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Decentralization and Local Governments in Kenya[1]

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Introduction

This paper is adapted from a recent World Bank study[2] that examined the performance of Kenya's five largest cities, namely Nairobi, Mombasa, Kisumu, Nakuru and Elodret. That study identified a host of factors that have contributed to the failure of Kenyan cities, especially Nairobi and other large cities, from realizing their full economic potential. Chief among those factors was the marginalization of Kenya's local governments over the last four decades, and the weak accountability and capacities of these units to be responsive and efficient to their constituents.

After many decades of stagnation, Kenyan economy started to grow from the early-2000s. A large share of this growth originated in urban areas, especially in its largest urban centers which account for the much of the country's physical, financial, intellectual and technological capital. The five largest cities together accommodate a third of the country's urban population and generate around 70 percent of the GDP. Nairobi alone accounts for more than 50 percent of the GDP. They contribute significantly to national economic growth by increasing productivity at the firm and industry levels via agglomeration economies; increasing household welfare through social mobility and human development; and promoting institutional change. Given the urban-centric character of the emerging economy, efficient functioning of Kenya's urban centers, especially its largest cities, will be critical to sustain the economic momentum into future.

Yet, it has been argued that Kenyan cities, especially Nairobi and other large cities, are not realizing their full potential. On multiple fronts—in ensuring an accountable and responsive administration, in delivering efficient services to citizenry, in promoting local economic development, and in devising effective strategies for dealing with slums—the failures of the state have curbed the potential of these cities and impaired the lives of its residents. It is no surprise that the city residents and businesses are highly unhappy. A recent study held that only 20-25 percent of respondents in Mombasa and Nakuru, 10 percent in Eldoret, and less than 5 percent in Nairobi and Kisumu believed that their urban authority was doing a good job. Similarly, a survey of 282 formal manufacturing firms in the five cities to rate the efficiency of the councils or the government in delivering services, elicited a "Very Inefficient" or "Inefficient" response from about 76 percent of firms.

This study argues that the main reason for this poor performance is the marginalization of local authorities (LAs) by the state as it sought to strengthen the powers of the chief executive, starting in the late 1960s. In those early years of the independent Kenyan state, this marginalization saw the central government take over several key functions that were hitherto the responsibility of local government: primary education, health and road maintenance. The shift of responsibilities to the center was accompanied by the reduction of fiscal transfers to local authorities, thus undermining their financial health and ability to respond to important local needs and priorities. This neglect of urban local governments was further reinforced by cutbacks in social spending by the center in services such as health, leaving behind a trail of poorly managed cities.

Encouragingly though, in recent years the Government of Kenya has become more aware of the ills that plague its urban centers. Several positive initiatives, many of them rather ad hoc though, suggest that fixing its cities is now viewed as a priority by the Government. Thus, in a bid to make local administrations accountable and improve services, the Government has introduced Service Charters and Performance Contracts in these cities; it has also imposed conditions of good governance and financial management as part of its annual fiscal transfers to the cities; water supply in some cities has seen limited improvements following the establishment of water

[2] World Bank. Cities of Hope. Governance, Economic and Human Challenges of Kenya's Five Largest Cities (unpublished draft): 2008.

utility companies; public participation is now mandated in local priority setting; and an integrated financial management system has been set up to improve financial controls and improve fiscal discipline.

Yet, much more than ad hoc actions are needed to revitalize Kenyan cities that the lifelines of the nation's economy. Reforming and strengthening the urban local authorities in the five largest cities, and in general all over the country, require recognizing their preeminent role over local governance decisions; building systems of local accountability; and strengthening capacities to deliver the mandated responsibilities in an efficient and effective manner. The real challenge, the paper suggests, lies in developing a roadmap for reform that has the broad buy in of key stakeholders and is congruent with the prevailing political economy.

This paper is divided into four sections. The first section provides a brief introduction to the key themes pursued by this paper and short outline of its structure. The second section is a description of the local government system in Kenya and a political economy analysis of decentralization and local government reform in the country. The third section examines at the functioning of the five case study cities in detail and identifies the challenges faced by urban local governments in delivering services efficiently and being accountable to the citizens. The fourth and final section summarizes key obstacles that encumber the development of a well-functioning local government system in the country.

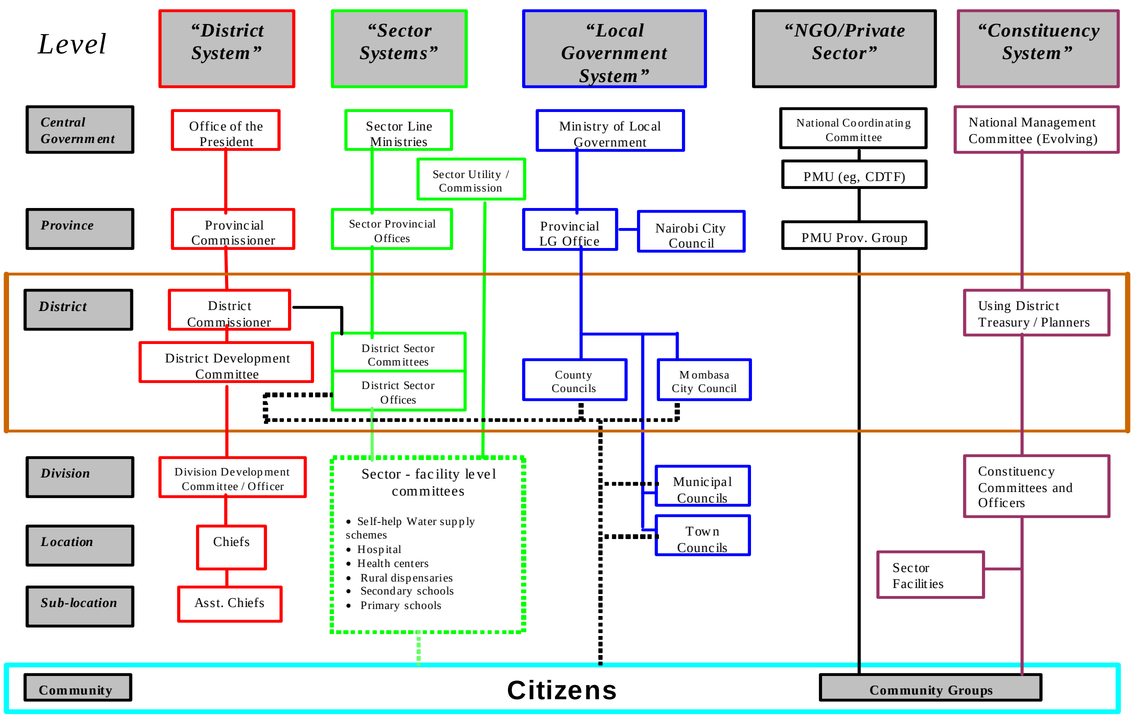
Political Economy of Decentralization in Kenya

Governance and Management of Kenyan Cities

Kenyan cities are managed by a multitude of local and central agencies. At the center, the Ministry of Local Government (MLG) is the nodal ministry while a number of other ministries, among them the Ministry of Finance and several sectoral ministries, are directly or indirectly involved in the affairs of cities. Sectoral ministries are involved in the planning, financing, monitoring and delivery of various services in areas such as land and housing, education, health services, and infrastructure. Within cities, elected city councils (CCs) headed by a Mayor operate under MLG and represent public interests at the local level. They are also involved in planning, financing and delivery of services. Figure 1 outlines the institutional landscape for service delivery in Kenya.

The institutional complexity inherent in the current system has led to several less than optimal outcomes: poor systems of planning, lack of ownership and accountability in city management and service delivery, and weak citizen involvement. Further, in a larger sense, a key casualty of the decline of key institutions and the centralization of power has been effective and accountable local governance. Thus the origins of the current failures in city management lie beyond the city itself. The following sections explore that story.

Figure 1: Public Service Delivery Channels in Kenya[3]



Source: World Bank (2002)

Centralization of the Kenyan State

The Kenya government is structured as a representative republic. The country is led by an elected president who is both the head of state and head of government. The President is elected by popular vote, and must also be an elected member of parliament. The president chooses his cabinet from among the members of the legislative National Assembly. The President, Vice-president and the cabinet make up the executive branch of the Kenya government. The legislative branch, where laws and policy are created, is made up of a National Assembly consisting of both elected and nominated members. Below the central government, there are a number of smaller divisions of government for day-to-day management of political and administrative affairs. The 8 provinces are broken down into 69 districts, each led by an appointed commissioner. The districts are further divided into divisions.[4]

Kenya gained independence from Britain on a constitution of detailed checks and balances. On the vertical axis, government authority was shared between national and regional governments on a loose federal scheme while on the horizontal axis powers were balanced out between the

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[3] It is worth noting that Mombasa is the only urban municipality which is a district without a rural LA (county council) and this is why it is shown separately within the district level. Other municipalities fall within a district administrative area that also has a rural LA with the exception of Nairobi whose spatial jurisdiction is coterminous with the administrative province of Nairobi. Town councils are smaller in size than municipal councils in terms of budget, staff, number of electoral wards, and urban population. The city is a title that is conferred by statute. The title "city" has been applied loosely to the top five large municipal councils in the country. The dotted lines in the chart refer to the informal linkages between the different LAs, and the district offices of sectoral line Ministries, with some having offices at the sub-district level (division and location).

[4] Economist Intelligence Unit (2007); CIA Factbook (2008; and Oxford Analytica

judiciary, the executive and the legislature. Key public institutions were insulated from political interference through special constitutional provisions. Parliament was bicameral, consisting of a House of Representatives and a Senate, and elections to both houses were managed by an independent Election Commission.[5]

Over forty years and nearly thirty constitutional amendments later, much of the ensemble of institutions set up by the independence Constitution has been virtually dismantled. Regional governments were first weakened and then abolished; thresholds for constitutional amendments were lowered; checks on emergency powers were relaxed; the two-chamber Parliament was dismantled; and the security of tenure provisions for constitutional public agencies were scrapped. Although the country has maintained civilian rule since its independence and held elections every five years, major flaws with electoral processes continue to challenge the integrity of the system. But for a two five-year presidential term limit introduced in 2001, the powers of presidency were sharply increased in parallel during this period and the office of the President became the main conduit for government policy, especially in key areas.[6]

This tinkering eroded the principles of constitutionalism embedded in the independence Constitution and resulted in progressive decay of institutions. What evolved over time was an ineffectual, weak and corrupt judiciary, a provincial prefecture neither accountable nor transparent to citizens, and finally growing powers of the Presidency.

Regionalism is commonly known in Kenya as *majoimboism*. Calls for devolution of economic and political power to the provinces have been particularly emotive and important part of the political debate since independence. Regions are commonly used by politicians as a proxy for ethnicity. Despite a brief experiment with regional assemblies in 1963-64, Kenya has otherwise maintained a highly centralized form of government. Power rests with the executive branch and the most powerful force in local government is the provincial administration, an unelected prefectural body that answers to the executive. Opponents of various presidents have generally coalesced around the notion of devolution as a means to reduce the powers of presidency. However, ideas of what form that devolution should take have varied greatly.

Politics of Patronage and Rents

Over the last several decades Kenya has developed into a patrimonial state where the structures of a modern nation state exist mostly in the formal sense, but actual power operates through a web of informal, clientilist networks based on personal ties between leaders and supporters at all levels of the political hierarchy. These informal networks have permeated public institutions and subverted formal rules. They have undermined systems of public accountability and created conditions where corruption could flourish. These patronage networks have a strong ethnic and gender element in their composition and operation.[7]

In the current set up, political parties offer only limited potential as a source of pressure for change. Since multi-party politics was restored in 1992, numerous political parties have been established. Most are, however, personalized enterprises principally formed along ethnic lines and serving as an instrument for ethnic elites to compete for power. Because of this political parties are largely absent from serious policy debates. They lack an organizing vision and a coherent policy platform. Interestingly, no party commands a large national following.

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[5] Ibid.
[6] World Bank (2006)
[7] Ibid.

The 2002 election was an important sign of growing political competition and a rejection of patronage-driven style of government. Yet that reform momentum appears to be hampered by the historical legacy of patronage and clientelistic networks, one which does not disappear merely due a change in government.

Political Economy of Local Government in Kenya

Independence in 1963 signaled the assumption of power by the Kenyan state, ending colonial rule and triggering the consolidation of local governance through an administrative structure consisting of Local Authorities (LAs) and central government administrative units which make up the provincial administration.[8] This dual system is the basic framework for local governance and public service delivery in the country even today. In the years after independence, LAs performed reasonably well, supported by a robust revenue base and grants from the Central Government. The law required them to provide only a few basic services although it allowed them to undertake other programs which they considered essential for improving services to their residents. Up to the end of the 1960s, LAs were able to effectively deliver a range of services, for instance road maintenance, primary education, public health, and agricultural extension.

In 1969, following the enactment of the Transfer of Functions Act, the central government took over the responsibilities for primary education, health and road maintenance. Government also took over key revenue sources from LAs ostensibly to fund the new services. Since then, local authorities have been systematically weakened through the measures listed in Box 1.

[8] The highly decentralized *Majimbo* constitution during the first year after independence has been replaced by the republican constitution which centralized government functions and reestablished the colonial structures of the provincial administration.

Box1: A chronology of measures that have weakened local authorities: 1969-2007

- 1969: Transfer of Functions Act which saw government take over key responsibilities from LAs;
- 1974: abolition of Graduated Personal Tax (GPT) took away a major source of revenue
- 1983: creation of the District Development Committees chaired by the Provincial Administration to coordinate development planning and budgeting further eroded the functions of LAs;
- 1980s and 1990s: political expediency led to the continued subdivision of Local Authorities, creating unviable entities on a shrinking resource base;
- 1990s: the MLG tightly controlled LAs through the Public Service Commission, with delegated powers to appoint, promote and deploy LA senior staff, thus weakening the autonomy of LAs;
- 2000: MLG started to micro-manage LAs through power delegated by the Exchequer to approve budgets, supervise the use of devolved funds and approve major procurements under new rules. These measures further centralized the fiscal management regime of LAs;
- 2003: the National Assembly (Parliament) passed the Constituency Development Fund Act (CDF) which initiated the mechanism for financing community projects at constituency level in competition with LAs thus further weakening the focus on councils as the primary channel for service delivery at the local level;
- 2007: amendment to the Constituency Development Fund Act allowing the hiring of 210 CDF program managers at the constituency level. This has initiated the creation of a local bureaucracy that is competing with LAs, instead of integrating the management of CDF within the local government framework.
- 2007: creation of more than 20 new administrative districts, a clear indication that the efforts of the state are going to be geared towards consolidating the provincial administrative system possibly at the expense of local government reform. An equal number of county councils will automatically be created, as required by the current Local Government Act (LGA), thus increasing the number of resource-weak LA units. This will most likely not help local government reform in the country.

Source: compiled by authors

These measures greatly strengthened central government ministries at the expense of LAs. Indeed, the line ministries have become the major public service providers, working through provincial administration offices at the province, district, divisional and local levels. For the country as a whole Table 1 shows the decline, in relative terms, of the resources available to LAs, setting out the quantitative evidence of marginalization of LAs. In particular, local government revenues as a proportion of GDP fell from 3.26 percent in 1969-70 to 1.22 percent in 1999-00.

Table 1: Trends in local government recurrent revenues in Kenya

Year	Key Milestone	Local Government Recurrent Revenues *(in Ksh million)*					Total Central Government Revenues to GDP (%)
		City and municipal councils	Town and county councils	Total	As a share of total government recurrent revenues (%)	LG revenues to GDP (% in current prices)	
1969-70	Transfer of functions Act	259	133	392	17.10	3.26	15.80
1970-71	Abolition of GPT in rural county councils	266	57	323	11.30	2.38	18.70
1974-75	Abolition of GPT in municipal councils	278	83	361	7.50	1.60	19.70
1988-89	Introduction of LASC	1,971	907	2,879	7.00	1.81	23.90
1995-96		4,027	1,658	5,685	3.80	1.14	29.30
1999-00	Introduction of transfers under the LATF	6,471	2,240	8,712	5.10	1.22	22.80

Source: World Bank (2002)

In recent years further changes have been instituted in the structure of the inter-governmental fiscal system by creating new mechanisms for channelling funds for public service delivery to communities. These funding mechanisms, which include the Local Authorities Transfer Fund (LATF), the Constituency Development Fund (CDF), the Road Maintenance Fund (RMF), the Education Bursary Fund, and the HIV/AIDS Fund, are managed at the national level either by line ministry departments directly or through agencies that are controlled by line ministries. In particular, the CDF is managed by a national committee of the Parliament, an arrangement that is thought to violate the principle of the separation of powers, as the legislature is directly involved in the execution of programs for which it has allocated resources. These different mechanisms operate in parallel with the LA system and often in competition with it, with obvious duplication of effort and potential wastage of resources.

A taxonomy of the different funding systems is given below.

(i) Central Government system consisting of the district and sector line ministries, funded by the national budget;
(ii) Local Government system, funded by local revenues and LATF;
(iii) Constituency system consisting of various funds, including the HIV/AIDS fund, the Bursary Fund, the Road Fund, and the CDF since 2003/04; and
(iv) Private sector/NGO system funded by partners channeling resources directly to local communities, bypassing the planning and budgeting system of Government and LAs.

The growth in number of funding channels stems from a number of factors:
- lack of a coherent policy on decentralization to guide urban service delivery;
- poor performance by the traditional formal institutions especially the LAs; and
- growing demand for effective service delivery and greater participation of citizens in decision-making on matters affecting their lives.

The multiplicity of institutional structures that are competing to reach the community at the local level has marginalised the fiscal role and accountability to citizens of LAs. As Table 2 shows, LATF, the only fund that is channelled directly through LAs, accounts for only about 13 percent of the total funds allocated to the districts, and is indeed smaller than CDF and the Road Fund.

Table 2: Resource Allocation to Districts, 2004/05 – 2005/06 (Ksh million)

	Program Fund	2004/05	%	2005/06	%
1	Constituency Development Fund (CDF)	5,600	18.8	7,246	16.9
2	Local Authority Transfer Fund (LATF)	4,000	13.4	5,584	13.1
3	Kenya Roads Board (Constituencies & districts)	3,720	12.4	8,900	20.8
4	National Aids Control Council	2,280	7.6	3,786	8.9
5	Constituency Bursary Fund	770	2.6	800	1.9
6	Community Development Trust Fund (CDTF)	228	0.8	583	1.4
7	Central Government (Recurrent & Development)	13,210	44.4	15,852	37.0
	TOTAL	29,808	100.0	42,751	100.0

Source: 2004/05 and 05/06 Report of Task force on Harmonisation and Strengthening of the District and Constituency Development, 2005.

Clamor for Change: Local Government Reforms in the 1990s and the 2000s

During the 1990s governance structures broke down and local service delivery by LAs virtually collapsed. In the resulting public clamor for change, the new government, starting in 2003, embarked upon an ambitious program of policy reform to improve services delivery. The government issued the Economic Recovery Strategy (ERS) for Wealth and Employment Creation 2003-07 as its ‘economic manifesto’ aimed at jump-starting the economy. By treating economic recovery as the vehicle for improved provision of health, employment, education and infrastructural services, the ERS became in effect the blueprint for empowerment and governance.

The ERS spelt out the government’s commitment towards improved local governance and service delivery besides anticipating a new constitution and the concomitant devolution of resources. It also observed that business enterprises operate in settings in which local authorities are responsible for essential services; and that enterprise growth would raise the demand for services and also boost the tax revenue needed to finance such services. These were strong reasons for the new administration’s commitment to local government reforms.

The last decade has seen the Kenya Local Government Reform Program (KLGRP) introduce a variety of reform initiatives that have led to some improvements in the management of LAs and delivery of services. These initiatives include:

- the introduction of LATF,[9] a performance and budget support grant generated from national income tax revenues aimed at improving service delivery, financial management and debts reduction;
- the introduction of Local Authorities Service Delivery Action Plan (LASDAP),[10] the output of a participatory planning process in which the LA and its residents set priorities for LATF funding and implementation;

[9] Local Authorities Transfer Fund was established by legislation i.e. LATF Act No. 8 / 98 and came into effect during the 1999 fiscal year.
[10] LASDAP is a basic requirement of the LATF legislation that seeks to promote participatory planning and hold the LA accountable for the execution of projects.

- the implementation of Local Authority Integrated Financial Operations Management System (LAIFOMS), a computerized system that aims at improving and harmonizing the process of budget preparation and execution;
- the introduction of Results Based Management (RBM)[11] and Performance Contracting (PC) in LAs, tools for assessing LA performance in line with the requirements of the Public Service Reform Programme (PSRP) that is implemented by the President's Office;
- the linkage of LA budget preparation to the switch by the Ministry of Finance from project-specific to programme budgeting through the Medium Term Expenditure Framework and the Ministerial Public Expenditure Reviews.

Reforms implemented so far include the rationalization of local business licenses; the implementation of the Integrated Financial Management System (IFMS) in the municipalities after being piloted in eight LAs; and certain other measures that are linked to LATF. These have started to improve the capacity of LAs to manage their finances and service delivery.

The ERS anticipated that the consolidation phase would include the following measures:

- Reviewing of local authorities to ensure that only those that are viable are retained;
- Accelerating the ongoing KLGRP, including expanding the coverage of IFMS;
- Rationalizing and rightsizing staffing in all local authorities with a view to reducing the wage bill, which is considered excessively high;
- Reviewing the Local Government Act in line with Constitutional Review proposals, with a view to giving local authorities more autonomy, improving their capacity to perform their roles, and removing conflicts with the Central Government;
- Introducing information technology in personnel management which, in conjunction with IFMS, would lead to improvement in performance;
- Implementing the recommendations of the Constitution of Kenya Review Commission (CKRC) if enacted.

The 2005 Constitution Referendum: Yet the lack of an effective decentralization framework has bedevilled Kenyan LAs for long. The opportunity to rectify that arose with calls for a new Constitution during the previous government's time. Discussions about devolving power downwards and diluting the powers of the presidency were central to the discussions. The dynamic for devolution was captured by the CKRC when it summed up the findings of its consultations with the Kenyan public as follows:

"*The whole nation feels alienated from the government and [its] structures of authority ….they consider they have no control over their destiny and, outside the general elections, participation is almost non–existent.*"[12]

The draft constitution that emerged from the national constitutional conference at Bomas in March 2004 proposed dividing the nation into regions, districts, divisions and locations, with (directly/indirectly) elected governments at each level. It also called for substantial dilution of presidential power, defining the President as the head of the state and the Prime Minister as the head of the government The Kibaki government rejected the Bomas draft and put forward an alternative version in mid-2005, called the "Wako" draft. The Wako draft called for a government structure with two tiers, i.e. national and district levels. It also left much of Presidential powers intact. While both drafts supported some degree of devolution of powers, it was apparent that the Bomas draft was certainly more radical of the two.

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[11] The Public Service Reform and Development Secretariat of the Office of the President has introduced results-based management in the public sector, including LAs.n Performance Contracts are a key part of it.

[12] Report of the Constitution of Kenya Review Commission (CKRC), September 2002

The Wako draft was put for referendum in November 2005. In a striking blow to its credibility and authority, the government lost the referendum. Many noted that these results were a likely indication that Kenyans favor some weakening of presidential power as well as more radical changes in the Constitution. The rejection of the draft constitution also stalled the prospect of introducing a devolved local government system in the country.

Functioning of Urban Local Authorities: A Case Study of Five Cities

Introducing the Case Study Cities

As noted earlier, the five cities studied are Nairobi, Mombasa, Kisumu, Nakuru and Eldoret. Nairobi, Kenya's capital city, was founded in 1899. It is the principal financial, commercial and industrial center, and also the most populous town, with an estimated 2.9 million people[13] in 2006. Besides serving as a regional commercial center for the wider east African and Great Lakes region, its strategic location makes it an important air transport node. It is home to a large number of international and regional organizations, including two headquarters offices of the UN.

Mombasa, the second largest city, has a population of over 830,000[14] and a long history of maritime trade. It is the headquarters of Mombasa District as well as the provincial headquarters of Coast Province. Besides being Kenya's principal port, it serves as a gateway to eastern and central Africa. Kisumu is the third largest city and the administrative headquarters of Kisumu District and Nyanza Province. It started as a railway terminus and inland port in 1901, growing into the leading commercial, industrial and administrative center in the Lake Victoria Basin. Its population was about 500,000[15] in 2006.

Nakuru, the fourth largest city in Kenya, is the administrative headquarters of Nakuru District and the Rift Valley Province. The city was founded in 1904 as a railway outpost, and is located along the east-west transport corridor which links the Kenyan Coast with the Lake Victoria region and Uganda. It is an important agro-industrial center and the adjacent Lake Nakuru National Park is a tourist attraction of great economic value for the country. It had a population of nearly 300,000[16] in 2006. Eldoret, with a population of 241,000[17] in 2006, is the fifth largest city. It is located in western Kenya in a rich agricultural region and is the administrative headquarters of Uasin Gishu District in Rift Valley Province. Founded in 1910, the town is an important commercial and agro-processing center, and boasts an athletics training center of international repute.

The key demographic, social and economic statistics for these cities are summarized in Annex 1.

Local Government Finances

This subsection examines municipal revenues and expenditures, budgeting processes, and public financial management in the five cities. The common strand in this investigation is an assessment whether current systems help or hinder efficient service delivery, and advance or deter greater public accountability at the local level.

[13] Projected from 1999 census
[14] Projected from 1999 census
[15] Projected from 1999 census
[16] Projected from 1999 census
[17] Projected from 1999 census

Municipal Revenues: The revenue base of municipal authorities consists of locally generated revenues and transfers from the central government. The basic revenue sources for municipalities are defined in several statutes[18]. These laws give local authorities the right to raise revenue from a wide variety of sources upon receiving the approval of the Minister for Local Government[19]. The municipal revenue base, therefore, is influenced a great deal by the central government through the granting or withholding of fiscal authority over potential sources. The main sources include:

- Property taxes collected in the form of land rates[20];
- Business tax referred to as the Single Business Permit (SBP);
- Motor vehicle parking fees;
- Market fees (for stalls and use of space in council markets);
- Rents from council buildings, housing estates and community facilities;
- Fees for various municipal services.

Internal revenues, consisting of the taxes listed above, are the main sources of funds in the five cities accounting, on average, for about 70 percent of total revenues in 2006 (Table 3). In this regard, Kenyan cities are somewhat better performers than the average African cities. Smoke[21] notes that, "*Kenyan local governments, even though they account for a smaller percentage of public activity than sub-national entities in Uganda and Ethiopia…. are less dependent on the center for financial and technical assistance*." What is however striking is the low buoyancy of own-revenues in all the five cities during 2001-06. With the possible exception of Nakuru, when accounted for price increases, it is likely that actual growth rates of own-revenues are in the negative over this period (Table 4).

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[18] These include the Local Government Act CAP. 265 of 1977 as amended in 1988, the Rating Act, the Valuation for Rating Act, the Agriculture Act, the Water Act, Road Maintenance Levy Fund Act and the Local Authority Transfers Fund Act of 1998.

[19] Smoke P. (1994) p. 78

[20] Land taxes are made up of rates that are levied on the beneficiaries of public land at the local level. Land rates are property taxes levied as a proportion of the unimproved site value of plots owned by individuals within a municipality. User-charges are made up of fees paid by consumers to use a specific service and are levied on a "pay as you use basis". They include vehicle parking fees, market fees, house rents, water/sanitation charges levied by councils or their companies formed to render a given service.

[21] Smoke (2000: 23)

Table 3: Municipal Revenue in the Five Cities: Annual Collection 2005-06 Ksh. Million)

	Nairobi		Mombasa		Kisumu		Nakuru		Eldoret	
Own Revenue		%		%		%		%		%
A. Property tax / CILOR[22]	1,598	42	372	50	72	27	44	17	94	36
B. User Charges	1,375	36	0.2[23]	0.1	117	44	96	37	116	44
C. Business tax / SBP	598	15	132	18	43	16	62	24	34	13
D. Other levies / fees	280	7	242	32	34	13	57	22	20	7
E. Rent/sales of property	-	-	-	-	-	-	-	-	-	-
Total Own Source	**3,851**	**100**	**746**	**100**	**266**	**100**	**259**	**100**	**264**	**100**
External Finance Sources										
LATF	401	31	274	80	96	83	94	84	74	87
RMLF	533	42	53	16	9	8	16	14	11	13
School Bursaries Grant	52	4	-	-	-	-	-	-	-	-
Health Grant / HIV AIDS	80	6	-	-	-	-	-	-	-	-
Donor / Partner Grants	-	-	15	4	11	9	2	2	-	-
Other Transfers	217	17	-	-	-	-	-	-	-	-
Total External Revenue	**1,283**	**100**	**342**	**100**	**116**	**100**	**112**	**100**	**85**	**100**
Summary										
Total revenue (Ksh. Mln)	**5,134**		**1,088**		**382**		**371**		**349**	
Own source as % of total	75		69		70		70		76	
External as % of total	25		31		30		30		24	
Population 2006 (million)	2.9		0.83		0.50		0.30		0.24	
Own-source rev. **per capita** Ksh	1,328		899		532		863		1,100	
(USD)	(20)		(14)		(8)		(13)		(17)	
Total rev. **per capita** Ksh	1,770		1,310		714		1,233		1,454	
(USD)	(27)		(20)		(11)		(19)		(22)	

Sources: Municipal Councils, LATF Annual Reports and Municipal LATF returns to MLG. 1USD = Ksh 65

[22] Contribution in lieu of rates. This amount is paid over to the local authority by government for the land occupied or owned by governmental institutions.
[23] Fieldwork data indicated an understatement/different classification of user charges in Mombasa, in addition to poor revenue returns from parking spaces, currently managed by a private entity under a PPP.

Table 4: Own Revenues Growth 2001- 06

City / Municipality	Growth per annum over 2001-06 (%)[1]
Nairobi	12.6
Mombasa	9.1
Kisumu	3.8
Eldoret	- 6.0
Nakuru	15.1

Source: LATF Annual Reports
[1]/In nominal terms

In absolute terms also the own revenue per capita is quite modest: US$20 for Nairobi, US$14 for Mombasa, US$8 for Kisumu, US$13 for Nakuru and US$17 for Eldoret. When all revenue sources are included, the municipal revenue per capita is highest for Nairobi (US$ 27) and lowest for Kisumu (US$ 11). The average annual per capita revenue collected by the five cities is about US$ 17 for own revenues, and US$ 24 when external revenue sources are included. This level of own revenue collection is not much higher than the average for African municipalities, which is US$15 per capita (Table 5),[24] and is far lower than the amount for cities in many other regions.

Table 5: Municipal Income for Various Towns and Regions (US$ per capita, per year)

City/Region	**Average per capita income per year (own revenue; US$)**
Nairobi	20
Eldoret	17
Mombasa	14
Nakuru	13
Kisumu	8
Ethiopia (Highest value)	7
Africa	15
Arab States	1,682
Asia Pacific	249
Industrialized	2,763
LAC	252
Transitional	237

Sources: Kenyan municipal councils and LATF Annual Reports; World Bank (2001).
LAC = Latin American countries; Transitional = Countries in transition

The relative importance of various revenue sources vary markedly from city to city. For example, property taxes were the most important sources of revenue in Nairobi and Mombasa, accounting for 42 percent and 50 percent of own-source revenues in the two cities, respectively. In contrast, property taxes accounted for a mere 17 and 27 percent of own-source revenues in Nakuru and Kisumu, respectively.

The main reason for these differences in performance appears to lie in tax administration. Nairobi and Mombasa have been more rigorous than the other towns in tax administration and have even sought the assistance of the Kenya Revenue Authority (KRA), the national tax agency. The two

[24] These are rough and ready comparisons as the figures are for different years. Figures for other regions are cited in World Bank (2001), and are based on UN-Habitat Urban Indicator Reports for 1998 and 2001. The Kenyan figures are for 2005/06.

cities have revised their property tax rates at least once since 2000 and won the support of tax payers who have qualified for early payment discounts and an interest waiver on rates due. Further, cadastres in Nairobi and Mombasa are computerized and better managed, unlike the other cities in the sample. Whilst the property valuation roll is partly linked to a geographic information system in four of the five cities, this innovation is only working satisfactorily in Mombasa.

There are variations in other sources too. For example, the share of user charges in own-revenues is significant in all cities—ranging from 36 percent in Nairobi and 37 percent in Nakuru, to 44 percent in Kisumu and Eldoret—except Mombasa, where it is only 0.1 percent of own-revenues. User charges have declined over time in all cities due to the divestiture of council rental housing estates and the delinking of water and sanitation upon commercialization. Revenues from SBP (business tax) form the next most significant source of own-revenues in all cities but Mombasa. Unlike the other cities, at 32 percent, various levies and fees are the second most significant source of own-revenues in Mombasa.

Although the five cities revise their tax rates and tariffs from time to time, they have not done so systematically or expeditiously. In the case of property taxes, valuation rolls are not revised every 10 years as provided for in the law (Valuation for Rating Act). In other cases, the cost of tax collection is quite high relative to the revenue due. For example, it is not unusual for house and market stall rents to generate less revenue than the cost of maintaining these facilities.

Tariffs and fees for services do not take into account the effect of inflation on city budgets and revenue outturn. In general, the costs of providing services have tended to rise more steeply than the growth of real revenues, a problem that stems from unrealistic tariffs in the schedule of fees and charges (SFC)[25]. It is apparent that there is potential for increasing the revenues generated from tariffs and fees, adjusting them to reflect current costs and incomes and/or consolidating some fees to simplify administration.

The LAs in the five cities have weak legal mechanisms to support enforcement of revenue collection which leads to defaulting and accumulation of arrears. With the exception of property tax, municipal authorities can only impose a late payment surcharge for delinquent tax payers. Even for property tax, the process of recovering arrears through the courts is problematic and time consuming. There is clearly a need to develop legal and administrative mechanisms that can help municipalities improve revenue collection.

Collection systems and procedures are slow and inconvenient for taxpayers. Measures to simplify these procedures have helped to improve compliance in the case of trade licenses, for which a one-stop-shop has been established to issue a SBP. The collection of land rent by the Ministry of Lands has also been reformed, doubling revenue collection.

In all cases, revenue collection has been undermined by limited institutional capacity within the LAs. This problem is particularly acute in the departments responsible for revenue administration which are characterized by a high turnover of senior staff, limited staffing (except in Nairobi), and very low salaries. In the five cities, over 80 percent of the revenue departments are neither computerized nor properly networked to support revenue collection. The revenue staff are competent in nearly all cases, but are demotivated by low salaries.

In general, revenue administration in the five cities faces six major constraints:

[25] The SFC is the list of all the revenue items that are administered by the city and is approved together with the city budget to which it is annexed.

- The tax base for important sources, such as the property tax and the business tax, is artificially small because the cities have not been updating their records, and informal businesses and properties are not included in the base;
- Fees and tax rates tend to be out of date and are often difficult to administer;
- Collection rates are poor in many municipalities with wide variations year-on-year. The default rate and cumulative arrears are especially high in the case of property taxes;
- Payment procedures are slow and inconvenient for taxpayers;
- Enforcement mechanisms are poor and the legal basis to support enforcement is very weak, thus encouraging defaulting; and
- Weak human resource capacity, low computerization and poor incentives for enhancing performance.

Intergovernmental transfers: The main transfers from the central government, already noted, are the RMLF, school bursaries from the universal free education fund, national HIV AIDS control fund, and the LATF.

The main transfers that are reliable in terms of timing and amount are LATF and RMLF. The annual growth of all transfers between 2001 and 2006 ranged from 5.6 percent for Kisumu to 25.5 percent for Nairobi (in nominal terms). These transfers have become an important part of local government finance in Kenya since the late 1990s.

LATF is a direct block grant that is not earmarked for any specific local expenditure (LAR 2007:4) unlike RMLF which is earmarked for roads development, rehabilitation and routine maintenance. The annual budget process allows the LA to rationalize the actual deployment of the funds and enables MLG to review the work plans pertaining to the proposed expenditure priorities for each financial year. LATF allocations are based on an objective formula. It includes the overall population size of the LA (weighted at 60 percent), the urban population of the LA (weighted at 31 percent) and a basic minimum guaranteed lump sum allocation of Ksh.1.5 million roughly equal to 9 percent. Criteria for allocating RMLF resources include the length of classified roads and existing road conditions.

Both LATF and RMLF are generally predictable. While RMLF is earmarked for specific use, LATF comes with conditionalities,[26] and therefore constrain LAs' autonomy in setting local budget priorities[27]. Moreover, city authorities have argued that their share of income tax through LATF is fairly small, amounting to only five percent of national tax revenue during 2008/09. In nominal terms, the total amount of LATF funds allocated to LAs has risen from Ksh.1.0 billion in 1999/00, to Ksh.5.0 billion in 2005/06, and to Ksh.8.0 billion in 2007/08.

Yet another source of revenue is CILOR (Contribution In Lieu of Rates)—the tax that central government pays to LAs in respect of properties located within its tax jurisdiction. A key issue is that CILOR funds are inadequate and unpredictable, making it difficult for cities to plan for their

[26] Forty percent of LATF money is normally released on evidence that the LA has met the five performance conditions outlined below. Compliance with each condition triggers the release of twenty percent of the performance component of the grant: (i) Summary statement of actual receipts, expenditures, cash and bank balances, ready to be certified by an auditor as being a true record; (ii) Statement of debtors and creditors, together with a brief statement showing the LA's compliance in implementing the previous year's debt reduction plan and certification of actual debt repayments made in the current year; (iii) Abstract of accounts for the previous financial year; (iv) Revenue enhancement plan for current year and measures to improve revenue collection; and (v) LASDAP

[27] Smoke, P. (1994)

utilization. Because of their poor financial health, cities are also not in a position to access funds from the market directly through either direct borrowing or through intermediaries.

Municipal Expenditures: In all five cities recurrent expenditures accounted for an extremely high proportion of total expenditures – 92 percent for Nakuru, falling to 76 percent for Eldoret (Table 6). Not surprisingly, the capital expenditures per capita are very low, a mere Ksh 199 for Nairobi and Ksh 371 in Eldoret, the best case. Kisumu is the worst performer at Ksh 62. The lop sided ratio of per capita capital expenditure to per capita recurrent expenditure in all the cities (Table 6) lays bare the huge imbalance between the two. As these figures are for one year, they present only a snapshot, and not too many generalizations can be drawn from them. Still, these low levels of investment are consistent with poor service delivery, and the perception by citizens that the performance of municipal authorities is not satisfactory.

Table 6: Expenditure Patterns: Recurrent vs. Capital and the Wage Bill 2005-06 (Ksh. Million)

	Nairobi	Mombasa	Kisumu	Nakuru	Eldoret
Capital expenditure (a)	578	141	31	31	89
Recurrent expenditure[28] (b)	3,892	808	312	340	280
Wages & pension contributions	2,805	505	173	193	174
Total (a+b)	4,470	949	343	371	369
Capital exp. as a % of total expenditure	13	15	9	8	24
Recurrent exp. as a % of total expenditure	87	85	91	92	76
Own-revenue	3,851	746	266	259	264
Wages & pensions as a % recurrent expenditure	72	63	55	57	62
Wages & pensions as a % total expenditure	63	53	50	52	47
Wages & pensions as a % of own-revenue	73	68	65	75	66
Total population in 2006 (million)	2.90	0.83	0.50	0.30	0.24
Capital expenditure per capita (Ksh)	199	170	62	103	371
Recurrent expenditure per capita (Ksh)	1,342	973	624	1,133	1167
Per capita capital expenditure/Per capital recurrent expenditure	14.83%	17.47%	9.94%	9.09%	31.79%

Source: Municipal records

Table 7 shows that in 2005-06, total expenditure in all the five cities exceeded own revenues, with Eldoret and Nakuru exceeding their revenues by the largest proportion. Expenditure was below total revenues (i.e. with external receipts included) in three of the five cities but Nakuru was able to just cover expenditure from total revenues while expenditure by Eldoret exceeded total revenues.

[28] The main items in this are operations and maintenance, and wages and pension contributions. Debt service excluded but the amounts are minor.

Table 7: Relationship between Expenditures and Revenues in 2005-06 (Ksh. Million)

	Nairobi	Mombasa	Kisumu	Nakuru	Eldoret
Expenditure	4,470	969	342	371	370
Own-revenue	3,851	746	266	259	264
Total revenue (own+external)	5,134	1,088	357	370	349
Expenditure/own-revenue (%)	116	130	129	143	158
Expenditure/total revenue (%)	87	90	96	100	106

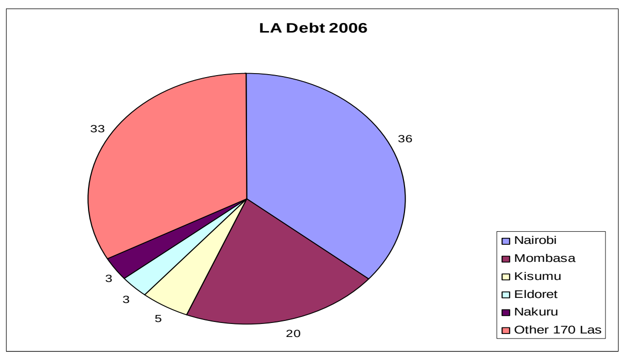
Source: Municipal records

Municipal Debt: All the five cities have many outstanding liabilities. The five LAs together held 67 percent of the total LA debt in the country (Table 8), led by Nairobi and Mombasa with 36 percent and 20 percent, respectively, and the other three LA with 11 percent. The rest of the 170 LAs in the country held 33 percent of the debt. The main liabilities include staff salary arrears, and statutory deductions from staff salaries not remitted to pension funds, labour unions, Kenya Revenue Authority (KRA), National Social Security Fund (NSSF), National Hospital Insurance Fund (NHIF), Superannuation Fund and Provident Fund. Other liabilities include long-term non-performing loans owed to the Local Government Loans Authority, the National Housing Corporation and commercial banks. A key part of LATF reforms is the gradual reduction of municipal debt with a view to eliminating it by June 2010

Table 8: Local Authority Debt as of June 2006 (Ksh. Million)

City	Outstanding Debt
Nairobi[29]	3,756.56
Mombasa	2,104.46
Kisumu	560.12
Eldoret	298.57
Nakuru	272.51
Subtotal 5 Las	**6,992.22**
Other 170 Las	3,564.52
Total LA Debt	**10,556.73**

Source: LATF Annual Report 2005/06:16.



Municipal Budgeting: The basic responsibilities for budget preparation lie with the cities but under the oversight of MLG through published guidelines and resource ceilings. The budgeting process begins with a determination of expected revenues which are then matched with estimated expenditure proposals. Each Council department prepares a budget request that is submitted to the City Treasurer who facilitates internal review and negotiations in consultation with the head of administration. The process also involves mandatory community review through the LASDAP process. A recent innovation is the requirement that the budget be presented to the public. Eventually, the budget is reviewed by the management committee of the council before it is forwarded to the Provincial Local Government Officer of MLG for review, amendments and approval.

The final budget envelope is limited by own revenues and the transfers from the central government. LAs are required to prepare a balanced budget and MLG approval is based on this

[29] Nairobi was in addition to this amount reported to be holding a long term loan portfolio of Ksh.15 billion.

condition. In practice, however, there is inadequate enforcement of the condition with the result that the budget deficit easily translates into unpaid commitments for salaries, statutory deductions and settlement of utility bills. Treasury is often forced to rescue imprudent LAs when they are not able to fully meet their annual liabilities through the budget.

The five cities have standardized their budget formats in compliance with guidelines from MLG. These guidelines require, among other things, that a proportion of funds be set aside for pro-poor interventions, salaries/wages, operation and maintenance as well as capital development projects. Investments in major development projects are difficult to accommodate within most city budgets and such projects are typically funded by means of capital funds mobilized through MLG.

Human Resource Management Within LAs

LAs are responsible for paying the salaries and allowances of their staff regardless of whether the staff are internally hired or recruited externally through the MLG and the Public Service Commission (PSC). The PSC has the responsibility for appointments, promotions, transfers, and performance appraisals and disciplinary matters of public officials including LA officers. It has delegated its powers to LAs to manage lower cadres (salary scales 10-20) while it directly handles the human resource affairs of senior and middle management staff (salary scales 1-9).

In practice, in spite of the powers of PSC, MLG plays a direct role in LA staff management and is involved in decisions regarding transfers and appointments of senior staff such as town clerks, treasurers and engineers. As the approving authority, it is able to influence the establishment of additional cadre of staff as the need arises. The respective roles of PSC, MLG and LAs are shown in the table below.

Table 9: Human Resource Management Responsibility in Local Authorities

Functions	Salary Scales 1-9	Salary Scales 10-20
Personnel Management		
Recruitment	PSC	LAs, but controlled by MLG through budget guidelines and approval process
Employment	LAs	LAs
Appointment	PSC	LAs
Transfers	PSC & MLG	MLG
Promotions	PSC	LAs
Disciplinary action	PSC and MLG	Town Clerk and LA
Staff Development		
Performance Appraisal and Contracts	PSC, MLG and immediate supervisor e.g. Town Clerk, PLGO[30].	Town Clerk and immediate supervisor
Training and staff dev.	MLG and LAs	LAs

The councils in all the five cities are overstaffed, especially in the lower cadres and this has inflated their wage bills substantially. In fact, salaries and pensions dominate the expenditures of all five cities, ranging from 47 percent in Eldoret to 63 percent in Nairobi of the total LA expenditure. In senior management, staff transfers by the MLG are unplanned and uncoordinated, seriously disrupting continuity and undermining staff morale. In all the five cities, staff motivation was characterized as low with poor remuneration, uncertainty over transfers, and lack of transparency in promotions cited as the principal causes. Yet, there is not much room for

[30] Provincial Local Government Officer

raising salaries as wages and pensions already account for a very high proportion of own revenues. The cities would have more room for maneuver if they right-sized their staffing.

Local Accountability

Local elections: Local council elections to serve as the primary mode of public accountability and citizen participation in local governance process in Kenya. Local authorities are elected with universal adult suffrage and secret ballots in multi-party elections conducted in accordance with the Local Government Act (Cap 265).[31] The majority of councilors are elected through the popular vote, whilst a third are nominated by the political parties that win seats in council. The mayor is elected by secret ballot at the inaugural meeting the full council.

Closer scrutiny reveals several shortcomings in the electoral process as a mechanism of public accountability. Election of the mayor is characterized by "horse trading" and intense lobbying within and among the parties. Vote buying to secure support has been reported in many instances. Election of chairs of different committees is usually dominated by the political party with majority seats in the council. The mayor is accountable to the electoral college of councilors and to the Minister for Local Government who has supervisory responsibility over LAs. The elected councilors are mainly accountable to their voters (downward accountability), while their nominated counterparts are accountable to political parties (upward accountability).

In all the five cities there are serious allegations that mayors and other public officials are generally captured by the powerful economic and political interests that they represent. Indeed, these interests tend to hold the council captive making it difficult to introduce the institutional reforms that are vital to reducing nepotism and corruption, and to improving service delivery. Cooperation and competition, as the case may be, among the dominant political parties tend to entrench these interests and to put off urgent reforms where these are at odds with such interests.

The political economy of the country has a profound effect on city management, with the civic administration working closely with the dominant political party in each jurisdiction to fashion a *modus operandi* for engaging with the central government. In areas where the central government has little support, for instance in Kisumu, Eldoret and Mombasa, the council leans towards the opposition. But in areas where government has wide support, councils tend to cooperate well with government ministries and departments.

Financial Accountability within LAs: Financial accountability is enforced through rules regarding procurement, financial reporting and audit. Procurement of goods and services is governed by the Public Procurement Act of 2003 (PPA 2003) and its regulations and guidelines as published by the Ministry of Finance. PPA 2003 procedures call for competitive tendering and public invitation of bids from competent firms.

In respect of financial reporting, the municipal authorities are required to publish their summary budgets in the national daily newspapers in compliance with the LATF Act. LA budget estimates for 2007/08 were read to the public at the end of June 2007 as required by a Ministerial directive issued specifically for the purpose of enhancing public accountability. Annual Abstracts of Accounts have not been published or made public but the Nairobi City Council published its Audited Accounts for the first time in December 2006.

The Kenya National Audit Office (KNAO) is the external auditor for the cities. It carries out audit inspections, audits LA books of accounts, and issues audit certification on an annual basis. The

[31] Bazaara 2002: 12 quoted in Gaventa (2002)

call for improved accountability by civil society and private sector lobby groups has resulted in significant compliance with the audit condition, with Nairobi leading the pack in publishing its audited accounts towards the end of 2006.

Public participation in local decision making: During the years of one-party rule under Presidents Kenyatta and Arap Moi, one-party democracy was justified by arguing that office holders at the local level performed a "linkage" function by working for their "community" interest at the national level.[32] Later, even with the advent of multiparty system, citizen participation in local governance remained limited. Oloo and Kanyinga note that nearly all actors of the democratization endeavor assumed that the micro-level issues of governance are subordinate to those at the macro-level' and little attention was paid to local governance in the process of democratic reform.[33]

In fact, it has been noted that Kenya has never held a strong tradition of citizen participation in local government. The Local Government Act makes no reference to citizen participation, and the style of local government is very traditional, with elected councillors deciding everything behind closed doors.[34] Outside the formal local government system though, Kenya had more established systems for participation, especially in its strong voluntary sector—the *Harambee* self-help groups were an example of this.[35]

However, there have been some winds of change in recent years, for a number of reasons:

- in general, the growth of civil society and community organizations (in Kenya, as elsewhere)
- pressure from donors, who have increasingly emphasized their own terms of participation;
- more recently, the introduction of LASDAP, as part of LATF conditionalities, to promote transparency in the budgeting process of the LA, and enhance opportunities for residents to hold the council accountable. Representatives of residents groups, businesses and civil society work with the council through well advertised consultative meetings to prioritize projects that can be funded through LATF and included in the annual budget;
- finally, introduction of Strategic Plan and the Service Charter (SC) in LAs as a key part of Performance Based Management (PBM). The preparation of these mandate consultation with stakeholders, and establishment of performance benchmarks for service delivery that can be monitored by the public.

In spite of these promising initiatives, participation in a meaningful sense, and accountability that it should foster, are yet to take roots in cities. The experience with LASDAP in the five cities is illustrative. All the case study cities have been undertaking LASDAP since there are now mandatory under LATF rules. Yet, questions have been raised on the way the process is conducted in nearly all the five cities. In Kisumu, for instance, respondents strongly argued that the LASDAP process is not participatory, as it typically draws its information from "gatekeepers" whose views reflect those of officialdom. In Nakuru, residents in a certain neighborhood complained that officials "*do not take the LASDAP process seriously,*" and "*the debates were dominated by the local councilor and some well-established local groups… while many others present in the meeting – including women and youth – were able to speak their minds, but their views were easily put aside.*"[36]

In general, various studies and interview with stakeholders suggest that LASDAP as a participatory planning tool at the local level to achieve the objectives of enhancing local

[32] Crook (1999: 116)
[33] Oloo and Kanyinga (2002: 19)
[34] University of Birmingham (2002: 4)
[35] Ibid. (12)
[36] Post, J. and Mwangi S. W. (2006).

governance and setting project priorities for funding through LATF, has not yet met expectations in promoting downward accountability. These study point to the…

"*weak involvement of the resident communities in monitoring LA activities; politicization of the process; ineffective planning; reallocation of funds; weak administration and managerial systems; inadequate and selective involvement of stakeholders; weak human resource capacity at the local level; and the poor relation between the council and the district administration.*" [37]

The five city authorities have also recently prepared Strategic Plans in consultation with stakeholders and published Service Charters that set out performance benchmarks for service delivery. The members of the public are expected to monitor the implementation of these Charters. But the lack of a institutional systems and structures like stakeholder forums, except in Nairobi, has constrained the ability of stakeholders to hold structured monitoring of the implementation of the Strategic Plan and the Service Charter. Even in Nairobi where a stakeholder forum has been formed, its activities have not been fully operationalized. The distance between the rhetoric on participation and actual outcomes of public accountability it aims to generate appears rather wide at this moment in Kenya.

Council-led mechanisms aside, there are sector-specific stakeholder forums that operate outside council facilitation in the five cities, such as Transport (*Matatu*[38]) Operators Association; Trade Associations (Hawkers/Street Traders); the Central Business District Association (CBDA); faith-based organizations (FBOs); and Residents Associations (RAs).

RAs in particular deserve special mention. Urban-based RAs sprung up as community self-help initiatives of residents concerned over serious insecurity and the failure of the LAs to provide local services. The members were mainly property owners who were also concerned about the loss of property values in their neighborhoods due to the decline in the quality of services provided by LAs. The RAs were thus formed as welfare associations of property owners who would meet regularly to review and discuss local issues of mutual concern. Together with their apex organization, the Kenya Alliance of Resident Associations (KARA), RAs have grown into a powerful voice of civil society, partnering with councils to improve service delivery.

At the apex, KARA has developed a strong national network of urban policy advocacy, hosting monthly meetings where prominent professionals make presentations on key policy issues. It also hosts an electronic newsletter discussing topics touching on governance and urban environmental matters of the day. Moreover, it contributes to public debates on the constitution, legal reforms, decentralization and devolution of state power, LA elections and democratic governance.

All these initiatives are part of the new partnerships for urban development that are being implemented in all the five cities in varying degrees. This trend has raised hopes that the ownership of local development programs might progressively shift away from city hall to the residents, thus improving accountability.

Corruption within LAs: In general, interviews suggested that corruption is an important issue among public service providers in all the five cities. Its incidence was described as moderately high by the councilors and other internal stakeholders while external stakeholders described its incidence as high. Operational areas most prone to corruption are procurement, revenue administration in SBP/licensing, business centers such as motor vehicle parking, markets, housing, enforcement, construction works, land allocation, employment, and promotions.

[37] Oyugi, L. N. and Kibua, T. N. (2006).
[38] 14-seater minibus, the common form of public transport in Kenyan cities

More systematic and objective information on corruption is available from Transparency International (TI) which has conducted regular annual surveys to inform the fight against corruption. TI uses survey observations to construct a composite index which reflects the frequency, cost and size of bribes. The index has a range of 0-100 such that the higher the value the worse the performance of the organization. The 2006 listing of the top ten offenders ranked local authorities in third position after the Police Department and state corporations. On the basis of this scoring, the police were cited as the worst offender at position number one, with 60.3 points; local authorities were in position three with 31.3 points; Mombasa Municipal Council took position 10 with 24.8 points; and Nairobi City Council position 13 with 21.3 points[39]. Most of the TI findings were confirmed by another survey by the Kenya Anti-Corruption Commission (KACC)[40] which found that:

- 41 percent cited the MLG among the most corrupt government ministries after the Ministries of Health and Lands;
- 41 percent cited LAs as the second most corrupt public institution after the police, followed by the provincial administration;
- 53 percent cited civic leaders as the most corrupt professionals after the police, lawyers and revenue collectors, followed by MPs and judicial officers;

Conclusion: Obstacles to Decentralization in Kenya

The decentralization and local government strengthening agenda in Kenya is complex and daunting, as the above discussion reveals. This becomes even more challenging in the context of the general decline of public sector institutions in the country and the prevailing political uncertainties that are not helpful to reform. The progressive decline of local bodies since independence has been matched with deteriorating services in cities and loss of public confidence in local officials. A fundamental opportunity to set that right by reforming the intergovernmental system and enshrining local bodies in the country's legal and political makeup was lost with the failure of the referendum in 2005. Notwithstanding this, in the last few years, the government has stepped in with some half-hearted measures, as part of their nationwide economic manifesto, to strengthen local bodies. Those measures have yielded some initial reform momentum.

Yet, much more than ad hoc actions are needed to revitalize Kenyan cities that the lifelines of the nation's economy. Reforming and strengthening the urban local authorities in the five largest cities, and in general all over the country, require recognizing their preeminent role over local governance decisions; building systems of local accountability; and strengthening capacities to deliver the mandated responsibilities in an efficient and effective manner.

The elements of such a reform would include rationalizing the functional assignments and according appropriate level of discretion to LAs to deliver the assigned functions; supporting functional assignments with efficient and transparent local financing systems; strengthening local level political administrative and fiscal accountability systems; developing efficient local administration systems; and strengthening the role of local government associations. The real challenge, the paper suggests, lies in developing a roadmap for reform that has the broad buy in of key stakeholders and is congruent with both historical legacies and the prevailing political economy of country. The scope for that to happen appears fairly remote in the current Kenyan context.

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[39] The TI National Bribery Survey has been carried out annually over the last six years.
[40] Kenya Anti-Corruption Commission (2006) " National Corruption Perception Citizen Survey"

Annex 1: Key Demographic, Economic and Social Statistics of the Case Study Cities

Indicator / Source	Kenya	Nairobi	Mombasa	Kisumu	Eldoret	Nakuru
1. Population (1999 census reports and projections)						
• Total population						
1999	28,686,607	2,143,254	665,018	322734	197449	231,262
2006	34,045,843	2,845,353	828,513	359,056	241,106	282,773
• Inter-censal population growth rates						
1979	3.4					
1989	3.4					
1999	4.2	4.8	3.6			
2. Poverty						
• % below poverty line						
WMS 1997	49	50.2	38.3	63.7	43.5	40.6
KIHBS 2005/06	40.5	21.3	37.6	43.4	42.3	50.2
• Average household size						
Census 1999	4.4					
KIHBS 2005/06	5.1	3.8	4.5	4.8	3.5	3.6
3. Access to amenities (KIHBS,DHS)						
• % of households with water piped into the dwelling						
KIHBS 2005/06	7.82	28.6	11.1	6.4	14.4	3.1
• %of households with water piped into plot yards						
KIHBS 2005/06	14.3	39.7	11.4	0.3	1.6	
• % of households with a flush toilet as the main toilet facility						
KIHBS 2005/06	11.0	61.8	31.9	25.4	19.2	
• %of households with access to a VIP latrine as the main toilet						
KIHBS 2005/06	5.6	0.4	14.1			
• % of households with pit latrines						
KIHBS 2005/06	67.4	32.1	53.4			
• %of households with access to electricity						
1999 Census	42	52	41.6			
KIHBS 2005/06	51	68.2	47.9			
4. Employment (Statistical Abstract)						
• Earnings by industry (Ksh. Millions)						
2005 Agriculture and forestry	46,116.4	1,893.2	160.3	19.1	6.8	182.5
Mining and quarrying	1,040.8	79.5	39.8	0.7	0.0	49.1
Manufacturing	62,632.8	31,321.6	5,701.4	3,958.2	2,251.1	1,918.8
Electricity and water	9,606.6	14,242.8	1,339.8	29.5	133.4	17.3
Construction	24,126.7	2,398.7	2,013.2	478.7	645.2	708.0
Wholesale & Retail trade, Restaurants and Hotels	84,714.4	12,067.4	5,957.6	1,098.7	1,695.4	1,970.3
Transport and Communication	46,565.3	18,244.8	14,517.7	1,101.5	455.6	601.3
Finance, Insurance, Real estate and Business services	59,858.7	42,526.1	7,042.0	1,105.0	2,611.2	963.5
Community, Social and Personal Services	262,213.4	58,586.1	14,184.1	3,791.2	1,869.7	3,415.9

DHS: Demographic and Health Survey; KIHBS: Kenya Integrated Household Budget Survey – 2005/06; WMS: Welfare Monitoring survey.

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Urban Development in Kenya

During the last forty years, the economic and demographic structure of Kenya has become increasingly urban. In the 1980s the urban population in the country grew at over 6.5 percent a year, more than double the rate for the rural population. This expansion has occurred even under the most adverse conditions of repressed urban investment, the case during the 1990s.[41] Recent UN estimates suggest that Kenya's urban population will expand to 38 million by 2030 and account for 62.7 percent of the total population.[42]

Urban areas also account for the predominant share of GDP.[43] The central role of cities in economic growth has been highlighted in a number of recent policy documents, among them the Economic Recovery Strategy for Wealth and Employment Creation for the period 2003-07 (ERS-WEC) and the Vision 2030,.[44] They acknowledge that development of urban areas is closely linked to the rural economy through the exchange of labor, capital, goods, services, information and technology that benefit residents in both settings.[45]

Because of their marginalization by the center, local authorities have limited capacity to manage devolved funds and have also found it difficult to insulate these resources from local politics. In 2006 the Kenya Institute of Public Policy Research and Analysis (KIPPRA) conducted a survey[46] to assess the level of public awareness and the extent of public participation in decision-making in the administration of decentralized funds. The survey also sought suggestions on how the coordination and effectiveness of the funds could be improved. From a sample of 35 constituencies in eight districts, findings showed that the various funds scored poorly on public participation and accountability (Box 6).

Box 6: Decentralized funds have scored poorly on participation and downward accountability

On participation respondents indicated the following:

- only 32.8 percent received information or listened to *barazas*[47]*;*
- less than 10 percent attended meetings to discuss specific issues;
- less than 5 percent felt that they were involved in decision-making;
- over 90 percent were not involved in setting the development agendas of their areas.

On accountability and performance respondents were asked to "agree" or "disagree" with the statement that decisions are taken within the respective fund's mandate (i.e. whether fund managers are using the funds for the intended purpose). Responses were as follows:

- awareness of the funds' mandates is relatively low, with most respondents stating that they had no knowledge of these mandates. This is consistent with the generally low level of awareness about the funds;
- 53 percent indicated "agree" that free primary education funds decisions were made within the fund mandate;
- 15 percent of respondents rated accountability as good amongst all the other funds.
- more than 30 percent of respondents indicated lack of accountability within fund management—which confirms the generally high levels of distrust in fund managers;
- except for free primary education funds, few respondents agreed that decisions taken are well justified;

[41] USAID (1995)
[42] United Nations Secretariat (2006)
[43] ACEG (2002)
[44] The PRSP has given way to Economic Recovery Strategy (ERS) which is being updated to inform the Vision 2030.
[45] World Bank Urban (2000), p. 2.
[46] KIPPRA (2006)
[47] Public meetings, traditionally convened by the provincial administration.

- less than 10 percent of respondents agreed that decisions were justified for the Rural Electrification Fund, Local Authority Transfer Fund, and the Road Maintenance funds.
- around 15 percent of respondents agreed that decisions were justified for CDF, HIV/AIDS and the Secondary School Bursary funds;
- over 50 percent agreed that fund decisions are sufficiently justified for the Free Primary Education Fund;
- 46 percent of respondents indicated that fund decisions are not sufficiently justified for CDF.

The data show wide dissatisfaction in the probity of decision-making regarding all the funds but CDF drew the strongest opinions. The report further observed that “poor awareness by community members and fund managers of their roles and responsibilities in the governance of funds has contributed to poor performance and in some cases a complete failure of the funds. Poor participation, particularly for marginalised groups, results in poor prioritisation of projects and exclusion”. These sentiments were echoed by the various stakeholders interviewed by the RUSPS study team in the five cities and municipalities.