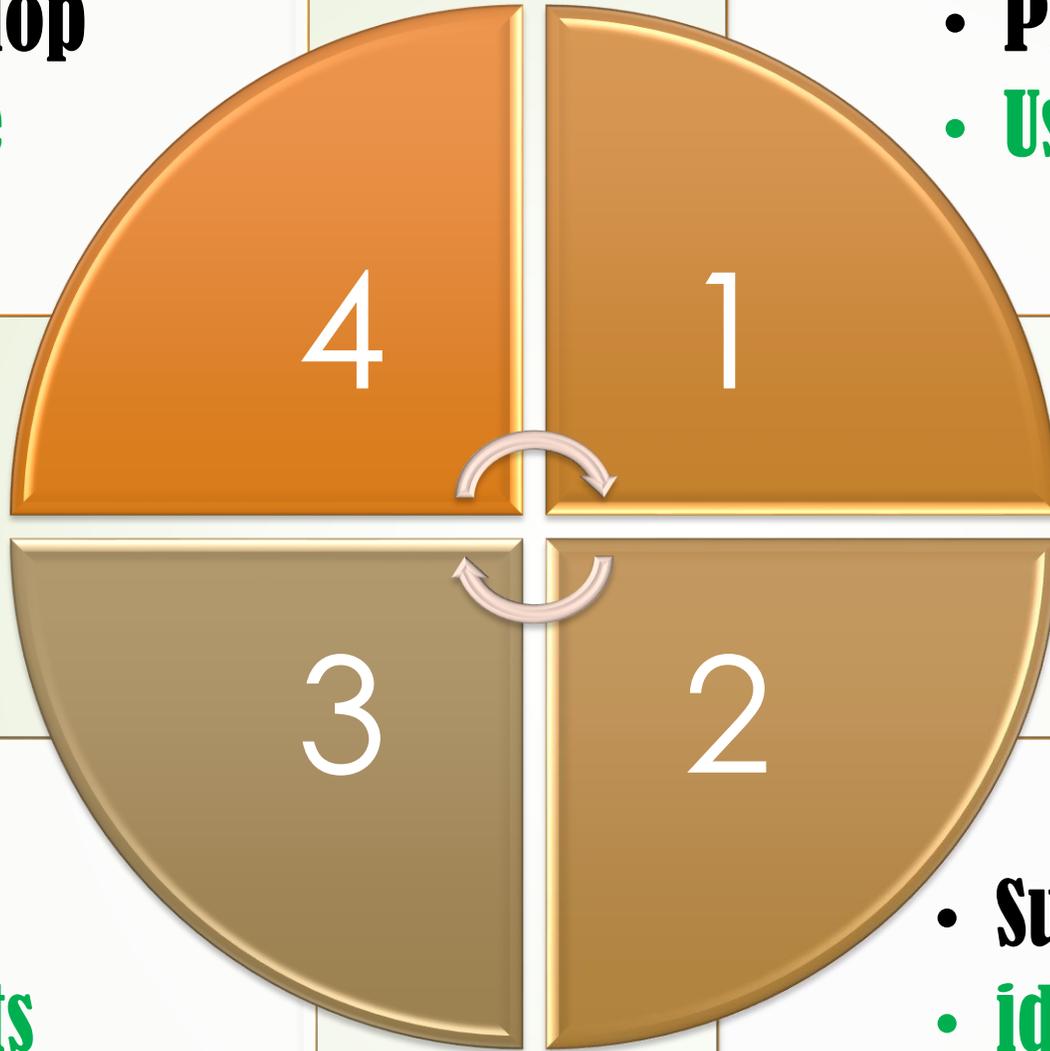
3.0 Land Policy and Planning

(Sessional Paper no. 3 of 2009)



- **Develop**
- **Value**

- **Plan**
- **Use**



- **Title**
- **Rights**

- **Survey**
- **identity**

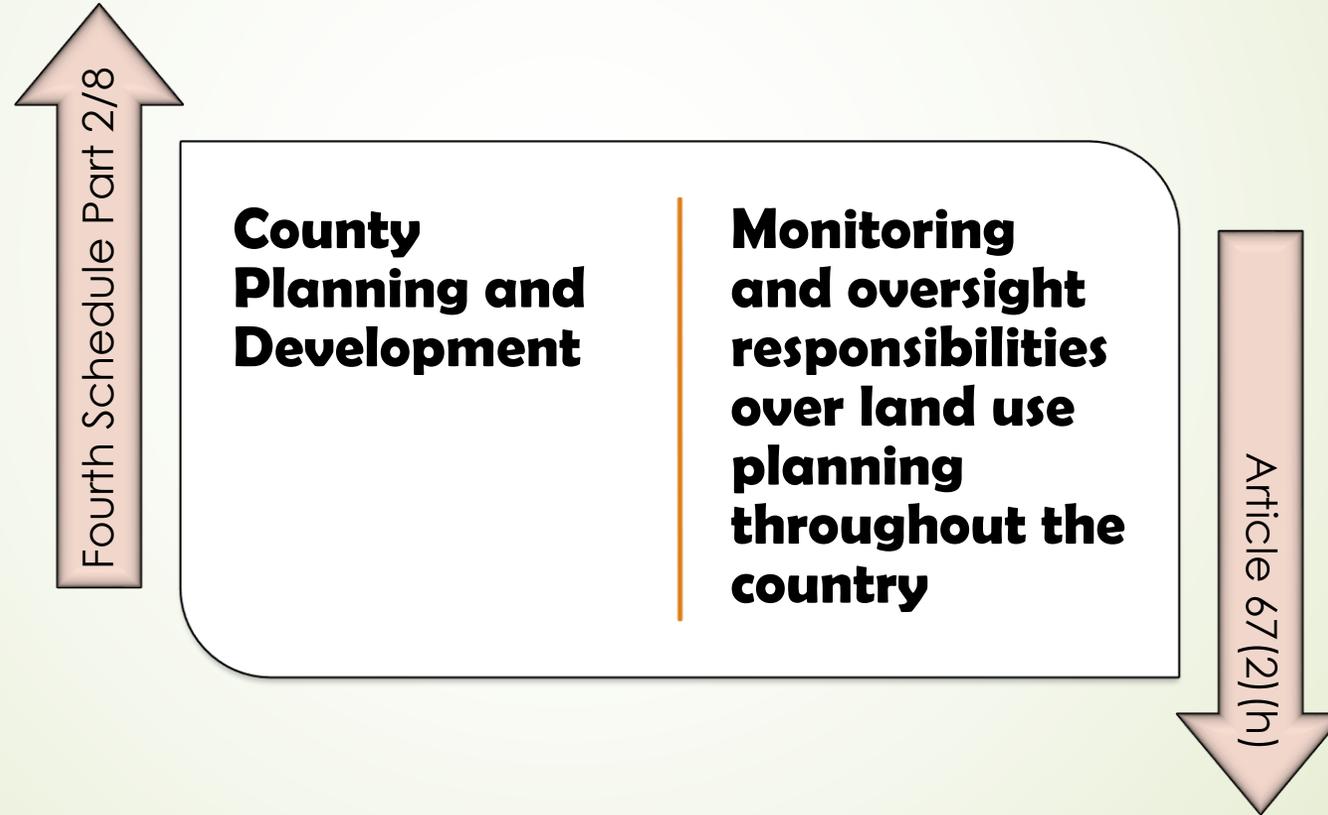
5.0: Requisite Instruments in Realizing effective Land Use Planning

Sectoral Policies

Legislation

Practice
guidelines/manuals

6.0: County Planning and Monitoring and Oversight Synergy





6.1: Types of plans envisaged under the County Governments Act 2012 and Urban Areas and Cities Act 2011

- ❑ County Plans
 - ❖ -County Spatial Plans
 - ❖ -County Integrated Development Plans
 - ❖ -Sectoral Plans
 - ❖ -Integrated urban Development Plans
 - ❖ -City/Municipal/Urban Area Land Use Plans

6.2: Cardinal Facets of Land Use Planning

- **104.** (1) A county government shall plan for the county **and no public funds shall be appropriated outside a planning framework** developed by the county executive committee and approved by the county assembly.
- (2) The county planning framework shall **integrate economic, physical, social, environmental and spatial planning.**

Principles continued

- **106** (1) *Cooperation in planning* shall be undertaken in the context of the law governing inter-governmental relations.
- (2) County plans shall be *based on the functions of the county governments* as specified in the Fourth Schedule to the Constitution and on relevant national policies.
- (3) County plans shall take due cognizance of the *financial viability of development programmes*. (4) County planning shall provide for *citizen participation*. (Section 106 CGA)



6.3: Approach

➤ **Integrated**

- take into consideration the physical, economic and social dimensions of development;
- horizontal integration, among the various sectors of public action;
- policies, projects and proposals are considered in relation to one another;
- multi-sectoral & multi-disciplinary.



Approach continued

- **Strategic** - developing a long term perspective to urban development; addressing the critical aspects of development as opposed to the comprehensive approach to issues and development proposals.
- **Evidence-based** – systematic research and surveys, rigorous data analysis and interpretation
- **Result-orientation** – aimed at achieve specific objectives, resolving issues and harnessing emerging potential/opportunities
- **Participatory** - Deepened citizen engagement



6.4: Expected Out Come of the Planning Process

i). Sectoral Integration

Coordination and Integration of Sectoral Plans/Programs

- ❖ Transport
- ❖ Agriculture
- ❖ Health
- ❖ Social Services and Recreation
- ❖ Commerce and Industry
- ❖ Environment
- ❖ Housing



ii). Sustainable Human Settlement

- ❖ Natural resource management (Land, Minerals, Water, Forest, Wildlife)
- ❖ Investment Location
- ❖ Infrastructure and Services provision
- ❖ Urbanization and Rural development
 - ❑ Creation of Competitive Urban Places
 - ❑ Attracting Investments
 - ❑ Promotion of sustainable livable places
 - ❑ Creation of productive rural places

iii) Making Decisions between Urban Development and wildlife Conservation



iv) Planning to support land survey and titling, create basic order





7.0: Monitoring and Oversight Function of the National Land Commission

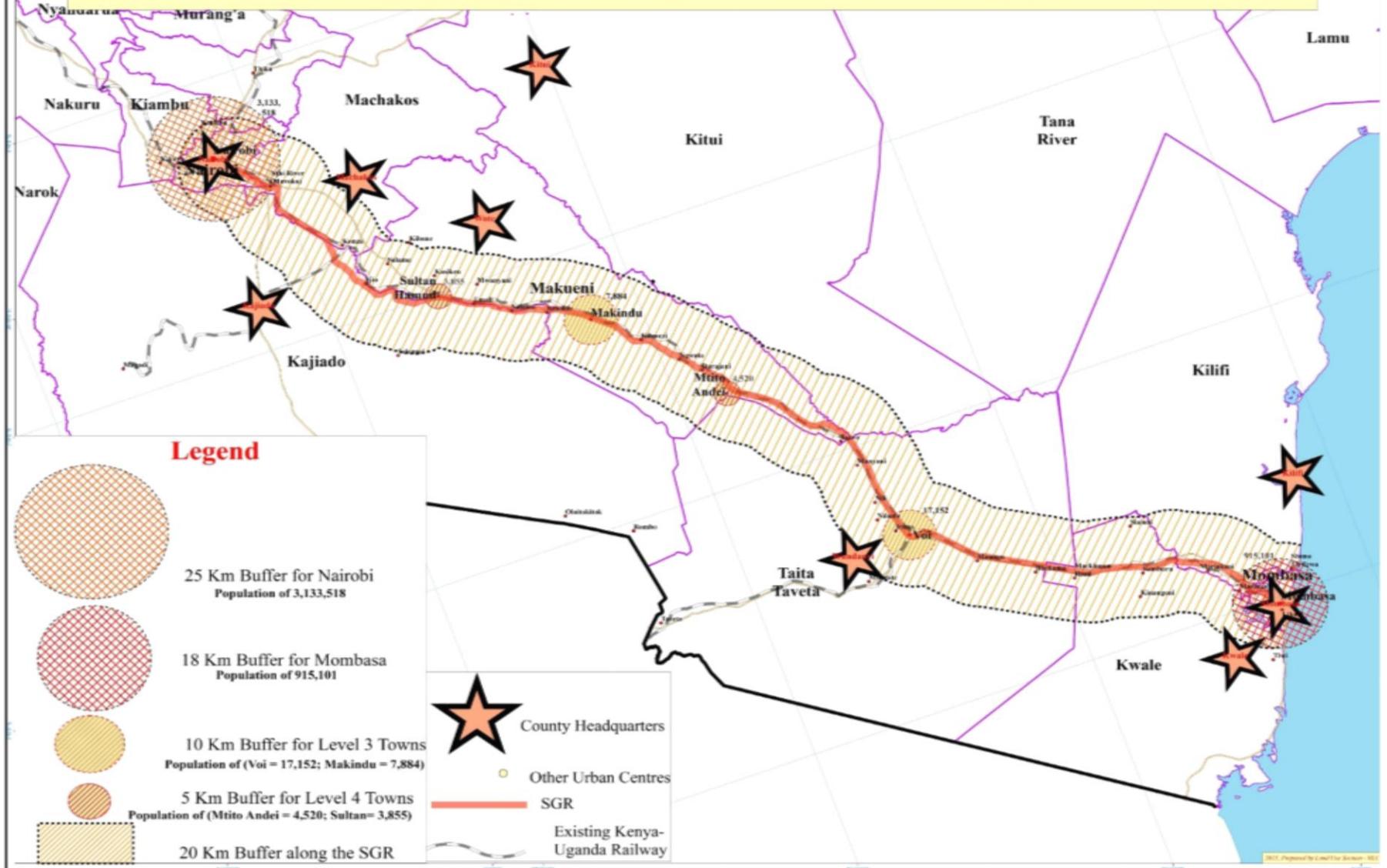
- Appraising the status of land use planning in the country by collecting information through county visits, consultative meetings with agencies involved in planning
- providing feedback to the planning agencies through reports
- presenting annual state of land use planning report to parliament and to the president
- Making recommendations to other public agencies on any supportive action required to enhance land use planning in the country.
- Developing guidelines to provide a basis for monitoring and oversight.



Monitoring and oversight continued--

- ▶ Ensuring that the National and County Governments undertake planning in the urban areas, rural areas and sites with strategic national projects and programmes;
 - ▶ Ensuring that the plans are prepared in accordance with the constitution, relevant laws and best planning practices;
 - ▶ Ensuring that the plans are implemented and address the development needs of the citizens;
 - ▶ Ensure that facilitative policies, laws, regulations, standards and guidelines are prepared.
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MOMBASA - NAIROBI SGR TRANSPORT CORRIDOR CONCEPT



8.0: Key findings

► **Inadequate Capacities to prepare and implement Urban Development Plans**

- ✓ Human Resource
- ✓ supportive infrastructure to facilitate planning activities

► **Low levels of prioritization of land use planning**

- ✓ Very low budgetary allocation for planning
- ✓ Low consideration for hiring of planners
- ✓ Requisite legislative instruments (e.g. regulations not formulated)

Balancing short term political interest and strategic long term planning perspectives.

- ✓ more interest in funding projects and programmes that are easily seen by constituents; short-range thinking, Whereas the planners communicate longer-range goals and performance spans.

► **Institutional Rigidities and inadequate support to county Governments**



9.0: Conclusion and lessons learnt

► **Anticipating and Developing Capacities**

- ✓ Undertake needs assessment and projection of the human resource requirements in terms of quality and quantities.
- ✓ Provide the requisite support infrastructure to the devolved units

► **Deliberate and structured Actor Education and Awareness Creation**

- ✓ Policy makers and implementers need to be inducted into changing environments and frameworks through a deliberate and structured way.
- ✓ An analysis of the actors and their specific roles assigned by legislation will enable a more targeted and effective sensitization.

Conclusion Continued

- ▶ **Balancing short term political interests and strategic long term planning perspectives**
- ✓ planners need to recognize the reality of politics as critical in the planning arena and develop abilities to interpret local attitudes and viewpoints and relate them to larger planning contexts. That is urban planners must strike a balance between politics and the planning goals

“Planners must deal more adequately with the realities of politics and its inevitable need for compromise, consensus and coalition. On the other hand, politicians need to recognize that there is much in planning that can be used to improve the public good and make for better politics. In other words, planners should be like politicians and politicians should be more like planners” (Catanesse 1984, p.23).

- ▶ **Forestalling institutional resistance to Change**

Planners should of necessity forestall possibility of institutional resistance to change and develop measures to lubricate smooth transition.



End
Thank You!!